

**Veterinary Medical Board**

1747 N. Market Blvd., Suite 230, Sacramento, CA 95834

Telephone: 916-515-5220 Fax: 916-928-6849 | [www.vmb.ca.gov](http://www.vmb.ca.gov)



**MEETING AGENDA**

Hilton Garden Inn-San Diego –Rancho Bernardo

17240 Bernardo Center Drive

San Diego, CA 92128

**October 20-21, 2015**

**9:00 a.m. Tuesday, October 20, 2015**

1. Call to Order - Establishment of a Quorum
2. Introductions
3. Review and Approval of July 21-22, 2015 Meeting Minutes
4. Consider Reappointment of Diversion Evaluation Committee Public Member Jim Weisenberg
5. Proposed Regulations
  - A. Status of Pending Regulations
  - B. Review and Approval of Updates to Disciplinary Guidelines
  - C. Review Public Comments on the Animal Rehabilitation Regulations and Consider Modifications to the Proposed Language. [California Code of Regulations, Title 16, Division 20, section 2038.5]
  - D. Review and Discuss Possible Action on the Proposed RVT Student Exemption Regulation [California Code of Regulations Title 16, Division 20, section 2064]
  - E. Review and Consider Action to Submit Comments on the Amended California Horse Racing Board's Proposed Regulations on Authorized Bleeder Medication [California Code of Regulations Title 4, Division 4, section 1845]
6. 2015 Legislation Report
  - A. AB 12 (Cooley) State government: administrative regulations: review
  - B. AB 85 (Wilk) Open meetings
  - C. AB 750 (Low) Business and professions: retired category: licenses.
  - D. AB 1060 (Bonilla) Professions and vocations: licensure
  - E. AB 483 (Patterson) Healing arts: initial license fees: proration
  - F. AB 316 (Maienschein) Veterinarians
  - G. AB 317 (Maienschein) Veterinary medicine: temporary shelter facility.
  - H. SB 27 (Hill) Livestock: use of antimicrobial drugs.
  - I. SB 361 (Hill) Skilled nursing facilities: antimicrobial stewardship guidelines.
  - J. SB 800 (BP&E Committee) Clean-up Provisions for VMB
  - K. AB 192 (Allen) Pet Lovers License Plate
7. Review and Consider Action on 2016 Legislative Proposals
  - A. Adding Resigned and Non-Renewable License Statuses
  - B. Review and Possible Action on a Statutory Change to Require University Licensure
8. Board Chair Report – Dr. Mark Nunez
9. Multidisciplinary Advisory Committee Report – Dr. Jon Klingborg
10. Review and Discuss Sunset Review Draft Report and New Issues

11. Executive Officer & Staff Reports

- A. Administrative/Budget
- B. Enforcement
- C. Licensing/Examination

12. Overview of Continuing Education Audit Program

13. Public Comment on Items Not on the Agenda

Note: The board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. (Government Code Sections 11125, 11125.7(a)).

14. Agenda Items and Next Meeting Dates – January 20-21, 2016; Sacramento

- A. Agenda Items for Next Meeting
- B. Multidisciplinary Advisory Committee Meetings – January 19, 2016; Sacramento

15. Recess until October 21, 2015, at 9:00 a.m.

**9:00 a.m. Wednesday, October 21, 2015**

16. Reconvene - Establishment of a Quorum

17. Introductions

18. Petition for Penalty Modification – Dr. Janine Jung, VET 12330

19. Petition for Penalty Modification – Dr. Byoung “Bill” Hah, VET 10122

**CLOSED SESSION**

20. The Board will meet in closed session (pursuant to Government Code Section 11126(c)(3) to discuss and vote on this matter and on other disciplinary matters including stipulations and proposed decisions.

**RETURN TO OPEN SESSION**

21. Adjourn

This agenda can be found on the Veterinary Medical Board website at [www.vmb.ca.gov](http://www.vmb.ca.gov). Times stated are approximate and subject to change. This meeting will conform to the Open Meeting Act. Agenda discussions and report items are subject to action being taken on them during the meeting by the Board at its discretion. The Board provides the public the opportunity at meetings to address each agenda item during the Board’s discussion or consideration of the item. Total time allocated for public comment may be limited.

The Board plans to webcast items 1-19 at this meeting on its website at [www.vmb.ca.gov](http://www.vmb.ca.gov). Webcast availability cannot, however, be guaranteed due to limitations on resources or technical difficulties that may arise. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location.

The meeting locations are accessible to the physically disabled. Other disability-related accommodations or modifications can be provided upon request. Please make your request for disability-related accommodations by contacting the Board at (916) 515-5220 or sending a written request to 1747 N. Market St., Suite 230, Sacramento, CA 95834. Provide at least five (5) business days’ notice prior to the meeting to help ensure availability of requested accommodations.

**MISSION**

The mission of the Veterinary Medical Board is to protect consumers and animals by regulating licensees, promoting professional standards and diligent enforcement of the practice of veterinary medicine.

**Veterinary Medical Board**

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**MEETING MINUTES**  
Veterinary Medical Board  
The Waterfront Hotel  
10 Washington Street  
Oakland, CA  
July 21-22, 2015

**9:00 a.m. Tuesday, July 21, 2015**

1. Call to Order - Establishment of a Quorum

Dr. Mark Nunez, called the Veterinary Medical Board (Board) meeting to order at 9:00 a.m. Executive Officer, Annemarie Del Mugnaio, called roll; six members of the Board were present and thus a quorum was established. Kathy Bowler was absent.

2. Introductions

Board Members Present

Mark Nunez, DVM, President  
Cheryl Waterhouse, DVM, Vice President  
Elsa Flores, Public Member  
Jennifer Loredo, RVT  
Judie Mancuso, Public Member  
Richard Sullivan, DVM

Staff Present

Christy Bell, Associate Enforcement Analyst  
Annemarie Del Mugnaio, Executive Officer, Veterinary Medical Board  
Nina Galang, Administrative Program Coordinator  
Lou Galiano, DCA Television Specialist  
Sabina Knight, Legal Counsel  
Ethan Mathes, Administrative Program Manager  
Candace Raney, Enforcement Program Manager  
Diann Sokoloff, Supervising Deputy Attorney General, Board Liaison

Guests Present

Al Aldrete, DVM, Veterinary Allied Staff Education  
Nancy Ehrlich, RVT, California Registered Veterinary Technician Association  
William A. Grant II, DVM, Multidisciplinary Advisory Committee  
Alex Henderson, Veterinary Allied Staff Education  
Elisa Martin, RVT  
Eric Mills, Action for Animals  
Cindy Savely, RVT, Sacramento Valley Veterinary Technician Association  
Marshall E. Scott, California Veterinary Medical Association  
Dan Segna, DVM, California Veterinary Medical Association  
Linda Tripp, University of California, Davis and Sacramento Valley Veterinary Technician Association

### 3. Review and Approval of April 1-2, 2015, April 28-29, 2015 and June 17, 2015 Meeting Minutes

- Dr. Richard Sullivan motioned and Dr. Cheryl Waterhouse seconded the motion to adopt the April 1-2, 2015, April 28-29, 2015, and June 17, 2015 meeting minutes. The motion carried 5-0.

### 4. Proposed Regulations

#### A. Status of Pending Regulations

Administrative Program Manager, Ethan Mathes updated that the Cite and Fine regulations will likely take effect in January 2016. Ms. Del Mugnaio updated that the public hearing for Animal Rehabilitation is on September 10, 2015 in Sacramento, CA. The Minimum Standards/Telemedicine regulations affect section CCR 2032.1 and are coupled with the Veterinary-Client-Patient Relationship (VCPR) regulations. Mr. Mathes also updated that the Notice of Proposed Action for the Veterinary Assistant Controlled Substances Permit (VACSP) regulations will likely be published within the next month.

#### B. Review and Possible Approval of Updates to Disciplinary Guidelines

The Board reviewed and discussed the changes to the proposed Disciplinary Guidelines. Dr. Nunez requested to review the subcommittee comments.

Ms. Del Mugnaio clarified that the delinquency period for submission of quarterly reports may be added to the quarterly period if the respondent is not in compliance.

The Board discussed the term “preceptor” and agreed that they are in private practice, and provide no supervision of veterinary interns, students, or residents. The Board also discussed the term “registered intern” and agreed to strike the word “registered.” The Board agreed to leave both terms “licensee manager” and “managing licensee” since they appear interchangeably in other forms and statutes.

Dr. Nunez recommended combining section #7, 8, and 9 of the Standard Terms and Conditions of Probation. Supervising Deputy Attorney General, Diann Sokoloff, warned about the potential for ambiguity of the requirement of a Licensee Manager vs. the requirement of the employee. The Board agreed not to collect probationary costs while respondents are on a tolled status.

- Dr. Richard Sullivan motioned and Dr. Cheryl Waterhouse seconded the motion to approve the proposed Standard Terms and Conditions for Probation text for 45-day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if no adverse comments during the public comment period are received and to delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file. The motion carried 6-0.

Mrs. Sokoloff requested to revisit sections #7-9 and added that based on her analysis, she recommends combining only #7 and #9 and leaving #8 separate since it deals with employees.

Based on the recommended changes, the Board requested Dr. Sullivan to rescind his previous motion in order to vote on the amended language.

- Dr. Richard Sullivan motioned and Elsa Flores seconded the motion to rescind Dr. Sullivan’s previous motion to adopt the Standard Terms and Conditions for Probation proposed text in order to adopt the changes drafted by Mrs. Sokoloff. The motion carried 6-0.



- Dr. Richard Sullivan motioned and Dr. Cheryl Waterhouse seconded the motion to approve the proposed Standard Terms and Conditions for Probation text for 45-day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if no adverse comments during the public comment period are received and to delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file. The motion carried 6-0.

The Board reviewed and discussed the changes made to section #6 and #8 of the Optional Terms and Conditions.

The Board reviewed and discussed the Overview Guide for Disciplinary Decisions, including minor changes to supervision. The Board requested more information regarding when the Board wants to increase the penalty of a proposed decision. Legal counsel, Sabina Knight, added that she will research the issue and follow up.

- Dr. Richard Sullivan motioned and Elsa Flores seconded the motion to approve the proposed Disciplinary Guidelines text for 45-day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if no adverse comments during the public comment period are received and to delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file. The motion carried 6-0.

#### C. Review and Discuss Proposed Alternate Route Regulations [California Code of Regulations, Title 16, Division 20, section 2065.1 et. seq.]

The Board reviewed and discussed minor changes to the proposed Alternate Route regulations, including rewording the title of section 2065.1 to clarify the purpose of the section and correcting the lettering/numbering of subsections referenced within the text. The Board also agreed with public guest, Nancy Ehrlich's, recommendation to add an effective date to section 2068.5 to clarify that practical experience and education will no longer be used by a specific date.

Sections 2065.2(b) and (i) were combined since they are redundant. The Board agreed to add the word "national" to further describe the registered veterinary technician examination in section 2065.2(j) and use the same wording throughout the proposed language to refer to the examination.

Section 2068.5 will be stricken; therefore, the reference to section 2068.5 will be removed from section 2066.1 as well.

- Dr. Richard Sullivan motioned and Dr. Cheryl Waterhouse seconded the motion to approve the proposed text for 45-day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if no adverse comments during the public comment period are received and to delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file. The motion carried 6-0.

#### 5. Establish Subcommittee to Work with California Horse Racing Board on Drug Labeling Regulations

Dr. Nunez reviewed the request from the California Horse Racing Board to appoint a subcommittee.

Ms. Del Mugnaio clarified that persons interested in participating in the subcommittee should be referred in the near future and those with large animal experience and knowledge of the Federal Drug Administration and drug compounding would be ideal.

#### 6. Review and Discuss Board Strategic Action Plan 2015-2019

Ms. Del Mugnaio reported on the action planning session conducted in May 2015, and the work of staff and SOLID. Ms. Del Mugnaio outlined action item areas in which work is ongoing: sections 1.3-1.4, sections 2.2-2.3, sections 3.3-3.4, and section 6.1.

Ms. Del Mugnaio noted that a stakeholder meeting facilitated by the California Veterinary Medical Association (CVMA) will be held in September 2015 to develop minimum standards for various premise types, including shelter medicine. Ms. Mancuso expressed concern about ensuring there is a live staff member who can answer questions. Ms. Mancuso also requested a list of Veterinary Medical Associations (VMA) across California and other stakeholders for section 6.4.

Mrs. Ehrlich, expressed concern over Goal 2 regarding the Registered Veterinary Technician (RVT) examination, and questioned the reason it is not being addressed until Quarter #3 of 2016. Ms. Del Mugnaio clarified that we need at least a year and a half of history of developing examination questions for the RVT law examination to justify costs of the examination.

Ms. Del Mugnaio noted that the Action Plan is a staff document and the Board is not required to adopt the document.

#### 7. 2015 Legislation Report and Consider Legislative Proposals

- A. AB 12 (Cooley) State government: administrative regulations: review
- B. AB 85 (Wilk) Open meetings
- C. AB 611 (Dahle) Controlled substances: prescriptions: reporting
- D. AB 750 (Low) Business and professions: retired category: licenses.
- E. AB 1060 (Bonilla) Professions and vocations: licensure
- F. AB 483 (Patterson) Healing arts: initial license fees: proration
- G. AB 316 (Maienschein) Veterinarians
- H. AB 317 (Maienschein) Veterinary medicine: temporary shelter facility.
- I. SB 27 (Hill) Livestock: use of antimicrobial drugs.
- J. SB 361 (Hill) Skilled nursing facilities: antimicrobial stewardship guidelines.
- K. SB 800 (BP&E Committee) Clean-up Provisions for VMB
- L. AB 192 (Allen) Pet Lovers License Plate
- M. Review and Discuss Proposed Statutory Language Regarding Drug Compounding by Veterinarians

Dr. Nunez reviewed the bills contained within the July 2015 Legislative Report and noted that Assembly Bill (AB) 12, AB 85, and AB 750 are already under track/watch status with the Board, AB 611 was canceled and AB 1060 has been amended and no longer relevant to the Board; therefore, discussion on these bills was not needed.

The Board noted that AB 483 will have a negative impact to the Board in terms of a loss in revenue due to prorating the initial license fee on a monthly basis.

Dr. Nunez reviewed AB 316 which authorizes law enforcement to call in a veterinarian from another State to assist with criminal investigations on alleged animal fighting or animal cruelty and authorizes

the veterinarian to operate temporary shelters to provide care to animals seized as a result of a criminal case. The Board took an Oppose position at the last Board meeting.

Guest speaker, Kevin O'Neill, representing the American Society for the Prevention of Cruelty to Animals (ASPCA) clarified the intent of bill and updated the Board on the amendments made since the last Board meeting and requested a Support or Neutral position from the Board. Mr. O'Neill shared examples of emergency situations in which there was a need for additional veterinarians on site when resources were needed. The Board requested additional information regarding the need for this bill including a number of veterinarians employed by the ASPCA and how many of them have a California license. Mr. O'Neill noted that he will look into providing this information. The Board argued that it would be more practical to hire veterinarians within California; there is also a concern regarding the mechanism for the Board to evaluate and approve sponsoring agencies.

Dr. Dan Segna shared that CVMA has taken an Oppose position on this bill and expressed its concern regarding the sponsoring agency employing unlicensed individuals at unlicensed facilities. CVMA feels that there is no demonstrated need to bring out-of-state veterinarians to California who are not licensed by the Board or regulated by the Board.

- Dr. Richard Sullivan motioned and Dr. Cheryl Waterhouse seconded the motion to take an Oppose position on AB 316. The motion carried 6-0.

Dr. Nunez reviewed the intent of AB 317, which exempts temporary shelters that are established to provide care and shelter to animals displaced by a state of emergency from the premise registration requirements. The Board took an Oppose position at the last Board meeting.

Mr. O'Neill added that current law authorizes the state to call in out-of-state veterinarians whenever there is a State-declared emergency.

Mr. O'Neill clarified that if out-of-state health practitioners are called, the Bill makes it legal to establish a temporary shelter in an emergency situation without needing to go through the lengthy premise permit registration process. Temporary shelters would be subject to inspections and the ASPCA is not opposed to inspection by the Board.

Ms. Del Mugnaio clarified that section 4809.5 restricts the Board from inspecting premises that are not registered with the Board.

Dr. Segna shared that CVMA has taken an Oppose position on AB 317. There does not appear to be a need for the exemption in California and there is concern that the Board will not have oversight.

- Dr. Richard Sullivan motioned and Jennifer Loreda seconded the motion to take an Oppose position on AB 317. Four of the Board members voted to support the motion. Judie Mancuso and Elsa Flores voted to oppose the motion. The motion carried 4-2.

Ms. Del Mugnaio updated the Board on the current status of Senate Bill (SB) 27, which reflects significant stakeholder feedback. Dr. Segna shared that CVMA is taking a Support position on SB 27.

- Judie Mancuso motioned and Dr. Cheryl Waterhouse seconded the motion to a Support position on SB 27 in its current form. The motion carried 6-0.

Dr. Nunez reviewed the intent of SB 361, requiring veterinarians to complete an approved course on the judicious use of medically important antimicrobial drugs as part of their biennial 36 hours of continuing VMB Meeting

education requirement for license renewals. Ms. Del Mugnaio clarified that the language needs to say “one hour” instead of “one unit” and staff is working to clarify this change and write the author’s office.

- Dr. Richard Sullivan motioned and Dr. Cheryl Waterhouse seconded the motion to take a Support position on SB 361. The motion carried 6-0.

SB 800 contained only minor changes; therefore, there was no need for the Board to vote on a position.

Ms. Del Mugnaio noted that since two Board members must recuse themselves from voting, on AB 192 due to conflicts of interest, there were not enough members present to vote on a position.

Dr. Nunez reviewed the proposed statutory language regarding drug compounding by veterinarians.

Ms. Del Mugnaio added that CVMA has offered to assist the Board with securing an author to provide for limited authority for veterinarians to compound drugs. Ms. Del Mugnaio noted that it would benefit the Board to authorize the Executive Officer to work with CVMA to find an author.

Ms. Mancuso requested storage requirements to be added to the Bill language and requested clarification on various terms. The Board discussed the Board of Pharmacy regulations as they apply to the compounding of drugs by veterinarians and the current challenges with veterinarians being limited to dispensing only 120 hours of compounded medication.

- Dr. Richard Sullivan motioned and Jennifer Loreda seconded the motion to move the proposed statutory language regarding drug compounding by veterinarians to the CVMA and Multidisciplinary Advisory Committee (MDC) for consideration. The motion carried 6-0.

#### 8. Board Chair Report – Dr. Mark Nunez

Dr. Nunez provided an update on the list of activities, meetings, and workshops that have occurred since the last meeting.

*The following is a table of the latest Board activities since the April 2015 meeting, as well as future activities:*

May 5, 2015	Completed VMB Strategic Plan/Action Plan
May 15, 2015	Legislative Subcommittee Teleconference to discuss Board position on AB 516, AB 517, and SB 800
May 21, 2015	Disciplinary Guidelines Subcommittee met with VMB Enforcement Manager and Legal Counsel to review and amend language
June 17, 2015	Teleconference to discuss proposed VACSP regulations
June 18, 2015	Board President provided a VMB update at the Board of Governors and House of Delegates joint meeting at the CVMA Conference in Long Beach, CA
August 4-7, 2015	Hospital Inspection Training for new and returning hospital inspectors in Sacramento, CA
August 14, 2015	Expert Witness Training in San Diego, CA
September 17-19, 2015	Dr. Nunez and Ms. Del Mugnaio will attend the American Veterinary Association of State Boards annual meeting in Milwaukee, WI

#### 9. Multidisciplinary Advisory Committee Report – Dr. William Grant

Dr. William Grant provided an update from the MDC meeting. Ms. Del Mugnaio swore in four members: new member Kristi Pawlowski; reappointed members: Dr. Jon Klingborg, David Johnson, and Dr. Grant. Dr. Klingborg was elected as the new MDC Chair and Dr. Allan Drusys was elected Vice-Chair.

The MDC discussed and approved the RVT School Exemption and University Licensure regulatory language; guest speakers were present to provide feedback on behalf of the universities regarding the University Licensure statutory proposal. Both items were forwarded onto the Board for their review.

The MDC also discussed Shelter Medicine minimum standards, but no action was taken since it has not been prioritized by the Board; the MDC is working to develop a subcommittee to address this issue. Dr. Grant noted that we should add a priority to create minimum standards for large animal practice and animal shelters.

A CVMA task force has been formed and includes Ms. Del Mugnaio, Dr. Klingborg, and Dr. Sullivan and is scheduled to meet in September 2015 to develop minimum standards for various practice types including: large animal ambulatory, shelter medicine, and limited premise types.

#### A. Review and Prioritize Multidisciplinary Advisory Committee Action Items

The MDC has not yet addressed veterinary student exemption, standard of care for animal care dentistry, extended duty for RVTs, and first year licensure as a temporary license under the supervision of a licensed veterinarian.

New items added to the MDC priority list include: self-reporting Continuing Education (CE) for DVM and RVT license renewals, workflow of complaint handling, and develop statutory authority language for drug compounding.

Ms. Del Mugnaio clarified that University Licensure, RVT Alternate Route School Approval, and RVT Student Exemption are already with the Board and do not need to be prioritized for the MDC.

The Board agreed to have Minimum Standards and workflow of complaint handling placed at the top of the list of MDC priorities. Of the remaining assignments, the Board agreed to have veterinary student exemption and extended duty for RVTs as the top two priorities and first year licensure as a temporary license and animal dentistry as the last two priorities.

Dr. Sullivan requested a task force be developed to draft regulations, in partnership with the Board of Pharmacy, to develop statutory authority language for drug compounding.

The Board agreed to add it as an assignment for the MDC and prioritize the issue as one of the top three assignments. Dr. Grant added that some of the top assignments can be worked on concurrently.

- Dr. Cheryl Waterhouse motioned and Jennifer Loreda seconded the motion to accept the priority of assignments for the MDC. The motion carried 6-0.

#### 10. Review and Discuss Sunset Review Issues

##### A. Specialty Titles/Credentials Used by Veterinarians

Dr. Nunez stated that the language in the binder are examples of language developed by other Boards. The Board discussed what it means to be “Board eligible” and “Board certified.”

## B. Mandatory Reporting Requirements

Ms. Del Mugnaio updated that outside of mandatory reporting requirements for animal abuse, there is no parallel provision which currently exists for other health care practitioners regarding reporting expectations when a veterinarian is found to be under the influence of drugs or alcohol or unfit to practice. The Board will request more clarification from the Legislature regarding expectations for mandatory reporting requirements.

## C. Discussion of New Issues Raised by the Board

Ms. Del Mugnaio noted that this discussion is an opportunity to raise issues before the Legislative Sunset Committee (such as drug compounding and establishing a new University License category) and report to the Legislature that the Board is addressing major public interest issues outside of State mandates. The Board agreed to include the Strategic Plan and the MDC priority list in the Sunset Review report and to draft language in order to introduce these new issues with the Legislature.

## 11. Executive Officer & Staff Reports

### A. Administrative/Budget

Ms. Del Mugnaio reported on the Hospital Inspection Program and noted that there has been an increase in the number of inspectors employed by the Board and the number of inspections that were performed in the past year. Training for returning and new inspectors will be held on August 4-7, 2015. Ms. Del Mugnaio added that we are drastically underfunded for the Hospital Inspection Program and will need to be addressed in a Budget Change Proposal (BCP).

Mr. Mathes provided an update on the current fiscal month's Budget Report. There has been an increase in costs for in-house consultants; however, the Board was not fully staffed until December 2014 which led to salary savings. Limited term positions hired for the VACSP program are set to expire in July 2015; staff is working on a BCP to request the positions as permanent.

Mr. Mathes added that the VACSP program is anticipated to roll out early 2016 at the same time as BreEZe. The new VACSP program is expected to bring in new revenue, but the estimated revenue is not included in attached Budget Report.

### B. Enforcement

Associate Enforcement Analyst, Christy Bell, updated the Board on the latest enforcement activities including a new probationary license that was offered and accepted, expert witness training on August 14, 2015 for experts and Board members, and a reduction in complaint processing time. Probation staff is working on creating a desk manual outlining new procedures and forms, as well as a web-based training for licensees and their supervisors. Ms. Del Mugnaio added that staff can publish enforcements statistics on the website and possibly add it to social media.

### C. Licensing/Examination

Mr. Mathes updated the Board on the latest licensing activities. Specifically, notifying the Board that a long-time VMB analyst will be retiring, and reported on the Department's new data system, BreEZe, projected to roll out in January 2016.

## 12. Review and Discuss Social Media/Publications

Ms. Del Mugnaio updated the Board on the staff's plan for future social media/publication outreach opportunities including record keeping requirements and rodeo injury reporting requirements.

Dr. Nunez appointed Ms. Mancuso to assist with the Board's newsletter and at a later date, he agreed to appoint another Board member to assist in the development of a newsletter.

## 13. Public Comment on Items Not on the Agenda

Mrs. Ehrlich added that there are 26 total AVMA approved RVT schools in California (18 AVMA approved in California and eight AVMA approved distance learning programs).

Mrs. Ehrlich inquired about the status of Board approval for each of the 26 RVT schools. Ms. Del Mugnaio noted that this item will be referred to Legal to look into the recognition of AVMA accredited schools.

Eric Mills, Action for Animals, requested to have the public comment period placed at the beginning of the agenda to accommodate public members who are unable to stay the entire duration of the meeting. Mr. Mills provided an update on the underreporting of rodeo animal injuries, and added that on-call veterinarians are still not being called to treat rodeo animal within 48 hours of being injured.

Mrs. Ehrlich requested the Board reconsider requiring the veterinary law examination. Additionally, Mrs. Ehrlich expressed that there are unnecessary barriers for candidates who are trying to meet requirements under section 2068.5 and the appeal process for denials is not working.

Dr. Nunez provided his assurance that he will look into the process and address any issues of improper or inconsistent practices.

## 14. Agenda Items and Next Meeting Dates – October 20-21, 2015

### A. Agenda Items for Next Meeting

Ms. Mancuso requested that a future Board meeting be held in Orange County and Dr. Waterhouse requested a future Board meeting be held in a Central Valley location.

Ms. Del Mugnaio noted that the next Board meeting will be held October 20-21, 2015 in San Diego and the next MDC meeting will be held on October 22, 2015 at the same location. The Board agreed to begin planning the 2016 meetings at the October meeting.

Ms. Mancuso addressed Mrs. Ehrlich's question regarding how the Board certifies or approves specialties. Ms. Del Mugnaio noted that the alternate route pathway has been discussed in previous Board meetings but can be added to the agenda for the next meeting if it needs to be revisited.

Ms. Del Mugnaio recapped the items from the MDC meeting which have been forwarded to the Board for discussion including:

- proposed RVT Student Exemption regulations
- discussion and possible action of University licensure regulations for consideration
- an explanation of Continuing Education and audit programs
- updates on legislation
- status of pending regulations

- notice of Disciplinary Guidelines and Alternate Route regulatory documents
- Sunset Review

B. Multidisciplinary Advisory Committee Meetings – October 22, 2015

15. Recess

**9:00 a.m. Wednesday, July 22, 2015**

16. Reconvene - Establishment of a Quorum

Dr. Nunez called the Board meeting to order at 9:00 a.m. and five members of the Board were present, thus a quorum was established. Judie Mancuso and Kathy Bowler were not present.

17. Introductions

Board Members Present

Mark Nunez, DVM, President

Cheryl Waterhouse, DVM, Vice President

Jennifer Loreda, RVT

Richard Sullivan, DVM

Elsa Florez, Public Member

Staff Present

Nina Galang, Administrative Program Coordinator

Sabina Knight, Legal Counsel

**CLOSED SESSION**

18. The Board met in closed session (pursuant to Government Code Section 11126(c)(3) to discuss and vote on disciplinary matters including stipulations and proposed decisions.

AV 2013 11

The Board adopted the proposed decision.

AV 2011 48

The Board adopted the proposed decision.

AV 2012 5

The Board adopted the proposed decision.

AV 2011 18

The Board adopted the proposed decision.

AV 2008 13

The Board adopted the proposed stipulated settlement.

IA 2015 36

The Board adopted the proposed stipulated settlement.

19. The Board met in closed session (pursuant to Government Code Section 11126(a)(1)) to update and discuss the Executive Officer Evaluation.



## **RETURN TO OPEN SESSION**

### 20. Adjourn

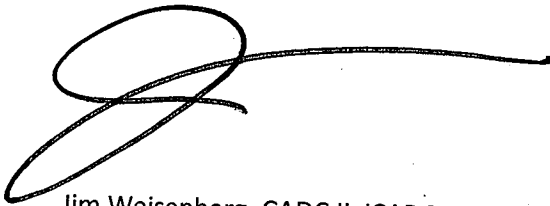
The Board adjourned at 11:25 a.m.

9/29/15

To Whom It May Concern,

I, Jim Weisenberg am formally requesting a reappointment to the Veterinary Medical Board, as my time expired on June 1<sup>st</sup> 2015. Thank you to the Veterinary Board for your consideration on this matter.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line extending to the right.

Jim Weisenberg, CADC II, ICADC

**STATUS OF PENDING VMB REGULATIONS  
OCTOBER 2015**

Subject	CCR Section(s)	Current Status/Action	Notes
<b>BOARD</b>			
<b>Civil Penalties for Citation</b>	2043	DCA Legal Review	3/20/15 – OAL Publication Date 5/4/15 – End of public comment period May 2015 – Submitted to DCA Legal for Review
<b>Veterinary Assistant Controlled Substances Permit (VACSP)</b>	2034 et. seq.	In Progress	June 2015 – Board approved language 9/4/15 – Published 45-day notice <b>10/19/15 – End of public comment period</b>
<b>Animal Rehabilitation</b>	2038.5	OAL	July 6, 2015 – Notice filed w/ OAL July 6, 2015 – Published 45-day notice September 10, 2015 – Hearing held October 21, 2015 – Board Review of Public Comments
<b>Animal Control Officer Training</b>	2039.5	In Progress	July 2014 – Board approved language November 2015 – Publish 45-day notice
<b>Disciplinary Guidelines</b>	2006	In Progress	January 2015 – Board approved language May 2015 – Disciplinary Guidelines Committee Meeting July 2015 – Submit language to Board for review/approval January 2016 – Publish 45-day notice
<b>Minimum Standards / Telemedicine</b>	2032.1	In Progress	February 2015 – MDC approved amendments to Minimum Standards language April 2015 – Board approved language
<b>CPEI (SB 1111)</b>	TBD	In Progress	October 2014 – Board approved language January 2016 – Publish 45-day notice
<b>RVT Alternate Route School Approval</b>	2068.5	In Progress	February 2015 – MDC approved amended language and forwarded to Board for discussion. July 2015 – Board approved language
<b>RVT Student Exemption (BPC 4841.1)</b>	TBD	In Discussion	July 2015 – MDC approved amended language and forwarded to Board for discussion.
<b>University Licensure</b>	TBD	In Discussion	July 2015 – MDC approved amended language and forwarded to Board for discussion.
<b>Uniform Standards for Abuse (SB 1441)</b>	2006, 2006.5, and 2076	On Hold	October 2014 – Board approved language April 2015 – On hold per Legal
<b>MDC</b>			
<b>Shelter Medicine</b>	TBD	TBD	September 2015 – CVMA task force meetings begin



## MEMORANDUM

<b>DATE</b>	October 5, 2015
<b>TO</b>	Veterinary Medical Board
<b>FROM</b>	Christy Bell Associate Enforcement Analyst
<b>SUBJECT</b>	<b>Agenda 5B – Review and Approval of Updates to Disciplinary Guidelines</b>

### **Background:**

On July 21, 2015, the Board adopted the Board's Disciplinary Guidelines.

The attached is the final draft of the Disciplinary Guidelines incorporating all the changes adopted by the Board at the July Board meeting. The guidelines show the regulation text with strike through and underline to reflect the changes that have been made.

At the July meeting eight (8) different conditions were discussed, the following reflect the changes that were decided by the Board. There were five terms and conditions that required further modification based on the discussion at the last Board meeting and they are written in final format for your review.

Items (A) – (C) are terms and conditions reflect the changes discussed at the July 2015 Meeting. Items (D) and (E) are new text that requires the Board to review and a motion made.

### **Standard Terms and Conditions**

#### **(A.) No Preceptorships or Supervision of Interns**

#### **July 2015 Meeting**

<b>6.</b>	<b>No Preceptorships or Supervision of Interns</b>
Respondent shall not supervise a registered intern and shall not perform any of the duties of a preceptor.	

#### **Adopted Language**

<b>6.</b>	<b>No <del>Preceptorships or</del> Supervision of <u>Students, Interns or Residents</u></b>
Respondent shall not supervise <del>a-students, registered interns, or residents and shall not perform any of the duties of a preceptor.</del>	

## Optional Terms

### (B.) Supervised Practice

July 2015 Meeting

5.	Supervised Practice
	<p>Respondent shall practice only under the supervision of a veterinarian approved by the Board. The supervision directed may be continuous supervision, substantial supervision, partial supervision, or supervision by daily review, as deemed necessary by the Board. All costs involved with practice supervision shall be borne by Respondent.</p> <p>Each supervisor shall have been licensed in California for at least five (5) years and not have ever been subject to any disciplinary action by the Board. The supervisor shall be independent, with no prior business or personal relationship with Respondent and the supervisor shall not be in a familial relationship with or be an employee, partner, or associate of Respondent.</p> <p>Within thirty (30) days of the effective date of the decision, Respondent shall have his or her supervisor submit a report to the Board in writing stating the supervisor has read the decision in case number _____. Should Respondent change employment, Respondent shall have his/her new supervisor, within fifteen (15) days after employment commences, submit a report to the Board in writing stating the supervisor has read the decision in case number _____.</p> <p>Respondent's supervisor shall, on a basis to be determined by the Board, review and evaluate all or a designated portion of patient records of those patients for whom Respondent provides treatment or consultation during the period of supervised practice. The supervisor shall review these records to assess 1) the medical necessity and appropriateness of Respondent's treatment; 2) Respondent's compliance with community standards of practice in the diagnosis and treatment of animal patients; 3) Respondent's maintenance of necessary and appropriate treatment; 4) Respondent's maintenance of necessary and appropriate records and chart entries; and 5) Respondent's compliance with existing statutes and regulations governing the practice of veterinary medicine.</p> <p>Respondent's supervisor shall file monthly reports with the Board. These reports shall be in a form designated by the Board and shall include a narrative section where the supervisor provides his or her conclusions and opinions concerning the issues described above and the basis for his or her conclusions and opinions. Additionally, the supervisor shall maintain and submit with his or her monthly reports a log designating the patient charts reviewed, the date(s) of service reviewed, and the date upon which the review occurred. If the supervisor terminates or is otherwise no longer available, Respondent shall not practice until a new supervisor has been approved by the Board.</p> <p>If respondent is an employee rather a veterinary hospital owner, the supervisor shall additionally notify the Board of the dates and locations of all employment of respondent, during each month covered by his/her report.</p>

## Adopted Language

<b>56.</b>	<p><b>Supervised Practice – <u>Direct or Indirect</u></b></p> <p>Respondent shall <u>not</u> practice <del>only under the supervision of veterinary medicine until a veterinarian supervisor is</del> approved by the Board. <del>The supervision directed may be continuous supervision, substantial supervision, partial supervision, or supervision by daily review, as deemed necessary by its designee.</del></p> <p><u>Respondent shall submit to</u> the Board. <del>All costs involved with practice supervision shall be borne by Respondent, for its prior approval, the name and qualifications of one or more veterinarians of Respondent's choice.</del> Each supervisor shall have been licensed in California for at <del>least</del><u>least</u> five (5) years and not have ever been subject to any disciplinary action by the Board. The supervisor shall be independent, with no prior business or personal relationship with Respondent and the supervisor shall not be in a familial relationship with or be an employee, partner, or associate of Respondent.</p> <p><del>Within</del> <u>Upon approval by the Board and within</u> thirty (30) days of the effective date of the decision, Respondent shall have his or her supervisor submit a report to the Board in writing stating the supervisor has read the decision in case number _____. Should Respondent change employment, Respondent shall have his/her new supervisor, within fifteen (15) days after employment commences, submit a report to the Board in writing stating the supervisor has read the decision in case number _____.</p> <p><u>The supervision shall be, as required by the board or its designee, either direct or indirect.</u></p> <p><u>Direct supervision is defined as the physical presence of the supervisor 100% of the time Respondent provides treatment or consultation to the animal patient.</u></p> <p><u>Indirect supervision is defined as review and evaluation of patient records of those patients for whom Respondent provides treatment or consultation during the period of supervised practice. Levels of indirect supervision shall be established as follows:</u></p> <p style="padding-left: 40px;"> <u>Substantial – 75%</u>  <u>Moderate - 50%</u>  <u>Partial - 25%</u> </p> <p><u>The level of supervised practice may be modified as determined necessary by the Board or its designee. Respondent will not be eligible for a decrease in supervised practice until such time as: 1) Respondent has successfully completed at least 25% of the probationary term; 2) Respondent is deemed to be in full compliance with all terms and conditions of the probationary order; and 3) Respondent has consistently received favorable monthly supervised practice reports and 4) the Board has received a written recommendation by the supervisor.</u></p> <p>Respondent's supervisor shall, on a <del>basis</del><u>frequency</u> to be determined by the Board, review and evaluate all or a designated portion of patient records of those patients for whom Respondent provides treatment or consultation during the period of supervised practice. The supervisor shall review these records to assess 1) the medical necessity and appropriateness of Respondent's treatment; 2) Respondent's compliance with <del>community</del><u>minimum</u> standards of practice in the diagnosis and treatment of animal patients; 3) Respondent's maintenance of necessary and appropriate treatment; 4) Respondent's maintenance of necessary and appropriate records and chart entries; and 5) Respondent's compliance with existing statutes and regulations governing the practice of veterinary</p>
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medicine.

Respondent's supervisor shall file monthly reports with the Board. These reports shall be in a form designated by the Board and shall include a narrative section where the supervisor provides his or her conclusions and opinions concerning the issues described above and the basis for his or her conclusions and opinions. Additionally, the supervisor shall maintain and submit with his or her monthly reports a log designating the patient charts reviewed, the date(s) of service reviewed, and the date upon which the review occurred. If the supervisor terminates or is otherwise no longer available, Respondent shall not practice until a new supervisor has been approved by the Board.

If respondent is an employee rather a veterinary hospital owner, the supervisor shall additionally notify the Board of the dates and locations of all employment of respondent, during each month covered by his/her report.

**(C.) No Management or Administration**

**July 2015 Meeting**

<b>7.</b>	<b>No Management or Administration</b>
Respondent shall not manage or be the administrator of any veterinary hospital.	

**Adopted Language**

<b><u>78.</u></b>	<b>No Management <del>or Administration</del></b>
Respondent shall not manage <del>or be the administrator of</del> any veterinary hospital. <u>during the duration of his or her probation.</u>	

**Please see pages 5-6 for additional terms.**

## **STAFF RECOMMENDATIONS: NOT YET ADOPTED BY THE BOARD**

Items (D) – (E) reflect the changes that were discussed at the July 2015 Board Meeting and additional Staff recommended language. The staff reviewed each term to determine language that would help the enforcement and implementation of each term and condition. Please review the two following:

### **(D.) Notice to Employers**

#### **July 2015 Meeting**

<b>7.</b>	<b>Notice to <del>Employers</del>Licensee Manager/Managing Licensee</b>
Respondent shall notify all present and prospective <del>employers</del> <u>licensee manager/managing licensee</u> of the decision in this case and the terms, conditions, and restrictions imposed on Respondent by the decision in this case. Within thirty (30) days of the effective date of this decision and within fifteen (15) days of Respondent undertaking new employment, Respondent shall cause his or her <del>employer</del> <u>licensee manager/managing licensee</u> to report to the Board in writing, acknowledging the employer has read the Accusation and decision in this case and understands Respondent's terms and conditions of probation. Relief veterinarians shall notify <del>employers</del> <u>licensee manager/managing licensee</u> immediately.	
<b>9.</b>	<b>Owners and Officers (Corporations or Partnerships): Knowledge of the Law</b>
Respondent shall provide, within thirty (30) days after the effective date of the decision, signed and dated statements from the owners, officers, or any owner or holder of ten percent (10%) or more of the interest in Respondent or Respondent's stock, stating said individuals have read and are familiar with federal and state laws and regulations governing the practice of veterinary medicine.	

#### **Adopted Language**

<b><u>57.</u></b>	<b>Notice to Employers</b>
<u>During the period of probation,</u> Respondent shall notify all present and prospective employers of <del>the decision in this case</del> <u>Decision</u> and the terms, conditions, and restrictions imposed on Respondent by <del>the decision in this case.</del> <u>Decision, as follows:</u>	
Within thirty (30) days of the effective date of <del>this decision</del> <u>Decision</u> and within fifteen (15) days of Respondent undertaking <u>any</u> new employment, Respondent shall cause his or her <del>employers</del> <u>supervisor and/or managing licensee (licensing manager)</u> to report to the Board in writing, acknowledging <u>that the employer</u> <del>listed individuals,</del> <u>has/have</u> read <del>the Accusation and decision in this case and understands Respondent's Decision, including the</del> terms <del>and,</del> conditions <del>of probation and restrictions imposed.</del> <u>It shall be Respondent's responsibility to ensure that his or her supervisor and/or managing licensee (licensing manager) submit timely acknowledgment(s) to the Board.</u>	
Relief veterinarians shall notify employers immediately.	



**(E.) Tolling of Probation**

**July 2015 Meeting**

<b>8.</b>	<b>Tolling of Probation</b>
<p>If Respondent resides out of state upon or after effective date of the decision, he or she must comply with the following conditions only: quarterly reports and interviews, tolling of probation, continuing education and cost recovery. If Respondent returns to California he or she must comply or be subject to all probationary conditions for the period of probation.</p> <p>Respondent, during probation, shall engage in the practice of veterinary medicine in California for a minimum of 24 hours per week for six (6) consecutive months or as determined by the Board. Should Respondent fail to engage in the practice of veterinary medicine in California as set forth above, the time outside of the practice shall not apply to reduction of the probationary terms.</p>	

**Adopted Language**

<b>8- 9.</b>	<b>Tolling of Probation</b>
<p><u>If Respondent <del>resides out of state upon</del> shall notify the Board or after effective date its designee in writing within fifteen (15) calendar days of any periods of the decision, he or she non-practice lasting more than thirty (30) calendar days and shall notify the Board or its designee within fifteen (15) calendar days of Respondent's return to practice. Any period of non-practice will result in the Respondent's probation being tolled.</u></p> <p><u>Non-practice is defined as any period of time exceeding thirty (30) calendar days in which Respondent is not engaging in the practice of veterinary medicine in California. While tolled for residing/practicing outside of California, Respondent must comply with the following terms and conditions only: of probation: obey all laws, quarterly reports and interviews, tolling of probation, continuing education maintain a valid license, and cost recovery. If Respondent returns to California he or she must comply or be subject to all probationary conditions for the period of probation.</u></p> <p><u>Respondent, during probation, shall engage in the practice of veterinary medicine in California for a minimum of 24 hours per week for six (6) consecutive months. Non-practice is also defined as any period that or as determined by the Board. Should Respondent fail fails to engage in the practice of veterinary medicine in California for 24 hours per week for the duration of probation (except reasonable time away from work for vacations, illnesses, etc.) or as determined by the Board. as set forth above, the time outside of the practice shall. While tolled for not meeting the hourly requirement, the Respondent shall comply with all terms and conditions of the Decision.</u></p> <p><u>Any period of tolling will not apply to the reduction of the probationary terms. term.</u></p>	

# Disciplinary Guidelines

~~July 2012~~  
Month, Year

## Veterinary Medical Board



~~2005 Evergreen Street, 1747 N. Market Blvd., Suite 2250~~230

Sacramento, CA ~~95815-3831~~95834

(916) ~~263-2610~~515-5220

[www.vmb.ca.gov](http://www.vmb.ca.gov)

~~Susan M. Geranen~~[www.vmb.ca.gov](http://www.vmb.ca.gov)

[www.facebook.com/CA.VetMedBoard/](https://www.facebook.com/CA.VetMedBoard/)

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Annemarie Del Mugnaio, Executive Officer

# DISCIPLINARY GUIDELINES

## VETERINARY MEDICAL BOARD

~~July 2012~~ Month, Year

~~Tom Kendall, DVM~~ Jaymie J. Noland, DVM

~~Kim Williams, RVT~~

Jennifer Loreda, RVT

~~Patti Aguiar~~ Elsa Florez, Public Member

~~Richard Johnson~~ Mark T. Nunez, DVM

Judie Mancuso, Public Member

~~Linda Starr~~ Kathy Bowler, Public Member

Richard Sullivan, DVM

Cheryl Waterhouse, DVM

Special thanks to former Board President ~~Stephanie Ferguson~~ Tom Kendall, DVM

~~Susan M. Geranen~~  
Annemarie Del Mugnaio  
Executive Officer

~~Sandra Monterrubio~~  
Candace S. Raney  
Enforcement Program Manager

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# Veterinary Medical Board

## Disciplinary Guidelines

### Introduction

The Veterinary Medical Board (Board) developed the Disciplinary Guidelines outlined in this manual for its Executive Officer, staff, legal counsel, administrative law judges, and other persons involved in the Board's enforcement process to be used for the purpose of creating judgment orders in formal disciplinary actions. These guidelines are published in regulations for the public and the profession so that the processes used by the Board to impose discipline are readily available and transparent.

The Board recognizes that each case is unique and that mitigating or aggravating circumstances in a particular case may necessitate variations. Therefore, the Board has developed minimum and maximum penalties to assist in determining the appropriate penalty. If an ~~accusation is sustained and administrative law judge finds that a violation occurred but assesses~~ less than the minimum penalty ~~is assessed for that violation~~, the Board ~~requires information from~~ may ask the administrative law judge ~~onto explain~~ the ~~circumstances that resulted in less~~ reasoning for applying a penalty lower than the minimum ~~penalty being assessed~~. In addition, probationary conditions are divided into two categories, 1) standard terms and conditions that are used for all cases, and 2) optional terms and conditions that are used for specific violations and circumstances unique to a specific case.

The Board grants licenses to veterinarians and ~~registers~~ grants registrations to veterinary premises and veterinary technicians, and issues veterinary assistant controlled substances permits. If there is action taken against both the individual ~~licensee~~ licensee and the premises permit, then the disciplinary order should reflect actions against ~~both~~ each. However, in some cases, minimum standard violations are so severe that it is necessary to take immediate action and close a facility. In these instances, the veterinary license and the premises permit may be disciplined separately, and the disciplinary order should reflect the separate action.

Because of the severity of cases resulting in ~~action~~ actions taken by the Office of the Attorney General, the Board has established that the minimum penalty shall always include revocation or suspension with the revocation or suspension stayed and terms and conditions of probation imposed. The imminent threat of the revocation or suspension being reinstated helps to insure compliance with the probationary terms and conditions. ~~It is the recommendation of the~~ The Board ~~that recommends~~ in ~~any case involving a violation related to~~ alcohol or drug abuse related violations ~~that~~, the minimum term of probation should be five years. ~~In and in addition, in any case involving a violation related to alcohol or drug abuse violations~~ the mandatory terms and conditions listed specifically for this type of ~~cases~~ case shall be imposed.

~~In cases where the penalties deviate from the minimum to maximum range without explanation of the deviation, the Board may non-adopt the Proposed Decision and review the case itself.~~

## PENALTIES BY BUSINESS AND PROFESSIONS CODE SECTION NUMBER

<b>Section</b>	4883(a); 4837(b)
<b>Violation</b>	Conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, surgery, or dentistry, in which case the record of the conviction shall be conclusive evidence.
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b> (as appropriate)	Revocation and/or suspension stayed Two-year probation \$2,000 fine Standard terms and conditions Optional terms and conditions including but not limited to: Suspension Limitations on practice Supervised practice No ownership of a veterinary hospital or clinic No management of a veterinary hospital/no supervision of interns or residents Continuing education Psychological evaluation and/or treatment Medical evaluation and/or treatment Rehabilitation program Submit to drug testing Abstain from controlled substances/alcohol Community service Restitution Ethics training
<p>Maximum penalties should be considered if the criminal act caused or threatened harm to an animal or the public, if there have been limited or no efforts at rehabilitation, or if there were no mitigating circumstance at the time of the commission of the offense(s).</p> <p>Minimum penalties may be considered if there is evidence of an attempt(s) at self-initiated rehabilitation. Evidence of self-initiated rehabilitation includes, but is not limited to, pro bono services to nonprofit organizations or public agencies that improve the care and treatment of animals or improve generally society's interactions with animals. Self-initiated rehabilitation measures also include, but are not limited to, <del>when appropriate,</del> specific training in areas of weakness, full restitution to persons harmed by the licensee or registrant, <del>completions</del><u>completion</u> of treatment or other conditions of probation ordered by the court, or <del>full</del> compliance with all laws since the date of the occurrence of the <del>criminal act</del><u>crime</u>.</p>	

<b>Section</b>	4883(b); 4837(d)
<b>Violation</b>	Having professional connection with, or lending the licensee's or registrant's name to, any illegal practitioner of veterinary medicine and the various branches thereof.
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine

<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$2,000 fine Optional terms and conditions including but not limited to: 30-day suspension for each offense No ownership, of a veterinary hospital or clinic No management of a veterinary hospital/no supervision of interns or residents Ethics training
<p>Maximum penalties should be considered if the acts or omissions caused or threatened harm to an animal or client or if there are prior violations of the same type of offense.</p> <p>Minimum penalties may be considered if the acts or omissions did not cause or threaten harm to an animal or cause detriment to a client.</p>	

<b>Section</b>	4883(c); 4837(e); 4839.5
<b><del>Title</del> Violation</b>	Violation or attempt to violate, directly or indirectly, any of the provisions of the chapter
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$1,000 fine Optional terms and conditions including but not limited to: Restitution Ethics training
<p>Maximum penalties should be considered if the actions were intended to subvert investigations by the Board or in any way hide or alter evidence that would or could be used in any criminal, civil, or administrative actions.</p> <p>Minimum penalties may be considered if the acts or omissions did not cause or threaten harm to an animal or cause detriment to a client.</p>	

<b>Section</b>	4883(d)(e)
<b>Violation</b>	Fraud or dishonesty in applying, treating, or reporting on tuberculin or other biological tests. Employment of anyone but a veterinarian licensed in the State to demonstrate the use of biologics in the treatment of animals.
<b>Maximum Penalty</b>	Revocation or suspension and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$5,000 fine Optional terms and conditions including but not limited to: 30-day suspension of license and/or premises permit Continuing education Community service



Maximum penalties should be considered if the acts or omissions caused public exposure of reportable diseases (rabies, brucellosis or tuberculosis) or other hazardous diseases of zoonotic potential

Minimum penalties may be considered if the acts or omissions did not cause or threaten harm to an animal or cause detriment to a client.

<b>Violation</b>	False or misleading advertising
<b>Maximum Penalty</b>	Revocation and/or suspension and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation <del>60</del> 30 day suspension Standard terms and conditions \$2,000 fine Optional terms and conditions including but not limited to: Restitution Ethics training

Maximum penalties should be considered if the advertising was deceptive, caused or threatened harm to an animal, or caused a client to be misled and suffer monetary damages. ~~One~~In that case, one of the probationary terms ~~in that case~~ should be restitution to any client damaged as a result of the violation. The more severe penalty should be considered when there are prior violations of the same type of offense.

Minimum penalties may be considered if the acts or omissions did not cause or threaten harm to an animal or cause detriment to a client.

<b>Violation</b>	Unprofessional conduct, that includes, but is not limited to the following: (1) Conviction of a charge of violating any federal statutes or rules or any statute or rule of this state regulating dangerous drugs or controlled substances. (2)(A) The use of, or prescribing for, or administering to himself or herself, any controlled substance. (B)The use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages to the extent, or in any manner as to be dangerous or injurious to a person licensed or registered under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person so licensed or registered to conduct with safety the practice authorized by the license or registration. (C)The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. (3) A violation of any federal statute, rule, or regulation or any of the statutes, rules, or regulations of this state regulating dangerous drugs or controlled substances.
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine

<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$5,000 fine Optional terms and conditions including but not limited to: 30-day suspension Supervised practice Psychological evaluation and/or treatment Medical evaluation and/or treatment Surrender DEA license/send proof of surrender to Board within 10 days of the effective date of the decision. No ownership, of a veterinary hospital or clinic No management of a veterinary hospital/no supervision of interns or residents Rehabilitation program Submit to drug testing Abstain from use of alcohol and drugs
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Maximum penalties should be considered if acts or omissions caused or threatened harm to an animal or a client- or if there are prior violations of the same type of offense.

Minimum penalties may be considered if acts or omissions did not cause harm to an animal, there are no prior violations of the same type of offense, and there is evidence of self-initiated rehabilitation.

When considering minimum penalties, the terms of probation should include a requirement that the licensee submit the appropriate medical reports (including psychological treatment and therapy), submit to random drug testing, submit to a limitation of practice, or practice under the supervision of a California licensed veterinarian as applicable on the facts of the case, and submit quarterly reports to the Board (in writing or in person as the Board directs). ~~Note: in any violation related to alcohol or drug violations the~~The Board requires a minimum of five years probation for any violation related to alcohol or drug abuse.

<b>Section</b>	4883(g)
<b>Violation</b>	General unprofessional conduct
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine

<b>Minimum Penalty (as appropriate)</b>	Written Public Reproval Revocation and/or suspension stayed Two-year probation Standard terms and conditions Optional terms and conditions including but not limited to: <u>30-day</u> Suspension Limitations on practice Supervised practice No ownership of a veterinary hospital or clinic No management of a veterinary hospital/no supervision of interns or residents Continuing education Psychological evaluation and/or treatment Medical evaluation and/or treatment Rehabilitation program Submit to drug testing Abstain from controlled substances/alcohol Community service/ Restitution Ethics training
<p>Maximum penalties should be considered if the acts or omissions caused substantial harm to an animal or a client, or <u>if</u> there are prior <del>actions against</del><u>violations of</u> the <del>licensee or registrant's</del><u>same type of offense</u>.</p> <p>Minimum penalties may be considered if there are no prior <del>actions</del><u>violations</u>, if there are mitigating circumstances such as the length of time since the offense(s) occurred, if the acts or omissions did not cause substantial harm to an animal or a client, <del>and/or</del> if there is evidence of a self-initiated rehabilitation.</p>	

<b>Section</b>	4883(h)
<b>Violation</b>	Failure to keep the licensee's or registrant's premises and all equipment therein in clean and sanitary condition. (Requirements for sanitary conditions are also outlined in Sections 4853.5 and 4854 (practice sanitation standards).
<b>Maximum Penalty</b>	Revocation or suspension of premises permit and a \$5,000 fine.
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions Fine - not less than \$50 nor more than \$500 per day, not to exceed \$5,000 Optional terms and conditions including but not limited to: <del>A ten to thirty</del> <u>30-day</u> suspension or suspension until compliance with minimum standards of practice is achieved. Random hospital inspections
<p>Maximum penalties should be considered if the acts or omissions caused or threatened harm to animals or the public, if there are prior actions and/or no attempt to remedy the violations, for example, unsanitary or hazardous workplace, improper sterilization of instruments, or improper husbandry practices <u>or if there are prior violations of the same type of offense</u>.</p> <p>Minimum penalties may be considered <del>people</del> if the acts or omissions did not cause or threaten harm to animals or people, remedial action has been taken to correct the deficiencies, <del>and there is remorse for the existing unsanitary conditions</del>.</p> <p>Note - A veterinary license and a premises permit can be disciplined separately.</p>	

<b>Violation</b>	Negligence in the practice of veterinary medicine
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Three-year probation Standard terms and conditions Fine - not less than \$50 nor more than \$500 per day, not to exceed \$5,000 Optional terms and conditions including but not limited to: <del>A ten- to thirty</del> 30-day suspension or suspension until <del>in</del> -compliance with minimum standards of practice is achieved. Random hospital inspections
<p>Maximum penalties should be considered if the acts or omissions caused or threatened harm to animals or the public, if there are prior actions and/or no attempt to remedy the violations.</p> <p>Minimum penalties may be considered <del>people</del> if the acts or omissions did not cause or threaten harm to animals or people, remedial action has been taken to correct the deficiencies and there is remorse for the negligent acts.</p>	

<b>Violation</b>	Incompetence in the practice of veterinary medicine
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/ or suspension stayed Three-year probation Standard terms and conditions \$2,000 fine Optional terms and conditions including but not limited to: <del>90</del> 30-day suspension Supervised practice <del>✓</del> Hospital inspections Continuing education Clinical written examination Community service Restitution Ethics training
<p>Maximum penalties should be considered based on the following factors: if the acts or omissions caused harm to an animal or an animal has died, there are limited or no efforts at rehabilitation, or there are no mitigating circumstances at the time of the commission of the offense(s).</p> <p>Minimum penalties may be considered if the acts or omissions did not cause substantial harm to an animal, there is evidence of rehabilitation, and there are mitigating circumstances such as no prior discipline, remorse for the harm that occurred, cooperation with the Board's investigation, etc.</p>	

<b>Violation</b>	Fraud and/or Deception in the practice of veterinary medicine
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine

<b>Minimum Penalty</b>	Revocation and/or suspension stayed Three-year probation Standard terms and conditions \$2,000 fine Optional terms and conditions including but not limited to: <u>90</u> 30-day suspension Hospital inspections Supervised practice Clinical written examination Community service Restitution Ethics training
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Maximum penalties should be considered based on the following factors: if the acts or omissions caused harm to an animal or an animal has died, there is limited or no evidence of rehabilitation or no mitigating circumstances at the time of the commission of the offense(s).

Minimum penalties may be considered if the acts or omissions did not cause substantial harm to an animal, there is evidence of rehabilitation and there are mitigation circumstances such as no prior discipline, remorse for the harm that occurred, cooperation with the Board's investigation, etc.

<b>Section</b>	4883(j); 4839.5
<b>Violation</b>	Aiding or abetting in acts which are in violation of any of the provisions of this chapter
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$1,000 fine Optional terms and conditions including but not limited to: 30-day suspension Ethics training

Maximum penalties should be considered if the acts or omissions caused or threatened harm to an animal or client and the acts were repeated after a prior violation of the same type of offense.

Minimum penalties may be considered if the acts or omissions did not cause or threaten harm to an animal or cause detriment to a client, there were no prior actions, and there is evidence of remorse and an acknowledgement of the violation.

<b>Section</b>	4883(k); 4837(a)
<b>Violation</b>	Fraud, misrepresentation, or deception in obtaining a license <del>or</del> , registration, <u>or permit</u> .
<b>Maximum and Minimum Penalty</b>	Revocation and a \$5,000 fine

Note - In this instance, the gravity of the offense warrants revocation in all cases since there was no legal basis for licensure in the first place.

<b>Section</b>	4883(l)
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<b>Violation</b>	The revocation, suspension, or other discipline by another state or territory of a license, certificate, or registration to practice veterinary medicine or as a veterinary technician in that state or territory
<b>Maximum Penalty</b>	Revocation
<b>Minimum Penalty</b>	The penalty that would have been applicable to the violation if it had occurred in the State of California

<b>Section</b>	4883(m)
<b>Violation</b>	Cruelty to animals or conviction on a charge of cruelty to animals, or both
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine.
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$5,000 fine Optional terms and conditions including but not limited to: <del>30</del> 60-day suspension Psychological evaluation and/or treatment Medical evaluation and/or treatment Continuing education Ethics training

Note - While the Board believes this violation is so severe that revocation is the only appropriate penalty, it recognizes that a lesser penalty may be appropriate where there are mitigating circumstances.

<b>Section</b>	4883(n)
<b>Violation</b>	Disciplinary actions taken by any public agency in any state or territory of any act substantially related to the practice of veterinary medicine or the practice of a veterinary technician.
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$2,000 fine Optional terms and conditions including but not limited to: 30-day suspension Continuing education

Maximum penalties should be considered if the acts or omissions caused or threatened harm to an animal or the public, there is limited or no evidence of rehabilitation, and there were no mitigating circumstances at the time of the commission of the offense(s).

Minimum penalties may be considered if there is evidence of attempts at self-initiated rehabilitation taken prior to the filing of the accusation. Self-initiated rehabilitation measures include pro bono services to nonprofit organizations or public agencies that improve the care and treatment of animals or improve generally society's interactions with animals. Self-initiated rehabilitation measures also include, ~~when appropriate~~, specific training in areas of weakness, full restitution to persons harmed by the licensee or registrant, ~~completions~~completion of treatment or other conditions of probation ordered by the court, and ~~full~~ compliance with all laws since the date of the occurrence of the violation.

<b>Section</b>	4883(o)
<b>Violation</b>	Violation, or the assisting or abetting violation of any regulations adopted by the Board pursuant to this chapter
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/ or suspension stayed Two-year probation Standard terms and conditions 30-day suspension \$1,000 fine Optional terms and conditions including but not limited to: Continuing education Restitution Ethics training
<p>Maximum penalties should be considered if the acts or omissions caused or threatened harm to the animal or the public, there was more than one offense, there is limited or no evidence of rehabilitation, and there were no mitigating circumstances at the time of the offense(s).</p> <p>Minimum penalties may be considered if there is evidence of attempts at self-initiated rehabilitation. Self-initiated rehabilitation measures include pro bono services to nonprofit organizations or public agencies that improve the care and treatment of animals or improve generally society's interactions with animals. Self-initiated rehabilitation measures also include, <del>when appropriate</del>, specific training in areas of weakness, full restitution to persons harmed by the licensee or registrant, completion of treatment or other <del>conditions</del><u>condition</u> of probation ordered by the court, and <del>full</del> compliance with all laws since the date of the occurrence of the violation.</p>	

<b>Section</b>	4855
<b><del>Title</del>-Violation</b>	Written Records
<b>Maximum Penalty</b>	Revocation and a \$5,000 <del>.00</del> fine
<b>Minimum Penalty</b>	Revocation and/ or suspension stayed Two-year probation Standard terms and conditions 30-day suspension \$1,000 fine Optional terms and conditions including but not limited to: <u>Supervised practice</u> Continuing education
<p>Maximum penalties should be considered when there <del>are</del><u>is</u> a lack of records or omissions and/or alterations that constitute negligence.</p> <p>Minimum penalties may be considered when there is evidence of carelessness and corrective measures have been implemented to correct the process whereby the records were created.</p>	

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<b>Violation</b>	Failure to permit the inspection of Records or Premises by the Board
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$1,000 fine Optional terms and conditions including but not limited to: 30-day suspension Ethics training
<p>Maximum penalties should be considered if there is a deliberate attempt to prevent access to the Board, prior discipline of the managing licensee or the premises, or no mitigating circumstances at the time of the refusal.</p> <p>Minimum penalties may be considered when there are mitigating circumstances at the time of the request for records, where there is no deliberate attempt to prevent the Board from having access to the records or when there are no prior actions.</p>	

<b>Section</b>	4857
<b>Violation</b>	Impermissible disclosure of information about animals and/or about clients
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$1,000 fine Optional terms and conditions including but not limited to: 30-day suspension
<p>Maximum penalties should be considered when breaching confidentiality <del>puts the animals or clients in jeopardy.</del> <u>places a client at risk of some form of retaliation.</u></p> <p>Minimum penalties may be considered when the breach is inadvertent or when there is no prior action against the licensee.</p> <p>Note - The severity of violations may determine whether action taken is citation and fine or formal discipline.</p>	

<b>Section</b>	4830.5
<b>Violation</b>	Duty to report staged animal fighting
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine



<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$1,000 fine Optional terms and conditions including but not limited to: 30-day suspension Continuing <del>E</del> education <u>education</u> Ethics training
Maximum penalties should be considered when an animal or animals have been killed or severely harmed.  Minimum penalties may be considered on a case-by-case basis.	

<b>Section</b>	4830.7
<b>Violation</b>	Duty to report animal abuse or cruelty
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Considered on a case-by-case basis

<b>Section</b>	4836.5; 4837
<b>Violation</b>	Disciplinary proceedings against veterinarians and registered veterinary technicians
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$1,000 fine Optional terms and conditions including but not limited to: 30-day suspension Continuing <del>E</del> education <u>education</u> Ethics training
Maximum penalties should be considered if the acts or omissions caused or threatened harm to an animal or client, or the acts were repeated after a prior violation of the same type of offense.  Minimum penalties may be considered if the acts or omissions did not cause or threaten harm to an animal or client, or if there are no prior violations.  Note - The Practice Act is very specific on the authorized duties for RVTs that cannot be performed by <del>unregistered assistants</del> <u>veterinary controlled substance permit holder</u> ; therefore, these violations are more serious due to their blatant nature.	

## STANDARD TERMS AND CONDITIONS OF PROBATION (1-~~41~~15)

The Board recommends one- to five-year probation, as appropriate, in cases where probation is part of a disciplinary order.

All standard terms and conditions are included in every order of probation applied to the licensee or registrant subject to discipline (Respondent).

### 1. Obey all Laws

Respondent shall obey all federal and state laws and regulations substantially related to the practice of veterinary medicine. ~~Further, within~~Within thirty (30) days of any arrest~~-or, respondent shall notify the Board.~~  
Within thirty (30) days of any conviction~~-. Respondent shall report to the Board and provide proof of compliance with the terms and conditions of the court order including, but not limited to, probation and restitution requirements.~~ Respondent shall notify the Board of any change of name or address within 30 days of the change.

### 2. Quarterly Reports ~~and Interviews~~

Respondent shall report quarterly to the Board or its designee, under penalty of perjury, on forms provided by the Board, stating whether there has been compliance with all terms and conditions of probation. ~~In addition, the Board at its discretion may request additional in-person reports of the probationary terms and conditions.~~  
If the final written quarterly report is not made as directed, the period of probation shall be extended until ~~such time as~~ the final report is received by the Board. ~~Respondent shall make available all patient records, hospital records, books, logs, and other documents~~ Any period(s) of delinquency in submission of reports as directed may be added to the Board, upon request, total period of probation.

### 3. ~~Cooperation with Probation Surveillance—~~Interview with the Board

Within 30 days of the effective date of the decision, Respondent shall appear in person for an interview with the Board or its designee to review the terms and conditions of probation.

~~In~~ Respondent shall comply with the Board's probation surveillance program. All costs for probation monitoring and/or mandatory premises inspections shall be borne by Respondent. ~~addition, if Respondent fails to maintain compliance with terms and conditions of probation in any respect, subsequent in-person interviews may be required.~~

Failure to appear for any scheduled interview without prior notification to Board staff shall be considered a violation of probation.

~~Probation monitoring costs are set at a rate of \$100 per month for the duration of the probation. Respondent shall notify the Board of any change of name or address or address of record within thirty (30) days of the change. Respondent shall notify the Board immediately in writing if Respondent leaves California to reside or practice in another state. Respondent shall notify the Board immediately upon return to California.~~

### 4. Cooperation with Board Staff

Respondent shall cooperate with the Board's inspection program and with the Board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Respondent shall make available all patient records, hospital records, books, logs, and other documents to the Board, upon request.

### 5. Probation Monitoring Costs

Probation monitoring costs are set at a rate of \$100 per month for the duration of the probation. These costs shall be payable to the Board on a schedule as directed by the Board or its designee.

<b>46.</b>	<b>No <del>Preceptorships or</del> Supervision of <u>Students, Interns, or Residents</u></b>
<del>Respondent shall not supervise a registered intern and shall not perform any of the duties of a preceptor students, interns, or residents.</del>	
<b>57.</b>	<b>Notice to Employers</b>
<del>During the period of probation,</del> Respondent shall notify all present and prospective employers of <del>the decision in this case</del> <u>Decision</u> and the terms, conditions, and restrictions imposed on Respondent by <del>the decision in this case.</del> <u>Decision, as follows:</u>	
Within thirty (30) days of the effective date of <del>this decision</del> <u>Decision</u> and within fifteen (15) days of Respondent undertaking <u>any</u> new employment, Respondent shall cause his or her <del>employer supervisor and/or managing licensee (licensing manager)</del> to report to the Board in writing, acknowledging <u>that the employer listed individuals, has/have read the Accusation and decision in this case and understands Respondent's Decision, including the terms and, conditions of probation, and restrictions imposed. It shall be Respondent's responsibility to ensure that his or her supervisor and/or managing licensee (licensing manager) submit timely acknowledgment(s) to the Board.</u>	
Relief veterinarians shall notify employers immediately.	
<b>68.</b>	<b>Notice to Employees</b>
<del>Respondent shall, upon</del> <u>Upon</u> or before the effective date of this decision, <del>Respondent shall</del> post or circulate a notice which actually recites the <del>offenses</del> <u>violations</u> for which Respondent has been disciplined and the terms and conditions of probation, to all registered veterinary employees, and to any <del>preceptor students, residents, and interns or extern</del> involved in his or her veterinary practice. Within fifteen (15) days of the effective date of this decision, Respondent shall cause his/her employees to report to the Board in writing, acknowledging the employees have read the Accusation and decision in the case and understand Respondent's terms and conditions of probation.	
<b>7.</b>	<b><del>Owners and Officers (Corporations or Partnerships): Knowledge of the Law</del></b>
<del>Respondent shall provide, within thirty (30) days after the effective date of the decision, signed and dated statements from the owners, officers, or any owner or holder of ten percent (10%) or more of the interest in Respondent or Respondent's stock, stating said individuals have read and are familiar with federal and state laws and regulations governing the practice of veterinary medicine.</del>	
<b>8. 9.</b>	<b>Tolling of Probation</b>
<del>If Respondent resides out of state upon</del> <u>shall notify the Board or after effective date its designee in writing within fifteen (15) calendar days of any periods of the decision, he or she non-practice lasting more than thirty (30) calendar days and shall notify the Board or its designee within fifteen (15) calendar days of Respondent's return to practice. Any period of non-practice will result in the Respondent's probation being tolled.</u>	
<u>Non-practice is defined as any period of time exceeding thirty (30) calendar days in which Respondent is not engaging in the practice of veterinary medicine in California. While tolled for residing/practicing outside of California, Respondent must comply with the following terms and conditions only of probation: obey all laws, quarterly reports and interviews, tolling of probation, continuing education maintain a valid license, and cost recovery. If Respondent returns to California he or she must comply or be subject to all probationary conditions for the period of probation.</u>	
<del>Respondent, during probation, shall engage in the practice of veterinary medicine in California for a minimum of 24 hours per week for six (6) consecutive months</del> <u>Non-practice is also defined as any period that or as determined by the Board. Should Respondent fail fails to engage in the practice of veterinary medicine in California for 24 hours per week for the duration of probation (except reasonable time away from work for vacations, illnesses, etc.) or as determined by the Board. as set forth above, the time outside of the practice shall. While tolled for not meeting the hourly requirement, the Respondent shall comply with all terms and conditions of the Decision.</u>	
<u>Any period of tolling will not apply to the reduction of the probationary terms term.</u>	

<b>10.</b>	<b><u>Maintain a Valid License</u></b>
<u>At all times while on probation, Respondent shall maintain a current and active license with the Board, including any period during which suspension or probation is tolled. If Respondent's license, by operation of law, or otherwise expires, upon renewal Respondent's license shall be subject to any and all terms of this probation not previously satisfied.</u>	
<b>9 11.</b>	<b><u>Violation of Probation</u></b>
If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against Respondent during probation, or if the Attorney General's office has been requested to prepare any disciplinary action against Respondent's license, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. <u>No petition for modification or termination of probation shall be considered while there is an accusation or petition to revoke probation pending against Respondent.</u>	
<b>12.</b>	<b><u>License Surrender While on Probation/Suspension</u></b>
<p><u>Following the effective date of this Decision, should Respondent cease to practice veterinary medicine due to retirement or health issues, or be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender his or her license to practice veterinary medicine to the Board for surrender. The Board or its designee has the discretion to grant the request for surrender or to take any other action it deems appropriate and reasonable. Upon formal acceptance of the license surrender, Respondent will no longer be subject to the terms and conditions of probation. The surrender constitutes a record of discipline and shall become a part of the Respondent's license history with the Board.</u></p> <p><u>Respondent must relinquish his or her license to the Board within ten (10) days of receiving notification from the Board that the surrender has been accepted.</u></p>	
<b>13.</b>	<b><u>Completion of Probation</u></b>
All costs for probation monitoring and/or mandatory premise inspections shall be borne by Respondent. Failure to pay all costs due shall result in an extension of probation until the matter is resolved and costs paid <u>or a petition to revoke probation is filed.</u> Upon written notice by the board or its designee indicating successful completion of probation, Respondent's license will be fully restored.	
<b>14.</b>	<b><u>Cost Recovery and Payment of Fines</u></b>
<p>Pursuant to Section 125.3 of the California Business and Professions Code, within thirty (30) days of the effective date of this decision, Respondent shall pay to the Board its enforcement costs including investigation, <del>hearing,</del> and <del>probationary monitoring</del><u>prosecution</u>, in the amount of _____ or the Respondent shall make these payments as follows: _____. <del>FAILURE TO PAY THIS AMOUNT TO THE BOARD BY THE STATED DEADLINE SHALL RESULT IN AUTOMATIC REVOCATION OF THE LICENSE FORTHWITH, WITHOUT FURTHER NOTICE OR AN OPPORTUNITY TO BE HEARD.</del></p>	

## OPTIONAL TERMS AND CONDITIONS OF PROBATION (1-~~21~~23)

Note - In addition to the standard terms and conditions of probation, optional terms and conditions of probation are assigned based on violations and fact patterns specific to individual cases.

### 1. Suspension – Individual License

As part of probation, Respondent is suspended from the practice of veterinary medicine for \_\_\_\_\_, beginning the effective date of this decision. During ~~said~~the suspension, Respondent shall not enter any veterinary hospital which is registered by the Board unless seeking treatment for one's own animal. Additionally, Respondent shall not manage, administer, or be a consultant to any veterinary hospital or veterinarian during the period of actual suspension and shall not engage in any veterinary-related service or activity.

### 2. Suspension – ~~Premises~~Premise

As part of probation, ~~Premises~~Premise License Number \_\_\_\_\_, issued to Respondent \_\_\_\_\_, is suspended for \_\_\_\_\_, beginning the effective date of this decision. During ~~said~~the period of suspension, said premises may not be used by any party for any act constituting the practice of veterinary medicine, surgery, dentistry, and/or the various branches thereof.

### 3. Posted Notice of Suspension

If suspension is ordered, Respondent shall post a notice of the Board's Order of Suspension, in a place clearly visible to the public. The notice, provided by the Board, shall remain posted during the entire period of actual suspension.

### 4. Limitation on Practice/~~Inspections~~

(A) During probation, Respondent is prohibited from ~~P~~practicingpracticing \_\_\_\_\_ (Type of practice) \_\_\_\_\_

(B) During probation, Respondent is prohibited from ~~the following~~:-

1. ~~Practicing~~practicing veterinary medicine from a location or mobile veterinary practice which does not have a current ~~premises~~premise permit issued by the Board; ~~and~~

### 5. Inspections

If Respondent is the owner or managing licensee of a veterinary practice, the following probationary conditions apply:

The location or mobile veterinary practice must not only have a current premises permit issued by the Board, but must also be subject to inspections by a Board representative to determine whether the location or veterinary practice meets minimum standards for a veterinary practice. The inspections will be conducted on an announced or unannounced basis and shall be held during normal business hours. The Board reserves the right to conduct these inspections on at least a quarterly basis during probation. Respondent shall pay the Board for the cost of each inspection, which is \$500. If the veterinary practice has two consecutive non-compliant inspections, Respondent shall surrender the Premises Permit within ninety (90) days from the date of the second consecutive non-compliant inspection.

As a condition precedent to any Premises Permit issued to Respondent as Owner or managing licensee, the location or mobile veterinary practice for which application is made shall be inspected by a Board representative to determine whether the location or mobile veterinary practice meets minimum standards for a veterinary practice. Respondent shall submit to the Board, along with any premises permit application, a \$500 inspection fee.

**56. Supervised Practice – Direct or Indirect**

Respondent shall not practice ~~only under the supervision of veterinary medicine until a veterinariansupervisor is~~ approved by the Board. ~~The supervision directed may be continuous supervision, substantial supervision, partial supervision, or supervision by daily review, as deemed necessary by its designee.~~

Respondent shall submit to the Board. ~~All costs involved with practice supervision shall be borne by Respondent, for its prior approval, the name and qualifications of one or more veterinarians of Respondent's choice.~~ Each supervisor shall have been licensed in California for at ~~least~~least five (5) years and not have ever been subject to any disciplinary action by the Board. The supervisor shall be independent, with no prior business or personal relationship with Respondent and the supervisor shall not be in a familial relationship with or be an employee, partner, or associate of Respondent.

Within ~~Upon approval by the Board and within~~ thirty (30) days of the effective date of the decision, Respondent shall have his or her supervisor submit a report to the Board in writing stating the supervisor has read the decision in case number \_\_\_\_\_. Should Respondent change employment, Respondent shall have his/her new supervisor, within fifteen (15) days after employment commences, submit a report to the Board in writing stating the supervisor has read the decision in case number \_\_\_\_\_.

The supervision shall be, as required by the board or its designee, either direct or indirect.

Direct supervision is defined as the physical presence of the supervisor 100% of the time Respondent provides treatment or consultation to the animal patient.

Indirect supervision is defined as review and evaluation of patient records of those patients for whom Respondent provides treatment or consultation during the period of supervised practice. Levels of indirect supervision shall be established as follows:

Substantial – 75%

Moderate - 50%

Partial - 25%

The level of supervised practice may be modified as determined necessary by the Board or its designee. Respondent will not be eligible for a decrease in supervised practice until such time as; 1) Respondent has successfully completed at least 25% of the probationary term; 2) Respondent is deemed to be in full compliance with all terms and conditions of the probationary order; and 3) Respondent has consistently received favorable monthly supervised practice reports and 4) the Board has received a written recommendation by the supervisor.

Respondent's supervisor shall, on a ~~basis~~frequency to be determined by the Board, review and evaluate all or a designated portion of patient records of those patients for whom Respondent provides treatment or consultation during the period of supervised practice. The supervisor shall review these records to assess 1) the medical necessity and appropriateness of Respondent's treatment; 2) Respondent's compliance with ~~community~~minimum standards of practice in the diagnosis and treatment of animal patients; 3) Respondent's maintenance of necessary and appropriate treatment; 4) Respondent's maintenance of necessary and appropriate records and chart entries; and 5) Respondent's compliance with existing statutes and regulations governing the practice of veterinary medicine.

Respondent's supervisor shall file monthly reports with the Board. These reports shall be in a form designated by the Board and shall include a narrative section where the supervisor provides his or her conclusions and opinions concerning the issues described above and the basis for his or her conclusions and opinions. Additionally, the supervisor shall maintain and submit with his or her monthly reports a log designating the patient charts reviewed, the date(s) of service reviewed, and the



date upon which the review occurred. If the supervisor terminates or is otherwise no longer available, Respondent shall not practice until a new supervisor has been approved by the Board.

If respondent is an employee rather a veterinary hospital owner, the supervisor shall additionally notify the Board of the dates and locations of all employment of respondent, during each month covered by his/her report.

**67. No New Ownership**

Respondent shall not have any new legal or beneficial interest in any business, firm, partnership, or corporation ~~currently or hereinafter licensed or registered by~~ during the Board and shall not own any veterinary hospital during the duration of his or her probation.

**78. No Management ~~or Administration~~**

Respondent shall not manage ~~or be the administrator of~~ any veterinary hospital during the duration of his or her probation.

**89. Continuing Education**

Within sixty (60) days of the effective date of this decision, and on an annual basis thereafter, Respondent shall submit to the Board for its prior approval, an educational program or course related to Respondent's specific area(s) of weakness which shall not be less than \_\_\_\_\_ hours per year, for each year of probation. Upon successful completion of the course, Respondent shall provide proof to the Board. This program shall be in addition to the Continuing Education required of all licensees for licensure renewal. All costs shall be borne by Respondent.

**910. Clinical Training**

Within sixty (60) days of the effective date of this decision, Respondent shall submit an outline of an intensive clinical training program to the Board for its prior approval. The exact number of hours and the specific content of the program shall be determined by the Board or its designee. Respondent shall successfully complete the training program and may be required to pass an examination related to the program's contents administered by the Board or its designee. All costs shall be borne by Respondent.

**1011. Clinical or Written Examination**

Within sixty (60) days of the effective date of this decision, or upon completion of the education course required above, or upon completion of the clinical training programs, Respondent shall take and pass species specific practice (clinical/written) examination to be administered by the Board or its designee. If Respondent fails this examination, Respondent must wait three (3) months between reexaminations, except that after three (3) failures, Respondent must wait one (1) year to take each necessary reexamination thereafter. All costs shall be borne by Respondent. If Respondent fails to take and pass this examination by the end of the first year of probation, Respondent shall cease the practice of veterinary medicine until this examination has been successfully passed and Respondent has been so notified by the Board in writing.

**1112. Psychological Evaluation**

~~Within thirty (30)~~ Within thirty (30) days of the effective date of this decision, Respondent shall submit to the Board, for its prior approval, the name and qualifications of one or more psychotherapists of Respondent's choice. Upon approval, and within sixty (60) days of the effective date of this decision, and on a periodic basis as may be required by the Board or its designee, Respondent shall undergo a psychiatric evaluation by a Board-~~appointed~~ approved psychotherapist (psychiatrist or psychologist), to determine Respondent's ability to practice veterinary medicine safely, who shall furnish a psychological report to the Board or its designee. All costs shall be borne by Respondent.

If the psychotherapist (psychiatrist or psychologist) recommends and the Board or its designee directs psychotherapeutic treatment, Respondent shall, within thirty (30) days of written notice of the need for psychotherapy, submit the name and qualification of one of more psychotherapists of Respondent's

choice to the Board for its prior approval. Upon approval of the treating psychotherapist by the Board, Respondent shall undergo and continue psychotherapy until further notice from the Board. Respondent shall have the treating psychotherapist submit quarterly written reports to the Board. All costs shall be borne by Respondent.

**ALTERNATIVE: PSYCHIATRIC EVALUATION AS A CONDITION PRECEDENT TO PRACTICE.**

As of the effective date of the decision, Respondent shall not engage in the practice of veterinary medicine until notified in writing by the Board of this determination that Respondent is mentally fit to practice safely. If recommended by the psychotherapist (psychiatrist or psychologist) and approved by the Board or its designee, Respondent shall be barred from practicing veterinary medicine until the treating psychotherapist recommends, in writing, and stating the basis therefore, that Respondent can safely practice veterinary medicine, and the Board approves ~~said~~the recommendation. All costs shall be borne by Respondent.

**1213. Psychotherapy**

Within thirty (30) days of the effective date of this decision, Respondent shall submit to the Board, for its prior approval, the name and qualifications of one or more psychotherapists of Respondent's choice. Upon approval, Respondent shall undergo and continue treatment until the Board deems that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board. The Board may require Respondent to undergo psychiatric evaluations by a Board-appointed psychiatrist. All costs shall be borne by Respondent.

If the treating psychotherapist finds that Respondent cannot practice safely or independently, the psychotherapist shall notify the Board within three (3) working days. Upon notification by the Board, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee that respondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the Board is required until the Board or its designee has notified respondent that he/she may resume practice. Respondent shall document compliance with this condition in the manner required by the Board.

**1314. Medical Evaluation**



Within thirty (30) days of the effective date of this decision, Respondent shall submit to the Board, for its prior approval, the name and qualifications of one or more physicians of Respondent's choice. Upon approval and on a periodic basis thereafter as may be required by the Board or its designee, Respondent shall undergo a medical evaluation by a Board ~~appointed~~ approved physician, to determine Respondent's ability to practice veterinary medicine safely, who shall furnish a medical report to the Board or its designee. If Respondent is required by the Board or its designee to undergo medical treatment, Respondent shall, within thirty (30) days of written notice from the Board, submit the name and qualifications of a physician of Respondent's choice to the Board for its prior approval. Upon approval of the treating physician by the Board, Respondent shall undergo and continue medical treatment until further notice from the Board. Respondent shall have the treating physician submit quarterly written reports to the Board. All costs shall be borne by Respondent.

If at any time an approved evaluating physician or respondent's approved treating physician determines that respondent is unable to practice safely or independently as a veterinarian, the evaluating or treating physician shall notify the board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice until notified by the board that practice may be resumed.

#### ALTERNATIVE: MEDICAL EVALUATION AS A CONDITION PRECEDENT TO PRACTICE.

As of the effective date of this decision, Respondent shall not engage in the practice of veterinary medicine until notified in writing by the Board of its determination that Respondent is medically fit to practice safely. If recommended by the physician and approved by the Board or its designee, Respondent shall be barred from practicing veterinary medicine until the treating physician recommends, in writing and stating the basis therefore, that Respondent can safely practice veterinary medicine, and the Board approves said recommendation.

#### **1415.     Rehabilitation Program – Alcohol or Drug**

Within thirty (30) days of the effective date of this decision, Respondent shall submit in writing a(n) alcohol/drug rehabilitation program in which Respondent shall participate (for the duration of probation/for one/for two years) to the Board for its prior approval. ~~In the quarterly written reports to the Board,~~ Respondent shall provide documentary evidence in the quarterly written reports to the Board of continuing satisfactory participation in this program. All costs shall be borne by Respondent.

Components of the treatment contract shall be relevant to the violation and to the Respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random biological fluid testing, abstention from drugs and alcohol, use of worksite monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluation, and other appropriate rehabilitation or monitoring programs. All costs of participating in the program(s) shall be borne by the Respondent.

#### **16.         Continuing Prevention and Support Groups**

Within thirty (30) days of the effective date of this decision, Respondent shall begin regular attendance at a recognized and established substance abuse recovery support group in California, (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the Board or its designee. Respondent must attend at least one group meeting per week unless otherwise directed by the board or its designee. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation. Failure to attend or submit documentation thereof shall be considered a violation of probation.

#### **1517.     Submit to Drug Testing**

Respondent shall immediately submit to drug testing, at Respondent's cost, upon request by the Board or its designee. There will be no confidentiality in test results; positive test results will be immediately reported to the Board and to Respondent's current employer.

Respondent shall make daily contact as directed by the [Board or its designee] to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required.

Any confirmed positive test for alcohol or any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation and shall result in the automatic suspension from work by Respondent and may be a cause for revocation of probation. Respondent may not resume the practice of veterinary medicine in any form until notified by the Board in writing.

#### **1618. Abstain from Controlled Substances**

Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and the abuse of dangerous drugs as defined in Section 4211 of the Business and Professions Code, except when lawfully not prescribed by ~~a licensed practitioner~~ for a bona fide illness. Upon request of the Board or its designee, Respondent shall submit to random~~provide documentation from the licensed practitioner that the prescription for the drug testing during the period of probation was legitimately issued and is a necessary part of Respondent's treatment.~~

#### **1719. Abstention from Alcohol Use**

Respondent shall abstain completely from the use of alcoholic beverages.

#### **1820. Community Service**

Within sixty (60) days of the effective date of this decision, Respondent shall submit a community service program to the Board for its prior approval. In this program Respondent shall provide free services on a regular basis to a community or charitable facility or agency for at least \_\_\_\_\_ (\_\_\_\_) hours per \_\_\_\_\_ for the first \_\_\_\_\_ of probation. All services shall be subject to prior Board approval.

#### **1921. Fine**

Respondent shall pay to the Board a fine in the amount of \_\_\_\_\_ (not to exceed five thousand dollars) pursuant to Business and Professions Code sections 4875 and 4883. Respondent shall make ~~said~~the payments as follows: \_\_\_\_\_.

~~Pursuant to Business and Professions Code Section 125.3, enforcement costs (investigative, legal, and expert review), up to the time of the hearing, can be recovered.~~

#### **2022. Restitution**

Respondent shall make restitution to any injured party in the amount of \_\_\_\_\_. Proof of compliance with this term shall be submitted to the Board within sixty (60) days of the effective date of this decision.

~~Note -- Name and address of injured party may be inserted in the body of this term.~~

#### **2123. Ethics Training**

Respondent shall submit to the Board for its prior approval, ~~an~~ ethics training course for a minimum of \_\_\_\_\_ hours during the probationary period. Upon Respondent shall provide proof of successful completion of the course ~~, Respondent shall provide proof~~ to the Board. All costs shall be borne by Respondent.

## OVERVIEW GUIDE FOR DISCIPLINARY DECISIONS

*Most of the background information provided below is contained in the Department of Consumer Affairs Reference Manual for board members and gives an overview of part of a board's disciplinary process. Certain aspects of this overview were changed by the passage of SB 523 (Kopp, Chapter 938, Statutes of 1995). The changes were in regard to ex parte communications.*

### Accusation/Statement of Issues

The principal responsibility of ~~a licensing board is~~ boards are to protect the public. ~~This is accomplished by determining whether a license should be issued and whether a disciplinary action should be taken against a licensee.~~ The Administrative Procedure Act (Government Code, Sections 11500 through 11528) prescribes the process necessary to deny, suspend, or revoke a license. An action to suspend or revoke a license is initiated by the filing of an Accusation. An action to deny a license is initiated by the filing of a Statement of Issues.

In disciplinary matters, a Deputy Attorney General (DAG) acts as the Board's prosecutor and coordinates all necessary legal proceedings. If a case is referred to the Office of the Attorney General (OAG) and accepted for prosecution, the DAG assigned the matter will prepare a Statement of Issues or an Accusation. The person against whom the action is filed is called the Respondent.

Once drafted, the Statement of Issues or Accusation is forwarded to the Executive Officer (EO) for approval. ~~Except where the preparation of administrative pleadings is voluminous and routine, the EO will normally review an Accusation or Statement of Issues for accuracy.~~ Board staff will ~~then~~ assign a case number and the EO reviews all Accusations and/or Statement of Issues for accuracy. The EO will sign ~~the pleading document~~ before returning it to the OAG for service on the Respondent.

The document is then served on the Respondent. The Respondent may contest the charges by filing a Notice of Defense ~~and requesting a hearing, because the law requires notice and an opportunity to be heard.~~

The DAG will then schedule a hearing before an Administrative Law Judge (ALJ) from the Office of Administrative Hearings (OAH).

### ~~Administrative~~ Hearing Process

An administrative hearing is similar to a trial in a civil or criminal court. Both parties have the opportunity to introduce evidence (oral and documentary) and the Respondent has a right to confront his or her accusers.

Although a ~~board~~Board may sit with ~~the~~an ALJ and hear the case, most cases are heard solely by the ALJ ~~alone~~ because it is ~~a complex~~an expensive procedure and may ~~require anywhere from~~last several days to several weeks of time.

In order to take discipline against a license issued by the Board, either a veterinarian or registered veterinary technician, it must be demonstrated by "clear and convincing evidence" that ~~a violation of Respondent violated the~~ law or a regulation ~~has occurred~~. The clear and convincing standard is more than the "preponderance of the evidence" standard required for civil trials but less than the "beyond a reasonable doubt" standard for criminal trials.

To sustain a citation against a licensee, the allegations need only be proven ~~to the~~by "preponderance of the evidence" standard.

## Proposed Decision

After hearing ~~all the witnesses and arguments~~case and considering ~~all of~~ the evidence presented, the ALJ renders a Proposed Decision that contains: 1) findings of fact, 2) a determination of issues, and 3) a proposed penalty (assuming a violation is found). The This Proposed Decision is ~~then~~ submitted to the Board for consideration and a final decision. ~~The Proposed Decision must be acted upon by the Board within 100 days of receipt, or it becomes final by operation of law as proposed by the ALJ.~~

In making a decision whether to adopt the Proposed Decision as its own decision, the Board may only consider the Proposed Decision itself. The Board may not consider evidence about the case not contained in the Decision. The Board may consider advice of legal counsel regarding their options, the legal sufficiency of the Proposed Decision, and the law applicable to the case at hand. If a Board member is personally acquainted with the licensee to a degree that it affects their decision-making ability, or the Board member has received evidence about the case not contained in the Proposed Decision, the Board member should recuse him or herself from any discussion about the case and the vote on the matter.

The Board may vote on the Proposed Decision by mail ballot or at a meeting in a closed session. Although a Proposed Decision carries great weight based on the fact that the ALJ ~~was a witness~~ ~~to~~received the evidence presented at the hearing, and observed the actual testimony of the witnesses and the demeanor of those witnesses, the Board is the final decision-maker. The Board should consider the ALJ's narrative explanation in the Decision and how the Disciplinary Guidelines were applied. If the Decision is outside the Disciplinary Guidelines, the ALJ must explain to the satisfaction of the Board, the factors that were proved that caused the ALJ to deviate from the standards~~guidelines~~.

Adopting any decision is a serious responsibility of a Board member. When considering a Proposed Decision, the Board's legal counsel is present to respond to questions about the legal parameters of the case and the Board's authority. Board members must take time to fully discuss each case and to seek clarification from legal counsel for any question they may have prior to making a final decision on the case.

~~When~~Pursuant to Government Code Section 11517, a Board has three basic options when considering a Proposed Decision, ~~the Board has three basic options:~~

- ~~1. a.~~ adopt the Decision as written, including the proposed penalty,
- ~~2b.~~ adopt the Decision and reduce the penalty; or
- ~~3. not adopt~~c. reject the Proposed Decision. The Proposed Decision must be voted upon by the board within 100 days of receipt or it becomes final as proposed by the ALJ.

## ~~Non-Adopt~~ – Rejecting a Decision

### A Proposed Decision

The Board may choose ~~not to adopt~~reject a Proposed Decision of an ALJ for many reasons ~~that, which~~ might be grouped generally under the following categories:

- ~~1.~~ The Board finds the penalty or terms of probation inappropriate to the violation(s).
- ~~2.~~ The Board disagrees with the ALJ's determination of the issue(s) in the case.

When a Proposed Decision is not adopted, the Board is required to obtain a copy of the transcript of the hearing and documentary evidence unless this requirement is waived by all parties. Each Board member must read the entire transcript and consider only that evidence presented at the hearing. The DAG and the Respondent are entitled to submit oral or written arguments, ~~or oral argument if the Board so orders~~, on the case to the Board. The Board must render its own decision after reading the transcript and arguments within 100 days from the receipt of the transcript

~~After the decision has been rendered, all parties will be served with the Decision After **Non-Adoption/Rejection**.~~

The Board can elect to return the non-adopted decision to the OAH if it feels that additional evidence is required before the Board can render its decision. In this instance, the case is returned to the OAH and a new hearing date is scheduled. After the new hearing is complete, the ALJ, the same one as before or a new ALJ if the prior one is unavailable, will issue a new Proposed Decision and the Board will consider the Proposed Decision anew.

## **FACTORS TO CONSIDER WHEN DECIDING WHETHER TO HOLD OR NONADOPT A STIPULATED SETTLEMENT OR PROPOSED DECISION**

As a general rule, most stipulated settlements and proposed decisions are well reasoned, consistent with the Board's disciplinary guidelines, and may be adopted consistent with sound public policy. If they are not, consider rejecting (or "nonadopting") such decisions. If it is difficult to make that determination, however, stipulated settlements and proposed decisions should be held for closed session discussion.

Consider **nonadopting** a Stipulated Settlement or an ALJ's Proposed Decision in these circumstances:

1. The stipulated settlement or proposed decision does not provide sufficient public protection given the nature of the violations. For example, important terms of probation are missing, the probationary period is too short, probation is not appropriate, or other significant unexplained deviations from your board's disciplinary guidelines.
2. The ALJ made an error in applying the relevant standard of practice for the issues in controversy at the hearing. (Proposed Decision)
3. The ALJ made an error in interpreting law and/or regulations. (Proposed Decision)

Consider **holding** a case for closed session discussion when:

1. You are unsure whether the stipulated settlement or proposed decision protects the public and would like to discuss the merits with other board members.
2. You are unsure about the judge's reasoning and description. (Proposed Decision)
3. If you believe a discussion of the practice issues with licensee members may make it easier for you to make a decision.
4. If you are unsure whether the judge's decision is consistent with the law. (Proposed Decision)
5. After discussion with the assigned board attorney, you still have questions about the case.

Typically, a vote to hold any Decision for closed session discussion requires a hold vote by two (2) or more board members.

### **Petition for Reconsideration**

A Respondent has a right to ~~and may~~ petition the Board ~~before the effective date of the decision~~ for reconsideration of the Board's decision.

~~If a Board does vote before the effective date of the decision. The Board may decide to reconsider its decision, which means it is equivalent would grant Respondent's petition. If the Board needs more time,~~

~~it may delay the effective date of the decision by ten days for the purposes of deciding whether to reconsider the decision. The Board may decide not adopting a Proposed Decision and the steps listed above apply to reconsider its decision, which means it would deny Respondent's petition. If the 30-day time period lapses or the Board does not act on takes no action before the effective date of the decision, the petition, the request for reconsideration is deemed to be denied by operation of law, and the Board no longer has jurisdiction over the matter.~~

### **Appeal Process – Writ of Administrative Mandamus**

~~A Respondent has the right to request reconsideration and if denied, file a Writ to appeal a disciplinary action imposed by a Board.~~

~~A decision rendered by a Superior Court can be further appealed to the Court of Appeals and then to the Supreme Court by either the Board or the Respondent.~~

### **Stipulated Agreement**

~~Once an Accusation has been filed, rather than proceeding to a formal hearing and prior to requesting that the Board consider settlement terms and conditions, the Respondent shall provide mitigating factors and evidence of rehabilitation. Mitigating factors include factors beyond the control of the licensee that existed for a brief period of time but no longer exists that may mitigate the need for certain types of discipline. Evidence of rehabilitation would show that Respondent has taken serious steps to improve behavior and correct actions that led to the need for disciplinary action. The parties may then stipulate (agree) to a determination of the violations charged against the Respondent and to a proposed penalty. Stipulations are negotiated and drafted by the DAG representing the Board and the Respondent and his/her legal counsel. In negotiating a stipulation, the DAG works closely with the Board's EO (or designated Enforcement Program Manager) and utilizes the Board's Disciplinary Guidelines to arrive at a stipulation that is intended to be acceptable to the Board.~~

~~The stipulation is presented to the Board for its consideration in much the same way that a Proposed Decision is presented. Once a stipulation has been signed by the licensee and his or her counsel, if any, the Board must vote to approve or disapprove the stipulation as a whole. If the Board votes to disapprove a proposed stipulation, it may send back recommendations for inclusion into any future stipulations. The Board may look beyond the mere contents of an Accusation, though it must confine its consideration to information that is relevant to the charges at hand. While there is no time limit within which a stipulation must be considered, any undue delays should be avoided.~~

~~**Default Decisions** If a Board reconsiders its decision, it would engage in the same process outlined above for rejecting a Decision, except that there would not be a 100-day deadline for rendering its final decision.~~

~~Eligibility to Petition for Reconsideration is limited to Proposed Decisions. A Petition for Reconsideration is the first step available to a party in contesting a final order. This process is governed by Government Code Section 11521. The agency may order reconsideration of all or part of the case on its own motion or on petition of any party.~~

~~The process, generally, is as follows:~~

- ~~• Petition for Reconsideration is submitted to the Board by Respondent.
  - ~~○ The Executive Officer will issue a 10-day Stay of Decision (Stay of Effective Date of Decision) (sample attached)~~
  - ~~○ The Board reviews the Petition to determine if it will issue an Order Granting Reconsideration or Order Denying Reconsideration~~~~
- ~~• If the Board votes to DENY the Petition for Reconsideration
  - ~~○ The Decision will remain as issued and will become effective ,~~~~



- If the Board votes to GRANT the Petition for Reconsideration, the Decision and Order will NOT become effective
  - The Order Granting Reconsideration will be sent to Respondent and the order will stay the effective date of the Decision indefinitely. (sample attached)
  - The Board will issue an Order Fixing Time for Submission of Written/Oral Argument (sample attached)
    - Only the Board President has the authority to extend the deadline for submission or Written/Oral Argument
  - Board staff will order transcripts from the hearing
  - Upon conclusion of the Fixed Time for Submission of Written/Oral Argument and receipt of hearing transcripts, the petition is sent to the Board for review.
    - Written/Oral Argument (Board may choose to accept either or both)
    - Argument/New Evidence (Board may choose to accept either or both)
  - The matter will be discussed in closed session at the next regularly scheduled board meeting during which the Board can decide to:
    - uphold the original decision
      - Order prepared by DCA Legal Counsel
    - reduce the penalty
      - Order prepared by DCA Legal Counsel
    - remand the matter back to the ALJ for taking and evaluation of further evidence
    - Other options according to Gov Code Section 11517

## DEFAULT DECISION

Default Decisions are rare; however, in some cases, the Respondent does not respond to an Accusation by returning the Notice of Defense, fails to return the Notice of Defense in a timely manner, or fails to appear at a scheduled hearing. ~~There is~~The Respondent has a legal obligation to respond to an Accusation and to be present at a scheduled hearing. Failure to ~~meet the legal obligations~~do so is grounds for ~~a Default Decision whereby the~~imposition of discipline ~~is imposed based on~~upon the ~~Respondent's failure to respond by means of issuance of a Default Decision~~. In these cases the Board need only demonstrate that it has served the Accusation on the licensee at the licensee's address of record. This is one reason it is imperative that licensees maintain a current address of record with the Board; failure to do so can have very serious consequences if the licensee becomes subject to an Accusation but has an old address of record on file with the Board because the Board has no legal obligation to make any attempt to locate the licensee. Service of an Accusation by first class mail is all that is required to prove proper service.

The result of a Default Decision is nearly always a straight revocation of the license. If the Respondent is also a managing licensee ~~for of~~ a ~~premises permit~~premise, the premises permit will automatically ~~be canceled~~cancel by operation of law. If the Accusation was pled against the premises as well as the licensee, the premises permit is revoked along with the license.

## Appeal Process

A Respondent has the right to file a Petition for a Writ of Mandate in Superior Court to challenge a disciplinary action imposed by a Board. This may include a request by the Respondent for a stay or postponement of the Board's Decision invoking Disciplinary action. A court has the authority to uphold, set aside a Decision or remand the case to the Board with specific directions for further consideration.

The Superior Court renders a decision based upon the record. That decision could then be appealed to the Court of Appeals.

## **Stipulation**

Once an Accusation has been filed, rather than proceeding to a formal hearing, the parties may stipulate (agree) to a determination of the violations charged against the Respondent and to a proposed penalty. Stipulations are negotiated and drafted by the DAG representing the Board and the Respondent or his/her legal counsel. In negotiating a stipulation, the DAG is encouraged to work closely with the Board's EO to arrive at a stipulation that will be acceptable to the Board.

The stipulation is presented to the Board for its consideration in much the same way that a Proposed Decision is presented. Once a stipulation has been signed by the licensee and his or her counsel, if any, the Board must vote to approve or disapprove the stipulation as a whole. If the Board votes to disapprove a proposed stipulation, it may send back recommendations for inclusion into any future stipulations. In the case of a stipulation, the Board has more latitude to modify its terms as part of the negotiation process and to look beyond the mere contents of an Accusation, though it should confine its consideration to information that is relevant to the charges at hand. While there is no time limit within which a stipulation must be considered, any undue delays should be avoided.

## **PETITION FOR REDUCTION OF PENALTY OR REINSTATEMENT**

In petitioning for Reduction of Penalty or Reinstatement under Business and Professions Code Section 4887 and under Government Code Section 11522, the petitioner has the burden of demonstrating that he or she is fit to safely engage in the practice of veterinary medicine within the scope of current law and accepted standards of practice.

A Petition for Reduction of Penalty or Reinstatement may be filed 1 year or more from the effective date of the disciplinary decision.

The process for filing of a Petition for Reduction of Penalty or Reinstatement is as follows:

- Petitioner files the Petition accompanied by all supporting documentation
- The matter is referred to the Division of Investigation for investigation (Petition for Reinstatement)
- The Petition and investigation report is referred to the Office of the Attorney General for assignment to a Deputy Attorney General.
- The matter is set for hearing before the Board in open session at the next regularly scheduled Board meeting.
- The hearing takes place in open session before the Board and an Administrative Law Judge.
- The Board considers and decides the matter in closed session.
- The Decision and Order is served on Respondent via regular and certified mail.

## **Definitions**

Negligence - A departure from the standard of care or practice. It can be an act of omission or commission. Harm or injury is not a necessary component of administrative negligence because we do not seek monetary damages (redress).

Incompetence - A lack of knowledge or ability in discharging professional obligations.

~~Fraud and Deception—Deception—Any act or omission that deceives or misleads another person.~~

Fraud - An intentional act or omission to deceive or mislead another person by misrepresentation, deceit, or concealment of a material fact.

Deception - Any act or omission that deceives or misleads another person



Both fraud and deception can exist despite truthful statements if the statements made, whether written or oral, have a tendency to mislead or do in fact mislead.

**Veterinary Medical Board**

1747 N. Market Blvd., Suite 230, Sacramento, CA 95834

Telephone: 916-515-5220 Fax: 916-928-6849 | [www.vmb.ca.gov](http://www.vmb.ca.gov)**MEMORANDUM**

<b>DATE</b>	October 13, 2015
<b>TO</b>	Veterinary Medical Board
<b>FROM</b>	Annemarie Del Mugnaio, Executive Officer DCA/Veterinary Medical Board
<b>SUBJECT</b>	Animal Rehabilitation Regulations

**Background:**

Around February 2011, the MDC identified the issues before the Board regarding the regulation of animal rehabilitation (AR), including defining AR and considering exclusions, identifying who may engage in AR, appropriate supervision parameters, and available AR training. In March 2012, the MDC Task Force prepared an issues memo (attached) that outlined its recommendations before the MDC. Ultimately, the Board adopted some of the recommendations, by including certain provisions in the proposed regulations, but did not adopt the indirect supervision standards or require any specialized training in order to perform AR.

In June 2015, the Board filed its regulatory proposal for AR. The Notice of regulatory action and associated Initial Statement of Reasons, set forth the 45-day public comment period and public hearing on September 10, 2015. The Board received several hundred comments (thousands signed petitions), and received testimony from over sixty (60) interested parties at the September 10, 2015, hearing. The testimony included opposition similar to that which was raised in public meetings in 2012/2013 as follows: complementary therapy, such as massage, should not be defined as AR; supervision parameters are overly restrictive; the lack of specific training in AR for all providers poses a consumer protection problem; this is an attempt by the Board to restrict business competition; and the definition of AR in the Board's proposal is too broad. The following reflects some of the more common concerns and feedback from interested parties:

1. AR should be regulated to protect animal patients from incompetent providers.
2. Specifically state that MSM, 16 C.C.R. Section 2038 is not being modified by the regulatory proposal.
3. Since animals are deemed property, the consumer should have a right to choose complementary services for their animals.
4. Significant negative impact to jobs and businesses would result if the regulations were to take effect.
5. The supervision requirement is far too restrictive; change direct supervision requirement to indirect supervision.
6. The level of supervision should be determined by the referring veterinarian.
7. Lack of clarity in the supervision requirement for AR
8. The VMB has an incomplete understanding of the application of AR.
9. Remove massage from the definition of AR.

10. Exercise for the prevention of disease is not medicine and should be excluded.
11. Horse trainers are not licensed and yet provide most of the exercise therapy for race horses.
12. Both Colorado and Nevada have workable models.
13. There are not enough veterinarians to oversee AR services and thus the regulations present a barrier to access for the consumer.
14. The regulations will drive up consumer costs for AR.

**Issues:**

Although this issue has been considered by the Board for some time, since the time the Board began its discussion, several policy and legal issues have been raised. Initially, the Board must consider the definition of the practice of veterinary medicine. If the modalities or interventions defined in the AR regulations, then constitute the practice of veterinary medicine pursuant to Bus. & Prof. Code section 4825, those modalities or interventions can only be practiced by a person licensed by the Board. It is questionable whether the Board can adopt regulations that define other practitioners who are not licensed by the Board to engage in those aspects of veterinary medicine.

If those modalities or interventions do not constitute the practice of veterinary medicine, it is questionable whether the Board can adopt regulations to govern areas outside its scope of practice.

In either case, concerns have been raised that the Board is attempting to limit business competition and protect the profession's financial interests, not to further its consumer protection board's mandate, and the Board must address this concern. The attached Office of Attorney General Opinion 15-402 issued September 10, 2015, states, in part, *State agencies are immune from antitrust challenge if their conduct is undertaken pursuant to a "clearly articulated" and "affirmatively expressed" state policy to displace competition. A state policy is sufficiently clear when displacement of competition is the "inherent, logical, or ordinary result" of the authority delegated by the state legislature.*

Clearly, the Board may adopt regulations that govern the competent practice of aspects of veterinary medicine in a manner that serves to protect animal patients within the Board's authority. However, to the extent that the proposed AR regulations attempt to act as a waiver of the requirement for license, restrict services that are not clearly identified as the practice of veterinary medicine, or restrict services that do not pose a reasonable threat in term of patient safety, the Board will likely be challenged.

Also, since the practice of AR is deemed the practice of veterinary medicine, the settings where such services are rendered would require registration with the Board and the oversight of a Licensee Manager (BPC Section 4853). Such oversight would provide another layer of consumer protection as the Board would be authorized to inspect the premises where AR services are provided.

Both the Colorado and Nevada models include flexibility regarding the oversight of a veterinarian referring to a non-veterinarian providing AR. Many of the commenters suggested these models as reasonable and appropriate models for regulating AR. Both states, however, have specific language in their respective Physical Therapy and Veterinary Medicine practice acts allowing for the practice of physical therapy on animals. The Board must be prepared to respond to such comments.



**Action Requested:**

Consider legal issues that have been raised, and the comments received during the public comment period regarding the proposed AR regulations, and determine an appropriate course of action. If the Board decides to continue with this rulemaking process, it will need to respond to all of the comments and determine whether any of the proposed text should be modified, or express the rationale(s) for rejecting modifications. However, if the Board decides to not pursue the regulations, it should consider other avenues at its disposal for enforcing violations of the Practice Act.

**Attachment**

- Proposed Animal Rehabilitation Language – VMB January 2015
- MDC 2012 Report
- Office of the Attorney General Legal Opinion 15-402, dated September 10, 2015
- Public Comments Received in Response to the Proposed Regulations
- Colorado Regulations for Physical Therapists to Perform Physical Therapy on Animals
- Nevada Provisions on Animal Physical Therapy
- Utah Provision on Animal Physical Therapy
- Nebraska Regulations on Animal Therapists
- Maryland Rules on Animal Acupuncture
- Minnesota Statutes on Equine Teeth Floating Services
- JAVMA News – Pet Rehab Becoming Mainstream Practice, October 1, 2009
- JAVMA News – Scope of Practice Laws Draw Attacks, October 15, 2008
- Model Standards for Veterinary Physical Rehabilitation Practice- American Association of Rehabilitation Veterinarians



**Veterinary Medical Board**  
**Proposed Language**

*New text is shown in underline.*

ADOPT SECTION 2038.5 OF ARTICLE 4 OF DIVISION 20 OF TITLE 16 OF THE CALIFORNIA CODE OF REGULATIONS TO READ AS FOLLOWS:

§ 2038.5. Animal Rehabilitation.

- (a) The term “animal rehabilitation” (AR) is the use of the physical, chemical, and other properties of thermal, magnetic, biofeedback technology, hydrotherapy (such as underwater treadmills), electricity, sound, therapeutic massage, manual therapy, and active, passive, and resistive exercise for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals. AR includes evaluation, treatment, instruction, and consultative services.
- (b) AR may be performed only by the following persons:
  - (1) A veterinarian who has examined the animal patient and has sufficient knowledge to make a diagnosis of the medical condition of the animal, has assumed responsibility for making clinical judgments regarding the health of the animal and the need for medical treatment, including a determination that AR will not be harmful to the animal patient, discussed with the owner of the animal or the owner’s authorized representative a course of treatment, and is readily available or has made arrangements for follow-up evaluation in the event of adverse reactions or failure of the treatment regimen. The veterinarian shall ensure that accurate and complete records of AR treatments are maintained in the patient’s veterinary medical record.
  - (2) A California licensed physical therapist (PT) or registered veterinary technician (RVT) working under the direct supervision of a veterinarian. A PT or a RVT shall be deemed to be working under the direct supervision of a veterinarian where the following protocol has been followed:
    - (A) The supervising veterinarian shall comply with the provisions of subsection (b)(1) prior to authorizing a PT or RVT to complete an initial evaluation of and/or perform treatment upon an animal patient.
    - (B) The supervising veterinarian shall be physically present wherever the AR is being performed.
    - (C) A veterinarian shall conform to the provisions of this section when supervising a PT or RVT who is performing AR treatments upon an animal. Failure to conform to these provisions shall be deemed unprofessional conduct or aiding and abetting the unlicensed practice of veterinary medicine pursuant to section 4826 of the Code.
    - (D) After the PT or RVT has completed an initial evaluation of and/or treatment upon the animal patient, the PT or RVT shall consult with the supervising veterinarian

to confirm that the AR care is appropriate, and to coordinate complementary treatment, to assure proper patient care.

(E) A PT or RVT shall conform to the provisions of this section when performing AR upon an animal. Failure to conform to these provisions shall be deemed the unlicensed practice of veterinary medicine pursuant to section 4826 of the Code.

(c) If at any time either the supervising veterinarian or the PT or RVT terminates the supervisory relationship as defined above, the PT or RVT shall immediately cease AR treatment.

Note: **Authority Cited:** Sections 4808 and 4836 of the Business and Professions Code.

**Reference:** Sections 4825, 4826, and 4883 of the Business and Professions Code.

VMB MDC

**Animal Rehabilitation Task Force Report**

Jon Klingborg, DVM & Jennifer Boyle, RVT

- 1) A California licensed DVM may provide animal rehabilitation services.
- 2) A California licensed DVM may provide animal rehabilitation services *on a referral basis* when:
  - A. The referring veterinarian has previously examined the animal patient and has provided a differential diagnosis if appropriate.
  - B. The referring veterinarian has cleared the animal for physical rehabilitation.
    - (i) The animal patient's record must include a notation of verbal or written veterinary medical clearance. If verbal clearance is given, the veterinarian providing physical rehabilitation services (henceforth called the **"rehab veterinarian"**) must document the verbal clearance in the animal patient's record, including the name of the referring veterinarian, date and time clearance was received.
  - C. The rehab veterinarian is responsible for developing and implementing the plan of care for the animal patient's physical rehabilitation, and will appropriately record the plan and progress of the patient. The referring veterinarian must approve and sign off on the rehabilitation plan before it can be implemented. Any significant changes in the plan by the rehab veterinarian must also receive prior approval from the referring veterinarian, unless there is an emergency or reason to believe that continuing with the plan would be detrimental to the patient.
  - D. It is expected that the rehab veterinarian and the referring veterinarian will continue professional collaboration and communication as necessary and appropriate for the well being of the animal patient. While the patient is undergoing physical rehabilitation, the rehab veterinarian will provide a written update of the animal patient's plan and progress to the referring veterinarian within 72 hours of a treatment.
  - E. It is expected that the referring veterinarian will review the progress reports from the rehab veterinarian, and communicate in writing or verbally any questions, concerns or recommendations for modification of the rehabilitation program.
  - F. Ultimately, cessation of physical rehabilitation will be decided by the referring veterinarian.
- 3) An RVT can provide physical rehabilitation services under the *direct* supervision of a DVM.
- 4) If a California certified RVT wishes to provide rehab services under *Indirect* supervision, then the RVT meet all of the following standards:



A) become certified by one of these two programs:

University of Tennessee (CCRP)

or

Canine Rehabilitation Institute (CCRA)

B) Spend 120 hours working with a veterinarian who provides Rehabilitation services, and who will sign off that the RVT demonstrates the skill and meets the appropriate standards at the conclusion of the internship period. At this point, the RVT will receive a credential from the VMB to provide animal rehabilitation services.

C) For a patient to be referred from a DVM to an appropriately credentialed RVT:

- (i) The referring veterinarian has previously examined the animal patient and has provided a differential diagnosis if appropriate.
- (ii) The referring veterinarian has cleared the animal for physical rehabilitation.
- (iii) The animal patient's record must include a notation of verbal or written veterinary medical clearance. If verbal clearance is given, the RVT providing physical rehabilitation services (henceforth called the "rehab RVT") must document the verbal clearance in the animal patient's record, including the name of the veterinarian, date and time clearance was received.
- (iv) The referring veterinarian and the rehab RVT are jointly responsible for developing and implementing the plan of care for the animal patient's physical rehabilitation. The rehab RVT will appropriately document the plan and progress of the patient. Any suggested changes in the plan by the rehab RVT must also receive prior authorization from the referring veterinarian, unless there is an emergency or reason to believe that continuing with the plan would be detrimental to the patient.
- (v) It is expected that the rehab RVT and the referring veterinarian will continue professional collaboration and communication as necessary and appropriate for the well being of the animal patient. The rehab RVT will provide a written update of the animal patient's plan and progress to the referring veterinarian within 72 hours of a treatment.
- (vi) It is expected that the referring veterinarian will review the progress reports from the rehab RVT, and communicate in writing or verbally any questions, concerns or recommendations for modification of the rehabilitation program.
- (vii) Ultimately, cessation of physical rehabilitation will be decided by the referring veterinarian.
- (viii) In the advent of an unexpected complication with treatment or animal emergency, the RVT will have established a protocol and a relationship with a nearby DVM to provide necessary and timely treatment.

5) A California Licensed Physical Therapist can provide rehab services under *direct* supervision.

Explanation:

- 1) This is consistent with the MSM language.
- 2) The VMB has no regulatory authority over the Physical Therapists. If this situation changes in regards to animal rehabilitation, then it is recommended by this task force that PTs with the certifications references in 4A be allowed to perform rehab under indirect supervision and conform with the standards as set forth in Section 4.
- 6) Unregistered Assistants may provide Physical Rehabilitation services under the *immediate* supervision of a DVM.
- 7) Unregistered Assistants who have become certified by the following programs may provide rehab under *direct* supervision.

University of Tennessee (CCRP)

or

Canine Rehabilitation Institute (CCRA)



TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL  
State of California

KAMALA D. HARRIS  
Attorney General

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OPINION	:	No. 15-402
	:	
of	:	September 10, 2015
	:	
KAMALA D. HARRIS	:	
Attorney General	:	
	:	
SUSAN DUNCAN LEE	:	
Deputy Attorney General	:	
	:	

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THE HONORABLE JERRY HILL, MEMBER OF THE STATE SENATE, has requested an opinion on the following question:

What constitutes “active state supervision” of a state licensing board for purposes of the state action immunity doctrine in antitrust actions, and what measures might be taken to guard against antitrust liability for board members?

CONCLUSIONS

“Active state supervision” requires a state official to review the substance of a regulatory decision made by a state licensing board, in order to determine whether the decision actually furthers a clearly articulated state policy to displace competition with regulation in a particular market. The official reviewing the decision must not be an active member of the market being regulated, and must have and exercise the power to approve, modify, or disapprove the decision.

Measures that might be taken to guard against antitrust liability for board members include changing the composition of boards, adding lines of supervision by state officials, and providing board members with legal indemnification and antitrust training.

## ANALYSIS

In *North Carolina State Board of Dental Examiners v. Federal Trade Commission*,<sup>1</sup> the Supreme Court of the United States established a new standard for determining whether a state licensing board is entitled to immunity from antitrust actions.

Immunity is important to state actors not only because it shields them from adverse judgments, but because it shields them from having to go through litigation. When immunity is well established, most people are deterred from filing a suit at all. If a suit is filed, the state can move for summary disposition of the case, often before the discovery process begins. This saves the state a great deal of time and money, and it relieves employees (such as board members) of the stresses and burdens that inevitably go along with being sued. This freedom from suit clears a safe space for government officials and employees to perform their duties and to exercise their discretion without constant fear of litigation. Indeed, allowing government actors freedom to exercise discretion is one of the fundamental justifications underlying immunity doctrines.<sup>2</sup>

Before *North Carolina Dental* was decided, most state licensing boards operated under the assumption that they were protected from antitrust suits under the state action immunity doctrine. In light of the decision, many states—including California—are reassessing the structures and operations of their state licensing boards with a view to determining whether changes should be made to reduce the risk of antitrust claims. This opinion examines the legal requirements for state supervision under the *North Carolina Dental* decision, and identifies a variety of measures that the state Legislature might consider taking in response to the decision.

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<sup>1</sup> *North Carolina State Bd. of Dental Examiners v. F. T. C.* (2015) \_\_\_ U.S. \_\_\_, 135 S. Ct. 1101 (*North Carolina Dental*).

<sup>2</sup> See *Mitchell v. Forsyth* (1985) 472 U.S. 511, 526; *Harlow v. Fitzgerald* (1982) 457 U.S. 800, 819.

## **I. *North Carolina Dental* Established a New Immunity Standard for State Licensing Boards**

### **A. *The North Carolina Dental* Decision**

The North Carolina Board of Dental Examiners was established under North Carolina law and charged with administering a licensing system for dentists. A majority of the members of the board are themselves practicing dentists. North Carolina statutes delegated authority to the dental board to regulate the practice of dentistry, but did not expressly provide that teeth-whitening was within the scope of the practice of dentistry.

Following complaints by dentists that non-dentists were performing teeth-whitening services for low prices, the dental board conducted an investigation. The board subsequently issued cease-and-desist letters to dozens of teeth-whitening outfits, as well as to some owners of shopping malls where teeth-whiteners operated. The effect on the teeth-whitening market in North Carolina was dramatic, and the Federal Trade Commission took action.

In defense to antitrust charges, the dental board argued that, as a state agency, it was immune from liability under the federal antitrust laws. The Supreme Court rejected that argument, holding that a state board on which a controlling number of decision makers are active market participants must show that it is subject to “active supervision” in order to claim immunity.<sup>3</sup>

### **B. State Action Immunity Doctrine Before *North Carolina Dental***

The Sherman Antitrust Act of 1890<sup>4</sup> was enacted to prevent anticompetitive economic practices such as the creation of monopolies or restraints of trade. The terms of the Sherman Act are broad, and do not expressly exempt government entities, but the Supreme Court has long since ruled that federal principles of dual sovereignty imply that federal antitrust laws do not apply to the actions of states, even if those actions are anticompetitive.<sup>5</sup>

This immunity of states from federal antitrust lawsuits is known as the “state action doctrine.”<sup>6</sup> The state action doctrine, which was developed by the Supreme Court

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<sup>3</sup> *North Carolina Dental*, *supra*, 135 S.Ct. at p. 1114.

<sup>4</sup> 15 U.S.C. §§ 1, 2.

<sup>5</sup> *Parker v. Brown* (1943) 317 U.S. 341, 350-351.

<sup>6</sup> It is important to note that the phrase “state action” in this context means something

in *Parker v. Brown*,<sup>7</sup> establishes three tiers of decision makers, with different thresholds for immunity in each tier.

In the top tier, with the greatest immunity, is the state itself: the sovereign acts of state governments are absolutely immune from antitrust challenge.<sup>8</sup> Absolute immunity extends, at a minimum, to the state Legislature, the Governor, and the state's Supreme Court.

In the second tier are subordinate state agencies,<sup>9</sup> such as executive departments and administrative agencies with statewide jurisdiction. State agencies are immune from antitrust challenge if their conduct is undertaken pursuant to a "clearly articulated" and "affirmatively expressed" state policy to displace competition.<sup>10</sup> A state policy is sufficiently clear when displacement of competition is the "inherent, logical, or ordinary result" of the authority delegated by the state legislature.<sup>11</sup>

The third tier includes private parties acting on behalf of a state, such as the members of a state-created professional licensing board. Private parties may enjoy state action immunity when two conditions are met: (1) their conduct is undertaken pursuant to a "clearly articulated" and "affirmatively expressed" state policy to displace competition, and (2) their conduct is "actively supervised" by the state.<sup>12</sup> The

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very different from "state action" for purposes of analysis of a civil rights violation under section 1983 of title 42 of the United States Code. Under section 1983, *liability* attaches to "state action," which may cover even the inadvertent or unilateral act of a state official not acting pursuant to state policy. In the antitrust context, a conclusion that a policy or action amounts to "state action" results in *immunity* from suit.

<sup>7</sup> *Parker v. Brown*, *supra*, 317 U.S. 341.

<sup>8</sup> *Hoover v. Ronwin* (1984) 466 U.S. 558, 574, 579-580.

<sup>9</sup> Distinguishing the state itself from subordinate state agencies has sometimes proven difficult. Compare the majority opinion in *Hoover v. Ronwin*, *supra*, 466 U.S. at p. 581 with dissenting opinion of Stevens, J., at pp. 588-589. (See *Costco v. Maleng* (9th Cir. 2008) 522 F.3d 874, 887, *subseq. hrg.* 538 F.3d 1128; *Charley's Taxi Radio Dispatch Corp. v. SIDA of Haw., Inc.* (9th Cir. 1987) 810 F.2d 869, 875.)

<sup>10</sup> See *Town of Hallie v. City of Eau Claire* (1985) 471 U.S. 34, 39.

<sup>11</sup> *F.T.C. v. Phoebe Putney Health Systems, Inc.* (2013) \_\_\_ U.S. \_\_\_, 133 S.Ct. 1003, 1013; see also *Southern Motor Carriers Rate Conference, Inc. v. U.S.* (1985) 471 U.S. 48, 57 (state policy need not compel specific anticompetitive effect).

<sup>12</sup> *Cal. Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc.* (1980) 445 U.S. 97, 105 (*Midcal*).

fundamental purpose of the supervision requirement is to shelter only those private anticompetitive acts that the state approves as actually furthering its regulatory policies.<sup>13</sup> To that end, the mere possibility of supervision—such as the existence of a regulatory structure that is not operative, or not resorted to—is not enough. “The active supervision prong . . . requires that state officials have and exercise power to review particular anticompetitive acts of private parties and disapprove those that fail to accord with state policy.”<sup>14</sup>

### **C. State Action Immunity Doctrine After *North Carolina Dental***

Until the Supreme Court decided *North Carolina Dental*, it was widely believed that most professional licensing boards would fall within the second tier of state action immunity, requiring a clear and affirmative policy, but not active state supervision of every anticompetitive decision. In California in particular, there were good arguments that professional licensing boards<sup>15</sup> were subordinate agencies of the state: they are formal, ongoing bodies created pursuant to state law; they are housed within the Department of Consumer Affairs and operate under the Consumer Affairs Director’s broad powers of investigation and control; they are subject to periodic sunset review by the Legislature, to rule-making review under the Administrative Procedure Act, and to administrative and judicial review of disciplinary decisions; their members are appointed by state officials, and include increasingly large numbers of public (non-professional) members; their meetings and records are subject to open-government laws and to strong prohibitions on conflicts of interest; and their enabling statutes generally provide well-guided discretion to make decisions affecting the professional markets that the boards regulate.<sup>16</sup>

Those arguments are now foreclosed, however, by *North Carolina Dental*. There, the Court squarely held, for the first time, that “a state board on which a controlling

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<sup>13</sup> *Patrick v. Burget* (1988) 486 U.S. 94, 100-101.

<sup>14</sup> *Ibid.*

<sup>15</sup> California’s Department of Consumer Affairs includes some 25 professional regulatory boards that establish minimum qualifications and levels of competency for licensure in various professions, including accountancy, acupuncture, architecture, medicine, nursing, structural pest control, and veterinary medicine—to name just a few. (See [http://www.dca.gov/about\\_ca/entities.shtml](http://www.dca.gov/about_ca/entities.shtml).)

<sup>16</sup> Cf. 1A Areeda & Hovenkamp, *supra*, ¶ 227, p. 208 (what matters is not what the body is called, but its structure, membership, authority, openness to the public, exposure to ongoing review, etc.).



number of decisionmakers are active market participants in the occupation the board regulates must satisfy *Midcal*'s active supervision requirement in order to invoke state-action antitrust immunity."<sup>17</sup> The effect of *North Carolina Dental* is to put professional licensing boards "on which a controlling number of decision makers are active market participants" in the third tier of state-action immunity. That is, they are immune from antitrust actions as long as they act pursuant to clearly articulated state policy to replace competition with regulation of the profession, *and* their decisions are actively supervised by the state.

Thus arises the question presented here: What constitutes "active state supervision"?<sup>18</sup>

#### **D. Legal Standards for Active State Supervision**

The active supervision requirement arises from the concern that, when active market participants are involved in regulating their own field, "there is a real danger" that they will act to further their own interests, rather than those of consumers or of the state.<sup>19</sup> The purpose of the requirement is to ensure that state action immunity is afforded to private parties only when their actions actually further the state's policies.<sup>20</sup>

There is no bright-line test for determining what constitutes active supervision of a professional licensing board: the standard is "flexible and context-dependent."<sup>21</sup> Sufficient supervision "need not entail day-to-day involvement" in the board's operations or "micromanagement of its every decision."<sup>22</sup> Instead, the question is whether the review mechanisms that are in place "provide 'realistic assurance'" that the anticompetitive effects of a board's actions promote state policy, rather than the board members' private interests.<sup>23</sup>

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<sup>17</sup> *North Carolina Dental*, *supra*, 135 S.Ct. at p. 1114; *Midcal*, *supra*, 445 U.S. at p. 105.

<sup>18</sup> Questions about whether the State's anticompetitive policies are adequately articulated are beyond the scope of this Opinion.

<sup>19</sup> *Patrick v. Burget*, *supra*, 486 U.S. at p. 100, citing *Town of Hallie v. City of Eau Claire*, *supra*, 471 U.S. at p. 47; see *id.* at p. 45 ("A private party . . . may be presumed to be acting primarily on his or its own behalf").

<sup>20</sup> *Patrick v. Burget*, *supra*, 486 U.S. at pp. 100-101.

<sup>21</sup> *North Carolina Dental*, *supra*, 135 S.Ct. at p. 1116.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

The *North Carolina Dental* opinion and pre-existing authorities allow us to identify “a few constant requirements of active supervision”:<sup>24</sup>

- The state supervisor who reviews a decision must have the power to reverse or modify the decision.<sup>25</sup>
- The “mere potential” for supervision is not an adequate substitute for supervision.<sup>26</sup>
- When a state supervisor reviews a decision, he or she must review the substance of the decision, not just the procedures followed to reach it.<sup>27</sup>
- The state supervisor must not be an active market participant.<sup>28</sup>

Keeping these requirements in mind may help readers evaluate whether California law already provides adequate supervision for professional licensing boards, or whether new or stronger measures are desirable.

## **II. Threshold Considerations for Assessing Potential Responses to *North Carolina Dental***

There are a number of different measures that the Legislature might consider in response to the *North Carolina Dental* decision. We will describe a variety of these, along with some of their potential advantages or disadvantages. Before moving on to those options, however, we should put the question of immunity into proper perspective.

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<sup>24</sup> *Id.* at pp. 1116-1117.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Id.* at p. 1116, citing *F.T.C. v. Ticor Title Ins. Co.* (1992) 504 U.S. 621, 638. For example, a passive or negative-option review process, in which an action is considered approved as long as the state supervisor raises no objection to it, may be considered inadequate in some circumstances. (*Ibid.*)

<sup>27</sup> *Ibid.*, citing *Patrick v. Burget*, *supra*, 486 U.S. at pp. 102-103. In most cases, there should be some evidence that the state supervisor considered the particular circumstances of the action before making a decision. Ideally, there should be a factual record and a written decision showing that there has been an assessment of the action’s potential impact on the market, and whether the action furthers state policy. (See *In the Matter of Indiana Household Moves and Warehousemen, Inc.* (2008) 135 F.T.C. 535, 555-557; see also Federal Trade Commission, Report of the State Action Task Force (2003) at p. 54.)

<sup>28</sup> *North Carolina Dental*, *supra*, 135 S.Ct. at pp. 1116-1117.

There are two important things keep in mind: (1) the loss of immunity, if it is lost, does not mean that an antitrust violation has been committed, and (2) even when board members participate in regulating the markets they compete in, many—if not most—of their actions do not implicate the federal antitrust laws.

In the context of regulating professions, “market-sensitive” decisions (that is, the kinds of decisions that are most likely to be open to antitrust scrutiny) are those that create barriers to market participation, such as rules or enforcement actions regulating the scope of unlicensed practice; licensing requirements imposing heavy burdens on applicants; marketing programs; restrictions on advertising; restrictions on competitive bidding; restrictions on commercial dealings with suppliers and other third parties; and price regulation, including restrictions on discounts.

On the other hand, we believe that there are broad areas of operation where board members can act with reasonable confidence—especially once they and their state-official contacts have been taught to recognize actual antitrust issues, and to treat those issues specially. Broadly speaking, promulgation of regulations is a fairly safe area for board members, because of the public notice, written justification, Director review, and review by the Office of Administrative Law as required by the Administrative Procedure Act. Also, broadly speaking, disciplinary decisions are another fairly safe area because of due process procedures; participation of state actors such as board executive officers, investigators, prosecutors, and administrative law judges; and availability of administrative mandamus review.

We are not saying that the procedures that attend these quasi-legislative and quasi-judicial functions make the licensing boards altogether immune from antitrust claims. Nor are we saying that rule-making and disciplinary actions are per se immune from antitrust laws. What we are saying is that, assuming a board identifies its market-sensitive decisions and gets active state supervision for those, then ordinary rule-making and discipline (faithfully carried out under the applicable rules) may be regarded as relatively safe harbors for board members to operate in. It may require some education and experience for board members to understand the difference between market-sensitive and “ordinary” actions, but a few examples may bring in some light.

*North Carolina Dental* presents a perfect example of a market-sensitive action. There, the dental board decided to, and actually succeeded in, driving non-dentist teeth-whitening service providers out of the market, even though nothing in North Carolina’s laws specified that teeth-whitening constituted the illegal practice of dentistry. Counter-examples—instances where no antitrust violation occurs—are far more plentiful. For example, a regulatory board may legitimately make rules or impose discipline to prohibit license-holders from engaging in fraudulent business practices (such as untruthful or

deceptive advertising) without violating antitrust laws.<sup>29</sup> As well, suspending the license of an individual license-holder for violating the standards of the profession is a reasonable restraint and has virtually no effect on a large market, and therefore would not violate antitrust laws.<sup>30</sup>

Another area where board members can feel safe is in carrying out the actions required by a detailed anticompetitive statutory scheme.<sup>31</sup> For example, a state law prohibiting certain kinds of advertising or requiring certain fees may be enforced without need for substantial judgment or deliberation by the board. Such detailed legislation leaves nothing for the state to supervise, and thus it may be said that the legislation itself satisfies the supervision requirement.<sup>32</sup>

Finally, some actions will not be antitrust violations because their effects are, in fact, pro-competitive rather than anti-competitive. For instance, the adoption of safety standards that are based on objective expert judgments have been found to be pro-competitive.<sup>33</sup> Efficiency measures taken for the benefit of consumers, such as making information available to the purchasers of competing products, or spreading development costs to reduce per-unit prices, have been held to be pro-competitive because they are pro-consumer.<sup>34</sup>

### **III. Potential Measures for Preserving State Action Immunity**

#### **A. Changes to the Composition of Boards**

The *North Carolina Dental* decision turns on the principle that a state board is a group of private actors, not a subordinate state agency, when “a controlling number of decisionmakers are active market participants in the occupation the board regulates.”<sup>35</sup>

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<sup>29</sup> See generally *California Dental Assn. v. F.T.C.* (1999) 526 U.S. 756.

<sup>30</sup> See *Oksanen v. Page Memorial Hospital* (4th Cir. 1999) 945 F.2d 696 (*en banc*).

<sup>31</sup> See *324 Liquor Corp. v. Duffy* (1987) 479 U.S. 335, 344, fn. 6.

<sup>32</sup> 1A Areeda & Hovenkamp, *Antitrust Law*, *supra*, ¶ 221, at p. 66; ¶ 222, at pp. 67, 76.

<sup>33</sup> See *Allied Tube & Conduit Corp. v. Indian Head, Inc.* (1988) 486 U.S. 492, 500-501.

<sup>34</sup> *Broadcom Corp. v. Qualcomm Inc.* (3rd Cir. 2007) 501 F.3d 297, 308-309; see generally *Bus. & Prof. Code*, § 301.

<sup>35</sup> 135 S.Ct. at p. 1114.

This ruling brings the composition of boards into the spotlight. While many boards in California currently require a majority of public members, it is still the norm for professional members to outnumber public members on boards that regulate healing-arts professions. In addition, delays in identifying suitable public-member candidates and in filling public seats can result in de facto market-participant majorities.

In the wake of *North Carolina Dental*, many observers' first impulse was to assume that reforming the composition of professional boards would be the best resolution, both for state actors and for consumer interests. Upon reflection, however, it is not obvious that sweeping changes to board composition would be the most effective solution.<sup>36</sup>

Even if the Legislature were inclined to decrease the number of market-participant board members, the current state of the law does not allow us to project accurately how many market-participant members is too many. This is a question that was not resolved by the *North Carolina Dental* decision, as the dissenting opinion points out:

What is a “controlling number”? Is it a majority? And if so, why does the Court eschew that term? Or does the Court mean to leave open the possibility that something less than a majority might suffice in particular circumstances? Suppose that active market participants constitute a voting bloc that is generally able to get its way? How about an obstructionist minority or an agency chair empowered to set the agenda or veto regulations?<sup>37</sup>

Some observers believe it is safe to assume that the *North Carolina Dental* standard would be satisfied if public members constituted a majority of a board. The

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<sup>36</sup> Most observers believe that there are real advantages in staffing boards with professionals in the field. The combination of technical expertise, practiced judgment, and orientation to prevailing ethical norms is probably impossible to replicate on a board composed entirely of public members. Public confidence must also be considered. Many consumers would no doubt share the sentiments expressed by Justice Breyer during oral argument in the *North Carolina Dental* case: “[W]hat the State says is: We would like this group of brain surgeons to decide who can practice brain surgery in this State. I don’t want a group of bureaucrats deciding that. I would like brain surgeons to decide that.” (*North Carolina Dental*, *supra*, transcript of oral argument p. 31, available at [http://www.supremecourt.gov/oral\\_arguments/argument\\_transcripts/13-534\\_16h1.pdf](http://www.supremecourt.gov/oral_arguments/argument_transcripts/13-534_16h1.pdf) (hereafter, Transcript).)

<sup>37</sup> *North Carolina Dental*, *supra*, 135 S.Ct. at p. 1123 (dis. opn. of Alito, J).

obvious rejoinder to that argument is that the Court pointedly did not use the term “majority;” it used “controlling number.” More cautious observers have suggested that “controlling number” should be taken to mean the majority of a quorum, at least until the courts give more guidance on the matter.

*North Carolina Dental* leaves open other questions about board composition as well. One of these is: Who is an “active market participant”?<sup>38</sup> Would a retired member of the profession no longer be a participant of the market? Would withdrawal from practice during a board member’s term of service suffice? These questions were discussed at oral argument,<sup>39</sup> but were not resolved. Also left open is the scope of the market in which a member may not participate while serving on the board.<sup>40</sup>

Over the past four decades, California has moved decisively to expand public membership on licensing boards.<sup>41</sup> The change is generally agreed to be a salutary one for consumers, and for underserved communities in particular.<sup>42</sup> There are many good reasons to consider continuing the trend to increase public membership on licensing boards—but we believe a desire to ensure immunity for board members should not be the decisive factor. As long as the legal questions raised by *North Carolina Dental* remain unresolved, radical changes to board composition are likely to create a whole new set of policy and practical challenges, with no guarantee of resolving the immunity problem.

## **B. Some Mechanisms for Increasing State Supervision**

Observers have proposed a variety of mechanisms for building more state oversight into licensing boards’ decision-making processes. In considering these alternatives, it may be helpful to bear in mind that licensing boards perform a variety of

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<sup>38</sup> *Ibid.*

<sup>39</sup> Transcript, *supra*, at p. 31.

<sup>40</sup> *North Carolina Dental*, *supra*, 135 S.Ct. at p. 1123 (dis. opn. of Alito, J). Some observers have suggested that professionals from one practice area might be appointed to serve on the board regulating another practice area, in order to bring their professional expertise to bear in markets where they are not actively competing.

<sup>41</sup> See Center for Public Interest Law, A Guide to California’s Health Care Licensing Boards (July 2009) at pp. 1-2; Shimberg, Occupational Licensing: A Public Perspective (1982) at pp. 163-165.

<sup>42</sup> See Center for Public Interest Law, *supra*, at pp. 15-17; Shimberg, *supra*, at pp. 175-179.

distinct functions, and that different supervisory structures may be appropriate for different functions.

For example, boards may develop and enforce standards for licensure; receive, track, and assess trends in consumer complaints; perform investigations and support administrative and criminal prosecutions; adjudicate complaints and enforce disciplinary measures; propose regulations and shepherd them through the regulatory process; perform consumer education; and more. Some of these functions are administrative in nature, some are quasi-judicial, and some are quasi-legislative. Boards' quasi-judicial and quasi-legislative functions, in particular, are already well supported by due process safeguards and other forms of state supervision (such as vertical prosecutions, administrative mandamus procedures, and public notice and scrutiny through the Administrative Procedure Act). Further, some functions are less likely to have antitrust implications than others: decisions affecting only a single license or licensee in a large market will rarely have an anticompetitive effect within the meaning of the Sherman Act. For these reasons, it is worth considering whether it is less urgent, or not necessary at all, to impose additional levels of supervision with respect to certain functions.

Ideas for providing state oversight include the concept of a superagency, such as a stand-alone office, or a committee within a larger agency, which has full responsibility for reviewing board actions *de novo*. Under such a system, the boards could be permitted to carry on with their business as usual, except that they would be required to refer each of their decisions (or some subset of decisions) to the superagency for its review. The superagency could review each action file submitted by the board, review the record and decision in light of the state's articulated regulatory policies, and then issue its own decision approving, modifying, or vetoing the board's action.

Another concept is to modify the powers of the boards themselves, so that all of their functions (or some subset of functions) would be advisory only. Under such a system, the boards would not take formal actions, but would produce a record and a recommendation for action, perhaps with proposed findings and conclusions. The recommendation file would then be submitted to a supervising state agency for its further consideration and formal action, if any.

Depending on the particular powers and procedures of each system, either could be tailored to encourage the development of written records to demonstrate executive discretion; access to administrative mandamus procedures for appeal of decisions; and the development of expertise and collaboration among reviewers, as well as between the reviewers and the boards that they review. Under any system, care should be taken to structure review functions so as to avoid unnecessary duplication or conflicts with other agencies and departments, and to minimize the development of super-policies not

adequately tailored to individual professions and markets. To prevent the development of “rubber-stamp” decisions, any acceptable system must be designed and sufficiently staffed to enable plenary review of board actions or recommendations at the individual transactional level.

As it stands, California is in a relatively advantageous position to create these kinds of mechanisms for active supervision of licensing boards. With the boards centrally housed within the Department of Consumer Affairs (an “umbrella agency”), there already exists an organization with good knowledge and experience of board operations, and with working lines of communication and accountability. It is worth exploring whether existing resources and minimal adjustments to procedures and outlooks might be converted to lines of active supervision, at least for the boards’ most market-sensitive actions.

Moreover, the Business and Professions Code already demonstrates an intention that the Department of Consumer Affairs will protect consumer interests as a means of promoting “the fair and efficient functioning of the free enterprise market economy” by educating consumers, suppressing deceptive and fraudulent practices, fostering competition, and representing consumer interests at all levels of government.<sup>43</sup> The free-market and consumer-oriented principles underlying *North Carolina Dental* are nothing new to California, and no bureaucratic paradigms need to be radically shifted as a result.

The Business and Professions Code also gives broad powers to the Director of Consumer Affairs (and his or her designees)<sup>44</sup> to protect the interests of consumers at every level.<sup>45</sup> The Director has power to investigate the work of the boards and to obtain their data and records;<sup>46</sup> to investigate alleged misconduct in licensing examinations and qualifications reviews;<sup>47</sup> to require reports;<sup>48</sup> to receive consumer complaints<sup>49</sup> and to initiate audits and reviews of disciplinary cases and complaints about licensees.<sup>50</sup>

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<sup>43</sup> Bus. & Prof. Code, § 301.

<sup>44</sup> Bus. & Prof. Code, §§ 10, 305.

<sup>45</sup> See Bus. & Prof. Code, § 310.

<sup>46</sup> Bus. & Prof. Code, § 153.

<sup>47</sup> Bus. & Prof. Code, § 109.

<sup>48</sup> Bus. & Prof. Code, § 127.

<sup>49</sup> Bus. & Prof. Code, § 325.

<sup>50</sup> Bus. & Prof. Code, § 116.



In addition, the Director must be provided a full opportunity to review all proposed rules and regulations (except those relating to examinations and licensure qualifications) before they are filed with the Office of Administrative Law, and the Director may disapprove any proposed regulation on the ground that it is injurious to the public.<sup>51</sup> Whenever the Director (or his or her designee) actually exercises one of these powers to reach a substantive conclusion as to whether a board's action furthers an affirmative state policy, then it is safe to say that the active supervision requirement has been met.<sup>52</sup>

It is worth considering whether the Director's powers should be amended to make review of certain board decisions mandatory as a matter of course, or to make the Director's review available upon the request of a board. It is also worth considering whether certain existing limitations on the Director's powers should be removed or modified. For example, the Director may investigate allegations of misconduct in examinations or qualification reviews, but the Director currently does not appear to have power to review board decisions in those areas, or to review proposed rules in those areas.<sup>53</sup> In addition, the Director's power to initiate audits and reviews appears to be limited to disciplinary cases and complaints about licensees.<sup>54</sup> If the Director's initiative is in fact so limited, it is worth considering whether that limitation continues to make sense. Finally, while the Director must be given a full opportunity to review most proposed regulations, the Director's disapproval may be overridden by a unanimous vote of the board.<sup>55</sup> It is worth considering whether the provision for an override maintains its utility, given that such an override would nullify any "active supervision" and concomitant immunity that would have been gained by the Director's review.<sup>56</sup>

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<sup>51</sup> Bus. & Prof. Code, § 313.1.

<sup>52</sup> Although a written statement of decision is not specifically required by existing legal standards, developing a practice of creating an evidentiary record and statement of decision would be valuable for many reasons, not the least of which would be the ability to proffer the documents to a court in support of a motion asserting state action immunity.

<sup>53</sup> Bus. & Prof. Code, §§ 109, 313.1.

<sup>54</sup> Bus. & Prof. Code, § 116.

<sup>55</sup> Bus. & Prof. Code, § 313.1.

<sup>56</sup> Even with an override, proposed regulations are still subject to review by the Office of Administrative Law.

### C. Legislation Granting Immunity

From time to time, states have enacted laws expressly granting immunity from antitrust laws to political subdivisions, usually with respect to a specific market.<sup>57</sup> However, a statute purporting to grant immunity to private persons, such as licensing board members, would be of doubtful validity. Such a statute might be regarded as providing adequate authorization for anticompetitive activity, but active state supervision would probably still be required to give effect to the intended immunity. What is quite clear is that a state cannot grant blanket immunity by fiat. “[A] state does not give immunity to those who violate the Sherman Act by authorizing them to violate it, or by declaring that their action is lawful . . . .”<sup>58</sup>

### IV. Indemnification of Board Members

So far we have focused entirely on the concept of immunity, and how to preserve it. But immunity is not the only way to protect state employees from the costs of suit, or to provide the reassurance necessary to secure their willingness and ability to perform their duties. Indemnification can also go a long way toward providing board members the protection they need to do their jobs. It is important for policy makers to keep this in mind in weighing the costs of creating supervision structures adequate to ensure blanket state action immunity for board members. If the costs of implementing a given supervisory structure are especially high, it makes sense to consider whether immunity is an absolute necessity, or whether indemnification (with or without additional risk-management measures such as training or reporting) is an adequate alternative.

As the law currently stands, the state has a duty to defend and indemnify members of licensing boards against antitrust litigation to the same extent, and subject to the same exceptions, that it defends and indemnifies state officers and employees in general civil litigation. The duty to defend and indemnify is governed by the Government Claims Act.<sup>59</sup> For purposes of the Act, the term “employee” includes officers and uncompensated servants.<sup>60</sup> We have repeatedly determined that members of a board,

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<sup>57</sup> See 1A Areeda & Hovenkamp, *Antitrust Law*, *supra*, 225, at pp. 135-137; e.g. *AI Ambulance Service, Inc. v. County of Monterey* (9th Cir. 1996) 90 F.3d 333, 335 (discussing Health & Saf. Code, § 1797.6).

<sup>58</sup> *Parker v. Brown*, *supra*, 317 U.S. at 351.

<sup>59</sup> Gov. Code, §§ 810-996.6.

<sup>60</sup> See Gov. Code § 810.2.

commission, or similar body established by statute are employees entitled to defense and indemnification.<sup>61</sup>

### **A. Duty to Defend**

Public employees are generally entitled to have their employer provide for the defense of any civil action “on account of an act or omission in the scope” of employment.<sup>62</sup> A public entity may refuse to provide a defense in specified circumstances, including where the employee acted due to “actual fraud, corruption, or actual malice.”<sup>63</sup> The duty to defend contains no exception for antitrust violations.<sup>64</sup> Further, violations of antitrust laws do not inherently entail the sort of egregious behavior that would amount to fraud, corruption, or actual malice under state law. There would therefore be no basis to refuse to defend an employee on the bare allegation that he or she violated antitrust laws.

### **B. Duty to Indemnify**

The Government Claims Act provides that when a public employee properly requests the employer to defend a claim, and reasonably cooperates in the defense, “the public entity shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the public entity has agreed.”<sup>65</sup> In general, the government is liable for an injury proximately caused by an act within the scope of employment,<sup>66</sup> but is not liable for punitive damages.<sup>67</sup>

One of the possible remedies for an antitrust violation is an award of treble damages to a person whose business or property has been injured by the violation.<sup>68</sup> This raises a question whether a treble damages award equates to an award of punitive damages within the meaning of the Government Claims Act. Although the answer is not

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<sup>61</sup> E.g., 81 Ops.Cal.Atty.Gen. 199, 200 (1998); 57 Ops.Cal.Atty.Gen. 358, 361 (1974).

<sup>62</sup> Gov. Code, § 995.

<sup>63</sup> Gov. Code, § 995.2, subd. (a).

<sup>64</sup> Cf. *Mt. Hawley Insurance Co. v. Lopez* (2013) 215 Cal.App.4th 1385 (discussing Ins. Code, § 533.5).

<sup>65</sup> Gov. Code, § 825, subd. (a).

<sup>66</sup> Gov. Code, § 815.2.

<sup>67</sup> Gov. Code, § 818.

<sup>68</sup> 15 U.S.C. § 15(a).

entirely certain, we believe that antitrust treble damages do *not* equate to punitive damages.

The purposes of treble damage awards are to deter anticompetitive behavior and to encourage private enforcement of antitrust laws.<sup>69</sup> And, an award of treble damages is automatic once an antitrust violation is proved.<sup>70</sup> In contrast, punitive damages are “uniquely justified by and proportioned to the actor’s particular reprehensible conduct as well as that person or entity’s net worth . . . in order to adequately make the award ‘sting’ . . . .”<sup>71</sup> Also, punitive damages in California must be premised on a specific finding of malice, fraud, or oppression.<sup>72</sup> In our view, the lack of a malice or fraud element in an antitrust claim, and the immateriality of a defendant’s particular conduct or net worth to the treble damage calculation, puts antitrust treble damages outside the Government Claims Act’s definition of punitive damages.<sup>73</sup>

### **C. Possible Improvements to Indemnification Scheme**

As set out above, state law provides for the defense and indemnification of board members to the same extent as other state employees. This should go a long way toward reassuring board members and potential board members that they will not be exposed to undue risk if they act reasonably and in good faith. This reassurance cannot be complete, however, as long as board members face significant uncertainty about how much litigation they may have to face, or about the status of treble damage awards.

Uncertainty about the legal status of treble damage awards could be reduced significantly by amending state law to specify that treble damage antitrust awards are not punitive damages within the meaning of the Government Claims Act. This would put them on the same footing as general damages awards, and thereby remove any uncertainty as to whether the state would provide indemnification for them.<sup>74</sup>

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<sup>69</sup> *Clayworth v. Pfizer, Inc.* (2010) 49 Cal.4th 758, 783-784 (individual right to treble damages is “incidental and subordinate” to purposes of deterrence and vigorous enforcement).

<sup>70</sup> 15 U.S.C. § 15(a).

<sup>71</sup> *Piscitelli v. Friedenber*g (2001) 87 Cal.App.4th 953, 981-982.

<sup>72</sup> Civ. Code, §§ 818, 3294.

<sup>73</sup> If treble damages awards were construed as constituting punitive damages, the state would still have the option of paying them under Government Code section 825.

<sup>74</sup> Ideally, treble damages should not be available at all against public entities and public officials. Since properly articulated and supervised anticompetitive behavior is

As a complement to indemnification, the potential for board member liability may be greatly reduced by introducing antitrust concepts to the required training and orientation programs that the Department of Consumer Affairs provides to new board members.<sup>75</sup> When board members share an awareness of the sensitivity of certain kinds of actions, they will be in a much better position to seek advice and review (that is, active supervision) from appropriate officials. They will also be far better prepared to assemble evidence and to articulate reasons for the decisions they make in market-sensitive areas. With training and practice, boards can be expected to become as proficient in making and demonstrating sound market decisions, and ensuring proper review of those decisions, as they are now in making and defending sound regulatory and disciplinary decisions.

## V. Conclusions

*North Carolina Dental* has brought both the composition of licensing boards and the concept of active state supervision into the public spotlight, but the standard it imposes is flexible and context-specific. This leaves the state with many variables to consider in deciding how to respond.

Whatever the chosen response may be, the state can be assured that *North Carolina Dental*'s "active state supervision" requirement is satisfied when a non-market-

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permitted to the state and its agents, the deterrent purpose of treble damages does not hold in the public arena. Further, when a state indemnifies board members, treble damages go not against the board members but against public coffers. "It is a grave act to make governmental units potentially liable for massive treble damages when, however 'proprietary' some of their activities may seem, they have fundamental responsibilities to their citizens for the provision of life-sustaining services such as police and fire protection." (*City of Lafayette, La. v. Louisiana Power & Light Co.* (1978) 435 U.S. 389, 442 (dis. opn. of Blackmun, J.).)

In response to concerns about the possibility of treble damage awards against municipalities, Congress passed the Local Government Antitrust Act (15 U.S.C. §§ 34-36), which provides that local governments and their officers and employees cannot be held liable for treble damages, compensatory damages, or attorney's fees. (See H.R. Rep. No. 965, 2nd Sess., p. 11 (1984).) For an argument that punitive sanctions should never be levied against public bodies and officers under the Sherman Act, see 1A Areeda & Hovenkamp, *supra*, ¶ 228, at pp. 214-226. Unfortunately, because treble damages are a product of federal statute, this problem is not susceptible of a solution by state legislation.

<sup>75</sup> Bus. & Prof. Code, § 453.

participant state official has and exercises the power to substantively review a board's action and determines whether the action effectuates the state's regulatory policies.

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## **Public Comments on CCR Section 2038.5, Animal Rehabilitation**

### **A. Comments in Support of Proposed Regulations**

Comment 1: The CVMA is in support of the proposed regulations. CVMA is pleased that the proposed language defines animal rehabilitation, clarifies who may render treatment, and provides an increased level of safety for animal patients. It will allow for greater enforcement of unlicensed activity in veterinary medicine and afford a greater level of protection for pet owners in California.

No. of Commenters: 1, representing membership of CVMA.

Comment 2: Animal rehabilitation has become a rapidly expanding veterinary specialty and the necessity for stricter oversight and enforcement has been justified at many meetings. CVMA veterinarians have testified to the need for an accurate diagnosis in order to develop an effective treatment plan and prognosis, that consideration must be given to existing medical problems, and that drug regimens must be balanced with the physical modalities of treatment. Additionally, many of these patients may develop new medical issues and may be in a fragile condition, such as with senior pets. Only veterinarians have the education and experience to manage these cases and are the only licensed professionals allowed to diagnose and treat or supervise treatment of these animals.

No. of Commenters: 1, representing membership of CVMA.

Comment 3: Commenter expresses a strong endorsement of the proposed regulation. He considers animal rehabilitation to be part of veterinary practice and its implementation should be under the supervision of a licensed veterinarian. Without VMB oversight, it would allow unlicensed people to practice veterinary medicine, and the consumer would have little recourse if there are problems.

No. of Commenters: 1.

Comment 4: Commenter has two dogs that are currently in physical rehabilitation with a RVT that is directly supervised by a veterinarian on the premises. This supervision is critical to her dogs care and successful recovery. Based on her experience, it would not be safe for her dogs to be treated in an unsupervised environment since (1) urgent care would not be available if there was an emergency, (2) immediate adjustments to appropriate medications could not be made, (3) medical questions could not be answered at the time of treatment, (4) additional testing (i.e., radiographs or diagnosis of a new medical condition) could not be made, and (5) a treatment plan and decisions could not be discussed before being implemented or adjusted, and (6) advanced pain management strategies, including stem cell, joint injections, and extracorporeal shockwave, would not be available. Animals deserve to be treated in a safe environment with direct supervision by a veterinarian.

No. of Commenters: 408 (including Erin Troy petition).

Comment 5: Commenters fully support the regulations to keep animal physical rehab by PTs and RVTs under direct supervision of a veterinarian. They expect their pets, while receiving physical therapy treatments, to be treated in an environment that can immediately respond to any urgent medical needs.



No. of Commenters: 6.

Comment 6: Commenter supports the proposed regulations. It is in the best interests of the patient animal that therapeutic physical rehabilitation be administered only by veterinarians, or California licensed physical therapists or registered veterinary technicians under the direct supervision of the animal's veterinarian as proposed. These professionals are the only providers sufficiently trained and regulated to administer appropriate therapies to animals in need of rehabilitation.

No. of Commenters: 412 (including Erin Troy petition).

Comment 7: Commenters support the proposed language that veterinarians directly supervise pet rehabilitation. They do not think it is fair for the pets that non-veterinarians be asked medical questions or be responsible for the overall health of the pet, especially as all pets do have medical issues.

No. of Commenters: 5.

Comment 8: Commenters support the proposed regulations as they are written. They want the very best professional care that can be provided.

No. of Commentators: 25.

Comment 9: Commenter supports the proposed regulations. Commenter believes that in order to oversee the proper rehabilitation on animals, a veterinarian should be within the building to ensure proper techniques are available if something occurs.

No. of Commenters: 16.

Comment 10: Commenters support the proposed regulations. Commenter works at a busy canine rehabilitation center. She cannot imagine a physical therapist or RVT being capable of or having the legal authority to diagnose and/or treat all of the additional medical issues that come with the patients.

No. of Commenters: 9.

Comment 11: Commenter's patients/pets have had medical emergencies while in the practice's rehabilitation department that necessitated a quick medical response. There was no veterinary 911 to call in these emergencies. It is doubtful that PTs and RVTs are legally able to administer lifesaving procedures.

No. of Commenters: 8.

Comment 12: Veterinary patients are unable to speak for themselves, sometimes requiring a veterinarian to assess and intervene.

No. of Commenters: 4.

Comment 13: The proposed regulatory change in no way puts PTs out of business; they simply have to work to partner with DVMs by working with them or for them at the same facility.

No. of Commenters: 1, plus 406 from Erin Troy petition.

Comment 14: Without direct supervision from trained veterinarians, it is too easy for treatment errors to be made. Commenter wants to make sure that the work (non-veterinarian staff) do with her animals has oversight from a medically trained eye.

No. of Commenters: 1.

Comment 15: The synergy between the rehabilitation therapists and the veterinarians is essential for the animals to receive the best care possible.

No. of Commenters: 1.

Comment 16: Commenter supports the proposed regulation. She does not feel that a physical therapist or a veterinary technician can safely or adequately perform animal rehabilitation without the direct guidance and supervision of a veterinarian. Veterinarians have undergone years of schooling that cover the health and function of the animal's entire body. This education and experience is essential to the safety and recovery of animal rehabilitation patients.

No. of Commenters: 1.

Comment 17: Commenter supports the inclusion of manual therapy in the definition of animal rehabilitation and the barring of all non-DVMs from offering it. Commenter suggests we need to go further and ban all chiropractic techniques on children and animals based on a complete lack of quality evidence for efficacy and significant potential for harm from such techniques being used on innocents.

No. of Commenters: 1.

Comment 18: The direct supervision model works. Commenter currently has such a practice, and she knows it's viable. Direct supervision is necessary to attend to things like acute pain issues, wounds, and diseases that can only be diagnosed by a DVM.

No. of Commenters: 1.

Comment 19: AR is veterinary medicine. It should not be parallel to human rehabilitation. Clients have an expectation of a broader set of care with a vet. Medical issues tend to come up during AR, for which a vet needs to see the animal. The vet may need to handle many issues at once. This can only be achieved by a veterinarian.

No. of Commenters: 1.

#### B. Comments Suggesting Concrete Language Changes:

Comment 20: Instead of "a licensed PT", the regulation should say "a licensed veterinary PT" to remove the possibility of a human PT practicing AR on an animal without proper licensure.

No. of Commenters: 1.

Comment 21: The language stating that the supervising vet shall be physically present wherever the AR is performed suggests being in the room /area where the AR is being performed versus the usual definition of direct supervision, which is: "'Direct supervision' means a licensed veterinarian is readily available on the premises where the patient is being treated and has assumed responsibility for the veterinary care given to the patient by a person working under his or her direction." (Definition taken from the AVMA's Model Veterinary Practice Act, January 2013)

edition, Section 2.18.a.) Commenter is concerned that the proposed language could be “overly interpreted”.

No. of Commenters: 1.

Comment 22: The list of what AR includes in Section 2038.5(a) is vague. It will be very difficult to determine the scope of this regulation and, as written, it leaves too much interpretation for the board consultants and/or those practicing in the field. Is there language that can be taken from another regulation, such as a regulation pertaining to human medicine that can be used?

No. of Commenters: 1.

Comment 23: Why not tie Section 2038.5(b)(1) in with the definition of a VCPR in CCR , Title 16, Section 2032.1? It appears that the intent is to require a VCPR before a veterinarian can perform AR. If that is the case, commenter strongly suggests that “has established a VCPR as defined in section 2032.1” after “A veterinarian who” should be added. Either a VCPR is required or not, but the way the proposed regulation is written, it is unclear whether all of the provisions of the VCPR must be met or that this regulation is proposing a new definition of what is required prior to performing AR. This lack of clarity will cause a lot of problems with interpretation of this regulation.

No. of Commenters: 1.

Comment 24: Strongly recommends adding “who has established a VCPR as defined in section 2032.1” after “under the direct supervision of a veterinarian” in Section 2038.5(b)(2).

No. of Commenters: 1.

Comment 25: Strongly recommends adding “as direct supervision is defined in section 2034(e)” after “deemed to be working under the direct supervision of a veterinarian” in Section 2038.5(b)(2).

No. of Commenters: 1.

Comment 26: Strongly recommends that Section 2038.5(b)(2)(A) refers back to the definitions of “VCPR” and “direct supervision” that are already defined in regulations in order to avoid confusion or deliberate efforts to skirt the requirements. Recommends changing this section to say “The supervising veterinarian shall establish a VCPR as defined in section 2032.1 and comply with the provisions of subsection (b)(1) prior to authorizing a PT or RVT...”

No. of Commenters: 1.

Comment 27: Need to clarify the meaning of an “initial” evaluation by the PT or RVT. This is true for 2038.5(b)(2)(A) and 2038.5(b)(2)(D).

No. of Commenters: 1.

Comment 28: What is the meaning of “physically present wherever the AR is being performed”? Strongly recommends the use of the definition of “direct supervision” from Section 2034(e) of the CCR. Alternatively, if the intent is to require the veterinarian to be in the room or immediate vicinity rather than “physically present at the location” as required in section 2034, then this section should clearly state that. The way it is currently written, it is not clear whether the veterinarian simply must be physically present at the location (“direct supervision” as defined in

section 2034) or present in the same room where the AR is being performed. This will cause a lot of confusion in interpretation.

No. of Commenters: 1.

Comment 29: Section 2038.5(b)(2)(C) should not be part of (b)(2) because it is not part of the “protocol” referred to in section (b)(2). Renumber as 2038.5(c).

No. of Commenters: 1.

Comment 30: Move 2038.5(b)(2)(D) under (b)(2) and renumber as 2038.5 (b)(2)(C).

No. of Commenters: 1.

Comment 31: Section 2038.5(b)(2)(E) should not be part of (b)(2) because it is not part of the “protocol” referred to in section (b)(2). Renumber as 2038.5(d).

No. of Commenters: 1.

Comment 32: Renumber 2038.5(c) as 2038.5(e).

No. of Commenters: 1.

Comment 33: Need further definition of the “supervisory relationship” and how it can be “terminated” in section 2038.5(c).

No. of Commenters: 1.

Comment 34: Is the intent that the supervising veterinarian is one specific person? If a veterinarian in a practice establishes the VCPR and has the supervisory relationship with the PT or RVT, does that specific veterinarian have to be physically present every time? Or can the PT or RVT perform AR in the presence of another veterinarian at that practice? Does the second veterinarian have to also establish the VCPR?

No. of Commenters: 1.

Comment 35: There is another state regulation that refers to animal “rehabilitation” in the California Code of Regulations, CCR Title 14 Section 679 – Wildlife Rehabilitation. Although the intent of Section 2038.5 seems to be intended for domestic animals, clarification is needed in order to prevent a conflict within state regulations. Please consider adding a statement in Section 2038.5 such as this: “Section 2038.5(d). This section does not apply to persons permitted by the State Department of Fish and Wildlife to rehabilitate orphaned, sick or injured wildlife as defined in CCR Title 14 Section 679, for the purpose of restoring animals to the wild.”

No. of Commenters: 1.

Comment 36: Requests that the following changes be made to the regulations:

--Amend section 2038.5(a) to exclude swim therapy conducted in swimming pools by RVTs.

--Delete section 2038.5(b)(2)(B).

No. of Commenters: 23.

Comment 37: Requests that “swim therapy” be carved out of “hydrotherapy.”

No. of Commenters: 2.

Comment 38: Amend section 2038.5(b)(2)(B) to protect swim therapy in pools as long as regular and consistent communication is occurring between the swim therapist and prescribing vet.  
No. of Commenters: 1.

Comment 39: Add “(except as performed under Section 2038, Musculoskeletal Manipulation)” after “manual therapy” in the regulation.  
No. of Commenters: 329, including Monterey Bay Area Veterinary Medical Association petition.

Comment 40: Please remove “manual therapy” from the proposed new definition on animal rehabilitation.  
No. of Commenters: 291.

Comment 41: Please change the language of the regulation to either remove “manual therapy” from the definition of animal rehabilitation, or add licensed chiropractors to the list of people who are allowed to perform animal rehabilitation.  
No. of Commenters: 14.

Comment 42: Please delete the language “the supervising veterinarian shall be physically present wherever the AR is being performed.”  
No. of Commenters: 1.

Comment 43: Please modify the language of the regulation to include chiropractors with specialty training in animal chiropractic as practitioners allowed to provide animal rehab services.  
No. of Commenters: 5.

Comment 44: Please remove “instruction” from the definition of AR. The current wording would mean nearly everything presented in massage and bodywork schools would fall under the definition of AR. These topics and subject modalities are not included in veterinary curricula and very little in physical therapy schools; particularly none in California currently. California would forfeit the expertise of non-veterinarian instructors who have years, even decades of experience in the subject matter.  
No. of Commenters: 6307 (Equinology petition).

Comment 45: The proposed language might better serve the Board’s best intentions by allowing “indirect supervision by an attending veterinarian, unless direct supervision is deemed necessary or appropriate by said veterinarian.”  
No. of Commenters: 6307 (Equinology petition).

Comment 46: “Manual therapy” is not clearly defined in the proposed language, and can be referenced to have a diverse variety of definitions in numerous resources. As long as the practitioner does not diagnose, prescribe, practice MSM (unless qualified), then the touch therapies should be excluded, without a case by case interpretation.  
No. of Commenters: 6307 (Equinology petition).

Comment 47: Please remove “active, passive, and resistive exercise for (the) prevention...”. Proper training and conditioning is required for all animal disciplines and sports. This is

purposely done not only to enhance performance, but also to prepare the body so as to hopefully avoid injury. The proposed wording directly limits trainers, especially those specializing in fitness training. Additionally, during sessions, most professional animal bodyworkers will address a muscle or group of muscles and offer active range of motion exercises or suggest training parameters for a healthy sound animal.

No. of Commenters: 6307 (Equinology petition).

Comment 48: Please include an express exception for “relaxation, recreational or wellness massage”. As written, the proposed regulation does not except such useful activities, which cannot be considered the practice of veterinary medicine.

No. of Commenters: 1.

Comment 49: Please delete “massage” from the proposed definition of animal rehabilitation.

No. of Commenters: 2.

Comment 50: Commenter proposes that the VMB follow the same California safe harbor exemption law for unlicensed practice on humans (Exhibit 1).

Comment 50.1: The regulations do not define “rehabilitation” or “exercise”.

No. of Commenters: 1.

Comment 51: Commenter would like the language requiring the supervising veterinarian to be physically present wherever the AR is being performed to be changed to “a supervising veterinarian prescribing [AR] should provide a working diagnosis of the medical condition, provide consumers with a direct referral to a professional licensed to perform [AR] services, and maintain direct communication with the [AR] professional performing the [AR] regarding treatment plan and progress.

A California licensed physical therapist (PT), registered veterinary technician (RVT), or other certified and licensed animal massage or animal wellness professional, working under the indirect supervision of a veterinarian, may also perform [AR] treatments within the scope of their certification.”

No. of Commenters: 1.

Comment 52: Commenter suggests that the Board adopt the approach taken by states such as Colorado, which allows the practice of animal massage without a license if the person performing the animal massage:

- (A) “ Does not prescribe drugs, perform surgery, or diagnose medical conditions; and
- (B) Has earned a degree or certificate in animal massage from a school approved by [appropriate state agency], an out of state school offering an animal massage program with an accreditation recognized by the United States Department of Education, or a school that is exempt under [applicable statute].”

Colo. Rev. Stat. Section 12-35.5-110(1)(f)

No. of Commenters: 1.

C. Indirect Supervision:

Comment 53: Wants a medical model parallel to that of humans in which access would be given to PTs without the need for direct supervision by a veterinarian. Claims that this has been very successful in other states such as Colorado (Exhibit 2) and Nevada (Exhibit 3).

No. of Commenters: 6.

Comment 54: As a nationally recognized organization, the Animal Rehabilitation Special Interest Group (ARSIG) of the orthopedic section of the American Physical Therapy Association, commenters oppose the language that seeks to mandate direct supervision requirements on physical therapists who treat animals, particularly since physical therapists have been treating animals in this state for more than 10 years.

No. of Commenters: ARSIG.

Comment 55: True provision of consumer protection would involve devising proper competency standards that practitioners should be required to meet in order to practice under indirect supervision. Allow AR practitioners to practice under indirect supervision as long as competency standards have been met.

No. of Commenters: 7 + ARSIG.

Comment 56: Verbal or written rehab consent and/or plan from a licensed veterinarian should be sufficient for non-veterinary rehab providers to perform their services. The non-vet rehab practitioner should be required to maintain contact with the prescribing/referring veterinarian on at least a monthly basis.

No. of Commenters: 2.

Comment 57: Chiropractic care should only need a referral and chiropractors should be able to work autonomously as they do on humans. The usefulness of veterinarians is they can provide X-rays for the chiropractor to read. The relationship should be one of consultation and mutual respect between professionals, not of supervision.

No. of Commenters: 5.

Comment 58: Commenter, a DVM licensed in this state, wants to allow licensed physical therapists to provide rehabilitation on animals under indirect supervision. Physical therapists with additional training and education in animal rehabilitation should be accepted providers of rehabilitation and physical therapy services for animals without requiring direct supervision. This has been the trend in other states, and this trend has proven to be successful, reasonable and safe.

No. of Commenters: 2, both DVMs.

Comment 59: Direct supervision is not always practical because most animal hospitals have limited room; adding space for AR and AR equipment is not always a practical option for most vets.

No. of Commenters: 1 DVM.

Comment 60: Direct supervision is not always practical because most small animals become tense and fearful when they enter veterinary premises. This prevents accurate assessment of muscle tone and effective response to therapy. In the calm atmosphere of the animal's home, the animal's

physical/mental status can be more accurately assessed, and the AR itself will prove more efficacious.

No. of Commenters: 1 DVM.

Comment 61: Direct supervision is not always practical because ambulatory vets, especially equine vets, do not have the time to stay in a barn or home during every AR session.

No. of Commenters: 1 DVM.

Comment 62: Indirect supervision would enable AR to be significantly more cost effective because more AR could be administered in the field. The animals' owners would not have to lose work bringing an animal to the hospital for AR, nor would they have to pay to transport the animal.

No. of Commenters: 2.

Comment 63: Indirect supervision, like we have with medical doctors and physical therapists for humans, would promote the integrity of the care being offered while ensuring affordable treatment for animal patients.

No. of Commenters: 3 + ARSIG.

Comment 64: Direct supervision required for AR sessions with a veterinarian is not necessary. If a veterinarian has prescribed AR for a client, then there is no reason for them to be there for the session. It should be "indirect supervision," or left to the veterinarian's professional discretion.

No. of Commenters: 6037 (Equinology petition) + 1.

Comment 65: Requiring direct supervision for all activities described in the new wording would render a tremendous scope of services cost prohibitive for owners and therefore the animals would be denied these services. This is especially true for horses.

No. of Commenters: 6307 (Equinology petition) + 1.

Comment 66: Please reconsider the need for direct supervision of PT's trained and certified in specific areas of AR. Requiring direct supervision of PT's would limit access to services that could benefit the animal and client. Doctors of Physical Therapy are highly educated professionals who are capable of providing services without direct supervision. Assuring that PTs have appropriate qualifications and providing adequate systems for communication between PTs and DVMs should allow for safe and effective provision of services.

No. of Commenters: 1 + ARSIG.

Comment 67: Restricting all AR services to provision under direct supervision prevents the ability to offer mobile services to animal patients who are homebound due to their size or disabilities and who are unable to be brought in to a veterinary clinic for treatment.

No. of Commenters: 1.

Comment 68: Restricting services to veterinary practice only or requiring direct supervision by a veterinarian for therapies such as massage or acupressure is ill-advised and only serves to hurt the consumer, the veterinary community, practitioners of complementary therapies, the California economy, and most significantly, the animals themselves.

No. of Commenters: 1.



Comment 68.1: Direct supervision would cause problems in the equine world. Having to transport an injured horse could make the injury worse.

No. of Commenters: 1.

Comment 68.2: Veterinarians will not be available for urgent issues if they must supervise AR.

No. of Commenters: 1.

D. Massage/Bodywork:

Comment 69: Since when did vets and RVTs know how to do massage? There is no training in massage among vets, RVTs and PTs except for PTs, and that training is cursory and doesn't come close to what a well-trained animal massage therapist knows.

No. of Commenters: 1.

Comment 70: Therapeutic massage needs to be clarified; it must be clear that massage not done for therapeutic purposes but for comfort is legal.

No. of Commenters: 1.

Comment 71: Commenter wants to be able to do "wellness" massage sessions on dogs and horses, similar to those provided to humans in the human massage industry.

No. of Commenters: 7.

Comment 72: Direct supervision for massage therapy sessions will effectively eliminate these services, because most sessions are done at barns and the owner cannot afford to have a veterinarian present. In addition, there would be scheduling difficulties. In some cases, the nearest vet is 2 hours driving distance. The regulation will effectively eliminate the ability of horse owners to have their horses receive massage/bodywork that can be beneficial for their health and well-being.

No. of Commenters: 7.

Comment 73: The regulation will effectively eliminate the ability for horse owners to have their horses receive massage/bodywork that can be beneficial for their health and well-being.

No. of Commenters: 6.

Comment 74: Graduates of the Equinology INC and Caninology program are trained not to work on an animal until cleared by the attending veterinarian, if the animal is currently under veterinary care. If a graduate is called to work on an animal that they feel needs to be seen by a vet first, they are trained to walk away from that session and advise the owner to contact their veterinarian. Graduates of this program are members of the Equine Body Workers Association which requires them to carry liability insurance and attend 16 hours of annual continuing education. They are serious about providing service within the current practice act.

No. of Commenters: 1.

Comment 75: If the Board decides that massage is a component of AR and only allowed to be presented by those specified in the regulations, commenter and the graduates of her school are effectively shut down. Commenter has provided training in animal massage for 21 years.

No. of Commenters: 1.

Comment 76: There is no distinction as to what constitutes “therapeutic massage” vs. “massage”. The definitions of these terms from various sources overlap, and include many of the words found in the definition of AR.

No. of Commenters: 6307 (Equinology petition).

Comment 77: Regular “massage” sessions can restore movement through strokes and techniques, induce relaxation, increase circulation, and promote general health. Does that really make it the practice of AR?

No. of Commenters: 6307 (Equinology petition).

Comment 78: Few veterinary facilities have the space and atmosphere conducive to a non-distracting and relaxing massage. Veterinary facilities visited by commenter were filled with noise, activity and distractions. Massage requires a quiet, dark, and undisturbed room or area.

No. of Commenters: 2.

Comment 79: Adding veterinary control and oversight would add to the cost of massage, reduce the number of good massage therapists, and promote an undercover economy. Please keep pet massage as it is/remove “massage” from the definition of animal rehabilitation.

No. of Commenters: 4.

Comment 80: Commenter objects to and disagrees with including animal massage as a part of animal rehabilitation. Massage is a stand-alone wellness and care activity that consumers should be allowed to access as they see fit, as they are allowed to do for themselves.

No. of Commenters: 1,757 (Shelah Barr petitions).

Comment 81: Commenter objects to and disagrees with the idea that massage is a medical procedure that needs to be prescribed and overseen by a medical professional. Animal massage is no different than human massage and should not be treated or regulated any differently.

Commenter does not have to receive a prescription in order to receive a massage, and requiring her to get a prescription from a vet for her pet is unnecessary and unfair.

No. of Commenters: 1,758 (Shelah Barr petitions).

Comment 82: By the Board’s own reasoning, unqualified persons should not be performing massage. The proposed language makes no stipulation that the veterinarian, veterinary technician, or physical therapist be trained in the art of massage. Therefore, the veterinarian, veterinary technician, or physical therapist should not be performing massage.

No. of Commenters: 1,756 (Shelah Barr petitions).

Comment 83: Commenter objects to and disagrees with having to bring her pet to a veterinary clinic for a massage because it will cause undue stress upon the animal.

No. of Commenters: 1,756 (Shelah Barr petitions).

Comment 84: Commenter objects to and disagrees with having to bring her pet to a veterinary clinic for a massage because this will make it exclusionary for people with disabilities, financial or time restrictions.

No. of Commenters: 1,756 (Shelah Barr petitions).

Comment 85: Commenter objects to and disagrees with having to bring her pet to a veterinary clinic for a massage because it creates a monopoly and is an unfair trade and an unfair competition practice which are federally illegal. Commenter objects to and disagrees with the Board knowingly and purposely forcing small local businesses to close, with the intention of funneling the business to veterinarians.

No. of Commenters: 1,757 (Shelah Barr petitions) + 2.

Comment 86: Commenter requests that the Board redefine "Animal Rehabilitation" by referring to massage only in the context of physical therapy that has been prescribed by a veterinarian. She also requests that the Board remove all language that requires massage to be prescribed by a veterinarian, and that restricts a person trained in animal massage who has received a certification in that field and carries liability insurance from practicing freely, without sanction or penalty from the Board.

No. of Commenters: 1,758 (Shelah Barr petitions).

Comment 87: There is no human equivalent to what this new definition will require. The human equivalent would mean that if one wanted a relaxing therapeutic massage one could only get one by a physical therapist or physical therapist aid with an MD on site. This will cause the massage industry to dry up.

No. of Commenters: 7.

Comment 88: Why can we use alternative or complementary modalities without direct doctor supervision for ourselves but not for our animals?

No. of Commenters: 10.

Comment 89: How does the proposed wording change protect the public and their pets, and from what? Where are the statistics to show harm done by those providing wellness sessions? What form/type of damage can be done through massage that would necessitate a veterinarian on site?

No. of Commenters: 5.

Comment 90: Commenter has and will continue to use the services of a certified equine massage therapist and recommend her, as she has done a lot of good for his horses. There has not been a single horse owner that commenter is aware of who has had a single negative experience from the massage therapist he uses.

No. of Commenters: 3.

Comment 91: There are few horse owners who can afford the cost of a bodyworker when they also have to pay for a vet to be present.

No. of Commenters: 7.

Comment 92: There are few, if any, veterinarians who will want to, or are capable of, performing equine massage or bodywork.

No. of Commenters: 6.

Comment 93: Animal owners are perfectly capable of determining who to use for bodywork/massage; they don't need the VMB's protection. Animal owners should have a right to choose a bodyworker for their animals without the need for a veterinarian to be involved.

No. of Commenters: 20.

Comment 94: As a bodyworker, commenter does not diagnose or treat illness or lameness. Her role does not sidestep the veterinary treatment her clients' animals might need.

No. of Commenters: 3.

Comment 95: Requiring certification through an approved program such as Equissage or Equinology makes much more sense than requiring owners to pay double fees, and vets to virtually waste their time observing equine bodyworkers.

No. of Commenters: 2.

Comment 96: Many massage therapists have been working on animals for a long time. It would be difficult for these practitioners to go back to school or work under a vet. Some certification should be required, but not a whole new degree.

No. of Commenters: 1.

Comment 97: There are already national boards that certify animal massage and acupuncture.

No. of Commenters: 2.

Comment 98: Sweeping certified animal massage workers into the scope of practicing veterinary medicine is a revision from the Board's previous stance, which did not seek to restrict the practice of massage or bodywork for animals under veterinary care.

No. of Commenters: 1.

Comment 99: Commenter's dogs were provided with relief by a certified small animal massage practitioner.

No. of Commenters: 2.

Comment 100: Commenters utilized the services of a certified animal massage therapists who came to their homes to work on their dogs, and the dogs benefitted from relaxing and relieving their muscle pain without the stress of being transported to the vet.

No. of Commenters: 2.

Comment 101: Commenter believes that animal massage therapists need training in animal massage, but doesn't believe that they need direct supervision any more than a human needs an MD's direct supervision.

No. of Commenters: 1.

Comment 102: Please take into account that many animals currently benefit from massage therapy. Requiring this to be performed in the presence of or by a veterinarian will be

unnecessarily limited to certified practitioners, and will result in animals not getting this beneficial treatment.

No. of Commenters: 13.

Comment 103: Massage is considered a normal part of the grooming process. Responsible practitioners do not prescribe, adjust, manipulate or diagnose, therefore massage is classified as animal husbandry. The VMB does not regulate animal husbandry, so it cannot legally be listed as the practice of veterinary medicine.

No. of Commenters: 2.

Comment 104: Commenters submit that this severe restriction fails to address or rectify any real safety issue or other legitimate concern. Associated Bodywork & Massage Professionals (ABMP) requires that their animal massage practitioner members must have completed at least 100 hours of education in the field of animal massage. According to commenters' records, not one professional negligence insurance claim has been submitted against any of commenters' animal massage practitioner members in the past 15 years. The practice of animal massage by trained, professional therapists is simply not a safety risk to animals, and the evidence does not indicate any need for the professional restriction of animal massage as proposed in 16 CCR 2038.5.

No. of Commenters: ABMP + 1.

Comment 104.1: The National Board of Certification for Animal Acupressure and Massage (NBCAAM) certifies practitioners who are trained professionals and who have undergone a rigorous testing process. While NBCAAM practitioners are encouraged to communicate with veterinarians and other licensed animal health care professionals, NBCAAM maintains that neither veterinarian referrals nor veterinarian supervision are required for the non-invasive practices of acupressure or massage except where state regulations dictate.

No. of Commenters: NBCAAM.

Comment 104.2: NBCAAM certified practitioners do not provide medical diagnosis, prescribe medications, perform surgical procedures, or provide chiropractic manipulations. Animal acupressure and massage do not replace veterinary physical therapy. Practitioners do not provide veterinary technician services.

No. of Commenters: NBCAAM.

#### E. Water Therapy:

Comment 105: Commenter opposes the animal rehabilitation regulations Section 2038.5., because it will remove/deny the ability of many animals to receive water therapy.

No. of Commenters: 9.

Comment 106: If the regulation passes, then will veterinarians serve as "lifeguards" directly overseeing the therapy in a swimming pool?

No. of Commenters: 5.

Comment 107: The proposed regulation would eliminate swim therapy provided by an RVT in a swimming pool. Commenters object because their dogs have benefitted from the therapy and the

cost was affordable. Commenters believe that the proposed regulation would deny disabled and recovering pets and their owners the ability to get truly beneficial therapy at a reasonable cost.  
No. of Commenters: 30.

Comment 108: Want to amend section 2038.5(a) to exclude swim therapy conducted in swimming pools by RVTs and to delete section 2038.5(b)(2)(B).  
No. of Commenters: 14.

Comment 109: If the proposed regulation passes, will vets go to the expense of putting in a natural environment swimming pool? In the current drought environment, the expense of installing and maintaining a new swimming pool will not only be cost prohibitive, but impractical. Veterinarians are not motivated to incur the cost, liability, and devoted time it takes for a truly rehabilitative experience a swimming pool provides. They will not have the space or the willingness to spend the money. Commenter has never found a veterinarian in her region that has a pool on site.  
No. of Commenters: 25.

Comment 110: The additional cost of having a licensed veterinarian physically present at every swim therapy session will make such sessions cost-prohibitive.  
No. of Commenters: 2.

Comment 111: Swim therapy is very different from other water therapy such as underwater treadmills. Swim therapy can accomplish things that an underwater treadmill can't.  
No. of Commenters: 9.

Comment 112: The RVT with which commenter is familiar truly cares for pets receiving water therapy; the dogs and the owners receive attentive, personal care and tremendous benefit. This RVT is trained, stays current with therapy methods and ongoing training, and provides a caring rehabilitative service at an affordable cost.  
No. of Commenters: 6.

Comment 113: The regulation will destroy a very valuable service to our dogs (i.e., swim therapy) that cannot be replaced by veterinarians, certainly not at an approachable cost that such regular therapy requires for optimum results.  
No. of Commenters: 4.

#### F. Chiropractic:

Comment 114: Will the new proposal affect animal chiropractic?  
No. of Commenters: 1.

Comment 115: Does the Board intend to leave 2038 intact, and only add regulation to PTs and RVTs in 2038.5?  
Commenters: James Israelsen, DVM, Legislative Chair of AVCA, Michael Welker, President of AVCA.

Comment 116: Chiropractors must already practice under the direct supervision of a licensed veterinarian. Under the proposed wording, animals may no longer be able to receive this care. There are already laws mandating that chiropractors work by referral only and under supervision of a veterinarian – which already dramatically increased the cost of care.

No. of Commenters: 7.

Comment 117: Commenters' dogs' quality of life and wellbeing greatly improved from the care they received through a licensed chiropractor.

No. of Commenters: 40.

Comment 118: This proposal would negatively impact thousands of horses, dogs, etc. who currently receive chiropractic adjustments to maintain a healthy, balanced body.

No. of Commenters: 2.

Comment 119: Manual therapy as performed by properly trained and certified animal chiropractors is critical to the health and wellbeing of commenter's horses. The knowledge that properly trained and certified animal chiropractors possess is vast and paramount in keeping commenter's herd performing at an elite level.

No. of Commenters: 5.

Comment 120: Eliminating properly trained and certified animal chiropractors from caring for pets or performance animals is cruel and wrong/would cause many animals to suffer.

No. of Commenters: 2.

Comment 121: Please do not take away animal chiropractors. It would be a huge mistake eliminating properly trained and certified animal chiropractors from caring for our pets.

No. of Commenters: 43.

Comment 122: Vets who have referred clients to several veterinary chiropractors say that they do not have training in veterinary chiropractic care and don't have time to pursue another degree. They would not be nearly as skilled as the professionals they have been working with. Eliminating their services from the community would be arbitrary and hurtful to the patients that need their services.

No. of Commenters: 6.

Comment 123: AVCA (American Veterinary Chiropractic Association) certificants have been practicing under Code section 2038 since 1998, and it has been an effective method of preventing unlicensed or untrained individuals from performing chiropractic adjustments on animals in the State of California. Surely a certification for animal chiropractors from the American Veterinary Chiropractic Association should be sufficient to allow these caregivers license to apply their skill and healing touch.

No. of Commenters: 16.

Comment 124: If properly trained chiropractors are not allowed to legally treat animals with veterinary supervision, the public will still demand this treatment and be forced to seek the care of an ill-trained (or untrained) illegal practitioner. This will put the pets' wellbeing in jeopardy.

No. of Commenters: 485 (including Monterey Bay Area Veterinary Medical Association petition).

Comment 125: Professional human athletes get regular body work, so active sports dogs should have the same ability to get body work. Sports dogs should also be able to get chiropractic treatment.

No. of Commenters: 6.

Comment 126: By limiting chiropractic care to properly trained vets only, the demand will greatly overwhelm the qualified vets, leaving the option of chiropractic care unavailable to many. Veterinarians are much too busy/do not have the time or inclination to learn manual therapy. It would be like asking an orthopedist to learn physical therapy.

No. of Commenters: 10.

Comment 127: What would happen if only MDs could give chiropractic care to humans?

No. of Commenters: 1.

Comment 128: Veterinarians, physical therapists and registered veterinary technicians are not generally trained in chiropractic. Permitting untrained individuals to practice chiropractic is dangerous and illogical, and forbidding chiropractors to practice unless they are vets, PTs or RVTs is unnecessary and unrealistic. Commenter would much prefer her chiropractor, certified by the American Veterinary Chiropractic Association, treat her dog than a veterinarian, RVT or PT who doesn't have specialty chiropractic training. Commenter would not allow a veterinarian to do any type of manual manipulation on her pet.

No. of Commenters: 27.

Comment 129: There is already a shortage of animal chiropractors. Typical wait times in the Bay Area are already over one month. The AVCA website lists 41 certified doctors in California. Only 13 of these are DVMs. The proposed change would make it even more difficult to find the quality animal chiropractic care their animals need.

No. of Commenters: 1.

Comment 130: The proposed regulation will do nothing but further drive up the costs of care for pet owners while eliminating the livelihood of qualified, licensed and supervised animal chiropractors.

No. of Commenters: 7.

Comment 131: The VMB is seeking to deprive commenter of his right to continue a legally established (chiropractic) business. This is a violation of commenter's civil rights under Article IV and the 14<sup>th</sup> Amendment of the Constitution.

No. of Commenters: 1.

Comment 132: A properly trained and certified animal chiropractor offers invaluable service to animals in pain without the use of drugs or surgery.

No. of Commenters: 7.



Comment 133: If animal trained chiropractors are prevented from working, many vets will not have qualified doctors to refer to.

No. of Commenters: 2.

Comment 134: When seeking care for her dog, the local vets were unable to help commenter except to heavily prescribe pain medications. This did not resolve the underlying issue. A chiropractor was able to help.

No. of Commenters: 4.

Comment 135: To mandate that chiropractic must be directly overseen by a vet is irresponsible and short sighted. Certified animal chiropractors would be put out of business and these are precisely the people who have the expertise and specialization to be effective for this common form of pet rehab. Leave chiropractic to certified chiropractors.

No of Commenters: 3.

Comment 136: Commenter thinks it is wrong that [animal chiropractic] is even an issue, because the AVCA has grown and established this business and now that it is a thriving successful industry, the veterinarians want a piece of it.

No. of Commenters 1.

Comment 137: Commenter thinks it is wrong that the [veterinary] industry would put their personal agendas and their need for a piece of the pie in front of the care of the animals they are to protect.

No. of Commenters: 2.

Comment 138: Years ago, anyone could set up a table and sign at a [dog] agility competition and say they were doing animal chiropractic. It is a huge step forward in providing quality care for our canine athletes that animal chiropractors are now certified and work under the supervision of a veterinarian.

No. of Commenters: 4.

Comment 139: Commenter's vet does not perform chiropractic care, so she recommended the best [an animal chiropractor] for her dog.

No. of Commenters: 1.

Comment 140: If a human can see a chiropractor/ alternative modalities without an MD's supervision, commenters believes they should be allowed to seek the same treatment for their animals without a DVM's supervision.

No. of Commenters: 3.

Comment 141: A certain chiropractor helped commenter's dog such that they were able to avoid an expensive, unnecessary surgery that could have had a bad outcome.

No. of Commenters: 2.

Comment 142: Commenters wish to express support for certified health practitioners who are not veterinarians, including chiropractors, physical therapists, acupuncturists, and dental aligners, that perform work on their animals.

No. of Commenters: 2.

Comment 143: There are no veterinarians trained in animal chiropractic in commenter's area.

No. of Commenters: 1.

Comment 144: There is no reason to exclude chiropractors from the list of professionals who can perform AR under this proposal. There are multiple reputable post-graduate training programs available to chiropractors who go on to work with animals under the supervision of DVMs. These chiropractors receive a specialized education on the exact workings of the nervous system, the biomechanics of the animals they will be adjusting, and the specificity needed for each adjustment.

No. of Commenters: 4.

Comment 145: Do not remove manual therapy from the definition of animal rehabilitation.

Chiropractic from well-trained professionals is very valuable.

No. of Commenters: 1.

Comment 146: The AVCA feels that PTs and RVTs do not have appropriate training to practice animal chiropractic, and the Board should utilize the pre-existing national certification program of the AVCA as the gold standard in animal chiropractic training. Doing so will assure the continued safety of the public and animals in need of chiropractic adjustment.

Commenters: James Israelsen, DVM, Legislative Chair of AVCA, Michael Welker, President of AVCA, September 1, 2015.

Comment 147: By including "manual therapy" in the language of the rule, the VMB will make it impossible for commenter to obtain the degree of care that she has heretofore been getting. This stands the concept of "consumer and animal protection" on its head.

No. of Commenters: 1.

Comment 148: Commenter's veterinarian recommends animal chiropractic precisely because it is a specialty and because he is not trained to provide it. Why does the vet board not trust the wisdom of its own members who recommend chiropractic and who trust the professionalism of the chiropractors with whom they partner?

No. of Commenters: 1.

Comment 149: Why should commenter as a consumer have to pay for a veterinarian call as well as a chiropractor call when her animal needs to be seen? Why should a vet have to stand around while her animal is adjusted when he/she could be seeing other patients?

No. of Commenters: 2.

Comment 150: There would be a huge hole in the care of commenter's patients without chiropractic care, acupuncture, and physical therapy that is already being performed well.

No. of Commenters: 2.

Comment 151: The vets commenter knows do not want to do chiropractic and have no problem with commenter seeking chiropractic care for her pets.

No. of Commenters: 1.

G. Acupuncture:

Comment 152: No mention of acupuncture or electro-acupuncture in the definition of AR. Commenter is concerned that if they call it AR, vets cannot use licensed acupuncturists.

No. of Commenters: 1.

Comment 153: Please work to allow alternative treatments referred by vets, such as chiropractic, massage therapy, and acupuncture, but practiced by qualified, less expensive practitioners.

No. of Commenters: 4.

Comment 154: Please add veterinary chiropractors and acupuncturists to the list of who may perform animal rehabilitation.

No. of Commenters: 3.

H. General Opposition:

Comment 155: The regulations would allow any veterinarian or RVT to practice AR, even if they are not qualified to do so.

No. of Commenters: 16.

Comment 156: The regulations would drive up rehab prices/costs.

No. of Commenters: 4,238 (including CAAPT petition) + 26.

Comment 157: The regulations would limit public access to uniquely qualified professionals.

No. of Commenters: 8.

Comment 158: The regulations would not yield any increase in safety for pets or owners. The proposed regulation will do nothing to stop those who are already operating outside the law.

No. of Commenters: 4,238 (including CAAPT petition) +5.

Comment 159: Restricting consumer access to physical rehabilitation and wellness-type activities delivered only by a veterinarian or in a veterinarian's clinic will take away the consumer's right to choose who they want to treat their animals. Don't take away consumers' right to choose.

No. of Commenters: 4,235 (including CAAPT petition) and 6,307 (Equinology petition) + 21.

Comment 160: By including a broad definition of "Animal Rehabilitation" and a narrow list of people who can perform such rehabilitation, this amendment is excluding people licensed in other professions who are valuable in the rehabilitation process. In particular, excluding licensed massage therapists, licensed chiropractors, acupuncturists, and reiki masters from the list of allowed professionals would prohibit vets from using the valuable services offered by these practitioners.

No. of Commenters: 12.

Comment 161: The regulations put veterinarians in danger of prosecution for aiding and abetting unlicensed activity when in fact the veterinarian may be using a licensed professional with knowledge and skills superior to their own or that of a PT or RVT.

No. of Commenters: 1.

Comment 162: Where is the proof that the public or animals are being harmed by unlicensed or unauthorized practitioners? This is a completely false statement and the Board needs to prove that the public and animals are being harmed. Commenter wants scientific proof, clinical studies, court cases where animals were harmed.

No. of Commenters: 8.

Comment 163: The Board's main mission is to promote and protect its member doctors and to consolidate control of all animal medical care under its influence. Increased demand for PTs, RVTs and vets is the true goal of this regulation, not the protection of animals or the public.

No. of Commenters: 6.

Comment 164: There will be lawsuits that will cost the Board a lot of money when they, for instance, go after a massage therapist for violating the regulations.

No. of Commenters: 3.

Comment 165: The public will not be willing to pay for a supervising vet and a PT to be with an animal at the same time.

No. of Commenters: 4.

Comment 166: The Board is overreaching its authority. If an animal's owner wants to get instruction in animal massage or any other health care modality then that is their right. Animals are property and the owner can do as they wish as long as they don't break the law by abusing an animal. Clients often know their animals better than their own bodies.

No. of Commenters: 4.

Comment 167: Please do not penalize veterinarians who wish to utilize or refer a paraprofessional who is not listed under the proposed AR definition, especially when the paraprofessional has obtained an appropriate and acceptable standard of specialized training.

No. of Commenters: 6,307 (Equinology petition).

Comment 168: AR training is not necessarily included in the curricula of veterinary, RVT and PT programs. Belonging to one of these licensed professions does not necessarily qualify one to administer AR, as defined in the proposed language, without obtaining additional specialized education. The Board would need to put guidelines in place for veterinarians, RVTs and PTs requiring additional education for AR services.

No. of Commenters: 6,307 (Equinology petition) + 3.

Comment 169: "Evaluation" is not the practice of AR. Any ethical professional bodyworker, trainer, or farrier understands the need to evaluate the body and movement of an animal. The temperature, tone, and texture of the muscles must be evaluated by the bodyworker, to make sure

there are no contraindications before proceeding. If the animal is not moving properly, it needs to be referred to the veterinarian first before initiating a session. Should this critical practice of horse care really be the exclusive domain of veterinarians who are already stretched thin in their efforts to treat horses truly in need of their care?

No. of Commenters: 6,307 (Equinology petition).

Comment 170: A physical therapist's unique skill set is different than a veterinarian's and certainly more advanced than a veterinary technician's. Having access to a physical therapist's skills is important to the commenters and crucial to them for the care of their animals.

No. of Commenters: 4,235 (CAAPT petition) + 1.

Comment 171: Currently, it is very often impossible to get a veterinarian to commenter's location for a serious issue. There has been no consideration shown in these regulations to workloads, locations, time and travel.

No. of Commenters: 2.

Comment 172: If the proposed regulation was enacted, commenter believes that commenter's animals would be less well cared for than they are now.

No. of Commenters: 3.

Comment 173: Commenter wonders why it is okay to use alternative or complementary modalities without direct doctor supervision for ourselves, but not our animals?

No. of Commenters: 6.

Comment 174: This proposed regulation monopolizes all areas of animal care – looking after the board's interest instead of the public's interest. This is a regulation to benefit the vet industry only – not pet owners or animals. This is not appropriate or adequate to meet consumer needs.

No. of Commenters: 6,307 (Equinology petition) + 7.

Comment 175: Commenter has the right to seek help for their animal using one of the alternative treatments that most veterinarians neither offer nor understand. Noninvasive treatment has never been restricted to medical professionals, even for people.

No. of Commenters: 13.

Comment 176: Requiring that all animal treatment be done by or through veterinarians will be hugely expensive to the animal owning public.

No. of Commenters: 21.

Comment 177: This regulation will put many alternative care businesses out of business and deprive some excellent animal massage/bodyworkers/chiropractors/hydrotherapists from earning a living/eliminate jobs. Qualified professionals will lose their main source of income under the proposed regulations.

No. of Commenters: 21.

Comment 178: This regulation will cause the flight of entrepreneurial AR practitioners and business owners from California, which will harm both animals and their owners.

No. of Commenters: 1.

Comment 179: Vets are good at many things, but they often miss soft tissue damage. Body workers can help.

No. of Commenters: 3.

Comment 180: There is no reason to deprive pet owners of what are normally lower cost treatment modalities.

No. of Commenters: 5.

Comment 181: Do not pass a regulation that is geared at the percentage of individuals who are not qualified and, because of such, all those with skill and integrity will be paying the price for their mistakes.

No. of Commenters: 1.

Comment 182: There are many appropriately trained animal massage, acupressure, and cranial-sacral (to name a few) practitioners who have every right to provide treatment and therapy to animals. Rarely can these practitioners injure an animal and they do not diagnose nor prescribe. They are not doing anything invasive.

No. of Commenters: 5.

Comment 183: The proposed regulation would restrict a veterinary practice from sending out an appropriately trained and certified RVT to perform follow-up ECSW (extracorporeal shock wave therapy) or LLLT (low level laser therapy) treatments unless they were constantly accompanied by a veterinarian. This is not necessary.

No. of Commenters: 1.

Comment 184: Commenter, a DVM, does not feel qualified to supervise the activities of alternate modalities, including physical therapy, chiropractic care, swim therapy, and therapeutic massage, but she trusts their competence and knowledge of when to refer back to commenter or a general practitioner or a specialist.

No. of Commenters: 1.

Comment 185: By constraining the veterinarian's time, the vet necessarily will have to charge more for AR, thus limiting its access to animals with wealthier owners.

No. of Commenters: 4.

Comment 186: The proposed regulations remind commenter of the ban on non-vet teeth cleaning for dogs, which commenter feels is ridiculous.

No. of Commenters: 1.

Comment 187: From a business model, the proposed regulations make no sense for a veterinary practice. Commenter does not know of one veterinarian who is content with passively overseeing AR, while his/her own clinical cases are waiting.

No. of Commenters: 3.

Comment 188: Rather than narrow the scope of practice, it would be a far more viable and positive solution to work towards a new directive, whereby paraprofessional AR activity by qualified and insured practitioners is regulated under the realm of veterinary practice.

No. of Commenters: 2.

Comment 189: There would be absolutely no reason for a veterinarian to be present at a reiki energy healing session. There is no manipulation involved in reiki, just the laying on of hands and sometimes just hovering over the body.

No. of Commenters: 4.

Comment 190: The regulation potentially impacts the activities of pet owners and their own pets, as well as those of others involved in animal care businesses (e.g., pet sitters and dog walkers), and people who work with their friends' animals. Pet owners and others are impacted through the use of the terms "active, passive, and resistive exercise". Simply walking a dog could be considered to be active exercise for the prevention of bodily injury. There is no specific recognition for pet owners provided in Business & Professions Code Section 4827(a).

No. of Commenters: 1.

Comment 191: It is possible that pet owners will take it upon themselves to try and provide the needed services to their animals, without undergoing the necessary training to act properly and avoid injury to their animals. Without the necessary training, it is highly likely that these people will injure animals and/or themselves, adding to the pain and suffering of both humans and animals.

No. of Commenters: 1.

Comment 192: Commenter believes the notice of the regulatory hearing scheduled for September 10, 2015, is defective and that the public hearing must be rescheduled.

No. of Commenters: 1.

Comment 193: Commenter believes that the California Veterinary Medical Association [sic] has no legal authority or standing to shut down providers of animal physical rehabilitation.

No. of Commenters: 1.

Comment 194: The proposed regulation would deny consumers the rights they currently have, place millions of jobs in peril, and endanger the animals who currently depend on non-veterinary wellness modalities.

No. of Commenters: 16.

Comment 195: Commenter suggests creating language that restricts medical diagnosis, surgery, use of needles and dispensing of controlled substances by anyone other than a veterinarian, and allow all other practitioners to have their clients sign a waiver before treatment. This would be reasonable and would not restrict the consumer's right to choose. It would also not endanger the California economy.

No. of Commenters: 15.

Comment 196: Right now, commenter can have her child, if commenter chooses, treated by a wellness modality. But, under the proposed regulation, she will not have the same right to choose to treat her animal?

No. of Commenters: 2.

Comment 197: The proposed regulations could have a negative impact on the creation of new businesses, new and old jobs, and a negative fiscal impact on present businesses.

No. of Commenters: 7.

Comment 198: Decreased availability and increased costs as a result of these regulations would very likely prevent consumers from pursuing AR for their animals, thus limiting comprehensive veterinary medical care.

No. of Commenters: 7.

Comment 199: Commenter strongly urges the Board to instead consider regulations such as those found in the Colorado practice act revisions of 2007. These regulations spell out the educational requirements for physical therapists to practice in collaboration with veterinarians to provide rehabilitation services to veterinary patients. To date there have been no complaints registered regarding the practice of PTs working under these regulations, and the veterinary rehabilitation industry is flourishing there.

No. of Commenters: 2.

Comment 200: There are very few veterinary schools in California as well as in the United States which already creates a shortage of veterinarians leading to access issues and a gap in care.

No. of Commenters: 2.

Comment 201: Please stop any additional legislation that would limit animal care and access. Allow the free market and excellent service dictate the need for animal rehabilitation and not the special interest lobby of the state veterinarians.

No. of Commenters: 1.

Comment 202: No one at commenter's veterinarians' practice is able to perform the functions of animal chiropractor, massage therapist, farrier, etc. Nor is anyone who could perform these functions employed in their practice.

No. of Commenters: 2.

Comment 203: Commenter expresses general opposition to the proposed regulation.

No. of Commenters: 3.

Comment 204: The language in the Notice that says "the Board is not aware of any cost impact that any other representative private person or business would necessarily incur in reasonable compliance with the proposed action" is false. There are hundreds, if not thousands, of individuals providing excellent wellness care and other sought-after therapies. For these individuals, Section 2038.5 will make their only source of income unlawful. The cost of seeking additional advanced degrees is prohibitive for them.

No. of Commenters: 2.



Comment 205: What happens if an emergency arises and the vet has to leave in the middle of treatment? Does the PT or RVT have to cease treatment as well? How is that to the animal's benefit?

No. of Commenters: 1.

Comment 206: Commenter's animals have benefitted tremendously from alternative modality professionals.

No. of Commenters: 3.

Comment 207: Commenter feels that licensed, certified and insured alternative modality practitioners should be allowed to provide autonomous services for animals.

No. of Commenters: 4.

Comment 208: The proposed animal rehabilitation regulation defines "Animal Rehabilitation" so over-broadly that the entire regulation becomes ludicrous. Under the proposed regulation, ordinary things such as massage, exercise, and swimming in warm water are being construed as requiring a veterinary degree. That is as nonsensical as requiring a physician to supervise back rubs.

No. of Commenters: 1.

Comment 209: The American Association of Rehabilitation Veterinarians (AARV) proposes that Section 2038.5 not be approved as written. The AARV Board recommends that the VMB consider implementing language that urges veterinarians to obtain rehabilitation certification and choose appropriately trained and certified PTs and RVTs for their animal rehabilitation team. The AARV supports animal rehabilitation teams composed of a referring veterinarian, certified rehabilitation veterinarian, physical therapist certified in veterinary rehabilitation, and credentialed veterinary technicians certified in veterinary rehabilitation. The AARV Model Standards for Veterinary Physical Rehabilitation Practice outline the composition of a veterinary medical team, recommended educational standards, and continuing education requirements, as well as the role each person plays within the team.

No. of Commenters: AARV Board of Directors.

Comment 210: There is no medically grounded rationale by which veterinarians must be involved in therapeutic massage or manual therapy. Requiring a DVM to supervise treatments in which he or she is untrained and unneeded, while the supervised party is licensed and certified, is arrogant overreaching.

No. of Commenters: 1.

Comment 211: Commenter's experience with alternative providers is that they were equally or more capable than veterinarians of giving exceptional treatment because of their focus in a specialty area.

No. of Commenters: 2.

Comment 212: Commenter runs an animal rescue organization, which is a great consumer of alternative medical treatments for animals. There would be a great economic impact on this

organization if services like swim therapy, acupuncture, and massage were only available with direct supervision of a veterinarian.

No. of Commenters: 1.

Comment 213: The education level of the AR practitioner should dictate the level of supervision that is needed.

No. of Commenters: 1.

Comment 214: Commenter sees “alternative” methods of AR as “complimentary” to veterinary medicine.

No. of Commenters: 4.

Comment 215: The regulation as written is too broad. The language could conceivably cover energy therapy, horse shoeing and hoof care, among others. Please stick to regulating the practice of veterinary medicine.

No. of Commenters: 2.

Comment 216: There is no exemption in the regulations for owners to work on their animals, or horse trainers.

No. of Commenters: 1.

Comment 217: There are professionals specially trained in canine fitness. “Active, passive” therapy and “prevention” captures too much. Vets, RVTs, and PTs are not trained in canine fitness. Commenter wants to adapt the human model.

No. of Commenters: 1.

Comment 218: “Hydrotherapy” is very vague. The underwater treadmill should be excluded, as it is exercise equipment.

No. of Commenters: 1.

Comment 219: RVTs have been practicing AR for a long time under indirect supervision, with no complaints.

No. of Commenters: 1.

Comment 220: Where are the provisions for animals that are in a shelter?

No. of Commenters: 1.

Comment 221: If the regulation language is adopted as is, a veterinarian will have to make house calls to house-bound animals for every therapy on the list.

No. of Commenters: 1.

Comment 222: Implying that veterinarians are trained and competent in chiropractic and other complimentary methods may constitute consumer fraud.

No. of Commenters: 1.

Comment 223: Invalidating or blatantly dismissing the education, expertise, and collaborative efforts of qualified (AR) practitioners with veterinarians is highly objectionable. Just as in the human medical field, veterinary practice and complementary health care are no longer mutually exclusive.

No. of Commenters: 1.

- F. The parties to any proceeding pursuant to this rule shall be the Board and the petitioner. Any other person may seek leave of the Board to intervene in such a proceeding, and leave to intervene will be granted at the sole discretion of the Board. A petition to intervene shall set forth the same matters as are required by Section D of this Rule. Any reference to a "petitioner" in this rule also refers to any person who has been granted leave to intervene by the Board.
- G. Any declaratory order or other order disposing of a petition pursuant to this rule shall constitute agency action subject to judicial review pursuant to the Colorado Administrative Procedures Act at § 24-4-106, C.R.S.

**210. Requirements for Physical Therapists to Perform Physical Therapy on Animals**

The purpose of this rule is to implement the requirements of § 12-41-103.6(2)(b)(II), C.R.S., regarding the authority of Physical Therapists to treat animals.

- A. A Physical Therapist must have the knowledge, skill, ability and documented competency to perform an act that is within the scope of practice for Physical Therapists.
- B. The Director shall maintain a data base of all Physical Therapists that are qualified pursuant to this rule to practice physical therapy on animals in this state.
- C. All Physical Therapists that choose to practice physical therapy on animals shall provide the Board with such therapist's name, current address, education and qualifications to perform physical therapy on animals for inclusion in the data base referenced in part B of this rule. Information in the data base shall be open to public inspection at all times. Forms for Physical Therapists to provide such information shall be provided by the Board.
- D. A Physical Therapist that desires to perform physical therapy on animals must comply with the following educational requirements:
  - 1. Minimum of 80 contact hours over and above entry-level human physical therapy program course work for non-human animals, to include:
    - a. FOUNDATION/CLINICAL SCIENCES
      - i. Gross and applied non-human animal anatomy/physiology
      - ii. Wound healing and response of tissues to disuse and remobilization in the non-human animal
      - iii. Animal behavior
      - iv. Animal restraint
      - v. Zoonotic and infectious diseases
    - b. EXAMINATION/EVALUATION/PROGNOSIS/PT DIAGNOSIS
      - i. Medical and surgical management of orthopedic, neurological, critically injured, geriatric, arthritic and obese non-human animals
      - ii. Gait and other movement analyses

- c. INTERVENTION/PLAN OF CARE/OUTCOME
    - i. Therapeutic exercise applied to non-human animals
    - ii. Therapeutic modalities
    - iii. Outcome assessment and documentation
  - d. CLINICAL EXPERIENCE
    - i. Documented successful completion of a minimum of 120 hours under the supervision of a licensed physical therapist listed in the data base maintained by DORA to perform physical therapy of animals or a licensed veterinarian.
  - E. Prior to performing physical therapy on an animal, the Physical Therapist shall obtain veterinary medical clearance of the animal by a Colorado-licensed Veterinarian and must document such clearance in the animal patient's record.
  - F. Veterinary medical clearance means:
    - 1. The Veterinarian has previously examined the animal patient and has provided a differential diagnosis if appropriate.
    - 2. The Veterinarian has cleared the animal for physical therapy.
  - G. It is expected that the Physical Therapist and the Veterinarian will continue professional collaboration as necessary for the well-being of the animal patient.
  - H. Once veterinary medical clearance has been received, the Physical Therapist is responsible for developing the plan of care for the animal patient's physical therapy.
  - I. The animal patient's record must include the verbal or written veterinary medical clearance. If verbal clearance is received, the Physical Therapist must document the verbal clearance in the animal patient's record, including the name of the veterinarian, date and time clearance was received.
  - J. Complaints against Physical Therapists alleging a violation related to animal physical therapy will be forwarded to the Colorado State Board of Veterinary Medicine for its review and advisory recommendation to the State Physical Therapy Board. The State Physical Therapy Board retains the final authority by statute for decisions related to discipline of any physical therapist.
- 211. Requirements for Physical Therapists to Perform Dry Needling**
- A. Dry needling (also known as Trigger Point Dry Needling) is a physical intervention that uses a filiform needle to stimulate trigger points, diagnose and treat neuromuscular pain and functional movement deficits; is based upon Western medical concepts; requires an examination and diagnosis, and treats specific anatomic entities selected according to physical signs. Dry needling does not include the stimulation of auricular or distal points.
  - B. Dry needling as defined pursuant to this rule is within the scope of practice of physical therapy.

[Rev. 1/2/2015 3:32:23 PM]

**This chapter of NAC has changes which have been adopted but have not been codified; you can see those changes by viewing the following regulation(s) on the Nevada Register of Administrative Regulations: R063-13**

[NAC-638 Revised Date: 11-13]

## CHAPTER 638 - VETERINARIANS

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### NEVADA STATE BOARD OF VETERINARY MEDICAL EXAMINERS

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- 638.051 Abandoned animals.
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- 638.750 "Animal physical therapy" defined.
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- 638.800 "Animal chiropractic" defined.
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**MISCELLANEOUS PROVISIONS**

- 638.850 Inspection of veterinary facilities and vaccination clinics: Authorization and procedure.

**GENERAL PROVISIONS**

**NAC 638.001 Definitions.** (NRS 638.070) As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 638.005 to 638.0185, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Bd. of Veterinary Med. Exam'rs, eff. 3-19-86; A 7-7-94; R069-01, 10-12-2001; R041-02, 8-7-2003; R074-06, 6-28-2006)

**NAC 638.005 "Board" defined.** (NRS 638.070) "Board" means the Nevada State Board of Veterinary Medical Examiners.

(Added to NAC by Bd. of Veterinary Med. Exam'rs, eff. 3-19-86)

**NAC 638.006 "Direct supervision" defined.** (NRS 638.070) "Direct supervision" means that the supervising veterinarian or licensed veterinary technician is on the premises with or in the same area as the animal and the person treating the animal and is quickly and easily available.

(Added to NAC by Bd. of Veterinary Med. Exam'rs, eff. 3-19-86; A by R074-06, 6-28-2006)

**NAC 638.007 "Emergency" defined.** (NRS 638.070) "Emergency" means an animal has a condition which threatens its life and immediate treatment is necessary to sustain life.

(Added to NAC by Bd. of Veterinary Med. Exam'rs, eff. 3-19-86)

**NAC 638.009 "Immediate supervision" defined.** (NRS 638.070) "Immediate supervision" means the supervising veterinarian or licensed veterinary technician is in the immediate area and within visual and audible range of the animal and the person treating the animal.

(Added to NAC by Bd. of Veterinary Med. Exam'rs, eff. 3-19-86; A 7-7-94; 11-26-96; R069-01, 10-12-2001; R074-06, 6-28-2006)

**NAC 638.011 "Indirect supervision" defined.** (NRS 638.070) "Indirect supervision" means the supervising veterinarian is not on the premises with the animal and the person treating the animal, but has given written or oral instructions for treatment of the animal.

(Added to NAC by Bd. of Veterinary Med. Exam'rs, eff. 3-19-86; A 7-7-94; R074-06, 6-28-2006)

**NAC 638.0115 "Licensed veterinarian" defined.** (NRS 638.070) "Licensed veterinarian" has the meaning ascribed to it in NRS 638.007.

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R074-06, eff. 6-28-2006)

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R220-97, eff. 8-5-98; A by R069-01, 10-12-2001)

**NAC 638.715 Requirements for performance of aseptic surgery. (NRS 638.070)**

1. A veterinary facility which provides aseptic surgical services must reserve a room, separate and distinct from all other rooms, for aseptic surgical procedures.
2. When performing aseptic surgery:
  - (a) Each member of a surgical team shall wear the appropriate sanitary cap and sanitary mask;
  - (b) Any instrument used to perform aseptic surgery must be sterilized; and
  - (c) Each member of the surgical team who will be handling an instrument or touching the surgical site shall wear a sterilized surgical gown and sterilized gloves.
3. As used in this section, "aseptic surgery" means surgery performed under sterilized conditions to prevent the introduction of infectious microorganisms.

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R075-06, eff. 11-13-2006)

**NAC 638.720 Requirements for performance of clean surgery. (NRS 638.070)**

1. When performing clean surgery:
  - (a) Any instrument used to perform clean surgery must be sterilized; and
  - (b) Each member of the surgical team who will be handling an instrument or touching the surgical site shall wear clean attire and gloves.
2. As used in this section, "clean surgery" means a surgical procedure which does not warrant the use of aseptic surgical procedures and which is conducted in a manner that is consistent with the prevailing standards of acceptable veterinary medical practice.

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R075-06, eff. 11-13-2006)

**NAC 638.725 Disposal of hypodermic devices. (NRS 638.070)** Any person who is authorized to use hypodermic devices pursuant to the provisions of this chapter shall dispose of each hypodermic device he or she uses by placing the device directly into a rigid, labeled, leak-proof, puncture-resistant container. Needles must not be purposely bent or broken by hand or recapped.

(Added to NAC by Bd. of Veterinary Med. Exam'rs, eff. 7-7-94)—(Substituted in revision for NAC 638.0627)

**ANIMAL PHYSICAL THERAPY**

**NAC 638.750 "Animal physical therapy" defined. (NRS 638.070)** As used in NAC 638.750 to 638.790, inclusive, "animal physical therapy" means the rehabilitation of injuries in a nonhuman animal through the use of the following techniques, but does not include animal chiropractic:

1. Stretching;
2. Massage therapy;
3. Rehabilitative exercise;
4. Hydrotherapy;
5. Application of heat or cold; and
6. Stimulation by the use of:
  - (a) Low-level lasers;
  - (b) Electrical sources;
  - (c) Magnetic fields; or
  - (d) Noninvasive therapeutic ultrasound.

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R009-04, eff. 4-26-2004; A by R091-06, 11-13-2006)

**NAC 638.760 Requirements to practice; application for certificate of registration; fee. (NRS 638.070)**

1. A person shall not practice animal physical therapy in this State unless he or she is:
  - (a) A veterinarian;
  - (b) A licensed veterinary technician who complies with the provisions of NAC 638.053; or
  - (c) A physical therapist who has obtained a certificate of registration pursuant to this section and complies with the provisions of NAC 638.780.

2. A physical therapist who desires to secure a certificate of registration to practice animal physical therapy in this State must make written application to the Board.

3. The application must be on a form provided by the Board, include any information required by the Board and be accompanied by satisfactory proof that the applicant:

- (a) Is of good moral character;
- (b) Has been an active licensed physical therapist in this State for at least 1 year;
- (c) Is in good standing with the State Board of Physical Therapy Examiners;
- (d) Has successfully completed at least 100 hours of instruction or course work, or a combination of both, in the area of animal physical therapy, which must include, without limitation, assessment and planning of treatment, behavior, biomechanics, common orthopedic and neurological conditions, comparative anatomy, neurology, and therapeutic modalities and exercises; and
- (e) Has completed at least 125 hours of supervised clinical experience in animal physical therapy with a licensed veterinarian.

4. The application must be signed by the applicant and notarized.

5. Except as otherwise provided in NAC 638.790, upon receipt of the application and information required by subsection 3 and payment of the fee required pursuant to NAC 638.035, the Board will issue to the physical therapist a certificate of registration.

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R009-04, eff. 4-26-2004; A by R075-06, 11-13-2006; R072-09, 4-20-2010)

**NAC 638.770 Expiration and renewal of certificate; fee. (NRS 638.070)**

1. Each certificate of registration issued pursuant to NAC 638.760 or renewed pursuant to this section expires on January 1 of each year.

2. Each application for renewal of a certificate of registration must be:

- (a) Submitted in the form established by the Board;
- (b) Signed by the physical therapist;
- (c) Accompanied by proof that the physical therapist completed, during the 12-month period immediately preceding the beginning of the new registration year, at least 5 hours of continuing education in animal physical therapy approved by the Board; and
- (d) Accompanied by proof that his or her license as a physical therapist in this State is active and that he or she is in good standing with the State Board of Physical Therapy Examiners.

3. A physical therapist who fails to renew his or her certificate of registration before it expires forfeits the certificate of registration.

4. Except as otherwise provided in NAC 638.790, upon receipt of the application for renewal and the information required by subsection 2 and payment of the renewal fee required pursuant to NAC 638.035, the Board will renew the certificate of registration of the physical therapist.

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R009-04, eff. 4-26-2004; A by R072-09, 4-20-2010)

**NAC 638.780 Standards of practice for physical therapist holding certificate; maintenance of records. (NRS 638.070)**

1. A physical therapist who has been issued a certificate of registration pursuant to NAC 638.760 may practice animal physical therapy only:

(a) Under the direction of a veterinarian licensed in this State who has established a valid veterinarian-client-patient relationship concerning the animal receiving the animal physical therapy before the animal physical therapy is performed; and

(b) If the physical therapist assumes individual liability for the quality of the animal physical therapy performed.

2. The veterinarian under whose direction the physical therapist performs the animal physical therapy:

- (a) Is not required to supervise the physical therapist during the animal physical therapy.
- (b) Is not liable for the acts or omissions of the physical therapist who performs the animal physical therapy.

3. Each physical therapist who has been issued a certificate of registration shall:

(a) Maintain in this State for at least 4 years a separate written medical record of each animal receiving animal physical therapy from the physical therapist.

(b) Within 48 hours after the initial visit with the animal, mail or transmit by facsimile machine a complete copy of the medical record to the veterinarian under whose direction the physical therapist performs the animal physical therapy.

(c) Within 48 hours after each subsequent visit with the animal, mail or transmit by facsimile machine a progress report to the veterinarian under whose direction the physical therapist performs the animal physical therapy.

4. The veterinarian shall include the copy of the medical record received pursuant to subsection 3 in the medical record required pursuant to NAC 638.0475. The written medical record must include, without limitation:

- (a) The name, address and telephone number of the owner of the animal;
  - (b) The name or identifying number, or both, of the animal;
  - (c) The age, sex and breed of the animal;
  - (d) The dates of care, custody or treatment of the animal;
  - (e) The results of a basic rehabilitation examination related to physical therapy;
  - (f) The diagnosis and treatment plan related to physical therapy recommended by the physical therapist for the animal; and
  - (g) The progress and disposition of the case.
- (Added to NAC by Bd. of Veterinary Med. Exam'rs by R009-04, eff. 4-26-2004)

#### **NAC 638.790 Disciplinary action. (NRS 638.070)**

1. A violation of a provision of chapter 638 or 640 of NRS or a regulation adopted by the State Board of Physical Therapy Examiners or the Nevada State Board of Veterinary Medical Examiners is a ground for disciplinary action.

2. If the Nevada State Board of Veterinary Medical Examiners determines that an applicant for a certificate of registration pursuant to NAC 638.760 or a physical therapist who has been issued a certificate of registration pursuant to NAC 638.760 has committed any act which is a ground for disciplinary action, the Board may:

- (a) Refuse to issue a certificate of registration;
- (b) Refuse to renew a certificate of registration;
- (c) Revoke a certificate of registration;
- (d) Suspend a certificate of registration for a definite period or until further order of the Board;
- (e) Impose a fine in an amount not to exceed \$10,000 for each act that constitutes a ground for disciplinary action;
- (f) Place a physical therapist who has been issued a certificate of registration on probation subject to any reasonable conditions imposed by the Board, including, without limitation, requiring courses in continuing education or a periodic or continuous review of his or her animal physical therapy practice;
- (g) Administer a public reprimand;
- (h) Require the physical therapist who has been issued a certificate of registration to take a competency examination or a mental or physical examination; and
- (i) Require the physical therapist who has been issued a certificate of registration to pay all costs, including, without limitation, attorney's fees, incurred by the Board in taking disciplinary action against him or her.

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R009-04, eff. 4-26-2004)

#### **ANIMAL CHIROPRACTIC**

**NAC 638.800 "Animal chiropractic" defined. (NRS 638.070)** As used in NAC 638.800 to 638.840, inclusive, "animal chiropractic" means the examination and treatment of a nonhuman animal through the manipulation and adjustment of specific joints and cranial sutures of the animal.

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R115-99, eff. 12-7-99; A by R110-02, 11-6-2002)

#### **NAC 638.810 Requirements to practice; application for registration certificate; fee. (NRS 638.070)**

- 1. A person shall not practice animal chiropractic in this State unless he or she is:
  - (a) A veterinarian; or

(b) A chiropractor who has obtained a registration certificate pursuant to this section and complies with the provisions of NAC 638.830.

2. A chiropractor who desires to secure a registration certificate to practice animal chiropractic in this State must make written application to the Board.

3. The application must be on a form provided by the Board, include any information required by the Board and be accompanied by satisfactory proof that the applicant:

- (a) Is of good moral character;
- (b) Has been an active licensed chiropractor in this State for at least 1 year;
- (c) Is in good standing with the Chiropractic Physicians' Board of Nevada; and
- (d) Is certified by the American Veterinary Chiropractic Association.

4. The application must be signed by the applicant and notarized.

5. Except as otherwise provided in NAC 638.840, upon receipt of the application and information required by subsection 3 and payment of the fee required pursuant to NAC 638.035, the Board will issue to the chiropractor a certificate of registration.

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R115-99, eff. 12-7-99; A by R110-02, 11-6-2002; R072-09, 4-20-2010)

#### **NAC 638.820 Expiration and renewal of certificate; fee. (NRS 638.070)**

1. Each certificate of registration issued pursuant to NAC 638.810 or renewed pursuant to this section expires on January 1 of each year.

2. Each application for renewal of a certificate of registration must be:

- (a) Submitted in the form established by the Board;
- (b) Signed by the chiropractor;

(c) Accompanied by proof that the chiropractor completed, during the 12-month period immediately preceding the beginning of the new registration year, at least 15 hours of continuing education in animal chiropractic approved by the Board; and

(d) Accompanied by proof that his or her license as a chiropractor in this State is active and that he or she is in good standing with the Chiropractic Physicians' Board of Nevada.

3. A chiropractor who fails to renew his or her certificate of registration before it expires forfeits his or her certificate of registration.

4. Except as otherwise provided in NAC 638.840, upon receipt of the application for renewal and information required by subsection 2 and payment of the fee required pursuant to NAC 638.035, the Board will renew the certificate of registration of the chiropractor.

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R115-99, eff. 12-7-99; A by R059-01, 10-12-2001; R110-02, 11-6-2002; R091-06, 11-13-2006; R072-09, 4-20-2010)

#### **NAC 638.830 Standards of practice for chiropractor holding certificate; maintenance of records. (NRS 638.070)**

1. A chiropractor who has been issued a certificate of registration pursuant to NAC 638.810 may practice animal chiropractic only:

(a) Under the direction of a veterinarian licensed in this State who has established a valid veterinarian-client-patient relationship concerning the animal receiving the animal chiropractic before the animal chiropractic is performed; and

(b) If the chiropractor assumes individual liability for the quality of the animal chiropractic performed.

2. The veterinarian under whose direction the chiropractor performs the animal chiropractic:

- (a) Is not required to supervise the chiropractor during the animal chiropractic.
- (b) Is not liable for the acts or omissions of the chiropractor who performs animal chiropractic.

3. Each chiropractor who has been issued a certificate of registration shall:

(a) Maintain in this State for at least 4 years a separate written medical record of each animal receiving animal chiropractic.

(b) Within 48 hours after the initial visit with the animal, mail or transmit by facsimile machine a complete copy of the medical record to the veterinarian under whose direction the chiropractor performs the animal chiropractic.

(c) Within 48 hours after each subsequent visit with the animal, mail or transmit by facsimile machine a progress report to the veterinarian under whose direction the chiropractor performs the animal chiropractic.

4. The veterinarian shall include the copy of the medical record received pursuant to subsection 3 in the medical record required pursuant to NAC 638.0475. The written medical record must include, without limitation:

- (a) The name, address and telephone number of the owner of the animal;
- (b) The name or identifying number, or both, of the animal;
- (c) The age, sex and breed of the animal;
- (d) The dates of care, custody or treatment of the animal;
- (e) The results of a basic physical examination related to musculoskeletal manipulation;
- (f) The diagnosis and treatment plan related to musculoskeletal manipulation recommended by the chiropractor for the animal; and
- (g) The progress and disposition of the case.

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R115-99, eff. 12-7-99; A by R059-01, 10-12-2001; R110-02, 11-6-2002)

#### **NAC 638.840 Disciplinary action. (NRS 638.070)**

1. A violation of a provision of chapter 634 or 638 of NRS or a regulation adopted by the Chiropractic Physicians' Board of Nevada or the Nevada State Board of Veterinary Medical Examiners is a ground for disciplinary action.

2. If the Nevada State Board of Veterinary Medical Examiners determines that an applicant for a certificate of registration pursuant to NAC 638.810 or a person who has been issued a certificate of registration pursuant to NAC 638.810 has committed any act which is a ground for disciplinary action, the Board may:

- (a) Refuse to issue a certificate of registration;
- (b) Refuse to renew a certificate of registration;
- (c) Revoke a certificate of registration;
- (d) Suspend a certificate of registration for a definite period or until further order of the Board;
- (e) Impose a fine in an amount not to exceed \$10,000 for each act that constitutes a ground for disciplinary action;
- (f) Place a person who has been issued a certificate of registration on probation subject to any reasonable conditions imposed by the Board, including, without limitation, requiring courses in continuing education or a periodic or continuous review of his or her animal chiropractic practice;
- (g) Administer a public reprimand;
- (h) Require the person who has been issued a certificate of registration to take a competency examination or a mental or physical examination; and
- (i) Require the person who has been issued a certificate of registration to pay all costs, including, without limitation, attorney's fees, incurred by the Board in taking disciplinary action against him or her.

(Added to NAC by Bd. of Veterinary Med. Exam'rs by R115-99, eff. 12-7-99; A by R059-01, 10-12-2001; R110-02, 11-6-2002)

#### **MISCELLANEOUS PROVISIONS**

#### **NAC 638.850 Inspection of veterinary facilities and vaccination clinics: Authorization and procedure. (NRS 638.070, 638.077, 638.132)**

1. An inspector approved by the Board may conduct inspections of veterinary facilities and vaccination clinics.

2. Each inspector shall evaluate a veterinary facility or vaccination clinic for compliance with the practice of veterinary medicine pursuant to the provisions of this chapter and chapter 638 of NRS.

3. Each inspector shall:

- (a) During an inspection, use a form for inspection approved by the Board. The form must include:
  - (1) A description of the nature of any violation;
  - (2) The specifications for any changes required to be made to correct the violation; and
  - (3) The time allowed to correct the violation.



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West's Utah Code Annotated

Title 58. Occupations and Professions

Chapter 28. Veterinary Practice Act (Refs & Annos)

Part 3. Licensing

U.C.A. 1953 § 58-28-307

§ 58-28-307. Exemptions from chapter

Currentness

In addition to the exemptions from licensure in Section 58-1-307 this chapter does not apply to:

(1) any person who practices veterinary medicine, surgery, or dentistry upon any animal owned by him, and the employee of that person when the practice is upon an animal owned by his employer, and incidental to his employment, except:

(a) this exemption does not apply to any person, or his employee, when the ownership of an animal was acquired for the purpose of circumventing this chapter; and

(b) this exemption does not apply to the administration, dispensing, or prescribing of a prescription drug, or nonprescription drug intended for off label use, unless the administration, dispensing, or prescribing of the drug is obtained through an existing veterinarian-patient relationship;

(2) any person who as a student at a veterinary college approved by the board engages in the practice of veterinary medicine, surgery, and dentistry as part of his academic training and under the direct supervision and control of a licensed veterinarian, if that practice is during the last two years of the college course of instruction and does not exceed an 18-month duration;

(3) a veterinarian who is an officer or employee of the government of the United States, or the state, or its political subdivisions, and technicians under his supervision, while engaged in the practice of veterinary medicine, surgery, or dentistry for that government;

(4) any person while engaged in the vaccination of poultry, pullorum testing, typhoid testing of poultry, and related poultry disease control activity;

(5) any person who is engaged in bona fide and legitimate medical, dental, pharmaceutical, or other scientific research, if that practice of veterinary medicine, surgery, or dentistry is directly related to, and a necessary part of, that research;



(6) veterinarians licensed under the laws of another state rendering professional services in association with licensed veterinarians of this state for a period not to exceed 90 days;

(7) registered pharmacists of this state engaged in the sale of veterinary supplies, instruments, and medicines, if the sale is at his regular place of business;

(8) any person in this state engaged in the sale of veterinary supplies, instruments, and medicines, except prescription drugs which must be sold in compliance with state and federal regulations, if the supplies, instruments, and medicines are sold in original packages bearing adequate identification and directions for application and administration and the sale is made in the regular course of, and at the regular place of business;

(9) any person rendering emergency first aid to animals in those areas where a licensed veterinarian is not available, and if suspicious reportable diseases are reported immediately to the state veterinarian;

(10) any person performing or teaching nonsurgical bovine artificial insemination;

(11) any person affiliated with an institution of higher education who teaches nonsurgical bovine embryo transfer or any technician trained by or approved by an institution of higher education who performs nonsurgical bovine embryo transfer, but only if any prescription drug used in the procedure is prescribed and administered under the direction of a veterinarian licensed to practice in Utah;

(12)(a) upon written referral by a licensed veterinarian, the practice of animal chiropractic by a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act, who has completed an animal chiropractic course approved by the American Veterinary Chiropractic Association or the division;

(b) upon written referral by a licensed veterinarian, the practice of animal physical therapy by a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act, who has completed at least 100 hours of animal physical therapy training, including quadruped anatomy and hands-on training, approved by the division;

(c) upon written referral by a licensed veterinarian, the practice of animal massage therapy by a massage therapist licensed under Chapter 47b, Massage Therapy Practice Act, who has completed at least 60 hours of animal massage therapy training, including quadruped anatomy and hands-on training, approved by the division; and

(d) upon written referral by a licensed veterinarian, the practice of acupuncture by an acupuncturist licensed under Chapter

72, Acupuncture Licensing Act, who has completed a course of study on animal acupuncture approved by the division;

(13) unlicensed assistive personnel performing duties appropriately delegated to the unlicensed assistive personnel in accordance with Section 58-28-502;

(14) an animal shelter employee who is:

(a)(i) acting under the indirect supervision of a licensed veterinarian; and

(ii) performing animal euthanasia in the course and scope of employment; and

(b) acting under the indirect supervision of a veterinarian who is under contract with the animal shelter, administering a rabies vaccine to a shelter animal in accordance with the Compendium of Animal Rabies Prevention and Control; and

(15) an individual providing appropriate training for animals; however, this exception does not include diagnosing any medical condition, or prescribing or dispensing any prescription drugs or therapeutics.

#### Credits

Laws 2006, c. 109, § 11, eff. May 1, 2006; Laws 2009, c. 220, § 21, eff. July 1, 2009; Laws 2013, c. 278, § 36, eff. May 14, 2013; Laws 2014, c. 191, § 2, eff. May 13, 2014.

#### Editors' Notes

#### CROSS REFERENCES

Animal physical **therapy**, see § 58-24b-405.

Practice of massage **therapy**, definitions, see § 58-47b-102.

U.C.A. 1953 § 58-28-307, UT ST § 58-28-307

Current through 2015 First Special Session

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West's Utah Code Annotated

Title 58. Occupations and Professions

Chapter 28. Veterinary Practice Act (Refs & Annos)

Part 1. General Provisions

U.C.A. 1953 § 58-28-102

§ 58-28-102. Definitions

Currentness

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Abandonment" means to forsake entirely or to refuse to provide care and support for an animal placed in the custody of a licensed veterinarian.

(2) "Administer" means:

(a) the direct application by a person of a prescription drug or device by injection, inhalation, ingestion, or by any other means, to the body of an animal that is a patient or is a research subject; or

(b) a veterinarian providing to the owner or caretaker of an animal a prescription drug for application by injection, inhalation, ingestion, or any other means to the body of the animal by the owner or caretaker in accordance with the veterinarian's written directions.

(3) "Animal" means any animal other than a human.

(4) "AVMA" means American Veterinary Medical Association.

(5) "Board" means the Veterinary Board established in Section 58-28-201.

(6) "Client" means the patient's owner, the owner's agent, or other person responsible for the patient.

(7) "Direct supervision" means a veterinarian licensed under this chapter is present and available for face-to-face contact with the patient and person being supervised, at the time the patient is receiving veterinary care.

(8) "Extra-label use" means actual use or intended use of a drug in an animal in a manner that is not in accordance with approved labeling.

(9) "Immediate supervision" means the veterinarian licensed under this chapter is present with the individual being supervised, while the individual is performing the delegated tasks.

(10) "Indirect supervision" means a veterinarian licensed under this chapter:

(a) has given either written or verbal instructions for veterinary care of a patient to the person being supervised; and

(b) is available to the person being supervised by telephone or other electronic means of communication during the period of time in which the veterinary care is given to the patient.

(11) "Practice of veterinary medicine, surgery, and dentistry" means to:

(a) diagnose, prognose, or treat any disease, defect, deformity, wound, injury, or physical condition of any animal;

(b) administer, prescribe or dispense any drug, medicine, treatment, method, or practice, perform any operation or manipulation, apply any apparatus or appliance for the cure, relief, or correction of any animal disease, deformity, defect, wound, or injury, or otherwise practice any veterinary medicine, dentistry, or surgery on any animal;

(c) represent by verbal or written claim, sign, word, title, letterhead, card, or any other manner that one is a licensed veterinarian or qualified to practice veterinary medicine, surgery, or dentistry;

(d) hold oneself out as able to practice veterinary medicine, surgery, or dentistry;

(e) solicit, sell, or furnish any parenterally administered animal disease cures, preventions, or treatments, with or without the necessary instruments for the administration of them, or any and all worm and other internal parasitic remedies, upon any agreement, express or implied, to administer these cures, preventions, treatments, or remedies; or

(f) assume or use the title or designation, "veterinary," "veterinarian," "animal doctor," "animal surgeon," or any other title, designation, words, letters, abbreviations, sign, card, or device tending to indicate that such person is qualified to practice veterinary medicine, surgery, or dentistry.

(12) "Unlawful conduct" is defined in Sections 58-1-501 and 58-28-501.

(13) "Unlicensed assistive personnel":

(a) means any unlicensed person, regardless of title, to whom tasks are delegated by a veterinarian licensed under this chapter as permitted by administrative rule and in accordance with the standards of the profession; and

(b) includes:

(i) a veterinary assistant, if working under immediate supervision;

(ii) a veterinary technician who:

(A) has graduated from a program of veterinary technology accredited by the AVMA that is at least a two-year program; and

(B) who is working under direct supervision; and

(iii) a veterinary technologist who:

(A) has graduated from a four-year program of veterinary technology accredited by the AVMA; and

(B) is working under indirect supervision.

(14) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-28-502 and may be further defined by rule.

(15) "Veterinarian-client-patient relationship" means:

(a) a veterinarian licensed under this chapter has assumed responsibility for making clinical judgements regarding the health of an animal and the need for medical treatment of an animal, and the client has agreed to follow the veterinarian's instructions;

(b) the veterinarian has sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal, including knowledge of the keeping and care of the animal as a result of recent personal examination of the animal or by medically appropriate visits to the premises where the animal is housed; and

(c) the veterinarian has arranged for emergency coverage for follow-up evaluation in the event of adverse reaction or the failure of the treatment regimen.

#### **Credits**

Laws 2006, c. 109, § 3, eff. May 1, 2006; Laws 2010, c. 189, § 1, eff. May 11, 2010.

U.C.A. 1953 § 58-28-102, UT ST § 58-28-102  
Current through 2015 First Special Session

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West's Utah Code Annotated

Title 58. Occupations and Professions

Chapter 24B. Physical Therapy Practice Act (Refs & Annos)

Part 1. General Provisions

U.C.A. 1953 § 58-24b-102

§ 58-24b-102. Definitions

Currentness

As used in this chapter:

- (1) "**Animal** physical therapy" means practicing physical therapy or physiotherapy on an **animal**.
- (2) "Board" means the Utah Physical Therapy Licensing Board, created in Section 58-24b-201.
- (3) "Consultation by telecommunication" means the provision of expert or professional advice by a physical therapist who is licensed outside of Utah to a licensed physical therapist or a health care provider by telecommunication or electronic communication.
- (4) "General supervision" means supervision and oversight of a person by a licensed physical therapist when the licensed physical therapist is immediately available in person, by telephone, or by electronic communication to assist the person.
- (5) "Licensed physical therapist" means a person licensed under this chapter to engage in the practice of physical therapy.
- (6) "Licensed physical therapist assistant" means a person licensed under this chapter to engage in the practice of physical therapy, subject to the provisions of Subsection 58-24b-401(2)(a).
- (7) "Licensing examination" means a nationally recognized physical therapy examination that is approved by the division, in consultation with the board.
- (8) "On-site supervision" means supervision and oversight of a person by a licensed physical therapist or a licensed physical therapist assistant when the licensed physical therapist or licensed physical therapist assistant is:

(a) continuously present at the facility where the person is providing services;

(b) immediately available to assist the person; and

(c) regularly involved in the services being provided by the person.

(9) "Physical impairment" means:

(a) a mechanical impairment;

(b) a physiological impairment;

(c) a developmental impairment;

(d) a functional limitation;

(e) a disability;

(f) a mobility impairment; or

(g) a bodily malfunction.

(10)(a) "Physical therapy" or "physiotherapy" means:

(i) examining, evaluating, and testing an individual who has a physical impairment or injury;

(ii) identifying or labeling a physical impairment or injury;



- (iii) formulating a therapeutic intervention plan for the treatment of a physical impairment, injury, or pain;
  - (iv) assessing the ongoing effects of therapeutic intervention for the treatment of a physical impairment or injury;
  - (v) treating or alleviating a physical impairment by designing, modifying, or implementing a therapeutic intervention;
  - (vi) reducing the risk of an injury or physical impairment;
  - (vii) providing instruction on the use of physical measures, activities, or devices for preventative and therapeutic purposes;
  - (viii) promoting and maintaining health and fitness;
  - (ix) the administration of a prescription drug pursuant to Section 58-24b-403;
  - (x) subject to Subsection 58-28-307(12)(b), engaging in the functions described in Subsections (10)(a)(i) through (ix) in relation to an **animal**, in accordance with the requirements of Section 58-24b-405; and
  - (xi) engaging in administration, consultation, education, and research relating to the practices described in this Subsection (10)(a).
- (b) "Physical therapy" or "physiotherapy" does not include:
- (i) diagnosing disease;
  - (ii) performing surgery;
  - (iii) performing acupuncture;

(iv) taking x-rays; or

(v) prescribing or dispensing a drug, as defined in Section 58-37-2.

(11) "Physical therapy aide" means a person who:

(a) is trained, on-the-job, by a licensed physical therapist; and

(b) provides routine assistance to a licensed physical therapist or licensed physical therapist assistant, while the licensed physical therapist or licensed physical therapist assistant practices physical therapy, within the scope of the licensed physical therapist's or licensed physical therapist assistant's license.

(12) "Recognized accreditation agency" means an accreditation agency that:

(a) grants accreditation, nationally, in the United States of America; and

(b) is approved by the division, in consultation with the board.

(13)(a) "Testing" means a standard method or technique used to gather data regarding a patient that is generally and nationally accepted by physical therapists for the practice of physical therapy.

(b) "Testing" includes measurement or evaluation of:

(i) muscle strength, force, endurance, or tone;

(ii) cardiovascular fitness;

(iii) physical work capacity;

(iv) joint motion, mobility, or stability;

(v) reflexes or autonomic reactions;

(vi) movement skill or accuracy;

(vii) sensation;

(viii) perception;

(ix) peripheral nerve integrity;

(x) locomotor skills, stability, and endurance;

(xi) the fit, function, and comfort of prosthetic, orthotic, or other assistive devices;

(xii) posture;

(xiii) body mechanics;

(xiv) limb length, circumference, and volume;

(xv) thoracic excursion and breathing patterns;

(xvi) activities of daily living related to physical movement and mobility;

(xvii) functioning in the physical environment at home or work, as it relates to physical movement and mobility; and

(xviii) neural muscular responses.

(14)(a) "Trigger point dry needling" means the stimulation of a trigger point using a dry needle to treat neuromuscular pain and functional movement deficits.

(b) "Trigger point dry needling" does not include the stimulation of auricular or distal points.

(15) "Therapeutic intervention" includes:

(a) therapeutic exercise, with or without the use of a device;

(b) functional training in self-care, as it relates to physical movement and mobility;

(c) community or work integration, as it relates to physical movement and mobility;

(d) manual therapy, including:

(i) soft tissue mobilization;

(ii) therapeutic massage; or

(iii) joint mobilization, as defined by the division, by rule;

(e) prescribing, applying, or fabricating an assistive, adaptive, orthotic, prosthetic, protective, or supportive device;

(f) airway clearance techniques, including postural drainage;

(g) integumentary protection and repair techniques;

(h) wound debridement, cleansing, and dressing;

(i) the application of a physical agent, including:

(i) light;

(ii) heat;

(iii) cold;

(iv) water;

(v) air;

(vi) sound;

(vii) compression;

(viii) electricity; and

(ix) electromagnetic radiation;

(j) mechanical or electrotherapeutic modalities;

(k) positioning;

(l) instructing or training a patient in locomotion or other functional activities, with or without an assistive device;

(m) manual or mechanical traction;

(n) correction of posture, body mechanics, or gait; and

(o) trigger point dry needling, under the conditions described in Section 58-24b-505.

### **Credits**

Laws 2009, c. 220, § 5, eff. July 1, 2009; Laws 2012, c. 117, § 1, eff. May 8, 2012; Laws 2014, c. 354, § 1, eff. May 13, 2014.

U.C.A. 1953 § 58-24b-102, UT ST § 58-24b-102  
Current through 2015 First Special Session

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West's Utah Code Annotated
Title 58. Occupations and Professions
Chapter 24B. Physical Therapy Practice Act (Refs & Annos)
Part 4. Practice of Physical Therapy

U.C.A. 1953 § 58-24b-405

§ 58-24b-405. **Animal** physical therapy

Currentness

(1) Subject to Subsection 58-28-307 (12)(b), a licensed physical therapist may practice **animal** physical therapy if the licensed physical therapist completes at least 100 hours of **animal** physical therapy training and education, which shall include:

(a) 50 hours of on-the-job training under the supervision of a licensed veterinarian;

(b) completion of a quadruped anatomy course; and

(c) continuing education for the required hours remaining.

(2) Subject to Subsection 58-28-307(12)(b), a licensed physical therapist assistant may practice **animal** physical therapy, within the scope of the licensed physical therapist assistant's practice, if the licensed physical therapist assistant:

(a) is under the on-site supervision or general supervision of a physical therapist who has complied with the requirements of Subsection (1); and

(b) completes at least 100 hours of **animal** physical therapy training and education, which shall include:

(i) 50 hours of on-the-job training under the supervision of a licensed veterinarian;

(ii) completion of a quadruped anatomy course; and

(iii) continuing education for the required hours remaining.

**Credits**

Laws 2009, c. 220, § 16, eff. July 1, 2009.

U.C.A. 1953 § 58-24b-405, UT ST § 58-24b-405  
Current through 2015 First Special Session

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West's Utah Code Annotated

Title 58. Occupations and Professions

Chapter 24B. Physical Therapy Practice Act (Refs & Annos)

Part 3. Licensing

U.C.A. 1953 § 58-24b-304

§ 58-24b-304. Exemptions from licensure

Currentness

(1) In addition to the exemptions from licensure described in Section 58-1-307, as modified by Subsection 58-24b-302(5), a person may engage in acts that constitute the practice of physical therapy without a license issued under this chapter if:

(a) the person is licensed under another law of the state to engage in acts that constitute the practice of physical therapy if that person does not:

(i) claim to be a physical therapist;

(ii) claim to be a provider of any type of physical therapy that is outside of the scope of practice of the license that is issued to the person; or

(iii) engage in any acts that constitute the practice of physical therapy that are outside of the scope of practice of the license that is issued to the person;

(b) the person practices physical therapy, under federal law, in:

(i) the United States armed services;

(ii) the United States Public Health Service; or

(iii) the Veteran's Administration;

(c) the person is:

(i) licensed as a physical therapist in:

(A) a state, district, or territory of the United States, other than Utah; or

(B) a country other than the United States; and

(ii)(A) teaching, demonstrating, or providing physical therapy in connection with an educational seminar, if the person engages in this conduct in Utah no more than 60 days per calendar year;

(B) practicing physical therapy directly related to the person's employment with, or contract with, an established athletic team, athletic organization, or performing arts company that plays, practices, competes, or performs in Utah no more than 60 days per calendar year; or

(C) providing consultation by telecommunication to a physical therapist;

(d) the person:

(i)(A) is licensed as a physical therapist assistant under federal law; and

(B) practices within the scope of practice authorized by federal law for a physical therapist assistant; or

(ii)(A) is licensed as a physical therapist assistant in:

(I) a state, district, or territory of the United States, other than Utah; or

(II) a country other than the United States; and

(B)(I) practices within the scope of practice authorized for a physical therapist assistant by the jurisdiction described in Subsection (1)(d)(ii)(A); and

(II) within the limitations for the practice of physical therapy described in Subsection (1)(c)(ii); or

(e) the person:

(i) is a physician, licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(ii) is a physician, licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iii) is a chiropractic physician, licensed under Title 58, Chapter 73, Chiropractic Physician Practice Act.

(2) A person who is exempted from licensure under Subsection (1)(b) may practice **animal** physical therapy without a license under this section if the person:

(a) is authorized to practice **animal** physical therapy under federal law; and

(b) practices **animal** physical therapy within the scope of practice authorized by federal law.

(3) A person who is exempted from licensure under Subsection (1)(c) may practice **animal** physical therapy without a license under this section if the person:

(a) is authorized to practice **animal** physical therapy in:

(i) a state, district, or territory of the United States, other than Utah; or

(ii) a country other than the United States; and

(b) practices **animal** physical therapy:

(i) within the scope of practice for the jurisdiction described in Subsection (3)(a) where the person is authorized to practice **animal** physical therapy; and

(ii) within the limitations for the practice of physical therapy described in Subsection (1)(c)(ii).

**Credits**

Laws 2009, c. 220, § 10, eff. July 1, 2009.

U.C.A. 1953 § 58-24b-304, UT ST § 58-24b-304  
Current through 2015 First Special Session

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West's Utah Code Annotated

Title 58. Occupations and Professions

Chapter 24B. Physical Therapy Practice Act (Refs & Annos)

Part 5. Unlawful and Unprofessional Conduct

U.C.A. 1953 § 58-24b-501

§ 58-24b-501. Unlawful conduct

Currentness

In addition to the conduct described in Subsection 58-1-501(1), "unlawful conduct" includes:

(1) practicing physical therapy, unless the person:

(a) is licensed under this chapter to practice physical therapy and practices within the scope of that license; or

(b) is exempt from licensure under Section 58-24b-304;

(2) practicing **animal** physical therapy, unless the person is:

(a) authorized to practice **animal** physical therapy under Section 58-24b-405; or

(b) authorized to practice **animal** physical therapy under Subsection 58-24b-304(1)(a), (2), or (3);

(3) representing oneself as, or using the title of, a physical therapist, unless the person is:

(a) a licensed physical therapist; or

(b)(i) licensed as a physical therapist in a jurisdiction other than Utah;

- (ii) does not represent oneself as being a physical therapist licensed in Utah; and
  - (iii) exempt from licensure under Section 58-24b-304;
- (4) representing oneself as, or using the title of, a physical therapist assistant, unless the person:
- (a) is a licensed physical therapist assistant; or
  - (b)(i) is licensed as a physical therapist assistant in a jurisdiction other than Utah;
  - (ii) does not represent oneself as being a physical therapist assistant licensed in Utah; and
  - (iii) is exempt from licensure under Section 58-24b-304; and
- (5) conduct designated as “unlawful conduct” by the division, by rule.

#### **Credits**

Laws 2009, c. 220, § 17, eff. July 1, 2009.

U.C.A. 1953 § 58-24b-501, UT ST § 58-24b-501  
Current through 2015 First Special Session

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**2013**

**STATE OF NEBRASKA**

**STATUTES RELATING TO  
VETERINARY MEDICINE AND SURGERY PRACTICE ACT**

Department of Health & Human Services

**DHHS**

N E B R A S K A

Department of Health and Human Services  
Division of Public Health  
Licensure Unit

301 Centennial Mall South, Third Floor  
PO Box 94986  
Lincoln, NE 68509-4986



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- 71-1,177. Repealed. Laws 1988, LB 1100, §185.

## VETERINARY MEDICINE AND SURGERY PRACTICE ACT

**38-3301. Act, how cited.** Sections 38-3301 to 38-3335 shall be known and may be cited as the Veterinary Medicine and Surgery Practice Act.

Source: Laws 1967, c. 439, § 1, p. 1353; Laws 1988, LB 1100, § 54; Laws 2000, LB 833, § 3; R.S.1943, (2003), § 71-1,153; Laws 2007, LB463, § 1083; Laws 2009, LB463, § 2; Laws 2011, LB687, § 2. Effective Date: May 19, 2011.

**38-3302 Definitions, where found.** For purposes of the Veterinary Medicine and Surgery Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-3303 to 38-3318 apply.

Source: Laws 2007, LB463, § 1084; Laws 2009, LB463, § 3. Effective Date: August 30, 2009.

**38-3303. Accredited school of veterinary medicine, defined.** Accredited school of veterinary medicine means:

- (1) One approved by the board;
- (2) A veterinary college or division of a university or college that offers the degree of Doctor of Veterinary Medicine or its equivalent; and
- (3) One that conforms to the standards required for accreditation by the American Veterinary Medical Association.

Source: Laws 2007, LB463, § 1085. Operative date December 1, 2008.

**38-3304. Animal, defined.** Animal means any animal other than man and includes birds, fish, and reptiles, wild or domestic, living or dead, except domestic poultry.

Source: Laws 2007, LB463, § 1086. Operative date December 1, 2008.

**38-3305. Approved veterinary technician program, defined.** Approved veterinary technician program means:

- (1) One approved by the board;
- (2) A school or college that offers the degree of Veterinary Technician, a degree in veterinary technology, or the equivalent; and
- (3) One that conforms to the standards required for accreditation by the American Veterinary Medical Association.

Source: Laws 2007, LB463, § 1087. Operative date December 1, 2008.

**38-3306. Board, defined.** Board means the Board of Veterinary Medicine and Surgery.

Source: Laws 2007, LB463, § 1088. Operative date December 1, 2008.

**38-3307. Direct supervision, defined.** Direct supervision means that the supervisor is on the premises and is available to the veterinary technician or unlicensed assistant who is treating the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task.

Source: Laws 2007, LB463, § 1089. Operative date December 1, 2008.

**38-3307.01 Health care therapy, defined.** Health care therapy means health care activities that require the exercise of judgment for which licensure is required under the Uniform Credentialing Act.

Source: Laws 2009, LB463, § 4. Effective Date: August 30, 2009.

**38-3308. Immediate supervision, defined.** Immediate supervision means that the supervisor is on the premises and is in direct eyesight and hearing range of the animal and the veterinary technician or unlicensed assistant who is treating the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task.

Source: Laws 2007, LB463, § 1090. Operative date December 1, 2008.

**38-3309. Indirect supervision, defined.** Indirect supervision means that the supervisor is not on the premises but is easily accessible and has given written or oral instructions for treatment of the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task.

Source: Laws 2007, LB463, § 1091. Operative date December 1, 2008.



**38-3309.01 Licensed animal therapist, defined.** Licensed animal therapist means an individual who (1) has and maintains an undisciplined license under the Uniform Credentialing Act for a health care profession other than veterinary medicine and surgery, (2) has met the standards for additional training regarding the performance of that health care profession on animals as required by rules and regulations adopted and promulgated by the department upon the recommendation of the board, and (3) is licensed as an animal therapist by the department.

Source: Laws 2009, LB463, § 5. Effective Date: August 30, 2009.

**38-3310. Licensed veterinarian, defined.** Licensed veterinarian means a person who is validly and currently licensed to practice veterinary medicine and surgery in this state.

Source: Laws 2007, LB463, § 1092. Operative date December 1, 2008.

**38-3311. Licensed veterinary technician, defined.** Licensed veterinary technician means an individual who is validly and currently licensed as a veterinary technician in this state.

Source: Laws 2007, LB463, § 1093. Operative date December 1, 2008.

**38-3312. Practice of veterinary medicine and surgery, defined.** Practice of veterinary medicine and surgery means:

(1) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury, or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for testing for pregnancy or fertility or for correcting sterility or infertility. The acts described in this subdivision shall not be done without a valid veterinarian-client-patient relationship;

(2) To render advice or recommendation with regard to any act described in subdivision (1) of this section;

(3) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subdivision (1) of this section; and

(4) To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subdivision (1) of this section.

Source: Laws 2007, LB463, § 1094. Operative date December 1, 2008.

**38-3313. Supervision, defined.** Supervisor means a licensed veterinarian or licensed veterinary technician as required by statute or rule or regulation for the particular delegated task being performed by a veterinary technician or unlicensed assistant.

Source: Laws 2007, LB463, § 1095. Operative date December 1, 2008.

**38-3314 Unlicensed assistant, defined.** Unlicensed assistant means an individual who is not a licensed veterinarian, a licensed veterinary technician, or a licensed animal therapist and who is working in veterinary medicine.

Source: Laws 2007, LB463, § 1096; Laws 2009, LB463, § 6. Effective Date: August 30, 2009.

**38-3315. Veterinarian, defined.** Veterinarian means a person who has received a degree of Doctor of Veterinary Medicine from an accredited school of veterinary medicine or its equivalent.

Source: Laws 2007, LB463, § 1097. Operative date December 1, 2008.

**38-3316. Veterinarian-client-patient relationship, defined.** Veterinarian-client-patient relationship means that:

(1) The veterinarian has assumed the responsibility for making clinical judgments regarding the health of the animal and the need for medical treatment, and the client has agreed to follow the veterinarian's instructions;

(2) The veterinarian has sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal or by medically appropriate and timely visits to the premises where the animal is kept; and

(3) The veterinarian is readily available or has arranged for emergency coverage and for followup evaluation in the event of adverse reactions or the failure of the treatment regimen.

Source: Laws 2007, LB463, § 1098. Operative date December 1, 2008.

**38-3317. Veterinary medicine and surgery, defined.** Veterinary medicine and surgery includes veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine.

Source: Laws 2007, LB463, § 1099. Operative date December 1, 2008.



**38-3318. Veterinary technician, defined.** Veterinary technician means an individual who has received a degree in veterinary technology from an approved veterinary technician program or its equivalent.

Source: Laws 2007, LB463, § 1100. Operative date December 1, 2008.

**38-3319. Board; membership; qualifications.** The board shall consist of five members, including three licensed veterinarians, one licensed veterinary technician, and one public member.

Source: Laws 2007, LB463, § 1101. Operative date December 1, 2008.

**38-3320. Board; purpose.** The purpose of the board is to: (1) Provide for the health, safety, and welfare of the citizens; (2) insure that veterinarians and veterinary technicians serving the public meet minimum standards of proficiency and competency; (3) insure that schools of veterinary medicine and surgery and veterinary technician programs meet the educational needs of the students and qualify students to serve the public in a safe and efficient manner; and (4) control the field of veterinary medicine and surgery in the interest of consumer protection.

Source: Laws 1979, LB 96, § 1; Laws 1999, LB 828, § 127; Laws 2000, LB 833, § 2; R.S.1943, (2003) § 71-1,152.01; Laws 2007, LB463, § 1102. Operative date December 1, 2008.

**38-3321. Veterinarian; veterinary technician; animal therapist; license; required; exceptions.** No person may practice veterinary medicine and surgery in the state who is not a licensed veterinarian, no person may perform delegated animal health care tasks in the state who is not a licensed veterinary technician or an unlicensed assistant performing such tasks within the limits established under subdivision (2) of section 38-3326, and no person may perform health care therapy on animals in the state who is not a licensed animal therapist. The Veterinary Medicine and Surgery Practice Act shall not be construed to prohibit:

- (1) An employee of the federal, state, or local government from performing his or her official duties;
  - (2) A person who is a student in a veterinary school from performing duties or actions assigned by his or her instructors or from working under the direct supervision of a licensed veterinarian;
  - (3) A person who is a student in an approved veterinary technician program from performing duties or actions assigned by his or her instructors or from working under the direct supervision of a licensed veterinarian or a licensed veterinary technician;
  - (4) Any merchant or manufacturer from selling feed or feeds whether medicated or nonmedicated;
  - (5) A veterinarian regularly licensed in another state from consulting with a licensed veterinarian in this state;
  - (6) Any merchant or manufacturer from selling from his or her established place of business medicines, appliances, or other products used in the prevention or treatment of animal diseases or any merchant or manufacturer's representative from conducting educational meetings to explain the use of his or her products or from investigating and advising on problems developing from the use of his or her products;
  - (7) An owner of livestock or a bona fide farm or ranch employee from performing any act of vaccination, surgery, pregnancy testing, retrievable transplantation of embryos on bovine, including recovering, freezing, and transferring embryos on bovine, or the administration of drugs in the treatment of domestic animals under his or her custody or ownership nor the exchange of services between persons or bona fide employees who are principally farm or ranch operators or employees in the performance of these acts;
  - (8) A member of the faculty of a veterinary school or veterinary science department from performing his or her regular functions, or a person lecturing or giving instructions or demonstrations at a veterinary school or veterinary science department or in connection with a continuing competency activity;
  - (9) Any person from selling or applying any pesticide, insecticide, or herbicide;
  - (10) Any person from engaging in bona fide scientific research which reasonably requires experimentation involving animals;
  - (11) Any person from treating or in any manner caring for domestic chickens, turkeys, or waterfowl, which are specifically exempted from the Veterinary Medicine and Surgery Practice Act;
  - (12) Any person from performing dehorning or castrating livestock, not to include equidae.
- For purposes of the Veterinary Medicine and Surgery Practice Act, castration shall be limited to the removal or destruction of male testes;
- (13) Any person who holds a valid credential in the State of Nebraska in a health care profession or occupation regulated under the Uniform Credentialing Act from consulting with a licensed veterinarian or performing collaborative animal health care tasks on an animal under the care of such veterinarian if all such tasks are performed under the immediate supervision of such veterinarian; or
  - (14) A person from performing a retrievable transplantation of embryos on bovine, including recovering, freezing, and transferring embryos on bovine, if the procedure is being performed by a person who (a) holds a doctorate degree in animal science with an emphasis in reproductive physiology from an accredited college or university and (b) has and can show proof of valid professional liability insurance.



(2) An applicant for a license to practice as a licensed veterinary technician based on a license in another state or territory of the United States, the District of Columbia, or a Canadian province shall meet the standards set by the board pursuant to section 38-126 and shall have been actively engaged in the practice of such profession at least one of the three years immediately preceding the application under a license in another state or territory of the United States, the District of Columbia, or a Canadian province.

Source: Laws 2007, LB463, § 1109. Operative date December 1, 2008.

**38-3328. Fees.** The department shall establish and collect fees for credentialing under the Veterinary Medicine and Surgery Practice Act as provided in sections 38-151 to 38-157.

Source: Laws 2007, LB463, § 1110. Operative date December 1, 2008.

**38-3329. Advertising; offer of services; limitation.** (1) Only a licensed veterinarian may advertise or offer his or her services in a manner calculated to lead others to believe that he or she is a licensed veterinarian.

(2) Only a licensed veterinary technician may advertise or offer his or her services in a manner calculated to lead others to believe that he or she is a licensed veterinary technician.

Source: Laws 2007, LB463, § 1111. Operative date December 1, 2008.

**38-3330. Disclosure of information; restrictions.** (1) Unless required by any state or local law for contagious or infectious disease reporting or other public health and safety purpose, no veterinarian licensed under the Veterinary Medicine and Surgery Practice Act shall be required to disclose any information concerning the veterinarian's care of an animal except under a written authorization or other waiver by the veterinarian's client or pursuant to a court order or a subpoena. A veterinarian who releases information under a written authorization or other waiver by the client or pursuant to a court order or a subpoena is not liable to the client or any other person.

(2) The privilege provided by this section is waived to the extent that the veterinarian's client or the owner of the animal places the veterinarian's care and treatment of the animal or the nature and extent of injuries to the animal at issue in any civil or criminal proceeding.

(3) The privilege provided by this section is waived to the extent and for purposes of notifying any owner or manager of cattle that have a significant risk for exposure to bovine trichomoniasis. A veterinarian who releases information about the risk for exposure to bovine trichomoniasis is not liable to the client or any other person.

(4) For purposes of this section, veterinarian includes the employees or agents of the licensed veterinarian while acting for or on behalf of such veterinarian.

Source: Laws 2000, LB 833, § 5; R.S.1943, (2003), § 71-1,164; Laws 2007, LB463, § 1112; Laws 2013, LB423, § 3. Effective Date: September 6, 2013.

**38-3331 Civil penalty; recovery; lien.** (1) In addition to the remedies authorized in section 38-140 or 38-1,124, a person who engages in the practice of veterinary medicine and surgery without being licensed or otherwise authorized to do so under the Veterinary Medicine and Surgery Practice Act shall be subject to a civil penalty of not less than one thousand dollars nor more than five thousand dollars for the first offense and not less than five thousand dollars nor more than ten thousand dollars for the second or subsequent offense. If a violation continues after notification, this constitutes a separate offense.

(2) The civil penalties shall be assessed in a civil action brought for such purpose by the Attorney General in the district court of the county in which the violation occurred.

(3) Any civil penalty assessed and unpaid under this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property. The department may also collect in such action attorney's fees and costs incurred in the collection of the civil penalty. The department shall, within thirty days after receipt, transmit any collected civil penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 2009, LB463, § 8. Effective Date: August 30, 2009

**38-3332 Animal therapist; license; application; qualifications.** Each applicant for a license as an animal therapist in this state shall present to the department:

(1) Proof that the applicant holds and maintains an undisciplined license under the Uniform Credentialing Act for a health care profession other than veterinary medicine and surgery;

(2) Proof that the applicant has met the standards for additional training regarding the performance of that health care profession on animals as required by rules and regulations adopted and promulgated by the department upon the recommendation of the board; and

(3) Such other information and proof as the department, with the recommendation of the board, may require

by rule and regulation.

Source: Laws 2009, LB463, § 9. Effective Date: August 30, 2009

**38-3333 Animal therapist; health care therapy; conditions; letter of referral; liability.** (1) A licensed animal therapist may perform health care therapy on an animal only if:

(a) The health care therapy is consistent with the licensed animal therapist's training required for the license referred to under subdivision (1) of section 38-3332;

(b) The owner of the animal presents to the licensed animal therapist a prior letter of referral for health care therapy that includes a veterinary medical diagnosis and evaluation completed by a licensed veterinarian who has a veterinarian-client-patient relationship with the owner and the animal and has made the diagnosis and evaluation within ninety days immediately preceding the date of the initiation of the health care therapy; and

(c) The licensed animal therapist provides health care therapy reports at least monthly to the referring veterinarian, except that a report is not required for any month in which health care therapy was not provided.

(2) A licensed veterinarian who prepares a letter of referral for health care therapy by a licensed animal therapist shall not be liable for damages caused to the animal as a result of the health care therapy performed by the licensed animal therapist.

Source: Laws 2009, LB463, § 10. Effective Date: August 30, 2009

**38-3334 Animal therapist; additional disciplinary grounds.** In addition to the grounds for disciplinary action found in sections 38-178 and 38-179, a license to practice as a licensed animal therapist may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 38-196 when the applicant or licensee is subjected to disciplinary measures with regard to his or her license referred to under subdivision (1) of section 38-3332.

Source: Laws 2009, LB463, § 11. Effective Date: August 30, 2009

**38-3335. Veterinarian locum tenens; issuance; requirements; term.** When circumstances indicate a need for the issuance of a veterinarian locum tenens in the State of Nebraska, the department, with the recommendation of the board, may issue a veterinarian locum tenens to an individual who holds an active license to practice veterinary medicine and surgery in another state if the requirements regarding education and examination for licensure in that state are equal to or exceed the requirements regarding education and examination for licensure in Nebraska. A veterinarian locum tenens may be issued for a period not to exceed ninety days in any twelve-month period.

Source: Laws 2011, LB687, § 3. Effective Date: May 19, 2011.

**71-1,152. Repealed.** Laws 1967, c. 439, §18.

**71-1,152.01. Transferred** to section 38-3320.

**71-1,153. Transferred** to section 38-3301.

**71-1,154. Repealed.** Laws 2007, LB 463, § 1319.

**71-1,155. Transferred** to section 38-3321.

**71-1,156. Repealed.** Laws 1987, LB 473, §63.

**71-1,157. Transferred** to section 38-3323.

**71-1,158. Transferred** to section 38-3322.

**71-1,159. Repealed.** Laws 1987, LB 473, §63.

**71-1,160. Repealed.** Laws 2007, LB 463, § 1319.

**71-1,161. Repealed.** Laws 2005, LB 301, s. 78.

**71-1,162. Repealed.** Laws 2007, LB 463, § 1319.

**71-1,163. Transferred** to section 38-3324.

**71-1,164. Transferred** to section 38-3330.

**71-1,165 and 71-1,166. Transferred** to section 38-3325 and 38-3326.

**71-1,167. Repealed.** Laws 1988, LB 1100, §185.

**71-1,168 to 71-1,176. Repealed.** Laws 2000, LB 833, § 12.

**71-1,177. Repealed.** Laws 1988, LB 1100, §185.

**71-1,178. Repealed.** Laws 2000, LB 833, § 12.

**71-1,179. Repealed.** Laws 1988, LB 1100, §185.

**71-1,180 and 71-1,181. Repealed.** Laws 2000, LB 833, § 12.

**71-1,182. Repealed.** Laws 1988, LB 1100, §185.

**71-1,183 to 71-1,185. Repealed.** Laws 2000, LB 833, § 12.





*Maryland Board of Veterinary Medical  
Examiners  
Agriculture Article § 2-301, et seq.*

- (a) In this subtitle the following words have the meanings indicated.
- (b) "Board" means the State Board of Veterinary Medical Examiners.
- (b-1) "Convicted" includes:
- (1) A finding of guilt by a court or a jury; and
  - (2) The acceptance by a court of a defendant's plea of guilty, nolo contendere, or Alford plea.
- (c) "Direct supervision" means that a veterinarian licensed and registered in the State is in the immediate vicinity where veterinary medicine is being performed and is actively engaged in the supervision of the practice of veterinary medicine.
- (d) "License" means a license to practice veterinary medicine in the State.
- (e) "Member" means a member of the State Board of Veterinary Medical Examiners.
- (f) "Practice of veterinary medicine" includes, but is not limited to, the practice by any person who:
- (1) Diagnoses, advises, prescribes, or administers a drug, medicine, biological product, appliance, application, or treatment of any nature, for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of an animal;
  - (2) Performs a surgical operation, including cosmetic surgery, upon any animal;
  - (3) Performs dentistry on any animal;
  - (4) Performs any manual procedure upon an animal for the diagnosis or treatment of sterility or infertility of the animal;
  - (5) Represents himself as engaged in the practice of veterinary medicine;
  - (6) Offers, undertakes, or holds himself out as being able to diagnose, treat, operate, vaccinate, or prescribe for any animal disease, pain, injury, deformity, or physical condition; or
  - (7) Uses any words, letters, or titles in connection or under circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine. This use is prima facie evidence of the intention to represent himself as engaged in the practice of veterinary medicine.
- (g) The term "practice of veterinary medicine" does not include or apply to:
- (1) Any person practicing veterinary medicine in the performance of civil or military official duties in the service of the United States or of the State;
  - (2) Experimentation and scientific research of biological chemists or technicians engaged in the study and development of methods and techniques, directly or indirectly related or applicable to the problems of the practice of veterinary medicine;



- (3) A person who advises with respect to or performs acts which the Board, by rule or regulation, has prescribed as accepted management practices in connection with livestock production;
- (4) A physician licensed to practice medicine in the State or to his assistant while engaged in educational research;
- (5) A person administering to the ills and injuries of his own animals if they otherwise comply with all laws, rules and regulations relative to the use of medicines and biologics;
- (6) A farrier or a person actively engaged in the art or profession of horseshoeing as long as his actions are limited to the art of horseshoeing or trimming and maintaining horse hooves;
- (7) Any nurse, attendant, technician, intern, or other employee of a licensed and registered veterinarian when administering medication or rendering auxiliary or supporting assistance under the responsible direct supervision of a licensed and registered veterinarian;
- (8) A person who floats (files) equine teeth or removes caps;
- (9) A person who scales or cleans animal teeth;
- (10) A registered veterinary technician when performing a procedure under the responsible direct supervision of a veterinary practitioner as provided by regulations adopted by the Board;
- (11) A person practicing acupuncture in accordance with the principles of oriental medical theories if the person:
  - (i) Is licensed under Title 1A of the Health Occupations Article;
  - (ii) Is certified as an animal acupuncturist by the Board of Acupuncture;
  - (iii) Practices only acupuncture, acupressure, and moxibustion;
  - (iv) Cooperates and consults with a veterinary practitioner by:
    - 1. Beginning acupuncture treatment on an animal only if the animal has been seen by a veterinary practitioner within the previous 14 days;
    - 2. Adhering to the terms and conditions of treatment decided by the veterinary practitioner, including the degree of communication and collaboration between the veterinary practitioner and the person practicing acupuncture;
    - 3. Reporting to the veterinary practitioner at the end of treatment or at monthly intervals, at the discretion of the veterinary practitioner; and
    - 4. Not working on an animal for which the person has not been appropriately trained, in accordance with regulations adopted by the Board of Acupuncture; and
  - (v) Has successfully completed a specialty training program in animal acupuncture that:

1. Is approved by the Board of Acupuncture;
2. Is offered by a school holding nationally recognized accreditation;
3. Consists of at least 135 hours; and
4. Enables the person to:
  - A. Design effective treatments of animals based on traditional acupuncture theories and principles, including appropriate knowledge of functional animal anatomy and physiology;
  - B. Handle and restrain animals to the extent appropriate in the practice of acupuncture;
  - C. Demonstrate sufficient knowledge of animal diseases and zoonoses that would require the immediate attention of a veterinary practitioner; and
  - D. Communicate effectively with a veterinary practitioner; or

(12) A veterinarian licensed in another jurisdiction while consulting with a veterinary practitioner in this State; or

(13) A student of veterinary medicine practicing veterinary medicine who has successfully completed 3 years of veterinary education at an institution approved by the Board and who works under the responsible direct supervision, as defined by the Board, of a veterinary practitioner.

(h) "Veterinarian" means any person who is a graduate of a college of veterinary medicine.

(i) "Veterinary practitioner" means a licensed and registered veterinarian engaged in the practice of veterinary medicine.

(j) "Veterinary technician" means a person who is registered with the Board as a veterinary technician.

## **§ 2-302**

(a) There is a State Board of Veterinary Medical Examiners in the Department.

(b) The Board has seven members, five of whom:

- (1) Are licensed and registered veterinarians of the State;
- (2) Are residents of the State;
- (3) Have engaged in active practice for five years at some time;
- (4) Are in good standing; and
- (5) Are appointed and qualified.



## 2015 Minnesota Statutes

Authenticate

### 156.075 REQUIREMENT FOR EQUINE TEETH FLOATERS.

Subdivision 1. **Definitions.** For purposes of this section the following terms have the meanings given them.

(a) "Equine teeth floating" means:

- (1) removal of enamel points from teeth with handheld, nonmotorized, non-air-powered files or rasps;
- (2) reestablishing normal molar table angles and freeing up lateral excursion and other normal movements of the mandible;
- (3) shaping the lingual aspect of the lower arcades and the buccal aspect of the upper arcades to a rounded smooth surface; and
- (4) removing points from the buccal aspect of the upper arcade and the lingual aspect of the lower arcade.

(b) "Indirect supervision" means a veterinarian must be available by telephone or other form of immediate communication. The veterinarian must be currently licensed under this chapter.

Subd. 2. **Equine teeth floating services.** (a) A person may perform equine teeth floating services after submitting to the board the following:

(1) proof of current certification from the International Association of Equine Dentistry or other professional equine dentistry association as determined by the board; and

(2) a written statement signed by a supervising veterinarian experienced in large animal medicine that the applicant will be under direct or indirect supervision of the veterinarian when floating equine teeth.

(b) The board must waive the requirement in paragraph (a), clause (1), and allow a person to perform equine teeth floating services if the person provides satisfactory evidence of being actively engaged in equine teeth floating for at least ten of the past 15 years and has generated at least \$5,000 annually in personal income from this activity.

**History:** 1Sp2005 c 1 art 1 s 80

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## 2015 Minnesota Statutes

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### 156.12 PRACTICE OF VETERINARY MEDICINE.

Subdivision 1. **Practice.** The practice of veterinary medicine, as used in this chapter, shall mean the diagnosis, treatment, correction, relief, or prevention of animal disease, deformity, defect, injury, or other physical or mental conditions; the performance of obstetrical procedures for animals, including determination of pregnancy and correction of sterility or infertility; and the rendering of advice or recommendations with regard to any of the above. The practice of veterinary medicine shall include but not be limited to the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique. The practice shall not be construed to include the dehorning of cattle and goats or the castration of cattle, swine, goats, and sheep, or the docking of sheep.

Subd. 2. **Authorized activities.** No provision of this chapter shall be construed to prohibit:

(a) a person from rendering necessary gratuitous assistance in the treatment of any animal when the assistance does not amount to prescribing, testing for, or diagnosing, operating, or vaccinating and when the attendance of a licensed veterinarian cannot be procured;

(b) a person who is a regular student in an accredited or approved college of veterinary medicine from performing duties or actions assigned by instructors or preceptors or working under the direct supervision of a licensed veterinarian;

(c) a veterinarian regularly licensed in another jurisdiction from consulting with a licensed veterinarian in this state;

(d) the owner of an animal and the owner's regular employee from caring for and administering to the animal belonging to the owner, except where the ownership of the animal was transferred for purposes of circumventing this chapter;

(e) veterinarians who are in compliance with subdivision 6 and who are employed by the University of Minnesota from performing their duties with the College of Veterinary Medicine, College of Agriculture, Agricultural Experiment Station, Agricultural Extension Service, Medical School, School of Public Health, or other unit within the university; or a person from lecturing or giving instructions or demonstrations at the university or in connection with a continuing education course or seminar to veterinarians or pathologists at the University of Minnesota Veterinary Diagnostic Laboratory;

(f) any person from selling or applying any pesticide, insecticide or herbicide;

(g) any person from engaging in bona fide scientific research or investigations which reasonably requires experimentation involving animals;

(h) any employee of a licensed veterinarian from performing duties other than diagnosis, prescription or surgical correction under the direction and supervision of the veterinarian, who shall be responsible for the performance of the employee;

(i) a graduate of a foreign college of veterinary medicine from working under the direct personal instruction, control, or supervision of a veterinarian faculty member of the College of Veterinary Medicine, University of Minnesota in order to complete the requirements necessary to obtain an ECFVG or PAVE certificate;

(j) a licensed chiropractor registered under section 148.01, subdivision 1a, from practicing animal chiropractic.

Subd. 3. **Requirement to be engaged in practice.** Any person who sells or offers to apply, any prescription drug, biologic preparation, including sera, vaccines, bacterins,

tuberculin, mallein, johnin, or any other agent for the treatment, vaccination, or testing of any animal belonging to another, shall be engaged in the practice of veterinary medicine.

Subd. 4. **Titles.** It is unlawful for a person who has not received a professional degree from an accredited or approved college of veterinary medicine, or ECFVG or PAVE certification, to use any of the following titles or designations: Veterinary, veterinarian, animal doctor, animal surgeon, animal dentist, animal chiropractor, animal acupuncturist, or any other title, designation, word, letter, abbreviation, sign, card, or device tending to indicate that the person is qualified to practice veterinary medicine.

Subd. 5. [Repealed, 1996 c 415 s 33]

Subd. 6. **Faculty licensure.** (a) Veterinary Medical Center clinicians at the College of Veterinary Medicine, University of Minnesota, who are engaged in the practice of veterinary medicine as defined in subdivision 1 and who treat animals owned by clients of the Veterinary Medical Center must possess the same license required by other veterinary practitioners in the state of Minnesota except for persons covered by paragraphs (b) and (c).

(b) A specialty practitioner in a hard-to-fill faculty position who has been employed at the College of Veterinary Medicine, University of Minnesota, for five years or more prior to 2003 or is specialty board certified by the American Veterinary Medical Association or the European Board of Veterinary Specialization may be granted a specialty faculty Veterinary Medical Center clinician license which will allow the licensee to practice veterinary medicine in the state of Minnesota in the specialty area of the licensee's training and only within the scope of employment at the Veterinary Medical Center.

(c) A specialty practitioner in a hard-to-fill faculty position at the College of Veterinary Medicine, University of Minnesota, who has graduated from a board-approved foreign veterinary school may be granted a temporary faculty Veterinary Medical Center clinician license. The temporary faculty Veterinary Medical Center clinician license expires in two years and allows the licensee to practice veterinary medicine as defined in subdivision 1 and treat animals owned by clients of the Veterinary Medical Center. The temporary faculty Veterinary Medical Center clinician license allows the licensee to practice veterinary medicine in the state of Minnesota in the specialty area of the licensee's training and only within the scope of employment at the Veterinary Medical Center while under the direct supervision of a veterinarian currently licensed and actively practicing veterinary medicine in Minnesota, as defined in section 156.04. The direct supervising veterinarian must not have any current or past conditions, restrictions, or probationary status imposed on the veterinarian's license by the board within the past five years. The holder of a temporary faculty Veterinary Medical Center clinician license who is enrolled in a PhD program may apply for up to two additional consecutive two-year extensions of an expiring temporary faculty Veterinary Medical Center clinician license. Any other holder of a temporary faculty Veterinary Medical Center clinician license may apply for one two-year extension of the expiring temporary faculty Veterinary Medical Center clinician license. Temporary faculty Veterinary Medical Center clinician licenses that are allowed to expire may not be renewed. The board shall grant an extension to a licensee who demonstrates suitable progress toward completing the requirements of their academic program, specialty board certification, or full licensure in Minnesota by a graduate of a foreign veterinary college.

(d) Temporary and specialty faculty Veterinary Medical Center clinician licensees must abide by all the laws governing the practice of veterinary medicine in the state of Minnesota and are subject to the same disciplinary action as any other veterinarian licensed in the state of Minnesota.

(e) The fee for a license issued under this subdivision is the same as for a regular license to practice veterinary medicine in Minnesota. License payment deadlines, late payment fees, and other license requirements are also the same as for regular licenses.



**History:** (5851-12) 1937 c 119 s 12; 1965 c 204 s 11; 1976 c 285 s 11; 1984 c 427 s 1; 1985 c 228 s 4; 1986 c 444; 1996 c 415 s 18-20; 1999 c 231 s 162,163; 2004 c 254 s 25,26; 2008 c 297 art 1 s 38-40

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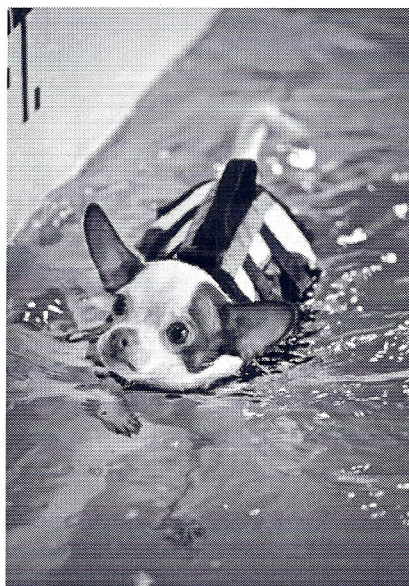
## Pet rehab becoming mainstream practice

### Physical therapy for animals increasingly seen as viable treatment option

By R. Scott Nolen  
Posted Sept. 15, 2009

Over the past 10 years, pet rehabilitation has emerged from a boutique service to what is fast becoming a mainstream treatment option within veterinary medicine.

With animal rehabilitation services becoming increasingly commonplace, more and more clients are recognizing that physical therapy is not just for people but can also mean pain relief, increased mobility, and an improved quality of life for pets as well.



Courtesy of Veterinary Orthopedic and Sports Medicine Group

Hydrotherapy can help reduce joint pain and swelling and increase circulation.

Horse owners have long understood the value of rehabilitation in restoring an injured animal to health as have sporting dog enthusiasts. It's only recently, however, as pet owners in general have come to expect their companions will have access to the same medical options they themselves have, that the interest in physical therapy for pets has exploded.



The expectation really isn't all that surprising, according to Dr. Hilary M. Clayton. "A lot of people, after injury or surgery, get physical therapy, so it's natural to expect that might be available for pets," explained Dr. Clayton, the McPhail Dressage Chair in Equine Sports Medicine at Michigan State University College of Veterinary Medicine.

Dr. Clayton is part of an organizing committee that's been working with the American Board of Veterinary Specialties over the past few years to make sports medicine and physical therapy an AVMA-recognized veterinary specialty. Sports medicine is becoming a huge field in veterinary medicine, Dr. Clayton said, and a specialty college would advance the science and practice of veterinary rehab considerably.

A decision on the proposed specialty board—the American College of Veterinary Sports Medicine and Rehabilitation—is expected from the ABVS by the end of the year, according to Dr. Clayton.

While many veterinary colleges have rehabilitation clinics and several have expanded their curriculums to include rehab or are planning to, most current animal rehabbers have completed one of the nation's two most recognized programs.

Nearly a decade ago, Dr. Darryl L. Millis and a physical therapist friend started a certification program in canine rehabilitation, which is now offered at the University of Tennessee College of Veterinary Medicine.

"When we started the Certificate Program in Canine Rehabilitation, I had initially expected it to be more of a niche service," Dr. Millis, a professor of orthopedic surgery at the UT veterinary college, said. "But 10 years later, I'm surprised that interest has remained so strong."

Approximately 350 people have earned their certification from the UT program so far, Dr. Millis said, and more than 1,500 people have taken some of the courses. Only veterinarians, veterinary technicians, physical therapists, and PT assistants can take courses. Subject matter ranges from canine anatomy and how to design and implement a rehabilitation program to pain management and the use of lasers to improve joint mobility. The program has become so successful that it's taught in Europe and will soon be introduced in Japan.

Dr. Debra A. Canapp attended the nation's other top rehabilitation certification program—the Canine Rehabilitation Institute in Wellington, Fla.—where she earned the designation of "certified canine rehabilitation therapist" in 2006. Dr. Canapp, who had previously worked in emergency medicine and private practice, saw rehabilitation as an emerging field in veterinary medicine, and she wanted to be one of its forerunners.

A year prior to her certification, Dr. Canapp and her husband, Sherman, a board-certified veterinary surgeon also certified in canine rehabilitation, opened the Veterinary Orthopedic and Sports Medicine Group, now in Annapolis Junction, Md. The practice is dedicated to veterinary orthopedic surgery and rehabilitation and employs a large staff of veterinary professionals, even a veterinary sports trainer to help dogs quickly return to their sport.

Dr. Canapp and her husband believe rehabilitation is a logical part of orthopedic medicine. "We've always thought that dogs should receive the same care as humans, and that's the human model: You are seen by an orthopedic surgeon and then you go to physical therapy," she said.

And it's not just dogs getting the attention at the clinic. Despite the focus on dogs, Dr. Canapp has also treated cats—"If you work in the cat time frame, you've got about 20 minutes to chase them around the room with a cold laser," she joked—and a duck and a rabbit.

Business has been "very, very good," at least until recently when the recession started cutting into the number of surgery patients the clinic typically sees, according to Dr. Canapp. The physical therapy portion of the practice has been untouched, however, and the appointment schedule is booked for a month and a half.

"Our rehab practice has actually boomed," Dr. Canapp said. "People are looking at the big-ticket item of surgery and trying to hold off on that, so they're opting for the less expensive rehab."

One reason veterinarians are offering rehabilitation is that it's another way of protecting the human-animal bond. And the results can be immensely rewarding for everyone involved. Dr. Julia E. Tomlinson, owner of the Twin Cities Animal Rehabilitation Clinic in Burnsville, Minn., and a graduate of the UT rehab program, said many clients come to her thinking there's nothing more that can be done for a severely disabled or pain-wracked pet. A colleague has even called her clinic "the last hope veterinary hospital."

"I've been an emergency vet, I've been a surgeon, I've been an equine vet, and I've been a researcher, and rehab is singularly the most rewarding thing I've ever done. Just to watch an elderly dog play again ... people are so delighted they can go on a little walk with their dog again."

—DR. JULIA E. TOMLINSON, OWNER,  
TWIN CITIES ANIMAL REHABILITATION  
CLINIC

"I've been an emergency vet, I've been a surgeon, I've been an equine vet, and I've been a researcher, and rehab is singularly the most rewarding thing I've ever done," Dr. Tomlinson said. "Just to watch an elderly dog play again ... people are so delighted they can go on a little walk with their dog again."

Several pet insurance companies cover rehab when it's recommended by a veterinarian, Dr. Tomlinson noted.

In addition to her clinical work, Dr. Tomlinson is president of the American Association of Rehabilitation Veterinarians, which she started in 2008 with about 50 members. Today, the roster has grown to 130 and includes several veterinary students. The AARV, she said, is striving to be the voice for veterinarians in rehab.

"We feel like (pet rehabilitation) is not something fully accepted in the veterinary community, but it's getting there," Dr. Tomlinson said. The AARV talks to veterinary boards on the association's policies and the ways in which rehab should be practiced as a form of veterinary medicine. The association is also surveying its members regarding the rehab services they provide.

The ongoing debate within the physical therapy community is over who is qualified to practice pet rehabilitation. In Nevada and Colorado, for instance, the veterinary practice acts were amended to allow physical therapists access to animals when working with a referring veterinarian.

Dr. Tomlinson says the AARV's position on the matter is animal rehabilitation is part of the practice of veterinary medicine and a veterinarian should be directly involved in an animal's rehab program. In addition, while the association supports working with nonveterinary professionals in the rehabilitation process, it opposes allowing them direct access to animal patients.

"Veterinary involvement in rehab brings more to the table than does the nonveterinarian working alone. We're very happy to work with these professionals; we just think a veterinarian should be involved," she said.

Part of the examination process for the UT Certificate Program in Canine Rehabilitation requires students to explain how providing pet rehabilitation complies with their respective veterinary and physical therapist state practice acts, according to Dr. Millis, who worries about attempts to expand practice acts to nonveterinarians.

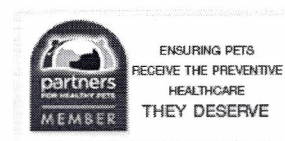
"We want to be sure that there's no misunderstanding on our students' part," Dr. Millis explained.



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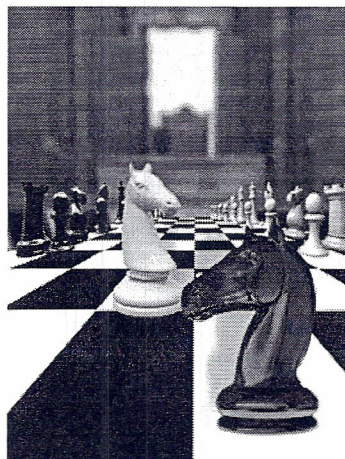
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## Press Room

## Scope-of-practice laws draw attacks

### Laypersons challenge veterinary state boards in court

By Mallinda Osborne  
Posted Oct. 1, 2008



Veterinarians, like other licensed medical providers, have increasingly voiced concern over laypersons providing care without proper experience, training, or skills. The anxiety centers on quality of care, making sure there's appropriate supervision in place. Nonveterinarians argue they are being hindered or excluded from their right to earn a living practicing their trade.

In a few instances, the conflict has played out in court, all led by one law firm, the Institute for Justice, which challenges a wide variety of government regulations. The Arlington, Va.-based firm has filed four lawsuits against three state veterinary medical boards in the past three years.

The Institute for Justice is defending lay horse teeth floaters and a lay horse massager from what it calls "elitist veterinary cartels" in Minnesota, Texas, and Maryland.

According to court documents, the civil liberties law firm is fighting against the state laws for their clients' "constitutional right to economic liberty." Institute for Justice attorneys claim these veterinary state boards have an established public policy of unreasonable occupational licensing restrictions.

Members of veterinary state boards say they have the authority to regulate the profession and should do so, particularly as new technology and practices must be evaluated to determine whether they fall under the scope of veterinary practice.

Two of the four cases, which were still pending at press time, involve the Texas State Board of Veterinary Medical Examiners. The state agency is being sued by about a dozen nonveterinarian horse teeth floaters.



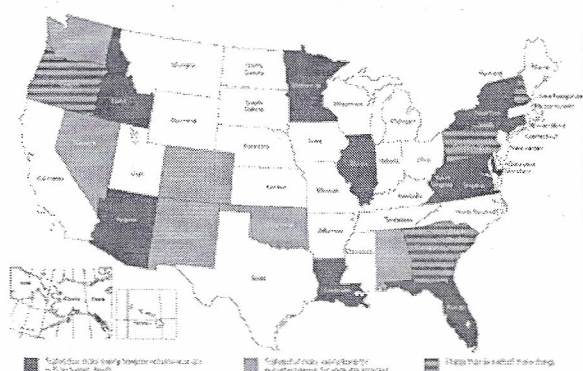


In early 2007, the board changed the Texas Veterinary Licensing Act to prohibit laypersons from floating teeth. Subsequently, the board sent cease-and-desist letters to affected nonveterinarians. The first lawsuit challenges the new policy, claiming the plaintiffs have been denied their constitutional rights to earn a living filing horses' teeth. The other lawsuit, filed almost a year later in April, goes after the legality of the board's actions.

The Texas board has been granted a temporary injunction while it seeks to work out any pertinent issues through its administrative process, said Clark Neily, senior attorney for the Institute for Justice, who represents the plaintiffs. At this point, laypersons may still float teeth.

Elbert Hutchins, executive director of the Texas VMA, says Texas state law and board policy are clear about what falls under the practice of veterinary medicine.

"The state board has all the rule making it needs to protect the profession and should do so," Hutchins said.



(Click image to view larger version)

Hutchins maintains there are adequate laws and rules that define certain procedures in horses' mouths as constituting the practice of veterinary medicine.

"For many years, laypeople have been allowed to use a hand rasp to dress down horses' teeth so long as everything is done above the gumline," he said. "With the advent of power tools, they are noisy and most horses will not allow them in their mouth without sedation. Typically, drugs for sedation are prescription drugs, which are limited to trained professionals."

Hutchins says the veterinary profession is in a new age when it comes to floating teeth and other dental procedures. That, in turn, requires states to adapt their policies.

Maryland did just that in 2007 when the state adopted a rule enabling the State Board of Acupuncture to certify people performing acupuncture on animals under veterinary oversight. Animal massage therapy, however, remains under the scope of veterinary practice.

Mercedes Clemens, a lay horse massager and licensed human massage therapist, argued the law did not apply to her practice, and with representation from the Institute for Justice, filed suit against the Maryland State Board of Veterinary Medical Examiners and the Maryland Board of Chiropractic Examiners in June.

People who are pursuing various veterinary-related jobs are a common complaint, said Maryland State Board of Veterinary Medical Examiners president, Dr. Chris Runde, but "the big issue is how they promote themselves to the public."

Dr. Runde explained, "If the equine massage individual is massaging horses to make them relax or calm them down, then they have no problem promoting themselves like that. It's promoting in such a way that it reflects perhaps to diagnose and treat an ailment. That's when they step over the line."

Institute for Justice Staff Attorney Paul Sherman wants the legislature to overturn the existing Maryland Veterinary Practice Act to allow nonveterinarians to practice therapeutic massage on animals. According to his complaint, it is not reasonable for the state to make those who massage only animals to complete the same schooling as licensed veterinarians and therefore, the Maryland Veterinary Practice Act should be ruled unconstitutional.

The Maryland VMA, in a statement released Sept. 10, refuted that idea, stating: "If therapeutic animal massage were to be excluded from the Maryland Veterinary Practice Act, the State of Maryland would then be powerless to discipline an individual who causes harm to an animal as a result of practicing such therapies."

For ancillary services laypersons can perform, such as acupuncture, these "exist only where there are adequate safeguards to protect animal health and welfare," according to the MVMA statement.

Sherman argues his client "filed this civil rights lawsuit to vindicate her right to earn an honest living free from government regulations that serve no legitimate public purpose."

Many fields—not just veterinary medicine—have increased their requirements that persons be licensed to perform certain technical procedures, Sherman said.

"In Mercedes' case, regulating the animal massage industry has nothing to do with safety and everything to do with financial gain" by veterinarians, Sherman said, because they view her as potential competition.

### AVMA's stance on scope of practice

Adrian Hochstadt, assistant director for state legislative and regulatory affairs in the AVMA Communications Division, said he sees three or four "skirmishes" a year at the state level about scope of practice issues.

"What's been pushing this issue is non-veterinarians who want to work independently," Hochstadt said. They say 'We have training' or 'We've been doing this for 20 years, the veterinarians are trying to protect their pocketbook.'

"Generally state VMAs, in negotiating these laws, insist on some sort of veterinary input, referral, or supervision and that's what (legislators) usually end up doing. There's at least a veterinary examination of an animal or diagnosis first. It seems to be a good compromise."

The AVMA Model Practice Act states that dentistry on animals is part of the practice of veterinary medicine and should be performed by veterinarians in accordance with their state veterinary practice act.

The Act also states alternative therapy, such as massage therapy, is the administration of a treatment or method to an animal designed to impact that animal's health, and as such, qualifies as the practice of veterinary medicine without any type of training or licensure.

For more information on the AVMA Model Practice Act or state legislative resources, visit [www.avma.org](http://www.avma.org) and click on the "Advocacy" link.

Dr. John King, executive director of the Minnesota Board of Veterinary Medicine, said the positions that associations and veterinarians take on a legislative topic may be based at times on turf, but the board of veterinary medicine cannot take—and does not take—that position.

"It's all about the protection of the public and the animals they own—period," Dr. King said.

This was proved, he says, by the lawsuit the Institute for Justice lost this past June against the Minnesota Board of Veterinary Medicine.

Legislators passed an amendment to the Minnesota Veterinary Practice Act in 2005 allowing nonveterinarians to float teeth. The law says only licensed veterinarians, laypersons with more than 10 years' experience, and laypersons certified by the International Association of Equine Dentistry are allowed to perform the procedure.

Chris Johnson, a third-generation lay teeth floater, filed suit against the Minnesota board in August 2006 because he did not want to meet the new criteria by getting properly certified.

Clark Neily, who also represents Johnson, calls the requirement of teeth floaters to be licensed "absurd."

"You don't want to be singled out and have livelihoods taken away while others who work with animals on procedures that are more invasive are not subjected to these disabilities," Neily said, citing examples such as farrier work or dehorning.

"Our clients believe they should have a right to earn a living providing a service they are good at, and ultimately the decision to work on someone's horse is between the horse owner and practitioner."

The court disagreed and dismissed Johnson's case with prejudice.

According to court documents: "The state may legitimately exercise its police power to protect public health, safety, or welfare through the regulation of occupations that require specialized training or skill and the public will benefit from assurance of initial or continuing occupational ability ... Veterinarians are the natural group to provide education and training with respect to the overall health and anatomy of animals."

"Basically the ruling says there is reasonable cause for requiring trained individuals to float horses' teeth," Dr. King said. "It doesn't have to be just veterinarians in Minnesota. There are avenues for other people to do it, provided they prove some sort of competency."

Dr. King points to consumer demand for less expensive animal care with more options as a driving force behind laypersons pushing to take up more of the market.

"Where it falls down is, although animals are property, they are also living beings. ... Animals can be harmed by incompetent care," Dr. King said.

Additionally, the only recourse an animal owner has against a layperson creating harm to an animal is litigation. There, only a finite amount of money may be collected, and the nonregulated layperson may be not prevented from working elsewhere, even if found guilty.

"If an individual is regulated and there are complaints to the regulating authority, they can be prevented from doing it further," Dr. King said.

Dale Atkinson, legal counsel for the American Association of Veterinary State Boards, has been representing associations of regulatory boards for 20 years.

He says state veterinary boards exist to carry out the practice act and should work with the legislature to ensure the act sufficiently empowers the board to protect the public.

Ideally, Atkinson said, "they take their vet hat off when looking at things from a regulatory perspective," so that legislative interpretation occurs to protect the health of the public, regardless of internal influence or outside pressure.

"To the extent it allows or disallows people in the practice, so be it," Atkinson said.

Correction: The map should not have included Delaware as a state that makes exemptions for nonveterinarians to float horses' teeth.

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## **Model Standards for Veterinary Physical Rehabilitation Practice**

Updated February 2014; originally published February 7, 2011.

### **Introduction**

This document is intended to serve as a model set of guiding principles for the ideal practice of veterinary physical rehabilitative medicine. This model has been developed by the board of directors of the American Association of Rehabilitation Veterinarians in collaboration with the American Physical Therapy Association Animal Rehabilitation Special Interest Group.

Veterinary rehabilitation and physical medicine is defined as the treatment of physical injury or illness in an animal to decrease pain and restore function. A physical rehabilitation veterinarian treats muscle, tendon, ligament, nerve, bone, and joint injuries and uses physical medicine to restore maximal function and relieve pain, akin to the Physiatrist in human medicine.

The motivation for publication of these model standards is in line with the mission statement of the American Association of Rehabilitation Veterinarians.

### **Ideal standards of practice for animal rehabilitation facilities**

- Patient care in the rehabilitation facility should be under the authority, supervision or approval of a licensed veterinarian certified in rehabilitation therapy.
- Initial examination and diagnosis should be determined by a licensed veterinarian with rehabilitation certification.
- The rehabilitation treatment plan should be formulated and the case managed by a licensed veterinarian with rehabilitation certification, or a combination of this veterinarian in consultation with an appropriately licensed physical therapist certified in animal rehabilitation.
- No technician/assistant (certified or otherwise) shall manage a rehabilitation patient.
- There shall be a formal policy in place to monitor and evaluate patient response to care.
- The practice shall use individualized rehabilitation and therapy plans including fitness plans.



- For patients with concurrent conditions: Clients shall be advised early in the course of care of the opportunity to request a second opinion or referral to a specialist for treatment of these conditions.
- The rehabilitation practice shall regularly update the patient's primary care veterinarian as well as any other veterinarian involved with the patient's current care.
- A summary of the initial rehabilitation evaluation findings should be sent to the referring veterinarian at the earliest opportunity, preferably within 24 hours of the evaluation.
- The patient shall be discharged back to the care of the primary veterinarian once therapy is complete.
- When referring a patient for additional workup, appropriate referral communication (such as letter, email, phone conversation) shall occur and should be properly documented in the patient's record.
- Evaluation for pain shall be part of every patient visit.
- Practice team members shall be trained to recognize pain and work in collaboration with the veterinarian to provide appropriate pain management including physical and pharmaceutical modalities.
- Since medical and emergent issues may arise during treatment, and pain management monitoring needs to be addressed by a veterinarian, having the rehabilitation veterinarian on site is ideal. A plan must be in place to address emergent care medical issues and pain management in the absence of direct (on site) veterinary supervision.
- Practice team members should be trained to identify causes of pain, levels of pain, medications and physical methods used to control pain.
- Pain scores should be documented in the medical record at each visit.
- Pain Management techniques should be used when the presence of pain in a patient is uncertain.
- Clients should be adequately educated to recognize pain in their pet.
- Clients should be adequately educated about the possible effects of any dispensed analgesic, including adverse events.
- Tentative diagnoses and medical plans, or their subsequent revisions shall be communicated to clients at the earliest reasonable opportunity.
- A rehabilitation veterinarian should have current knowledge of veterinary-approved diets, nutraceuticals and supplements as well as knowledge and skills in weight loss and weight-management programs.

- Nutritional assessment and counseling should be part of routine care.
- Recommended continuing education requirements:
  - Each veterinarian should have a minimum of 15 hours continuing education every 2 years specifically in veterinary rehabilitation topics.
  - Each veterinarian should have a minimum of 20 hours per year of documented continuing education in the field of veterinary medicine.
  - Each veterinary technician should have a minimum of 10 hours of documented continuing education in the field of veterinary rehabilitation every 2 years.
  - Each veterinary technician should have a minimum of 10 hours of documented continuing education in the field of veterinary technology every two years.
  - Each physical therapist should have a minimum of 15 hours of documented continuing education in the field of veterinary rehabilitation every 2 years.
  - Each physical therapist should complete continuing education in their own field as recommended by their governing state board.

**Veterinary Medical Board**

1747 N. Market Blvd., Suite 230, Sacramento, CA 95834

Telephone: 916-515-5220 Fax:: 916-928-6849 | [www.vmb.ca.gov](http://www.vmb.ca.gov)



## MEMORANDUM

<b>DATE</b>	October 4, 2015
<b>TO</b>	VMB
<b>FROM</b>	Annemarie Del Mugnaio, Executive Officer DCA/Veterinary Medical Board
<b>SUBJECT</b>	RVT Student Exemption

**Background:**

AB 1980 (Hayashi), Chapter 538, effective January 1, 2011, created a provision in law (BPC Section 4841.1) for RVT students in the clinical portion of their final year of study in a board-approved California veterinary technology program to perform the job tasks for registered veterinary technicians as a part of their educational experience including students both on and off campus acting under the supervision of a licensed veterinarian in good standing.

The bill also required the Board to adopt regulations defining the parameters of supervision required for the students who were to perform such tasks. Discussion before the MDC has encompassed the definition of “final year,” and level of supervision and who provides such supervision.

At the MDC meeting in February 2015, the MDC requested staff to seek input from all California veterinary technology programs: AVMA accredited, Board-approved, and alternate route programs, regarding curriculum sequencing, length of instruction, instruction specific to RVT job tasks, and level of supervision of the student performing hands-on training. The Board received less than a dozen responses and based on those responses, it appears that the veterinary technology programs introduce the hands-on RVT job tasks to students at various stages of the curriculum, which is not necessarily a “12-month” final year externship.

**Issues:**

**Final Year of Clinical Portion of Study:** Not all California approved or AVMA accredited veterinary technology programs are strictly two or four year programs. Some veterinary technology programs can be completed in less than two years (Carrington and Pima), some programs are strictly two-year programs (Consumnes and Foothill) and one program is a four-year program (Pomona). However, in accordance with CCR section 2065, all California approved veterinary technology programs require a minimum of 600 hours of classroom instruction, 200 hours of clinical instruction, and 200 hours of externship.

**Level of Supervision:** Existing CCR section 2036 defines RVT tasks and levels of supervision required to perform those tasks. Additionally, CCR sections 2034 and 2035 define “indirect supervision”, “direct supervision” and the duties of a supervising veterinarian. [See CCR References Attached]

**Recommendation:**

At the MDC meeting in July 2015, the MDC reviewed the responses from the California veterinary technology programs and based upon the lack of uniformity in the course sequencing and length of education of existing programs, the MDC determined that defining the “final year”

of study in terms of months or weeks is problematic. Instead, the MDC recommended language that places the responsibility on the program instructors for ensuring the student has knowledge and familiarity with R.V.T. animal health-care tasks prior to beginning such hands-on training under immediate supervision

**Action(s) Requested**

Review the proposed RVT Student Exemption Language as recommended by the MDC.

**Attachment(s):**

- Proposed RVT Student Exemption Language
- Title 16, Division 20, Article 4. Practice

**Title 16. Professional and Vocational Regulations  
Division 20. Veterinary Medical Board**

***RVT Student Exemption – Proposed Language  
10/2015***

**2036.6. RVT Student Exemption.**

(a) Students in a board-approved veterinary technology program shall be exempt from registration by the board while performing animal health care tasks pursuant to Section 2036, as part of the clinical portion of their final year of study as long as all of the following conditions are met:

(1) For the purposes of this section only, the students are under the immediate supervision of a California licensed veterinarian or registered veterinary technician. As used herein, “immediate supervision” means that the veterinarian or R.V.T. establishes a one to one relationship with the student, is directly engage with the student treating the patient, and maintains continuous physical presence during the student’s treatment of the patient.

(2) If students are supervised by a R.V.T., the R.V.T. shall be under the direct supervision of the veterinarian, notwithstanding any other provision of law or regulations.

(b) As used herein, “students in the clinical portion of their final year of study ,” are those individuals who, in the opinion of program instructors, have knowledge and familiarity with R.V.T animal health care tasks, and have completed a sufficient portion of the classroom and clinical instruction set forth in subsections (a)(1) and (a)(2) of Section 2065 and subsection (b) of Section 2065.1.

***Statutory Reference: BPC Section 4841.1:***

***4841.1.***

*(a) This article shall not apply to students in the clinical portion of their final year of study in a board-approved California veterinary technology program who perform the job tasks for registered veterinary technicians as part of their educational experience, including students both on and off campus acting under the supervision of a licensed veterinarian in good standing, as defined in paragraph (1) of subdivision (b) of Section 4848.*

*(b) The board shall adopt regulations defining the parameters of supervision required for the students described in subdivision (a).*

**Title 16. Professional and Vocational Regulations**  
**Division 20. Veterinary Medical Board**  
**Article 4. Practice**

**§ 2034. Animal Health Care Tasks Definitions.**

For purposes of the rules and regulations applicable to animal health care tasks for registered veterinary technicians and unregistered assistants, contained in the article, the term:

- (a) “Veterinarian” means a California licensed veterinarian.
- (b) “R.V.T.” means a registered veterinary technician certified by the Board.
- (c) “Unregistered assistant” means any individual who is not an R.V.T. or a licensed veterinarian.
- (d) “Supervisor” means a California licensed veterinarian or if a job task so provides an R.V.T.
- (e) “Direct Supervision” means: (1) the supervisor is physically present at the location where animal health care job tasks are to be performed and is quickly and easily available; and (2) the animal has been examined by a veterinarian at such time as good veterinary medical practice requires consistent with the particular delegated animal health care job task.
- (f) “Indirect Supervision” means: (1) that the supervisor is not physically present at the location where animal health care job tasks are to be performed, but has given either written or oral instructions (“direct orders”) for treatment of the animal patient; and (2) the animal has been examined by a veterinarian at such times as good veterinary medical practice requires, consistent with the particular delegated animal health care task and the animal is not anesthetized as defined in Section 2032.4.
- (g) “Animal Hospital Setting” means all veterinary premises which are required by Section 4853 of the Code to be registered with the Board.
- (h) “Administer” means the direct application of a drug or device to the body of an animal by injection, inhalation, ingestion, or other means.
- (i) “Induce” means the initial administration of a drug with the intended purposed of rendering the animal unconscious.

**§ 2035. Duties of Supervising Veterinarian.**

- (a) The supervising veterinarian shall be responsible for determining the competency of the R.V.T. or unregistered assistant to perform allowable animal health care tasks.
- (b) The supervising veterinarian of a R.V.T. or unregistered assistant shall make all decisions relating to the diagnosis, treatment, management and future disposition of the animal patient.

(c) The supervising veterinarian shall have examined the animal patient prior to the delegation of any animal health care task to either an R.V.T. or unregistered assistant. The examination of the animal patient shall be conducted at such time as good veterinary medical practice requires consistent with the particular delegated animal health care task.

#### **§ 2036. Animal Health Care Tasks for R.V.T.**

(a) Unless specifically so provided by regulation, a R.V.T. shall not perform the following functions or any other activity which represents the practice of veterinary medicine or requires the knowledge, skill and training of a licensed veterinarian:

- (1) Surgery;
- (2) Diagnosis and prognosis of animal diseases;
- (3) Prescription of drugs, medicines or appliances.

(b) An R.V.T. may perform the following procedures only under the direct supervision of a licensed veterinarian:

- (1) Induce anesthesia;
- (2) Apply casts and splints;
- (3) Perform dental extractions;
- (4) Suture cutaneous and subcutaneous tissues, gingiva and oral mucous membranes,
- (5) Create a relief hole in the skin to facilitate placement of an intravascular catheter

(c) An R.V.T. may perform the following procedures under indirect supervision of a licensed veterinarian:

- (1) Administer controlled substances.

(d) Subject to the provisions of subsection(s) (a), (b) and (c) of this section, an R.V.T. may perform animal health care tasks under the direct or indirect supervision of a licensed veterinarian. The degree of supervision by a licensed veterinarian over a R.V.T. shall be consistent with standards of good veterinary medical practices.

#### **§ 2036.5. Animal Hospital Health Care Tasks for Unregistered Assistants.**

(a) Unregistered assistants shall be prohibited from performing any of the functions or activities specified in subsections (a) (b) and (c) of Section 2036 of these regulations, except that an unregistered assistant under the direct supervision of a licensed veterinarian or registered technician may administer a controlled substance.

(b) Subject to the provisions of subsection (a) of this section, unregistered assistants in an animal hospital setting may perform auxiliary animal health care tasks under the direct or indirect supervision of a licensed veterinarian or the direct supervision of an R.V.T. The degree of supervision by a licensed veterinarian over an unregistered assistant shall be higher than or equal

to the degree of supervision required when an R.V.T. performs the same task and shall be consistent with standards of good veterinary medical practices.



CALIFORNIA HORSE RACING BOARD  
TITLE 4. CALIFORNIA CODE OF REGULATIONS  
ARTICLE 15. VETERINARY PRACTICES  
RULE 1845. AUTHORIZED BLEEDER MEDICATION

1845. Authorized Bleeder Medication.

The only A authorized bleeder medication for the control of ~~exercised~~ exercise-induced pulmonary hemorrhage (EIPH) ~~may~~ shall be furosemide, and it shall only be administered ~~to by~~ a ~~horse~~ single intravenous injection, in a dosage of not less than 150 mg and not more than 500 mg, on the grounds of the racetrack where the horse will race, and no later than four hours prior to race time the post time of the race for which the horse is entered. It shall only be administered to a horse that is registered on the authorized bleeder medication list.

(a) A horse is ~~eligible to race with~~ registered on the authorized bleeder medication ~~if the~~ licensed list as follows:

(1) The trainer and ~~or a~~ the owner's veterinarian ~~determines it is in the horse's best interest. If a horse will race with authorized bleeder medication, form designated by the owner shall determine whether~~ furosemide is medically necessary to control EIPH and is not otherwise contraindicated for that horse; and

(2) Prior to entry for race, the official veterinarian approves form CHRB-194 (~~New~~ Rev. 09/1508/04), Authorized Bleeder Medication and Medical Records Request, ~~7~~ (Rev. 08/0406/15), which is hereby incorporated by reference, ~~shall be used submitted to notify~~ the official veterinarian ~~prior to entry by the trainer and veterinarian designated by the owner~~ owner's veterinarian.

~~(b) The official laboratory shall measure the specific gravity of post-race urine samples to ensure samples are sufficiently concentrated for proper chemical analysis. The specific gravity of such samples shall not be below 1.010.~~

~~(c) If the specific gravity of the post-race urine sample is determined to be below 1.010, or if a urine sample is not available for testing, quantitation of furosemide in serum or plasma shall then be performed. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.~~

(b) Once registered, any horse that will be administered furosemide shall:

(1) Arrive on the grounds of the racetrack where the horse will race no later than five hours prior to the post time of the race for which the horse is entered; and

~~(d)(2) A horse qualified to race with authorized bleeder medication shall be~~ Be assigned to a pre-race security stall prior to the scheduled post time for the race in which it is entered, and shall remain there until it is taken to the receiving barn or the paddock to be saddled or harnessed for the race.

(A) The pre-race security stall shall be identified by the posting of a form CHRB-234 (New 09/15), Detention Stall sign, which is hereby incorporated by reference. The trainer shall post the Detention Stall sign no later than eight hours prior to the post time of the race for which the horse is entered or, for a horse arriving from off the grounds of the racetrack, when the horse is placed in the pre-race security stall.

(B) While in the pre-race security stall, the horse shall be in the care, custody, control and constant view of the trainer, or a licensed person assigned by the trainer. The trainer shall be responsible for the condition, care and handling of the horse while it remains in the pre-race security stall.

(C) The official veterinarian may permit a horse to leave the pre-race security stall to engage in track warm-up heats prior to a race.

~~(e) A horse qualified for administration of authorized bleeder medication must be treated on the grounds of the racetrack where the horse will race no later than four hours prior to post time of the race for which the horse is entered. The authorized bleeder medication, furosemide, by a single intravenous injection only, in a dosage of not less than 150 mg.~~

(c) Furosemide shall be administered only after:

(1) The trainer, owner, or not more than 500 mg. A horse racing with furosemide must show a detectable concentration of the drug in the post race serum, plasma or urine sample. The the owner's veterinarian administering designated by the owner or trainer has consulted with the veterinarian designated by the official veterinarian furosemide veterinarian regarding the condition of the horse and the veterinarian designated by the official veterinarian furosemide veterinarian has examined the horse sufficient to establish a veterinary-client-patient relationship within the meaning of California Code of Regulations, Title 16, section 2032.1; or

(2) The trainer, owner, or owner's veterinarian has consulted with the bleeder medication shall the official veterinarian or racing veterinarian and the veterinarian designated by the official veterinarian furosemide veterinarian has examined the horse sufficient to establish a veterinary-client-patient relationship within the meaning of California Code of Regulations, Title 16, section 2032.1, and that consulting official veterinarian or racing veterinarian directly supervises the furosemide veterinarian, or California registered veterinary technician, who administers furosemide.

(d) Administration of furosemide shall occur as follows:

(1) Only a veterinarian designated by the Official Veterinarian or a California registered veterinary technicians under the direct supervision of the veterinarian designated by

~~the Official Veterinarian may administer furosemide. The Official Veterinarian shall not designate himself or herself to administer furosemide except in an emergency, the details of which shall be immediately reported to the stewards.~~

~~(A) Any veterinarian or California registered veterinary technician who administers furosemide shall not have a current business relationship with participating licensees within 30 days of the date they are designated to administer furosemide, or have had a veterinarian-client-patient relationship within 30 days of the date they are designated to administer furosemide.~~

~~(B)~~ The person who administers furosemide pursuant to subsection (d)(1) of this regulation shall notify the official veterinarian of the treatment of the horse. Such Notification shall be made using on form CHRB-~~form~~ 36 (New 08/04), Bleeder Treatment Report, which is hereby incorporated by reference, not later than two hours prior to post time of the race for which the horse is entered. ~~Upon the request of a Board representative, the veterinarian administering the authorized bleeder medication shall surrender the syringe used to administer such medication, which may then be submitted for testing.~~

~~(2)~~(1) The owner, trainer or a licensed employee of the trainer shall be present and observe the furosemide administration.

(e) The horsemen's organization, trainers' organization and racing association shall enter into an agreement to provide for race-day furosemide administration. The agreement to provide for race-day furosemide administration procedures shall be submitted to the Board for approval in accordance with Rule 1433 of this Division.

(1) Furosemide shall be administered by a furosemide veterinarian or California registered veterinary technician under the direct supervision of the furosemide veterinarian. The furosemide veterinarian or California registered veterinary technician who provides race-day furosemide administration shall be employed by the racing association and shall not have a

current business relationship, or prior veterinarian-client-patient relationship, with participating licensees within 30 days of the date he or she is employed to administer furosemide.

(2) “Furosemide veterinarian” is defined as the veterinarian, licensed by the Board, and hired by the racing association to administer race-day furosemide to horses registered on the authorized bleeder medication list.

(3) “Owner’s veterinarian” is defined as the veterinarian, licensed by the Board, and hired by the owner to provide veterinary care to horses.

~~(2)(f)~~ A horse placed authorized-registered to be administered furosemide shall receive 250 mg of furosemide intravenously unless an alternative dose between of not less than 150 mg and not more than 500 mg has been determined after consultation between the trainer or owner, or owner’s veterinarian, and the veterinarian designated by the official veterinarian furosemide veterinarian pursuant to subsection (c).

~~(e)(g)~~ In the event of an adverse reaction or other emergency related to the administration of furosemide, the furosemide veterinarian, or California registered veterinary technician, who administered furosemide shall attend the horse until the arrival of a veterinarian designated by the trainer or owner the owner’s veterinarian.

~~(f)(h)~~ The syringe used to administer furosemide shall be provided to and retained by the Board until all testing of the horse is completed. In the event of a positive test finding as defined in this article, the Board may order, or the owner or trainer may request, the retained syringe be analyzed for prohibited substances. The results of the analysis may be used in any action before the Board.

~~(g)(i)~~ A horse that has been administered furosemide must show a detectable concentration of the drug in the post-race serum, plasma or urine sample.

(1) The official laboratory shall measure the specific gravity of post-race urine samples to ensure samples are sufficiently concentrated for proper chemical analysis. The specific gravity of such samples shall not be below 1.010.

(2) If the specific gravity of the post-race urine sample is determined to be below 1.010, or if the urine sample is not available for testing, quantitation of furosemide in serum or plasma shall then be performed. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

~~(f)(h)~~(j) A horse ~~placed~~ registered on the official authorized bleeder medication list must remain on the list unless the ~~licensed~~ trainer ~~and/or~~ owner's veterinarian ~~designated by the horse owner~~ requests ~~that~~ the horse be removed. The request must be made using form CHRB ~~form~~ 194 (~~New~~Rev. 09/1508/04), and must be submitted to the official veterinarian prior to the time of entry. A horse removed from the authorized bleeder medication list may not be placed back on the list for a period of 60 calendar days unless the official veterinarian determines it is ~~detrimental to the welfare of~~ medically necessary for the horse. If a horse is removed from the authorized bleeder medication list a second time in a 365-day period, the horse may not be placed back on the list for a period of 90 calendar days.

~~(g)(i)~~(k) If the official veterinarian observes a horse bleeding externally from one or both nostrils during or after a race or workout, and determines such bleeding is a direct result of EIPH, the horse shall be ineligible to race for the following periods:

- First incident -14 days;
- Second incident within 365-day period -30 days;
- Third incident within 365-day period -180 days;
- Fourth incident within 365-day period -barred ~~for~~ from racing lifetime.

For the purposes of counting the number of days a horse is ineligible to run, the day after the horse bled externally is the first day of such period. ~~The voluntary administration of authorized bleeder medication without an external bleeding incident shall not subject a horse to the initial period of ineligibility as defined under this subsection.~~

~~(1)~~ (1) The owner(s) of a registered horse shall:

(1) Pay all costs associated with the ~~administration of furosemide~~ materials used in the administration of furosemide, to include the syringe and medication, and:

(2) Reasonable administrative costs as set under the race-day furosemide agreement entered into by the horsemen's organization, trainers' organization and the racing association.

~~(2)~~ (3) Consent to the procedures in this section and agree that the pre-race examination conducted pursuant to Rule 1846 under the direction of the official veterinarian or racing veterinarian shall constitute a veterinary-client-patient relationship within the meaning of California Code of Regulations, Title 16, section 2032.1.

Authority: Sections 19440 and 19562,  
Business and Professions Code.

Reference: Sections 19580, ~~and 19581~~ and ~~19582~~,  
Business and Professions Code

# Legislation

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## **A. AB 12 (COOLEY) – STATE GOVERNMENT: ADMINISTRATIVE REGULATIONS: REVIEW**

**AMENDED:** 8/19/15

**STATUS:** In Senate Appropriations Committee: Held under submission.

**BOARD POSITION:** Track/Watch

Existing law authorizes various state entities to adopt, amend, or repeal regulations for various specified purposes. The Administrative Procedure Act requires the Office of Administrative Law and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.

This bill would, until January 1, 2019, require each state agency to, on or before January 1, 2018, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the Legislature and Governor, as specified.

## **B. AB 85 (WILK) – OPEN MEETINGS**

**ENROLLED:** 9/2/15

**STATUS:** Vetoed by Governor on 9/28/15.

**BOARD POSITION:** Track/Watch

The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions.

This bill would specify that the definition of "state body" includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

This bill would declare that it is to take effect immediately as an urgency statute.

## **C. AB 750 (LOW) – BUSINESS AND PROFESSIONS: LICENSES**

**AMENDED:** 4/16/15

**STATUS:** In Assembly Appropriations Committee. Held under submission.

**BOARD POSITION:** Track/Watch



Existing law provides for numerous boards, bureaus, commissions, or programs within the Department of Consumer Affairs that administer the licensing and regulation of various businesses and professions. Existing law authorizes any of the boards, bureaus, commissions, or programs within the department, except as specified, to establish by regulation a system for an inactive category of license for persons who are not actively engaged in the practice of their profession or vocation. Under existing law, the holder of an inactive license is prohibited from engaging in any activity for which a license is required. Existing law defines “board” for these purposes to include, unless expressly provided otherwise, a bureau, commission, committee, department, division, examining committee, program, and agency.

This bill would additionally authorize any of the boards, bureaus, commissions, or programs within the department to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation, and would prohibit the holder of a retired license from engaging in any activity for which a license is required, unless regulation specifies the criteria for a retired licensee to practice his or her profession. The bill would authorize a board upon its own determination, and would require a board upon receipt of a complaint from any person, to investigate the actions of any licensee, including, among others, a person with a license that is retired or inactive.

#### **D. AB 1060 (BONILLA) – PROFESSIONS AND VOCATIONS: LICENSURE**

**ENROLLED:** 9/14/15

**STATUS:** Enrolled and presented to the Governor at 4 p.m. on 9/18/15.

**BOARD POSITION:** N/A; AB 1060 was amended and is no longer relevant to the Board.

Existing law establishes the scope and function of the California Health and Human Services Agency, which includes departments charged with administering laws pertaining to public health and social services, among other things. Existing law also establishes the Inclusion of Women and Minorities in Clinical Research Act, which is designed to promote the inclusion of women and minority groups in clinical research, including clinical trials.

This bill, until January 1, 2022, would establish the Cancer Clinical Trials Foundation in the Health and Human Services Agency, to be governed by a board of trustees. Members of the board would be appointed as specified. The bill would also create the Cancer Clinical Trials Fund, to be used to administer a grant program. The bill would limit the amount the agency may spend to establish the foundation to \$300,000 of appropriated funds, to be repaid by January 1, 2021, but would otherwise prohibit General Fund moneys from being used for the foundation. The bill would authorize the board to solicit and receive money, as specified, and would authorize the agency to apply for federal funds for this purpose. The bill would require the board, upon contribution of at least \$500,000 to the fund, to establish the Cancer Clinical Trials Grant Program, in order to increase patient access to cancer clinical trials in specified populations. The bill would require that grant money be used for designated purposes, and would also require grant recipients to report to the board. The bill would require the board to report to the Legislature, as specified. This bill would make related findings.

**E. AB 483 (PATTERSON) – HEALING ARTS: INITIAL LICENSE FEES:  
PRORATION**

**ENROLLED:** 9/11/15

**STATUS:** Enrolled and presented to the Governor at 4 p.m. on 9/17/15.

**BOARD POSITION:** N/A

Existing law provides for the regulation and licensure of various professions and vocations by boards within the Department of Consumer Affairs. Existing law establishes fees for initial licenses, initial temporary and permanent licenses, and original licenses for those various professions and vocations. Existing law requires that licenses issued to certain licensees, including, among others, architects, acupuncturists, dental hygienists, dentists, occupational therapists, osteopathic physicians and surgeons, registered veterinary technicians, and veterinarians, expire at 12 a.m. on either the last day of the birth month of the licensee or at 12 a.m. of the legal birth date of the licensee during the 2nd year of a 2-year term, if not renewed.

This bill would, commencing July 1, 2017, require that the fees imposed on these licensees for an initial license or an original license be prorated on a monthly basis. The bill would, commencing July 1, 2017, require that the fee assessed an osteopathic physician and surgeon for license renewal be prorated on a monthly basis.

This bill would incorporate additional changes in Section 1724 of the Business and Professions Code, proposed by Assembly Bill 179, that would become operative only if this bill and Assembly Bill 179 are chaptered and become effective January 1, 2016, and this bill is chaptered last.

This bill would incorporate additional changes in Section 1944 of the Business and Professions Code, proposed by Senate Bill 800, that would become operative only if this bill and Senate Bill 800 are chaptered and become effective January 1, 2016, and this bill is chaptered last.

**F. AB 316 (MAIENSCHIN) – VETERINARIANS**

**CHAPTERED:** 9/7/15

**STATUS:** Approved by Governor on 10/7/15. Filed with Secretary of State 10/7/15.

**BOARD POSITION:** Oppose

Under existing law, the Veterinary Medicine Practice Act, the Veterinary Medical Board licenses and regulates veterinarians and the practice of veterinary medicine. It is unlawful for any person to practice veterinary medicine in this state unless he or she holds a valid, unexpired, and unrevoked license issued by the board, except under specified circumstances, including when regularly licensed veterinarians are actually called from other states to attend cases in this state and do not open an office or appoint a place to do business within the state.

This bill would further specify, for purposes of that provision, that a regularly licensed veterinarian in good standing who is called from another state by a law enforcement agency or animal control agency to attend to cases that are a part of an investigation of an alleged violation

of federal or state animal fighting or animal cruelty laws within a single geographic location shall be exempt from specified licensing requirements if the agency determines that it is necessary to call the veterinarian in order to conduct the investigation, as specified. The bill would require an agency, department, or officer that calls a veterinarian pursuant to these provisions to notify the board of the investigation. The bill would also authorize a veterinarian who is called from another state to care for animals that are affected by an investigation with a temporary shelter facility established only for the purpose of the investigation, which would be exempt from specified registration requirements if it meets specified conditions.

#### **G. AB 317 (MAIENSCHIN) – VETERINARY MEDICINE: TEMPORARY SHELTER FACILITY**

**ENROLLED:** 9/4/15

**STATUS:** Vetoed by the Governor on 10/7/15.

**BOARD POSITION:** Oppose

Under existing law, the Veterinary Medical Board licenses and regulates veterinarians and the practice of veterinary medicine. It is unlawful for any person to practice veterinary medicine in this state unless he or she holds a valid, unexpired, and unrevoked license issued by the board, except under specified circumstances.

Existing law requires the registration of all premises where veterinary medicine, veterinary dentistry, or veterinary surgery is being practiced. Existing law also requires these premises, and all instruments, apparatus, and apparel used in connection with those practices, to be kept clean and sanitary at all times, and to conform to those minimum standards established by the board. Existing law makes it a misdemeanor to violate these provisions regulating the practice of veterinary medicine.

This bill would exempt from the premises registration requirements a temporary shelter that is established to provide care and shelter to animals displaced by a state of emergency, if specified requirements are met, and would authorize the Veterinary Medical Board to inspect a temporary shelter. The bill would require, within 30 calendar days after the temporary shelter ceases operations, the party responsible for the temporary shelter to file a report with the board containing specific information.

#### **H. SB 27 (HILL) – LIVESTOCK: USE OF ANTIBIOTICS**

**ENROLLED:** 9/16/15

**STATUS:** Enrolled and presented to the Governor at 4:45 p.m. on 9/17/15.

**BOARD POSITION:** Support

(1) Existing law regulates the distribution and use of livestock drugs, as defined, by the Secretary of Food and Agriculture. Existing law also requires a person to obtain a license from the secretary to manufacture, sell, distribute, or store commercial feed, including commercial feed containing drugs.

This bill would, beginning January 1, 2018, prohibit the administration of medically important antimicrobial drugs, as defined, to livestock unless ordered by a licensed veterinarian through a prescription or veterinary feed directive pursuant to a veterinarian-client-patient relationship, as specified, and would prohibit the administration of a medically important antimicrobial drug to livestock solely for purposes of promoting weight gain or improving feed efficiency. The bill would require the Department of Food and Agriculture, in consultation with the Veterinary Medical Board, the State Department of Public Health, universities, and cooperative extensions, to develop antimicrobial stewardship guidelines and best management practices on the proper use of medically important antimicrobial drugs and would require the department to gather information on medically important antimicrobial drug sales and usage, antimicrobial resistant bacteria, and livestock management practice data. The bill would require information provided pursuant to those provisions to be held confidential, as specified. The bill would authorize the department to request and receive copies of veterinary feed directives from certain persons to implement the bill's provisions. The bill would make a first violation of the bill's provisions subject to a civil penalty of up to \$250 for each day a violation occurs, and would make second and subsequent violations subject to an administrative fine of \$500 for each day a violation occurs, except as specified.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

## **I. SB 361 (HILL) – ANTI-MICROBIAL STEWARDSHIP: EDUCATION AND POLICIES**

**ENROLLED:** 9/3/15

**STATUS:** Enrolled and presented to the Governor at 4:30 p.m. on 9/8/15.

**BOARD POSITION:** Support

Under the Veterinary Medicine Practice Act, the Veterinary Medical Board licenses veterinarians and regulates the practice of veterinary medicine. The act requires an applicant for a renewal license to complete 36 hours of continuing education in the preceding 2 years.

This bill would require a veterinarian who renews his or her license on or after January 1, 2018, to complete a minimum of one credit hour of continuing education on the judicious use of medically important antimicrobial drugs, as defined, every 4 years as part of the continuing education requirement.

Existing law provides for the licensure and regulation of skilled nursing facilities by the State Department of Public Health. Under existing law, a violation of the provisions governing skilled nursing facilities constitutes a crime. Existing law also establishes the Hospital Infection Disease Control Program, which requires the department and general acute care hospitals to implement various measures relating to the prevention of health care associated infection. The program requires, by July 1, 2015, that each general acute care hospital adopt and implement an

antimicrobial stewardship policy, in accordance with guidelines established by the federal government and professional organizations, that includes a process to evaluate the judicious use of antibiotics, as specified.

This bill would require all skilled nursing facilities, as defined, by no later than January 1, 2017, to adopt and implement an antimicrobial stewardship policy that is consistent with the antimicrobial stewardship guidelines developed by the federal Centers for Disease Control and Prevention, the federal Centers for Medicare and Medicaid Services, or specified professional organizations.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

#### **J. SB 800 (BP&E COMMITTEE) – CLEAN-UP PROVISIONS FOR VMB**

**CHAPTERED:** 10/1/15

**STATUS:** Approved by Governor 10/1/15. Filed with Secretary of State 10/1/15.

#### **BOARD POSITION:** Support

Under existing law, the Department of Consumer Affairs is comprised of various boards that license and regulate the practice of various professions and vocations, including those relating to the healing arts:

(1) Existing law requires persons applying for initial licensure or renewal of a license as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist to have completed prescribed coursework or training in child abuse assessment and reporting. Existing law requires the training to have been obtained from an accredited or approved educational institution, a continuing education provider approved by the responsible board, or a course sponsored or offered by a professional association or a local, county, or state department of health or mental health for continuing education and approved by the responsible board.

This bill would require the responsible board to specify a continuing education provider for child abuse assessment and reporting coursework by regulation, and would permit the responsible board to approve or accept a sponsored or offered course.

(2) Existing law relating to unlicensed activity enforcement lists specified provisions that require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions and, notwithstanding any other law, makes a violation of a listed provision punishable as an infraction under specified circumstances.

This bill would include in those listed provisions an existing requirement for the registration of individuals as certified polysomnographic technologists, polysomnographic technicians, and polysomnographic trainees.

The bill would also include in those listed provisions a provision of the Educational Psychologist Practice Act that makes it unlawful for any person to practice educational psychology or use any title or letters that imply that he or she is a licensed educational psychologist unless, at the time of so doing, he or she holds a valid, unexpired, and unrevoked license under that act, the violation of which is a misdemeanor. The bill would further include in those listed provisions existing requirements of the Licensed Professional Clinical Counselor Act that a person not practice or advertise the performance of professional clinical counseling services without a license and pay the license fee, as required by that act, the violation of which is a misdemeanor.

By creating new infractions, this bill would impose a state-mandated local program.

(3) The Dental Practice Act provides for the licensure and regulation of dentists by the Dental Board of California. For purposes of the act, any reference to the Board of Dental Examiners is deemed a reference to the Dental Board of California.

This bill would delete certain existing references to the Board of Dental Examiners and, instead, refer to the Dental Board of California.

(4) Existing law provides for the regulation of dental hygienists by the Dental Hygiene Committee of California, within the jurisdiction of the Dental Board of California. Existing law authorizes the committee, until January 1, 2010, to contract with the dental board to carry out any of specified provisions relating to the regulation of dental hygienists, and, on and after January 1, 2010, to contract with the dental board to perform investigations of applicants and licensees. Existing law requires a new educational program for registered dental hygienists to submit a specified feasibility study. Existing law limits the fee for each curriculum review and site evaluation for these programs to a specified amount.

This bill would require the Dental Hygiene Committee of California to create and maintain a central file of the names of licensees, to provide an individual historical record with information on acts of licensee misconduct and discipline. The bill would remove the limiting dates from the contracting provisions, thereby authorizing the committee to contract with the dental board indefinitely to carry out any of specified provisions relating to the regulation of dental hygienists, including performing investigations of applicants and licensees. The bill would additionally limit the fee for each feasibility study review to that same specified amount.

(5) The Medical Practice Act provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Under existing law, the board issues a physician and surgeon's certificate to a licensed physician surgeon. The act prohibits a person who fails to renew his or her license within 5 years after its expiration from renewing it, and prohibits the license from being reissued, reinstated, or restored thereafter, although the act authorizes a person to apply for and obtain a new license under specified circumstances.

This bill would recast that renewal provision to prohibit renewal by a person who voluntarily cancels his or her license or who fails to renew it as described, and would authorize that person



to apply for and obtain a license under those specified circumstances, without regard to reissuance, reinstatement, or restoration.

(6) Existing law relating to research psychoanalysts authorizes certain students and graduates in psychoanalysis to engage in psychoanalysis under prescribed circumstances if they register with the Medical Board of California and present evidence of their student or graduate status. Existing law authorizes that board to suspend or revoke the exemption of those persons from licensure for unprofessional conduct for, among other things, repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, use of diagnostic procedures, or use of diagnostic or treatment facilities.

This bill would substitute, for those described bases for suspension or revocation of the exemption, the commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer.

(7) The Physical Therapy Practice Act provides for the licensure and regulation of physical therapists and physical therapist assistants by the Physical Therapy Board of California. The act establishes education requirements for a physical therapist assistant, including subject matter instruction through a combination of didactic and clinical experiences, and requires the clinical experience to include at least 18 weeks of full-time experience with a variety of patients.

This bill would delete that 18-week full-time experience requirement for physical therapist assistant education.

(8) The Nursing Practice Act provides for the licensure and regulation of registered nurses and nurse practitioners by the Board of Registered Nursing. The act, on and after January 1, 2008, requires an applicant for initial qualification or certification as a nurse practitioner who has not been qualified or certified as a nurse practitioner to meet specified requirements. Certain provisions allow the board to find registered nurses qualified to use the title of “nurse practitioner.”

This bill would delete those title provisions.

The Nursing Practice Act provides for a diversion program to identify and rehabilitate registered nurses whose competency may be impaired due to abuse of alcohol and other drugs, or due to mental illness.

This bill would instead refer to the program as an intervention program.

(9) The Optometry Practice Act provides for the licensure and regulation of optometrists by the State Board of Optometry. The act prescribes license eligibility requirements, including, but not limited to, submitting proof that the person is licensed in good standing as of the date of application in every state where he or she holds a license, including compliance with continuing education requirements, submitting proof that the person has been in active practice in a state in which he or she is licensed for a total of at least 5,000 hours in 5 of the 7 consecutive years immediately preceding the date of his or her application, and has never had his or her license to practice optometry revoked or suspended. For purposes of those provisions, “in good standing” includes the requirement that the person has not been found mentally incompetent by a physician

so that the person is unable to undertake the practice of optometry in a manner consistent with the safety of a patient or the public.

This bill would delete that active practice requirement and would require that the license have never been revoked or suspended in any state where the person holds a license. The bill, with regard to making such a finding of mental incompetence, would replace a finding by a physician with a finding by a licensed psychologist or licensed psychiatrist.

(10) The Physician Assistant Practice Act requires the Physician Assistant Board to annually elect a chairperson and vice chairperson from among its members.

This bill would require the annual election of a president and vice president.

(11) Existing law relating to veterinary medicine requires a veterinary assistant to obtain a controlled substance permit from the Veterinary Medical Board in order to administer a controlled substance, and authorizes the board to deny, revoke, or suspend the permit, after notice and hearing, for any of specified causes. Existing law authorizes the board to revoke or suspend a permit for the same.

This bill would, instead, authorize the board to suspend or revoke the controlled substance permit of a veterinary assistant, after notice and hearing, for any of specified causes, and to deny, revoke, or suspend a permit for the same.

(12) The Acupuncture Licensure Act provides for the licensure and regulation of the practice of acupuncture by the Acupuncture Board. The act requires the board to issue a license to practice acupuncture to a person who meets prescribed requirements. The act requires, in the case of an applicant who has completed education and training outside the United States and Canada, documented educational training and clinical experience that meets certain standards established by the board. Existing law, commencing January 1, 2017, specifically requires the board to establish standards for the approval of educational training and clinical experience received outside the United States and Canada.

This bill would remove Canada from those provisions, thereby applying the same standards to all training and clinical experience completed outside the United States.

(13) The Board of Behavioral Sciences is responsible for administering the Licensed Marriage and Family Therapist Act, the Educational Psychologist Practice Act, the Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Act.

The Licensed Marriage and Family Therapist Act provides for the licensure and regulation of marriage and family therapists by the Board of Behavioral Sciences. The act sets forth the educational and training requirements for licensure as a marriage and family therapist, including certain supervised-experience requirements whereby a prospective licensee is required to work a specified number of hours in a clinical setting under the supervision of experienced professionals. The act requires all persons to register with the board as an intern in order to be credited for postdegree hours of supervised experience gained toward licensure. The act, with regard to interns, requires all postdegree hours of experience to be credited toward licensure, except when employed in a private practice setting, if certain conditions are met. The act limits



the number of hours applicants for a marriage and family therapist license may provide counseling services via telehealth.

The bill would require postdegree hours of experience to be credited toward licensure if certain conditions are met. The bill would prohibit an applicant for licensure as a marriage and family therapist from being employed or volunteering in a private practice until registered as an intern by the board. The bill would similarly prohibit an applicant for professional clinical counselor under the Licensed Professional Clinical Counselor Act from being employed or volunteering in a private practice until registered as an intern by the board.

The bill would authorize a marriage and family therapist intern and trainee to provide services via telehealth if he or she is supervised as required by the act, and is acting within the scope authorized by the act and in accordance with any regulations governing the use of telehealth promulgated by the Board of Behavioral Sciences.

The Licensed Marriage and Family Therapist Act and the Licensed Professional Clinical Counselor Act require applicants for licensure under those acts to comply with specified educational and experience requirements, including, but not limited to, hours of supervised experience, and sets forth terms, conditions, and limitations for those hours of experience, as specified.

The bill would revise those experience requirements and provide that individuals who submit applications for examination eligibility between January 1, 2016, and December 31, 2020, may alternatively qualify under the current requirements.

The Licensed Marriage and Family Therapist Act, the Educational Psychologist Practice Act, the Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Act require the Board of Behavioral Sciences to approve continuing education providers for specified educational courses relating to licensure for marriage and family therapists, educational psychologists, clinical social workers, and professional clinical counselors.

This bill would modify those acts to require the Board of Behavioral Sciences to identify, by regulation, acceptable continuing education providers.

The Licensed Marriage and Family Therapist Act and the Licensed Professional Clinical Counselor Act provide for the registration of interns and allow a maximum of possible renewals after initial registration, after which a new registration number is required to be obtained. The Clinical Social Worker Practice Act provides similarly for the registration and renewal of registration of associate clinical social workers. An applicant who is issued a subsequent number is barred from employment or volunteering in a private practice.

This bill would revise those provisions to refer throughout to subsequent registration numbers.

(14) Existing law provides for the registration of telephone medical advice services. Existing law imposes requirements for obtaining and maintaining registration, including a requirement that medical advice services be provided by specified licensed, registered, or certified health care professionals.

This bill would expand the specified health care professionals to include naturopathic doctors and licensed professional clinical counselors. The bill would require a service to notify the department of certain business changes, and to submit quarterly reports.

(15) This bill would additionally delete or update obsolete provisions and make conforming or nonsubstantive changes.

(16) This bill would incorporate additional changes to Section 1944 of the Business and Professions Code made by this bill and AB 483 to take effect if both bills are chaptered and this bill is chaptered last.

(17) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

#### **K. AB 192 (ALLEN) – SPECIALIZED LICENSE PLATES**

**CHAPTERED:** 10/5/15

**STATUS:** Approved by Governor 10/5/15. Filed with Secretary of State 10/5/15.

**BOARD POSITION:** Watch/No Position Taken

Existing law establishes a specialized license plate program and requires the Department of Motor Vehicles (DMV) to issue specialized license plates on behalf of a sponsoring state agency that meets certain requirements. Existing law requires that the DMV charge specified additional fees for the issuance, renewal, or transfer of specialized license plates, and requires the DMV to deposit the fees, less the DMV's costs, into the Specialized License Plate Fund. Existing law requires that moneys in the fund be allocated, upon appropriation by the Legislature, to each sponsoring agency in proportion to the amount that is attributable to the agency's specialized license plate program. Existing law authorizes the sponsoring state agency to use these moneys to fund projects and programs that promote the state agency's official policy, mission, or work.

The bill would require the DMV to deposit fees for the issuance, renewal, or transfer of the Pet Lover's specialized license plates, less the DMV's costs, into the Pet Lover's Fund, which the bill would establish in the Specialized License Plate Fund, for the deposit of revenue derived from these specialized license plates. The bill would require that these funds be allocated, upon appropriation by the Legislature, to the Veterinary Medical Board for disbursement by a nonprofit organization selected by the board to fund grants to providers of no-cost or low-cost animal sterilization services. The bill would require the board to determine eligibility requirements for the grants, establish the grant application process, and develop program specifics. The bill would authorize the board to contract with an entity, including a nonprofit organization, to provide advice, consultation, and administrative services for purposes of implementing and administering the grant program. The bill would require the board to provide oversight for the disbursement of grant funds under the grant program.

AMENDED IN SENATE AUGUST 19, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 12**

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**Introduced by Assembly Member Cooley**  
**(Coauthors: Assembly Members Chang, Daly, and Wilk)**  
*(Coauthor: Senator Huff)*

December 1, 2014

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An act to add and repeal Chapter 3.6 (commencing with Section 11366) of Part 1 of Division 3 of Title 2 of the Government Code, relating to state agency regulations.

### LEGISLATIVE COUNSEL'S DIGEST

AB 12, as amended, Cooley. State government: administrative regulations: review.

Existing law authorizes various state entities to adopt, amend, or repeal regulations for various specified purposes. The Administrative Procedure Act requires the Office of Administrative Law and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.

This bill would, until January 1, 2019, require each state agency to, on or before January 1, 2018, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the Legislature and Governor, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 3.6 (commencing with Section 11366) is added to Part 1 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 3.6. REGULATORY REFORM

Article 1. Findings and Declarations

11366. The Legislature finds and declares all of the following:

(a) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500)) requires agencies and the Office of Administrative Law to review regulations to ensure their consistency with law and to consider impacts on the state's economy and businesses, including small businesses.

(b) However, the act does not require agencies to individually review their regulations to identify overlapping, inconsistent, duplicative, or out-of-date regulations that may exist.

(c) At a time when the state's economy is slowly recovering, unemployment and underemployment continue to affect all Californians, especially older workers and younger workers who received college degrees in the last seven years but are still awaiting their first great job, and with state government improving but in need of continued fiscal discipline, it is important that state agencies systematically undertake to identify, publicly review, and eliminate overlapping, inconsistent, duplicative, or out-of-date regulations, both to ensure they more efficiently implement and enforce laws and to reduce unnecessary and outdated rules and regulations.

Article 2. Definitions

11366.1. For the purposes of this chapter, the following definitions shall apply:

(a) "State agency" means a state agency, as defined in Section 11000, except those state agencies or activities described in Section 11340.9.

1 (b) “Regulation” has the same meaning as provided in Section  
2 11342.600.

3  
4 Article 3. State Agency Duties  
5

6 11366.2. On or before January 1, 2018, each state agency shall  
7 do all of the following:

8 (a) Review all provisions of the California Code of Regulations  
9 ~~applicable to, or adopted by,~~ *adopted by* that state agency.

10 (b) Identify any regulations that are duplicative, overlapping,  
11 inconsistent, or out of date.

12 (c) Adopt, amend, or repeal regulations to reconcile or eliminate  
13 any duplication, overlap, inconsistencies, or out-of-date provisions,  
14 and shall comply with the process specified in Article 5  
15 (commencing with Section 11346) of Chapter 3.5, unless the  
16 addition, revision, or deletion is without regulatory effect and may  
17 be done pursuant to Section 100 of Title 1 of the California Code  
18 of Regulations.

19 (d) Hold at least one noticed public hearing, ~~that~~ *which* shall be  
20 noticed on the Internet Web site of the state agency, for the  
21 purposes of accepting public comment on proposed revisions to  
22 its regulations.

23 (e) Notify the appropriate policy and fiscal committees of each  
24 house of the Legislature of the revisions to regulations that the  
25 state agency proposes to make at least 30 days prior to initiating  
26 the process under Article 5 (commencing with Section 11346) of  
27 Chapter 3.5 or Section 100 of Title 1 of the California Code of  
28 Regulations.

29 (g) (1) Report to the Governor and the Legislature on the state  
30 agency’s compliance with this chapter, including the number and  
31 content of regulations the state agency identifies as duplicative,  
32 overlapping, inconsistent, or out of date, and the state agency’s  
33 actions to address those regulations.

34 (2) The report shall be submitted in compliance with Section  
35 9795 of the Government Code.

36 11366.3. (a) On or before January 1, 2018, each agency listed  
37 in Section 12800 shall notify a department, board, or other unit  
38 within that agency of any existing regulations adopted by that  
39 department, board, or other unit that the agency has determined  
40 may be duplicative, overlapping, or inconsistent with a regulation

1 adopted by another department, board, or other unit within that  
2 agency.

3 (b) A department, board, or other unit within an agency shall  
4 notify that agency of revisions to regulations that it proposes to  
5 make at least 90 days prior to a noticed public hearing pursuant to  
6 subdivision (d) of Section 11366.2 and at least 90 days prior to  
7 adoption, amendment, or repeal of the regulations pursuant to  
8 subdivision (c) of Section 11366.2. The agency shall review the  
9 proposed regulations and make recommendations to the  
10 department, board, or other unit within 30 days of receiving the  
11 notification regarding any duplicative, overlapping, or inconsistent  
12 regulation of another department, board, or other unit within the  
13 agency.

14 11366.4. An agency listed in Section 12800 shall notify a state  
15 agency of any existing regulations adopted by that agency that  
16 may duplicate, overlap, or be inconsistent with the state agency's  
17 regulations.

18 11366.45. This chapter shall not be construed to weaken or  
19 undermine in any manner any human health, public or worker  
20 rights, public welfare, environmental, or other protection  
21 established under statute. This chapter shall not be construed to  
22 affect the authority or requirement for an agency to adopt  
23 regulations as provided by statute. Rather, it is the intent of the  
24 Legislature to ensure that state agencies focus more efficiently and  
25 directly on their duties as prescribed by law so as to use scarce  
26 public dollars more efficiently to implement the law, while  
27 achieving equal or improved economic and public benefits.

#### 28 29 Article 4. Chapter Repeal 30

31 11366.5. This chapter shall remain in effect only until January  
32 1, 2019, and as of that date is repealed, unless a later enacted  
33 statute, that is enacted before January 1, 2019, deletes or extends  
34 that date.

AMENDED IN ASSEMBLY APRIL 16, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 750**

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**Introduced by Assembly Member Low**

February 25, 2015

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An act to add Section 463 to the Business and Professions Code, relating to business and professions.

### LEGISLATIVE COUNSEL'S DIGEST

AB 750, as amended, Low. Business and professions: retired category: licenses.

Existing law provides for numerous boards, bureaus, commissions, or programs within the Department of Consumer Affairs that administer the licensing and regulation of various businesses and professions. Existing law authorizes any of the boards, bureaus, commissions, or programs within the department, except as specified, to establish by regulation a system for an inactive category of license for persons who are not actively engaged in the practice of their profession or vocation. Under existing law, the holder of an inactive license is prohibited from engaging in any activity for which a license is required. Existing law defines “board” for these purposes to include, unless expressly provided otherwise, a bureau, commission, committee, department, division, examining committee, program, and agency.

This bill would additionally authorize any of the boards, bureaus, commissions, or programs within the department to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation,

and would prohibit the holder of a retired license from engaging in any activity for which a license is required, unless regulation specifies the criteria for a retired licensee to practice his or her profession. The bill would authorize a board upon its own determination, and would require a board upon receipt of a complaint from any person, to investigate the actions of any licensee, including, among others, a person with a license that is retired or inactive.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 463 is added to the Business and  
2 Professions Code, to read:  
3 463. (a) Any of the boards, bureaus, commissions, or programs  
4 within the department may establish, by regulation, a system for  
5 a retired category of licensure for persons who are not actively  
6 engaged in the practice of their profession or vocation.  
7 (b) The regulation shall contain the following:  
8 (1) The holder of a retired license issued pursuant to this section  
9 shall not engage in any activity for which a license is required,  
10 unless the board, by regulation, specifies the criteria for a retired  
11 licensee to practice his or her profession or vocation.  
12 (2) The holder of a retired license shall not be required to renew  
13 that license.  
14 (3) In order for the holder of a retired license issued pursuant  
15 to this section to restore his or her license to an active status, the  
16 holder of that license shall meet all the following:  
17 (A) Pay a fee established by regulation.  
18 (B) ~~Not have~~ Certify, in a manner satisfactory to the board, that  
19 he or she has not committed an act or crime constituting grounds  
20 for denial of licensure.  
21 (C) Comply with the fingerprint submission requirements  
22 established by regulation.  
23 (D) If the board requires completion of continuing education  
24 for renewal of an active license, complete continuing education  
25 equivalent to that required for renewal of an active license, unless  
26 a different requirement is specified by the board.  
27 (E) Complete any other requirements as specified by the board  
28 by regulation.



1     (c) A board may upon its own determination, and shall upon  
2 receipt of a complaint from any person, investigate the actions of  
3 any licensee, including a person with a license that either restricts  
4 or prohibits the practice of that person in his or her profession or  
5 vocation, including, but not limited to, a license that is retired,  
6 inactive, canceled, revoked, or suspended.

O

**Assembly Bill No. 1060**

\_\_\_\_\_

Passed the Assembly September 10, 2015

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

Passed the Senate September 3, 2015

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add and repeal Chapter 2 (commencing with Section 101990) to Part 6 of Division 101 of the Health and Safety Code, relating to cancer.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1060, Bonilla. Cancer clinical trials.

Existing law establishes the scope and function of the California Health and Human Services Agency, which includes departments charged with administering laws pertaining to public health and social services, among other things. Existing law also establishes the Inclusion of Women and Minorities in Clinical Research Act, which is designed to promote the inclusion of women and minority groups in clinical research, including clinical trials.

This bill, until January 1, 2022, would establish the Cancer Clinical Trials Foundation in the Health and Human Services Agency, to be governed by a board of trustees. Members of the board would be appointed as specified. The bill would also create the Cancer Clinical Trials Fund, to be used to administer a grant program. The bill would limit the amount the agency may spend to establish the foundation to \$300,000 of appropriated funds, to be repaid by January 1, 2021, but would otherwise prohibit General Fund moneys from being used for the foundation. The bill would authorize the board to solicit and receive money, as specified, and would authorize the agency to apply for federal funds for this purpose. The bill would require the board, upon contribution of at least \$500,000 to the fund, to establish the Cancer Clinical Trials Grant Program, in order to increase patient access to cancer clinical trials in specified populations. The bill would require that grant money be used for designated purposes, and would also require grant recipients to report to the board. The bill would require the board to report to the Legislature, as specified. This bill would make related findings.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares the following:

(a) Almost 50 percent of clinical trial studies are not finished in time due to low patient participation, recruitment and navigation difficulties, and other barriers for patients. Due to economic and socioeconomic circumstances and lack of patient knowledge, clinical oncology trial participation and retention are both very low as they relate to eligible participants.

(b) Overall, only 3 percent of eligible cancer patients participate in clinical trials, and of those only 5 percent of trial participants are from racial or ethnic minority communities.

(c) One barrier that prevents patients from participating in federal Food and Drug Administration clinical trials is finances. Patients of low to moderate income are often unable to bear the burden of the ancillary costs of participating, such as airfare, lodging, rental cars, and fuel.

(d) The American Medical Association conducted a study on cancer trial participation. The study found that from 1996 to 2002, of the 75,215 patients enrolled in the National Cancer Institute trials for breast, lung, colorectal, and prostate cancers, only 3.1 percent were Hispanic, 9.2 percent were Black, and 1.9 percent were Asian or Pacific Islanders, while 85.6 percent were White. This lack of diversity is of concern because of its impact on researchers' ability to evaluate the effect of new treatments on different populations. It also speaks to a lack of access to potentially lifesaving trials for a large portion of the population.

(e) It is the intent of the Legislature to establish a program to enable willing patients of low to moderate income to participate in cancer clinical trials in order to boost participation rates, ensure these trials are widely accessible, improve the development of cancer therapies, and enhance innovation.

SEC. 2. Chapter 2 (commencing with Section 101990) is added to Part 6 of Division 101 of the Health and Safety Code, to read:

## CHAPTER 2. CANCER CLINICAL TRIALS

101990. (a) "Board" means the Board of Trustees of the Cancer Clinical Trials Foundation.

(b) "Foundation" means the Cancer Clinical Trials Foundation.

(c) "Fund" means the Cancer Clinical Trials Fund.

101991. (a) The agency shall establish a nonprofit public benefit corporation, to be known as the Cancer Clinical Trials

Foundation, that shall be governed by a board consisting of a total of five members. Three members shall be appointed by the Governor. Of these members, one shall be from a public cancer research institution, and one shall be from a private cancer research institution. One member shall be appointed by the Speaker of the Assembly. One member shall be appointed by the President pro Tempore of the Senate.

(b) All persons appointed to the board shall have an interest in increasing access to cancer clinical trials and the ability and desire to solicit funds for the purpose of increasing access to clinical trials as provided in this chapter.

(c) The Governor shall appoint the president of the board from among those members appointed by the Governor, the Speaker of the Assembly, and the President pro Tempore of the Senate.

(d) The foundation, or an authorized representative thereof, shall apply for tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

(e) Members of the board shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the board.

(f) The foundation shall be subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 2 of the Corporations Code).

(g) The California Health and Human Services Agency shall determine which department in the agency shall administer the foundation.

101992. (a) Of the members of the board first appointed by the Governor pursuant to Section 101991, one member shall be appointed to serve a two-year term, one member shall be appointed to serve a three-year term, and one member shall be appointed to serve a four-year term.

(b) Of the members of the board first appointed by the Speaker of the Assembly and the President pro Tempore of the Senate pursuant to Section 101991, each member shall be appointed to serve a four-year term.

(c) Upon the expiration of the initial appointments for the board, each member shall be appointed to serve a four-year term.

101993. (a) There is hereby created in the State Treasury the Cancer Clinical Trials Fund. Moneys in the fund shall be used for

the administration and support of the program created pursuant to this chapter upon appropriation of the Legislature.

(b) The Cancer Clinical Trials Foundation may solicit and receive funds from business, industry, foundations, and other private and public sources for the purpose of administering the Cancer Clinical Trials Grant Program to increase patient access to cancer clinical trials.

(c) The agency may apply for federal funds for the foundation.

(d) The board shall use no more than 20 percent of funds made available for the Cancer Clinical Trials Grant Program for administrative costs.

101993.5. (a) The agency may not spend more than three hundred thousand dollars (\$300,000) of moneys appropriated to the agency to establish the foundation.

(b) Any money used to establish the foundation shall be paid back to the agency on or before January 1, 2021, from moneys donated to the Cancer Clinical Trials Fund.

(c) After the initial investment authorized by subdivision (a), no General Fund moneys shall be used to operate the foundation.

101994. (a) Upon contribution of at least five hundred thousand dollars (\$500,000) to the foundation, the board shall establish the Cancer Clinical Trials Grant Program to increase patient access to cancer clinical trials in underserved or disadvantaged communities and populations, including among women and patients from racial and ethnic minority communities. The board shall determine the criteria to award grants, and may award grants to either or both of the following:

(1) Public and private research institutions and hospitals that conduct cancer clinical trials approved by the federal Food and Drug Administration.

(2) Nonprofit organizations described in Section 501(c)(3) of the Internal Revenue Code of 1954 that are exempt from income tax under Section 501(a) of that code and that specialize in direct patient support for improved clinical trial enrollment and retention.

(b) Grants awarded pursuant to subdivision (a) shall be used for activities to increase patient access to cancer clinical trials, including, but not limited to, any of the following:

(1) Patient navigator services or programs.

(2) Education and community outreach.

(3) Patient-friendly technical tools to assist patients in identifying available clinical trials.

(4) Translation and interpretation services of clinical trial information.

(5) Counseling services for clinical trial participants.

(6) Well-being services for clinical trial participants, including, but not limited to, physical therapy, pain management, stress management, and nutrition management.

(7) Payment of ancillary costs for patients and caregivers, including, but not limited to:

(A) Airfare during the clinical trial.

(B) Lodging during the clinical trial.

(C) Rental cars during the clinical trial.

(D) Fuel during the clinical trial.

(E) Local transportation via bus, train, or other public transportation during the clinical trial.

(F) Meals during the clinical trial.

(G) Child care costs during the clinical trial.

(c) If the foundation does not receive five hundred thousand dollars (\$500,000) or more by January 1, 2021, moneys remaining after the repayment required pursuant to subdivision (b) of Section 101993.5 shall be returned to the donors on a pro rata basis.

(d) If the grant program is established pursuant to this section, all moneys in the fund shall be awarded by grant prior to the repeal of this chapter.

101995. (a) Grant recipients shall report to the board to ensure the appropriate use of funds within one year of receiving a grant.

(b) (1) The board shall report to the Legislature to ensure the appropriate use of the funds. The report shall include accountability measures, including, but not limited to, a description of how the funds were used, an evaluation of the grant program, and recommendations for the program. This report shall be submitted by January 1, 2020.

(2) The requirement for submitting a report imposed under paragraph (1) is inoperative on January 1, 2024, pursuant to Section 10231.5 of the Government Code.

101996. This chapter shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.





Approved \_\_\_\_\_, 2015

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*Governor*

**Assembly Bill No. 483**

\_\_\_\_\_

Passed the Assembly September 9, 2015

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

Passed the Senate September 8, 2015

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 1724, 1944, 2456.1, 2570.16, 4842.5, 4905, 4970, and 5604 of the Business and Professions Code, relating to healing arts.

## LEGISLATIVE COUNSEL'S DIGEST

AB 483, Patterson. Healing arts: license fees: proration.

Existing law provides for the regulation and licensure of various professions and vocations by boards within the Department of Consumer Affairs. Existing law establishes fees for initial licenses, initial temporary and permanent licenses, and original licenses for those various professions and vocations. Existing law requires that licenses issued to certain licensees, including, among others, architects, acupuncturists, dental hygienists, dentists, occupational therapists, osteopathic physicians and surgeons, registered veterinary technicians, and veterinarians, expire at 12 a.m. on either the last day of the birth month of the licensee or at 12 a.m. of the legal birth date of the licensee during the 2nd year of a 2-year term, if not renewed.

This bill would, commencing July 1, 2017, require that the fees imposed on these licensees for an initial license or an original license be prorated on a monthly basis. The bill would, commencing July 1, 2017, require that the fee assessed an osteopathic physician and surgeon for license renewal be prorated on a monthly basis.

This bill would incorporate additional changes in Section 1724 of the Business and Professions Code, proposed by Assembly Bill 179, that would become operative only if this bill and Assembly Bill 179 are chaptered and become effective January 1, 2016, and this bill is chaptered last.

This bill would incorporate additional changes in Section 1944 of the Business and Professions Code, proposed by Senate Bill 800, that would become operative only if this bill and Senate Bill 800 are chaptered and become effective January 1, 2016, and this bill is chaptered last.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1724 of the Business and Professions Code is amended to read:

1724. The amount of charges and fees for dentists licensed pursuant to this chapter shall be established by the board as is necessary for the purpose of carrying out the responsibilities required by this chapter as it relates to dentists, subject to the following limitations:

(a) The fee for application for examination shall not exceed five hundred dollars (\$500).

(b) The fee for application for reexamination shall not exceed one hundred dollars (\$100).

(c) The fee for examination and for reexamination shall not exceed eight hundred dollars (\$800). Applicants who are found to be ineligible to take the examination shall be entitled to a refund in an amount fixed by the board.

(d) The fee for an initial license and for the renewal of a license is five hundred twenty-five dollars (\$525). Commencing July 1, 2017, the fee for an initial license shall be prorated on a monthly basis.

(e) The fee for a special permit shall not exceed three hundred dollars (\$300), and the renewal fee for a special permit shall not exceed one hundred dollars (\$100).

(f) The delinquency fee shall be the amount prescribed by Section 163.5.

(g) The penalty for late registration of change of place of practice shall not exceed seventy-five dollars (\$75).

(h) The application fee for permission to conduct an additional place of practice shall not exceed two hundred dollars (\$200).

(i) The renewal fee for an additional place of practice shall not exceed one hundred dollars (\$100).

(j) The fee for issuance of a substitute certificate shall not exceed one hundred twenty-five dollars (\$125).

(k) The fee for a provider of continuing education shall not exceed two hundred fifty dollars (\$250) per year.

(l) The fee for application for a referral service permit and for renewal of that permit shall not exceed twenty-five dollars (\$25).

(m) The fee for application for an extramural facility permit and for the renewal of a permit shall not exceed twenty-five dollars (\$25).

The board shall report to the appropriate fiscal committees of each house of the Legislature whenever the board increases any fee pursuant to this section and shall specify the rationale and justification for that increase.

SEC. 1.5. Section 1724 of the Business and Professions Code is amended to read:

1724. The amount of charges and fees for dentists licensed pursuant to this chapter shall be established by the board as is necessary for the purpose of carrying out the responsibilities required by this chapter as it relates to dentists, subject to the following limitations:

(a) The fee for an application for licensure qualifying pursuant to paragraph (1) of subdivision (c) of Section 1632 shall not exceed one thousand five hundred dollars (\$1,500). The fee for an application for licensure qualifying pursuant to paragraph (2) of subdivision (c) of Section 1632 shall not exceed one thousand dollars (\$1,000).

(b) The fee for an application for licensure qualifying pursuant to Section 1634.1 shall not exceed one thousand dollars (\$1,000).

(c) The fee for an application for licensure qualifying pursuant to Section 1635.5 shall not exceed one thousand dollars (\$1,000).

(d) The fee for an initial license and for the renewal of a license is five hundred twenty-five dollars (\$525). On and after January 1, 2016, the fee for an initial license shall not exceed six hundred fifty dollars (\$650), and the fee for the renewal of a license shall not exceed six hundred fifty dollars (\$650). On and after January 1, 2018, the fee for an initial license shall not exceed eight hundred dollars (\$800), and the fee for the renewal of a license shall not exceed eight hundred dollars (\$800). Commencing July 1, 2017, the fee for an initial license shall be prorated on a monthly basis.

(e) The fee for an application for a special permit shall not exceed one thousand dollars (\$1,000), and the renewal fee for a special permit shall not exceed six hundred dollars (\$600).

(f) The delinquency fee shall be 50 percent of the renewal fee for such a license or permit in effect on the date of the renewal of the license or permit.

(g) The penalty for late registration of change of place of practice shall not exceed seventy-five dollars (\$75).

(h) The fee for an application for an additional office permit shall not exceed seven hundred fifty dollars (\$750), and the fee for the renewal of an additional office permit shall not exceed three hundred seventy-five dollars (\$375).

(i) The fee for issuance of a replacement pocket license, replacement wall certificate, or replacement engraved certificate shall not exceed one hundred twenty-five dollars (\$125).

(j) The fee for a provider of continuing education shall not exceed five hundred dollars (\$500) per year.

(k) The fee for application for a referral service permit and for renewal of that permit shall not exceed twenty-five dollars (\$25).

(l) The fee for application for an extramural facility permit and for the renewal of a permit shall not exceed twenty-five dollars (\$25).

(m) The fee for an application for an elective facial cosmetic surgery permit shall not exceed four thousand dollars (\$4,000), and the fee for the renewal of an elective facial cosmetic surgery permit shall not exceed eight hundred dollars (\$800).

(n) The fee for an application for an oral and maxillofacial surgery permit shall not exceed one thousand dollars (\$1,000), and the fee for the renewal of an oral and maxillofacial surgery permit shall not exceed one thousand two hundred dollars (\$1,200).

(o) The fee for an application for a general anesthesia permit shall not exceed one thousand dollars (\$1,000), and the fee for the renewal of a general anesthesia permit shall not exceed six hundred dollars (\$600).

(p) The fee for an onsite inspection and evaluation related to a general anesthesia or conscious sedation permit shall not exceed four thousand five hundred dollars (\$4,500).

(q) The fee for an application for a conscious sedation permit shall not exceed one thousand dollars (\$1,000), and the fee for the renewal of a conscious sedation permit shall not exceed six hundred dollars (\$600).

(r) The fee for an application for an oral conscious sedation permit shall not exceed one thousand dollars (\$1,000), and the fee for the renewal of an oral conscious sedation permit shall not exceed six hundred dollars (\$600).

(s) The fee for a certification of licensure shall not exceed one hundred twenty-five dollars (\$125).

(t) The fee for an application for the law and ethics examination shall not exceed two hundred fifty dollars (\$250).

The board shall report to the appropriate fiscal committees of each house of the Legislature whenever the board increases any fee pursuant to this section and shall specify the rationale and justification for that increase.

SEC. 2. Section 1944 of the Business and Professions Code is amended to read:

1944. (a) The committee shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions. The fees established by board resolution in effect on June 30, 2009, as they relate to the licensure of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions, shall remain in effect until modified by the committee. The fees are subject to the following limitations:

(1) The application fee for an original license and the fee for the issuance of an original license shall not exceed two hundred fifty dollars (\$250). Commencing July 1, 2017, the fee for the issuance of an original license shall be prorated on a monthly basis.

(2) The fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(3) For third- and fourth-year dental students, the fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(4) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed the actual cost of the examination.

(5) The fee for examination for licensure as a registered dental hygienist in alternative practice shall not exceed the actual cost of administering the examination.

(6) The biennial renewal fee shall not exceed one hundred sixty dollars (\$160).

(7) The delinquency fee shall not exceed one-half of the renewal fee. Any delinquent license may be restored only upon payment

of all fees, including the delinquency fee, and compliance with all other applicable requirements of this article.

(8) The fee for issuance of a duplicate license to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars (\$25) or one-half of the renewal fee, whichever is greater.

(9) The fee for certification of licensure shall not exceed one-half of the renewal fee.

(10) The fee for each curriculum review and site evaluation for educational programs for dental hygienists who are not accredited by a committee-approved agency shall not exceed two thousand one hundred dollars (\$2,100).

(11) The fee for each review or approval of course requirements for licensure or procedures that require additional training shall not exceed seven hundred fifty dollars (\$750).

(12) The initial application and biennial fee for a provider of continuing education shall not exceed five hundred dollars (\$500).

(13) The amount of fees payable in connection with permits issued under Section 1962 is as follows:

(A) The initial permit fee is an amount equal to the renewal fee for the applicant's license to practice dental hygiene in effect on the last regular renewal date before the date on which the permit is issued.

(B) If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued.

(b) The renewal and delinquency fees shall be fixed by the committee by resolution at not more than the current amount of the renewal fee for a license to practice under this article nor less than five dollars (\$5).

(c) Fees fixed by the committee by resolution pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(d) Fees collected pursuant to this section shall be collected by the committee and deposited into the State Dental Hygiene Fund, which is hereby created. All money in this fund shall, upon appropriation by the Legislature in the annual Budget Act, be used to implement this article.



(e) No fees or charges other than those listed in this section shall be levied by the committee in connection with the licensure of registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.

(f) The fee for registration of an extramural dental facility shall not exceed two hundred fifty dollars (\$250).

(g) The fee for registration of a mobile dental hygiene unit shall not exceed one hundred fifty dollars (\$150).

(h) The biennial renewal fee for a mobile dental hygiene unit shall not exceed two hundred fifty dollars (\$250).

(i) The fee for an additional office permit shall not exceed two hundred fifty dollars (\$250).

(j) The biennial renewal fee for an additional office as described in Section 1926.4 shall not exceed two hundred fifty dollars (\$250).

(k) The initial application and biennial special permit fee is an amount equal to the biennial renewal fee specified in paragraph (6) of subdivision (a).

(l) The fees in this section shall not exceed an amount sufficient to cover the reasonable regulatory cost of carrying out this article.

SEC. 2.5. Section 1944 of the Business and Professions Code is amended to read:

1944. (a) The committee shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions. The fees established by board resolution in effect on June 30, 2009, as they relate to the licensure of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions, shall remain in effect until modified by the committee. The fees are subject to the following limitations:

(1) The application fee for an original license and the fee for the issuance of an original license shall not exceed two hundred fifty dollars (\$250). Commencing July 1, 2017, the fee for the issuance of an original license shall be prorated on a monthly basis.

(2) The fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(3) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed the actual cost of the examination.

(4) The fee for examination for licensure as a registered dental hygienist in alternative practice shall not exceed the actual cost of administering the examination.

(5) The biennial renewal fee shall not exceed one hundred sixty dollars (\$160).

(6) The delinquency fee shall not exceed one-half of the renewal fee. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee, and compliance with all other applicable requirements of this article.

(7) The fee for issuance of a duplicate license to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars (\$25) or one-half of the renewal fee, whichever is greater.

(8) The fee for certification of licensure shall not exceed one-half of the renewal fee.

(9) The fee for each curriculum review, feasibility study review, and site evaluation for educational programs for dental hygienists who are not accredited by a committee-approved agency shall not exceed two thousand one hundred dollars (\$2,100).

(10) The fee for each review or approval of course requirements for licensure or procedures that require additional training shall not exceed seven hundred fifty dollars (\$750).

(11) The initial application and biennial fee for a provider of continuing education shall not exceed five hundred dollars (\$500).

(12) The amount of fees payable in connection with permits issued under Section 1962 is as follows:

(A) The initial permit fee is an amount equal to the renewal fee for the applicant's license to practice dental hygiene in effect on the last regular renewal date before the date on which the permit is issued.

(B) If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued.

(b) The renewal and delinquency fees shall be fixed by the committee by resolution at not more than the current amount of

the renewal fee for a license to practice under this article nor less than five dollars (\$5).

(c) Fees fixed by the committee by resolution pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(d) Fees collected pursuant to this section shall be collected by the committee and deposited into the State Dental Hygiene Fund, which is hereby created. All money in this fund shall, upon appropriation by the Legislature in the annual Budget Act, be used to implement this article.

(e) No fees or charges other than those listed in this section shall be levied by the committee in connection with the licensure of registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.

(f) The fee for registration of an extramural dental facility shall not exceed two hundred fifty dollars (\$250).

(g) The fee for registration of a mobile dental hygiene unit shall not exceed one hundred fifty dollars (\$150).

(h) The biennial renewal fee for a mobile dental hygiene unit shall not exceed two hundred fifty dollars (\$250).

(i) The fee for an additional office permit shall not exceed two hundred fifty dollars (\$250).

(j) The biennial renewal fee for an additional office as described in Section 1926.4 shall not exceed two hundred fifty dollars (\$250).

(k) The initial application and biennial special permit fee is an amount equal to the biennial renewal fee specified in paragraph (6) of subdivision (a).

(l) The fees in this section shall not exceed an amount sufficient to cover the reasonable regulatory cost of carrying out this article.

SEC. 3. Section 2456.1 of the Business and Professions Code is amended to read:

2456.1. (a) All osteopathic physician's and surgeon's certificates shall expire at 12 midnight on the last day of the birth month of the licensee during the second year of a two-year term if not renewed on or before that day.

(b) The board shall establish by regulation procedures for the administration of a birth date renewal program, including, but not limited to, the establishment of a system of staggered license

expiration dates such that a relatively equal number of licenses expire monthly.

(c) To renew an unexpired license, the licensee shall, on or before the dates on which it would otherwise expire, apply for renewal on a form prescribed by the board and pay the prescribed renewal fee.

(d) Commencing July 1, 2017, the fee assessed pursuant to this section shall be prorated on a monthly basis.

SEC. 4. Section 2570.16 of the Business and Professions Code is amended to read:

2570.16. Initial license and renewal fees shall be established by the board in an amount that does not exceed a ceiling of one hundred fifty dollars (\$150) per year. Commencing July 1, 2017, the initial license fee shall be prorated on a monthly basis. The board shall establish the following additional fees:

- (a) An application fee not to exceed fifty dollars (\$50).
- (b) A late renewal fee as provided for in Section 2570.10.
- (c) A limited permit fee.
- (d) A fee to collect fingerprints for criminal history record checks.

SEC. 5. Section 4842.5 of the Business and Professions Code is amended to read:

4842.5. The amount of fees prescribed by this article is fixed by the following schedule:

(a) The fee for filing an application for examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purposes of this chapter, not to exceed three hundred fifty dollars (\$350).

(b) The fee for the California registered veterinary technician examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purposes of this chapter, not to exceed three hundred dollars (\$300).

(c) The initial registration fee shall be set by the board at not more than three hundred fifty dollars (\$350), except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be set by the board at not more than one hundred seventy-five dollars (\$175). Commencing July 1, 2017, the initial registration fee shall be set by the board at not more than three hundred fifty dollars (\$350) and shall be prorated on a monthly basis. The board may adopt regulations to provide for the

waiver or refund of the initial registration fee when the registration is issued less than 45 days before the date on which it will expire.

(d) The biennial renewal fee shall be set by the board at not more than three hundred fifty dollars (\$350).

(e) The delinquency fee shall be set by the board at not more than fifty dollars (\$50).

(f) Any charge made for duplication or other services shall be set at the cost of rendering the services.

(g) The fee for filing an application for approval of a school or institution offering a curriculum for training registered veterinary technicians pursuant to Section 4843 shall be set by the board at an amount not to exceed three hundred dollars (\$300). The school or institution shall also pay for the actual costs of an onsite inspection conducted by the board pursuant to Section 2065.6 of Title 16 of the California Code of Regulations, including, but not limited to, the travel, food, and lodging expenses incurred by an inspection team sent by the board.

(h) The fee for failure to report a change in the mailing address is twenty-five dollars (\$25).

SEC. 6. Section 4905 of the Business and Professions Code is amended to read:

4905. The following fees shall be collected by the board and shall be credited to the Veterinary Medical Board Contingent Fund:

(a) The fee for filing an application for examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed three hundred fifty dollars (\$350).

(b) The fee for the California state board examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed three hundred fifty dollars (\$350).

(c) The fee for the Veterinary Medicine Practice Act examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed one hundred dollars (\$100).

(d) The initial license fee shall be set by the board not to exceed five hundred dollars (\$500) except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be set by the board at not to exceed two hundred fifty dollars (\$250). Commencing July 1, 2017, the initial license fee shall be

set by the board not to exceed five hundred dollars (\$500) and shall be prorated on a monthly basis. The board, by appropriate regulation, may provide for the waiver or refund of the initial license fee when the license is issued less than 45 days before the date on which it will expire.

(e) The renewal fee shall be set by the board for each biennial renewal period in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed five hundred dollars (\$500).

(f) The temporary license fee shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed two hundred fifty dollars (\$250).

(g) The delinquency fee shall be set by the board, not to exceed fifty dollars (\$50).

(h) The fee for issuance of a duplicate license is twenty-five dollars (\$25).

(i) Any charge made for duplication or other services shall be set at the cost of rendering the service, except as specified in subdivision (h).

(j) The fee for failure to report a change in the mailing address is twenty-five dollars (\$25).

(k) The initial and annual renewal fees for registration of veterinary premises shall be set by the board in an amount not to exceed four hundred dollars (\$400) annually.

(l) If the money transferred from the Veterinary Medical Board Contingent Fund to the General Fund pursuant to the Budget Act of 1991 is redeposited into the Veterinary Medical Board Contingent Fund, the fees assessed by the board shall be reduced correspondingly. However, the reduction shall not be so great as to cause the Veterinary Medical Board Contingent Fund to have a reserve of less than three months of annual authorized board expenditures. The fees set by the board shall not result in a Veterinary Medical Board Contingent Fund reserve of more than 10 months of annual authorized board expenditures.

SEC. 7. Section 4970 of the Business and Professions Code is amended to read:

4970. The amount of fees prescribed for licensed acupuncturists shall be those set forth in this section unless a lower fee is fixed by the board in accordance with Section 4972.

- (a) The application fee shall be seventy-five dollars (\$75).
- (b) The examination and reexamination fees shall be the actual cost to the Acupuncture Board for the development and writing of, grading, and administering of each examination.
- (c) The initial license fee shall be three hundred twenty-five dollars (\$325), except that if the license will expire less than one year after its issuance, then the initial license fee shall be an amount equal to 50 percent of the initial license fee. Commencing July 1, 2017, the initial license fee shall be three hundred twenty-five dollars (\$325) and shall be prorated on a monthly basis.
- (d) The renewal fee shall be three hundred twenty-five dollars (\$325) and in the event a lower fee is fixed by the board, shall be an amount sufficient to support the functions of the board in the administration of this chapter. The renewal fee shall be assessed on an annual basis until January 1, 1996, and on and after that date the board shall assess the renewal fee biennially.
- (e) The delinquency fee shall be set in accordance with Section 163.5.
- (f) The application fee for the approval of a school or college under Section 4939 shall be three thousand dollars (\$3,000). This subdivision shall become inoperative on January 1, 2017.
- (g) The duplicate wall license fee is an amount equal to the cost to the board for the issuance of the duplicate license.
- (h) The duplicate renewal receipt fee is ten dollars (\$10).
- (i) The endorsement fee is ten dollars (\$10).
- (j) The fee for a duplicate license for an additional office location as required under Section 4961 shall be fifteen dollars (\$15).

SEC. 8. Section 5604 of the Business and Professions Code is amended to read:

5604. The fees prescribed by this chapter for architect applicants or architect licenseholders shall be fixed by the board as follows:

- (a) The application fee for reviewing a candidate's eligibility to take any section of the examination shall not exceed one hundred dollars (\$100).
- (b) The fee for any section of the examination administered by the board shall not exceed one hundred dollars (\$100).
- (c) The fee for an original license at an amount equal to the renewal fee in effect at the time the license is issued, except that,

if the license is issued less than one year before the date on which it will expire, then the fee shall be fixed at an amount equal to 50 percent of the renewal fee in effect at the time the license is issued. Commencing July 1, 2017, the fee for an original license at an amount equal to the renewal fee in effect at the time the license is issued and the fee for an original license shall be prorated on a monthly basis. The board, by appropriate regulation, may provide for the waiver or refund of the fee for an original license if the license is issued less than 45 days before the date on which it will expire.

(d) The fee for an application for reciprocity shall not exceed one hundred dollars (\$100).

(e) The fee for a duplicate license shall not exceed twenty-five dollars (\$25).

(f) The renewal fee shall not exceed four hundred dollars (\$400).

(g) The delinquency fee shall not exceed 50 percent of the renewal fee.

(h) The fee for a retired license shall not exceed the fee prescribed in subdivision (c).

SEC. 9. Section 1.5 of this bill incorporates amendments to Section 1724 of the Business and Professions Code proposed by both this bill and Assembly Bill 179. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2016, (2) each bill amends Section 1724 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 179, in which case Section 1 of this bill shall not become operative.

SEC. 10. Section 2.5 of this bill incorporates amendments to Section 1944 of the Business and Professions Code proposed by both this bill and Senate Bill 800. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2016, (2) each bill amends Section 1944 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 800, in which case Section 2 of this bill shall not become operative.



Approved \_\_\_\_\_, 2015

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*Governor*

**Assembly Bill No. 316**

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Passed the Assembly September 3, 2015

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*Chief Clerk of the Assembly*

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Passed the Senate September 2, 2015

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 4830 of the Business and Professions Code, relating to veterinarians.

## LEGISLATIVE COUNSEL'S DIGEST

AB 316, Maienschein. Veterinarians: cruelty incidents.

Under existing law, the Veterinary Medicine Practice Act, the Veterinary Medical Board licenses and regulates veterinarians and the practice of veterinary medicine. It is unlawful for any person to practice veterinary medicine in this state unless he or she holds a valid, unexpired, and unrevoked license issued by the board, except under specified circumstances, including when regularly licensed veterinarians are actually called from other states to attend cases in this state and do not open an office or appoint a place to do business within the state.

This bill would further specify, for purposes of that provision, that a regularly licensed veterinarian in good standing who is called from another state by a law enforcement agency or animal control agency to attend to cases that are a part of an investigation of an alleged violation of federal or state animal fighting or animal cruelty laws within a single geographic location shall be exempt from specified licensing requirements if the agency determines that it is necessary to call the veterinarian in order to conduct the investigation, as specified. The bill would require an agency, department, or officer that calls a veterinarian pursuant to these provisions to notify the board of the investigation. The bill would also authorize a veterinarian who is called from another state to care for animals that are affected by an investigation with a temporary shelter facility established only for the purpose of the investigation, which would be exempt from specified registration requirements if it meets specified conditions.

*The people of the State of California do enact as follows:*

SECTION 1. Section 4830 of the Business and Professions Code is amended to read:

4830. (a) This chapter does not apply to:

(1) Veterinarians while serving in any armed branch of the military service of the United States or the United States Department of Agriculture while actually engaged and employed in their official capacity.

(2) Regularly licensed veterinarians in actual consultation from other states.

(3) Regularly licensed veterinarians actually called from other states to attend cases in this state, but who do not open an office or appoint a place to do business within this state.

(4) Veterinarians employed by the University of California while engaged in the performance of duties in connection with the College of Agriculture, the Agricultural Experiment Station, the School of Veterinary Medicine, or the agricultural extension work of the university or employed by the Western University of Health Sciences while engaged in the performance of duties in connection with the College of Veterinary Medicine or the agricultural extension work of the university.

(5) Students in the School of Veterinary Medicine of the University of California or the College of Veterinary Medicine of the Western University of Health Sciences who participate in diagnosis and treatment as part of their educational experience, including those in off-campus educational programs under the direct supervision of a licensed veterinarian in good standing, as defined in paragraph (1) of subdivision (b) of Section 4848, appointed by the University of California, Davis, or the Western University of Health Sciences.

(6) A veterinarian who is employed by the Meat and Poultry Inspection Branch of the California Department of Food and Agriculture while actually engaged and employed in his or her official capacity. A person exempt under this paragraph shall not otherwise engage in the practice of veterinary medicine unless he or she is issued a license by the board.

(7) Unlicensed personnel employed by the Department of Food and Agriculture or the United States Department of Agriculture when in the course of their duties they are directed by a veterinarian supervisor to conduct an examination, obtain biological specimens, apply biological tests, or administer medications or biological products as part of government disease or condition monitoring, investigation, control, or eradication activities.

(b) (1) For purposes of paragraph (3) of subdivision (a), a regularly licensed veterinarian in good standing who is called from another state by a law enforcement agency or animal control agency, as defined in Section 31606 of the Food and Agricultural Code, to attend to cases that are a part of an investigation of an alleged violation of federal or state animal fighting or animal cruelty laws within a single geographic location shall be exempt from the licensing requirements of this chapter if the law enforcement agency or animal control agency determines that it is necessary to call the veterinarian in order for the agency or officer to conduct the investigation in a timely, efficient, and effective manner. In determining whether it is necessary to call a veterinarian from another state, consideration shall be given to the availability of veterinarians in this state to attend to these cases. An agency, department, or officer that calls a veterinarian pursuant to this subdivision shall notify the board of the investigation.

(2) Notwithstanding any other provision of this chapter, a regularly licensed veterinarian in good standing who is called from another state to attend to cases that are a part of an investigation described in paragraph (1) may provide veterinary medical care for animals that are affected by the investigation with a temporary shelter facility, and the temporary shelter facility shall be exempt from the registration requirement of Section 4853 if all of the following conditions are met:

(A) The temporary shelter facility is established only for the purpose of the investigation.

(B) The temporary shelter facility provides veterinary medical care, shelter, food, and water only to animals that are affected by the investigation.

(C) The temporary shelter facility complies with Section 4854.

(D) The temporary shelter facility exists for not more than 60 days, unless the law enforcement agency or animal control agency determines that a longer period of time is necessary to complete the investigation.

(E) Within 30 calendar days upon completion of the provision of veterinary health care services at a temporary shelter facility established pursuant to this section, the veterinarian called from another state by a law enforcement agency or animal control agency to attend to a case shall file a report with the board. The report shall contain the date, place, type, and general description of the

care provided, along with a listing of the veterinary health care practitioners who participated in providing that care.

(c) For purposes of paragraph (3) of subdivision (a), the board may inspect temporary facilities established pursuant to this section.







Approved \_\_\_\_\_, 2015

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*Governor*

**Veterinary Medical Board**

1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834  
Telephone: 916-515-5220 Fax: 916-928-6849 | [www.vmb.ca.gov](http://www.vmb.ca.gov)



August 14, 2015

Honorable Ricardo Lara, Chair  
Senate Appropriations Committee  
State Capitol, Room 5050  
Sacramento, CA 95814

**Re: AB 316- Maienschein: Veterinarians**

Dear Senator Lara:

The California Veterinary Medical Board has reviewed the amendments to AB 316 as of June 30, 2015, and remains concerned regarding the proposed licensing exemptions for veterinarians called from another state to attend to cases that are part of an investigation of animal fighting or animal cruelty. Furthermore, the Board is opposed to exempting temporary shelters established for the purpose of treating animals affected by the investigation from registration and inspection by the Board.

The California Veterinary Medical Board's primary mission is protection of consumers and animals through promotion of professional standards and diligent enforcement of the California Veterinary Medicine Practice Act. Individuals practicing veterinary medicine in California must meet entry level licensing qualifications which have been established to ensure a level of professional competency that mitigates risk to animals receiving veterinary care. California's licensing requirements include California specific examinations which cover topics on state laws and regulations, vaccination protocols, and diseases associated with the California's environment just to name a few. Veterinarians licensed in other states are not required to have knowledge of California specific protocols and environmental factors.

While the Board has engaged in on-going discussions with the author's office and the sponsor, there has been no evidence to support or justify the need for such an exemption. Greater than 10% of the entire veterinary profession in the country is licensed in California, and to the Board's knowledge, there has not been an issue accessing forensic veterinarians in the state to provide the support and expertise to law enforcement in criminal proceedings. Such exemptions should only be pursued if the needs cannot be met by California licensees. AB 316 indicates that consideration shall be given to the veterinarians in the state, but the bill does not include how such availability would be determined.

Finally, the amendments to AB 316 include a new approval process for veterinarians who wish to provide the forensic veterinary expertise, but do not possess a California license. Introducing a new approval process which would require some form of a background investigation of the practitioner by Board staff, places an additional workload on staff and would require programming of the Board's licensing database. It is unknown how many individuals would seek Board approval, but initial speculation is that a very small number of veterinarians would apply thus, the anticipated program changes including promulgating regulations appears to be an unjustified expenditure of resources.

For the reasons identified above, the California Veterinary Medical Board remains opposed AB 316.

Sincerely,

Mark Nunez, DVM, President  
Veterinary Medical Board

Cc: Bill Gage Chief Consultant, Senate Business, Professions and Economic Development  
Committee  
Ryan Arnold, DCA Legislative Unit, Department of Consumer Affairs  
Valerie Fenstermaker, California Veterinary Medical Association  
Kevin O'Neil, ASPCA Lobbyist

**Assembly Bill No. 317**

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Passed the Assembly September 2, 2015

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*Chief Clerk of the Assembly*

\_\_\_\_\_

Passed the Senate September 1, 2015

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add Section 900.1 to the Business and Professions Code, relating to veterinary medicine.

## LEGISLATIVE COUNSEL'S DIGEST

AB 317, Maienschein. Veterinary medicine: temporary shelter.

Under existing law, the Veterinary Medical Board licenses and regulates veterinarians and the practice of veterinary medicine. It is unlawful for any person to practice veterinary medicine in this state unless he or she holds a valid, unexpired, and unrevoked license issued by the board, except under specified circumstances.

Existing law requires the registration of all premises where veterinary medicine, veterinary dentistry, or veterinary surgery is being practiced. Existing law also requires these premises, and all instruments, apparatus, and apparel used in connection with those practices, to be kept clean and sanitary at all times, and to conform to those minimum standards established by the board. Existing law makes it a misdemeanor to violate these provisions regulating the practice of veterinary medicine.

This bill would exempt from the premises registration requirements a temporary shelter that is established to provide care and shelter to animals displaced by a state of emergency, if specified requirements are met, and would authorize the Veterinary Medical Board to inspect a temporary shelter. The bill would require, within 30 calendar days after the temporary shelter ceases operations, the party responsible for the temporary shelter to file a report with the board containing specific information.

*The people of the State of California do enact as follows:*

SECTION 1. Section 900.1 is added to the Business and Professions Code, to read:

900.1. (a) Notwithstanding any other law, a temporary shelter shall be exempt from the premises registration requirements of Chapter 11 (commencing with Section 4800) if all of the following requirements are met:

(1) The temporary shelter is established to provide care and shelter to animals displaced by a state of emergency, as defined in subdivision (b) of Section 8558 of the Government Code, only provides care and shelter to those animals, and, if possible, is located near an American Red Cross shelter, or other equivalent shelter, that houses persons displaced by the state of emergency.

(2) The temporary shelter is operated by either of the following:

(A) A veterinary health care practitioner licensed or certified by, and in good standing in, another state, district, or territory of the United States, who is deployed to this state pursuant to Section 900.

(B) A veterinary health care practitioner licensed or certified by, and in good standing in, this state, who responds to a state of emergency, as defined in subdivision (b) of Section 8558 of the Government Code.

(3) The temporary shelter complies with Section 4854.

(4) The temporary shelter does not operate beyond a 60-calendar-day period per state of emergency.

(5) The temporary shelter is deployed in a manner that is consistent with the sheltering guidelines established by the California Animal Response Emergency System (CARES).

(b) Within 30 calendar days after a temporary shelter exempt from premises registration requirements pursuant to this section ceases operations, the party responsible for the temporary shelter shall file a report with the Veterinary Medical Board containing the date, place, type, and general description of the care provided at the shelter, and a listing of the veterinary health care practitioners who participated in providing that care.

(c) The Veterinary Medical Board may inspect a temporary shelter established pursuant to this section.

Approved \_\_\_\_\_, 2015

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*Governor*

**Veterinary Medical Board**

1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834  
Telephone: 916-515-5220 Fax: 916-928-6849 | [www.vmb.ca.gov](http://www.vmb.ca.gov)



August 14, 2015

Honorable Ricardo Lara, Chair  
Senate Appropriations Committee  
State Capitol, Room 5050  
Sacramento, CA 95814

**Re: AB 317- Maienschein: Health Care Professionals**

Dear Senator Lara:

After careful consideration of the amendments to AB 317, including further discussions with the sponsor, the California Veterinary Medical Board remains opposed to exempting veterinary facilities from registration and inspection by the Board.

The California Veterinary Medical Board's primary mission is protection of consumers and animals through promotion of professional standards and diligent enforcement of the California Veterinary Medicine Practice Act. AB 317 restricts the Board's ability to ensure that any organization entering California to provide veterinary care during a declared emergency is qualified to do so by meeting even the basic minimum facility standards. Business and Professions Code Section 4854 mandates that all premises where veterinary medicine is being practiced, including all instruments and apparel, shall be kept clean and sanitary at all times and shall conform to the Board's established minimum standards as defined extensively in California Code of Regulations Sections 2030-2032.5. Exempting a facility from registration and further inspection by the Board, potentially exposes animals and the public to unsanitary conditions where serious harm may come to the very animals the temporary shelter is designed to protect.

As documented by the California Veterinary Medical Association (CVMA) in a letter to you on August 10, 2015, California has an integrated emergency response program where veterinary professionals are trained to respond to animal welfare needs during a disaster by working in conjunction with the California Animal Response Emergency System (CARES). Given the aforementioned programs, and the fact that California licenses greater than 10% of the entire veterinary profession in the country, the necessity for exempting temporary facilities and relying on out-of-state veterinarians to provide veterinary care has not been established by the sponsor of AB 317.

Finally, AB 317 would seriously limit the Board's enforcement ability to respond to an adverse situation if a temporary shelter failed to provide safe and efficacious veterinary care. Business and Professions Code Section 4809.5 (*SB 304 Amended Stats 2013*), clearly restricts the Board's inspection authority to only those premises that are registered with the Board. As such, there would be little to no recourse through the state should an animal be injured or harmed at an unregistered shelter.



The California Veterinary Medical Board appreciates and shares Assemblyman Maienschein's and the sponsor's interest in planning for the needs of animals during emergencies, however, for the reasons stated above the Board must continue to oppose AB 317.

Sincerely,

Mark Nunez, DVM, President  
Veterinary Medical Board

Cc: Bill Gage Chief Consultant, Senate Business, Professions and Economic Development  
Committee  
Ryan Arnold, DCA Legislative Unit, Department of Consumer Affairs  
Valerie Fenstermaker, California Veterinary Medical Association  
Kevin O'Neil, ASPCA Lobbyist

**Senate Bill No. 27**

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Passed the Senate September 11, 2015

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*Secretary of the Senate*

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Passed the Assembly September 11, 2015

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add Chapter 4.5 (commencing with Section 14400) to Division 7 of the Food and Agricultural Code, relating to livestock.

## LEGISLATIVE COUNSEL'S DIGEST

SB 27, Hill. Livestock: use of antimicrobial drugs.

(1) Existing law regulates the distribution and use of livestock drugs, as defined, by the Secretary of Food and Agriculture. Existing law also requires a person to obtain a license from the secretary to manufacture, sell, distribute, or store commercial feed, including commercial feed containing drugs.

This bill would, beginning January 1, 2018, prohibit the administration of medically important antimicrobial drugs, as defined, to livestock unless ordered by a licensed veterinarian through a prescription or veterinary feed directive pursuant to a veterinarian-client-patient relationship, as specified, and would prohibit the administration of a medically important antimicrobial drug to livestock solely for purposes of promoting weight gain or improving feed efficiency. The bill would require the Department of Food and Agriculture, in consultation with the Veterinary Medical Board, the State Department of Public Health, universities, and cooperative extensions, to develop antimicrobial stewardship guidelines and best management practices on the proper use of medically important antimicrobial drugs and would require the department to gather information on medically important antimicrobial drug sales and usage, antimicrobial resistant bacteria, and livestock management practice data. The bill would require information provided pursuant to those provisions to be held confidential, as specified. The bill would authorize the department to request and receive copies of veterinary feed directives from certain persons to implement the bill's provisions. The bill would make a first violation of the bill's provisions subject to a civil penalty of up to \$250 for each day a violation occurs, and would make second and subsequent violations subject to an administrative fine of \$500 for each day a violation occurs, except as specified.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 4.5 (commencing with Section 14400) is added to Division 7 of the Food and Agricultural Code, to read:

CHAPTER 4.5. LIVESTOCK: USE OF ANTIMICROBIAL DRUGS

14400. For purposes of this chapter, the following definitions apply:

(a) “Medically important antimicrobial drug” means an antimicrobial drug listed in Appendix A of the federal Food and Drug Administration’s Guidance for Industry #152, including critically important, highly important, and important antimicrobial drugs, as that appendix may be amended.

(b) “Livestock” means all animals and poultry, including aquatic and amphibian species, that are raised, kept, or used for profit. Livestock does not include bees or those species that are usually kept as pets, such as dogs, cats, and pet birds.

(c) “Veterinary feed directive” has the same definition as in Section 558.3 of Title 21 of the Code of Federal Regulations.

14401. Beginning January 1, 2018, a medically important antimicrobial drug shall not be administered to livestock unless ordered by a licensed veterinarian through a prescription or veterinary feed directive, pursuant to a veterinarian-client-patient relationship that meets the requirements of Section 2032.1 of Title 16 of the California Code of Regulations.

14402. (a) Beginning January 1, 2018, a medically important antimicrobial drug may be used when, in the professional judgment of a licensed veterinarian, the medically important antimicrobial drug is any of the following:

- (1) Necessary to treat a disease or infection.
- (2) Necessary to control the spread of a disease or infection.
- (3) Necessary in relation to surgery or a medical procedure.

(b) A medically important antimicrobial drug may also be used when, in the professional judgment of a licensed veterinarian, it is needed for prophylaxis to address an elevated risk of contraction of a particular disease or infection.

(c) A person shall not administer a medically important antimicrobial drug to livestock solely for purposes of promoting weight gain or improving feed efficiency.

(d) Unless the administration is consistent with subdivision (a), a person shall not administer a medically important antimicrobial drug in a regular pattern.

14403. (a) Notwithstanding Sections 14401 and 14402 of this code and Article 15 (commencing with Section 4196) of Chapter 9 of Division 2 of the Business and Professions Code, medically important antimicrobial drugs may be sold by retailers licensed pursuant to Article 5 (commencing with Section 14321) of Chapter 4 of Division 7 with a prescription or veterinary feed directive from a licensed veterinarian.

(b) This section shall not be construed to invalidate the requirement to obtain a prescription or veterinary feed directive to administer a medically important antimicrobial drug as required by Section 14401.

(c) The department may promulgate regulations to implement this section.

14404. (a) The department, in consultation with the Veterinary Medical Board, the State Department of Public Health, universities, and cooperative extensions, shall develop antimicrobial stewardship guidelines and best management practices for veterinarians, as well as livestock owners and their employees who are involved with administering medically important antimicrobial drugs, on the proper use of medically important antimicrobial drugs for disease treatment, control, and prevention. The guidelines shall include scientifically validated practical alternatives to the use of medically important antimicrobial drugs, including, but not limited to, the introduction of effective vaccines and good hygiene and management practices.

(b) The department shall consult with livestock producers, licensed veterinarians, and any other relevant stakeholders on ensuring livestock timely access to treatment for producers in rural areas with limited access to veterinary care.

(c) For purposes of this section, “antimicrobial stewardship” is a commitment to do all of the following:

(1) To use medically important antimicrobial drugs only when necessary to treat, control, and, in some cases, prevent, disease.

(2) To select the appropriate medically important antimicrobial drug and the appropriate dose, duration, and route of administration.

(3) To use medically important antimicrobial drugs for the shortest duration necessary and to administer them to the fewest animals necessary.

14405. (a) It is the intent of the Legislature that the department coordinate with the United States Department of Agriculture, the federal Food and Drug Administration, and the federal Centers for Disease Control and Prevention to implement the expanded antimicrobial resistance surveillance efforts included in the National Action Plan for Combating Antibiotic-Resistant Bacteria, and that the information gathered through this effort will help lead to a better understanding of the links between antimicrobial use patterns in livestock and the development of antimicrobial resistant bacterial infections.

(b) (1) The department shall gather information on medically important antimicrobial drug sales and usage, as well as antimicrobial resistant bacteria and livestock management practice data. Monitoring efforts shall not be duplicative of the National Animal Health Monitoring System and the National Antimicrobial Resistance Monitoring System, and, to the extent feasible, the department shall coordinate with the United States Department of Agriculture, the federal Centers for Disease Control and Prevention, and the federal Food and Drug Administration in the development of these efforts.

(2) In coordinating with the National Animal Health Monitoring System and the National Antimicrobial Resistant Monitoring System, the department shall gather representative samples from all of the following:

(A) California’s major livestock segments.

(B) Regions with considerable livestock production.

(C) Representative segments of the food production chain.

(c) The department shall work with willing participants to gather samples and shall consult with, and conduct outreach to, livestock producers, licensed veterinarians, and any other relevant

stakeholders on the implementation of the monitoring efforts. Participation in this effort shall be done in a manner that does not breach veterinary-client-patient confidentiality laws.

(d) (1) The department shall report to the Legislature by January 1, 2019, the results of its outreach activities and monitoring efforts. The department shall advise the Legislature as to whether or not participation is sufficient to provide statistically relevant data. The report shall be submitted in compliance with Section 9795 of the Government Code.

(2) This subdivision is inoperative on January 1, 2023, pursuant to Section 10231.5 of the Government Code.

(e) The department shall seek funds from federal, state, and other sources to implement this section.

(f) The department may promulgate regulations to implement this section.

14406. The department has the authority to request and receive copies of veterinary feed directives from the livestock owner, veterinarian, or distributor to fully implement the provisions of this chapter.

14407. Notwithstanding the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), any information provided pursuant to this chapter and Section 14902.5, if that section is added by Senate Bill 770 of the 2015–16 Regular Session of the Legislature, shall be held confidential, and shall not be disclosed to any person or governmental agency, other than the department or the Veterinary Medical Board, for the purposes of enforcing the Veterinary Medicine Practice Act (Chapter 11 (commencing with Section 4800) of Division 2 of the Business and Professions Code), unless the data is aggregated to prevent the identification of an individual farm or business. Information may be shared with federal agencies so long as it is protected by the federal Confidential Information Protection and Statistical Efficiency Act of 2002 (Public Law 107-347).

14408. (a) A person who violates this chapter shall be liable for a civil penalty of not more than two hundred and fifty dollars (\$250) for each day a violation occurs.

(b) (1) For a second or subsequent violation, a person who violates this chapter shall be punishable by an administrative fine,

levied by the secretary, in the amount of five hundred dollars (\$500) for each day a violation occurs.

(2) In addition to the administrative fine, the violator shall attend an educational program on the judicious use of medically important antimicrobial drugs that has been approved by the secretary. The violator shall successfully complete the program and provide proof to the secretary within 90 days from the occurrence of the violation.

(c) Subdivisions (a) and (b) do not apply to licensed veterinarians. If the Veterinary Medical Board determines that a veterinarian is in violation of the Veterinary Medicine Practice Act (Chapter 11 (commencing with Section 4800) of Division 2 of the Business and Professions Code), the veterinarian may be subject to disciplinary sanctions pursuant to the act.

(d) The moneys collected pursuant to this article shall be deposited into the Department of Food and Agriculture Fund and shall be available for expenditure upon appropriation by the Legislature.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which adds Section 14407 to the Food and Agricultural Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to ensure the confidentiality of the information collected pursuant to this act and the integrity of that information for regulatory and enforcement purposes, it is necessary that this act take effect.



Approved \_\_\_\_\_, 2015

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*Governor*

**Senate Bill No. 361**

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Passed the Senate September 2, 2015

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*Secretary of the Senate*

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Passed the Assembly August 31, 2015

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_

*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 4846.5 of the Business and Professions Code, and to add Section 1275.4 to the Health and Safety Code, relating to public health, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

SB 361, Hill. Antimicrobial stewardship: education and policies.

Under the Veterinary Medicine Practice Act, the Veterinary Medical Board licenses veterinarians and regulates the practice of veterinary medicine. The act requires an applicant for a renewal license to complete 36 hours of continuing education in the preceding 2 years.

This bill would require a veterinarian who renews his or her license on or after January 1, 2018, to complete a minimum of one credit hour of continuing education on the judicious use of medically important antimicrobial drugs, as defined, every 4 years as part of the continuing education requirement.

Existing law provides for the licensure and regulation of skilled nursing facilities by the State Department of Public Health. Under existing law, a violation of the provisions governing skilled nursing facilities constitutes a crime. Existing law also establishes the Hospital Infectious Disease Control Program, which requires the department and general acute care hospitals to implement various measures relating to the prevention of health care associated infection. The program requires, by July 1, 2015, that each general acute care hospital adopt and implement an antimicrobial stewardship policy, in accordance with guidelines established by the federal government and professional organizations, that includes a process to evaluate the judicious use of antibiotics, as specified.

This bill would require all skilled nursing facilities, as defined, by no later than January 1, 2017, to adopt and implement an antimicrobial stewardship policy that is consistent with the antimicrobial stewardship guidelines developed by the federal Centers for Disease Control and Prevention, the federal Centers

for Medicare and Medicaid Services, or specified professional organizations.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 4846.5 of the Business and Professions Code is amended to read:

4846.5. (a) Except as provided in this section, the board shall issue renewal licenses only to those applicants that have completed a minimum of 36 hours of continuing education in the preceding two years.

(b) (1) Notwithstanding any other law, continuing education hours shall be earned by attending courses relevant to veterinary medicine and sponsored or cosponsored by any of the following:

(A) American Veterinary Medical Association (AVMA) accredited veterinary medical colleges.

(B) Accredited colleges or universities offering programs relevant to veterinary medicine.

(C) The American Veterinary Medical Association.

(D) American Veterinary Medical Association recognized specialty or affiliated allied groups.

(E) American Veterinary Medical Association's affiliated state veterinary medical associations.

(F) Nonprofit annual conferences established in conjunction with state veterinary medical associations.

(G) Educational organizations affiliated with the American Veterinary Medical Association or its state affiliated veterinary medical associations.

(H) Local veterinary medical associations affiliated with the California Veterinary Medical Association.

(I) Federal, state, or local government agencies.

(J) Providers accredited by the Accreditation Council for Continuing Medical Education (ACCME) or approved by the American Medical Association (AMA), providers recognized by the American Dental Association Continuing Education Recognition Program (ADA CERP), and AMA or ADA affiliated state, local, and specialty organizations.

(2) Continuing education credits shall be granted to those veterinarians taking self-study courses, which may include, but are not limited to, reading journals, viewing video recordings, or listening to audio recordings. The taking of these courses shall be limited to no more than six hours biennially.

(3) The board may approve other continuing veterinary medical education providers not specified in paragraph (1).

(A) The board has the authority to recognize national continuing education approval bodies for the purpose of approving continuing education providers not specified in paragraph (1).

(B) Applicants seeking continuing education provider approval shall have the option of applying to the board or to a board-recognized national approval body.

(4) For good cause, the board may adopt an order specifying, on a prospective basis, that a provider of continuing veterinary medical education authorized pursuant to paragraph (1) or (3) is no longer an acceptable provider.

(5) Continuing education hours earned by attending courses sponsored or cosponsored by those entities listed in paragraph (1) between January 1, 2000, and January 1, 2001, shall be credited toward a veterinarian's continuing education requirement under this section.

(c) Every person renewing his or her license issued pursuant to Section 4846.4, or any person applying for relicensure or for reinstatement of his or her license to active status, shall submit proof of compliance with this section to the board certifying that he or she is in compliance with this section. Any false statement submitted pursuant to this section shall be a violation subject to Section 4831.

(d) This section shall not apply to a veterinarian's first license renewal. This section shall apply only to second and subsequent license renewals granted on or after January 1, 2002.

(e) The board shall have the right to audit the records of all applicants to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a period of four years and shall make these records available to the board for auditing purposes upon request. If the board, during this audit, questions whether any course reported by the veterinarian satisfies the continuing education requirement, the veterinarian shall provide information to the board concerning the content of the course; the name of its sponsor and cosponsor, if any; and specify the specific curricula that was of benefit to the veterinarian.

(f) A veterinarian desiring an inactive license or to restore an inactive license under Section 701 shall submit an application on a form provided by the board. In order to restore an inactive license to active status, the veterinarian shall have completed a minimum of 36 hours of continuing education within the last two years preceding application. The inactive license status of a veterinarian shall not deprive the board of its authority to institute or continue a disciplinary action against a licensee.

(g) Knowing misrepresentation of compliance with this article by a veterinarian constitutes unprofessional conduct and grounds for disciplinary action or for the issuance of a citation and the imposition of a civil penalty pursuant to Section 4883.

(h) The board, in its discretion, may exempt from the continuing education requirement any veterinarian who for reasons of health, military service, or undue hardship cannot meet those requirements. Applications for waivers shall be submitted on a form provided by the board.

(i) The administration of this section may be funded through professional license and continuing education provider fees. The fees related to the administration of this section shall not exceed the costs of administering the corresponding provisions of this section.

(j) For those continuing education providers not listed in paragraph (1) of subdivision (b), the board or its recognized national approval agent shall establish criteria by which a provider of continuing education shall be approved. The board shall initially review and approve these criteria and may review the criteria as needed. The board or its recognized agent shall monitor, maintain, and manage related records and data. The board may impose an

application fee, not to exceed two hundred dollars (\$200) biennially, for continuing education providers not listed in paragraph (1) of subdivision (b).

(k) (1) On or after January 1, 2018, a licensed veterinarian who renews his or her license shall complete a minimum of one credit hour of continuing education on the judicious use of medically important antimicrobial drugs every four years as part of his or her continuing education requirements.

(2) For purposes of this subdivision, “medically important antimicrobial drug” means an antimicrobial drug listed in Appendix A of the federal Food and Drug Administration’s Guidance for Industry #152, including critically important, highly important, and important antimicrobial drugs, as that appendix may be amended.

SEC. 2. Section 1275.4 is added to the Health and Safety Code, to read:

1275.4. (a) On or before January 1, 2017, each skilled nursing facility, as defined in subdivision (c) of Section 1250, shall adopt and implement an antimicrobial stewardship policy that is consistent with antimicrobial stewardship guidelines developed by the federal Centers for Disease Control and Prevention, the federal Centers for Medicare and Medicaid Services, the Society for Healthcare Epidemiology of America, or similar recognized professional organizations.

(b) All skilled nursing facilities, as defined in subdivision (c) of Section 1250, shall comply with this section. Failure to comply with the requirements of this section may subject the facility to the enforcement actions set forth in Section 1423.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect Californians from the burden and threats posed by the national security priority of antimicrobial-resistant infections, it is necessary that this act take effect immediately.



Approved \_\_\_\_\_, 2015

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*Governor*

**Senate Bill No. 800**

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Passed the Senate September 10, 2015

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*Secretary of the Senate*

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Passed the Assembly September 8, 2015

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_

*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 28, 146, 500, 650.2, 800, 1603a, 1618.5, 1640.1, 1648.10, 1650, 1695, 1695.1, 1905.1, 1944, 2054, 2401, 2428, 2529, 2650, 2770, 2770.1, 2770.2, 2770.7, 2770.8, 2770.10, 2770.11, 2770.12, 2770.13, 2835.5, 3057, 3509.5, 4836.2, 4887, 4938, 4939, 4980.399, 4980.43, 4980.54, 4984.01, 4989.34, 4992.09, 4996.2, 4996.22, 4996.28, 4999.1, 4999.2, 4999.3, 4999.4, 4999.5, 4999.7, 4999.45, 4999.46, 4999.55, 4999.76, and 4999.100 of, to amend the heading of Article 3.1 (commencing with Section 2770) of Chapter 6 of Division 2 of, and to repeal Section 1917.2 of, the Business and Professions Code, relating to healing arts.

## LEGISLATIVE COUNSEL'S DIGEST

SB 800, Committee on Business, Professions and Economic Development. Healing arts.

Under existing law, the Department of Consumer Affairs is comprised of various boards that license and regulate the practice of various professions and vocations, including those relating to the healing arts:

(1) Existing law requires persons applying for initial licensure or renewal of a license as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist to have completed prescribed coursework or training in child abuse assessment and reporting. Existing law requires the training to have been obtained from an accredited or approved educational institution, a continuing education provider approved by the responsible board, or a course sponsored or offered by a professional association or a local, county, or state department of health or mental health for continuing education and approved by the responsible board.

This bill would require the responsible board to specify a continuing education provider for child abuse assessment and reporting coursework by regulation, and would permit the responsible board to approve or accept a sponsored or offered course.

(2) Existing law relating to unlicensed activity enforcement lists specified provisions that require registration, licensure,

certification, or other authorization in order to engage in certain businesses or professions and, notwithstanding any other law, makes a violation of a listed provision punishable as an infraction under specified circumstances.

This bill would include in those listed provisions an existing requirement for the registration of individuals as certified polysomnographic technologists, polysomnographic technicians, and polysomnographic trainees.

The bill would also include in those listed provisions a provision of the Educational Psychologist Practice Act that makes it unlawful for any person to practice educational psychology or use any title or letters that imply that he or she is a licensed educational psychologist unless, at the time of so doing, he or she holds a valid, unexpired, and unrevoked license under that act, the violation of which is a misdemeanor. The bill would further include in those listed provisions existing requirements of the Licensed Professional Clinical Counselor Act that a person not practice or advertise the performance of professional clinical counseling services without a license and pay the license fee, as required by that act, the violation of which is a misdemeanor.

By creating new infractions, this bill would impose a state-mandated local program.

(3) The Dental Practice Act provides for the licensure and regulation of dentists by the Dental Board of California. For purposes of the act, any reference to the Board of Dental Examiners is deemed a reference to the Dental Board of California.

This bill would delete certain existing references to the Board of Dental Examiners and, instead, refer to the Dental Board of California.

(4) Existing law provides for the regulation of dental hygienists by the Dental Hygiene Committee of California, within the jurisdiction of the Dental Board of California. Existing law authorizes the committee, until January 1, 2010, to contract with the dental board to carry out any of specified provisions relating to the regulation of dental hygienists, and, on and after January 1, 2010, to contract with the dental board to perform investigations of applicants and licensees. Existing law requires a new educational program for registered dental hygienists to submit a specified feasibility study. Existing law limits the fee for each curriculum

review and site evaluation for these programs to a specified amount.

This bill would require the Dental Hygiene Committee of California to create and maintain a central file of the names of licensees, to provide an individual historical record with information on acts of licensee misconduct and discipline. The bill would remove the limiting dates from the contracting provisions, thereby authorizing the committee to contract with the dental board indefinitely to carry out any of specified provisions relating to the regulation of dental hygienists, including performing investigations of applicants and licensees. The bill would additionally limit the fee for each feasibility study review to that same specified amount.

(5) The Medical Practice Act provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Under existing law, the board issues a physician and surgeon's certificate to a licensed physician surgeon. The act prohibits a person who fails to renew his or her license within 5 years after its expiration from renewing it, and prohibits the license from being reissued, reinstated, or restored thereafter, although the act authorizes a person to apply for and obtain a new license under specified circumstances.

This bill would recast that renewal provision to prohibit renewal by a person who voluntarily cancels his or her license or who fails to renew it as described, and would authorize that person to apply for and obtain a license under those specified circumstances, without regard to reissuance, reinstatement, or restoration.

(6) Existing law relating to research psychoanalysts authorizes certain students and graduates in psychoanalysis to engage in psychoanalysis under prescribed circumstances if they register with the Medical Board of California and present evidence of their student or graduate status. Existing law authorizes that board to suspend or revoke the exemption of those persons from licensure for unprofessional conduct for, among other things, repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, use of diagnostic procedures, or use of diagnostic or treatment facilities.

This bill would substitute, for those described bases for suspension or revocation of the exemption, the commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer.

(7) The Physical Therapy Practice Act provides for the licensure and regulation of physical therapists and physical therapist assistants by the Physical Therapy Board of California. The act establishes education requirements for a physical therapist assistant, including subject matter instruction through a combination of didactic and clinical experiences, and requires the clinical experience to include at least 18 weeks of full-time experience with a variety of patients.

This bill would delete that 18-week full-time experience requirement for physical therapist assistant education.

(8) The Nursing Practice Act provides for the licensure and regulation of registered nurses and nurse practitioners by the Board of Registered Nursing. The act, on and after January 1, 2008, requires an applicant for initial qualification or certification as a nurse practitioner who has not been qualified or certified as a nurse practitioner to meet specified requirements. Certain provisions allow the board to find registered nurses qualified to use the title of “nurse practitioner.”

This bill would delete those title provisions.

The Nursing Practice Act provides for a diversion program to identify and rehabilitate registered nurses whose competency may be impaired due to abuse of alcohol and other drugs, or due to mental illness.

This bill would instead refer to the program as an intervention program.

(9) The Optometry Practice Act provides for the licensure and regulation of optometrists by the State Board of Optometry. The act prescribes license eligibility requirements, including, but not limited to, submitting proof that the person is licensed in good standing as of the date of application in every state where he or she holds a license, including compliance with continuing education requirements, submitting proof that the person has been in active practice in a state in which he or she is licensed for a total of at least 5,000 hours in 5 of the 7 consecutive years immediately preceding the date of his or her application, and has never had his or her license to practice optometry revoked or suspended. For purposes of those provisions, “in good standing” includes the requirement that the person has not been found mentally incompetent by a physician so that the person is unable to

undertake the practice of optometry in a manner consistent with the safety of a patient or the public.

This bill would delete that active practice requirement and would require that the license have never been revoked or suspended in any state where the person holds a license. The bill, with regard to making such a finding of mental incompetence, would replace a finding by a physician with a finding by a licensed psychologist or licensed psychiatrist.

(10) The Physician Assistant Practice Act requires the Physician Assistant Board to annually elect a chairperson and vice chairperson from among its members.

This bill would require the annual election of a president and vice president.

(11) Existing law relating to veterinary medicine requires a veterinary assistant to obtain a controlled substance permit from the Veterinary Medical Board in order to administer a controlled substance, and authorizes the board to deny, revoke, or suspend the permit, after notice and hearing, for any of specified causes. Existing law authorizes the board to revoke or suspend a permit for the same.

This bill would, instead, authorize the board to suspend or revoke the controlled substance permit of a veterinary assistant, after notice and hearing, for any of specified causes, and to deny, revoke, or suspend a permit for the same.

(12) The Acupuncture Licensure Act provides for the licensure and regulation of the practice of acupuncture by the Acupuncture Board. The act requires the board to issue a license to practice acupuncture to a person who meets prescribed requirements. The act requires, in the case of an applicant who has completed education and training outside the United States and Canada, documented educational training and clinical experience that meets certain standards established by the board. Existing law, commencing January 1, 2017, specifically requires the board to establish standards for the approval of educational training and clinical experience received outside the United States and Canada.

This bill would remove Canada from those provisions, thereby applying the same standards to all training and clinical experience completed outside the United States.

(13) The Board of Behavioral Sciences is responsible for administering the Licensed Marriage and Family Therapist Act,

the Educational Psychologist Practice Act, the Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Act.

The Licensed Marriage and Family Therapist Act provides for the licensure and regulation of marriage and family therapists by the Board of Behavioral Sciences. The act sets forth the educational and training requirements for licensure as a marriage and family therapist, including certain supervised-experience requirements whereby a prospective licensee is required to work a specified number of hours in a clinical setting under the supervision of experienced professionals. The act requires all persons to register with the board as an intern in order to be credited for postdegree hours of supervised experience gained toward licensure. The act, with regard to interns, requires all postdegree hours of experience to be credited toward licensure, except when employed in a private practice setting, if certain conditions are met. The act limits the number of hours applicants for a marriage and family therapist license may provide counseling services via telehealth.

The bill would require postdegree hours of experience to be credited toward licensure if certain conditions are met. The bill would prohibit an applicant for licensure as a marriage and family therapist from being employed or volunteering in a private practice until registered as an intern by the board. The bill would similarly prohibit an applicant for professional clinical counselor under the Licensed Professional Clinical Counselor Act from being employed or volunteering in a private practice until registered as an intern by the board.

The bill would authorize a marriage and family therapist intern and trainee to provide services via telehealth if he or she is supervised as required by the act, and is acting within the scope authorized by the act and in accordance with any regulations governing the use of telehealth promulgated by the Board of Behavioral Sciences.

The Licensed Marriage and Family Therapist Act and the Licensed Professional Clinical Counselor Act require applicants for licensure under those acts to comply with specified educational and experience requirements, including, but not limited to, hours of supervised experience, and sets forth terms, conditions, and limitations for those hours of experience, as specified.



The bill would revise those experience requirements and provide that individuals who submit applications for examination eligibility between January 1, 2016, and December 31, 2020, may alternatively qualify under the current requirements.

The Licensed Marriage and Family Therapist Act, the Educational Psychologist Practice Act, the Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Act require the Board of Behavioral Sciences to approve continuing education providers for specified educational courses relating to licensure for marriage and family therapists, educational psychologists, clinical social workers, and professional clinical counselors.

This bill would modify those acts to require the Board of Behavioral Sciences to identify, by regulation, acceptable continuing education providers.

The Licensed Marriage and Family Therapist Act and the Licensed Professional Clinical Counselor Act provide for the registration of interns and allow a maximum of possible renewals after initial registration, after which a new registration number is required to be obtained. The Clinical Social Worker Practice Act provides similarly for the registration and renewal of registration of associate clinical social workers. An applicant who is issued a subsequent number is barred from employment or volunteering in a private practice.

This bill would revise those provisions to refer throughout to subsequent registration numbers.

(14) Existing law provides for the registration of telephone medical advice services. Existing law imposes requirements for obtaining and maintaining registration, including a requirement that medical advice services be provided by specified licensed, registered, or certified health care professionals.

This bill would expand the specified health care professionals to include naturopathic doctors and licensed professional clinical counselors. The bill would require a service to notify the department of certain business changes, and to submit quarterly reports.

(15) This bill would additionally delete or update obsolete provisions and make conforming or nonsubstantive changes.

(16) This bill would incorporate additional changes to Section 1944 of the Business and Professions Code made by this bill and

AB 483 to take effect if both bills are chaptered and this bill is chaptered last.

(17) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 28 of the Business and Professions Code is amended to read:

28. (a) The Legislature finds that there is a need to ensure that professionals of the healing arts who have demonstrable contact with victims and potential victims of child, elder, and dependent adult abuse, and abusers and potential abusers of children, elders, and dependent adults are provided with adequate and appropriate training regarding the assessment and reporting of child, elder, and dependent adult abuse that will ameliorate, reduce, and eliminate the trauma of abuse and neglect and ensure the reporting of abuse in a timely manner to prevent additional occurrences.

(b) The Board of Psychology and the Board of Behavioral Sciences shall establish required training in the area of child abuse assessment and reporting for all persons applying for initial licensure and renewal of a license as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist. This training shall be required one time only for all persons applying for initial licensure or for licensure renewal.

(c) All persons applying for initial licensure or renewal of a license as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist shall, in addition to all other requirements for licensure or renewal, have completed coursework or training in child abuse assessment and reporting that meets the requirements of this section, including detailed knowledge of the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code). The training shall meet all of the following requirements:

(1) Be obtained from one of the following sources:

(A) An accredited or approved educational institution, as defined in Sections 2902, 4980.36, 4980.37, 4996.18, and 4999.12, including extension courses offered by those institutions.

(B) A continuing education provider as specified by the responsible board by regulation.

(C) A course sponsored or offered by a professional association or a local, county, or state department of health or mental health for continuing education and approved or accepted by the responsible board.

(2) Have a minimum of seven contact hours.

(3) Include the study of the assessment and method of reporting of sexual assault, neglect, severe neglect, general neglect, willful cruelty or unjustifiable punishment, corporal punishment or injury, and abuse in out-of-home care. The training shall also include physical and behavioral indicators of abuse, crisis counseling techniques, community resources, rights and responsibilities of reporting, consequences of failure to report, caring for a child's needs after a report is made, sensitivity to previously abused children and adults, and implications and methods of treatment for children and adults.

(4) An applicant shall provide the appropriate board with documentation of completion of the required child abuse training.

(d) The Board of Psychology and the Board of Behavioral Sciences shall exempt an applicant who applies for an exemption from this section and who shows to the satisfaction of the board that there would be no need for the training in his or her practice because of the nature of that practice.

(e) It is the intent of the Legislature that a person licensed as a psychologist, clinical social worker, professional clinical counselor, or marriage and family therapist have minimal but appropriate training in the areas of child, elder, and dependent adult abuse assessment and reporting. It is not intended that, by solely complying with this section, a practitioner is fully trained in the subject of treatment of child, elder, and dependent adult abuse victims and abusers.

(f) The Board of Psychology and the Board of Behavioral Sciences are encouraged to include coursework regarding the assessment and reporting of elder and dependent adult abuse in the required training on aging and long-term care issues prior to licensure or license renewal.

SEC. 2. Section 146 of the Business and Professions Code is amended to read:

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when either of the following applies:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor.

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

- (1) Sections 2052 and 2054.
- (2) Section 2630.
- (3) Section 2903.
- (4) Section 3575.
- (5) Section 3660.
- (6) Sections 3760 and 3761.
- (7) Section 4080.
- (8) Section 4825.
- (9) Section 4935.
- (10) Section 4980.
- (11) Section 4989.50.
- (12) Section 4996.
- (13) Section 4999.30.
- (14) Section 5536.
- (15) Section 6704.
- (16) Section 6980.10.
- (17) Section 7317.

- (18) Section 7502 or 7592.
- (19) Section 7520.
- (20) Section 7617 or 7641.
- (21) Subdivision (a) of Section 7872.
- (22) Section 8016.
- (23) Section 8505.
- (24) Section 8725.
- (25) Section 9681.
- (26) Section 9840.
- (27) Subdivision (c) of Section 9891.24.
- (28) Section 19049.

(d) Notwithstanding any other law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation that was the basis for his or her conviction.

SEC. 3. Section 500 of the Business and Professions Code is amended to read:

500. If the register or book of registration of the Medical Board of California, the Dental Board of California, or the California State Board of Pharmacy is destroyed by fire or other public calamity, the board, whose duty it is to keep the register or book, may reproduce it so that there may be shown as nearly as possible the record existing in the original at the time of destruction.

SEC. 4. Section 650.2 of the Business and Professions Code is amended to read:

650.2. (a) Notwithstanding Section 650 or any other provision of law, it shall not be unlawful for a person licensed pursuant to Chapter 4 (commencing with Section 1600) of Division 2 or any other person, to participate in or operate a group advertising and referral service for dentists if all of the following conditions are met:

- (1) The patient referrals by the service result from patient-initiated responses to service advertising.
- (2) The service advertises, if at all, in conformity with Section 651 and subdivisions (i) and (j) of Section 1680.

(3) The service does not employ a solicitor within the meaning of subdivision (j) of Section 1680.

(4) The service does not impose a fee on the member dentists dependent upon the number of referrals or amount of professional fees paid by the patient to the dentist.

(5) Participating dentists charge no more than their usual and customary fees to any patient referred.

(6) The service registers with the Dental Board of California, providing its name and address.

(7) The service files with the Dental Board of California a copy of the standard form contract that regulates its relationship with member dentists, which contract shall be confidential and not open to public inspection.

(8) If more than 50 percent of its referrals are made to one individual, association, partnership, corporation, or group of three or more dentists, the service discloses that fact in all public communications, including, but not limited to, communication by means of television, radio, motion picture, newspaper, book, or list or directory of healing arts practitioners.

(9) When member dentists pay any fee to the service, any advertisement by the service shall clearly and conspicuously disclose that fact by including a statement as follows: "Paid for by participating dentists." In print advertisements, the required statement shall be in at least 9-point type. In radio advertisements, the required statement shall be articulated so as to be clearly audible and understandable by the radio audience. In television advertisements, the required statement shall be either clearly audible and understandable to the television audience, or displayed in a written form that remains clearly visible for at least five seconds to the television audience. This subdivision shall be operative on and after July 1, 1994.

(b) The Dental Board of California may adopt regulations necessary to enforce and administer this section.

(c) The Dental Board of California may suspend or revoke the registration of any service that fails to comply with paragraph (9) of subdivision (a). No service may reregister with the board if it has a registration that is currently under suspension for a violation of paragraph (9) of subdivision (a), nor may a service reregister with the board if it had a registration revoked by the board for a

violation of paragraph (9) of subdivision (a) less than one year after that revocation.

(d) The Dental Board of California may petition the superior court of any county for the issuance of an injunction restraining any conduct that constitutes a violation of this section.

(e) It is unlawful and shall constitute a misdemeanor for a person to operate a group advertising and referral service for dentists without providing its name and address to the Dental Board of California.

(f) It is the intent of the Legislature in enacting this section not to otherwise affect the prohibitions provided in Section 650. The Legislature intends to allow the pooling of resources by dentists for the purposes of advertising.

(g) This section shall not be construed to authorize a referral service to engage in the practice of dentistry.

SEC. 5. Section 800 of the Business and Professions Code is amended to read:

800. (a) The Medical Board of California, the Board of Psychology, the Dental Board of California, the Dental Hygiene Committee of California, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, the Physical Therapy Board of California, the California State Board of Pharmacy, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, the California Board of Occupational Therapy, the Acupuncture Board, and the Physician Assistant Board shall each separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from that board. Each central file shall be created and maintained to provide an individual historical record for each licensee with respect to the following information:

(1) Any conviction of a crime in this or any other state that constitutes unprofessional conduct pursuant to the reporting requirements of Section 803.

(2) Any judgment or settlement requiring the licensee or his or her insurer to pay any amount of damages in excess of three thousand dollars (\$3,000) for any claim that injury or death was

proximately caused by the licensee's negligence, error or omission in practice, or by rendering unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802.

(3) Any public complaints for which provision is made pursuant to subdivision (b).

(4) Disciplinary information reported pursuant to Section 805, including any additional exculpatory or explanatory statements submitted by the licensee pursuant to subdivision (f) of Section 805. If a court finds, in a final judgment, that the peer review resulting in the 805 report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, the board shall include that finding in the central file. For purposes of this paragraph, "peer review" has the same meaning as defined in Section 805.

(5) Information reported pursuant to Section 805.01, including any explanatory or exculpatory information submitted by the licensee pursuant to subdivision (b) of that section.

(b) (1) Each board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in, or connected with, the performance of professional services by the licensee.

(2) If a board, or division thereof, a committee, or a panel has failed to act upon a complaint or report within five years, or has found that the complaint or report is without merit, the central file shall be purged of information relating to the complaint or report.

(3) Notwithstanding this subdivision, the Board of Psychology, the Board of Behavioral Sciences, and the Respiratory Care Board of California shall maintain complaints or reports as long as each board deems necessary.

(c) (1) The contents of any central file that are not public records under any other provision of law shall be confidential except that the licensee involved, or his or her counsel or representative, shall have the right to inspect and have copies made of his or her complete file except for the provision that may disclose the identity of an information source. For the purposes of this section, a board may protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material.



Whichever method is used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to a licensee's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee's rights, benefits, privileges, or qualifications. The information required to be disclosed pursuant to Section 803.1 shall not be considered among the contents of a central file for the purposes of this subdivision.

(2) The licensee may, but is not required to, submit any additional exculpatory or explanatory statement or other information that the board shall include in the central file.

(3) Each board may permit any law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes to inspect and have copies made of that licensee's file, unless the disclosure is otherwise prohibited by law.

(4) These disclosures shall effect no change in the confidential status of these records.

SEC. 6. Section 1603a of the Business and Professions Code is amended to read:

1603a. A member of the Dental Board of California who has served two terms shall not be eligible for reappointment to the board. In computing two terms hereunder, that portion of an unexpired term that a member fills as a result of a vacancy shall be excluded.

SEC. 7. Section 1618.5 of the Business and Professions Code is amended to read:

1618.5. (a) The board shall provide to the Director of the Department of Managed Health Care a copy of any accusation filed with the Office of Administrative Hearings pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, when the accusation is filed, for a violation of this chapter relating to the quality of care of any dental provider of a health care service plan, as defined in Section 1345 of the Health and Safety Code. There shall be no liability on the part of, and no cause of action shall arise against, the State of California, the Dental Board of California, the Department of Managed Health Care, the director of that department, or any officer, agent, employee, consultant, or contractor of the state or

the board or the department for the release of any false or unauthorized information pursuant to this section, unless the release is made with knowledge and malice.

(b) The board and its executive officer and staff shall maintain the confidentiality of any nonpublic reports provided by the Director of the Department of Managed Health Care pursuant to subdivision (i) of Section 1380 of the Health and Safety Code.

SEC. 8. Section 1640.1 of the Business and Professions Code is amended to read:

1640.1. As used in this article, the following definitions shall apply:

(a) “Specialty” means an area of dental practice approved by the American Dental Association and recognized by the board.

(b) “Discipline” means an advanced dental educational program in an area of dental practice not approved as a specialty by the American Dental Association; but offered from a dental college approved by the board.

(c) “Dental college approved by the board” means a dental school or college that is approved by the Commission on Dental Accreditation of the American Dental Association, that is accredited by a body that has a reciprocal accreditation agreement with that commission, or that has been approved by the Dental Board of California through its own approval process.

SEC. 9. Section 1648.10 of the Business and Professions Code is amended to read:

1648.10. (a) The Dental Board of California shall develop and distribute a fact sheet describing and comparing the risks and efficacy of the various types of dental restorative materials that may be used to repair a dental patient’s oral condition or defect. The fact sheet shall include:

(1) A description of the groups of materials that are available to the profession for restoration of an oral condition or defect.

(2) A comparison of the relative benefits and detriments of each group of materials.

(3) A comparison of the cost considerations associated with each group of materials.

(4) A reference to encourage discussion between patient and dentist regarding materials and to inform the patient of his or her options.

(b) The fact sheet shall be made available by the Dental Board of California to all licensed dentists.

(c) The Dental Board of California shall update the fact sheet described in subdivision (a) as determined necessary by the board.

SEC. 10. Section 1650 of the Business and Professions Code is amended to read:

1650. Every person who is now or hereafter licensed to practice dentistry in this state shall register on forms prescribed by the board, his or her place of practice with the executive officer of the Dental Board of California, or, if he or she has more than one place of practice, all of the places of practice, or, if he or she has no place of practice, to so notify the executive officer of the board. A person licensed by the board shall register with the executive officer within 30 days after the date of his or her license.

SEC. 11. Section 1695 of the Business and Professions Code is amended to read:

1695. It is the intent of the Legislature that the Dental Board of California seek ways and means to identify and rehabilitate licentiates whose competency may be impaired due to abuse of dangerous drugs or alcohol, so that licentiates so afflicted may be treated and returned to the practice of dentistry in a manner that will not endanger the public health and safety. It is also the intent of the Legislature that the Dental Board of California shall implement this legislation in part by establishing a diversion program as a voluntary alternative approach to traditional disciplinary actions.

SEC. 12. Section 1695.1 of the Business and Professions Code is amended to read:

1695.1. As used in this article:

(a) "Board" means the Dental Board of California.

(b) "Committee" means a diversion evaluation committee created by this article.

(c) "Program manager" means the staff manager of the diversion program, as designated by the executive officer of the board. The program manager shall have background experience in dealing with substance abuse issues.

SEC. 13. Section 1905.1 of the Business and Professions Code is amended to read:

1905.1. The committee may contract with the dental board to carry out this article. The committee may contract with the dental

board to perform investigations of applicants and licensees under this article.

SEC. 14. Section 1917.2 of the Business and Professions Code is repealed.

SEC. 15. Section 1944 of the Business and Professions Code is amended to read:

1944. (a) The committee shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions. The fees established by board resolution in effect on June 30, 2009, as they relate to the licensure of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions, shall remain in effect until modified by the committee. The fees are subject to the following limitations:

(1) The application fee for an original license and the fee for issuance of an original license shall not exceed two hundred fifty dollars (\$250).

(2) The fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(3) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed the actual cost of the examination.

(4) The fee for examination for licensure as a registered dental hygienist in alternative practice shall not exceed the actual cost of administering the examination.

(5) The biennial renewal fee shall not exceed one hundred sixty dollars (\$160).

(6) The delinquency fee shall not exceed one-half of the renewal fee. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee, and compliance with all other applicable requirements of this article.

(7) The fee for issuance of a duplicate license to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars (\$25) or one-half of the renewal fee, whichever is greater.

(8) The fee for certification of licensure shall not exceed one-half of the renewal fee.

(9) The fee for each curriculum review, feasibility study review, and site evaluation for educational programs for dental hygienists who are not accredited by a committee-approved agency shall not exceed two thousand one hundred dollars (\$2,100).

(10) The fee for each review or approval of course requirements for licensure or procedures that require additional training shall not exceed seven hundred fifty dollars (\$750).

(11) The initial application and biennial fee for a provider of continuing education shall not exceed five hundred dollars (\$500).

(12) The amount of fees payable in connection with permits issued under Section 1962 is as follows:

(A) The initial permit fee is an amount equal to the renewal fee for the applicant's license to practice dental hygiene in effect on the last regular renewal date before the date on which the permit is issued.

(B) If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued.

(b) The renewal and delinquency fees shall be fixed by the committee by resolution at not more than the current amount of the renewal fee for a license to practice under this article nor less than five dollars (\$5).

(c) Fees fixed by the committee by resolution pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(d) Fees collected pursuant to this section shall be collected by the committee and deposited into the State Dental Hygiene Fund, which is hereby created. All money in this fund shall, upon appropriation by the Legislature in the annual Budget Act, be used to implement this article.

(e) No fees or charges other than those listed in this section shall be levied by the committee in connection with the licensure of registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.

(f) The fee for registration of an extramural dental facility shall not exceed two hundred fifty dollars (\$250).

(g) The fee for registration of a mobile dental hygiene unit shall not exceed one hundred fifty dollars (\$150).

(h) The biennial renewal fee for a mobile dental hygiene unit shall not exceed two hundred fifty dollars (\$250).

(i) The fee for an additional office permit shall not exceed two hundred fifty dollars (\$250).

(j) The biennial renewal fee for an additional office as described in Section 1926.4 shall not exceed two hundred fifty dollars (\$250).

(k) The initial application and biennial special permit fee is an amount equal to the biennial renewal fee specified in paragraph (6) of subdivision (a).

(l) The fees in this section shall not exceed an amount sufficient to cover the reasonable regulatory cost of carrying out this article.

SEC. 15.5. Section 1944 of the Business and Professions Code is amended to read:

1944. (a) The committee shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions. The fees established by board resolution in effect on June 30, 2009, as they relate to the licensure of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions, shall remain in effect until modified by the committee. The fees are subject to the following limitations:

(1) The application fee for an original license and the fee for the issuance of an original license shall not exceed two hundred fifty dollars (\$250). Commencing July 1, 2017, the fee for the issuance of an original license shall be prorated on the monthly basis.

(2) The fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(3) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed the actual cost of the examination.

(4) The fee for examination for licensure as a registered dental hygienist in alternative practice shall not exceed the actual cost of administering the examination.

(5) The biennial renewal fee shall not exceed one hundred sixty dollars (\$160).

(6) The delinquency fee shall not exceed one-half of the renewal fee. Any delinquent license may be restored only upon payment

of all fees, including the delinquency fee, and compliance with all other applicable requirements of this article.

(7) The fee for issuance of a duplicate license to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars (\$25) or one-half of the renewal fee, whichever is greater.

(8) The fee for certification of licensure shall not exceed one-half of the renewal fee.

(9) The fee for each curriculum review, feasibility study review, and site evaluation for educational programs for dental hygienists who are not accredited by a committee-approved agency shall not exceed two thousand one hundred dollars (\$2,100).

(10) The fee for each review or approval of course requirements for licensure or procedures that require additional training shall not exceed seven hundred fifty dollars (\$750).

(11) The initial application and biennial fee for a provider of continuing education shall not exceed five hundred dollars (\$500).

(12) The amount of fees payable in connection with permits issued under Section 1962 is as follows:

(A) The initial permit fee is an amount equal to the renewal fee for the applicant's license to practice dental hygiene in effect on the last regular renewal date before the date on which the permit is issued.

(B) If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued.

(b) The renewal and delinquency fees shall be fixed by the committee by resolution at not more than the current amount of the renewal fee for a license to practice under this article nor less than five dollars (\$5).

(c) Fees fixed by the committee by resolution pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(d) Fees collected pursuant to this section shall be collected by the committee and deposited into the State Dental Hygiene Fund, which is hereby created. All money in this fund shall, upon appropriation by the Legislature in the annual Budget Act, be used to implement this article.

(e) No fees or charges other than those listed in this section shall be levied by the committee in connection with the licensure of registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.

(f) The fee for registration of an extramural dental facility shall not exceed two hundred fifty dollars (\$250).

(g) The fee for registration of a mobile dental hygiene unit shall not exceed one hundred fifty dollars (\$150).

(h) The biennial renewal fee for a mobile dental hygiene unit shall not exceed two hundred fifty dollars (\$250).

(i) The fee for an additional office permit shall not exceed two hundred fifty dollars (\$250).

(j) The biennial renewal fee for an additional office as described in Section 1926.4 shall not exceed two hundred fifty dollars (\$250).

(k) The initial application and biennial special permit fee is an amount equal to the biennial renewal fee specified in paragraph (6) of subdivision (a).

(l) The fees in this section shall not exceed an amount sufficient to cover the reasonable regulatory cost of carrying out this article.

SEC. 16. Section 2054 of the Business and Professions Code is amended to read:

2054. (a) Any person who uses in any sign, business card, or letterhead, or, in an advertisement, the words “doctor” or “physician,” the letters or prefix “Dr.,” the initials “M.D.,” or any other terms or letters indicating or implying that he or she is a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, or that he or she is entitled to practice hereunder, or who represents or holds himself or herself out as a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, without having at the time of so doing a valid, unrevoked, and unsuspended certificate as a physician and surgeon under this chapter, is guilty of a misdemeanor.

(b) A holder of a valid, unrevoked, and unsuspended certificate to practice podiatric medicine may use the phrases “doctor of podiatric medicine,” “doctor of podiatry,” and “podiatric doctor,” or the initials “D.P.M.,” and shall not be in violation of subdivision (a).



(c) Notwithstanding subdivision (a), any of the following persons may use the words “doctor” or “physician,” the letters or prefix “Dr.,” or the initials “M.D.”:

(1) A graduate of a medical school approved or recognized by the board while enrolled in a postgraduate training program approved by the board.

(2) A graduate of a medical school who does not have a certificate as a physician and surgeon under this chapter if he or she meets all of the following requirements:

(A) If issued a license to practice medicine in any jurisdiction, has not had that license revoked or suspended by that jurisdiction.

(B) Does not otherwise hold himself or herself out as a physician and surgeon entitled to practice medicine in this state except to the extent authorized by this chapter.

(C) Does not engage in any of the acts prohibited by Section 2060.

(3) A person authorized to practice medicine under Section 2111 or 2113 subject to the limitations set forth in those sections.

SEC. 17. Section 2401 of the Business and Professions Code is amended to read:

2401. (a) Notwithstanding Section 2400, a clinic operated primarily for the purpose of medical education by a public or private nonprofit university medical school, which is approved by the board or the Osteopathic Medical Board of California, may charge for professional services rendered to teaching patients by licensees who hold academic appointments on the faculty of the university, if the charges are approved by the physician and surgeon in whose name the charges are made.

(b) Notwithstanding Section 2400, a clinic operated under subdivision (p) of Section 1206 of the Health and Safety Code may employ licensees and charge for professional services rendered by those licensees. However, the clinic shall not interfere with, control, or otherwise direct the professional judgment of a physician and surgeon in a manner prohibited by Section 2400 or any other provision of law.

(c) Notwithstanding Section 2400, a narcotic treatment program operated under Section 11876 of the Health and Safety Code and regulated by the State Department of Health Care Services, may employ licensees and charge for professional services rendered by those licensees. However, the narcotic treatment program shall

not interfere with, control, or otherwise direct the professional judgment of a physician and surgeon in a manner prohibited by Section 2400 or any other provision of law.

(d) Notwithstanding Section 2400, a hospital that is owned and operated by a licensed charitable organization, that offers only pediatric subspecialty care, that, prior to January 1, 2013, employed licensees on a salary basis, and that has not charged for professional services rendered to patients may, commencing January 1, 2013, charge for professional services rendered to patients, provided the following conditions are met:

(1) The hospital does not increase the number of salaried licensees by more than five licensees each year.

(2) The hospital does not expand its scope of services beyond pediatric subspecialty care.

(3) The hospital accepts each patient needing its scope of services regardless of his or her ability to pay, including whether the patient has any form of health care coverage.

(4) The medical staff concur by an affirmative vote that the licensee's employment is in the best interest of the communities served by the hospital.

(5) The hospital does not interfere with, control, or otherwise direct a physician and surgeon's professional judgment in a manner prohibited by Section 2400 or any other provision of law.

SEC. 18. Section 2428 of the Business and Professions Code is amended to read:

2428. (a) A person who voluntarily cancels his or her license or who fails to renew his or her license within five years after its expiration shall not renew it, but that person may apply for and obtain a new license if he or she:

(1) Has not committed any acts or crimes constituting grounds for denial of licensure under Division 1.5 (commencing with Section 475).

(2) Takes and passes the examination, if any, which would be required of him or her if application for licensure was being made for the first time, or otherwise establishes to the satisfaction of the licensing authority that passes on the qualifications of applicants for the license that, with due regard for the public interest, he or she is qualified to practice the profession or activity for which the applicant was originally licensed.

(3) Pays all of the fees that would be required if application for licensure was being made for the first time.

The licensing authority may provide for the waiver or refund of all or any part of an examination fee in those cases in which a license is issued without an examination pursuant to this section.

Nothing in this section shall be construed to authorize the issuance of a license for a professional activity or system or mode of healing for which licenses are no longer required.

(b) In addition to the requirements set forth in subdivision (a), an applicant shall establish that he or she meets one of the following requirements: (1) satisfactory completion of at least two years of approved postgraduate training; (2) certification by a specialty board approved by the American Board of Medical Specialties or approved by the board pursuant to subdivision (h) of Section 651; or (3) passing of the clinical competency written examination.

(c) Subdivision (a) shall apply to persons who held licenses to practice podiatric medicine except that those persons who failed to renew their licenses within three years after its expiration may not renew it, and it may not be reissued, reinstated, or restored, except in accordance with subdivision (a).

SEC. 19. Section 2529 of the Business and Professions Code is amended to read:

2529. (a) Graduates of the Southern California Psychoanalytic Institute, the Los Angeles Psychoanalytic Society and Institute, the San Francisco Psychoanalytic Institute, the San Diego Psychoanalytic Center, or institutes deemed equivalent by the Medical Board of California who have completed clinical training in psychoanalysis may engage in psychoanalysis as an adjunct to teaching, training, or research and hold themselves out to the public as psychoanalysts, and students in those institutes may engage in psychoanalysis under supervision, if the students and graduates do not hold themselves out to the public by any title or description of services incorporating the words “psychological,” “psychologist,” “psychology,” “psychometrists,” “psychometrics,” or “psychometry,” or that they do not state or imply that they are licensed to practice psychology.

(b) Those students and graduates seeking to engage in psychoanalysis under this chapter shall register with the Medical Board of California, presenting evidence of their student or

graduate status. The board may suspend or revoke the exemption of those persons for unprofessional conduct as defined in Sections 726, 2234, and 2235.

SEC. 20. Section 2650 of the Business and Professions Code is amended to read:

2650. (a) The physical therapist education requirements are as follows:

(1) Except as otherwise provided in this chapter, each applicant for a license as a physical therapist shall be a graduate of a professional degree program of an accredited postsecondary institution or institutions approved by the board and shall have completed a professional education program including academic course work and clinical internship in physical therapy.

(2) Unless otherwise specified by the board by regulation, the educational requirements shall include instruction in the subjects prescribed by the Commission on Accreditation in Physical Therapy Education (CAPTE) of the American Physical Therapy Association or Physiotherapy Education Accreditation Canada and shall include a combination of didactic and clinical experiences. The clinical experience shall include at least 18 weeks of full-time experience with a variety of patients.

(b) The physical therapist assistant educational requirements are as follows:

(1) Except as otherwise provided in this chapter, each applicant for a license as a physical therapist assistant shall be a graduate of a physical therapist assistant program of an accredited postsecondary institution or institutions approved by the board, and shall have completed both the academic and clinical experience required by the physical therapist assistant program, and have been awarded an associate degree.

(2) Unless otherwise specified by the board by regulation, the educational requirements shall include instruction in the subjects prescribed by the CAPTE of the American Physical Therapy Association or Physiotherapy Education Accreditation Canada or another body as may be approved by the board by regulation and shall include a combination of didactic and clinical experiences.

SEC. 21. The heading of Article 3.1 (commencing with Section 2770) of Chapter 6 of Division 2 of the Business and Professions Code is amended to read:

## Article 3.1. Intervention Program

SEC. 22. Section 2770 of the Business and Professions Code is amended to read:

2770. It is the intent of the Legislature that the Board of Registered Nursing seek ways and means to identify and rehabilitate registered nurses whose competency may be impaired due to abuse of alcohol and other drugs, or due to mental illness so that registered nurses so afflicted may be rehabilitated and returned to the practice of nursing in a manner that will not endanger the public health and safety. It is also the intent of the Legislature that the Board of Registered Nursing shall implement this legislation by establishing an intervention program as a voluntary alternative to traditional disciplinary actions.

SEC. 23. Section 2770.1 of the Business and Professions Code is amended to read:

2770.1. As used in this article:

- (a) “Board” means the Board of Registered Nursing.
- (b) “Committee” means an intervention evaluation committee created by this article.
- (c) “Program manager” means the staff manager of the intervention program, as designated by the executive officer of the board. The program manager shall have background experience in dealing with substance abuse issues.

SEC. 24. Section 2770.2 of the Business and Professions Code is amended to read:

2770.2. (a) One or more intervention evaluation committees is hereby created in the state to be established by the board. Each committee shall be composed of five persons appointed by the board. No board member shall serve on any committee.

(b) Each committee shall have the following composition:

- (1) Three registered nurses, holding active California licenses, who have demonstrated expertise in the field of chemical dependency or psychiatric nursing.
- (2) One physician, holding an active California license, who specializes in the diagnosis and treatment of addictive diseases or mental illness.
- (3) One public member who is knowledgeable in the field of chemical dependency or mental illness.

(c) It shall require a majority vote of the board to appoint a person to a committee. Each appointment shall be at the pleasure of the board for a term not to exceed four years. In its discretion the board may stagger the terms of the initial members appointed.

SEC. 25. Section 2770.7 of the Business and Professions Code is amended to read:

2770.7. (a) The board shall establish criteria for the acceptance, denial, or termination of registered nurses in the intervention program. Only those registered nurses who have voluntarily requested to participate in the intervention program shall participate in the program.

(b) A registered nurse under current investigation by the board may request entry into the intervention program by contacting the board. Prior to authorizing a registered nurse to enter into the intervention program, the board may require the registered nurse under current investigation for any violations of this chapter or any other provision of this code to execute a statement of understanding that states that the registered nurse understands that his or her violations that would otherwise be the basis for discipline may still be investigated and may be the subject of disciplinary action.

(c) If the reasons for a current investigation of a registered nurse are based primarily on the self-administration of any controlled substance or dangerous drug or alcohol under Section 2762, or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drug for self-administration that does not involve actual, direct harm to the public, the board shall close the investigation without further action if the registered nurse is accepted into the board's intervention program and successfully completes the program. If the registered nurse withdraws or is terminated from the program by an intervention evaluation committee, and the termination is approved by the program manager, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the board.

(d) Neither acceptance nor participation in the intervention program shall preclude the board from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any registered nurse for any unprofessional conduct committed before, during, or after participation in the intervention program.

(e) All registered nurses shall sign an agreement of understanding that the withdrawal or termination from the intervention program at a time when the program manager or intervention evaluation committee determines the licensee presents a threat to the public's health and safety shall result in the utilization by the board of intervention program treatment records in disciplinary or criminal proceedings.

(f) Any registered nurse terminated from the intervention program for failure to comply with program requirements is subject to disciplinary action by the board for acts committed before, during, and after participation in the intervention program. A registered nurse who has been under investigation by the board and has been terminated from the intervention program by an intervention evaluation committee shall be reported by the intervention evaluation committee to the board.

SEC. 26. Section 2770.8 of the Business and Professions Code is amended to read:

2770.8. A committee created under this article operates under the direction of the intervention program manager. The program manager has the primary responsibility to review and evaluate recommendations of the committee. Each committee shall have the following duties and responsibilities:

(a) To evaluate those registered nurses who request participation in the program according to the guidelines prescribed by the board, and to make recommendations.

(b) To review and designate those treatment services to which registered nurses in an intervention program may be referred.

(c) To receive and review information concerning a registered nurse participating in the program.

(d) To consider in the case of each registered nurse participating in a program whether he or she may with safety continue or resume the practice of nursing.

(e) To call meetings as necessary to consider the requests of registered nurses to participate in an intervention program, and to consider reports regarding registered nurses participating in a program.

(f) To make recommendations to the program manager regarding the terms and conditions of the intervention agreement for each registered nurse participating in the program, including treatment, supervision, and monitoring requirements.

SEC. 27. Section 2770.10 of the Business and Professions Code is amended to read:

2770.10. Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, a committee may convene in closed session to consider reports pertaining to any registered nurse requesting or participating in an intervention program. A committee shall only convene in closed session to the extent that it is necessary to protect the privacy of such a licensee.

SEC. 28. Section 2770.11 of the Business and Professions Code is amended to read:

2770.11. (a) Each registered nurse who requests participation in an intervention program shall agree to cooperate with the rehabilitation program designed by the committee and approved by the program manager. Any failure to comply with a rehabilitation program may result in termination of the registered nurse's participation in a program. The name and license number of a registered nurse who is terminated for any reason, other than successful completion, shall be reported to the board's enforcement program.

(b) If the program manager determines that a registered nurse, who is denied admission into the program or terminated from the program, presents a threat to the public or his or her own health and safety, the program manager shall report the name and license number, along with a copy of all intervention program records for that registered nurse, to the board's enforcement program. The board may use any of the records it receives under this subdivision in any disciplinary proceeding.

SEC. 29. Section 2770.12 of the Business and Professions Code is amended to read:

2770.12. (a) After the committee and the program manager in their discretion have determined that a registered nurse has successfully completed the intervention program, all records pertaining to the registered nurse's participation in the intervention program shall be purged.

(b) All board and committee records and records of a proceeding pertaining to the participation of a registered nurse in the intervention program shall be kept confidential and are not subject to discovery or subpoena, except as specified in subdivision (b) of Section 2770.11 and subdivision (c).



(c) A registered nurse shall be deemed to have waived any rights granted by any laws and regulations relating to confidentiality of the intervention program, if he or she does any of the following:

(1) Presents information relating to any aspect of the intervention program during any stage of the disciplinary process subsequent to the filing of an accusation, statement of issues, or petition to compel an examination pursuant to Article 12.5 (commencing with Section 820) of Chapter 1. The waiver shall be limited to information necessary to verify or refute any information disclosed by the registered nurse.

(2) Files a lawsuit against the board relating to any aspect of the intervention program.

(3) Claims in defense to a disciplinary action, based on a complaint that led to the registered nurse's participation in the intervention program, that he or she was prejudiced by the length of time that passed between the alleged violation and the filing of the accusation. The waiver shall be limited to information necessary to document the length of time the registered nurse participated in the intervention program.

SEC. 30. Section 2770.13 of the Business and Professions Code is amended to read:

2770.13. The board shall provide for the legal representation of any person making reports under this article to a committee or the board in any action for defamation directly resulting from those reports regarding a registered nurse's participation in an intervention program.

SEC. 31. Section 2835.5 of the Business and Professions Code is amended to read:

2835.5. On and after January 1, 2008, an applicant for initial qualification or certification as a nurse practitioner under this article who has not been qualified or certified as a nurse practitioner in California or any other state shall meet the following requirements:

(a) Hold a valid and active registered nursing license issued under this chapter.

(b) Possess a master's degree in nursing, a master's degree in a clinical field related to nursing, or a graduate degree in nursing.

(c) Satisfactorily complete a nurse practitioner program approved by the board.

SEC. 32. Section 3057 of the Business and Professions Code is amended to read:

3057. (a) The board may issue a license to practice optometry to a person who meets all of the following requirements:

(1) Has a degree as a doctor of optometry issued by an accredited school or college of optometry.

(2) Has successfully passed the licensing examination for an optometric license in another state.

(3) Submits proof that he or she is licensed in good standing as of the date of application in every state where he or she holds a license, including compliance with continuing education requirements.

(4) Is not subject to disciplinary action as set forth in subdivision (h) of Section 3110. If the person has been subject to disciplinary action, the board shall review that action to determine if it presents sufficient evidence of a violation of this chapter to warrant the submission of additional information from the person or the denial of the application for licensure.

(5) Has furnished a signed release allowing the disclosure of information from the National Practitioner Database and, if applicable, the verification of registration status with the federal Drug Enforcement Administration. The board shall review this information to determine if it presents sufficient evidence of a violation of this chapter to warrant the submission of additional information from the person or the denial of the application for licensure.

(6) Has never had his or her license to practice optometry revoked or suspended in any state where the person holds a license.

(7) (A) Is not subject to denial of an application for licensure based on any of the grounds listed in Section 480.

(B) Is not currently required to register as a sex offender pursuant to Section 290 of the Penal Code.

(8) Has met the minimum continuing education requirements set forth in Section 3059 for the current and preceding year.

(9) Has met the certification requirements of Section 3041.3 to use therapeutic pharmaceutical agents under subdivision (e) of Section 3041.

(10) Submits any other information as specified by the board to the extent it is required for licensure by examination under this chapter.

(11) Files an application on a form prescribed by the board, with an acknowledgment by the person executed under penalty of perjury and automatic forfeiture of license, of the following:

(A) That the information provided by the person to the board is true and correct, to the best of his or her knowledge and belief.

(B) That the person has not been convicted of an offense involving conduct that would violate Section 810.

(12) Pays an application fee in an amount equal to the application fee prescribed pursuant to subdivision (a) of Section 3152.

(13) Has successfully passed the board's jurisprudence examination.

(b) If the board finds that the competency of a candidate for licensure pursuant to this section is in question, the board may require the passage of a written, practical, or clinical examination or completion of additional continuing education or coursework.

(c) In cases where the person establishes, to the board's satisfaction, that he or she has been displaced by a federally declared emergency and cannot relocate to his or her state of practice within a reasonable time without economic hardship, the board may reduce or waive the fees required by paragraph (12) of subdivision (a).

(d) Any license issued pursuant to this section shall expire as provided in Section 3146, and may be renewed as provided in this chapter, subject to the same conditions as other licenses issued under this chapter.

(e) The term "in good standing," as used in this section, means that a person under this section:

(1) Is not currently under investigation nor has been charged with an offense for any act substantially related to the practice of optometry by any public agency, nor entered into any consent agreement or subject to an administrative decision that contains conditions placed by an agency upon a person's professional conduct or practice, including any voluntary surrender of license, nor been the subject of an adverse judgment resulting from the practice of optometry that the board determines constitutes evidence of a pattern of incompetence or negligence.

(2) Has no physical or mental impairment related to drugs or alcohol, and has not been found mentally incompetent by a licensed psychologist or licensed psychiatrist so that the person is unable

to undertake the practice of optometry in a manner consistent with the safety of a patient or the public.

SEC. 33. Section 3509.5 of the Business and Professions Code is amended to read:

3509.5. The board shall elect annually a president and a vice president from among its members.

SEC. 34. Section 4836.2 of the Business and Professions Code is amended to read:

4836.2. (a) Applications for a veterinary assistant controlled substance permit shall be upon a form furnished by the board.

(b) The fee for filing an application for a veterinary assistant controlled substance permit shall be set by the board in an amount the board determines is reasonably necessary to provide sufficient funds to carry out the purposes of this section, not to exceed one hundred dollars (\$100).

(c) The board may suspend or revoke the controlled substance permit of a veterinary assistant after notice and hearing for any cause provided in this subdivision. The proceedings under this section shall be conducted in accordance with the provisions for administrative adjudication in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein. The board may deny, revoke, or suspend a veterinary assistant controlled substance permit for any of the following reasons:

(1) The employment of fraud, misrepresentation, or deception in obtaining a veterinary assistant controlled substance permit.

(2) Chronic inebriety or habitual use of controlled substances.

(3) The veterinary assistant to whom the permit is issued has been convicted of a state or federal felony controlled substance violation.

(4) Violating or attempts to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, or of the regulations adopted under this chapter.

(d) The board shall not issue a veterinary assistant controlled substance permit to any applicant with a state or federal felony controlled substance conviction.

(e) (1) As part of the application for a veterinary assistant controlled substance permit, the applicant shall submit to the Department of Justice fingerprint images and related information,

as required by the Department of Justice for all veterinary assistant applicants, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(2) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information that it receives pursuant to this section. The Department of Justice shall review any information returned to it from the Federal Bureau of Investigation and compile and disseminate a response to the board summarizing that information.

(3) The Department of Justice shall provide a state or federal level response to the board pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The Department of Justice shall charge a reasonable fee sufficient to cover the cost of processing the request described in this subdivision.

(f) The board shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in paragraph (1) of subdivision (e).

(g) This section shall become operative on July 1, 2015.

SEC. 35. Section 4887 of the Business and Professions Code is amended to read:

4887. (a) A person whose license or registration has been revoked or who has been placed on probation may petition the board for reinstatement or modification of penalty including modification or termination of probation after a period of not less than one year has elapsed from the effective date of the decision ordering the disciplinary action. The petition shall state such facts as may be required by the board.

(b) The petition shall be accompanied by at least two verified recommendations from veterinarians licensed by the board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed. The petition shall be heard by the board. The board may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities since the

license or registration was in good standing, and the petitioner's rehabilitation efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the board finds necessary.

(c) The board reinstating the license or registration or modifying a penalty may impose terms and conditions as it determines necessary. To reinstate a revoked license or registration or to otherwise reduce a penalty or modify probation shall require a vote of five of the members of the board.

(d) The petition shall not be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. The board may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

SEC. 36. Section 4938 of the Business and Professions Code is amended to read:

4938. The board shall issue a license to practice acupuncture to any person who makes an application and meets the following requirements:

(a) Is at least 18 years of age.

(b) Furnishes satisfactory evidence of completion of one of the following:

(1) (A) An approved educational and training program.

(B) If an applicant began his or her educational and training program at a school or college that submitted a letter of intent to pursue accreditation to, or attained candidacy status from, the Accreditation Commission for Acupuncture and Oriental Medicine, but the commission subsequently denied the school or college candidacy status or accreditation, respectively, the board may review and evaluate the educational training and clinical experience to determine whether to waive the requirements set forth in this subdivision with respect to that applicant.

(2) Satisfactory completion of a tutorial program in the practice of an acupuncturist that is approved by the board.

(3) In the case of an applicant who has completed education and training outside the United States, documented educational training and clinical experience that meets the standards established pursuant to Sections 4939 and 4941.

(c) Passes a written examination administered by the board that tests the applicant's ability, competency, and knowledge in the practice of an acupuncturist. The written examination shall be developed by the Office of Professional Examination Services of the Department of Consumer Affairs.

(d) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

(e) Completes a clinical internship training program approved by the board. The clinical internship training program shall not exceed nine months in duration and shall be located in a clinic in this state that is an approved educational and training program. The length of the clinical internship shall depend upon the grades received in the examination and the clinical training already satisfactorily completed by the individual prior to taking the examination. On and after January 1, 1987, individuals with 800 or more hours of documented clinical training shall be deemed to have met this requirement. The purpose of the clinical internship training program shall be to ensure a minimum level of clinical competence.

Each applicant who qualifies for a license shall pay, as a condition precedent to its issuance and in addition to other fees required, the initial licensure fee.

SEC. 37. Section 4939 of the Business and Professions Code, as added by Section 9 of Chapter 397 of the Statutes of 2014, is amended to read:

4939. (a) The board shall establish standards for the approval of educational training and clinical experience received outside the United States.

(b) This section shall become operative on January 1, 2017.

SEC. 38. Section 4980.399 of the Business and Professions Code is amended to read:

4980.399. (a) Except as provided in subdivision (a) of Section 4980.398, each applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later

than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

(d) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application except as provided in subdivision (e).

(e) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her renewal period on or after the operative date of this section, he or she shall complete, at a minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by this section shall be taken through a continuing education provider as specified by the board by regulation, a county, state or governmental entity, or a college or university.

(f) The board shall not issue a subsequent registration number unless the registrant has passed the California law and ethics examination.

(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination during the next renewal period or prior to licensure, whichever occurs first.

(h) This section shall become operative on January 1, 2016.

SEC. 39. Section 4980.43 of the Business and Professions Code is amended to read:

4980.43. (a) To qualify for licensure as specified in Section 4980.40, each applicant shall complete experience related to the



practice of marriage and family therapy under a supervisor who meets the qualifications set forth in Section 4980.03. The experience shall comply with the following:

(1) A minimum of 3,000 hours of supervised experience completed during a period of at least 104 weeks.

(2) A maximum of 40 hours in any seven consecutive days.

(3) A minimum of 1,700 hours obtained after the qualifying master's or doctoral degree was awarded.

(4) A maximum of 1,300 hours obtained prior to the award date of the qualifying master's or doctoral degree.

(5) A maximum of 750 hours of counseling and direct supervisor contact prior to the award date of the qualifying master's or doctoral degree.

(6) No hours of experience may be gained prior to completing either 12 semester units or 18 quarter units of graduate instruction.

(7) No hours of experience may be gained more than six years prior to the date the application for examination eligibility was filed, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (c) of Section 4980.37 and subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36 shall be exempt from this six-year requirement.

(8) A minimum of 1,750 hours of direct counseling with individuals, groups, couples, or families, that includes not less than 500 total hours of experience in diagnosing and treating couples, families, and children.

(9) A maximum of 1,250 hours of nonclinical practice, consisting of direct supervisor contact, administering and evaluating psychological tests, writing clinical reports, writing progress or process notes, client centered advocacy, and workshops, seminars, training sessions, or conferences directly related to marriage and family therapy that have been approved by the applicant's supervisor.

(10) It is anticipated and encouraged that hours of experience will include working with elders and dependent adults who have physical or mental limitations that restrict their ability to carry out normal activities or protect their rights.

This subdivision shall only apply to hours gained on and after January 1, 2010.

(b) An individual who submits an application for examination eligibility between January 1, 2016, and December 31, 2020, may

alternatively qualify under the experience requirements that were in place on January 1, 2015.

(c) All applicants, trainees, and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy. Supervised experience shall be gained by an intern or trainee only as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by an intern or trainee as an independent contractor.

(1) If employed, an intern shall provide the board with copies of the corresponding W-2 tax forms for each year of experience claimed upon application for licensure.

(2) If volunteering, an intern shall provide the board with a letter from his or her employer verifying the intern's employment as a volunteer upon application for licensure.

(d) Except for experience gained by attending workshops, seminars, training sessions, or conferences as described in paragraph (9) of subdivision (a), supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting, as specified:

(1) A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting. No more than six hours of supervision, whether individual or group, shall be credited during any single week.

(2) An individual supervised after being granted a qualifying degree shall receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of client contact is gained in each setting. No more than six hours of supervision, whether individual or group, shall be credited during any single week.

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour per week of face-to-face contact on an individual basis or two hours per week of face-to-face contact in a group.

(4) Direct supervisor contact shall occur within the same week as the hours claimed.

(5) Direct supervisor contact provided in a group shall be provided in a group of not more than eight supervisees and in segments lasting no less than one continuous hour.

(6) Notwithstanding paragraph (3), an intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

(7) All experience gained by a trainee shall be monitored by the supervisor as specified by regulation.

(8) The six hours of supervision that may be credited during any single week pursuant to paragraphs (1) and (2) shall apply to supervision hours gained on or after January 1, 2009.

(e) (1) A trainee may be credited with supervised experience completed in any setting that meets all of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(C) Is not a private practice owned by a licensed marriage and family therapist, a licensed professional clinical counselor, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(2) Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.

(f) (1) An intern may be credited with supervised experience completed in any setting that meets both of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(2) An applicant shall not be employed or volunteer in a private practice, as defined in subparagraph (C) of paragraph (1) of subdivision (e), until registered as an intern.

(3) While an intern may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to interns.

(4) Except for periods of time during a supervisor's vacation or sick leave, an intern who is employed or volunteering in private practice shall be under the direct supervision of a licensee that has satisfied subdivision (g) of Section 4980.03. The supervising licensee shall either be employed by and practice at the same site as the intern's employer, or shall be an owner or shareholder of the private practice. Alternative supervision may be arranged during a supervisor's vacation or sick leave if the supervision meets the requirements of this section.

(5) Experience may be gained by the intern solely as part of the position for which the intern volunteers or is employed.

(g) Except as provided in subdivision (h), all persons shall register with the board as an intern to be credited for postdegree hours of supervised experience gained toward licensure.

(h) Postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the intern registration within 90 days of the granting of the qualifying master's or doctoral degree and is thereafter granted the intern registration by the board. An applicant shall not be employed or volunteer in a private practice until registered as an intern by the board.

(i) Trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.

(j) Trainees, interns, and applicants shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of their employer and supervisor, and in compliance with the laws and regulations pertaining to supervision. For purposes of paragraph (3) of subdivision (a) of Section 2290.5, interns and trainees working under licensed supervision, consistent with subdivision (c), may provide services via telehealth within the scope authorized by this chapter and in accordance with any regulations governing the use of telehealth promulgated by the

board. Trainees and interns shall have no proprietary interest in their employers' businesses and shall not lease or rent space, pay for furnishings, equipment, or supplies, or in any other way pay for the obligations of their employers.

(k) Trainees, interns, or applicants who provide volunteered services or other services, and who receive no more than a total, from all work settings, of five hundred dollars (\$500) per month as reimbursement for expenses actually incurred by those trainees, interns, or applicants for services rendered in any lawful work setting other than a private practice shall be considered employees and not independent contractors. The board may audit applicants who receive reimbursement for expenses, and the applicants shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(l) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

SEC. 40. Section 4980.54 of the Business and Professions Code is amended to read:

4980.54. (a) The Legislature recognizes that the education and experience requirements in this chapter constitute only minimal requirements to ensure that an applicant is prepared and qualified to take the licensure examinations as specified in subdivision (d) of Section 4980.40 and, if he or she passes those examinations, to begin practice.

(b) In order to continuously improve the competence of licensed marriage and family therapists and as a model for all psychotherapeutic professions, the Legislature encourages all licensees to regularly engage in continuing education related to the profession or scope of practice as defined in this chapter.

(c) Except as provided in subdivision (e), the board shall not renew any license pursuant to this chapter unless the applicant

certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of marriage and family therapy in the preceding two years, as determined by the board.

(d) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(e) The board may establish exceptions from the continuing education requirements of this section for good cause, as defined by the board.

(f) The continuing education shall be obtained from one of the following sources:

(1) An accredited school or state-approved school that meets the requirements set forth in Section 4980.36 or 4980.37. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, as specified by the board by regulation.

(g) The board shall establish, by regulation, a procedure for identifying acceptable providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (f), shall adhere to procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(h) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of marriage and family therapy.

(2) Aspects of the discipline of marriage and family therapy in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of marriage and family therapy.

(i) A system of continuing education for licensed marriage and family therapists shall include courses directly related to the

diagnosis, assessment, and treatment of the client population being served.

(j) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (f) shall be deemed to be an approved provider.

(k) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

SEC. 41. Section 4984.01 of the Business and Professions Code, as amended by Section 31 of Chapter 473 of the Statutes of 2013, is amended to read:

4984.01. (a) The marriage and family therapist intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew the registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

(1) Apply for renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Participate in the California law and ethics examination pursuant to Section 4980.399 each year until successful completion of this examination.

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken against him or her by a regulatory or licensing board in this or any other state subsequent to the last renewal of the registration.

(c) The registration may be renewed a maximum of five times. No registration shall be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a subsequent intern registration number if the applicant meets the educational requirements for registration in effect at the time of

the application for a subsequent intern registration number and has passed the California law and ethics examination described in Section 4980.399. An applicant who is issued a subsequent intern registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

(d) This section shall become operative on January 1, 2016.

SEC. 42. Section 4989.34 of the Business and Professions Code is amended to read:

4989.34. (a) To renew his or her license, a licensee shall certify to the board, on a form prescribed by the board, completion in the preceding two years of not less than 36 hours of approved continuing education in, or relevant to, educational psychology.

(b) (1) The continuing education shall be obtained from either an accredited university or a continuing education provider as specified by the board by regulation.

(2) The board shall establish, by regulation, a procedure identifying acceptable providers of continuing education courses, and all providers of continuing education shall comply with procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(c) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of educational psychology.

(2) Aspects of the discipline of educational psychology in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of educational psychology.

(d) The board may audit the records of a licensee to verify completion of the continuing education requirement. A licensee shall maintain records of the completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon its request.

(e) The board may establish exceptions from the continuing education requirements of this section for good cause, as determined by the board.



(f) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The amount of the fees shall be sufficient to meet, but shall not exceed, the costs of administering this section.

(g) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

SEC. 43. Section 4992.09 of the Business and Professions Code is amended to read:

4992.09. (a) Except as provided in subdivision (a) of Section 4992.07, an applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

(d) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application except for as provided in subdivision (e).

(e) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her renewal period on or after the operative date of this section, he or she shall complete, at a minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by

this section shall be taken through a continuing education provider, as specified by the board by regulation, a county, state or governmental entity, or a college or university.

(f) The board shall not issue a subsequent registration number unless the registrant has passed the California law and ethics examination.

(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination during the next renewal period or prior to licensure, whichever occurs first.

(h) This section shall become operative on January 1, 2016.

SEC. 44. Section 4996.2 of the Business and Professions Code is amended to read:

4996.2. Each applicant for a license shall furnish evidence satisfactory to the board that he or she complies with all of the following requirements:

- (a) Is at least 21 years of age.
- (b) Has received a master's degree from an accredited school of social work.
- (c) Has had two years of supervised post-master's degree experience, as specified in Section 4996.23.
- (d) Has not committed any crimes or acts constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of any crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.
- (e) Has completed adequate instruction and training in the subject of alcoholism and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after January 1, 1986.
- (f) Has completed instruction and training in spousal or partner abuse assessment, detection, and intervention. This requirement applies to an applicant who began graduate training during the

period commencing on January 1, 1995, and ending on December 31, 2003. An applicant who began graduate training on or after January 1, 2004, shall complete a minimum of 15 contact hours of coursework in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics. Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

(g) Has completed a minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 1807 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

(h) Has completed a minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 1807.2 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

SEC. 45. Section 4996.22 of the Business and Professions Code is amended to read:

4996.22. (a) (1) Except as provided in subdivision (c), the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of social work in the preceding two years, as determined by the board.

(2) The board shall not renew any license of an applicant who began graduate study prior to January 1, 2004, pursuant to this chapter unless the applicant certifies to the board that during the applicant's first renewal period after the operative date of this section, he or she completed a continuing education course in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. On and after January 1, 2005, the course shall consist of not less than seven hours of training. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice

experience may be submitted to the board and at its discretion, may be accepted in satisfaction of this requirement. Continuing education courses taken pursuant to this paragraph shall be applied to the 36 hours of approved continuing education required under paragraph (1).

(b) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(c) The board may establish exceptions from the continuing education requirement of this section for good cause as defined by the board.

(d) The continuing education shall be obtained from one of the following sources:

(1) An accredited school of social work, as defined in Section 4991.2, or a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, as specified by the board by regulation.

(e) The board shall establish, by regulation, a procedure for identifying acceptable providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (d), shall adhere to the procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(f) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding, or the practice, of social work.

(2) Aspects of the social work discipline in which significant recent developments have occurred.

(3) Aspects of other related disciplines that enhance the understanding, or the practice, of social work.

(g) A system of continuing education for licensed clinical social workers shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(h) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

(i) The board may adopt regulations as necessary to implement this section.

(j) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (d) shall be deemed to be an approved provider.

SEC. 46. Section 4996.28 of the Business and Professions Code is amended to read:

4996.28. (a) Registration as an associate clinical social worker shall expire one year from the last day of the month during which it was issued. To renew a registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

(1) Apply for renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken by a regulatory or licensing board in this or any other state, subsequent to the last renewal of the registration.

(4) On and after January 1, 2016, obtain a passing score on the California law and ethics examination pursuant to Section 4992.09.

(b) A registration as an associate clinical social worker may be renewed a maximum of five times. When no further renewals are possible, an applicant may apply for and obtain a subsequent associate clinical social worker registration number if the applicant meets all requirements for registration in effect at the time of his or her application for a subsequent associate clinical social worker registration number. An applicant issued a subsequent associate

registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

SEC. 47. Section 4999.1 of the Business and Professions Code is amended to read:

4999.1. Application for registration as a telephone medical advice service shall be made on a form prescribed by the department, accompanied by the fee prescribed pursuant to Section 4999.5. The department shall make application forms available. Applications shall contain all of the following:

(a) The signature of the individual owner of the telephone medical advice service, or of all of the partners if the service is a partnership, or of the president or secretary if the service is a corporation. The signature shall be accompanied by a resolution or other written communication identifying the individual whose signature is on the form as owner, partner, president, or secretary.

(b) The name under which the person applying for the telephone medical advice service proposes to do business.

(c) The physical address, mailing address, and telephone number of the business entity.

(d) The designation, including the name and physical address, of an agent for service of process in California.

(e) A list of all health care professionals providing medical advice services that are required to be licensed, registered, or certified pursuant to this chapter. This list shall be submitted to the department on a form to be prescribed by the department and shall include, but not be limited to, the name, state of licensure, type of license, and license number.

(f) The department shall be notified within 30 days of any change of name, physical location, mailing address, or telephone number of any business, owner, partner, corporate officer, or agent for service of process in California, together with copies of all resolutions or other written communications that substantiate these changes.

SEC. 48. Section 4999.2 of the Business and Professions Code is amended to read:

4999.2. (a) In order to obtain and maintain a registration, a telephone medical advice service shall comply with the requirements established by the department. Those requirements shall include, but shall not be limited to, all of the following:

(1) (A) Ensuring that all health care professionals who provide medical advice services are appropriately licensed, certified, or registered as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist, dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions pursuant to Chapter 4 (commencing with Section 1600), as an occupational therapist pursuant to Chapter 5.6 (commencing with Section 2570), as a registered nurse pursuant to Chapter 6 (commencing with Section 2700), as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a naturopathic doctor pursuant to Chapter 8.2 (commencing with Section 3610), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4991), as a licensed professional clinical counselor pursuant to Chapter 16 (commencing with Section 4999.10), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating consistent with the laws governing their respective scopes of practice in the state within which they provide telephone medical advice services, except as provided in paragraph (2).

(B) Ensuring that all health care professionals who provide telephone medical advice services from an out-of-state location, as identified in subparagraph (A), are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating consistent with the laws governing their respective scopes of practice.

(2) Ensuring that the telephone medical advice provided is consistent with good professional practice.

(3) Maintaining records of telephone medical advice services, including records of complaints, provided to patients in California for a period of at least five years.

(4) Ensuring that no staff member uses a title or designation when speaking to an enrollee, subscriber, or consumer that may cause a reasonable person to believe that the staff member is a licensed, certified, or registered health care professional described in subparagraph (A) of paragraph (1), unless the staff member is a licensed, certified, or registered professional.

(5) Complying with all directions and requests for information made by the department.

(6) Notifying the department within 30 days of any change of name, physical location, mailing address, or telephone number of any business, owner, partner, corporate officer, or agent for service of process in California, together with copies of all resolutions or other written communications that substantiate these changes.

(7) Submitting quarterly reports, on a form prescribed by the department, to the department within 30 days of the end of each calendar quarter.

(b) To the extent permitted by Article VII of the California Constitution, the department may contract with a private nonprofit accrediting agency to evaluate the qualifications of applicants for registration pursuant to this chapter and to make recommendations to the department.

SEC. 49. Section 4999.3 of the Business and Professions Code is amended to read:

4999.3. (a) The department may suspend, revoke, or otherwise discipline a registrant or deny an application for registration as a telephone medical advice service based on any of the following:

(1) Incompetence, gross negligence, or repeated similar negligent acts performed by the registrant or any employee of the registrant.

(2) An act of dishonesty or fraud by the registrant or any employee of the registrant.

(3) The commission of any act, or being convicted of a crime, that constitutes grounds for denial or revocation of licensure pursuant to any provision of this division.

(b) The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all powers granted therein.

(c) Copies of any complaint against a telephone medical advice service shall be forwarded to the Department of Managed Health Care.

(d) The department shall forward a copy of any complaint submitted to the department pursuant to this chapter to the entity that issued the license to the licensee involved in the advice provided to the patient.



SEC. 50. Section 4999.4 of the Business and Professions Code is amended to read:

4999.4. (a) Every registration issued to a telephone medical advice service shall expire 24 months after the initial date of issuance.

(b) To renew an unexpired registration, the registrant shall, before the time at which the registration would otherwise expire, pay the renewal fee authorized by Section 4999.5.

(c) An expired registration may be renewed at any time within three years after its expiration upon the filing of an application for renewal on a form prescribed by the bureau and the payment of all fees authorized by Section 4999.5. A registration that is not renewed within three years following its expiration shall not be renewed, restored, or reinstated thereafter, and the delinquent registration shall be canceled immediately upon expiration of the three-year period.

SEC. 51. Section 4999.5 of the Business and Professions Code is amended to read:

4999.5. The department may set fees for registration and renewal as a telephone medical advice service sufficient to pay the costs of administration of this chapter.

SEC. 52. Section 4999.7 of the Business and Professions Code is amended to read:

4999.7. (a) This section does not limit, preclude, or otherwise interfere with the practices of other persons licensed or otherwise authorized to practice, under any other provision of this division, telephone medical advice services consistent with the laws governing their respective scopes of practice, or licensed under the Osteopathic Initiative Act or the Chiropractic Initiative Act and operating consistent with the laws governing their respective scopes of practice.

(b) For purposes of this chapter, “telephone medical advice” means a telephonic communication between a patient and a health care professional in which the health care professional’s primary function is to provide to the patient a telephonic response to the patient’s questions regarding his or her or a family member’s medical care or treatment. “Telephone medical advice” includes assessment, evaluation, or advice provided to patients or their family members.

(c) For purposes of this chapter, “health care professional” is an employee or independent contractor described in Section 4999.2 who provides medical advice services and is appropriately licensed, certified, or registered as a dentist, dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions pursuant to Chapter 4 (commencing with Section 1600), as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a registered nurse pursuant to Chapter 6 (commencing with Section 2700), as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a naturopathic doctor pursuant to Chapter 8.2 (commencing with Section 3610), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4991), as a licensed professional clinical counselor pursuant to Chapter 16 (commencing with Section 4999.10), or as a chiropractor pursuant to the Chiropractic Initiative Act, and who is operating consistent with the laws governing his or her respective scopes of practice in the state in which he or she provides telephone medical advice services.

SEC. 53. Section 4999.45 of the Business and Professions Code, as amended by Section 54 of Chapter 473 of the Statutes of 2013, is amended to read:

4999.45. (a) An intern employed under this chapter shall:

- (1) Not perform any duties, except for those services provided as a clinical counselor trainee, until registered as an intern.
- (2) Not be employed or volunteer in a private practice until registered as an intern.
- (3) Inform each client prior to performing any professional services that he or she is unlicensed and under supervision.
- (4) Renew annually for a maximum of five years after initial registration with the board.

(b) When no further renewals are possible, an applicant may apply for and obtain a subsequent intern registration number if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent intern registration number and has passed the California law and ethics examination described in Section 4999.53. An applicant issued a

subsequent intern registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

(c) This section shall become operative on January 1, 2016.

SEC. 54. Section 4999.46 of the Business and Professions Code, as amended by Section 3 of Chapter 435 of the Statutes of 2014, is amended to read:

4999.46. (a) To qualify for licensure as specified in Section 4999.50, applicants shall complete experience related to the practice of professional clinical counseling under an approved supervisor. The experience shall comply with the following:

(1) A minimum of 3,000 postdegree hours of supervised experience performed over a period of not less than two years (104 weeks).

(2) Not more than 40 hours in any seven consecutive days.

(3) Not less than 1,750 hours of direct counseling with individuals, groups, couples, or families in a setting described in Section 4999.44 using a variety of psychotherapeutic techniques and recognized counseling interventions within the scope of practice of licensed professional clinical counselors.

(4) Not less than 150 hours of clinical experience in a hospital or community mental health setting, as defined in Section 1820 of Title 16 of the California Code of Regulations.

(5) A maximum of 1,250 hours of nonclinical practice, consisting of direct supervisor contact, administering and evaluating psychological tests, writing clinical reports, writing progress or process notes, client centered advocacy, and workshops, seminars, training sessions, or conferences directly related to professional clinical counseling that have been approved by the applicant's supervisor.

(b) An individual who submits an application for examination eligibility between January 1, 2016, and December 31, 2020, may alternatively qualify under the experience requirements that were in place on January 1, 2015.

(c) No hours of clinical mental health experience may be gained more than six years prior to the date the application for examination eligibility was filed.

(d) An applicant shall register with the board as an intern in order to be credited for postdegree hours of experience toward licensure. Postdegree hours of experience shall be credited toward licensure, provided that the applicant applies for intern registration

within 90 days of the granting of the qualifying degree and is thereafter granted the intern registration by the board. An applicant shall not be employed or volunteer in a private practice until registered as an intern by the board.

(e) All applicants and interns shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of professional clinical counseling.

(f) Experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Experience obtained under the supervision of a supervisor with whom the applicant has had or currently has a personal, professional, or business relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

(g) Except for experience gained by attending workshops, seminars, training sessions, or conferences as described in paragraph (5) of subdivision (a), supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting.

(1) No more than six hours of supervision, whether individual or group, shall be credited during any single week. This paragraph shall apply to supervision hours gained on or after January 1, 2009.

(2) An intern shall receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting in which experience is gained.

(3) For purposes of this section, “one hour of direct supervisor contact” means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons in segments lasting no less than one continuous hour.

(4) Notwithstanding paragraph (3), an intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable, may obtain the required weekly direct supervisor contact via two-way, real-time

videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

(h) This section shall become operative on January 1, 2016.

SEC. 55. Section 4999.55 of the Business and Professions Code is amended to read:

4999.55. (a) Each applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

(d) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application, except as provided in subdivision (e).

(e) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her renewal period on or after the operative date of this section, he or she shall complete, at minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by this section shall be taken through a continuing education provider as specified by the board by regulation, a county, state, or governmental entity, or a college or university.

(f) The board shall not issue a subsequent registration number unless the registrant has passed the California law and ethics examination.

(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination during the next renewal period or prior to licensure, whichever occurs first.

(h) This section shall become operative January 1, 2016.

SEC. 56. Section 4999.76 of the Business and Professions Code is amended to read:

4999.76. (a) Except as provided in subdivision (c), the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of professional clinical counseling in the preceding two years, as determined by the board.

(b) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completed continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(c) The board may establish exceptions from the continuing education requirement of this section for good cause, as defined by the board.

(d) The continuing education shall be obtained from one of the following sources:

(1) A school, college, or university that is accredited or approved, as defined in Section 4999.12. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers as specified by the board by regulation.

(e) The board shall establish, by regulation, a procedure for identifying acceptable providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (d), shall adhere to procedures

established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(f) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of professional clinical counseling.

(2) Significant recent developments in the discipline of professional clinical counseling.

(3) Aspects of other disciplines that enhance the understanding or the practice of professional clinical counseling.

(g) A system of continuing education for licensed professional clinical counselors shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(h) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For the purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (d) shall be deemed to be an approved provider.

(i) The continuing education requirements of this section shall fully comply with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

SEC. 57. Section 4999.100 of the Business and Professions Code, as amended by Section 66 of Chapter 473 of the Statutes of 2013, is amended to read:

4999.100. (a) An intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew a registration, the registrant on or before the expiration date of the registration, shall do the following:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or

licensing board in this or any other state, subsequent to the registrant's last renewal.

(4) Participate in the California law and ethics examination pursuant to Section 4999.53 each year until successful completion of this examination.

(c) The intern registration may be renewed a maximum of five times. Registration shall not be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a subsequent intern registration number if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent intern registration number and has passed the California law and ethics examination described in Section 4999.53. An applicant who is issued a subsequent intern registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

(d) This section shall become operative on January 1, 2016.

SEC. 58. Section 15.5 of this bill incorporates amendments to Section 1944 of the Business and Professions Code proposed by both this bill and Assembly Bill 483. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2016, (2) each bill amends Section 1944 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 483, in which case Section 15 of this bill shall not become operative.

SEC. 59. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved \_\_\_\_\_, 2015

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*Governor*

**Assembly Bill No. 192**

\_\_\_\_\_

Passed the Assembly September 10, 2015

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

Passed the Senate September 9, 2015

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add Section 5168 to the Vehicle Code, relating to license plates.

## LEGISLATIVE COUNSEL'S DIGEST

AB 192, Travis Allen. Specialized license plates.

Existing law establishes a specialized license plate program and requires the Department of Motor Vehicles (DMV) to issue specialized license plates on behalf of a sponsoring state agency that meets certain requirements. Existing law requires that the DMV charge specified additional fees for the issuance, renewal, or transfer of specialized license plates, and requires the DMV to deposit the fees, less the DMV's costs, into the Specialized License Plate Fund. Existing law requires that moneys in the fund be allocated, upon appropriation by the Legislature, to each sponsoring agency in proportion to the amount that is attributable to the agency's specialized license plate program. Existing law authorizes the sponsoring state agency to use these moneys to fund projects and programs that promote the state agency's official policy, mission, or work.

The bill would require the DMV to deposit fees for the issuance, renewal, or transfer of the Pet Lover's specialized license plates, less the DMV's costs, into the Pet Lover's Fund, which the bill would establish in the Specialized License Plate Fund, for the deposit of revenue derived from these specialized license plates. The bill would require that these funds be allocated, upon appropriation by the Legislature, to the Veterinary Medical Board for disbursement by a nonprofit organization selected by the board to fund grants to providers of no-cost or low-cost animal sterilization services. The bill would require the board to determine eligibility requirements for the grants, establish the grant application process, and develop program specifics. The bill would authorize the board to contract with an entity, including a nonprofit organization, to provide advice, consultation, and administrative services for purposes of implementing and administering the grant program. The bill would require the board to provide oversight for the disbursal of grant funds under the grant program.

*The people of the State of California do enact as follows:*

SECTION 1. Section 5168 is added to the Vehicle Code, to read:

5168. (a) The fees specified in Section 5157 shall be imposed for the issuance, renewal, or transfer of the Pet Lover's specialized license plates. Notwithstanding subdivision (c) of Section 5157, after deducting its administrative costs, the department shall deposit the revenue derived from the additional fees into the Pet Lover's Fund, which is hereby established in the Specialized License Plate Fund.

(b) Upon appropriation by the Legislature, the moneys in the Pet Lover's Fund shall be allocated to the Veterinary Medical Board. There shall not be an allocation to the board pursuant to subdivision (c) of Section 5157. The board shall allocate those funds to a nonprofit organization it selects for disbursement to qualifying spay and neuter facilities for the sole and exclusive purpose of funding grants to providers of no-cost or low-cost animal sterilization services.

(c) Annual administrative costs for the program shall not exceed 25 percent of the funds collected from the issuance of the Pet Lover's license plates, and may include marketing and other promotional activities associated with encouraging application for or renewal of Pet Lover's license plates.

(d) The nonprofit organization selected by the board shall not use more than 5 percent of the moneys received pursuant to this section for administrative costs.

(e) The board shall determine eligibility requirements for the grants, establish the grant application process, and develop program specifics. The board may contract with an entity, including a nonprofit organization, to provide advice, consultation, and administrative services for purposes of implementing and administering the grant program. The board shall provide oversight for the disbursement of grant funds under the grant program.

Approved \_\_\_\_\_, 2015

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*Governor*



## MEMORANDUM

<b>DATE</b>	October 2, 2015
<b>TO</b>	VMB
<b>FROM</b>	Annemarie Del Mugnaio, Executive Officer DCA/Veterinary Medical Board
<b>SUBJECT</b>	<b>Review and Consider University License</b>

### **Background:**

Over the course of the past two years, the MDC has debated the issue of requiring veterinarians employed by, and working in, a University setting to obtain a “University License,” and therefore, no longer be exempt from VMB oversight.

As part of the MDC’s research, former Legal Counsel reviewed the pertinent statutes, BPC section 4830 (a)(4), and concluded that the existing exemption for veterinarians employed by the University of California would need to be amended to either to strike the language in section 4830 (a)(4) and thus require a license for university personnel, or include language in 4830 (a)(4), which would qualify *when* a “University License” must be issued in order for a veterinarian employed by the University to provide veterinary services to the public’s animals.

Dr. Klingborg and Dr. Grant have continued their discussions with both UC Davis and Western University, and at the request of the MDC, Dr. John Pascoe, Executive Associate Dean UC Davis, and Dr. Ron Terra, Associate Dean, of Western University, attended the July 20, 2015 MDC meeting to address some of the concerns raised by the Committee, including: complaint resolution or mediation policies of the Universities, disclosure to the public regarding non-licensed veterinarians practicing on the public’s animals, the impact to the Universities in terms of recruiting qualified personnel if full licensure is required, and how other states regulate or govern University personnel. Such issues are also summarized in the attached report provided by Dr. Klingborg, Chair of the MDC,

### **Recommendation:**

Ultimately, the MDC voted to recommend to the VMB that a separate University License be issued to veterinarians who are employed by, and who engage in the practice of veterinary medicine in the performance of their duties for the University. It’s important to note, that the recommendation does not differentiate faculty, interns, and residents, and thus under the proposal, all veterinarians who meet specified qualifications, and are employed by the University would be granted the University License.

### **Action Requested:**

Consider recommendation for a statutory amendment to create a University License Status.

### **Attachments:**

- Summary Report Regarding “University Licensure” Dr. Jon Klingborg
- Proposed Statutory Language Amending BPC Section 4830 and Adding BPC Section 4848.1 to Create a University License Status
- Flow Chart of Licensing Process

## **Report to the Veterinary Medical Board Regarding “University Licensure”**

Jon Klingborg, DVM  
MDC Chair  
September 2015

The topic of University Licensure was assigned from the VMB to the MDC in late 2013. The reasons for pursuing University Licensure are stated below:

“In states that have veterinary schools, there are either exemptions or some form of university licensure that accommodates the schools need for hiring of veterinarians from all over the world who sometimes come into a state for a limited period of time and do not remain and who do not practice outside the confines of the university.

The problem arises when the university veterinary hospital is providing services to the general public and the consumer does not have recourse through the licensing board when there is a problem. In its Strategic Plan, the Board discussed the possibility of changing the law to require a license for veterinarians providing services to the public at the veterinary clinic. The discussion revolved around a “university” license that would not require the standard exams or equivalency programs, but would be issued and could be disciplined if necessary.”

—Annemarie Del Mugnaio, EO

Over the past 18 months, MDC discussions focused on the following key areas:

- 1) **Complaint Resolution Process.** There have been a number of recent complaints to the VMB regarding UCD employed veterinarians, and there is significant concern that there is either no formal resolution process, or an inadequate process for recourse of clients.
- 2) **Disclosure:** Should the University disclose that there are “unlicensed veterinarians” working on client owned animals?
- 3) **Impact on California:** How would requiring full licensure impact the recruitment of qualified individuals to UCD and ultimately how would this negatively impact the California consumer?
- 4) **Justification for working on client owned animals in a primary capacity without having a license:** What is the justification for the University having a different set of rules than the rest of the California veterinarians in regards to licensure requirements.
- 5) **Comparison to Ohio** -Ohio requires full licensure of University faculty. Any knowledge of how that impacts their recruitment efforts?



### **1) Complaint Resolution Process:**

Both UCD and WU have internal Complaint Resolution Processes. Both schools are open to increasing transparency of their process and both have stated a strong willingness to cooperate and communicate with the VMB. Neither school felt that they were a 'greater' authority than the Veterinary Medical Board and that the VMB had full authority to investigate any complaints.

### **2) Disclosure:**

Issues of Disclosure such as "Unlicensed Veterinarians work here" is moot if the submitted language is adopted. However, the Universities are 'exempt' as allowed in 4830. State and Federal veterinarians serving in their capacity within California are not required to 'disclose' that they are unlicensed— because they are not required to have one.

It is key to remember that University-employed Faculty and Residents are keenly supervised through peer review, rounds and the tiered structure— Departments, Services, Clinicians, Residents, etc.

Faculty recruited for clinical positions have undergone intensive specialty testing that significantly exceeds the evaluation associated with licensure. In addition, faculty have focused their attention into narrow areas of practice thereby becoming specialists relative to the species and conditions they serve.

Faculty positions in AVMA accredited institutions are very competitive; represent international searches and months of evaluation and interviews. Faculty interviews, assessments and certifications go far beyond the licensing exam in evaluating their competence. The collaborative nature of a teaching hospital, with continuous rounds, interaction with other specialists and review of cases is fundamentally different than a practice setting.

Residents/Interns work under a range of scrutiny depending on their program. Those in AVMA approved Schools and Colleges are under continuous and intense scrutiny including having a certified and trained technical staff, multiple specialists reviewing cases from daily teaching rounds of all patients in addition to regular grand round cases with many specialists participating. Pharmacists, multiple specialists, residents, interns and senior students are all involved and inquiring about the cases being treated.

**3) Impact on California:** How would requiring full licensure impact the recruitment of qualified individuals to UCD and ultimately how would this negatively impact the California consumer?

There was significant discussion and examples of how mandating full licensure (NAVLE and California State Boards) would significantly (negatively) impact recruitment of qualified individuals to Intern or Residency programs.

UCD cited one example where a small Avian Influenza outbreak was identified and successfully quarantined due to the work of UCD veterinarians who happen to be graduates of foreign unaccredited veterinary schools. Their quick action probably saved the State hundreds of millions of dollars by preventing a catastrophic outbreak. There were other examples.

Other states that have more restrictive licensing requirements for Interns, Residents and Faculty are having difficulty attracting qualified candidates.

Ultimately, it is the Consumer in the State who is negatively impacted, because the intellectual and personnel resources are not available if the University is not adequately staffed.

**4) Justification for working on client owned animals in a primary capacity without having a license:** What is the justification for the University having a different set of rules than the rest of the California veterinarians in regards to licensure requirements.

Here again, there have not been specific limits placed on UCD or WU in terms of their practice— as long as the veterinarians are “engaged in the performance of duties in connection with” . . . the University.

It has occasionally raised the ire of Private Practitioners in California to have a University facility nearby; however, the Board must ask 1) whether that facility is serving the public’s needs and 2) is the public adequately protected from that Veterinarian in that facility through assurance of knowledge and competency?

The University Licensure language submitted does require that the University-employed veterinarian pass the Veterinary Law Exam and the ‘Regionally Specific Diseases’ curriculum. The majority of the MDC voted that these two exams, along with the oversight inherently present in the University systems at least met a minimum standard.

**5) Comparison to Ohio** -Ohio requires full licensure of University faculty. Any knowledge of how that impacts their recruitment efforts?

Based on anecdotes from UCD and WU representatives, those States (including Ohio) that have more restrictive licensing requirements for Interns, Residents and Faculty are having difficult attracting qualified candidates. This has impacted the services they available to provide to the citizens of the state as well as the quality of their training programs.

## **Conclusion:**

After studying this issue exhaustively, the majority of the MDC members believe that the proposed language allows the Universities the latitude to hire the right people and the VMB the ability to perform its job of protecting the public.

One question has been whether or not it is reasonable to expect University Licensees to pass the NAVLE as well as the Veterinary Law Exam and the “Regionally Specific Diseases” curriculum. Insisting on the NAVLE will present a major obstacle to University Licensees—most specifically, it will eliminate from likely contention those eminently qualified people who have graduated from unaccredited programs. The cost and study time for the NAVLE would seriously impact the academic experience of the Resident and the contributions of the Faculty. It would also represent a significant hurdle in the recruitment process for our Universities.

Below is language for University Licensure. It stipulates:

- Faculty and Residents to take the VLE and the Regionally Specific Diseases curriculum.
- Limits Licensees scope of practice to only that necessary for “the performance of duties in connection with the College of Veterinary Medicine.”
- Two year renewal, unless an extension is requested for a three year Resident.
- A grandfather clause for currently employed veterinarians by the Schools of Veterinary Medicine.

Respectfully Submitted,

Jon Klingborg, DVM

**Amendments to Section 4830-**

**Strike Subsection (a)(4)**

~~Veterinarians employed by the University of California while engaged in the performance of duties in connection with the College of Agriculture, the Agricultural Experiment Station, the School of Veterinary Medicine, or the agricultural extension work of the university or employed by the Western University of Health Sciences while engaged in the performance of duties in connection with the College of Veterinary Medicine or the agricultural extension work of the university.~~

**Amend 4830 (a)(4) to include the following:**

Students of an American Veterinary Medical Association Council on Education accredited veterinary medical program who participate in diagnosis and treatment as part of their educational experience, provided the student has satisfactorily completed training in these activities as part of the formal curriculum of their veterinary program. This provision includes off-campus educational programs under the direct supervision of a California licensed veterinarian in good standing, as defined in paragraph (1) of subdivision (b) of Section 4848, provided such off-campus training is an approved part of the veterinary student's educational program.

**Add New BPC 4848.1 – University License Status** *(To include interns and residents)*

(a) Veterinarians engaged in the practice of veterinary medicine as defined in Section 4826, employed by the University of California while engaged in the performance of duties in connection with the School of Veterinary Medicine or employed by the Western University of Health Sciences while engaged in the performance of duties in connection with the College of Veterinary Medicine shall be licensed in California or shall hold a University License issued by the Board.

(b) An applicant is eligible to hold a University License if all of the following are satisfied:

- (1) The applicant is currently employed by the University of California or Western University of Health Sciences;
- (2) Passes an examination concerning the statutes and regulations of the Veterinary Medicine Practice Act, administered by the board, pursuant to Section 4848, subdivision (a) paragraph (2) subparagraph (C); and
- (3) Completes the approved educational curriculum described in Section 4848 subdivision (b) paragraph 5 on regionally specific and important diseases and conditions.

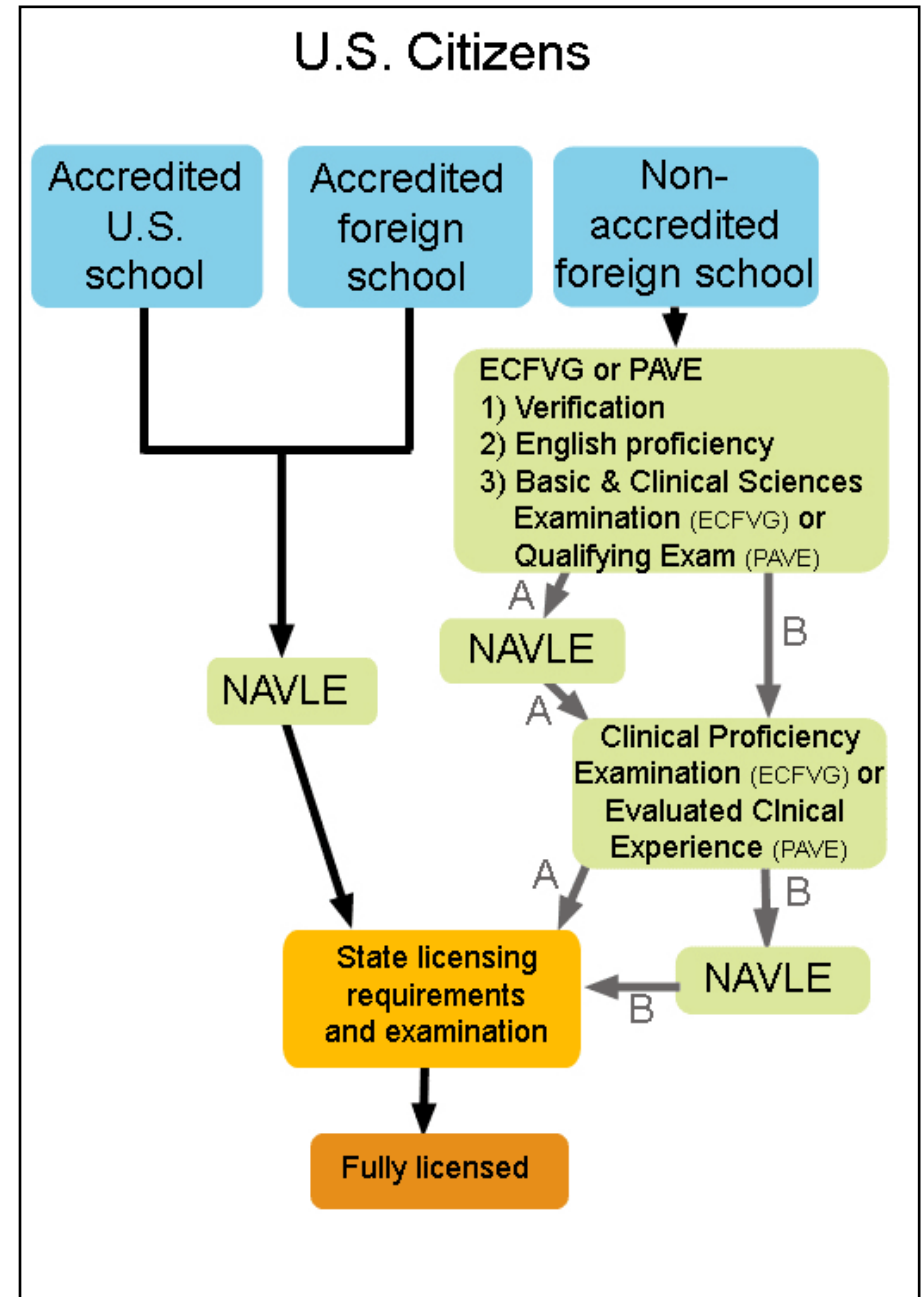
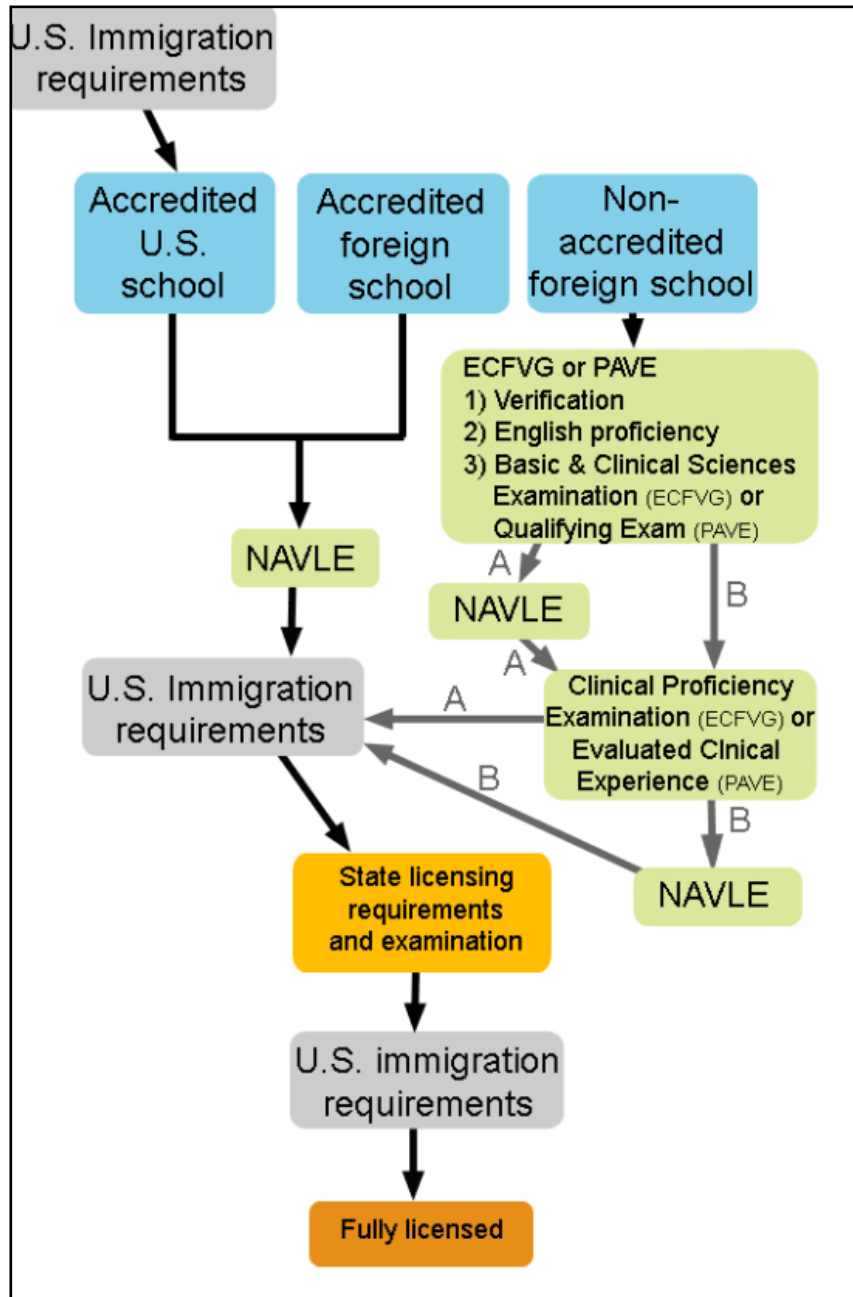
(c) A University License:

- (1) Shall be numbered as described in Section 4847;
- (2) Shall cease to be valid upon termination of employment by the University of California or by the Western University of Health Sciences;

- (3) Is subject to the license renewal provisions pursuant to Section 4846.4; and
- (4) Is subject to denial, revocation, or suspension pursuant to Sections 4875 and 4883.
- (d) Individuals who hold a University License are exempt from satisfying the license renewal requirements of Section 4846.5.

# Traditional Licensure Pathways

(information on this page from AVMA website)



## Reciprocity

Applicant has passed NAVLE as part of original licensure



4848. Fully Licensed in Another State, in good standing, practiced 2944 hours within past 3 years.



Passes Veterinary Law Exam & Regionally Specific Disease Curriculum.



Under Supervision of CA-Licensed DVM



One Year Temporary License



Convert to Full License with Application after 1 year

## Proposed University Licensure

Has been awarded a DVM equivalent degree by an Accredited or Unaccredited Foreign School



Has gone through a selection process by the University and been offered a position as a Clinician, Resident, Intern.



Passes Veterinary Law Exam & Regionally Specific Disease Curriculum.



License is valid only when engaged in duties related to the University



Two Year Temporary License, Renewable

# Multidisciplinary Committee Proposed Assignments

*October 2015*

## **EXISTING PRIORITIES – Currently being addressed by MDC**

- **Develop minimum standards for alternate premises (large animal, equine mobile, public and private shelter medicine, ambulatory, etc.)**

*CVMA Task Force held September 30, 2015*

*Subcommittee on Shelter Medicine – Report to the MDC Jan 2016*

- **Evaluate Structure and Audit Enforcement Case Outcomes**

*Subcommittee is performing in-house case audits - Report to the MDC Jan 2016.*

- **Develop Language to Grant Statutory Language for Veterinarians to Compound Drugs within FDA Guidelines**

*Subcommittee to meet with Board of Pharmacy on Nov 12, 2015*

- **Review Business and Professions Code Section 4830(5) regarding veterinary student exemption, duties and supervision at a California veterinary university. (*Off-site surgery programs- should they be limited to 3<sup>rd</sup>/4<sup>th</sup> year students?*)**

*Subcommittee drafting language – Before the MDC Jan 2016*

## **FUTURE MDC PRIORITIES**

- **Pursue "extended duty" for Registered Veterinary Technicians.**
- **Review standard of care for animal dentistry**
- **Review 1st year licensure as a temporary license, working under the supervision of a currently licensed Veterinarian.**

## **Executive Officer Report**

**Prepared by Annemarie Del Mugnaio**

**October 2015**

### **Hospital Inspection Program Update**

- Assigned: 113 Routine/ 12 Complaint/Probation Related: 125 Total Inspections Assigned To-Date
- Completed: 16 Complaint/Probation Related (Includes assignments carried over from 14-15)
- Complaint/Probation Related Requests Pending Assignment: 33 Requests from Enforcement
- Citations and Fines Pending – 26 Non-Compliant Hospitals

**Program Updates:** FY 15-16 started with recruiting Inspectors in geographic areas needed. Four additional Inspectors were hired; we now have a total of 16 Inspectors. The annual Inspector Training session was held in August 2015 and included presentations from the Pharmacy Board, Radiologic Health Branch as well as the CURES program. Due to the volume of paperwork generated from FY 14-15 inspections, staff continues to work through the back log of inspection reports from April 2015.

**Inspection Compliance Rate:** Based on the inspection reports received compliance rate continues to be approximately 65%.

**Inspector and Hospital Feedback:** Feedback from the Inspection Team continues to be very positive, the majority of inspectors returned to the program to continue inspections for the Board. Overall feedback from facilities also continues to be very positive with the majority of ratings as “Excellent” and very few just “Satisfactory”.

**Looking Ahead:** The Inspection staff is looking at an increase of 14% to the number of routine inspections planned for the 15/16 FY. This means approximately **700 routine** inspections must be completed in order to meet our mandate – **100 more** inspections than were completed this past year.

Additionally, the Premises Permit licensing function will be transferred to the Hospital Inspection Program in order to streamline the entire process from the permit application, to renewal to facility inspection. This should substantially improve the communication with MGLs as dedicated staff will be able to advise MGL’s and hospital staff of their minimum standards compliance responsibilities as well as any permitting issues that may arise.

Although one licensing position will transfer to the Hospital Inspection Program, the inspection staff is facing more than triple the workload this year than in previous years, and keeping up on the workload will be a challenge.



**VETERINARY MEDICAL BOARD - 0777**  
**BUDGET REPORT**  
**FY 2015-16 EXPENDITURE PROJECTION**  
**Aug-2015**

OBJECT DESCRIPTION	FY 2014-15		FY 2015-16				
	ACTUAL	PRIOR YEAR	BUDGET	CURRENT YEAR	PERCENT	PROJECTIONS	UNENCUMBERED
	EXPENDITURES (MONTH 13)	EXPENDITURES 8/31/2014	STONE 2015-16	EXPENDITURES 8/31/2015	SPENT	TO YEAR END	BALANCE
<b>PERSONNEL SERVICES</b>							
Salary & Wages (Staff)	798,937	74,930	1,108,614	176,854	16%	1,061,124	47,490
Statutory Exempt (EO)	88,428	14,310	81,732	15,106	18%	90,636	(8,904)
Temp Help Reg (Seasonals)	6,195	5,753	33,000				33,000
BL 12-03 Blanket			0				
Temp Help (Exam Proctors)			0				
Board Member Per Diem	3,100		14,108				14,108
Committee Members (DEC)	600		10,400				10,400
Overtime	11,352	4,570	0				
Staff Benefits	483,685	55,577	634,223	102,877	16%	617,262	16,961
<b>TOTALS, PERSONNEL SVC</b>	<b>1,392,297</b>	<b>155,140</b>	<b>1,882,077</b>	<b>294,837</b>	<b>16%</b>	<b>1,769,022</b>	<b>113,055</b>
<b>OPERATING EXPENSE AND EQUIPMENT</b>							
General Expense	48,591	1,324	30,757	7,687	25%	46,122	(15,365)
Fingerprint Reports	1,040	118	6,259				
Minor Equipment	23,152	21,018	0				
Printing	9,361	3,217	19,566	3,217	16%	19,302	264
Communication	4,477	394	20,909	279	1%	1,674	19,235
Postage	35,263	4,818	28,149	2,555	9%	15,330	12,819
Insurance			0				
Travel In State	49,487	4,023	148,423	8,812	6%	52,872	95,551
Travel, Out-of-State			0				
Training	816		20,297				20,297
Facilities Operations	112,440	107,635	102,456	110,512	108%	102,456	0
Utilities			0				
C & P Services - Interdept.	109,000	109,000	0				
C & P Services - External	147,068	44,352	109,889	53,712	49%	109,889	0
<b>DEPARTMENTAL SERVICES:</b>							
Departmental Pro Rata	334,011	73,771	264,085	113,000	43%	264,085	0
Admin/Exec	148,320	35,192	279,769	70,000	25%	279,769	0
Interagency Services			49,915			49,915	0
IA w/ OPES	40,573	40,573	0	21,832		21,832	(21,832)
DOI-ProRata Internal	3,616	1,102	7,406	1,750	24%	7,406	0
Public Affairs Office	4,227	1,075	9,300	2,250	24%	9,300	0
PCSD Pro Rata	5,001	1,175	9,701	2,500	26%	9,701	0
<b>INTERAGENCY SERVICES:</b>							
Consolidated Data Center	1,249	196	10,535	235	2%	10,535	0
DP Maintenance & Supply	7,368	92	4,647	2,629	57%	4,647	0
Central Admin Svc-ProRata	141,779	35,445	50,779	39,350	77%	50,779	0
<b>EXAM EXPENSES:</b>							
Exam Supplies			557				557
Exam Freight			0				
Exam Site Rental			5,399				5,399
C/P Svcs-External Expert Administrative	48,502	51,652	0				
C/P Svcs-External Expert Examiners	318		30,699				30,699
C/P Svcs-External Subject Matter	38,503	12,007	0	11,052		11,052	(11,052)
<b>ENFORCEMENT:</b>							
Attorney General	488,690	68,493	460,176	30,930	7%	185,580	274,596
Office Admin. Hearings	132,145	18,628	59,253				59,253
Court Reporters	4,834		0				
Evidence/Witness Fees	135,197	8,350	163,297	9,545	6%	57,270	106,027
DOI - Investigations	627,679	155,530	610,120	152,500	25%	610,120	0
Major Equipment			0				
Special Items of Expense			(112,000)				(112,000)
Other (Vehicle Operations)			2,580				2,580
<b>TOTALS, OE&amp;E</b>	<b>2,702,707</b>	<b>799,180</b>	<b>2,392,923</b>	<b>644,347</b>	<b>27%</b>	<b>1,919,636</b>	<b>467,028</b>
<b>TOTAL EXPENSE</b>	<b>4,095,004</b>	<b>954,320</b>	<b>4,275,000</b>	<b>939,184</b>	<b>22%</b>	<b>3,688,658</b>	<b>580,083</b>
Sched. Reimb. - External/Private	(3,575)		(11,000)	(956)		(11,000)	
Sched. Reimb. - Fingerprints			(15,000)			(15,000)	
Sched. Reimb. - Other							
Unsched. Reimb. - Other	(142,931)						
<b>NET APPROPRIATION</b>	<b>3,948,498</b>	<b>954,320</b>	<b>4,249,000</b>	<b>938,228</b>	<b>22%</b>	<b>3,662,658</b>	<b>580,083</b>
<b>SURPLUS/(DEFICIT):</b>							<b>13.7%</b>

**Veterinary Medical Board  
Summary of Expenditures - 2015/2016**

Line Item	Appropriation	Summary of Expenses
<b>Personal Services:</b>		
Salary & Wages (Staff)	1,108,685	Board staff salaries
Statutory Exempt (EO)	81,732	Executive Officer salary
Temp Help Reg (Seasonals)	33,000	Wages for temporary help such as a permanent-intermittent employees, students, seasonal employees, etc.
Temp Help Reg (Exam Proctors)	0	Examination Proctors
Board Member Per Diem	14,108	Board members' per-diem
Committee Members (DEC)	10,400	Committee members' per-diem
Overtime	0	Staff Overtime
Staff Benefits	631,921	OASDI, Dental, health, retirement, life, vision, Medicare
<b>Total Personal Services</b>	<b>1,879,846</b>	
<b>Operating Expenses &amp; Equipment:</b>		
General Expense	30,757	Office supplies, freight
Fingerprint Reports	6,259	Fingerprint expenses – reimbursed by candidate
Minor Equipment	22,000	Equipment less than \$5K per unit
Printing	19,566	Printed forms, office copier, copying service
Communications	20,909	Phones, cellular phones
Postage	28,149	Stamps, DCA and EDD facility mailed postage
Insurance	0	Insurance coverage for department owned vehicles.
Travel In-State	148,423	Board, Committee, and Staff Air, car, bus, taxi, incidentals, service fees
Travel Out-of-State	0	Same as above - out-of-State
Training	20,297	Registration fees, subscriptions
Facilities Operations	102,456	Rent, storage, security
Utilities	0	Electricity, Natural Gas (P.G.& E.), water, sewer, and regular waste removal service.
C&P Services Interdept.	0	Services provided by other state agencies or Interagency Agreement within the Department of Consumer Affairs.
C&P Services External	76,889	Outside DCA contracts - includes MAXIMUS
<b>Departmental Services</b>		
Departmental Prorata	342,549	DCA Svcs: Info systems, Administrative Svcs (HR, Accounting, Budgets, etc.), Legal, Publications, Public Affairs
Admin/Exec	148,089	Pro-rata assessments to support DCA Administrative Services
Interagency Services	49,915	Services provided to one board by another board within the Department
IA w/OPES	0	Services provided by OPES to Board
DOI-Pro Rata Internal	4,597	Services provided by Division of Investigation Pro Rata
Public Affairs Office	4,527	Services provided by DCA Public Affairs
CCED	4,860	Pro-rata Consumer and Community Empowerment Division
<b>Interagency Services</b>		
Consolidated Data Centers	10,535	CAS/Teale Data Center
DP Maintenance & Supply	4,647	Data processing supplies and maintenance
Central Admin Svcs-Pro Rata	141,779	State services pro-rata (DGS, DOF, etc)
<b>Exam Expenses</b>		
Exam supplies	557	Examination materials, supplies not covered by contract
Exam freight	0	Freight, shipping and storage of examination material
Exam site rental	5,399	Facility rental charge for vet exams administration
Expert Examiners (SME)	30,699	Subject matter experts for item writing, review and Angoff workshops VET and RVT
C/P Svcs-External Expert Administrative	0	National exam contracts - includes PSI contract
C/P Svcs-External Expert Examiners	0	Wages for services provided by expert examiners in the oral/written examination process
C/P Svcs-External Subject Matter	0	Services provided by subject matter experts in the oral/written examination process
<b>Enforcement</b>		
Attorney General	460,176	Office of the Attorney General/DAG legal services
Office of Admin Hearings	59,253	Office of Administrative Hearings, Admin. Law Judge and court reporter services
Court Reporters	0	
Evidence/Witness Fees	163,297	Expert Witness and In-house Consultants enforcement case review
Div of Investigation	645,027	DCA Division of Investigation services
Major Equipment	66,000	Equipment more than \$5k per unit
Special Items of Expense		
Vehicle Operations	2,580	Leasing & maintenance of State vehicle (CPEI BCP)
<b>Total OE&amp;E</b>	<b>2,620,191</b>	
<b>Total Personal Services (above)</b>	<b>1,879,846</b>	
<b>Totals, Expenditures</b>	<b>4,500,037</b>	
Sched. Reimb. - External		Reimbursements for OIS Public Sales
Sched. Reimb. - Fingerprints	(11,000)	Reimbursements for assessment of fingerprint processing fees
Sched. Reimb. - Other	(15,000)	Reimbursements from private individuals, firms, institutions or corporations
<b>Net Appropriation</b>	<b>4,474,037</b>	

# ENFORCEMENT REPORT

Prepared by Candace Raney, Enforcement Program Manager

October 2015

## Complaint Investigation

The complaint investigation unit continues to move forward resolving the case investigation backlog. Staff has implemented a number of processes to: increase efficiency in the management of those cases that are high priority, increase efforts in monitoring of complaint investigation caseload, decrease processing timelines, and better track expedited investigations being handled by the Division of Investigation.

Statistical data related to complaint investigation is attached.

## Probationary (Conditional) Licensure

The first probationary license was issued effective July 24, 2015. There are three more in process.

Issuance of a probationary license for registered veterinary technicians not only decreases the wait time for those awaiting licensure, it also provides a significant cost savings to both the applicant and the board in that it negates the need for a formal hearing while still ensuring consumer protection.

## Expert Witness Training

On August 14, the board held an expert witness training at the Office of the Attorney General in San Diego.

Thank you to Diann Sokoloff, Supervising Deputy Attorney General, who so graciously presented the expert witness training.

The Board currently has 19 individuals that serve as experts to review complaint investigation cases to determine if there are violations of the Veterinary Medicine Practice Act. The roster of experts includes several general practitioners as well as practitioners that specialize in equine, food animal, dental, exotics or avian.

## Citation and Fine

Statistical data related to citation and fine is attached.

## Formal Discipline

Statistical data related to formal discipline is attached.

## Probation

Jaspreet Pabla, Probation Monitor, has been working to research the issue of probation supervision with the goal of creating a training mechanism to provide those serving in the capacity of probation supervisor with additional information and resources. Memo attached.

The probation program currently monitors a total of 70 probationers.

Statistical data related to the probation program is attached.

## Staffing

The enforcement unit currently has three vacant positions. We are working to fill these positions as quickly as possible.

# ENFORCEMENT STATISTICS FISCAL YEAR 2015 - 2016

Veterinary Medical Board

## COMPLAINTS AND CONVICTIONS

Complaints and Convictions	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2015 - 2016 TOTAL
Complaints Received	223				
Convictions Received	6				
Average Days to Intake	11				
Closed	4				
Pending at intake	21				
Average Days to Intake - Average cycle time from complaint received, to the date the complaint was assigned to an investigator.					

# ENFORCEMENT STATISTICS FISCAL YEAR 2015 - 2016

Veterinary Medical Board

## DESK INVESTIGATIONS

Desk Investigation	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2015 - 2016 TOTAL
Assigned	220				
Closed	167				
Average Days to Complete	281				
Pending	562				
Average Days to Complete Desk Investigations - Average cycle time from complaint receipt to closure of the investigation process.					

# ENFORCEMENT STATISTICS FISCAL YEAR 2015 - 2016

Veterinary Medical Board

## SWORN INVESTIGATIONS

Sworn Investigations	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2015 - 2016 TOTAL
Assigned	13				
Closed	13				
Average Days to Complete	495				
Pending	70				
Average Days to Complete Sworn Investigations - Average cycle time from complaint receipt to closure of the investigation process.					

# ENFORCEMENT STATISTICS FISCAL YEAR 2015 - 2016

Veterinary Medical Board

## ALL TYPES OF INVESTIGATIONS

All Types of Investigations	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2015 - 2016 TOTAL
Closed Without Discipline	159				
Cycle Time - No Discipline	303				
All pending cases	653				

## CITATIONS/ CEASE & DESIST

Citation/ Cease & Desist	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2015 - 2016 TOTAL
Issued	22				
Avg Days to Complete Cite	555				
Cease & Desist Letter	44				
Citations appealed	1				
Average Days to Issue a Citation - Average cycle time from complaint receipt to the effective date of the citation.					

# ENFORCEMENT STATISTICS FISCAL YEAR 2015 - 2016

Veterinary Medical Board

## ATTORNEY GENERAL CASES

Attorney General Cases	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2015 - 2016 TOTAL
Initiated / Referred to the AG	10				
Pending at the AG	59				
Statement of Issues Filed	3				
Accusations Filed	4				

AG Case Action	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2015 - 2016 TOTAL
Closed Without Discipline	2				
Closed With Discipline	14				
Probation	8				
Public Letter of Reprimand	0				
Surrender of License	2				
License Revoked	4				
License Denied (SOI)	0				
W/D, Dismissed, Declined	2				
Average Days to Close	1103				

Average Days to Close a Discipline Case - Average cycle time from complaint receipt to the effective date of the disciplinary order.

AG Case Violation Type	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2015 - 2016 TOTAL
Substance Abuse (A)					
Unsafe/Unsanitary Cond (E)					
Aiding or Abetting					
Incompetence/Gross Negligence (N)	4				
Unprofessional Conduct (R)	3				
Criminal Conduct/Conv (V)	5				
Discipline by Another State					
Unlicensed Activity (U)					
Drug Related Offenses (D)	2				

# ENFORCEMENT STATISTICS FISCAL YEAR 2015 - 2016

Veterinary Medical Board

## PROBATION

Probation	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2015 - 2016 TOTAL
New Probation Cases	7				
Probation Completed	0				
Active Cases	70				
Active Cases - Pending					
Conditions Precedent	6				
Tolled	3				
Petition to Revoke	4				
Compliance	59				
Pending Compliance Issues	9				

# ENFORCEMENT STATISTICS FISCAL YEAR 2014 - 2015

Veterinary Medical Board

## COMPLAINTS AND CONVICTIONS

Complaints and Convictions	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2014 - 2015 TOTAL
Complaints Received	150	137	185	221	693
Convictions Received	18	25	16	4	63
Average Days to Intake	76	76	36	21	51
Closed	158	169	174	213	714
Pending at Intake	130	76	23	13	13

*Average Days to Intake - Average cycle time from complaint received, to the date the complaint was assigned to an investigator.*

# ENFORCEMENT STATISTICS FISCAL YEAR 2014 - 2015

Veterinary Medical Board

## DESK INVESTIGATIONS

Desk Investigation	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2014 - 2015 TOTAL
Assigned	209	177	251	234	870
Closed	133	124	162	191	610
Average Days to Complete	296	245	220	336	278
Pending	383	433	495	512	512

*Average Days to Complete Desk Investigations - Average cycle time from complaint receipt to closure of the investigation process.*



# ENFORCEMENT STATISTICS FISCAL YEAR 2014 - 2015

Veterinary Medical Board

## SWORN INVESTIGATIONS

Sworn Investigations	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2014 - 2015 TOTAL
Assigned	1	2	29	24	56
Closed	12	7	8	18	44
Average Days to Complete	432	760	1187	670	707
Pending	50	45	66	73	73
Average Days to Complete Sworn Investigations - Average cycle time from complaint receipt to closure of the investigation process.					

# ENFORCEMENT STATISTICS FISCAL YEAR 2014 - 2015

Veterinary Medical Board

## ALL TYPES OF INVESTIGATIONS

All Types of Investigations	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2014 - 2015 TOTAL
Closed Without Discipline	145	117	155	180	597
Cycle Time - No Discipline	270	261	256	313	277
All pending cases	563	554	584	598	598

## CITATIONS/ CEASE & DESIST

Citation/ Cease & Desist	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2014 - 2015 TOTAL
Issued	16	2	0	21	39
Avg Days to Complete Cite	482	673	0	661	636
Cease & Desist Letter	5	0	20	47	72
Citations appealed	0	0	1	1	2
Average Days to Issue a Citation - Average cycle time from complaint receipt to the effective date of the citation.					

# ENFORCEMENT STATISTICS FISCAL YEAR 2014 - 2015

Veterinary Medical Board

## ATTORNEY GENERAL CASES

Attorney General Cases	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2014 - 2015 TOTAL
Initiated / Referred to the AG	10	6	8	18	42
Pending at the AG	77	63	61	64	64
Statement of Issues Filed	1	8	1	4	14
Accusations Filed	2	2	7	1	12

AG Case Action	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2014 - 2015 TOTAL
Closed Without Discipline	3	5	0	5	13
Closed With Discipline	10	13	10	14	47
Probation	5	13	4	8	30
Public Letter of Reprimand	0	0	0	0	0
Surrender of License	4	0	1	3	8
License Revoked	1	0	3	2	6
License Denied (SOI)	0	0	2	1	2
W/D, Dismissed, Declined	5	5	0	1	11
Average Days to Close	950	1082	552	1199	996

*Average Days to Close a Discipline Case - Average cycle time from complaint receipt to the effective date of the disciplinary order.*

AG Case Violation Type	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2014 - 2015 TOTAL
Substance Abuse (A)	0	0	0	0	0
Unsafe/Unsanitary Cond (E)	2	1	0	2	5
Aiding or Abetting	0	0	0	0	0
Incompetence/Gross Negligence (N)	1	6	0	3	10
Unprofessional Conduct (R)	1	0	4	7	12
Criminal Conduct/Conv (V)	5	6	4	2	17
Discipline by Another State	0	0	0	0	0
Unlicensed Activity (U)	0	0	0	0	0
Drug Related Offenses (D)	1	0	2	0	3

# ENFORCEMENT STATISTICS FISCAL YEAR 2014 - 2015

Veterinary Medical Board

## PROBATION

Probation	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2014 - 2015 TOTAL
New Probation Cases	8	11	5	8	32
Probation Completed	1	0	0	5	6
Active Cases	52	66	63	62	62
Active Cases - Pending Conditions Precedent					
Tolled	3	4	7	9	9
Petition to Revoke	2	4	2	2	2
Compliance	34	52	4	4	4
Pending Compliance Issues	18	14	55	55	55
			8	7	7



## MEMORANDUM

<b>DATE</b>	October 6, 2015
<b>TO</b>	Board Members Veterinary Medical Board
<b>FROM</b>	Jaspreet Pabla, Probation Monitor Veterinary Medical Board
<b>SUBJECT</b>	<b>Probation Supervisor Training</b>

### PROCEDURAL HISTORY

During the action planning session on May 7, 2015, some Board members expressed an interest in development of a training program for individuals serving as probation supervisors. Board staff has since documented the specific concerns of supervisors, researched various options for resolution of those concerns, surveyed other Boards and consulted different resources that can be used to create a supervisor training program.

### SUPERVISOR CONCERNS

A probationer subject to supervised practice as a term and condition of the decision and order must practice only under the supervision of a veterinarian approved by the Board. Such individual must have been licensed for at least five (5) years, not have ever been subject to any disciplinary action by the Board. The supervisor must be independent with no prior business or personal relationship with Respondent and shall not be in a familial relationship with or be an employee, partner, or associate of Respondent.

In the various contacts and inquiries made by the supervisors with the probation monitor, the supervisors have expressed many concerns which are outlined as follows:

- (1) What is their professional liability while supervising a probationer?
- (2) What are they to report to the Board while they are supervising a probationer?
- (3) Will supervision require going to the hospital weekly to review medical records?
- (4) How "hands on" are they supposed to be in the probationer's practice of veterinary medicine? – Specifically referring to record review

## **RESEARCH**

In an effort to address the concerns of probation supervisors, staff contacted other boards for suggestions and supervision procedures.

The response of other boards is that they too have had similar questions from supervisors; however, no Board that responded actually has a training program. Most Boards just answer questions as they come up.

Board staff also interviewed Board consultants as well as a past probation supervisor. These individuals were valuable resources in determining the practical application of the supervised practice requirement in the field. They were also especially helpful in determining the type of paperwork that was reasonable and would produce the most relevant feedback for the probation monitor.

## **OPTIONS**

- (1) Supervisor's Packet provided by the Probation Monitor
- (2) PowerPoint Presentation
- (3) Webinar
- (4) In-Person Training

## **FEASIBILITY**

At this time, a Supervisor's Packet is provided to all probation supervisors. The packet includes supervision guidelines as well as all necessary forms. All forms have been recently revised to ensure clarity and address concerns expressed related specifically to issues such as adequacy of medical record keeping and delivery of patient care. The packet also includes sample completed forms. The guidelines are provided as a resource for probation supervisors.

In addition to or as an alternative, staff could create of a PowerPoint presentation for dissemination to all current probation supervisors as well as to each new probation supervisor at such time as they are approved to supervise. The presentation would be provided in digital format and would include all the necessary probation supervision forms, including sample completed forms.

Board Members  
Probation Supervision Training  
October 6, 2015  
Page 3

Webinars and in-person training is not a feasible alternative because of the time and resources required for course development as well as the time and costs associated with any travel required to attend such course. The costs associated with probation supervision are always a concern for both the probationer and the supervisor. Additionally, many supervisors have expressed concern regarding the time required to provide supervision and review medical records for the probationers.

# Administration/Examination/Licensing Report

Prepared by Ethan Mathes

October 2015

## BreEZe

The BreEZe database system consists of two main components, Versa Regulation and Versa Online. Versa Regulation is the back-office component of the BreEZe database system and is utilized for internal processes that guide an initial application through licensure. Versa Online is the front facing component of the BreEZe database system and is used by external customers for online activities such as submitting a complaint, checking the status of a complaint, applying for examination eligibility, applying for licensure, renewing a license, updating an address of record, etc.

Major components of BreEZe system configuration and testing include:

- *Configuration Interviews* – Staff meets with Iron Data and Accenture personnel to review examination, licensing and enforcement business processes as well as reviews and creates the BreEZe online interface. *[Completed]*
- *Data Conversion/Validation* – Staff reviews existing application, licensee, and enforcement databases for data errors and outdated data records as well as reviews data converted from legacy databases to the BreEZe database. *[Ongoing]*
- *Correspondence Conversion* – Staff reviews existing correspondence to be converted to the BreEZe noticing system. *[Ongoing]*
- *License Renewal Conversion* – Staff reviews and updates license renewals to the new BreEZe renewal template. *[Completed]*
- *Script Writing and User Acceptance Testing* – Staff outline and test assorted Versa Regulation and Online interfaces and data entry scenarios in order to assess the functionality of the BreEZe database system. *[Ongoing]*
- *Organizational Change Management* – Staff is guided through the process of planning for organizational change and the As-Is versus To-Be work processes entailed as part of that change. *[Ongoing]*

*Update [October 2015]* – Board staff continues to be heavily impacted by BreEZe activities and are working on various components of the rollout leading up to “Go-Live” of the BreEZe system. Preparation activities include validating legacy systems data to ensure that all legacy data will be accurately converted to the BreEZe system, continued review of the Board’s system design Profile Reports and user acceptance testing.

User acceptance testing started September 23, 2015 and will last approximately 8-10 weeks. Six staff members have been asked to commit a significant amount of time to assist in testing the functionality of the BreEZe system during this testing period.

Additional staff activities scheduled leading up to “Go-Live” involve BreEZe system training for all staff starting the first week of November and the continuation of Organizational Change Management training.

Board staff has also begun work on various components of BreEZe outreach including updating Board forms and the website as well as interfacing with various interested parties, professional organizations and schools. Additionally, Department Director Awet Kidane is in the process of scheduling outreach meetings with various associations and stakeholder groups.

## Applications

Applications Received		
	Jan. 2014 - Dec. 2014	Jan. 2015 - Dec. 2015*
Veterinarian Apps. Received	617	486
Veterinary Tech. Apps. Received	749	622
Veterinary Premise Apps. Received	371	212
*partial year to date		

## Examinations

CALIFORNIA STATE BOARD EXAMINATION			
November 2014 – April 2015		May 2015 – October 2015	
Candidates	Pass Pct.	Candidates	Pass Pct.
573	95%	255	83%

NORTH AMERICAN VETERINARY LICENSING EXAMINATION			
Nov./Dec. 2014		April 2015	
Candidates	Pass Pct.	Candidates	Pass Pct.
355	84%	92	66%

CALIFORNIA VETERINARY TECHNICIAN LAW EXAMINATION					
Jul. – Dec. 2014		Jan. – Jun. 2015		Jul. – Dec. 2015*	
Candidates	Pass Pct.	Candidates	Pass Pct.	Candidates	Pass Pct.
331	62%	358	96%	199	95%
*partial year to date					

VETERINARY TECHNICIAN NATIONAL EXAMINATION					
Nov./Dec. 2014		Jul./Aug. 2014		Mar./Apr. 2015	
Candidates	Pass Pct.	Candidates	Pass Pct.	Candidates	Pass Pct.
279	62%	312	70%	255	59%

## Licensing

Licensees	
as of October 2015	
Veterinarian Licenses*/**	16,965/12,117
Veterinarian Licenses – California**	9,563
Veterinarian – Internship**	30
Veterinarian – Reciprocity**	34
Registered Veterinary Technician Licenses*/**	10,028/6,005
Registered Veterinary Technician Licenses – California**	5,936
Premise Permits**	3,607
Premise Permits – Exempt**	84
*includes delinquent, inactive, and clear licensees; **clear licensees	



<b>Licenses Issued</b>		
	<i>as of October 2015</i>	
	<i>Jan. 2014 - Dec. 2014</i>	<i>Jan. 2015 - Dec. 2015</i>
Veterinarian	521	527*
Reciprocity	46	37*
Intern	21	30*
Registered Veterinary Technician	442	434*
Premises	371	212*
<i>*partial year to date</i>		

### **Examination Development and Workshops**

Examination Development Workshops include Item Writing, Item Review, Examination Construction, and Pass Score Setting. Workshops have concluded for the year with the next Workshops scheduled for Summer 2016.

### **Examination Validation Study**

Examination validation studies are a crucial aspect of the professional examination process to identify critical job activities performed by veterinarians and veterinary technicians in California. As part of examination validation the Board collaborates with the Department's Office of Professional Examination Services (OPES) to conduct occupational analyses which provides a comprehensive review of the practice of veterinary medicine in California.

Specifically, the occupational analysis defines professional practice in terms of actual job tasks that veterinarians and veterinary technicians must be able to perform safely and competently at the time of licensure. Results of occupational analyses serve as the basis for examination development which includes the creation of an examination plan and examination items. Occupational analyses are typically conducted every 5-7 years in order to capture and update the changing nature of professional practice and its laws.

The Board develops and conducts two examinations, the California State Board (CSB) examination and the California Veterinary Technician Law Examination. The CSB's most recent examination validation study was completed in 2013 and is the basis for the current CSB.

The California Veterinary Technician Law Examination's most recent examination validation study was conducted in 2004; however, in its transition to the Veterinary Technician National Examination (VTNE) in 2014 the Board conducted a Linkage Study in 2010 that evaluated and compared the California Veterinary Technician Examination and the VTNE occupational analyses. The Linkage Study determined the efficacy of the VTNE as an effective professional examination along with an examination based on California Laws (that became the California Veterinary Technician Law Examination). The Board is currently working with OPES to develop a new linkage study that would capture current veterinary technician practice in California as well as evaluate the most recent VTNE occupational analysis.

Attached is the Board's Section 139 Report, provided to OPES annually, whose purpose is to compile certain information regarding the Board's licensing examination program for submittal to the Legislature in compliance with Business and Professions Code Section 139.

## **Diversion Program**

The Diversion Evaluation Committee (DEC) met on October 4, 2015 in Folsom, California. The Diversion Program now has five participants in the Program. At its October 2015 meeting the DEC evaluated all five participants, one of whom is in the final stages of successfully completing the Diversion Program.

MAXIMUS is rolling out a new version of its online MAX-CMS 2.0 portal that will enable both Diversion Program Managers (DPM) and DEC members to confidentially review Program participant's files through the online portal. DPMs and DEC members will be trained on the new MAX-CMS 2.0 portal in the coming months.

# SECTION 139 REPORT TO THE LEGISLATURE

SCAN and EMAIL to **LAURIE YEE** at [laurie.yee@dca.ca.gov](mailto:laurie.yee@dca.ca.gov), or fax to (916) 419-1697 by **AUGUST 7, 2015**. THANK YOU!

			B&P	CCR									
Veterinary Medical Board	Veterinarian	NAVLE	4846.1	2010	OA	2009	2009	Modified Angoff	N/A	N/A	N/A	N/A	N/A
		CSB	4846.2	2010.1	OA	2013	2013		Yes	N/A	\$65	\$23	N/A
		VLE	4848	2014	N/A	N/A	N/A		N/A	N/A	N/A	N/A	N/A
			2015										
			2015.1										
			2015.2										
			2022										
			2023										
		2024											
		2025											
	Veterinary Temporary/ Reciprocity	VLE	4848	2015.1	N/A	N/A	N/A		N/A	N/A	N/A	N/A	N/A
	Registered Veterinary Technician	CRVT	4839	2010	Linkage Study	2010**	2010**		Yes	N/A	\$64	\$16	N/A
VTNE		4841.4	2014.1	OA	2007	2007		N/A	N/A	N/A	N/A	N/A	
		4841.5	2015										
		2066											
				2068.5									
				2068.6									
				2068.7									

**Comments:** \*\*Study conducted established linkages between the latest CRVT OA (2004) and VTNE OA (2007) exam specifications supporting the use of the National Exam and development of a separate Law and Ethics Exam for the CRVT.

Signature of Executive Officer

Date

**Veterinary Medical Board**

1747 N. Market Blvd., Suite 230, Sacramento, CA 95834

Telephone: 916-515-5220 Fax:: 916-928-6849 | [www.vmb.ca.gov](http://www.vmb.ca.gov)



## MEMORANDUM

<b>DATE</b>	October 6, 2015
<b>TO</b>	Veterinary Medical Board
<b>FROM</b>	Annemarie Del Mugnaio, Executive Officer DCA/Veterinary Medical Board
<b>SUBJECT</b>	Overview of Continuing Education Audit Program

### **Background:**

Business and Professions Code Sections 4838 and 4846.5 authorize the Board to audit licensee's continuing education (CE) records in order to determine CE compliance. CE regulations specifying Board approved CE requirements were enacted in May 2002 for veterinarians and in May 2011 for veterinary technicians.

Veterinarians and registered veterinary technicians currently attest to their completion of 36 hours (for veterinarians) or 20 hours (for registered veterinary technicians) of required CE for their previous renewal cycle by check box and signature on their biennial renewal application.

Board staff conducted approximately 300 veterinary CE audits in 2002 and 2004-2006. Additionally, staff conducted a six-month veterinary CE audit pilot in 2012. Audit outcomes from 2012 indicated the majority of veterinary licensees were in compliance.

### **Continuing Education Program**

The Board's planned continuing education audit program will consist of veterinary and veterinary technician audits on a monthly basis at an initial rate of 2% per month and potentially increasing to 5-10% per month as audit workload is refined. In accordance with the renewal attestation, audits will verify CE for the previous license cycle

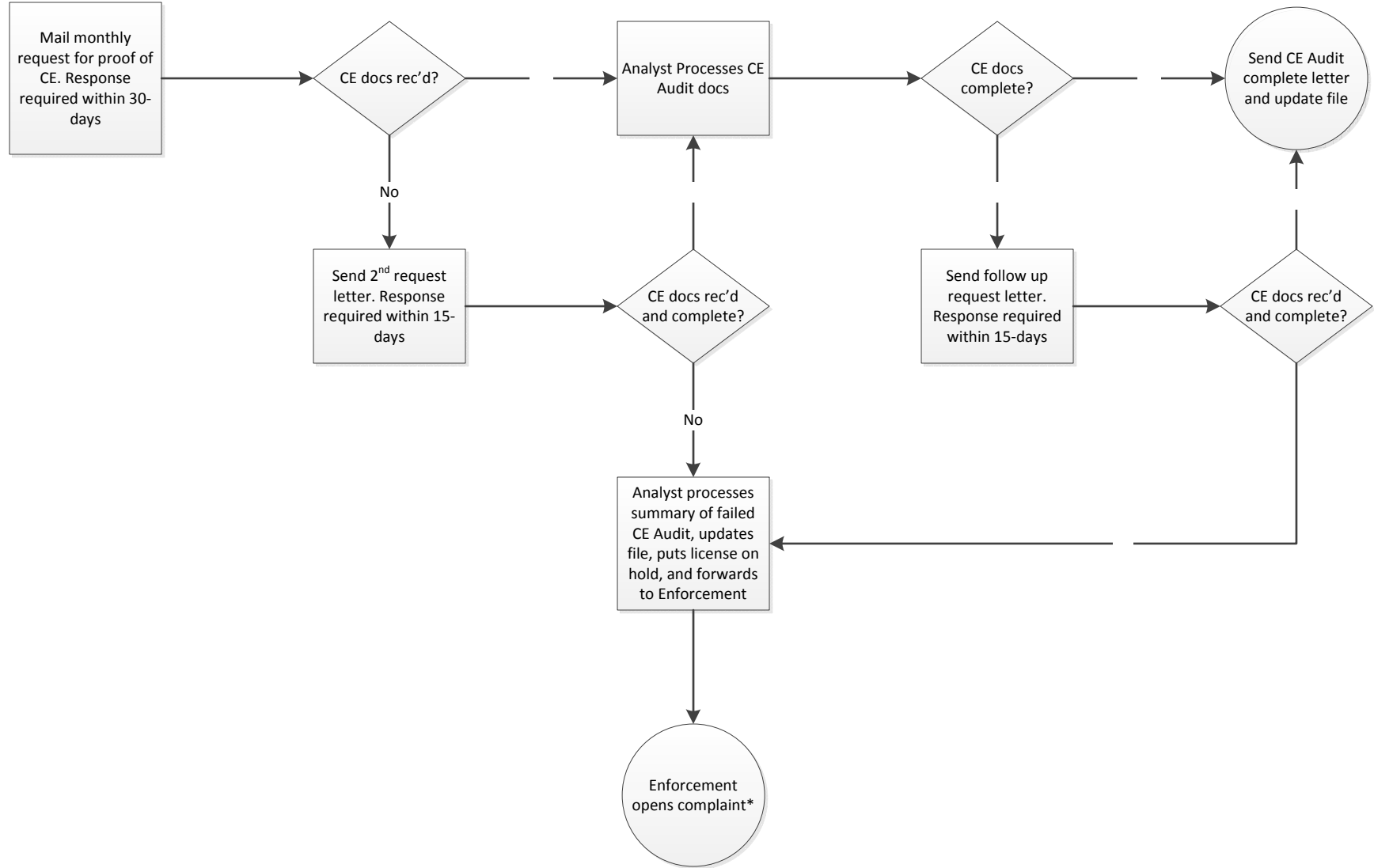
	<b>Licenses per renewal cycle</b>	<b>Avg. per month</b>
<b>VET</b>	11800	492
<b>RVT</b>	6200	258
<b>total</b>	18000	750
<b>at 2% of total</b>	360	15
<b>at 5% of total</b>	900	38
<b>at 10% of total</b>	1800	75

The attached Continuing Education Audit – Simple Flow outlines the process by which Board staff will work audits from initial request to audit outcomes. Some points to note:

- Initial audit request letters will require response within 30-days
- Non-compliance will result in a hold on the license and staff opening a complaint
- Enforcement outcomes are variable and based on degree of compliance

In preparation for the development of an audit program staff will create audit request and response letters, audit tracking logs, update FAQs on the website, create a desk manual, and set policy for audit non-compliance outcomes. Staff anticipates the audit program will take effect in early-2016 with an update to be provided at the January 2016 Board meeting.

## Continuing Education Audit – Simple Flow



\*Enforcement complaint outcomes variable based on:  
-Attempt of compliance with audit; did the auditee attempt to submit corroborating evidence of CE  
-Thoroughness of audit response; did the auditee submit sufficient evidence of CE  
-Timeliness of audit response; did the auditee respond to the audit request