

Veterinary Medical Board

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

Telephone: 916-515-5220 Fax: 916-928-6849 | www.vmb.ca.gov



AMENDED MEETING NOTICE and AGENDA
VETERINARY MEDICAL BOARD

April 19-20, 2017
Waterfront Hotel
10 Washington Street, Oakland, CA 94607

10:00 a.m. Wednesday, April 19, 2017

1. Call to Order/Roll Call/Establishment of a Quorum
2. Introductions
3. Review and Approval of January 18-19, 2017 Board Meeting Minutes
4. Discussion and Possible Board Action on Re-appointing Members to the Multidisciplinary Advisory Committee
5. Discussion and Possible Board Action on Re-appointing a Member to the Diversion Evaluation Committee
6. Proposed Regulations
 - A. Status of Pending Regulations
 - B. Review, Discussion, and Possible Board Action on Amendments to the Disciplinary Guidelines - Section 2006 of Title 16 of the California Code of Regulations
 - C. Review, Discussion, and Possible Board Action on Amendments and Adopting Modified Language Regarding the Consumer Protection and Enforcement Initiative Regulations – Sections 2003, 2017, & 2042 of Title 16 of the California Code of Regulations
7. Multidisciplinary Advisory Committee Report – Dr. Jon Klingborg
 - A. Review, Discussion, and Possible Board Action on Multidisciplinary Advisory Committee Items and Recommendations ([See Attached Agenda](#))
8. Review, Discussion, and Possible Board Action on Recommendations of the Animal Rehabilitation Task Force
 - A. Discuss Concepts for Possible Inclusion in Construct of Animal Physical Rehabilitation Legislation
9. 2017 Legislation Report; Potential Adoption of Positions on Legislative Items
 - A. SB 673 (Newman) Pet Lover's specialized license plates
 - B. SB 546 (Hill) Veterinary Pharmacy
 - C. AB 485 (O'Donnell) Dogs and cats: adoption and retail sales
 - D. AB 942 (Mathis) Personal income taxes: credit: veterinary costs
 - E. ~~Senate Business, Professions and Economic Development Committee Bill (bill number to be determined)~~
10. 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).)
11. Recess until April 20, 2017, at 9:00 a.m.

9:00 a.m. Thursday, April 20, 2017

12. Reconvene - Establishment of a Quorum
13. Introductions
14. Review Legal Guidance on DVM Graduates Practicing as RVTs; Discussion and Possible Board Action on Proposed Statutory Amendments to Require Registration
15. Discuss Implementation Issues Regarding the Veterinary Assistant Controlled Substances Permit Program
16. Board Chair Report – Dr. Cheryl Waterhouse
17. Registered Veterinary Technician (RVT) Report – Jennifer Loreda
18. Executive Officer & Staff Reports
 - A. Administrative/Budget- Fee Audit Update
 - B. Enforcement
 - C. Licensing/Examination- Update on RVT Examination Validation Study
 - D. Hospital Inspection
19. Future Agenda Items and Next Meeting Dates –
 - July 26-27, 2017 (Sacramento)
 - October 18-19, 2017 (Fresno)
 - A. Agenda Items for Next Meeting- Review Action Items on Strategic Plan, Telemedicine, Retroactive Fingerprinting
 - B. Multidisciplinary Advisory Committee Meetings – July 25, 2017; Sacramento
20. Petition for Reduction of Penalty – Ivon Osegueda – 11:00 a.m.

CLOSED SESSION

21. Pursuant to Government Code Section 11126(c)(3), the Board will meet in closed session to deliberate and vote on the above petitions and disciplinary matters, including stipulations and proposed decisions.

RECONVENE OPEN SESSION

22. Adjournment

This agenda can be found on the Veterinary Medical Board website at www.vmb.ca.gov. Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the Board President and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. The Board plans to webcast this meeting on its website at www.vmb.ca.gov. Webcast availability cannot, however, be guaranteed due to limitations on resources or technical difficulties that may arise. The meeting will not be cancelled if webcast is not available. If you wish to participate or to have a guaranteed opportunity to observe and participate, please plan to attend at a physical location. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

*Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on

the agenda; however, the Board can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).

The meeting locations are accessible to the physically disabled. A person who needs disability-related accommodations or modifications in order to participate in the meeting may make a request by contacting: Nina Galang (916) 515-5220, email: nina.galang@dca.ca.gov, or send a written request to the Board of Veterinary Medicine, 1747 N. Market St., Suite 230, Sacramento, CA 95834. Providing your request at least five (5) business days prior to the meeting will help ensure availability of the requested accommodations. TDD Line: (916) 326-2297

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**

January 18-19, 2017

1747 N. Market Blvd. – 1st Floor Hearing Room
Sacramento, California

10:00 a.m. Wednesday, January 18, 2017

1. Call to Order - Establishment of a Quorum

Dr. Cheryl Waterhouse called the Veterinary Medical Board (Board) meeting to order at 10:08 a.m. Executive Officer, Annemarie Del Mugnaio, called roll; seven members of the Board were present and thus a quorum was established. Lee Heller was absent.

2. Introductions

Board Members Present

Cheryl Waterhouse, DVM, President
Richard Sullivan, DVM, Vice President
Kathy Bowler, Public Member
Jennifer Loreda, RVT
Judie Mancuso, Public Member
Jaymie Noland, DVM
Mark Nunez, DVM

Staff Present

Christy Bell, Associate Enforcement Analyst
Annemarie Del Mugnaio, Executive Officer, Veterinary Medical Board
Nina Galang, Administrative Program Coordinator
Kurt Heppler, Legal Counsel
Ethan Mathes, Administrative Program Manager
Candace Raney, Enforcement Manager
Diann Sokoloff, Supervising Deputy Attorney General
Cesar Victoria, DCA Webcast

Guests Present

Jonathan Burke, Department of Consumer Affairs
Nancy Ehrlich, California Registered Veterinary Technicians Association
Valerie Fenstermaker, California Veterinary Medical Association
Erica Hughes, State Humane Association of California
Jon Klingborg, DVM, Multidisciplinary Advisory Committee
Bonnie Lutz
Grant Miller, California Veterinary Medical Association
Matt Nishimine, Department of Consumer Affairs
John Pascoe, University of California, Davis
Cindy Savely, Sacramento Valley Veterinary Technician Association
Leah Schufelt, California Veterinary Medical Association

Marshall Scott, California Veterinary Medical Association
Ken Pawlowski, California Veterinary Medical Association

3. Review and Approval of October 19-20, 2016 Meeting Minutes

- Kathy Bowler moved and Dr. Richard Sullivan seconded the motion to adopt the October 19-20, 2016 meeting minutes as amended. The motion carried 7-0.

4. Swearing in of New Board President, Cheryl Waterhouse, DVM

Dr. Waterhouse thanked Dr. Mark Nunez for his hard work as Board president and presented him with a plaque.

5. Proposed Regulations

A. Status of Pending Regulations

Ms. Del Mugnaio noted that a Retired Annuitant (RA) will be hired to assist with regulations.

B. Discuss and Consider Amendments to the Disciplinary Guidelines - Section 2006 of Title 16 of the California Code of Regulations

Since the Disciplinary Guidelines were adopted at a previous meeting, staff identified areas needing further clarification; thus, the proposed changes up for discussion were staff recommendations, as well as suggestions from Ms. Heller.

Associate Enforcement Analyst, Christy Bell, reviewed the Disciplinary Guidelines memo. Ms. Bell noted that substances like Nyquil or Listerine may show up as an alcoholic substance in a drug screening and would be considered a violation. Respondents are notified of this and would simply need to provide a doctor's note in order for it be cleared with the Board. Ms. Bell added that there are more advanced testing capabilities that can determine if there have been large amounts of alcohol consumed in the prior weeks.

Ms. Del Mugnaio reviewed Ms. Heller's changes.

Enforcement Manager, Candace Raney, clarified that the staff's preference is for the respondent to do an in-person initial probation interview. A phone interview can be accommodated if there are extenuating circumstances.

Legal Counsel, Kurt Heppler, clarified that if an individual is practicing outside of California without a license in that state, the other state would make the determination if there is a criminal act.

Judie Mancuso expressed interest in retaining a copy of the probationer's licenses in other states in their file. Ms. Mancuso also requested that staff utilize video interviews with probationers residing outside of California. Ms. Del Mugnaio clarified that Board staff will determine what method is best to carry out the interview process.

The Board made minor grammatical corrections to the Guidelines.

The Board clarified that "dangerous drugs" are defined within the Veterinary Practice Act and the Pharmacy Practice Act.

Ms. Del Mugnaio confirmed that the reference to the term “actions” in Section 4883(j) and 4839.5 is used appropriately. It allows for both formal discipline and citation and fine.

Regarding Ms. Heller’s comment on the term “violation” being used in section 4836.5; 4837, Dr. Nunez recommended taking no action since it does not affect the disciplinary process.

The Board agreed to strike the note at the bottom of section 4836.5; 4837 since it does not affect the intent of the Disciplinary Guidelines.

The Board agreed to add “veterinary” to specify the type of business, firm, partnership, or corporation in Optional Terms and Conditions of Probation #7, No New Ownership.

Mr. Heppler expressed confusion regarding the value of the section titled “Factors to Consider When Deciding Whether to Hold or Non-Adopt a Stipulated Settlement or Proposed Decision.” Ms. Del Mugnaio clarified that if the Board decides to remove the section, it would need to be justified in the rulemaking process.

Ms. Raney confirmed that daily contact is part of the drug testing contractual agreement. Daily contact by means of phone or login means every day, including weekends and holidays.

Bonnie Lutz commented that “suspension from work” under Optional Terms and Conditions of Probation #17, Submit to Drug Testing, is vague. Mr. Heppler agreed and suggested change the language to reflect a “cease practice order.”

Ms. Bell clarified that the drug testing company that the Board contracts with provides a list of prohibited substances when the individual enrolls in the program. Ms. Bell noted that she will follow-up to ensure that this is being done.

- Dr. Mark Nunez moved and Judie Mancuso seconded the motion to adopt the proposed changes as amended, direct Legal to perform an expedited review, and if there are no substantial changes as determined by the Executive Officer, move forward with the rulemaking process, otherwise the language would be brought back to the next Board meeting for consideration. The motion carried 7-0.

6. Review and Discuss Request from the City of Los Angeles for a Guarantee Letter Regarding an Exemption from Licensure for Veterinarians Providing Care and Treatment to Animals Participating in the 2024 Olympic and Paralympic Games.

Ms. Del Mugnaio reviewed the City of Los Angeles letter requesting a guarantee regarding temporary licensure for veterinarians to treat animal athletes during the 2024 Olympic and Paralympic Games, in the event that the Games are held in Los Angeles.

Ms. Del Mugnaio clarified that temporary licensure is dependent on the Board receiving the veterinarian’s Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN), which could take several months for the veterinarian to obtain. Depending on when the veterinarian arrives, licensure may not be a viable option.

Exemption language from the California Medical Board was provided to the Board as a potential model if the Board wishes to pursue a statutory change.

Mr. Heppler opined that guaranteeing temporary licensure for an event seems problematic.

Jennifer Loreda shared her concern that she would like to ensure that foreign veterinarians act in a manner consistent with our country's ethics.

Dr. Richard Sullivan suggested asking the Los Angeles legislators to carry a bill.

Dr. Waterhouse suggested supporting the bid and then working on creating an exemption through a statutory change.

Ms. Del Mugnaio added that she will check with the Physical Therapy Board and the Dental Board to determine how they are handling the situation. She also suggested that the Board direct her and Mr. Heppler to craft a letter in response to the request.

- Dr. Richard Sullivan moved and Dr. Jaymie Noland seconded the motion to direct legal counsel to work with the Executive Officer to draft a letter conceptually supporting the request for eligibility of foreign veterinarians to work on athlete's animals during the 2024 Olympic and Paralympic Games in Los Angeles. The motion carried 7-0.

7. Update on Registered Veterinary Technician School Reporting Pursuant to Section 2064 of Title 16 of the California Code of Regulations

During the initial review of the California American Veterinary Medical Association (AVMA) accredited veterinary technician program applications, Ethan Mathes updated that the programs were generally in compliance, but some applications were lacking verification documentation.

Mr. Mathes noted that the disclosure of pass rates and transferability of credits was not always found to be readily available and some information was outdated.

Ms. Del Mugnaio clarified that "non-compliant" means that the documentation that Board staff has received is insufficient or is it not clear in terms of student disclosures. Mr. Mathes noted that he will work with the schools on improving disclosure statements and data and offering suggestions on how to meet standards. He added that letters will go out in the next couple of weeks letting schools know whether they are compliant, and schools will be given 30-60 days to get up to date.

8. Review and Discuss Reciprocity Issues and License Eligibility for Veterinary Applicants Who Possess Work Experience in a Foreign Territory; Potential Revisions to Existing Reciprocity Statute (Business and Professions Code section 4848(b)(1))

Mr. Heppler reviewed the language and noted that the Board must decide if it wishes to make a statutory revision to clarify that an applicant practice clinical medicine in another U.S. state, Canadian province, or U.S. territory for purposes of veterinary reciprocity eligibility. Dr. Sullivan noted this concept was the intent of existing statutory language.

Ms. Loreda added that there are issues regarding where an applicant's experience is earned since not all country's standard of practice are created equal.

Dr. Sullivan expressed opposition towards changing the language, unless to clarify the intent.

- Dr. Mark Nunez moved and Judie Mancuso seconded the motion to seek a legislative bill to clarify the intent of BPC Section 4848(b)(1) to add “in another state, Canadian province, or United States territory” after “clinical veterinary medicine.”. The motion carried 7-0.

Dr. Waterhouse suggested exempting Board certified veterinarians from the required clinical experience and clarified that Board certification would substitute for a “minimum of two years and completed a minimum of 2,944 hours of clinical practice.”

Ms. Del Mugnaio suggested adding “or holds a Board certification” after “2,944 hours of clinical practice” in BPC section 4848(b)(1).

Dr. Sullivan opined that the changes being discussed were not in line with the intent of reciprocity. The intent of reciprocity is clinical practice equivalency.

Mr. Heppler identified three requirements of BPC section 4848(b)(1), 1) hold a license, 2) a minimum of two years of clinical practice, and 3) a minimum of 2,944 hours of clinical practice. Dr. Sullivan clarified that the 2,944 hours was intended to mean that the two years includes full-time practice equaling a minimum of 2,944 hours.

Nancy Ehrlich recalled a Federal Trade Commission (FTC) ruling regarding not allowing “Board certification” to be restricted to only AVMA accredited schools. Mr. Heppler confirmed that it will be part of the research.

- Dr. Mark Nunez moved and Kathy Bowler seconded the motion to refer the issue of veterinary reciprocity eligibility for Board certified veterinarians to the Multidisciplinary Advisory Committee. The motion carried 7-0.

9. Discuss Proposed Changes to Section ~~2030.3(e)~~ 2032.1(e) of Title 16 of the California Code of Regulations regarding Telemedicine and Review American Veterinary Medical Association (AVMA) Proposed Guidelines

The Board was unable to discuss this item during the allotted amount of time; therefore, it will be placed on the agenda for discussion at a future Board meeting.

10. Multidisciplinary Advisory Committee Report – Dr. Jon Klingborg

A. Review and Consideration of Multidisciplinary Advisory Committee Items and Recommendations

Dr. Jon Klingborg summarized the Multidisciplinary Advisory Committee’s (MDC) discussion from its meeting on January 17, 2017.

The Complaint Process Audit Subcommittee continues to review cases approximately 1-2 times a year and the evaluation process is ongoing. The subcommittee discussed the process by which a consultant reviews a case and then if there is a deviation of the standard of care that warrants further review, the case would be sent to an expert witness. The Subcommittee addressed the need for ongoing training of new and existing expert witnesses.

The Registered Veterinary Technician (RVT) Extended Duty Subcommittee received a list from the California Registered Veterinary Technicians Association (CaRVTA) of tasks that veterinary assistants may be excluded from in private facilities. The MDC recommended creating a working

group to discuss duties beyond those included in the existing list of RVT specific tasks that should be limited only to RVTs.

- Judie Mancuso moved and Jennifer Loreda seconded the motion to direct the MDC to consider the list of exclusions for veterinary assistants in private facilities, and hold a public hearing to obtain public comment, and report back to the Board if there are any changes. The motion carried 7-0.

Additionally, the MDC requested guidance from the Board to determine what burden of proof or evidence should be considered with each public comment and request for action or whether the MDC should develop a screening mechanism for deciding to pursue new change requests due to access, harm or consumer protection.

The Board discussed the need to be proactive in protecting consumers and animal patients from harm, rather than being reactive to complaints. In some instances, harm is being underreported (e.g. rodeo injuries) and protection should be provided regardless of the lack of complaints.

The Board expressed support for creating a set of guidelines for pursuing new issues.

Ms. Del Mugnaio clarified that it is not within the Board's role to pursue issues such as emerging tasks which expand the scope of practice. The Board's role is to respond to a verifiable risk or threat.

Mr. Heppler reminded the Board that if more than two Board or MDC members meet, the meeting must be duly noticed to the public. He also added that guidelines are not enforceable unless incorporated and adopted by regulation. Ms. Del Mugnaio clarified that the guidelines would simply be a method for assessing risk.

Ms. Lutz commented that the Board appears to be discussing a standard of care determination. Ms. Lutz expressed that it is inappropriate and beyond the scope of the Board's authority. The Board clarified that they would not be preventing someone from being able to make a request to the Board or MDC, it would only be used to evaluate the value of the request and if it is appropriate to pursue.

- Dr. Richard Sullivan moved and Jennifer Loreda seconded the motion for the Veterinary Medical Board president to form a working group to respond to the Multidisciplinary Advisory Committee's request to discuss methods of evaluating requests for Board action taking into account potential risks, threats, or tasks and develop guidelines. The motion carried 6-1. Judie Mancuso opposed the motion.

The Board later agreed to reconsider the motion to form the working group as it creates unnecessary bureaucracy.

- Dr. Richard Sullivan moved and Jennifer Loreda seconded the motion to rescind the motion to form a working group to respond to the MDC's request. The motion carried 6-1. Dr. Mark Nunez opposed the motion.

Mr. Heppler clarified that the MDC will keep the item as part of the agenda at a future MDC meeting.

Dr. Klingborg reviewed the amendment to California Code of Regulations (CCR) section 2069, Emergency Animal Care, to adopt a new item #9.

The Board discussed waiting until the next public meeting to obtain a more comprehensive analysis from legal or Board members and provide more opportunity for Board members and the public to comment on the proposed amendments to CCR section 2069. Ms. Del Mugnaio reminded the Board that the intent is to have the MDC hold a robust discussion before bringing proposed language before the Board, in effort to eliminate duplicative discussion. The Board may vote to adopt the proposed regulations based on the analysis done by the MDC. Once the proposed regulations have been noticed, the public is given 45 days to submit comments.

- Judie Mancuso moved and Kathy Bowler seconded the motion to adopt propose amendments to CCR section 2069, prepare the initial rulemaking documents to submit to the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency, and in the absence of adverse comments, commence with the rulemaking process. The motion carried 7-0.

Dr. Klingborg reviewed part 2 of Item #6 on his handout regarding authorizing RVTs to transport controlled substances for purposes of administering drugs in emergency situations.

Allyne Moon, CaRVTA, expressed support for the proposed changes.

- Judie Mancuso moved and Jennifer Loreda seconded the motion to direct the MDC to research statutory changes to Penal Code section 597.1 or BPC section 4840 regarding authorizing RVTs to transport controlled substances for the purposes of administering drugs in emergency situations. The motion carried 7-0.

Dr. Klingborg reviewed Item #7 of his handout regarding proposed regulatory changes to CCR section 2027.5 regarding an alternate route for DVM graduates to practice as RVTs.

Dr. Nunez expressed concern with not enforcing the proposed requirements retroactively.

- Dr. Richard Sullivan moved and Dr. Jaymie Noland seconded the motion to direct staff and legal to perform a comprehensive analysis of the proposed regulations regarding veterinarian graduates to qualify to temporarily practice as RVTs. The motion carried 7-0.

Dr. Klingborg reviewed Item #8 regarding minimum standards and protocols for shelter medicine. Dr. Klingborg noted that the MDC recommended that the State Humane Association of California (SHAC) form a working group to look the various issues surrounding shelter medicine, levels of supervision, sedation/anesthesia, etc. and bring their research back to the MDC.

Regarding drug compounding, Dr. Klingborg noted that he plans to meet with Dr. Wiebe of University of California, Davis and the Board of Pharmacy legal counsel and continue discussion on this topic.

Dr. Klingborg reviewed Item #10 regarding providing drug information to clients. The MDC heard Solomon Stupp's concerns and discussed potential language in the Pharmacy Practice Act that may serve as an example for Board language. The MDC formed a subcommittee to distill the information and bring language back at its next meeting for discussion.

There was no action needed on Item #11 regarding the "Induction" of Anesthesia vs. Sedation discussion. The item was tabled for the next MDC's agenda.

Dr. Klingborg noted that the MDC did not have enough time to discuss the minimum standards for spay and neuter clinics. It will be a future priority item to also discuss minimum standards for mobile specialists.

11. Board Chair Report – Dr. Cheryl Waterhouse

Dr. Waterhouse noted that Dr. Sullivan and Ms. Loredo will continue to serve as Board liaisons on the MDC. Dr. Nunez will continue to serve as Chair of the Animal Rehabilitation Task Force.

In November 2016, Dr. Waterhouse attended the Board member training. Dr. Waterhouse reminded the Board that the Department's top strategic plan goal is to eliminate unlicensed activity. She also reminded the Board members that they must take Ethics training each odd numbered year and take online drivers training every four years.

12. Registered Veterinary Technician Report – Jennifer Loredo

Ms. Loredo summarized the RVT-related topics discussed since the last Board meeting. The discussion regarding retroactive fingerprinting of RVTs prior to 2000 had been carried over from the previous meeting. There is still a need to fingerprint licensees who were not fingerprinted at the time of initial application.

The discussion regarding new eligible graduates (Animal Science Bachelor of Science degrees, etc.) has been removed from the list of priority topics, but it is still a possibility that the discussion may be renewed.

Ms. Loredo noted that it has been difficult to find a California RVT representative to serve on the AVMA Committee to discuss RVT issues. Dr. Waterhouse suggested that Ms. Loredo work with SHAC and CaRVTA to get the word out in order to recruit a California representative.

13. Discuss Implementation Issues Regarding the Veterinary Assistant Controlled Substances Permit Program

Since the program implementation in October 2016, Mr. Mathes noted that there have been questions regarding whether or not certain individuals (e.g. euthanasia technicians in an animal shelter) are required to hold a Veterinary Assistant Controlled Substances Permit (VACSP).

Ms. Del Mugnaio noted that the intent of the statute and regulations was to prevent drug diversion. The regulations were not intended to cover students in veterinary training programs who already receive direct supervision by a veterinarian. Individuals that handle and independently administer controlled substances are intended to be covered under the VACSP regulations.

Mr. Mathes pointed out that the regulations specify an "animal hospital setting," or a premises where veterinary medicine is practiced, as the location in which the administration of controlled substances would require a VACSP; however, not all shelters have a premises permit. Ms. Del Mugnaio clarified that if an individual administers controlled substances to an animal patient for a medical necessity, it would be considered the practice of veterinary medicine.

Ms. Mancuso expressed support for requiring all shelter staff to obtain a VACSP as she felt diversion could occur because of receptionist staff.

Ms. Loreda opined that euthanasia technicians do not need a VACSP as they only handle sodium pentobarbital. Dr. Waterhouse argued that the use of sodium pentobarbital could still be abused.

Mr. Heppler suggested directing legal to look at all legislative and regulatory records and provide guidance regarding the intent of the proposed regulatory language.

Ms. Ehrlich shared that as a member of the VACSP task force, it was the intent of the task force was to exempt receptionist staff from being required to obtain a VACSP.

Ms. Hughes noted that unlicensed shelter staff have authorization to administer sodium pentobarbital under BPC section 4827.

Ms. Hughes also requested that the Board consider waiving VACSP application and license fees for shelter staff that work in a public animal shelter or a private animal shelter that contract with the city or county to provide care to abandoned animals. Ms. Hughes added that the premises fee is currently being waived for animal control agencies.

Mr. Heppler noted that another regulatory endeavor may be necessary to clear up any questions.

Ms. Moon expressed support for requiring Animal Control Officers to obtain a VACSP and requested that the permit fee is waived for municipal agencies.

Ms. Del Mugnaio clarified the request to waive any fees is decided by the Board, not legal counsel. Mr. Heppler suggested placing the request as a separate agenda item at a future meeting.

- Dr. Mark Nunez moved and Jennifer Loreda seconded the motion to direct to Legal staff prepare an opinion on Veterinary Assistant Controlled Substances Permit issues brought forward by staff and to bring back to Veterinary Medical Board. The motion carried 7-0.

14. Review Revenue and Expenditure Reports and Discuss Need for a Fee Increase of Initial License and Renewal Fees; Potential Action

Mr. Mathes identified an ongoing structural imbalance within the Board's Fund. A few contributing factors include: increase in staffing, increase in interdepartmental and intradepartmental expenditures, and an increase in Office of Attorney General (OAG) expenses.

Ms. Del Mugnaio noted that Board staff are working on a contract to examine the Board's fee structure, which will go out for bid shortly. The Fund Conditions in the packet are representative of the Board's fund today using four different scenarios, which includes examples with and without anticipated revenue from the VACSP program.

Ms. Del Mugnaio explained that Board staff would like to see the third party fee audit outcome before making any potential fee increase recommendations. However, if Board revenue does not increase, the Board may have to discontinue providing some types of services affecting its mandate of public protection.

The audit will cost between \$25-50,000 and will include a review of the California Veterinary Technician Examination cost basis.

Budget Analyst, Matt Nishimine, noted that the Board's fund is healthy until 2020 and suggested that this is a good time to consider evaluating the fee structure. Proposing a regulatory change to the fees would take approximately 18 months to effectuate. Increasing funding caps through the statutory process would take approximately two years.

Dr. Waterhouse noted that the third party vendor has worked with the Department of Consumer Affairs in the past and are familiar with evaluating board licensing fees. Ms. Del Mugnaio added that the vendor will evaluate how much additional funding the Board will need to retain a 3-10 month statutory reserve .

The fee audit is specific to the Board and cannot be combined with other board audits within the Department of Consumer Affairs (DCA).

15. Executive Officer & Staff Reports

A. Administrative/Budget

Mr. Mathes reviewed the expenditure report as compared to the Board's appropriation. Due to a substantial increase in OAG and Office of Administrative Hearings (OAH) costs, the Board has received approval to temporarily augment its OAG and OAH line items. Ms. Del Mugnaio clarified that there is budgetary authority to request an appropriation increase for Enforcement-related line items only. The request must include a history of overspending.

Mr. Mathes added that there is a Budget Change Proposal (BCP) being developed to update the OAG and OAH line items to reflect more accurate expenditures. The proposed BCP amendments would take effect next Fiscal Year (FY).

Mr. Mathes clarified that the increased appropriation of the two line items was not reflected in the fund conditions.

B. Enforcement

Ms. Raney noted that an Expert Witness Roundtable was held in November 2016. The location for the next meeting is anticipated to be in Northern California, but a date has not been set yet.

In regard to the implementation of the VACSP, Enforcement has yet to see what type of workload it will receive based on the new program. There have been approximately 50 out of 977 applications that required a second review.

Ms. Raney noted that in December 2017, Sean Gerson, was taken into custody by Federal authorities for unlicensed activities.

In response to the Board's motion in October 2016, Enforcement staff submitted a legislative proposal to stagger terms for petitions.

The Probation Monitor is currently monitoring 200 probationers with a number of probationers successfully completing the process, and others who were subsequently disciplined for repeated acts of non-compliance.

Board Members can anticipate two mail votes between the January and April Board meetings.

Regarding staffing, Enforcement is recruiting to fill a vacancy in the Complaint Unit, as well as working to hire an RA to provide additional assistance.

C. Licensing/Examination- Report from Office of Professional Examination Services regarding the Veterinary Law Examination Study

Kamilah Holloway, Office of Professional Examination Services (OPES), gave a presentation on the VLE and California State Board (CSB) Examination comparison study.

The comparison study included the following: 1) California Veterinarian Licensure Examination Program Protocol, 2) Occupational Analysis, 3) The California State Board Veterinarian Examination Content Outline, 4) VLE/CSB Comparison Study Process, and 5) Comparison Study Outcomes (including Options/OPES recommendation).

Ms. Holloway reviewed a detailed outline of the VLE and explained how the VLE and CSB overlap in content. It was determined that the CSB can cover what is tested for in the VLE.

Ms. Holloway identified three options: 1) Continue to administer the current form of the VLE, 2) Continue to administer the VLE using new examination forms yearly to eliminate overexposure of examination materials, and 3) Discontinue administration of the VLE for all candidates for licensure who have completed the national examination, the CSB examination, and a Board-approved veterinary training program.

As part of the VLE comparison study, two new examination forms have been completed.

Ms. Del Mugnaio added that there is a financial impact to eliminating the VLE and clarified that it would not require staff cuts since no positions are directly linked to the examination. Revenue data can be pulled to determine how much the Board would potentially be losing.

The Board must determine if it would like to pursue a statutory amendment to eliminate the VLE. The item will be on a future agenda to discuss.

Mr. Mathes shared that Board staff have received approximately 2,000 VACSP applications and have issued approximately 400 VACSPs. The application processing time is about 6-8 weeks due to the high volume of applications coming in during the last three months. Ninety-three percent of the VACSP applications have been coming in online through BreEZe, which is easier for staff to process.

There is an ongoing RVT Occupational Analysis (OA) being conducted for the Board. Findings will not be reported to the Board until approximately July 2017 when staff has had an opportunity to compare the results of the California RVT OA with the National RVT OA.

Ms. Moon expressed disappointment regarding the pass rate for the California Veterinary Technician Law Examination (CVTLE) dropped from 94 percent to 62 percent. Mr. Mathes clarified that the Candidate Information Bulletin instructs the applicant to check the PSI website for the most up-to-date information.

D. Hospital Inspection

Hospital Inspection Manager, Patty Rodriguez, is working to fill a staff vacancy within the unit. She also commended Emily Groves for her work in the Premises and Inspection Program.

Regarding Minimum Standards, Ms. Rodriguez and h Ms. Del Mugnaio will discuss updates to the Hospital Inspection Checklist with the Board's in-house consultants as areas of the checklist require more clarity. The goal of the Hospital Inspectors has been to present the standards as consistently as possible.

Ms. Del Mugnaio shared that it can be problematic when there is only one Drug Enforcement Administration (DEA) license associated with the premises where multiple veterinarians dispense controlled substances under that single license. Staff has discussed hospital/clinic registrations or group practice registrations where an entity has authority to dispense controlled substances and each practitioner may be listed by suffix.

Dr. Nunez suggested adding the item under future agenda items.

Finally, Ms. Rodriguez added that premises inspection ride-alongs are ongoing and statistically, the Board is on track to meet its 20% inspection goal for this FY.

16. Agenda Items and Next Meeting Dates – February 2, 2017 – Animal Rehabilitation Task Force Meeting (Sacramento); April 19-20, 2017 (Oakland); July 26-27, 2017 (Sacramento/Southern California); October 18-19, 2017 (Fresno)

A. Agenda Items for Next Meeting

The following is a list of agenda items to be discussed at the April 2017 Board meeting:

- Legislative Report
- Telemedicine
- CCR section 2027.5 – Proposed Language and Legal Opinion
- Follow-up on VACSP Program Implementation Questions
- Review and Consider Developing a Statutory Change to Eliminate VLE
- Follow-up on Proposed Changes to Disciplinary Guidelines
- Fee Audit Recommendations
- Facility DEA Licenses.

Ms. Del Mugnaio noted that the next meeting dates are April 19-20, 2017 (Oakland), July 26-27, 2017 (Sacramento/Southern California), and October 18-19, 2017 (Fresno).

Ms. Del Mugnaio clarified that she will work with legal counsel on the response to the City of Los Angeles regarding the 2024 Olympics and Paralympics.

B. Multidisciplinary Advisory Committee Meetings – April 18, 2017; TBD

17. Public Comment on Items Not on the Agenda

There were no comments from public/outside agencies/associations.

18. Recess until January 19, 2017, at 9:00 a.m.

9:00 a.m. Thursday, January 19, 2017

19. Reconvene - Establishment of a Quorum

Dr. Waterhouse called the Veterinary Medical Board (Board) meeting to order at 9:05 a.m. Enforcement Manager, Ms. Raney, called roll; seven members of the Board were present and thus a quorum was established. Ms. Heller was absent.

20. Introductions

Board Members Present

Cheryl Waterhouse, DVM, President
Richard Sullivan, DVM, Vice President
Kathy Bowler, Public Member
Jennifer Loredo, RVT
Judie Mancuso, Public Member
Jaymie Noland, DVM
Mark Nunez, DVM

Staff Present

Annemarie Del Mugnaio, Executive Officer, Veterinary Medical Board
Nina Galang, Administrative Program Coordinator
Kurt Heppler, Legal Counsel
Ethan Mathes, Administrative Program Manager
Candace Raney, Enforcement Manager
Cesar Victoria, DCA Webcast

Guests Present

Linda Cabatic, Administrative Law Judge
Stanton Lee, Deputy Attorney General
Nicholas Leonard, Attorney
Tiffany Mestas
Kristina Miranda
Lori Pinkerton, Court Reporter
Trinity Reese

21. Petition for Reduction of Penalty – Trinity Reese – 9:00 a.m.

Deputy Attorney General (DAG) Stanton Lee opened the reduction of penalty hearing presenting the case against Trinity Reese.

Ms. Reese approved the contents of the Petitioner's Packet and Administrative Law Judge, Linda Cabatic, marked the packet into evidence as Exhibit #1. DAG Lee reviewed the contents of the Petitioner's Packet.

Ms. Reese represented herself and presented her case for reduction of penalty. Ms. Reese answered questions from the DAG and members of the Board.

ALJ Cabatic closed the hearing.

22. Petition for Reduction of Penalty – Kristina Miranda – 10:00 a.m.

DAG Lee opened the reduction of penalty hearing presenting the case against Kristina Miranda.

Ms. Miranda approved the contents of the Petitioner's Packet and ALJ Cabatic marked the packet into evidence as Exhibit #1. DAG Lee reviewed the contents of the Petitioner's Packet.

Ms. Miranda represented herself and presented her case for reduction of penalty. Ms. Miranda answered questions from the DAG and members of the Board.

ALJ Cabatic closed the hearing.

23. Petition for Reduction of Penalty – Tiffany Mestas – 11:00 a.m.

DAG Lee opened the reduction of penalty hearing presenting the case against Tiffany Mestas.

Ms. Mestas approved the contents of the Petitioner's Packet and ALJ Cabatic marked the packet into evidence as Exhibit #1. DAG Lee reviewed the contents of the Petitioner's Packet.

Counsel for the petitioner, Nicholas Leonard, presented the case for reduction of penalty. Ms. Mestas answered questions from the DAG and members of the Board.

ALJ Cabatic closed the hearing and the Board went into closed session.

CLOSED SESSION

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

Petition for Reduction of Penalty – Trinity Reese

The Board adopted the petition for reduction of penalty.

Petition for Reduction of Penalty – Kristina Miranda

The Board adopted the petition for reduction of penalty with a modification.

Petition for Reduction of Penalty – Tiffany Mestas

The Board adopted the petition for reduction of penalty.

AV 2016 12 – Bloom, Timothy

The Board adopted the stipulated settlement.

D1 2012 13 – Moon, Hong

The Board non-adopted the stipulated settlement and proposed a modification.

AV 2014 4 – Sandhu, Davinder

The Board non-adopted the proposed decision and proposed a modification.

AV 2015 18 – Spence, Christopher

The Board non-adopted the proposed decision and proposed a modification.

25. 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

26. Adjournment

The Board adjourned at 2:30 p.m.

Veterinary Medical Board
1747 N. Market Blvd, Ste 230
Sacramento, CA 95834

Dear Ms. Del Mugnaio,

On June 30, 2017 my term on the Multidisciplinary Advisory Committee will expire. I am interested in continuing for another term and would like to request that the Board consider this at its next meeting. There is a learning curve for this job. It feels like I'm now in middle school. Hopefully, 3 more years will have me qualified at the high school level – maybe a GED.

Sincerely,

Jeff

Jeff Pollard, DVM
Diplomate ABVP (Canine/Feline)
2045 Vera Lane
Escondido, CA 92026
760-504-1286
pollarddvm@cox.net

Lane W. Johnson DVM

8653 Timber Court
Orangevale, CA 95662

Phone: 916-990-3469
e-mail: arahvet@aol.com

March 20, 2017

To: California Veterinary Medical Board

Re: Re-appointment to Veterinary Medical Board Diversion Evaluation Committee

Dear Board Members,

I am writing to express my desire to be re-appointed to the Diversion Evaluation Committee for another term of service. Over the past three years it has been a privilege to be of service to the board and the profession in this capacity. Although a very small number of veterinarians are actively being helped with this program it is extremely gratifying to see shattered lives rebuilt and productive members of society restored. I honestly believe that there is a ripple effect for the profession by assisting these impaired professionals on the road to recovery. Not only will they impact other professionals with their stories of recovery but they carry their recovery to their communities as well. My involvement in the committee has been personally gratifying but also an active part in my own continued recovery, without which I would not be able to be of service to anything or anyone. I appreciate the board's confidence in appointing me to this position and will see fit to extend the opportunity for me to continue to be of service. Thank you for your consideration.

Sincerely,



Lane W. Johnson DVM

**STATUS OF PENDING VMB REGULATIONS
APRIL 2017**

Subject	CCR Section(s)	Current Status/Action	Notes
BOARD			
Animal Control Officer Training	2039.5	DCA Budget Office Review	July 2014 – Board approved language July 2016 – Submit proposed language as amended to Board for review/approval 8/26/2016 – Publish 45-day notice 10/10/2016 – End of public comment period October 2016 – Submit to DCA Budget Office for review/approval 3/17/2017 – Publish 15-day notice 4/3/2017 – End of public comment period 4/19/2017 – Submit language to Board for review/approval
CPEI (SB 1111)	TBD	Board Approval Required	October 2014 – Board approved language January 2016 – Submitted to DCA Legal for review/approval April 18, 2017 – Submit language to Board for review/approval April 2017 – Submit to DCA Legal, Leg/Reg, Executive staff, and Agency for review/approval August 2017 – Publish 45-day notice
Disciplinary Guidelines	2006	In Progress	January 2015 – Board approved language May 2015 – Disciplinary Guidelines Committee Meeting July 2015 – Submit language to Board for review/approval October 2015 – Board approved amended language January 2017 – Submit amended language to Board for review/approval April 18, 2017 – Submit language to Board for review/approval May 2017 – Submit to DCA Legal for review/approval June 2017 – Submit language to DCA Leg/Reg, Executive staff, and Agency for review/approval September 2017 – Publish 45-day notice

Animal Rehabilitation	TBD	TBD	November 2015 – Rulemaking file withdrawn from OAL January 2016 – Discussion on hold per Board pending Sunset Review June 2016 – 1 st Task Force meeting held in Sacramento, CA 10/4/2016 – 2 nd Task Force meeting held in Sacramento, CA April 2017 – Discussion is ongoing
Minimum Standards / Telemedicine	2032.1	In Progress	February 2015 – MDC approved amendments to Minimum Standards language April 2015 – Board approved language July 2017 – Discussion at Board meeting
RVT Education	2036.6, 2064, 2065.1, 2065.2, 2065.6, 2065.7, 2065.8 2066.1, 2068.5	In Progress	<i>RVT Alternate Route-</i> February 2015 – MDC approved amended language and forwarded to Board for discussion. July 2015 – Board approved language <i>RVT Student Exemption-</i> July 2015 – MDC approved amended language and forwarded to Board for discussion. October 2015 – Board approved language <i>RVT AVMA School Approval-</i> July 2016 – Board approved language June 2017 – Submit to Legal for review/approval
Uniform Standards for Abuse (SB 1441)	2006, 2006.5, and 2076	In Progress	October 2014 – Board approved language April 2015 – On hold per Legal March 2016 – Hold removed per Legal, approved to continue with rulemaking file

MDC			
Shelter Medicine	TBD	TBD	September 2015 – CVMA task force meetings begin April 2017 – Discussion is ongoing
Veterinary Student Exemption	2027, 2027.5	TBD	October 2016 – MDC approved language
“Extended Duty” for Registered Veterinary Technicians	TBD	TBD	April 2017 – Submit to MDC for approval
Drug Compounding	TBD	TBD	April 2017 – Submit to MDC for approval
Drug Counseling	TBD	TBD	April 2017 – Submit to MDC for approval

Disciplinary Guidelines

~~July~~
~~2012~~ Month
Year

Veterinary Medical Board



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~~www.vmb.ca.gov~~ Susan M.
Geranen www.vmb.ca.gov
www.facebook.com/CA.VetMedBoard/
twitter.com/vetmedboard

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~~ Lee Heller, 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 level of discipline. 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 request that the administrative law judge ~~on~~ fully explain the reasons and the circumstances for the deviation. ~~that resulted in 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 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 suspend the license of 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~~ ensure compliance with the probationary terms and conditions. ~~It is the recommendation of the~~ The Board that recommends that 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

Section	4883(a); 4837(b)
Violation	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.
Maximum Penalty	Revocation and a \$5,000 fine
Minimum Penalty (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 circumstances 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, when appropriate, specific training in areas of weakness, full restitution to persons harmed by the licensee or registrant, completions<u>completion</u> of treatment or other conditions of probation ordered by the court, or full-compliance with all laws since the date of the occurrence of the criminal act<u>crime</u>.</p>	

Section	4883(b); 4837(d)
Violation	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.
Maximum Penalty	Revocation and a \$5,000 fine

Minimum Penalty	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>	

Section	4883(c); 4837(e); 4836.5 4839.5
Title Violation	Violation or attempt to violate, directly or indirectly, any of the provisions of the chapter
Maximum Penalty	Revocation and a \$5,000 fine
Minimum Penalty	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>	

Section	4883(d), (e)
Violation	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.
Maximum Penalty	Revocation or suspension and a \$5,000 fine
Minimum Penalty	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.

Section	4883(f)
Violation	False or misleading advertising
Maximum Penalty	Revocation and/or suspension and a \$5,000 fine
Minimum Penalty	Revocation and/or suspension stayed Two-year probation 60 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.

Section	4883(g); 4837(c)
Violation	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.
Maximum Penalty	Revocation and a \$5,000 fine

Minimum Penalty	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.

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

Minimum Penalty (as appropriate)	Written Public Reproval Revocation and/or suspension stayed Two-year probation Standard terms and conditions Optional terms and conditions including but not limited to: 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
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Maximum penalties should be considered if the acts or omissions caused substantial harm to an animal or a client, or if there are prior actions against violations of the licensee or registrant same type of offense.

Minimum penalties may be considered if there are no prior ~~actions~~ violations, 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, and/or if there is evidence of a self-initiated rehabilitation.

Section	4883(h)
Violation	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).
Maximum Penalty	Revocation or suspension of premises permit and a \$5,000 fine.
Minimum Penalty	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: A ten to thirty <u>30-day</u> suspension or suspension until compliance with minimum standards of practice is achieved. Random hospital inspections

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 or if there are prior violations of the same type of offense.

Minimum penalties may be considered ~~people~~ if the acts or omissions did not cause or threaten harm to animals or people, or remedial action has been taken to correct the deficiencies, ~~and there is remorse for the existing unsanitary conditions.~~

Note - A veterinary license and a premises permit can be disciplined separately.

Section	4883(i)
Violation	Negligence in the practice of veterinary medicine
Maximum Penalty	Revocation and a \$5,000 fine
Minimum Penalty	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: A ten to thirty 30-day suspension or suspension until in-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 people 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>	

Section	4883(i)
Violation	Incompetence in the practice of veterinary medicine
Maximum Penalty	Revocation and a \$5,000 fine
Minimum Penalty	Revocation and/ or suspension stayed Three-year probation Standard terms and conditions \$2,000 fine Optional terms and conditions including but not limited to: <ul style="list-style-type: none"> 9030-day suspension Supervised = practice/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>	

Section	4883(i)
Violation	Fraud and/or Deception in the practice of veterinary medicine
Maximum Penalty	Revocation and a \$5,000 fine

Minimum Penalty	Revocation and/or suspension stayed Three-year probation Standard terms and conditions \$2,000 fine Optional terms and conditions including but not limited to: 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 mitigating circumstances such as no prior discipline, remorse for the harm that occurred, cooperation with the Board's investigation, etc.

Section	4883(j); 4839.5
Violation	Aiding or abetting in acts which are in violation of any of the provisions of this chapter
Maximum Penalty	Revocation and a \$5,000 fine
Minimum Penalty	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.

Section	4883(k); 4837(a)
Violation	Fraud, misrepresentation, or deception in obtaining a license or, <u>registration, or permit.</u>
Maximum and Minimum Penalty	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.

Section	4883(l)
Violation	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
Maximum Penalty	Revocation
Minimum Penalty	The penalty that would have been applicable to the violation if it had occurred in the State of California

Section	4883(m)
Violation	Cruelty to animals or conviction on a charge of cruelty to animals, or both
Maximum Penalty	Revocation and a \$5,000 fine.
Minimum Penalty	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$5,000 fine Optional terms and conditions including but not limited to: to: 30 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 of a significant nature.

Section	4883(n)
Violation	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.
Maximum Penalty	Revocation and a \$5,000 fine
Minimum Penalty	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.

Section	4883(o)
Violation	Violation, or the assisting or abetting violation, of any regulations adopted by the Board pursuant to this chapter
Maximum Penalty	Revocation and a \$5,000 fine
Minimum Penalty	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, when appropriate, specific training in areas of weakness, full restitution to persons harmed by the licensee or registrant, completion of treatment or other conditions <u>condition</u> of probation ordered by the court, and full compliance with all laws since the date of the occurrence of the violation.</p>	

Section	4855
Title-Violation	Written Records
Maximum Penalty	Revocation and a \$5,000- 00 fine
Minimum Penalty	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 are <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>	

Section	4856
Violation	Failure to permit the inspection of <u>Records records</u> or <u>Premises premises</u> by the Board
Maximum Penalty	Revocation and a \$5,000 fine
Minimum Penalty	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 <u>actions violations of a similar nature</u>.</p>	

Section	4857
Violation	Impermissible disclosure of information about animals and/or about clients
Maximum Penalty	Revocation and a \$5,000 fine
Minimum Penalty	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 <u>there is a breach of breaching</u> confidentiality, puts the animals or clients in jeopardy.</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>	

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

Minimum Penalty	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 E 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.	

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

Section	4836.5; 4837
Violation	Disciplinary proceedings against veterinarians and registered veterinary technicians
Maximum Penalty	Revocation and a \$5,000 fine
Minimum Penalty	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 E 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 ~~unregistered assistants~~veterinary controlled substance permit holders; therefore, these violations are more serious due to their blatant nature.

STANDARD TERMS AND CONDITIONS OF PROBATION (1-4115)

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~~

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 relating to the practice of veterinary medicine 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.

46. | No Preceptorships or Supervision of Students, Interns, or Residents

~~Respondent shall not supervise a registered intern and shall not perform any of the duties of a preceptor students, interns, or residents.~~

57. | Notice to Employers

~~During the period of probation, Respondent shall notify all present and prospective employers of the decision in this case Decision and the terms, conditions, and restrictions imposed on Respondent by the decision in this case. Decision, as follows:~~

~~Within thirty (30) days of the effective date of this decision Decision and within fifteen (15) days of Respondent undertaking any new employment, Respondent shall cause his or her employer supervisor and/or managing licensee (licensee manager) to report to the Board in writing, acknowledging 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 (licensee manager) submit timely acknowledgment(s) to the Board.~~

~~Relief veterinarians shall notify employers immediately and require the supervisor and/or managing licensee (licensee manager) to submit timely acknowledgement.~~

68. | Notice to Employees

~~Respondent shall, upon Upon or before the effective date of this decision Decision, Respondent shall post or circulate a notice which actually recites the offenses violations for which Respondent has been disciplined and the terms and conditions of probation, to all registered veterinary employees, and to any preceptor students, residents, and interns or extern involved in his or her veterinary practice. Within fifteen (15) days of the effective date of this decision Decision, Respondent shall cause his/her employees to report to the Board in writing, acknowledging the employees have read the Accusation and decision Decision in the case and understand Respondent's terms and conditions of probation.~~

7. | Owners and Officers (Corporations or Partnerships): Knowledge of the Law

~~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.~~

8.9. | Tolling of Probation

If Respondent resides out of state upon 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.

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, interview with the Board, tolling of probation, continuing education maintain a **current and active California** 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.

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.

Any period of tolling will not apply to the reduction of the probationary terms.term.

10. | Maintain a Valid License

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.

9-11. | Violation of Probation

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. No petition for modification or termination of probation shall be considered while there is an accusation or petition to revoke probation pending against Respondent.

12. | License Surrender While on Probation/Suspension

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.

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.

13. | Completion of Probation

All costs for probation monitoring and/or mandatory premises 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 or a petition to revoke probation is filed. Upon written notice by the ~~board~~ Board or its designee indicating successful completion of probation, Respondent's license will be fully restored.

14. | Cost Recovery and Payment of Fines

Pursuant to Section 125.3 of the California Business and Professions Code, within thirty (30) days of the effective date of this ~~decision~~ Decision, Respondent shall pay to the Board its enforcement costs including investigation, ~~hearing, and probationary monitoring~~ prosecution, in the amount of _____ or the Respondent shall make these payments as follows: _____. ~~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.~~

OPTIONAL TERMS AND CONDITIONS OF PROBATION (1-2123)

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~~ 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**

As part of probation, Premises License Number _____, issued to Respondent _____, is suspended for _____, beginning the effective date of this ~~decision~~ 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 ~~Practicing~~practicing _____ (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 permit issued by the Board. ~~and~~

5. | **Inspections**

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

The location or mobile veterinary practice shall hold a current premises permit issued by the Board, and Respondent shall make the practice or location available for inspections by a Board representative to determine whether the location or veterinary practice meets minimum standards for a veterinary premises. 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.

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 premises. 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 veterinarian supervisor 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.~~ If the supervisor terminates or is otherwise no longer available, Respondent shall not practice until a new supervisor has been approved by the Board.

~~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 proposed supervisors of Respondent's choice. Each supervisor shall have been licensed in California and have held a valid California license 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 current or 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 Decision, Respondent shall have his or her supervisor submit a report to the Board in writing stating the supervisor has read the ~~decision Decision~~ 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 Decision~~ 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 for 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

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~~ Respondent is an employee rather than a veterinary hospital owner, the supervisor shall additionally notify the Board of the dates and locations of all employment of ~~respondent~~ 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 veterinary business, firm, partnership, or corporation ~~currently or hereinafter licensed or registered by~~ during the Board and ~~shall not own any veterinary hospital.~~ 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~~ 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~~ 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~~ 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 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. ~~the~~ The psychotherapist 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

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~~ 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~~ 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~~ 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~~ The physician 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~~ 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~~ 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 result in a cease practice order resulting in a period of nonpractice/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 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~~ use of products or beverages containing alcohol.

1820. | Community Service

Within sixty (60) days of the effective date of this ~~decision~~ 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~~ **\$5,000**) 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~~ 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 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 license. The Administrative Procedure Act 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 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 will sign it 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.~~

~~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 may sit with the ALJ and hear the case, most cases are heard by the ALJ alone because it is a complex procedure and may require anywhere from 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 law or 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 "preponderance of the evidence" standard.~~

Proposed Decision

~~After hearing all the witnesses and arguments 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 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 the evidence presented at the hearing, 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.~~

~~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 considering a Proposed Decision, the Board has three basic options:~~

- ~~1. adopt the Decision as written, including the proposed penalty,~~
- ~~2. adopt the Decision and reduce the penalty; or~~
- ~~3. not adopt the Proposed Decision.~~

Non-Adopt – Rejecting a Decision

~~Board may choose not to adopt a Proposed Decision of an ALJ for many reasons that 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 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.~~

~~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.~~

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 to reconsider its decision it is equivalent to not adopting a Proposed Decision and the steps listed above apply. If the 30-day time period lapses or the Board does not act on 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

~~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 a legal obligation to respond to an Accusation and to be present at a scheduled hearing. Failure to meet the legal obligations is grounds for a Default Decision whereby the discipline is imposed based on the Respondent's failure to respond. 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 a premises permit, the premises permit will automatically be canceled 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.~~

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**

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**MEMORANDUM**

DATE	March 24, 2017
TO	Veterinary Medical Board
FROM	Annemarie Del Mugnaio, Executive Officer Veterinary Medical Board
SUBJECT	CPEI Language Changes

The VMB last reviewed and approved the proposed regulatory language for the Consumer Protection Enforcement Initiative (CPEI) regulations at its meeting in October, 2014. The CPEI regulations are currently in the final stages of preparation for being noticed to the public. There have, however, been significant changes to the regulatory language since it was last approved by the VMB, making it necessary for the VMB to review and approve the regulatory language once more.

By way of review, the VMB reviewed a number of CPEI regulatory concepts at its July 22-23, 2014 meeting and delegated staff to draft language for three of the nine DCA recommended provisions as follows:

- 1) Delegation for the Executive Officer to adopt stipulated settlements for the surrender of the license. (Proposed Section 2042.1 of the California Code of Regulations (CCR).)
- 2) Requiring the following incidents to be reported to the Board within 30-days:
 - a. The conviction of a licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor.
 - b. Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.
 - c. Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board. (Proposed Section 2042.2 of the CCR.)
- 3) Authorize the Board to order an applicant for licensure to be examined by a physician or psychologist if it appears that the applicant may be unable to safely practice the licensed profession due to a physical or mental illness: authorize the Board to deny the application if the applicant refuses evidence of the applicant's ability to safely practice. (Proposed Section 2042.3 of the CCR.)

These three provisions were drafted and the language approved at the VMB's October, 2014 meeting.

Certain changes have been made to the proposed regulatory language based on legal counsel's review during the first part of 2017. First, in their amended form, these three regulatory provisions have been renumbered and moved to sections with appropriate headings and with similar content and deleted duplicative language as follows:

- Former proposed CCR Section 2042.1 has been revised to delete duplicative language otherwise provided in CCR 2003(a) and added to CCR Section 2003 as a new subsection (b). This is because the existing Section 2003 deals with delegation of certain functions to the VMB's executive officer, and the new subsection (b) does as well. This provision was also revised to include registrations and permits issued by the Board. The revised provision also authorizes the Executive Officer to investigate and evaluate applicants for licensure, registration, or permit and issue a license, registration, or permit in conformance with the Act and CCRs.
- Former proposed CCR Section 2042.2 has now become proposed CCR Section 2042, which has been retitled "Grounds for Discipline" to reflect its content more accurately. This provision was also revised to remove the 30-day reporting requirement for failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board. Since the board is aware of the action to enforce subpoenaed records to the board, there is no need for the individual to provide 30-day notice of failing or refusing to comply with the order. This provision is now renumbered as subdivision (b) under grounds for denial, revocation, or suspension of a license, registration, or permit.
- Former proposed CCR Section 2042.3 has now become proposed CCR Section 2017 under Article 2. Examination and Licensing, which makes sense because it describes possible requirements for licensure. The revised provision also includes registrations and permits.

CONSUMER PROTECTION ENFORCEMENT INITIATIVE (CPEI)

PROPOSED LANGUAGE

California Code of Regulations Title 16, Division 20, Article 1- General Provisions

Section 2003. Delegation of Certain Functions.

(a) The power and discretion conferred by law upon the board to receive and file accusations; issue notices of hearing, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set and calendar cases for hearing and perform other functions necessary to the business-like dispatch of the business of the board in connection with proceedings under the provisions of Sections 11500 through 11528 of the Government Code, prior to the hearing of such proceedings; and the certification and delivery or mailing of copies of decisions under Section 11518 of said code are hereby delegated and conferred upon the executive officer, or, in his or her absence from the office of the board, the acting executive officer.

(b) The board delegates and confers upon its executive officer the authority to approve settlement agreements for the surrender or interim suspension of a license, registration, or permit, to investigate and evaluate each applicant for licensure under the Veterinary Medicine Practice Act (Act), and issue a license, registration, or permit in conformance with the provisions of the Act and these regulations.

Authority cited: Sections 4804.5 and 4808, Business and Professions Code. Reference: Sections 4804.5, 4808, and 4883, Business and Professions Code.

California Code of Regulations Title 16, Division 20, Article 2- Examination and Licensing

Section 2017. ~~Review of Applications.~~ Mental or Physical Examination of Fitness for Licensure.

In addition to any other requirements for licensure, whenever it appears that an applicant for a license, registration, or permit may be unable to practice veterinary medicine safely due to mental or physical illness affecting competency, the board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the board. The board shall pay the full cost of such examination. An applicant's failure to comply with the requirement shall render his or her application incomplete. The report of the evaluation shall be made available to the applicant. If after receiving the evaluation report the board determines that the applicant is unable to safely practice, the board may deny the application.

Authority cited: Section 4808, Business and Professions Code. Reference: Sections 480, 820, and 4808, Business and Professions Code.

California Code of Regulations Title 16, Division 20, Article 5- Criteria for Rehabilitation

Section 2042. ~~Rehabilitation Criteria for Suspensions or Revocations.~~ Grounds for Discipline.

Grounds for the denial, revocation, or suspension of a license, registration, or permit as provided in Section 4883 of the code, or grounds to assess a fine as provided in Section 4875 of the code includes, but is not limited to, the following:

(a) Failure to report to the board within 30 days any of the following:

(1) A conviction, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor.

(2) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(b) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

Authority cited: Section 4808, Business and Professions Code. Reference: Sections 475, 480, 490, 4856, 4875, and 4883, Business and Professions Code.

Multidisciplinary Advisory Committee Assignments

April 2017

EXISTING PRIORITIES – Currently being addressed by MDC

- 1) Evaluate Structure and Audit Enforcement Case Outcomes**
Complaint Process/Audit Taskforce -
- 2) Develop minimum standards for alternate premises (large animal, equine mobile, public and private shelter medicine, ambulatory, etc.)**
 - a. Shelter Medicine Subcommittee**
- 3) Pursue "extended duty" for Registered Veterinary Technicians.**
 - a. Task Force or Work Group**
- 4) Develop regulations to implement the authorization for Veterinarians and RVTs under direct supervision to compound drugs.**
- 5) Sedation vs Anesthesia – Definitions/Scope of Responsibility**
- 6) Drug Counseling/Risks and Side Effects**
- 7) Develop Minimum Standards for Spay and Neuter Clinics**
- 8) Minimum Standards for Mobile Specialists - Responsibility for Case Management**
- 9) Discuss equivalency pathway for reciprocity applicants to qualify for an examination waiver based on Board certification**

Actions Taken by the Veterinary Medical Board's Animal Rehabilitation Task Force

June 20, 2016 Meeting

At this meeting, the following motions were approved:

1. Animal Physical Rehabilitation is defined as the treatment of injury or illness to address pain and improve function by means of physical corrective treatment.
2. Animal Physical Rehabilitation does not include relaxation, recreational or wellness modalities, including but not limited to, massage, athletic training or exercise.
3. Any proposed changes to existing law and regulations are not an attempt to restrict or amend section 2038 of the California Code of Regulations regarding the provision of Musculoskeletal Manipulation modalities.
4. Prior to performing or authorizing Animal Physical Rehabilitation, a veterinarian shall establish a valid veterinarian-client-patient relationship as defined in sections 2032.1 or 2032.15 of the California Code of Regulations.

October 4, 2016 Meeting

At this meeting, the following motions were approved:

1. Veterinarians have sufficient education and training to provide Animal Physical Rehabilitation.
2. Registered Veterinary Technicians (RVTs) may provide Animal Physical Rehabilitation under the direct supervision of a veterinarian unless in a range setting in which case the veterinarian may provide the appropriate level of supervision.
3. Veterinary Assistants may provide Animal Physical Rehabilitation under the direct supervision of a veterinarian or an RVT.

February 2, 2017

At the third and final meeting, this motion was approved:

California licensed physical therapists with advanced certification in Animal Physical Rehabilitation (with such certification to be defined by the Veterinary Medical Board and Physical Therapy Board working cooperatively) may provide animal physical rehabilitation under the degree of supervision to be determined by the veterinarian who has established a veterinarian-client-patient relationship, on a veterinary premises or an Animal Physical

Rehabilitation premises (as defined in regulation by the Veterinary Medical Board and the Physical Therapy Board working cooperatively), or a range setting.

**ANIMAL PHYSICAL REHABILITATION ACT OF 2017
CONCEPTS TO CONSIDER IN LEGISLATION
AS PREPARED BY BOARD COUNSEL**

I. GENERAL CONSIDERATIONS

A. Definitions.

1. Title of new Article 7 under Veterinary Medicine Chapter 11, Division 2 of the Business and Professions Code (BPC) – Animal Physical Rehabilitation Act of 2017
2. “Animal Physical Rehabilitation” (APR) means the treatment of injury or illness to address pain and improve function by means of physical corrective treatment. APR does not include animal relaxation, recreational or wellness modalities, massage, athletic or agility training, or exercise. (Per Task Force 6/20/16)
3. “Animal Physical Rehabilitation Permit Holder” means an individual who has been issued a permit to provide APR.
4. “Veterinarian-client-patient relationship” means the relationship specified in sections 2031.1 or 2032.15 of title 16 of the California Code of Regulations (CCR). (Per Task Force 6/20/16)
5. Any proposed changes to existing law and regulations are not an attempt to restrict or amend section 2038 of the CCR regarding the provision of Musculoskeletal Manipulation modalities. (Per Task Force 6/20/16)

B. Board Authority; Rulemaking

1. Authorize Board to issue APR permits
2. When amending or adopting regulations necessary for the implementation and administration of the APR Act, the board shall consult with the Physical Therapy Board of California.

II. REQUIREMENTS FOR PROVIDING APR

A. Who is authorized to perform APR

1. A California licensed physical therapist who has completed specified educational coursework and training, which includes both classroom and clinical components, may apply for a permit from the Board to provide APR. (Per Task Force 2/2/17)
2. Exclude from APR permit requirements all of the following (per Task Force 10/4/16):
 - a. A veterinarian has sufficient education and training to provide APR.
 - b. A registered veterinary technician (RVT) may provide APR under the direct supervision of a veterinarian unless in a range setting, in which case the veterinarian may provide the appropriate level of supervision.
 - c. A veterinary assistant (VA) may provide APR under the direct supervision if a veterinarian or an RVT

B. APR Permit Application

1. Hold a valid and current license as a physical therapist issued by the Physical Therapy Board of California.
2. Complete the educational coursework and training, clinical and classroom, specified by the Board.
3. Not have committed acts or crimes constituting grounds for denial under section 480.
4. Apply on a form prescribed by the board and provide fingerprint information, any additional information as required by the board.
5. Pay permit application fee.

C. Practice of APR

1. A physical therapist who holds a permit issued pursuant to this article may provide APR if:
 - a. APR is performed by the permit holder at a registered premises and under the supervision of a veterinarian, who shall determine the degree of supervision necessary.
 - b. A veterinarian-client-patient relationship has been established and the appropriate degree of supervision has been documented in writing to the permit holder.
 - c. The APR service and animal patient is consistent with the training of the permit holder.
 - d. The owner of the animal presents to the permit holder a prior letter of referral for APR that includes a veterinary medical diagnosis and evaluation completed by a licensed veterinarian who has an established veterinarian-client-patient relationship with the owner of the animal and has made the diagnosis and evaluation within ninety (90) days immediately preceding the date of the initiation of the APR; and
 - e. The permit holder provides follow-up reports at least monthly to the supervising veterinarian including progress in rehabilitation and any changes in the condition of the animal, except that a report is not required for any month in which APR was not provided;
2. A licensed veterinarian who prepares a letter of referral for Animal Physical Rehabilitation shall not be liable for damages caused to the animal as a result of the APR services performed by the permit holder.
3. A permit holder shall, as required by regulation of the board (BPC 4855):
 - a. Keep a written record of all animals receiving APR.
 - b. Provide a summary of that record to the owner of animals receiving APR, when requested.
 - c. Provide a copy of the written record to the supervising veterinarian.
 - d. The minimum amount of information which shall be included in written records and summaries shall be established by the board.

- e. The minimum duration of time for which a rehabilitation-only registered premise shall retain the written record or a complete copy of the written record shall be determined by the board.
4. All records required by law to be kept by a physical therapist subject to the APR Act and the Physical Therapy Practice Act, including but not limited to, records pertaining to APR care, treatment, services, or facilities and records pertaining to medications or devices for use on animals, shall be open to inspection by the board, or its authorized representatives, during an inspection as part of a regular inspection program by the board, or during an investigation initiated in response to a complaint that a permit holder has violated any law or regulation that constitutes grounds for disciplinary action by the board. A copy of all those records shall be provided to the board immediately upon request. (BPC 4856 (a); 2608.5 PT records)
 - a. Same inspection requirement for all equipment and medications on the premises. (BPC 4856 (b))
5. Permit holders shall disclose to the owner of an animal receiving APR services any financial interest he or she has in treating the animal and shall comply with Article 6 of Chapter 1 of Division 2 of the BPC (commencing with section 650). (Prohibitions on financial interest/referrals.)

D. Renewal of APR Permit

1. Time for renewal application on form prescribed by the board.
2. Submit renewal fee.
3. Provide a statement that the permit holder has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in California or any other state or territory, has not violated any of the provisions of the Veterinary Medicine Practice Act or Physical Therapy Practice Act.
4. Satisfy all continuing education requirements, as applicable.
5. The board may, as part of the renewal process, make necessary inquiries of the applicant and conduct an investigation in order to determine if cause for disciplinary action exists.
6. The board may adopt regulations that require, as a condition to the renewal thereof, that all holders of a permit to submit proof satisfactory to the board that they have sought information regarding the developments in the field of APR since the original issuance of their permit by pursuing one or more courses of study satisfactory to the board or by other means deemed equivalent by the board.
7. The board may, in accordance with the intent of the APR Act, make exceptions from continuing education requirements for reasons of health, military service, or other good cause.
8. The board may require that proof of compliance with this section be submitted on a biennial basis as determined by the board.

III. DISCIPLINE

A. Cause for Discipline

1. The board may deny, revoke or suspend a permit, or assess a fine on any of the grounds for disciplinary action provided under Section 4883.
2. Failure to comply with the APR Act is unprofessional conduct and grounds for discipline by the Board or the Physical Therapy Board of California.

B. Discipline under Physical Therapy Practice Act – add grounds for discipline for unprofessional conduct for violations of APR Act (BPC 2660(a).)

Legislation

A. SB 673 (NEWMAN) – PET LOVER’S SPECIALIZED LICENSE PLATES

INTRODUCED: 2/17/17

STATUS: Referred to the Transportation and Housing Committee

BOARD POSITION: Support

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. Existing law requires 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 in the Specialized License Plate Fund, for the deposit of revenue derived from these specialized license plates. Existing law requires 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. Existing law requires the board to determine eligibility requirements for the grants, establish the grant application process, and develop program specifics. Existing law authorizes 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. Existing law requires the board to provide oversight for the disbursal of grant funds under the grant program.

This bill would substitute the Department of Food and Agriculture in place of the Veterinary Medical Board for those purposes. The bill would authorize rather than require the department to allocate funds to a nonprofit organization it selects for disbursal to qualifying spay and neuter facilities for the purpose of funding grants to providers of no-cost or low-cost animal sterilization services.

B. SB 546 (HILL) – VETERINARY PHARMACY

AMENDED: 4/17/17

STATUS: From Senate Business, Professions and Economic Development Committee with author’s amendments. Read second time and amended. Re-referred to Committee on Business, Professions and Economic Development.

BOARD POSITION: Recommend Position

(1) Existing law, the Veterinary Medicine Practice Act, provides for the licensure and regulation of veterinarians and the practice of veterinary medicine by the Veterinary Medical Board. A violation of the act is a crime. The practice of veterinary medicine includes the diagnosing, prescribing, or administering of a drug, medicine, appliance, application, or treatment for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals. Existing law authorizes a registered veterinary technician or a veterinary assistant to administer a drug under the direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of a licensed veterinarian.

Existing law, the Pharmacy Law, authorizes a veterinarian to personally furnish any dangerous drug prescribed by the veterinarian to the patient provided that the drug is properly labeled, as specified.

This bill, in nonemergency situations and outpatient settings, would require that each time a veterinarian prescribes, administers, dispenses, or furnishes a dangerous drug or prescription medicine, unless in conjunction with surgery during an anesthetic procedure or emergency services, the veterinarian offer to provide the client with a consultation that includes specified information. The bill would further require a veterinarian to provide along with the consultation pharmaceutical literature or written information, when available, if requested by the client. The bill would authorize a veterinarian to delegate the task of providing the consultation and literature or written information to a registered veterinary technician or veterinary assistant who is employed by and working under the supervision of the veterinarian. In every veterinary practice, the bill would require a poster notifying clients about specified consumer rights and the consultation, literature, and handout requirements. Because the violation of these requirements would be a crime, the bill would impose a state-mandated local program.

(2) The Veterinary Medicine Practice Act requires the Veterinary Medical Board to make every effort to inspect at least 20% of veterinary premises on an annual basis.

This bill would instead require the board to inspect at least 20% of veterinary premises on an annual basis and also inspect all new veterinary premises within one year of being issued a premises permit.

(3) Under existing law, certain veterinarians and other persons are exempt from the Veterinary Medicine Practice Act. Under existing law, these exempt persons include 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, as specified.

This bill would additional exempt students of an American Veterinary Medical Association Council on Education accredited veterinary medical program who participate, as part of their formal curriculum, in diagnosis and treatment with direct supervision or in surgery with immediate supervision and who meet other specified requirements. For purposes of both this exemption and the exemption described above, the bill would also require a memorandum of understanding containing specified terms to be in place between the accredited veterinary program and any off-campus or distributive site that provides the formal curriculum.

(4) The Veterinary Medicine Practice Act allows a person whose license or registration has been surrendered while under investigation, revoked or who has been placed on probation to petition the Veterinary Medical Board for reinstatement for modification of penalty after a period of not less than one year has elapsed from the effective date of the decision ordering the disciplinary action.

This bill would extend that period to 3 years for petitions for reinstatement of a surrendered or revoked license and would extend that period to 2 years for petitions for early termination or modification of probation, unless otherwise authorized by the board in the revocation or surrender order or order imposing probation.

(5) 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.

C. AB 485 (O'DONNELL) – PET STORE OPERATORS: DOGS, CATS, AND RABBITS (DOGS AND CATS: ADOPTION AND RETAIL SALES)

AMENDED: 3/29/17

STATUS: Referred to the Business and Professions Committee

BOARD POSITION: Recommend Support

Existing law requires pet store operators, as defined, to comply with laws governing, among other things, the care of animals in pet stores. Existing law makes a pet store operator who violates these provisions guilty of a misdemeanor, under certain conditions. Existing law also regulates the retail sale of dogs and cats.

Existing law requires an animal control officer, a humane officer, or a peace officer who detects any of certain violations of the laws governing pet store operators to issue a single notice to correct the violation, except as specified. Existing law makes a pet store operator who fails to comply with a notice to correct, or who violates the laws regulating pet store operators, as specified, guilty of a crime.

This bill would prohibit a pet store operator from selling a live dog, cat, or rabbit in a pet store unless the dog, cat, or rabbit was obtained from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or nonprofit rescue or adoption organization that is in a cooperative agreement with at least one private or public shelter, as specified. The bill would make the provisions described above relating to the notice to correct applicable to a violation of this requirement. By creating new crimes, the bill would impose a state-mandated local program.

Existing law authorizes a public or private shelter to enter into cooperative agreements with animal rescue or adoption organizations regarding dogs and cats.

This bill would authorize a public or private shelter to enter into cooperative agreements with animal rescue or adoption organizations regarding rabbits that are equivalent to the cooperative agreements authorized regarding dogs and cats described above.

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.

D. AB 942 (MATHIS) – PERSONAL INCOME TAXES: CREDIT: VETERINARY COSTS

AMENDED: 4/4/17

STATUS: Re-read second time and amended.

BOARD POSITION: Recommend Watch

The Personal Income Tax Law allows various credits against the taxes imposed by that law.

This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2017, and before January 1, 2023, in an amount equal to 50% of the amount paid or incurred during the taxable year by a taxpayer for qualified veterinary costs, as defined, for a taxpayer's pets, as defined, not to exceed \$2,000 per taxable year.

This bill would take effect immediately as a tax levy.

Introduced by Senator NewmanFebruary 17, 2017

An act to amend Section 5168 of the Vehicle Code, relating to license plates.

LEGISLATIVE COUNSEL'S DIGEST

SB 673, as introduced, Newman. Pet Lover's 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. Existing law requires 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 in the Specialized License Plate Fund, for the deposit of revenue derived from these specialized license plates. Existing law requires 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. Existing law requires the board to determine

eligibility requirements for the grants, establish the grant application process, and develop program specifics. Existing law authorizes 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. Existing law requires the board to provide oversight for the disbursement of grant funds under the grant program.

This bill would substitute the Department of Food and Agriculture in place of the Veterinary Medical Board for those purposes. The bill would authorize rather than require the department to allocate funds to a nonprofit organization it selects for disbursement to qualifying spay and neuter facilities for the purpose of funding grants to providers of no-cost or low-cost animal sterilization services.

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 5168 of the Vehicle Code is amended to
2 read:
- 3 5168. (a) The fees specified in Section 5157 shall be imposed
4 for the issuance, renewal, or transfer of the Pet Lover's specialized
5 license plates. Notwithstanding subdivision (c) of Section 5157,
6 after deducting its administrative costs, the department shall deposit
7 the revenue derived from the additional fees into the Pet Lover's
8 Fund, which is hereby established in the Specialized License Plate
9 Fund.
- 10 (b) Upon appropriation by the Legislature, the moneys in the
11 Pet Lover's Fund shall be allocated to the ~~Veterinary Medical~~
12 ~~Board~~ *Department of Food and Agriculture*. There shall not be
13 an allocation to the ~~board~~ *department* pursuant to subdivision (c)
14 of Section 5157. The ~~board~~ *department* ~~shall~~ *may* allocate those
15 funds to a nonprofit organization it selects for disbursement to
16 qualifying spay and neuter facilities for the sole and exclusive
17 purpose of funding grants to providers of no-cost or low-cost
18 animal sterilization services.
- 19 (c) Annual administrative costs for the program shall not exceed
20 25 percent of the funds collected from the issuance of the Pet
21 Lover's license plates, and may include marketing and other

1 promotional activities associated with encouraging application for
2 or renewal of Pet Lover’s license plates.

3 (d) The nonprofit organization selected by the ~~board~~ *department*
4 shall not use more than 5 percent of the moneys received pursuant
5 to this section for administrative costs.

6 (e) The ~~board~~ *department* shall determine eligibility
7 requirements for the grants, establish the grant application process,
8 and develop program specifics. The ~~board~~ *department* may contract
9 with an entity, including a nonprofit organization, to provide
10 advice, consultation, and administrative services for purposes of
11 implementing and administering the grant program. The ~~board~~
12 *department* shall provide oversight for the disbursement of grant funds
13 under the grant program.

AMENDED IN SENATE APRIL 17, 2017

SENATE BILL

No. 546

Introduced by Senator Hill

February 16, 2017

An act to amend Sections 4809.7, 4830, and 4887 of, and to add Article 7 (commencing with Section 4920) to Chapter 11 of Division 2 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 546, as amended, Hill. Veterinary ~~pharmacy~~. *medicine*.

~~Existing~~

(1) *Existing* law, the Veterinary Medicine Practice Act, provides for the licensure and regulation of veterinarians and the practice of veterinary medicine by the Veterinary Medical Board. A violation of the act is a crime. The practice of veterinary medicine includes the diagnosing, prescribing, or administering of a drug, medicine, appliance, application, or treatment for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals. Existing law authorizes a registered veterinary technician or a veterinary assistant to administer a drug under the direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of a licensed veterinarian.

Existing law, the Pharmacy Law, authorizes a veterinarian to personally furnish any dangerous drug prescribed by the veterinarian to the patient provided that the drug is properly labeled, as specified.

This bill, in nonemergency situations and outpatient settings, would require that each time a veterinarian prescribes, administers, dispenses, or furnishes a *dangerous* drug or *prescription* medicine, *unless in conjunction with surgery during an anesthetic procedure or emergency*

~~services, the veterinarian offer to provide the client with counseling and pharmaceutical literature prepared by the pharmaceutical laboratory or a brief handout prepared by the veterinarian, as specified: a consultation that includes specified information. The bill would further require a veterinarian to provide along with the consultation pharmaceutical literature or written information, when available, if requested by the client. The bill would authorize the counseling, literature, or handout to be provided by a veterinarian to delegate the task of providing the consultation and literature or written information to a registered veterinary technician or veterinary assistant who is employed by and working under the supervision of the veterinarian. Under specified circumstances, the bill would limit the liability of the veterinarian and the authorized representative for the information in the literature or handout and would require the client to be provided with a printed disclaimer explaining that limitation on liability. In every veterinary practice, the bill would require a poster in specified languages notifying clients about specified consumer rights and the counseling, consultation, literature, and handout requirements. Because the violation of these requirements would be a crime, the bill would impose a state-mandated local program.~~

(2) The Veterinary Medicine Practice Act requires the Veterinary Medical Board to make every effort to inspect at least 20% of veterinary premises on an annual basis.

This bill would instead require the board to inspect at least 20% of veterinary premises on an annual basis and also inspect all new veterinary premises within one year of being issued a premises permit.

(3) Under existing law, certain veterinarians and other persons are exempt from the Veterinary Medicine Practice Act. Under existing law, these exempt persons include 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, as specified.

This bill would additional exempt students of an American Veterinary Medical Association Council on Education accredited veterinary medical program who participate, as part of their formal curriculum, in diagnosis and treatment with direct supervision or in surgery with immediate supervision and who meet other specified requirements. For purposes of both this exemption and the exemption described above, the bill would also require a memorandum of understanding containing

specified terms to be in place between the accredited veterinary program and any off-campus or distributive site that provides the formal curriculum.

(4) The Veterinary Medicine Practice Act allows a person whose license or registration has been surrendered while under investigation, revoked or who has been placed on probation to petition the Veterinary Medical Board for reinstatement for modification of penalty after a period of not less than one year has elapsed from the effective date of the decision ordering the disciplinary action.

This bill would extend that period to 3 years for petitions for reinstatement of a surrendered or revoked license and would extend that period to 2 years for petitions for early termination or modification of probation, unless otherwise authorized by the board in the revocation or surrender order or order imposing probation.

~~(3)~~

(5) 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.

*Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.*

The people of the State of California do enact as follows:

1 ~~SECTION 1. This act may be known as Lizzie’s Law.~~

2 *SECTION 1. Section 4809.7 of the Business and Professions*
3 *Code is amended to read:*

4 4809.7. The board shall establish a regular inspection program
5 that will provide for random, unannounced inspections. The board
6 shall ~~make every effort to~~ inspect at least 20 percent of veterinary
7 premises on an annual ~~basis~~. *basis and shall also inspect all new*
8 *veterinary premises within one year of being issued a premises*
9 *permit pursuant to Sections 4853 and 4853.1.*

10 *SEC. 2. Section 4830 of the Business and Professions Code is*
11 *amended to read:*

12 4830. (a) This chapter does not apply to:

13 (1) Veterinarians while serving in any armed branch of the
14 military service of the United States or the United States

1 Department of Agriculture while actually engaged and employed
2 in their official capacity.

3 (2) Veterinarians holding a current, valid license in good
4 standing in another state or country who provide assistance to a
5 California licensed veterinarian and attend on a specific case. The
6 California licensed veterinarian shall maintain a valid
7 veterinarian-client-patient relationship. The veterinarian providing
8 the assistance shall not establish a veterinarian-client-patient
9 relationship with the client by attending the case or at a future time
10 and shall not practice veterinary medicine, open an office, appoint
11 a place to meet patients, communicate with clients who reside
12 within the limits of this state, give orders, or have ultimate authority
13 over the care or primary diagnosis of a patient that is located within
14 this state.

15 (3) Veterinarians called into the state by a law enforcement
16 agency or animal control agency pursuant to subdivision (b).

17 (4) (A) Students in the School of Veterinary Medicine of the
18 University of California or the College of Veterinary Medicine of
19 the Western University of Health Sciences who participate in
20 diagnosis and treatment as part of their educational experience,
21 including those in off-campus educational programs under the
22 direct supervision of a licensed veterinarian in good standing, as
23 defined in paragraph (1) of subdivision (b) of Section 4848,
24 appointed by the University of California, Davis, or the Western
25 University of Health Sciences.

26 (B) *Students of an American Veterinary Medical Association*
27 *Council on Education accredited veterinary medical program who*
28 *participate, as part of their formal curriculum, in diagnosis and*
29 *treatment with direct supervision or in surgery with immediate*
30 *supervision. The student must have prior training in these activities*
31 *as part of the formal curriculum and supervision must be by a*
32 *California licensed veterinarian in good standing, as defined in*
33 *paragraph (1) of subdivision (b) of Section 4848.*

34 (C) *For the purposes of subparagraphs (A) and (B), where an*
35 *off-campus or distributive site provides the formal curriculum, a*
36 *memorandum of understanding between the accredited veterinary*
37 *medical program and the off-campus or distributive site must be*
38 *in place that provides for all of the following:*

39 (i) *A written description of the educational objectives expected*
40 *to be achieved at the site.*

1 (ii) *An annual review conducted by the accredited veterinary*
2 *medical program of the off-campus site to ensure that the*
3 *educational program is being delivered in accordance with the*
4 *memorandum of understanding to ensure that the formal*
5 *curriculum, clinical training, or both, is appropriate.*

6 (iii) *A mechanism for assessing training outcomes of the*
7 *educational process.*

8 (5) A veterinarian who is employed by the Meat and Poultry
9 Inspection Branch of the California Department of Food and
10 Agriculture while actually engaged and employed in his or her
11 official capacity. A person exempt under this paragraph shall not
12 otherwise engage in the practice of veterinary medicine unless he
13 or she is issued a license by the board.

14 (6) Unlicensed personnel employed by the Department of Food
15 and Agriculture or the United States Department of Agriculture
16 when in the course of their duties they are directed by a veterinarian
17 supervisor to conduct an examination, obtain biological specimens,
18 apply biological tests, or administer medications or biological
19 products as part of government disease or condition monitoring,
20 investigation, control, or eradication activities.

21 (b) (1) For purposes of paragraph (3) of subdivision (a), a
22 regularly licensed veterinarian in good standing who is called from
23 another state by a law enforcement agency or animal control
24 agency, as defined in Section 31606 of the Food and Agricultural
25 Code, to attend to cases that are a part of an investigation of an
26 alleged violation of federal or state animal fighting or animal
27 cruelty laws within a single geographic location shall be exempt
28 from the licensing requirements of this chapter if the law
29 enforcement agency or animal control agency determines that it
30 is necessary to call the veterinarian in order for the agency or
31 officer to conduct the investigation in a timely, efficient, and
32 effective manner. In determining whether it is necessary to call a
33 veterinarian from another state, consideration shall be given to the
34 availability of veterinarians in this state to attend to these cases.
35 An agency, department, or officer that calls a veterinarian pursuant
36 to this subdivision shall notify the board of the investigation.

37 (2) Notwithstanding any other provision of this chapter, a
38 regularly licensed veterinarian in good standing who is called from
39 another state to attend to cases that are a part of an investigation
40 described in paragraph (1) may provide veterinary medical care

1 for animals that are affected by the investigation with a temporary
 2 shelter facility, and the temporary shelter facility shall be exempt
 3 from the registration requirement of Section 4853 if all of the
 4 following conditions are met:

5 (A) The temporary shelter facility is established only for the
 6 purpose of the investigation.

7 (B) The temporary shelter facility provides veterinary medical
 8 care, shelter, food, and water only to animals that are affected by
 9 the investigation.

10 (C) The temporary shelter facility complies with Section 4854.

11 (D) The temporary shelter facility exists for not more than 60
 12 days, unless the law enforcement agency or animal control agency
 13 determines that a longer period of time is necessary to complete
 14 the investigation.

15 (E) Within 30 calendar days upon completion of the provision
 16 of veterinary health care services at a temporary shelter facility
 17 established pursuant to this section, the veterinarian called from
 18 another state by a law enforcement agency or animal control agency
 19 to attend to a case shall file a report with the board. The report
 20 shall contain the date, place, type, and general description of the
 21 care provided, along with a listing of the veterinary health care
 22 practitioners who participated in providing that care.

23 (c) For purposes of paragraph (3) of subdivision (a), the board
 24 may inspect temporary facilities established pursuant to this
 25 section.

26 *SEC. 3. Section 4887 of the Business and Professions Code is*
 27 *amended to read:*

28 4887. (a) (1) A person whose license or registration has been
 29 revoked or who has been placed on probation may petition the
 30 board for reinstatement or modification of penalty including
 31 modification or termination of probation after a period of not less
 32 ~~than one year~~ *as prescribed below* has elapsed from the effective
 33 date of the decision ordering the disciplinary action. The petition
 34 shall state ~~such facts as may be~~ required by the board. *The period*
 35 *shall be as follows:*

36 (A) *At least three years for reinstatement of a surrendered or*
 37 *revoked license.*

38 (B) *At least two years for early termination or modification of*
 39 *probation of three years or more.*

1 (C) *At least one year for modification of a condition or*
2 *termination of probation of less than three years.*

3 (2) *The board may, upon a showing of good cause, specify in a*
4 *revocation order, a surrender order, or an order imposing*
5 *probation of more than three years that the person may petition*
6 *the board for reinstatement or modification or termination of*
7 *probation after one year.*

8 (b) The petition shall be accompanied by at least two verified
9 recommendations from veterinarians licensed by the board who
10 have personal knowledge of the activities of the petitioner since
11 the disciplinary penalty was imposed. The petition shall be heard
12 by the board. The board may consider all activities of the petitioner
13 since the disciplinary action was taken, the offense for which the
14 petitioner was disciplined, the petitioner’s activities since the
15 license or registration was in good standing, and the petitioner’s
16 rehabilitation efforts, general reputation for truth, and professional
17 ability. The hearing may be continued from time to time as the
18 board finds necessary.

19 (c) The board reinstating the license or registration or modifying
20 a penalty may impose terms and conditions as it determines
21 necessary. To reinstate a revoked license or registration or to
22 otherwise reduce a penalty or modify probation shall require a
23 vote of five of the members of the board.

24 (d) The petition shall not be considered while the petitioner is
25 under sentence for any criminal offense, including any period
26 during which the petitioner is on court-imposed probation or parole.
27 The board may deny without a hearing or argument any petition
28 filed pursuant to this section within a period of two years from the
29 effective date of the prior decision following a hearing under this
30 section.

31 ~~SEC. 2.~~

32 *SEC. 4.* Article 7 (commencing with Section 4920) is added
33 to Chapter 11 of Division 2 of the Business and Professions Code,
34 to read:

35
36 Article 7. Pharmacy

37
38 4920. (a) ~~(1)~~—In addition to complying with the labeling
39 requirements described in Section 4076 pursuant to Section 4077,
40 in nonemergency situations and outpatient settings, each time a

1 veterinarian prescribes, administers, dispenses, or furnishes a
2 *dangerous drug or prescription medicine, as described in Section*
3 *4022, to an animal patient, the veterinarian shall offer to provide*
4 *the client with counseling and pharmaceutical literature prepared*
5 *by the pharmaceutical laboratory or a brief handout prepared by*
6 *the veterinarian. The handout shall be based on accredited*
7 *professional sources and publications and shall be in the most*
8 *simple and nonacademic language. client, or his or her authorized*
9 *representative, a consultation that includes the following*
10 *information:*

11 (2) ~~The veterinarian or authorized representative shall provide~~
12 ~~the counseling to the best of his or her ability, knowledge, and~~
13 ~~availability of information, but neither the veterinarian nor the~~
14 ~~authorized representative shall be liable for the veracity and~~
15 ~~completeness of the information provided in the literature or~~
16 ~~handout if it is information obtained through a pharmaceutical~~
17 ~~laboratory or is based on accredited professional sources and~~
18 ~~publications. For this purpose, the veterinarian or authorized~~
19 ~~representative shall provide the client with a printed disclaimer~~
20 ~~explaining the lack of liability for the information in the literature~~
21 ~~or handout if it is obtained under those circumstances and the client~~
22 ~~shall sign the disclaimer.~~

23 (3) ~~Unless there is a life-threatening warning or a critical update~~
24 ~~about the drug or medicine, a client may decline to receive the~~
25 ~~counseling, literature, or handout.~~

26 (4) ~~The counseling, literature, and handout shall include all of~~
27 ~~the following information:~~

28 (A)

29 (1) ~~The name and description of the drug or medicine, what it~~
30 ~~does, and why it is necessary. medicine.~~

31 (B) ~~How and when to give the drug or medicine to the pet or~~
32 ~~service animal and for how long.~~

33 (C) ~~What to do if a dose is missed.~~

34 (D) ~~Possible risks and side effects, and what the client should~~
35 ~~do if they occur.~~

36 (2) ~~Details for preparation and administration to the animal~~
37 ~~patient by the client, or his or her authorized representative.~~

38 (3) ~~Route of administration, dosage form, dosage, and duration~~
39 ~~of drug therapy.~~

40 (4) ~~Directions for proper use and storage.~~

- 1 (5) *Actions to be taken in the event of a missed dose.*
2 (6) *Precautions and relevant warnings provided by the drug's*
3 *manufacturer, including common severe adverse effects or*
4 *interactions that may be encountered and adverse interactions*
5 *with other medications, including those available with or without*
6 *prescriptions.*
7 ~~(E)~~
8 (7) An explanation of whether the drug or medicine is standard,
9 long acting, or extended release and the possible additional risks
10 for a long-acting or extended release drug or medicine in case of
11 adverse effects: *effects due to prolonged systemic drug or medicine*
12 *clearance.*
13 ~~(F) Whether the new drug or medicine and the prescribed dosage~~
14 ~~are appropriate for the pet or service animal's age, weight, and~~
15 ~~kidney and liver function.~~
16 ~~(G) Whether the new drug or medicine will work safely with~~
17 ~~other drugs, medicines, or supplements.~~
18 ~~(H)~~
19 (8) Foods or activities that should be avoided while giving the
20 drug or medicine.
21 (9) *Drug prescription refill information.*
22 ~~(5) (A)~~
23 (b) For injections, the ~~counseling~~ *consultation* shall be provided
24 before the injection is administered to the ~~pet or service animal.~~
25 *animal patient.*
26 ~~(B) If a long-acting or extended release drug or medicine is to~~
27 ~~be administered, the client shall also be counseled before the~~
28 ~~injection about the difference between standard and long-acting~~
29 ~~or extended release drugs or medicines. This counseling may~~
30 ~~include, but is not limited to, explaining adverse reactions due to~~
31 ~~prolonged systemic drug or medicine clearance of long-acting~~
32 ~~drugs or medicines in such a way that the client understands that~~
33 ~~once the animal is injected there is no way to retrieve the drug or~~
34 ~~medicine.~~
35 ~~(6) The literature or handout shall be provided in readable-sized~~
36 ~~font.~~
37 (c) *A veterinarian shall provide along with the consultation*
38 *pharmaceutical literature or written information, when available,*
39 *if requested by the client, or his or her authorized representative.*

1 ~~(b) At the discretion of the veterinarian, the counseling,~~
2 ~~literature, or handout may be provided by a~~

3 ~~(d) A veterinarian may delegate the task of providing the~~
4 ~~consultation and literature or written information to a registered~~
5 ~~veterinary technician or veterinary assistant who is employed by~~
6 ~~and working under the supervision of the veterinarian. his or her~~
7 ~~supervision.~~

8 ~~(e) (1) The literature or handout may be provided electronically~~
9 ~~or in any other format using available technology as long as it~~
10 ~~allows the client to confirm the material was received.~~

11 ~~(2) The literature or handout shall be available to clients in~~
12 ~~English and may also be provided in Spanish and in any other~~
13 ~~language appropriate for the veterinary practice.~~

14 ~~(3) The literature or handout shall also be provided to clients~~
15 ~~with special needs or disabilities in an easily accessible format,~~
16 ~~such as, but not limited to, a large-sized font.~~

17 ~~(4)~~

18 ~~(e) The counseling consultation may be provided to the client~~
19 ~~client, or his or her authorized representative, through a telephone~~
20 ~~consultation by the veterinarian or his or her authorized~~
21 ~~representative who has access to the pet or service animal's animal~~
22 ~~patient's record.~~

23 ~~(f) Subdivisions (a) and (b) shall not apply if the client, or his~~
24 ~~or her authorized representative, declines or refuses the~~
25 ~~consultation or elects to have a prescription filled at a location~~
26 ~~other than the registered veterinary premises. If a consultation is~~
27 ~~not provided, that fact shall be recorded in the client's record.~~

28 ~~(d)~~

29 ~~(g) (1) In every veterinary practice, there shall be prominently~~
30 ~~posted in a place conspicuous to, and readable by, clients a poster~~
31 ~~in English, Spanish, and in any other appropriate languages for~~
32 ~~the veterinary practice notifying clients about all of the information~~
33 ~~described in subdivision (a): conspicuous location a poster~~
34 ~~indicating that the consultation specified in subdivisions (a) and~~
35 ~~(b) must be offered to the client, or his or her authorized~~
36 ~~representative. The heading of the poster shall read "NOTICE TO~~
37 ~~CONSUMERS". As an alternative to the poster format, the poster~~
38 ~~information may also be displayed using a video screen or any~~
39 ~~other format using available technology.~~

1 (2) The poster shall ~~also~~ inform clients about the following
2 consumer rights:

3 (A) The right to be offered *a* drug or medicine ~~counseling~~
4 *consultation* by the veterinarian or his or her ~~authorized~~
5 ~~representative~~; *registered veterinarian technician or veterinary*
6 *assistant*.

7 (B) The right to ~~know~~ *ask for* basic pharmaceutical and drug
8 and medicine interaction information.

9 ~~(C) The right to receive drug and medicine information in~~
10 ~~readable-sized font.~~

11 ~~(D)~~

12 (C) The right to have a choice to obtain either the medication
13 or a written prescription and to not be charged for the written
14 prescription as described in Section 2032.2 of Title 16 of the
15 California Code of Regulations.

16 (3) If the safety or health of any ~~pet or service~~ animal *patient*
17 is at risk, consistent with Section 4800.1, the board may adopt a
18 regulation requiring additional information to be included on the
19 poster.

20 *(h) This section shall not apply to drugs or medicine*
21 *administered to animal patients in conjunction with surgery or*
22 *during an anesthetic procedure or emergency services.*

23 *(i) This section shall be known, and may be cited, as Lizzie’s*
24 *Law for Veterinary Pharmacy.*

25 ~~SEC. 3.~~

26 *SEC. 5.* No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.

AMENDED IN ASSEMBLY MARCH 28, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 485

Introduced by Assembly Member O'Donnell
(Principal coauthor: Assembly Member Dababneh)

February 13, 2017

~~An act relating to animals.~~ *An act to amend Section 31753 of the Food and Agricultural Code, and to amend Section 122356 of, and to add Section 122354.5 to, the Health and Safety Code, relating to public health.*

LEGISLATIVE COUNSEL'S DIGEST

AB 485, as amended, O'Donnell. ~~Dogs and cats: adoption and retail sales.~~ *Pet store operators: dogs, cats, and rabbits.*

Existing law requires pet store operators, as defined, to comply with laws governing, among other things, the care of animals in pet stores. Existing law makes a pet store operator who violates these provisions guilty of a misdemeanor, under certain conditions. Existing law also regulates the retail sale of dogs and cats.

Existing law requires an animal control officer, a humane officer, or a peace officer who detects any of certain violations of the laws governing pet store operators to issue a single notice to correct the violation, except as specified. Existing law makes a pet store operator who fails to comply with a notice to correct, or who violates the laws regulating pet store operators, as specified, guilty of a crime.

This bill would prohibit a pet store operator from selling a live dog, cat, or rabbit in a pet store unless the dog, cat, or rabbit was obtained from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or

nonprofit rescue or adoption organization that is in a cooperative agreement with at least one private or public shelter, as specified. The bill would make the provisions described above relating to the notice to correct applicable to a violation of this requirement. By creating new crimes, the bill would impose a state-mandated local program.

Existing law authorizes a public or private shelter to enter into cooperative agreements with animal rescue or adoption organizations regarding dogs and cats.

This bill would authorize a public or private shelter to enter into cooperative agreements with animal rescue or adoption organizations regarding rabbits that are equivalent to the cooperative agreements authorized regarding dogs and cats described above.

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.

~~Existing law, the Lockyer-Polanco-Farr Pet Protection Act, governs the retail sale of dogs and cats. Among other things, the act makes it unlawful for a pet dealer, as defined, to fail to maintain facilities where dogs are kept in a sanitary condition or provide dogs with adequate nutrition, potable water, socialization, and exercise. The act also prohibits a dog from being offered for sale by a pet dealer to a purchaser until the dog has been examined by a veterinarian licensed in this state.~~

~~Existing law prohibits a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group from selling or giving away to a new owner a dog or cat that has not been spayed or neutered and enacts other provisions relating to animal welfare.~~

~~This bill would express the intent of the Legislature to enact legislation that would promote the adoption of animals from shelters and rescue groups and encourage humane practices in the purchase of dogs and cats offered for retail sale in California.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 31753 of the Food and Agricultural Code*
2 *is amended to read:*

3 31753. ~~Any~~ A rabbit, guinea pig, hamster, potbellied pig, bird,
4 lizard, snake, turtle, or tortoise that is legally allowed as personal
5 property and that is impounded in a public or private shelter shall
6 be held for the same period of time, under the same requirements
7 of care, and with the same opportunities for redemption and
8 adoption by new owners or nonprofit, as defined in Section
9 501(c)(3) of the Internal Revenue Code, animal rescue or adoption
10 organizations as provided for cats and dogs. *The public or private*
11 *shelter may enter into cooperative agreements with animal rescue*
12 *or adoption organizations regarding rabbits that are equivalent*
13 *to those cooperative agreements authorized in Section 31108*
14 *regarding dogs and Section 31752 regarding cats. Section 17006*
15 *shall also apply to these animals. In addition to any required spay*
16 *or neuter deposit, the public or private shelter, at its discretion,*
17 *may assess a fee, not to exceed the standard adoption fee, for*
18 *animals adopted by new owners or released to nonprofit animal*
19 *rescue or adoption organizations pursuant to this section.*

20 *SEC. 2. Section 122354.5 is added to the Health and Safety*
21 *Code, to read:*

22 122354.5. A pet store operator shall not sell a live dog, cat,
23 or rabbit in a pet store unless the dog, cat, or rabbit was obtained
24 from a public animal control agency or shelter, society for the
25 prevention of cruelty to animals shelter, humane society shelter,
26 or nonprofit, as defined in Section 501(c)(3) of the Internal
27 Revenue Code, animal rescue or adoption organization that is in
28 a cooperative agreement with at least one private or public shelter
29 pursuant to Section 31108, 31752, or 31753 of the Food and
30 Agricultural Code.

31 *SEC. 3. Section 122356 of the Health and Safety Code is*
32 *amended to read:*

33 122356. (a) An animal control officer, as defined in Section
34 830.9 of the Penal Code, a humane officer qualified pursuant to
35 Section 14502 or 14503 of the Corporations Code, or a peace
36 officer who detects a violation of Section 122351, subdivision (b)
37 or (c) of Section 122353, paragraphs (3) or (4) of subdivision (b)
38 of Section 122354, or Section 122354.5 or 122355 shall issue a

1 single notice to correct, which shall contain all of the following
2 information:

3 (1) Specify each violation of this chapter found in the inspection.

4 (2) Identify the corrective action for each violation.

5 (3) Include a specific period of time during which the listed
6 violation or violations must be corrected.

7 (b) After issuing a notice to correct pursuant to this section, the
8 officer or another qualified officer of the issuing agency shall
9 verify compliance with this chapter by conducting a subsequent
10 investigation of the pet store in violation of this chapter within a
11 reasonable period of time.

12 (c) An exact, legible copy of the notice to correct shall be
13 delivered to the pet store operator at the time he or she signs the
14 notice. In the alternative, the issuing agency may personally deliver
15 the notice to the pet store operator within 48 hours of its issuance,
16 excluding holidays and weekends. The signing of the notice is an
17 acknowledgment of receipt, and does not constitute an admission
18 of guilt.

19 (d) A pet store operator who fails to comply with a notice to
20 correct is guilty of an infraction.

21 (e) A pet store operator who violates the same provision of this
22 chapter on more than one occasion within a 12-month period, at
23 the same location, is not eligible to receive a notice to correct, and
24 is guilty of an infraction on the second violation, and is guilty of
25 a misdemeanor on the third or subsequent violation.

26 (f) Notwithstanding subdivision (a), a pet store operator is guilty
27 of a misdemeanor if the pet store operator violates any provision
28 listed in subdivision (a), and by doing so, the pet store operator
29 causes or allows harm or injury to an animal, or allows an animal
30 to be subject to an unreasonable risk of harm or injury.

31 *SEC. 4. No reimbursement is required by this act pursuant to*
32 *Section 6 of Article XIII B of the California Constitution because*
33 *the only costs that may be incurred by a local agency or school*
34 *district will be incurred because this act creates a new crime or*
35 *infraction, eliminates a crime or infraction, or changes the penalty*
36 *for a crime or infraction, within the meaning of Section 17556 of*
37 *the Government Code, or changes the definition of a crime within*
38 *the meaning of Section 6 of Article XIII B of the California*
39 *Constitution.*

1 ~~SECTION 1.—It is the intent of the Legislature to enact~~
2 ~~legislation that would promote the adoption of animals from~~
3 ~~shelters and rescue groups and encourage humane practices in the~~
4 ~~purchase of dogs and cats offered for retail sale in California.~~

O

AMENDED IN ASSEMBLY APRIL 4, 2017
AMENDED IN ASSEMBLY MARCH 21, 2017
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 942

Introduced by Assembly Member Mathis

February 16, 2017

An act to add and repeal Section 17052.4 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 942, as amended, Mathis. Personal income taxes: credit: veterinary costs.

The Personal Income Tax Law allows various credits against the taxes imposed by that law.

This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2017, and before January 1, 2023, in an amount equal to 50% of the amount paid or incurred during the taxable year by a taxpayer for qualified veterinary costs, as defined, for a taxpayer's pets, as defined, not to exceed \$2,000 per taxable year.

This bill would take effect immediately as a tax levy.

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 17052.4 is added to the Revenue and
- 2 Taxation Code, to read:

1 17052.4. (a) For each taxable year beginning on or after
2 January 1, 2017, and before January 1, 2023, there shall be allowed
3 as a credit against the “net tax,” as defined in Section 17039, an
4 amount equal to 50 percent of the amount paid or incurred during
5 the taxable year by a taxpayer for qualified veterinary costs for a
6 taxpayer’s pets, not to exceed two thousand dollars (\$2,000) per
7 taxable year.

8 (b) For purposes of this section:

9 (1) “Pet” means a domesticated cat or dog owned by the
10 taxpayer.

11 (2) “Qualified veterinary costs” means the amount paid or
12 incurred for ~~medical-related~~ *medically necessary* expenses paid
13 to a licensed veterinarian, including, but not limited to,
14 vaccinations, annual checkups, surgeries, and drug prescriptions.
15 Qualified veterinary costs does not include expenses reimbursed
16 by pet insurance.

17 ~~(c) In the case where the credit allowed by this section exceeds
18 the “net tax,” the excess may be carried over to reduce the “net
19 tax” in the following taxable year, and succeeding six years if
20 necessary, until the credit is exhausted.~~

21 ~~(d)~~

22 (c) This section shall remain in effect only until December 1,
23 2023, and as of that date is repealed. ~~However, any unused credit
24 may continue to be carried forward, as provided in subdivision
25 (e), until the credit is exhausted.~~

26 ~~(e)~~

27 (d) Section 41 does not apply to the credit allowed by this
28 section.

29 SEC. 2. This act provides for a tax levy within the meaning of
30 Article IV of the California Constitution and shall go into
31 immediate effect.

Helping Out Pets Everyday

P.O. Box 2005 Upland, CA 91785 800-811-4285

www.helpingoutpetseveryday.com

71-0949539

January 24, 2017

Veterinary Medical Board
1747 N. Market Boulevard, Suite 230
Sacramento, California 95834-2987

Dear Veterinary Medical Board,

After witnessing yet another female cat being scheduled for ovariohysterectomy surgery, anesthetized with incision made into the abdomen only to determine the cat is already spayed, I feel compelled to write to you to ask that you require all licensed California veterinarians to tattoo all female and male dogs and cats. Not only would this requirement help to reduce the unnecessary charges applied for a surgery that doesn't occur, but insure that a healthy cat or dog doesn't have to endure a surgery that wasn't needed in the first place.

I would ask that you require all licensed and practicing veterinarians in the State of California to use either a tattoo instrument or tattoo ink to mark the animal that has been surgically altered with a permanent identification that would be visible in cases where it cannot be determined as to their state of sterility. I not only request this for the female gender but for the male gender too, when issues such as a cryptorchid questions might and do arise especially with impounded shelter dogs and cats when the professionals are reluctant to officially declare these animals have been surgically altered.

Whereas some veterinarians already use this type of identification, there are so many others that do not. The idea that a veterinarian or shelter cannot positively identify a sterilized dog or cat when a simple tattoo is all that is needed seems absolutely ridiculous. With such advanced technology available and a simple drop of green tattoo ink which would cost pennies to include as part of their surgery, shelter staff and veterinarians are still left to guess whether a dog or cat has been surgically altered. Since all veterinarians wish to err on the side of caution, a helpless, voiceless animal has to endure an unnecessary surgery because a simple tattoo is not present to let the world know they have already been sterilized.

Veterinary Medical Board

January 24, 2017

Page Two

At this very moment, one of our rescues, an older 6 year old cat, formerly on death row from a high kill shelter, is struggling to recover from a surgery she didn't need because she was already spayed, is being monitored because her temperature has dropped to a dangerous 93 degree level hours following the procedure.

I understand the Medical Board meets in April. I respectfully request that this issue be brought before the Board. The procedure would cost pennies to require a tattoo for all surgeries and would save countless animals from surgical procedures which are unnecessary and may even save more lives. When we are killing so many animals because of the overpopulation crisis, a dog or cat that is already sterilized would be more apt to be adopted at an animal shelter as most shelters charge less in adoption fees for those animals who are already spayed/neutered.

I would appreciate a reply and hope we can move forward to provide better veterinary care through visual tattoo identification for the dogs and cats that are unable to speak for themselves.

Thank you for your consideration.

Yours truly,

Margaret Coffman
President



Formed by the desire to save lives, and as advocates for all canine and feline animals, guided in the spirit of being the caretakers of God's creatures, stewards to young people through example and leadership, entrusted with educating the public on spaying and neutering, empowered through volunteer dedication, and committed in our mission to make a difference.



MEMORANDUM

DATE	March 7, 2017
TO	Members, Veterinary Medical Board
FROM	Tara Welch, Attorney Legal Affairs Division, Department of Consumer Affairs
SUBJECT	DVM Graduate – RVT Registration

Question Presented

Can the proposed regulatory amendment to strike graduates of doctor of veterinary medicine (DVM) programs from the existing regulation, which authorizes them to perform registered veterinary technician (RVT) animal health care tasks without RVT registration, be applied retroactively?

Short Answer

Although the proposed regulatory amendment may be applied retroactively, the proposal should be applied prospectively. Legislative action will be necessary to provide appropriate notice and due process of RVT registration requirements to existing unregistered DVM graduates currently performing RVT tasks.

Discussion

Background

California Code of Regulations (CCR), Title 16, Division 20, Article 3, section 2027 (16 CCR 2027) states that “[a] junior or senior student *or a graduate* of a recognized veterinary college listed in Section 2022(a) who is performing any animal health care task in a veterinary premises registered by the Board may perform only the identical job tasks with the identical degree of supervisor by the supervisor as specified for a R.V.T. pursuant to Section 2036.” (Emphasis added.) This regulation has been in place since at least 1984, and, in effect, created a loophole from RVT registration for DVM graduates. Although this regulation appears to have been intended to provide DVM graduates the ability to perform certain tasks post-graduation, presumably pending licensure/registration examination results, this regulation inadvertently created an RVT registration exemption with no end date for DVM graduates. DVM graduates, having relied on the regulatory loophole, may have been working for many years performing RVT tasks without being registered to perform such tasks.

Proposed regulation and retroactivity

The proposed regulation attempts to address the ability of DVM graduates who may be working indefinitely and unregistered to perform RVT tasks. The proposed regulation would strike the words “or a graduate” from the regulation, and the Board is considering whether to apply this amendment retroactively. A retrospective law is one which affects rights, obligations, acts, transactions and conditions which are performed or exist prior to the adoption of the statute. (*Aetna Cas. & Sur. Co. v. Industrial Acc. Commission* (1947) 30 Cal.2d 388, 391.) Retroactive laws are generally disfavored because the parties affected have no notice of the new law affecting past conduct. (*Russell v. Superior Court* (1986) 185 Cal.App.3d 810, 814.) For this reason, newly enacted laws are presumed to apply prospectively only unless a clear intent to the contrary is expressed by the legislative body. (*Id.*, p. 814.) Accordingly, the proposed regulation would have to specifically state that it is to be applied retroactively in order to apply to DVM graduates currently performing RVT tasks. However, the proposed regulation should not be applied retroactively due to the adverse effects of retroactive application on unregistered DVM graduates already working in settings in which they perform RVT tasks.

Statutory authority

Although the existing regulation created a registration exemption, the Board does not appear to have any statutory authority to create such exemptions. Notably, BPC section 4830 provides a list of licensure and registration exemptions, which suggests the Legislature has assumed control over such exemptions. Subdivision (a)(4) provides an exemption for students of specified DVM programs; however, this provision does not include any exemption for graduates of these programs. Accordingly, the Board may wish to consider proposed legislation to address the regulatory exemption for DVM graduates.

To provide appropriate notice and due process to DVM graduates who may have been working in settings in which they perform RVT tasks without having obtained veterinary licensure or RVT registration, the proposed statute should provide a delayed effective date for those DVM graduates. With a delayed effective date, those DVM graduates would be afforded appropriate time to obtain veterinary licensure or RVT registration. Additionally, the statute should make clear that future DVM graduates who seek to perform RVT tasks must be duly licensed or registered. The board may wish to consider submitting the following proposal to the Legislature:

Proposed Business and Professions Code section 4841.2:

4841.2

- (a) If, on or before January 1, 2019, a graduate of a recognized veterinary college has performed animal health care tasks otherwise performed by a registered veterinary technician, the graduate shall discontinue performing such duties on or after January 1, 2019, unless the graduate is issued a license or registration as otherwise required under this chapter.
- (b) Except as provided in subdivision (a), a graduate of a recognized veterinary college shall not perform animal health care tasks otherwise performed by a registered veterinary technician unless the graduate has obtained licensure or registration as otherwise required under this chapter.

Conclusion

The existing regulation inadvertently created the ability for DVM graduates to work unregistered by performing RVT tasks. To provide appropriate notice and due process for DVM graduates currently performing RVT tasks, the proposed regulatory amendment should be applied prospectively, rather than retroactively. Additionally, a legislative proposal should be considered that would provide for delayed implementation for existing DVM graduates performing RVT tasks, which would, in turn, provide appropriate due process for those DVM graduates to qualify for licensure or registration.



MEMORANDUM

DATE	January 4, 2017
TO	Multidisciplinary Advisory Committee
FROM	Annemarie Del Mugnaio, Executive Officer Veterinary Medical Board
SUBJECT	DVM Graduate – RVT License

Background:

The MDC has discussed the issue of DVM student exemptions for the better part of three years. The initial focus of the discussion was the exemption language in Business and Professions Code Section 4830, and California Code of Regulations Section 2027. At its last meeting of October 18, 2016, the MDC recommended to the Board and the Board subsequently adopted the following language:

BPC Section 4830(a)(5)(A) Students of an American Veterinary Medical Association Council on Education accredited veterinary medical program may participate, as part of their formal curriculum, in diagnosis and treatment with direct supervision or in surgery with immediate supervision. The student must have prior training in these activities as part of the formal curriculum and supervision must be by a California licensed veterinarian in good standing, as defined in paragraph (1) (A) and (B) of subdivision (b) of Section 4848.

BPC Section 4830 (a)(5)(B) Where Off-Campus or Distributive Sites provide the formal curriculum, a Memorandum of Understanding between the accredited veterinary medical program and the Off-Campus or Distributive Site must be in place that provides for: 1) a written description of the educational objectives expected to be achieved at the site, 2) an annual review conducted by the accredited veterinary medical program of the off-campus site to ensure that the educational program is being delivered in accordance with the Memorandum of Understanding to ensure that the formal curriculum and/or clinical training is appropriate, and 3) a mechanism for assessing training outcomes of the educational process.

CCR Section 2027

A junior or senior student ~~or a graduate~~ of a recognized veterinary college listed in Section 2022(a) who is performing any animal health care task in a veterinary premises, [not within the university] that is registered by the Board, may perform only the identical job tasks with the identical degree of supervision by the supervisor as specified for a R.V.T. pursuant to Section 2036.

The language of Section 4830 will require a statutory change and the Board will need to seek a vehicle (bill) to carry the provisions. Similarly, the changes to CCR Section 2027 and any new provisions (2027.5) will need to be submitted through the rulemaking process.

Issue:

The outstanding issue remaining before the MDC, is that of allowing a DVM graduate to function as an RVT for an indefinite period of time. Prior to the changes adopted by the VMB as noted above, Section 2027 included “graduates.” The VMB requested that the MDC discuss viable avenues for a DVM graduate to sit for both the state and national veterinary technician examinations and thus qualify for a license as an RVT. The VMB also requested Legal Counsel examine the impact of limiting the amount of time a DVM graduate may function as an RVT before taking the examinations as the impact may be considerable for prior DVM graduates.

Mr. Heppler provided a memo to the MDC of July 1, 2016 to address some of the fundamental policy considerations surrounding CCR 2027 and now a proposed 2027.5.

“MDAC was concerned that there was no time limit associated with the graduation date of the student, and by logical extension, an individual who graduated twenty years ago could essentially function as a Registered Veterinary Technician (RVT). Also, there was a concern that essentially treating section 2027’s students and graduates as equivalent to an RVT may not fully embrace consumer protection as there is no Board fingerprint requirement, no application, and no examination. Accordingly, MDAC may want to suggest some revisions to sections 2027.”

Chair Klingborg formed a subcommittee of himself and Jennifer Loreda to formulate language for consideration by the MDC. The subcommittee worked with Ms. Del Mugnaio and Mr. Mathes on the following policy considerations and draft language.

Policy considerations:

1. Should the DVM graduate be issued a provisional or temporary RVT license while waiting to take and pass the RVT examinations?
2. What is the retroactive impact or prospective impact for individuals who graduated before the adoption of a regulation?

Action(s) Requested

Review and discuss the proposed language and consider the policy questions noted above.

2027.5 DVM Graduate Eligibility for RVT Licensure

Any person who receives a Doctorate of Veterinary Medicine degree from a recognized veterinary college listed in Section 2022(a), or a person who is within eight (8) months of his or her anticipated graduation from a recognized veterinary college, shall be eligible for a period of one year to apply for the national veterinary technician examination and the California veterinary technician examination as provided for in section 2010.

Summary from the January 17, 2017 MDC Meeting
DVM Graduates Practicing as RVTs

The MDC held a robust discussion regarding a pathway for veterinary medical school graduates to take the RVT examinations and thus qualify for RVT licensure. It was recommended that the eligibility to take the RVT examinations not be limited to a specific timeframe, but that “graduates” are provided not more than one year from their graduation date to provide RVT tasks without the benefit of licensure. Kurt Hepler expressed concern regarding the lack of framework or statutory authority to enforce the proposed regulations retroactively. However, the MDC recommended the following language for consideration of the VMB:

2027.5. Veterinary Medical School Graduates – Eligibility for RVT Licensure

(a) Any person who receives a veterinary medical degree from an accredited veterinary college listed in Section 2022(a), or a person who is within eight (8) months of his or her anticipated graduation from an accredited veterinary college, shall be eligible to apply for the national veterinary technician examination and the California veterinary technician examination as provided for in section 2010.

(b) A person who graduates from an accredited veterinary college listed in Section 2022(a) may perform the RVT tasks as enumerated in Section 2036 for a period of one year from the date of graduation from the accredited veterinary college without holding an RVT license.

(c) Any person who is currently performing the RVT job tasks as enumerated in Section 2036 without a license shall cease practice after one year, unless the person applies for and passes the national veterinary technician examination and the California veterinary technician examination as provided for in section 2010.



MEMORANDUM

DATE	March 7, 2017
TO	Members , Veterinary Medical Board
FROM	Tara Welch, Attorney Legal Affairs Division, Department of Consumer Affairs
SUBJECT	VACSP Implementation Issues

Question Presented

Who is required to obtain a Veterinary Assistant Controlled Substances Permit (VACSP) in order to administer controlled substances to animals?

Short Answer

A veterinary assistant (VA) or other unlicensed or unregistered person who obtains and administers controlled substances in any veterinary facility that is subject to Board licensure should comply with the VACSP requirements unless specifically exempt from the VACSP or otherwise statutorily authorized to administer controlled substances.

Discussion

The federal Controlled Substances Act (CSA) (21 U.S.C. 801 et seq.) and the California Uniform Controlled Substances Act (CUCSA) (Health & Saf. Code § 11000 et seq.) regulate the manufacture, importation, possession, use, and distribution of certain substances. The purpose of these laws is to track the movement of controlled substances in order to reduce the instance of drug abuse. The CUCSA authorizes a veterinarian to prescribe, furnish, or administer controlled substances. (Health & Saf. Code §11210.) A controlled substance can also be administered to a patient by the veterinarian's agent while in his or her presence. (Health & Saf. Code §11002.) The veterinarian's agent administering a controlled substance may be a registered veterinary technician (RVT) or VA. (Business and Professions Code (BPC) §4836.1.)

A VA is defined to mean any individual who is not an RVT or a licensed veterinarian. (16 CCR 2034(c).) The Veterinary Medical Practice Act (Practice Act) authorizes a VA to administer a controlled substance under the direct or indirect supervision of a licensed veterinarian and pursuant to the order, control, and full professional responsibility of the veterinarian. (BPC §4836.1(a), (b).) The

VA is required to be designated by the licensed veterinarian to obtain or administer controlled substances and hold a VACSP. (BPC §4836.1(b).) However, given the wide range of animal care settings (veterinary practices, shelters, humane societies, etc.) in which a VA, or any unregistered or unlicensed person, may administer a controlled substance to an animal, there is confusion as to who is required to obtain a VACSP and in what animal care setting. At the Board's January 18-19, 2017 meeting, the following questions arose with respect to who is required to obtain a VACSP:

- Are VAs (Euthanasia Technicians as an employee of an animal control shelter or humane society and its agencies) who have taken euthanasia training as prescribed in regulation (16 CCR §2039) exempt from a permit or are they required to hold a VACSP?
- Are shelter staff who administer vaccinations and pain control required to hold a VACSP whether the shelter has a premises permit or not?
- Are boarding facility staff who administer medication to boarded animals required to hold the VACSP?
- Are veterinary support staff (i.e. receptionist), who may come into contact with controlled drugs but not administer, required to hold a VACSP?

In addition, the question arose as to whether an animal control officer (ACO) or humane officer is required to obtain a VACSP. This memorandum is intended to answer these questions and provide general guidance as to who is required to obtain a VASCP.

Locations requiring VACSP

In 2007, the Legislature enacted SB 969 (Aanestad, Chapter 83, Statutes of 2007) to resolve the question of who, other than a licensed veterinarian, could lawfully administer drugs to animals following the Board's examination of the federal Controlled Substances Act (CSA) (21 U.S.C. 801 et seq.) and the California Uniform Controlled Substances Act (CUCSA) (Health & Saf. Code §11000 et seq.). SB 969 authorized an RVT or unregistered assistant to administer a drug, including, but not limited to, a drug that is a controlled substance, under the direct or indirect supervision of a licensed veterinarian, as specified. (BPC §4836.1.) However, SB 969 did not specify the veterinary practice settings to which it applied, and it did not provide any distinct exemptions to the authorization.

Although the Assembly Committee on Business and Professions Code analysis of SB 969 discussed the need for legislation to address concerns over Board regulation of the issue, the analysis did not provide clarity with respect to the practice settings considered by the Legislature when enacting the bill. Rather, the analysis provides a quote from the author's office that RVTs and unregistered assistants had been administering controlled substances *in veterinary practices* in California and other states for years under the indirect supervision of a veterinarian. (Assem. Comm. on Bus. and Prof., Reg. Sess. 2007-2008, Committee analysis SB 969 (June 26, 2007), p. 2.)

VA in Veterinary Office or Clinic – VACSP Applies

In 2013, the Legislature enacted SB 304 (Lieu, Chapter 515, Statutes of 2013), which, among other things, established the VACSP process. Notably, the Assembly Committee on Business, Professions and Consumer Protection analysis of SB 304 states that SB 969 made a statutory change to clarify those persons who could provide controlled substances *in a veterinary office or clinic* and under what level of supervision. (Assem. Comm. on Bus., Prof. and Consumer Protection, Reg. Sess. 2013-2014, SB 304 analysis (Aug. 13, 2013), p. 11.) That analysis further stated that stakeholder discussions focused on a fingerprinting requirement for VAs who would have access to controlled substances

within the veterinary facility. (Id.) Additionally, the analysis noted that during the 2013 sunset review process, it was recommended that the Board establish a permitting process for VAs who would have access to controlled substances. Although the VACSP process was provided by statute, the practice settings to which it applied were not clearly defined. The SB 304 committee analysis may provide the best indicator as to the legislative intent of SB 969, as well as SB 304 – that a VA in a veterinary office or clinic would be subject to the VACSP process.

It is important to note that BPC section 4853 requires all premises where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof is being practiced are required to be registered with the Board. As such, an animal facility that provides these services and is subject to Board oversight would also be subject to VACSP permit requirements for unlicensed or unregistered employees who obtain or administer controlled substances to animals.

Keeping in mind the intent of the CUCSA to track controlled substances, a veterinarian designating administration of controlled substances to a VA may want to err on the side of caution and only designate controlled substance administration to a VA who has obtained a VACSP. This would ensure full compliance with the requirements of the Practice Act, as well as the CUCSA. Veterinary staff, such as an office receptionist, is not required to obtain a VACSP unless he or she obtains and administers controlled substances to animals under a licensed veterinarian's direction.

Trained VA of Animal Control Shelter, Its Agency, or Humane Society – Limited Authorization

With respect to the administration by a VA of sodium pentobarbital for the purpose of euthanasia, the Practice Act provides an exception for the administration of sodium pentobarbital for euthanasia of sick, injured, homeless, or unwanted domestic pets or animals without the presence of a veterinarian when the person is an *employee of an animal control shelter and its agencies or humane society* and has received proper training in the administration of sodium pentobarbital for these purposes. (BPC §4827(d).) That statute was last substantively revised in 1999, before the first RVT/VA controlled substances statute (BPC §4836.1) was enacted under SB 969, and, presumably, was considered by the Legislature when it enacted SB 969.

The Legislature did not alter the ability of animal control shelter or humane society employees to administer sodium pentobarbital when it enacted the SB 969 or SB 304. Accordingly, a VA, who has received the required training (see 16 CCR 2039), of an animal control shelter or humane society may lawfully administer sodium pentobarbital pursuant to BPC §4827(d) without otherwise obtaining a VACSP. However, there is no other explicit authorization or exemption from the VACSP for VAs who obtain and administer other controlled substances. As such, a VA performing animal health care tasks in an animal control shelter or humane society may only obtain and administer other controlled substances in compliance with the VACSP. To the extent a VA is administering vaccines or pain control, he or she may only do so without a VACSP if the vaccine or pain control drug is not a controlled substance under the CUCSA.

Animal Control Officers (ACOs) and Humane Officers – Limited Authority Outside of VACSP

Penal Code section 597.1(a)(2) authorizes an ACO or humane officer, who has met specified requirements, when necessary to protect the health and safety of a wild, stray, or abandoned animal or the health and safety of others, to possess and administer a tranquilizer that contains a controlled substance. However, the question was raised as to whether an ACO or humane officer is also subject

to VACSP permitting. The legislative history of the VACSP and the Penal Code statute applicable to ACOs and humane officers is instructive and set forth further below.

October 18, 2006 – The Board promulgated regulations following legal counsel opinion that the CSA restricted administration of controlled substances to licensed veterinarians and limited delegation to immediate supervision of support staff.

2007 – SB 969 (Aanestad, Chapter 83, Statutes of 2007) enacted BPC section 4826.1, which authorized an RVT or unregistered assistant to administer a drug, including, but not limited to, a drug that is a controlled substance, under the indirect supervision of a licensed veterinarian, as specified.

December 22, 2011 – the Attorney General issued a Legal Opinion to answer the question of whether an ACO was permitted to possess and administer controlled substances to capture or treat animals in the field without contemporaneously consulting and receiving direction from a licensed veterinarian. (94 Ops. Cal. Atty. Gen. 59 (Dec. 22, 2011).) To answer this question, the Opinion analyses whether an ACO falls under the definition of “practitioner,” who is authorized to administer a controlled substance under the CUCSA (Health & Saf. Code §11000 et seq.). To do so, the Opinion first notes that an ACO is defined under Penal Code section 241(d)(8) as “any person employed by a county or city for purposes of enforcing animal control laws or regulations.” (*Id.*, p. 2, fn 1.) In support of the use of this definition, the Opinion also notes that “Penal Code section 11165.7(31)(A) is virtually identical: ‘Animal Control officer’ means any person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.” (*Ibid.*)

The Opinion then analyzes the practitioner provisions under the Practice Act and takes note that BPC section 4836.1(a) “provides that a veterinary assistant may administer a controlled substance under the supervision and control of a veterinarian.” (*Id.*, pp. 4-5.) The Opinion determines that although the CUCSA authorizes licensed professionals or, in the case of certified and registered healthcare practitioners, in concert with carefully orchestrated procedures and protocols (see Health & Saf. Code §11026(a)), ACOs are not members of a healthcare profession and, therefore, are not included under the definition of practitioners. (*Id.*, p. 6.) Further, ACOs are not included in the provision for other persons permitted to distribute or dispense a controlled substance because there was no statute outside of the CUCSA providing ACOs with authority to do so. (*Ibid.*) The Opinion concludes that ACOs “are not practitioners within the meaning of Health and Safety Code section 11026 and therefore may not possess or administer controlled substances in the field without contemporaneously consulting, [sic] and receiving direction from, a licensed veterinarian.” (*Id.*, p. 9.)

2012 – Following the Opinion, the Legislature enacted SB 1162 (Runner, Chapter 594, Statutes of 2012), which provided limited authority for an ACO or humane officer to possess and administer a tranquilizer that contains a controlled substance, as defined by the CUCSA. The ACO may possess and administer the tranquilizer with direct or indirect supervision as determined by a licensed veterinarian, provided the officer has met five requirements, which include training for the administration of tranquilizers and state and federal fingerprinting background checks. (See Penal Code §597.1(a)(2).) As justification for the bill, the Senate Rules Committee, Unfinished Business (Floor) analysis cited the AG’s Opinion regarding ACO administration of controlled substances, which stated that “the duties of local animal control officers, which consist of protecting animals and the public through the enforcement of local animal control laws,” does not fit within the context of current law.” (Sen. Comm. on Rules, Reg. Sess. 2011-2012, Committee Floor Analysis SB 1162 (Aug. 29, 2012), p. 6.) The analysis also noted the author’s belief that limited authorization for animal control officers to use tranquilizers under exigent circumstances would be more humane and would better

protect public safety. (*Ibid.*) That Committee analysis is instructive as to the legislative intent – the CUCSA did not authorize ACOs to administer a controlled substance, the existing provisions for VAs to administer controlled substances under the Practice Act were inapplicable, and there existed a need to create the ability for ACOs to administer controlled substances.

2013 – SB 304 (Lieu, Chapter 515, Statutes of 2013) added to existing law new requirements for a VA to qualify for a permit under the VACSP in order to obtain and administer controlled substances. Notably, the ACO requirements under Penal Code section 597.1 remained unchanged. Arguably, this is because the VA and ACO controlled substances requirements were created on two parallel tracks: VAs were authorized to administer controlled substances in 2007 under the Practice Act; ACOs were authorized to administer controlled substances in 2012 under the Penal Code. Then in 2013, the Practice Act established a permit scheme for VAs, but a similar model was not provided under the Penal Code for ACOs. Accordingly, ACOs who possess and administer a tranquilizer that contains a controlled substance would not be subject to the VACSP requirements under the Practice Act. However, if the ACO or humane officer obtained and administered any other controlled substance not otherwise statutorily authorized, arguably, he or she could only do so as a VACSP holder.

Conclusion

The VACSP does not clearly describe the locations and settings in which a VA, or other unregistered or unlicensed person, may obtain and administer controlled substances. However, the legislative history of the VACSP provides that VAs who obtain and administer controlled substances in a veterinary office or clinic are required to hold a valid VACSP. Outside of the VACSP requirements, a trained VA has limited statutory authority to obtain and administer sodium pentobarbital for the purpose of euthanasia, and ACOs and humane officers may possess and administer to an animal a tranquilizer containing a controlled substance. Unless otherwise statutorily authorized or exempt from VACSP, all other possession and/or administration of a controlled substance to an animal patient by a VA, or other unregistered or unlicensed person under the employ of a veterinarian, would likely fall within the VACSP requirements.



MEMORANDUM

DATE	April 2017
TO	Veterinary Medical Board
FROM	Ethan Mathes. Operations Manager
SUBJECT	Administrative/Budget Report

Expenditure Report

The current Expenditure Report is attached; the Report goes through Fiscal Month 8 of Fiscal Year (FY) 2016/2017.

Staff continues to closely monitor the Board's expenditures as projections based on the current Expenditure Report show a 0.7% surplus.

Expenditures of particular focus are Attorney General (AG), Office of Administrative Hearings (OAH) and Veterinary Premises Inspections expenditures. AG and OAH expenditures are capped at their appropriation of \$645,000 and \$198,000 respectively. Inspection costs have been capped at approximately \$185,000 which will limit premises inspected to less than 20% of total licensed premises inspected for FY 2016/2017.

Budget Activities

The Board has been notified that its request to augment the AG and OAH appropriation has been tentatively approved for FY 2016/2017 (as noted above) increasing the AG augmentation by \$185,000 and the OAH augmentation by \$139,000. These increases in spending authority are a result of the Board's historical increase in expenditures to these line items.

The Board continues to work with the Department on a permanent augmentation to its AG and OAH appropriation beginning with FY 2017/2018 via the Budget Change Proposal (BCP) process.

Staff will begin submittal of BCP Concept Papers for FY 2018/2019 in April. Proposed BCPs will focus on a permanent increase to the Board's expenditure authority for veterinary premises inspections and permanent funding for the previously approved 4.0 staff to administer the Veterinary Assistant Controlled Substances Permit (VACSP) program.

Fee Audit

The Board has contracted with Capitol Accounting Partners (CAP) to conduct a review of the Board's fee structure and determine appropriate fee levels to cover all Board expenditures. The project is expected to take 3-4 months to complete with a formal document delivered to the Board at its July meeting

Board management met with Dan Edds from CAP on March 30, to discuss the project outline, deliverables and ongoing concerns with the current fee structure. Mr. Edds will continue to work with Board management and staff in April to review cost areas affecting the current budget condition.

VETERINARY MEDICAL BOARD - 0777
BUDGET REPORT
FY 2016-17 EXPENDITURE PROJECTION
Feb-2017

OBJECT DESCRIPTION	FY 2015-16		FY 2016-17				
	ACTUAL	PRIOR YEAR	BUDGET	CURRENT YEAR	PERCENT	PROJECTIONS	UNENCUMBERED
	EXPENDITURES	EXPENDITURES	Allotment	EXPENDITURES	SPENT	TO YEAR END	BALANCE
	(MONTH 13)	2/28/2016	2016-17	2/28/2017			
PERSONNEL SERVICES							
Salary & Wages (Staff)	993,433	672,601	1,018,000	637,385	63%	956,078	61,923
Statutory Exempt (EO)	90,636	60,424	82,000	62,916	77%	94,374	(12,374)
Temp Help Reg (Seasonals)		4,700	33,000	13,326	40%	19,989	13,011
BL 12-03 Blanket							
Temp Help (Exam Proctors)							
Board Member Per Diem	6,900	2,500	14,000			6,900	7,100
Committee Members (DEC)	5,700	874	11,000			5,700	5,300
Overtime	1,995			129		129	(129)
Staff Benefits	610,044	403,602	621,000	434,855	70%	652,283	(31,283)
TOTALS, PERSONNEL SVC	1,708,708	1,144,701	1,779,000	1,148,611	65%	1,735,452	43,548
OPERATING EXPENSE AND EQUIPMENT							
General Expense	39,907	27,573	26,000	20,644	79%	30,966	(4,966)
Fingerprint Reports	520	206	6,000	306	5%	459	5,541
Minor Equipment	6,919	6,919	2,000	124	0%	124	1,876
Printing	19,795	6,405	18,000	15,190	84%	22,785	(4,785)
Communication	5,416	2,219	18,000	865	5%	1,298	16,703
Postage	28,278	18,313	26,000	13,044	50%	19,566	6,434
Insurance							
Travel In State	70,768	41,421	148,000	46,332	31%	69,498	78,502
Travel, Out-of-State							
Training	6,244	5,824	17,000				17,000
Facilities Operations	114,242	112,028	102,000	115,484	113%	115,484	(13,484)
Utilities							
C & P Services - Interdept.	2	2					
C & P Services - External	227,251	164,748	136,000	213,574	157%	251,000	(115,000)
DEPARTMENTAL SERVICES:							
Departmental Pro Rata	453,708	343,500	503,000	335,336	67%	503,000	0
Admin/Exec	286,698	215,250	257,000	168,000	65%	257,000	0
Interagency Services		45,226					
IA w/ OPES	72,166			75,210		75,210	(75,210)
DOI-ProRata Internal	6,882	5,250	7,000	4,664	67%	7,000	0
Communications	19,000	14,250	41,000	34,000	83%	41,000	0
PPRD Pro Rata			12,000	1,336	11%	12,000	0
INTERAGENCY SERVICES:							
Consolidated Data Center	2,230	2,210	8,000	17	0%	26	7,975
Interagency SVCS			50,000				50,000
Information Technology			57,000				57,000
DP Maintenance & Supply	10,884	4,559		2,657		2,657	
Central Admin Svc-ProRata	157,399	118,049					
EXAM EXPENSES:							
Exam Supplies			1,000				1,000
Exam Freight							
Exam Site Rental			5,000				5,000
C/P Svcs-External Expert Administrative	26,988	22,557		40,686		61,029	(61,029)
C/P Svcs-External Expert Examiners		30,311	31,000				31,000
C/P Svcs-External Subject Matter	55,341			34,688		52,032	(52,032)
ENFORCEMENT:							
Attorney General	510,785	322,835	645,000	371,449	58%	645,000	0
Office Admin. Hearings	105,233	74,308	198,000	99,139	50%	198,000	0
Court Reporters	6,043	4,175		7,290	0%	10,935	(10,935)
Evidence/Witness Fees	173,628	89,401	163,000	84,598	52%	126,897	36,103
DOI - Investigations	617,594	471,000	829,000	587,336	71%	829,000	0
Major Equipment			10,000				10,000
Special Items of Expense							
Other (Vehicle Operations)			3,000				3,000
TOTALS, OE&E	3,023,921	2,148,539	3,319,000	2,271,969	68%	3,331,965	(10,308)
TOTAL EXPENSE	4,732,629	3,293,240	5,098,000	3,420,580	67%	5,067,417	33,240
Sched. Reimb. - External/Private							
Sched. Reimb. - Fingerprints			(11,000)			(11,000)	
Sched. Reimb. - Other	(3,525)	(1,645)	(15,000)	(3,290)		(15,000)	
Unsched. Reimb. - Other	(158,407)	(99,795)		(116,937)			
NET APPROPRIATION	4,570,697	3,191,800	5,072,000	3,300,353	65%	5,041,417	33,240
SURPLUS/(DEFICIT):							0.7%

**Veterinary Medical Board
Summary of Expenditures - 2016/2017**

Line Item	Appropriation	Summary of Expenses
Personal Services:		
Salary & Wages (Staff)	1,018,000	Board staff salaries
Statutory Exempt (EO)	82,000	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)		Examination Proctors
Board Member Per Diem	14,000	Board members' per-diem
Committee Members (DEC)	11,000	Committee members' per-diem
Overtime		Staff Overtime
Staff Benefits	621,000	OASDI, Dental, health, retirement, life, vision, Medicare
Total Personal Services	1,779,000	
Operating Expenses & Equipment:		
General Expense	26,000	Office supplies, freight
Fingerprint Reports	6,000	Fingerprint expenses – reimbursed by candidate
Minor Equipment	2,000	Equipment less than \$5K per unit
Printing	18,000	Printed forms, office copier, copying service
Communication	18,000	Phones, cellular phones
Postage	26,000	Stamps, DCA and EDD facility mailed postage
Insurance		Insurance coverage for department owned vehicles.
Travel In-State	148,000	Board, Committee, and Staff Air, car, bus, taxi, incidentals, service fees
Travel Out-of-State		Same as above - out-of-State
Training	17,000	Registration fees, subscriptions
Facilities Operations	102,000	Rent, storage, security
Utilities		Electricity, Natural Gas (P.G.& E.), water, sewer, and regular waste removal service.
C&P Services Interdept.		Services provided by other state agencies or Interagency Agreement within the Department of Consumer Affairs.
C&P Services External	136,000	Outside DCA contracts - incl. MAXIMUS and Credit Card processing
Departmental Services		
Departmental Prorata	503,000	DCA Svcs: Info systems, Administrative Svcs (HR, Accounting, Budgets, etc.), Legal, Publications, Public Affairs
Admin/Exec	257,000	Pro-rata assessments to support DCA Administrative Services
Interagency Services		Services provided to one board by another board within the Department
IA w/OPES		Services provided by OPES to Board
DOI-Pro Rata Internal	7,000	Services provided by Division of Investigation Pro Rata
Communications	41,000	Services provided by DCA Public Affairs
PPRD Pro Rata	12,000	Pro-rata Consumer and Community Empowerment Division
Interagency Services		
Consolidated Data Centers	8,000	CAS/Teale Data Center
DP Maintenance & Supply	50,000	Data processing supplies and maintenance
Central Admin Svcs-Pro Rata	57,000	State services pro-rata (DGS, DOF, etc)
Exam Expenses		
Exam supplies	1,000	Examination materials, supplies not covered by contract
Exam freight		Freight, shipping and storage of examination material
Exam site rental	5,000	Facility rental charge for vet exams administration
Expert Examiners (SME)		Subject matter experts for item writing, review and Angoff workshops VET and RVT
C/P Svcs-External Expert Administrative		National exam contracts - includes PSI contract
C/P Svcs-External Expert Examiners	31,000	Wages for services provided by expert examiners in the oral/written examination process
C/P Svcs-External Subject Matter		Services provided by subject matter experts in the oral/written examination process
Enforcement		
Attorney General	645,000	Office of the Attorney General/DAG legal services
Office of Admin Hearings	198,000	Office of Administrative Hearings, Admin. Law Judge and court reporter services
Court Reporters		
Evidence/Witness Fees	163,000	Expert Witness and In-house Consultants enforcement case review
Div of Investigation	829,000	DCA Division of Investigation services
Major Equipment	10,000	Equipment more than \$5k per unit
Special Items of Expense		
Vehicle Operations	3,000	Leasing & maintenance of State vehicle (CPEI BCP)
Total OE&E	3,319,000	
Total Personal Services (above)	1,779,000	
Totals, Expenditures	5,098,000	
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
Net Appropriation	5,072,000	

ENFORCEMENT REPORT

Prepared by Candace Raney, Enforcement Program Manager

April 2017

Expert Witness

As a follow-up to the Expert Witness Roundtable held in San Diego on November 3, 2016, board staff developed and provided to all experts, a linkage chart of laws and regulations and report format suggestions to assist in the preparation of the expert witness reports.

On April 17, 2017, we held an Expert Witness Training and Roundtable in Sacramento. The morning session consisted of Expert Witness Training for several new experts and the afternoon session consisted of an in-depth Roundtable discussion of the expert's role in the enforcement process, the preparation of the expert witness, report and the process of providing testimony at an administrative hearing. The afternoon session was attended by both new and existing experts. Additionally, the meeting was attended by board staff, board consultants, board members, and members of the Complaint Process Audit Taskforce.

Statistical Report

For a current statistical report, please refer to the Enforcement Statistical Report for Fiscal Year 2016/17 - Quarter 3

Enforcement Forecast (FY 16/17 Q4)

Board members can anticipate two mail votes between the April and July Board meetings.

Staffing Update

The Complaint Investigation Unit is thrilled to welcome Sidney Villareal as its newest team member. Ms. Villareal began her career in state service with the Veterinary Medical Board in 2014 as a Limited Term Program Technician. She left to pursue a permanent position and returned to the Board in March 2017 as a Staff Services Analyst handling complaint investigations.

The Board has also enlisted the assistance of two Retired Annuitant employees, Catherine Hayes and Nickie Bach. Both Ms. Hayes and Ms. Bach have extensive experience working with various regulatory agencies within the Department of Consumer Affairs. Ms. Hayes and Ms. Bach are scheduled to continue assisting the Board through June 2017.

ENFORCEMENT STATISTICS FISCAL YEAR 2016 - 2017

Veterinary Medical Board

COMPLAINTS AND CONVICTIONS

	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2016 - 2017 TOTAL
Complaints and Convictions					
Complaints Received	250	226	275		
Convictions Received	14	6	18		
Average Days to Intake	2	2	2		
Closed	2	0	0		
Pending at intake	0	4	5		

Average Days to Intake - Average cycle time from complaint received, to the date the complaint was assigned to an investigator.

ENFORCEMENT STATISTICS FISCAL YEAR 2016 - 2017

Veterinary Medical Board

DESK INVESTIGATIONS

	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2016 - 2017 TOTAL
Desk Investigation					
Assigned	261	227	276		
Closed	183	260	224		
Average Days to Complete	223	198	225		
Pending	584	632	650		

Average Days to Complete Desk Investigations - Average cycle time from complaint receipt to closure of the investigation process.

ENFORCEMENT STATISTICS FISCAL YEAR 2016 - 2017

Veterinary Medical Board

SWORN INVESTIGATIONS

Sworn Investigations	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2016 - 2017 TOTAL
Assigned	25	9	20		
Closed	13	24	24		
Average Days to Complete	513	273	404		
Pending	108	95	84		

Average Days to Complete Sworn Investigations - Average cycle time from complaint receipt to closure of the investigation process.

ENFORCEMENT STATISTICS FISCAL YEAR 2016 - 2017

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 2016 - 2017 TOTAL
Closed Without Discipline	180	226	191		
Cycle Time - No Discipline	228	214	245		
All pending cases	692	727	739		

CITATIONS

Citations	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2016 - 2017 TOTAL
Issued	7	5	6		
Avg Days to Complete Cite	1222	669	959		
Citations appealed	0	0	0		

Average Days to Issue a Citation - Average cycle time from complaint receipt to the effective date of the citation.

ENFORCEMENT STATISTICS FISCAL YEAR 2016 - 2017
 Veterinary Medical Board
ATTORNEY GENERAL CASES

Attorney General Cases	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (April - Jun)	FY 2016 - 2017 TOTAL
Initiated / Referred to the AG	11	23	19		
Pending at the AG	70	75	83		
Statement of Issues Filed	2	5	5		
Accusations Filed	14	1	11		

AG Case Action	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (April - Jun)	FY 2016 - 2017 TOTAL
Closed Without Discipline	1	0	0		
Closed With Discipline	4	13	19		
Probation	1	5	8		
Public Letter of Reprimand	0	0	2		
Surrender of License	2	4	4		
License Revoked	1	4	3		
License Denied (SOI)	0	0	0		
W/D, Dismissed, Declined	1	0	2		
Average Days to Close	618	935	1010		

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 (April - Jun)	FY 2016 - 2017 TOTAL
Substance Abuse (A)			1		
Unsafe/Unsanitary Cond (E)					
Applicant Investigation (I)			4		
Incompetence/Gross Negligence (N)	2	3	5		
Unprofessional Conduct (R)	1	9	6		
Criminal Conduct/Conv (V)		1	1		
Discipline by Another State (T)			1		
Unlicensed Activity (U)					
Drug Related Offenses (D)	1		1		
Fraud (F)					

ENFORCEMENT STATISTICS FISCAL YEAR 2016 - 2017

Veterinary Medical Board

PROBATION

Probation	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2016 - 2017 TOTAL
New Probation Cases	3	4	7		
Probation Completed	5	4	5		
Active Cases	88	88	90		
Probationary Licenses	0	4	5		
All applicants pending licensure	9	14	19		
Tolled	5	5	6		
Petition to Revoke	6	4	4		



MEMORANDUM

DATE	April 2017
TO	Veterinary Medical Board
FROM	Ethan Mathes. Operations Manager
SUBJECT	Administration/Examination/Licensing Report

Applications

Applications Received		
<i>as of March 2017</i>		
	<i>Jan. 2016 - Dec. 2016</i>	<i>Jan. 2017 - Dec. 2017*</i>
Veterinarian	671	282
Veterinary Technician	927	146
Veterinary Premises	290	44
Veterinary Asst. Cont. Sub. Permit	1507	551
<i>*partial year data</i>		

Examinations

CALIFORNIA STATE BOARD EXAMINATION			
May 2016 – October 2016		November 2016 – April 2017*	
Candidates	Pass Pct.	Candidates	Pass Pct.
207	67%	180	78%
<i>*partial year data</i>			

NORTH AMERICAN VETERINARY LICENSING EXAMINATION			
April 2016		Nov./Dec. 2016	
Candidates	Pass Pct.	Candidates	Pass Pct.
71	65%	405	82%

CALIFORNIA VETERINARY TECHNICIAN EXAMINATION					
Jan. – Jun. 2016		Jul. – Dec. 2016		Jan. – Jun. 2017*	
Candidates	Pass Pct.	Candidates	Pass Pct.	Candidates	Pass Pct.
300	80%	268	60%	98	89%
<i>*partial year data</i>					

VETERINARY TECHNICIAN NATIONAL EXAMINATION					
Mar./Apr. 2016		Jul./Aug. 2016		Nov./Dec. 2016	
Candidates	Pass Pct.	Candidates	Pass Pct.	Candidates	Pass Pct.
277	55%	350	63%	340	63%

Examination statistics by school for the California RVT examination (July-December 2016) and Veterinary Technician National Examination (VTNE) (November/December 2016) are attached.

Licensing

Licensees	
as of March 15, 2017	
Veterinarian Licenses*/**	13,944/12,015
Veterinarian Licenses – California**	11,542***
Veterinarian – Internship**	25
Veterinarian – Reciprocity**	30
Registered Veterinary Technician Licenses*/**	8,417/6,440
Registered Veterinary Technician Licenses – California**	7,994***
Premise Permits**	3,752
Premise Permits – Exempt**	88
Veterinary Asst. Cont. Sub. Permit	1,177
<i>*includes delinquent, inactive, and clear licensees; **clear licensees; ***these figures are updated from previous reports due to BreEZe Reports inaccuracies</i>	

Licenses Issued		
as of March 15, 2017		
	Jan. 2016 - Dec. 2016	Jan. 2017 - Dec. 2017*
Veterinarian	630	65
Reciprocity	47	13
Intern	27	1
Registered Veterinary Technician	518	183
Premises	312	55
Veterinary Asst. Cont. Sub. Permit	314	806
<i>*partial year data</i>		

Examination Development and Workshops

Examination Development Workshops: Workshops include Item Writing, Item Review, Examination Construction, and Pass Score Setting. Staff recruits and contracts with licensees to serve as Workshop Subject Matter Experts (SME); approximately 6-8 SMEs participate in each Workshop.

For each yearly series of Workshops the Board acquires two new examination forms for the State veterinary and veterinary technician examinations.

The following are scheduled Workshops for 2017:

Veterinarian Examination Workshops 2017	
May 24-25	Exam Item Writing
June 6-8	VET Law Exam Development
June 21-22	Exam Review
July 11-13	Exam Construction
August 9-10	Exam Passing Score
Registered Veterinary Technician Examination Workshops 2017	
July 26-27	Exam Item Writing
August 16-17	Exam Item Review
September 26-28	Exam Construction/Passing Score

Veterinary Technician Occupational Analysis: The Department's Office of Professional Examination Services (OPES) has recently completed its Occupational Analysis (OA) of the California Registered Veterinary Technician Profession. The document is on the Board's website and a link was emailed to Board members.

The purpose of the OA was to define practice for California Registered Veterinary Technicians in terms of actual job tasks that new licensees must be able to perform safely and competently at the time of licensure.

The results of the OA serve as the basis for developing a description of practice for the California Registered Veterinary Technician profession that can then be used as the basis for the California Registered Veterinary Technician examination and comparison study of the Veterinary Technician National Examination Job Analysis.

Moving forward, the California OA will be used by OPES to compare it to the VTNE Job Analysis (JA) in order to identify possible practice gaps in the National versus the State examination. Any gaps between the OA and JA would be used as a basis for continued development and administration of a California Veterinary Technician Examination.

The Board and OPES have been updated that the VTNE Job Analysis is due for completion in October 2017. Once completed, OPES will immediately conduct comparison study workshops with planned completion and presentation before the Board in January 2018.

Veterinary Occupational Analysis: OPES will initiate an OA of the veterinary profession in January 2019 as the last OA of the profession was completed in December 2013. The veterinary OA is scheduled for completion in December 2019.

Similar to the California RVT examination development process, OPES will work cooperatively with the International Council for Veterinary Assessment (ICVA; formerly known as the National Board of Veterinary Medical Examiners) to compare the national JA to the California OA for the purpose of developing California State Board Examinations. The ICVA JA is due for completion sometime in 2017.

Veterinary Law Examination Analysis: The Board reviewed OPES's Veterinary Law Examination (VLE) recommendation at its January 2017 meeting and agreed to consider a statutory amendment to eliminate the VLE based on OPES's study findings. Staff will prepare additional information for the Board to consider this issue at a future meeting.

RVT AVMA Programs Application and Review

Staff reported at the January 2017 meeting that most RVT AVMA accredited programs were in compliance or coming into compliance per the Board's program application and review process. To date, the Board has received all required follow up documentation from schools that had reporting deficiencies and is in the final stages of notifying all California RVT AVMA accredited programs of their California approval.

Program approval is for a two year period. Programs remain subject to annual reporting requirements as well as inspection if deemed necessary by the Board.

Diversion Program

The next Diversion Evaluation Committee (DEC) meeting is scheduled for June 2017.

The DEC meets every January, June, and October. There are currently four participants in the Diversion Program.

DEC member Justin Johnson's term expires in June 2017 and has submitted a request for the Board to consider his reappointment.

BreEZe

Update [April 2016] – Due to statutory updates in SB 1193 (2016), staff initiated a Work Authorization (WA) with the Department's Change Control Board (CCB) in preparation for the implementation of the University License. At the October CCB meeting, the Board was approved for full Impact Analysis that includes initiating system design for the University License. Staff worked with the BreEZe team in October to design specifications for the new license and continues to provide necessary specifications and information as the new license type undergoes formal system design; staff has requested an expedited implementation of the license.

The CCB approved the WA for full implementation at its January 2017 meeting. The Board's WA has been given high-priority in relation to all total WAs that have been approved by the CCB and has been advised an implementation target date will be determined by August 2017 due to a critical BreEZe update planned for the Board of Optometry's pending WA.

Staff has begun preliminary work to initiate retroactive fingerprinting in accordance with California Code of Regulations section 2010.05 for those licensees who do not have electronic fingerprint records on file. Staff is in the process of determining the number of affected licensees in order to notify those individuals of their requirement to obtain fingerprints at time of license renewal.

Outreach

Website: Board staff has begun work to update and transition the Board's website to the new California State Template offered by the California Office of Technology Services (OTECH). The redesign provides major improvements and benefits such as a fully mobile and responsive design and a more modern look and feel. Additionally, Board staff is working to re-structure the site map to make information easier to find and improve the user's experience.

DCA's Office of Information Services (OIS) will be assisting with the migration and the goal is submit website changes to OIS by May 2017. The projected date of completion will be approximately September 2017. Various other Boards and Bureaus are currently performing their own website redesign so dates may vary based on OIS's workload.

Personnel

No updates at this time.

**Department of Consumer Affairs
Veterinary Medical Board
School Exam Results for Veterinary Technician National Exam (VTNE)
November - December 2016 Testing Window**

	Schools	Pass	Pass Pct	Fail	Fail Pct	Total Applicants
School Code AVMA & California Approved Schools						
158	Cal Poly State University	5	71.43	2	28.57	7
143	Carrington College - Citrus Heights	13	72.22	5	27.78	18
159	Carrington College - Pleasant Hill	10	47.62	11	52.38	21
146	Carrington College - Pomona	11	55.00	9	45.00	20
141	Carrington College - Sacramento	2	33.33	4	66.67	6
144	Carrington College - San Jose	6	40.00	9	60.00	15
140	Carrington College - San Leandro	6	75.00	2	25.00	8
142	Carrington College - Stockton	3	20.00	12	80.00	15
151	Consumnes River College	1	100.00	0	0.00	1
152	Foothill College	7	77.78	2	22.22	9
155	Mt. San Antonio	8	72.73	3	27.27	11
154	Pierce College	10	90.91	1	9.09	11
145	Pima Medical Inst. - Chula Vista	8	50.00	8	50.00	16
147	Platt College - Alhambra	5	45.45	6	54.55	11
131	Platt College - Ontario	0	0.00	0	0.00	0
134	Platt College - Riverside	4	100.00	0	0.00	4
909	San Diego Mesa College	13	92.86	1	7.14	14
132	San Joaquin Valley College, Fresno	7	36.84	12	63.16	19
157	Yuba College	0	0.00	0	0.00	0
Alternate Route Schools						
911	Allan Hancock College	0	0.00	0	0.00	0
902	Bakersfield College	0	0.00	0	0.00	0
901	Banfield	1	33.33	2	66.67	3
904	Heritage	2	66.67	1	33.33	3
903	Modesto Junior College	1	100.00	0	0.00	1
100	On the Job Training	57	54.81	47	45.19	104
908	Platt College - Alhambra	5	62.50	3	37.50	8
905	Santa Rosa Junior College	1	33.33	2	66.67	3
	Shasta College	0	0.00	0	0.00	0
907	Veterinary Allied Staff Education (VASE)	7	58.33	5	41.67	12
	Total for Exam Window	193	62.96	147	37.04	340

Hospital Inspection Program Update – March 2017

On February 1, routine inspections were suspended for the remainder of the fiscal year due to budget constraints. Unfortunately, we will fall short of the mandated 20% inspection goal for the 2017-2018 fiscal year, inspecting just 17% of the premises population.

Ride-alongs

Several board members participated in a ride-along recently. Ride-alongs for Enforcement staff began in January but have now been postponed until next fiscal year.

Minimum Standards

Staff met recently with the consultants in order to take a look at the issues raised by CVMA and OAL. Updates to the Hospital Standards Self-Evaluation Checklist have been identified; the consultants will review the changes before making final edits.

Outreach

Staff will also be working on Inspection FAQ's for the website as well as creating an Inspection webinar to educate the licensees on minimum standards and examples of compliance if they have been inspected.

Staffing

Additional recruitment efforts were made in the search to fill the vacancy on the premises licensing desk. Further interviews have taken place and we hope to make an official offer of employment soon.

Statistics (as of 2/28/17)

- Routine Inspections Assigned: 549
- Routine Inspection Performed: 476
- Routine Inspections Pending (not yet assigned): 117
- Complaint/Probation Related Inspections Performed: 29
- Complaint/Probation Related Inspections Pending: 43
- Document Review Status: reviewing compliance documents from September 2016 inspections
- Compliance Rate: 40% after initial inspection
- Expenditures: \$144,000 to date - Anticipated expenditures through end of the fiscal year may exceed \$200,000 with complaint and probation related expenditures.