



# MEMORANDUM

<b>Date</b>	December 29, 2023
<b>To</b>	Multidisciplinary Advisory Committee (MDC)
<b>From</b>	Kristi Pawlowski, RVT Cheryl Waterhouse, DVM
<b>Subject</b>	<b>Agenda Item 7. Discussion and Potential Recommendations on Frequently Asked Questions</b>

- a. **Assembly Bill (AB) 1399 (Friedman, Chapter 475, Statutes of 2023)**
- b. **Senate Bill (SB) 669 (Cortese, Chapter 882, Statutes of 2023)**

After each legislative session, Board staff develop outreach materials for consumers, licensees and stakeholders, so they understand the impact of new legislation. Due to the controversy and confusion surrounding recently passed legislation regarding new statutory provisions for the veterinarian-client-patient relationship (VCPR) ([AB 1399](#)) and registered veterinary technician (RVT) agent authority to create a VCPR on behalf of a veterinarian ([SB 669](#)), Board staff requested assistance from the MDC and the Board in drafting frequently asked questions (FAQs) for these new laws that go into effect on January 1, 2024.

For each bill, attached are FAQs and proposed answers. The FAQs came from licensees, attorneys, and the California Veterinary Medical Association. As current owners of multi-veterinarian practices, MDC members Kristi Pawlowski, RVT, and Cheryl Waterhouse, DVM, reviewed and provided input on the proposed answers.

### **Action Requested**

The MDC is asked to review and provide input on the attached FAQs. If approved, please entertain a motion to recommend the Board approve the FAQs, publish the FAQs on the Board’s website, and disseminate the FAQs to stakeholders.

### **Attachment**

1. Proposed AB 1399 FAQs
2. Proposed SB 669 FAQs

## VETERINARY MEDICAL BOARD

### AB 1399 Frequently Asked Questions

Assembly Bill (AB) [1399](#) (Friedman, Chapter 475, Statutes of 2023) went into effect on January 1, 2024, and places in statute the requirements for a veterinarian-client-patient relationship (VCPR) for a veterinarian to prescribe, dispense, or administer a drug, medicine, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals, as specified. (Business and Professions Code (BPC), § [4826.6](#).) AB 1399 also clarifies the requirements for providing veterinary telehealth. (BPC, §§ [4825.1](#), [4826.6](#), [4829.5](#), and [4853](#).) Provided below are frequently asked questions (FAQs) the Veterinary Medical Board (Board) has received from the public on the new laws and answers thereto.

These FAQs are intended to provide guidance to veterinary professionals implementing the new laws. If there are any interpreted discrepancies between these FAQs and the text of the statutes, the statutes are controlling, and the Board will enforce the statutes. Veterinary professionals should review the statutes to ensure compliance.

**1. Can a California licensed veterinarian use telemedicine to establish or continue treatment within an existing VCPR with an animal patient originally from California but currently not in California?**

No. For a California licensed veterinarian to provide veterinary medical services via telehealth, the animal patient must be located in California. (BPC, § [4826.6](#), subd. (f).) Authorizing a refill of an existing prescription for an animal patient located out of state is not considered telehealth.

**2. Does the client providing a California address suffice to satisfy the requirement that the animal patient is located in this state?**

No. The veterinarian must confirm with the client the animal patient is located in California at the time the telehealth services are being provided. (BPC, § [4826.6](#), subd. (f).)

**3. Can the veterinarian notify the client that “some prescription drugs or medications may be available at a pharmacy” by posting a notice in a virtual lobby?**

Yes. The requirement is to provide notice to the client that some prescription drugs or medications may be available at a pharmacy, but there is no specification on how that notice is provided. (BPC, § [4826.6](#), subd. (i)(7).) It should be noted that the prescribing veterinarian still must comply with all statutes and regulations in the Veterinary Medicine Practice Act and Pharmacy Law as it relates to veterinarians. This includes, but is not limited to, prescriber dispensing requirements listed in BPC section [4170](#).

- 4. If the prescription notice can be posted in the lobby, can it be incorporated into the existing notice requirement so that both disclosures are in one posting?”**

Yes. Both disclosures can be incorporated into one posting.

- 5. Since AB 1399 only requires veterinarians to notify the client that “some prescription drugs or medications may be available at a pharmacy,” does the veterinarian have to notify the client that the veterinarian can submit a prescription to the pharmacy of the client’s choice?**

Yes, the veterinarian must provide the client with written disclosure that the patient has a choice between obtaining the prescription from the veterinarian or obtaining the prescription at a pharmacy of the patient’s choice. (BPC, § [4170](#), subd. (a)(7).) In addition, before prescribing, the veterinarian must offer to give a written prescription to the client that the client may elect to have filled by the prescriber or by any pharmacy. (BPC, § [4170](#), subd. (a)(6).)

- 6. What are the privacy protection laws with which the veterinarian practicing veterinary medicine via telehealth must comply?**

Veterinarians practicing veterinary medicine via telehealth must comply with BPC section [4857](#). Since veterinarians may be subject to civil actions (not under the jurisdiction of the Board) for negligent release of confidential information, veterinarians may wish to familiarize themselves with laws related to such civil actions.

- 7. If the client does not provide the veterinarian with the animal patient’s relevant medical history or medical records, can the veterinarian provide veterinary telehealth for the animal patient?**

Telehealth cannot be used if the veterinarian does not obtain and review relevant medical history for the animal patient. However, medical records are not required to provide the relevant medical history; if medical records are available, the veterinarian would have to obtain and review those medical records. (BPC, § [4826.6](#), subd. (h)(2).)

- 8. If the veterinarian is required to “obtain and review the animal patient’s relevant medical history” and there isn’t any, does the veterinarian have to terminate the telehealth appointment?**

The veterinarian could not comply with the requirements for providing veterinary telehealth without having historical knowledge of the animal patient by obtaining and reviewing the animal patient’s relevant medical history. (BPC, § [4826.6](#), subd. (h)(2).)

**9. How will the Board verify that the veterinarian providing telehealth was familiar with available medical resources, including emergency resources, near the animal patient's location?**

If the Board asks the veterinarian whether they were familiar with available medical resources, including emergency resources, near the animal patient's location, the veterinarian would need to explain their familiarity with the available medical resources near the animal patient location. (BPC, § [4826.6](#), subd. (h)(4).) The veterinarian may be asked to submit documentation validating the explanation provided to the Board.

**10. If midway through an appointment the synchronous audio-visual communication is interrupted, can a VCPR be established solely by another form of electronic communication?**

No. To establish a VCPR via telehealth, the veterinarian must possess sufficient knowledge of the animal patient by examining the animal patient by use of synchronous audio-video communication. (BPC, § [4826.6](#), subd. (b)(2).) Synchronous audio-video communication is not required for veterinary telehealth after a VCPR has been established, unless the veterinarian determines that it is necessary to provide care consistent with prevailing veterinary medical practice. (BPC, § [4826.6](#), subd. (d).)

**11. Which definition of "antimicrobial" will the Board use to enforce the antimicrobial prescription by telehealth provision?**

Antimicrobial drugs are those drugs listed in Appendix A of the federal Food and Drug Administration's Guidance for Industry #152, including critically important, highly important, and important antimicrobial drugs, as that appendix may be amended.

**12. If a veterinarian prescribes medication via telehealth unknowingly to a racehorse or to a trainer registered to the California Horse Racing Board (CHRB), what type of documentation would the Board need for the veterinarian to prove that they were unaware of these circumstances?**

The veterinarian should confirm with the client that the horse is not engaged in racing or training at a facility under the jurisdiction of the CHRB prior to prescribing any drug or medication via telehealth. If the horse is engaged in racing or training at a facility under the jurisdiction of the CHRB, a veterinarian is prohibited from prescribing via telehealth any drug or medication for use on the horse. The veterinarian's lack of knowledge at the time of prescribing of the location of the horse or potential use of the prescribed drug or medication while the horse is engaged in racing or training is irrelevant in determining a violation of this provision. (BPC, § [4826.6](#), subd. (i)(8).)

**13. Can a veterinarian via telehealth change the dosage of a previously prescribed drug or medication for use on a horse engaged in racing or training at a facility under the jurisdiction of the CHRB?**

No. Any change to a previously prescribed drug or medication would constitute a new prescription and could not be done via telehealth for use on a horse engaged in racing or training at a facility under the jurisdiction of the CHRB. (BPC, § [4826.6](#), subd. (i)(8).)

**14. If a veterinary assistant and client are in a room located within a registered veterinary premises, can a veterinarian remotely perform an examination and ask the veterinary assistant to perform diagnostic tests as needed?**

Yes. If the veterinarian has determined a VCPR can be established via telehealth, the veterinary assistant can perform the diagnostic tests under indirect supervision of the veterinarian. Note that a veterinary assistant cannot obtain or administer anesthesia or controlled substances to perform diagnostic tests. (BPC, § [4836.1](#).) In addition, a veterinary assistant must be trained in radiation safety and techniques to operate radiographic equipment, which must be performed under the direct supervision of a registered veterinary technician (RVT) or licensed veterinarian. (BPC, § [4840.7](#), subd. (b).)

**15. Can a veterinary assistant give vaccinations under the direct supervision of the remote veterinarian performing the telemedicine examination?**

If the veterinarian is performing an examination by telehealth, the veterinarian is not providing direct supervision of the veterinary assistant. "Direct supervision" means: (1) the supervisor is physically present at the location where animal health care job tasks are to be performed and is quickly and easily available; and (2) the animal has been examined by a veterinarian at such time as good veterinary medical practice requires consistent with the particular delegated animal health care job task. (California Code of Regulations (CCR), tit. 16, § [2034](#), subs. (e).)

If a vaccination prescribed by the veterinarian is not a controlled substance or a dangerous drug that is restricted against access by a veterinary assistant, the veterinary assistant may administer the vaccination to the animal patient at the registered veterinary premises under indirect supervision of the veterinarian or direct supervision of an RVT. (BPC, § [4836.1](#), subs. (a), (b); CCR, tit. 16, §§ [2034](#), subs. (f), [2036.5](#), subs. (b).)

## Veterinary Medical Board

### SB 669 Frequently Asked Questions

Senate Bill (SB) [669](#) (Cortese, Chapter 882, Statutes of 2023) went into effect on January 1, 2024, and authorizes a veterinarian to allow a registered veterinary technician (RVT) to act as an agent of the veterinarian for the purpose of establishing the veterinarian-client-patient relationship (VCPR) to administer preventive or prophylactic vaccines or medications for the control or eradication of apparent or anticipated internal or external parasites, as specified. (Business and Professions Code (BPC), §§ [4826.7](#), 4840, subd. (d).) Provided below are frequently asked questions (FAQs) the Veterinary Medical Board (Board) has received from the public on this new law and answers thereto.

These FAQs are intended to provide guidance to veterinary professionals implementing the new laws. If there are any interpreted discrepancies between these FAQs and the text of any statutes, the statutes are controlling, and the Board will enforce the statutes. Veterinary professionals should review federal, state, and local laws to ensure compliance.

**1. Does the veterinarian and RVT have to have an agreement in place related to the administration of prophylactic vaccines and deworming agents?**

The new law requires the veterinarian and RVT to sign and date a statement that the veterinarian is authorizing the RVT to act as the agent of the veterinarian only to establish the VCPR for purposes of administering preventative or prophylactic vaccines or antiparasitic medications when acting in compliance with the protocols and procedures established by the veterinarian, and only until the date the veterinarian terminates that authorization. (BPC, § [4826.7](#), subd. (b)(5).)

The new law also requires the veterinarian and RVT to sign and date a statement containing an assumption of risk by the veterinarian for all acts, other than willful acts of animal cruelty, gross negligence, or gross unprofessional conduct, of the RVT related to examining the animal patient and administering preventative or prophylactic vaccines or antiparasitic medications. (BPC, § [4826.7](#), subd. (b)(4).)

**2. In a multi-veterinarian facility, which veterinarian signs the statements with the RVT?**

The veterinarian who is authorizing the RVT to act as the agent of the veterinarian to establish the VCPR to administer vaccines and antiparasitic medications and assumes the risk for all acts, other than willful acts of animal cruelty, gross negligence, or gross unprofessional conduct, of the RVT related to examining and administering the vaccines or antiparasitic medications is the

veterinarian who signs the statements with the RVT. (BPC, § [4826.7](#), subd. (b)(4), (5).)

In addition, if the RVT administers vaccines or antiparasitic medication at the registered veterinary premises, the veterinarian must be physically present at the registered veterinary premises in order for the RVT to administer the vaccines and antiparasitic medications. (BPC, § [4826.7](#), subd. (b)(1).)

If the RVT administers vaccines or antiparasitic medication at a location other than a registered veterinary premises, the veterinarian must be in the general vicinity or available by telephone and quickly and easily available. (BPC, § [4826.7](#), subd. (b)(2).)

**3. If a veterinary premises has multiple veterinarians and multiple RVTs, can all veterinarians and RVTs sign one document containing the required statements?**

Yes. Multiple veterinarians and RVTs may sign and date a single document containing the required statements. However, the RVT must inform each client of the specific veterinarian's name and veterinarian license number for whom the RVT is acting as an agent. (BPC, § [4826.7](#), subd. (b)(6).)

If multiple veterinarians sign one document containing the required statements, each veterinarian is required to retain a copy of the document for the duration of each RVT working as an agent of the veterinarian and until three years from the date of the termination of the veterinarian's relationship with the RVT. (BPC, § [4826.7](#), subd. (c)(1), (2).)

**4. Does "written protocols and procedures established by the veterinarian" mean that the veterinarian needs to write them, or can a veterinarian adopt a template set of protocols and procedures made by somebody else?**

The new law does not specify the veterinarian must create the written protocols and procedures utilized by the RVT. (BPC, § [4826.7](#), subd. (b)(3).) However, veterinarians adopting a template set of protocols and procedures must ensure that the written protocols and procedures include vaccination protocols and preventative procedures for parasite control for each animal species being administered vaccines and antiparasitic medications by the RVT. (BPC, § [4826.7](#), subd. (b)(3)(E), (F).)

**5. Who is responsible for entering the animal patient documentation into the medical record – the veterinarian or the RVT?**

Both the RVT and the veterinarian. The RVT is responsible for documenting the animal patient information in the medical record. (BPC, § [4826.7](#), subd. (b)(3)(A)-(G).) The new statute requires the RVT to comply with all requirements, including

documentation of specified animal patient information, to serve as the veterinarian's agent and establish the VCPR. If the RVT fails to document the animal patient information and subsequently administers vaccines or antiparasitic medication to the animal patient, the RVT would not have satisfied the requirements to act as the agent of the veterinarian to establish the VCPR.

If the VCPR requirements are not satisfied in accordance with BPC section [4826.7](#), the default VCPR requirements under BPC section [4826.6](#) would control – an RVT administering any treatment without the veterinarian establishing the VCPR would be acting outside the scope of the RVT's registration and engaging in the unlicensed practice of veterinary medicine.

The veterinarian also is responsible for ensuring all requirements listed in BPC section [4826.7](#), subdivision (b)(1) - (6) are satisfied. If the RVT did not satisfy the VCPR agent requirements, including documenting the required patient information, the veterinarian could be disciplined for, among other things, aiding and abetting unlicensed practice of veterinary medicine by the RVT and violating the documentation retention requirements under BPC section [4826.7](#), subdivision (c).

**6. If the medical records from an RVT appointment are insufficient, where does the responsibility lie?**

Both the veterinarian and RVT are responsible for ensuring compliance with the law. The RVT is required to document specified information, and the veterinarian assumes the risk for the acts of the RVT. (BPC, § [4826.7](#), subd. (b)(3), (4).)

**7. Does a veterinarian still have to be present at a vaccination clinic?**

If the vaccination clinic is held at the registered veterinary premises, the veterinarian must be physically present at the registered veterinary premises while the RVT administers the vaccines or antiparasitic medications. (BPC, § [4826.7](#), subd. (b)(1).) If the vaccination clinic is held at a location other than the registered veterinary premises, the veterinarian must be in the general vicinity or available by telephone and quickly and easily available. (BPC, § [4826.7](#), subd. (b)(2).)

**8. Can an RVT establish a VCPR for rabies vaccination?**

The new laws authorize an RVT, as an agent of the veterinarian, to establish a VCPR for the purpose of the RVT administering preventative or prophylactic vaccines and do not otherwise specify exemptions from that authority. However, pursuant to Health and Safety Code (HSC) section [121695](#), there may be local city and county ordinances regarding rabies vaccination that require veterinarian participation or more stringent requirements for the health and safety of the public in those jurisdictions. In addition, RVTs are required to comply with all



federal and state statutes, rules, and regulations pertaining to dangerous drugs or controlled substances. Failure to do so could result in discipline. (BPC, § [4883](#), subd. (g)(3).)

Rabies control also is regulated and enforced by the California Department of Public Health in accordance with the HSC and supporting regulations. Veterinary professionals are encouraged to review the rabies vaccination requirements under the HSC, as well as the local city and county ordinances for additional rabies vaccination requirements. The Board also notes that in the event a canine animal patient is precluded from the administration of a rabies vaccine, only the veterinarian can make a determination that a rabies vaccination would endanger the dog's life due to disease or other considerations that the veterinarian can verify and document. (HSC, § [121690](#), subd. (b)(2).)

**9. What documentation is required to prove that the VCPR was established?**

BPC section [4826.7](#), subdivision (b)(3)(A), (B), (C), and (G), and (6)(B), lists the minimum information to be documented in the animal patient's medical record to show the VCPR was established prior to administration of the vaccine or antiparasitic medication.

**10. Can an RVT dispense annual vaccine/antiparasitic medication to be administered by the client to the animal patient?**

An RVT is not authorized to act as the veterinarian's agent to establish a VCPR in order to prescribe or dispense any medication. To dispense a drug or medication, the veterinarian must establish a VCPR and prescribe the drug or medicine to be dispensed. (BPC, § [4826.6](#), subd. (a).)

An RVT can dispense a drug or medication previously prescribed by the veterinarian who established the VCPR.

**11. If a client wants a written prescription for parasite control medications, how would the veterinarian accomplish this to satisfy VCPR requirements if the RVT has acted as the veterinarian's agent during the appointment?**

The ability of the RVT to examine the patient and establish the VCPR as an agent of the veterinarian is only authorized for the purpose of administering vaccines and antiparasitic medication. (BPC, § [4826.7](#), subd. (b).) To provide to the client a written prescription for antiparasitic medications, the veterinarian would have to establish the VCPR. (BPC, § [4826.6](#), subd. (a).)

**12. If a client wants a written prescription for parasite control medications, can the veterinarian review the information collected by the RVT, meet the client and patient, and issue the prescription?**

No. The veterinarian could not rely on the examination performed by the RVT as the agent of the veterinarian. (BPC, § [4826.6](#), subd. (a).)

**13. Can an RVT perform a heartworm test and interpret the results to determine the health of the animal patient to inject heartworm preventative medication?**

SB [669](#) authorizes an RVT to examine the animal patient and requires the RVT to obtain data from the physical exam to diagnose and assess the animal patient's health to receive vaccinations or antiparasitic medication. (BPC, § [4826.7](#), subd. (b)(3)(B), (G)(vii), (ix).) As such, it appears SB [669](#) authorizes an RVT to perform diagnostic heartworm testing, interpret the results, and, if appropriate, inject heartworm preventative medication.

Veterinarians are reminded that they are assuming the risk for all acts of the RVT related to examining the animal patient and administering preventive or prophylactic vaccines or medications for the control or eradication of apparent or anticipated internal or external parasite, short of willful acts of animal cruelty, gross negligence, or gross unprofessional conduct on behalf of the registered veterinary technician. (BPC, § [4826.7](#), subd. (b)(4).)

## **Hypothetical Scenario**

Jane Smith, DVM, has authorized John Doe, RVT, to be Dr. Smith's agent to perform examinations, establish a VCPR, and administer vaccinations under SB 669. John examines Fido, a new patient, and vaccinates him for DHPP and Flu, the immunizations for which he is due.

- 1. Can John perform a Heartworm blood test on Fido, and if negative for Heartworm, inject a medication that prevents Heartworm for 12 months?**

Yes.

SB 669 says the RVT can examine the animal patient, collect data from the physical examination, diagnose or assess the animal patient, and *administer* vaccines and antiparasitic medications, which means the RVT directly applies, injects, or gives orally the medication to the animal patient. Performing a Heartworm blood test assists the RVT in determining the health of the animal patient for purposes of administering Heartworm preventative medication.

- 2. Fido's last Heartworm blood test was one year ago. Can John do a Heartworm blood test, and if negative, dispense Heartworm preventative medication?**

No. John is not authorized under SB 669 to *dispense* medications. Dispensing medication means the medication would not be administered by the RVT; instead, the medication would be given to the client or the client's agent to administer the medication to the animal patient. No medication can be dispensed, prescription or nonprescription, unless the DVM (not the RVT) established the VCPR for the animal patient and prescribed the medication.

- 3. Can John dispense Heartworm preventive medication if Dr. Smith examined Fido six months ago but did not dispense the medication because Fido did not need a refill yet?**

No, unless John is dispensing a refill of a medication previously prescribed by Dr. Smith and authorized by Dr. Smith for refill.

- 4. If Dr. Smith in the above scenario did not dispense medication but she made a notation in the medical records that Fido needed a Heartworm test in six months and approved a refill of the medication, can John perform a Heartworm blood test and dispense Heartworm preventative medication?**

No. In this scenario, John would be performing a diagnostic test related to Dr. Smith's prior VCPR. For John to perform the test and dispense the medication, Dr. Smith would have to: (1) instruct John to perform the diagnostic test; (2) review the test results; (3) diagnose or assess Fido as healthy enough to receive the Heartworm preventative medication; and (4) authorize a refill of the medication.