



# MEMORANDUM

<b>DATE</b>	July 12, 2024
<b>TO</b>	Veterinary Medical Board (Board)
<b>FROM</b>	Jessica Sieferman, Executive Officer
<b>SUBJECT</b>	<b>Agenda Item 5. A. Review, Discussion, and Possible Action on Proposed Legislation to Amend Business and Professions Code (BPC) Section 4883 Regarding Authority to Discipline for Antimicrobial Drug Violations</b>

Representatives from the California Department of Food and Agriculture (CDFA), Animal Health Food Safety Services Division (AHFSS), Antimicrobial Use and Stewardship Program are seeking assistance from the Board in enforcing antimicrobial drug violations.

## **Background**

Pursuant to Senate Bill (SB) 27 (Hill, Chapter 758, Statutes of 2015), on January 1, 2018, new statutory restrictions when into effect limiting the use of medically important antimicrobial drugs on livestock. Among other things, SB 27 prohibited the administration of medically important antimicrobial drugs, as defined, to livestock unless ordered by a licensed veterinarian through a prescription or veterinary feed directive (VFD), pursuant to a veterinarian-client-patient relationship (VCPR). (See Food and Agricultural Code (FAC), § [14401](#).) Federal regulations prescribe the information required to be documented in a VFD issued by a veterinarian. (21 CFR § 514.1(b)(3).) SB 27 also established civil penalties for violations of the new statutes but excluded veterinarians from those provisions and, instead, stated the veterinarian may be subject to disciplinary sanctions pursuant to the Veterinary Medicine Practice Act (VMPA) if the Board determines that a veterinarian is in violation of the VMPA. (FAC, § [14408](#), subs. (a), (c).)

## **Issue**

AHFSS has reported recent issues involving veterinarians failing to properly comply with the federal VFD requirements. Since AHFSS does not have authority under FAC section [14408](#) to enforce the antimicrobial drug requirements against a veterinarian, AHFSS has reached out to the Board for assistance.

## **Discussion**

Business and Professions Code (BPC) section 4883 establishes grounds for which the Board may discipline veterinary professionals. Although BPC section 4883, subdivision (g), establishes grounds for discipline for unprofessional conduct, and paragraph (3) of that subdivision states grounds for discipline for 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 substance, the statute is unclear on the Board's enforcement authority regarding the VFD requirements under the FAC and federal law.

After the CDFA presentation during the July Board meeting, the Board will be asked to consider the following legislative proposal to amend BPC section 4883 to clarify the Board's authority to enforce antimicrobial drug and VFD requirements under the FAC and federal law (proposed amendments in underlined text):

**4883.** The board may deny, revoke, or suspend a license or registration or assess a fine as provided in Section 4875 for any of the following:

[...]

(g) Unprofessional conduct, that includes, but is not limited to, the following:

[...]

(3) A violation of any federal statute, rule, or regulation or any of the statutes, rules, or regulations of this state regulating dangerous drugs, including antimicrobial drugs in animal feed, or controlled substances.

[...]

### **Action Requested**

Please entertain a motion to include in the Board's 2025 Sunset Review Report a recommendation to the California State Legislature for the above legislative proposal to amend BPC section 4883 regarding disciplinary grounds for unprofessional conduct regarding antimicrobial drugs in animal feed.

# Need for VMB authority to help enforce Antimicrobial Use & Stewardship laws



Edie Marshall, DVM, MPVM, DACVPM

California Veterinary Medical Board

July 24, 2024

# Why is this legislation needed?



- CDFA AUS was formed by and implements Food and Agriculture Code (FAC) 14400-14408
- CDFA does not oversee or regulate veterinarians
- Veterinarians are required to adhere to both State and Federal regulations regarding medically important antimicrobial drugs (MIADs)

# Example of the limits of our efforts



- Veterinary Feed Directives (VFDs) are similar (but not identical) to prescription orders for administration of MIADs in feed (21CFR558.6)
- CDFA AUS collects copies of all VFDs filled in California (FAC 14406)
  - Reviewed for accuracy and to annually report summary statistics on MIAD sales
- CDFA AUS provides outreach and education on VFDs
  - Feed mill / feed distributor employees
  - ***Veterinarians who submit VFDs with errors***
- Range of VFD errors identified
  - Missing information: signatures, addresses, mixing directions, etc.
  - Incorrect information: dosing, indication, product concentration, etc.

# Example of the limits of our efforts (cont.)



- CDFA AUS reaches out to educate veterinarians with errors
- Many veterinarians are receptive and responsive
- ***What to do when a veterinarian ignores our outreach and continues to make the same mistake(s) over and over?***
  - Dr. Doe had been repeatedly making the same errors as far back as 2019
  - AUS reached out to Dr. Doe starting in early 2022
    - Dr. Doe only responded to contact #5 in 2024 (2 years later) after a Notice of Warning was issued to a licensed feed distributor that Dr. Doe had been dealing with for VFD fulfillment