

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. VETERINARY MEDICAL BOARD

PROPOSED REGULATORY LANGUAGE

Civil Penalties for Citations

Legend:	Added text is indicated with an <u>underline</u> . Omitted text is indicated by (* * * *) Deleted text is indicated by strikeout .
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Amend section 2043 of Article 5.5 of Division 20 of Title 16 of the California Code of Regulations to read as follows:

§ 2043. Civil Penalties for Citation.

When the executive officer determines that a violation has occurred and issues a citation to a licensee or an unlicensed person, that citation shall include its classification and may include an assessment of a civil penalty. The classification of athe citation shall be as follows:

- (a) Class "A" violations involve a person who, ~~while engaged in the practice of veterinary medicine,~~ has violated a statute or regulation relating to the practice of veterinary medicine but has not caused either death or harm to an animal patient and has not presented a substantial probability that death or serious harm to an animal patient could result from the violation. A class "A" violation is subject to a civil penalty in an amount not less than two hundred and fifty dollars (\$250) and not exceeding three thousand dollars (\$3,000) for each citation.
- (b) Class "B" violations involve a person who, ~~while engaged in the practice of veterinary medicine,~~ has violated a statute or regulation relating to the practice of veterinary medicine and either (1) has caused harm to an animal patient, or (2) has presented a substantial probability that death or serious harm to an animal patient could result from the violation, or (3) has committed a violation which meets the criteria for a class "A" violation and has two or more prior citations for a class "A" violation within the 5-year period immediately preceding the act serving as the basis for the citation. However, the increase in the civil penalty required by this subsection shall not be due and payable unless and until the actions to enforce the previous citations have been terminated in favor of the board. A class "B" violation is subject to a civil penalty in an amount not less than one thousand dollars (\$1,000) and not exceeding four thousand dollars (\$4,000) for each citation.
- (c) Class "C" violations involve a person who, ~~while engaged in the practice of veterinary medicine:~~ (1) has caused death or serious harm to an animal patient, or (2) has committed a violation that has endangered the health or safety of another person or animal, or (3) has committed multiple violations that show a willful

disregard of the law, or (4) has committed a violation that meets the criteria for a class "B" violation within the 5-year period immediately preceding the act serving as the basis for the citation. However, the increase in the civil penalty required in this subsection shall not be due and payable unless and until the actions to enforce the previous citations have been terminated in favor of the board. A class "C" violation is subject to a civil penalty in an amount not less than two thousand dollars (\$2,000) and not exceeding five thousand dollars (\$5,000) for each citation.

- (d) In assessing the amount of a civil penalty, the executive officer shall consider the following criteria:
- (1) The nature and severity of the violation.
 - (2) Evidence that the violation was willful.
 - (3) History of violations of the same or similar nature.
 - (4) The extent to which the cited person has cooperated with the board's investigations.
 - (5) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation.
 - (6) Such other matters as justice may require.
- (e) Notwithstanding the foregoing, in all situations involving unlicensed persons practicing veterinary medicine, the citation shall be a class "C" violation, and the civil penalty shall be in an amount no less than two thousand dollars (\$2,000) and not exceeding more than five thousand dollars (\$5,000) for each citation as defined in subsection (c) above.
- (f) Every citation that is issued pursuant to this article shall be considered a public document. Citations that have been resolved, by payment of the civil penalty or compliance with the order of abatement, shall be purged five (5) years from the date of resolution, unless the licensee is subject to formal discipline within five (5) years immediately following the citation order, at which time the citation may become part of the permanent enforcement record. A citation that has been withdrawn or dismissed shall be purged immediately upon withdrawal or dismissal.
- (g) An order of abatement issued pursuant to section 4875.2 of the Code shall fix a reasonable time for abatement of the violation. An order of abatement may require any or all of the following:
- (1) That the individual to whom the citation was issued demonstrate how future compliance with the laws and regulations related to the violation for which the citation was issued will be accomplished. The demonstration may include, but is not limited to, submission of a written corrective action plan.

- (2) That the individual to whom the citation was issued take a course offered by a Board-approved provider, related to the violation for which the citation was issued. Any courses taken to satisfy the order of abatement shall be individually approved by the Board and in addition to those required as continuing education for license renewal.

Note: Authority cited: Sections 125.9, 4808 and 4875.4, Business and Professions Code. Reference: Sections 12.5, 125.9, 148, 4826, 4846.5, 4875.2 and 4875.4, Business and Professions Code.