



## MEMORANDUM

<b>DATE</b>	January 23, 2019
<b>TO</b>	Veterinary Medical Board
<b>FROM</b>	Amanda Drummond, Administrative Programs Coordinator
<b>SUBJECT</b>	<b>Agenda Item 8.D - Section 2003, Article 1, Section 2017, Article 2, and Section 2042, Article 5, Division 20, Title 16 of the CCR Regarding the Consumer Protection Enforcement Initiative (CPEI)</b>

### Background:

In April 2017, the Board adopted a version of the regulatory proposal for Consumer Protection Enforcement Initiative (CPEI). The regulatory packet was submitted for Department of Consumer Affairs (DCA) review in May of 2017. In January of 2018, the Board received suggested revisions from the Deputy Director of Legal Affairs, including substantive changes to the proposed language. At the [February 2018 Board meeting](#), the Board reviewed these changes and made amendments to the proposed language. Board staff submitted the CPEI regulatory package to DCA for pre-review effective 05/02/2018. In December of 2018, the Business, Consumer Services and Housing Agency (Agency) provided recommendations to the Board about amending the proposed languages. These changes require further review and consideration by the Board.

The changes include the following:

- Renaming sections 2017 and 2042 for clarity
- Adding BPC section [4883](#) to the reference of section 2017
- Clarifying in section 2017 when the Board will conduct a mental or physical evaluation and identifying the parameters of when the Board will determine this examination should be conducted
- Removing the requirement for the applicant to report to the Board if they have been convicted of a crime due to the restrictions from [AB 2138](#)

### Attachments:

Proposed Consumer Protection Enforcement Initiative Language. The recommended changes are shown in red for clarification purposes.

## VETERINARY MEDICAL BOARD

### CONSUMER PROTECTION ENFORCEMENT INITIATIVE (CPEI)

#### PROPOSED LANGUAGE

Amend Section 2003, Article 1, Division 20, Title 16 of the California Code of Regulations to read as follows:

#### **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 107, 4804.5, 4808, 4836.2, 4837, 4853.5, 4853.6, 4875, 4875.3, and 4883, Business and Professions Code; Sections 11415.60, 11500, 11501, 11502, 11503, 11504, 11504.5, 11505, 11506, 11507, 11507.3, 11507.5, 11507.6, 11507.7, 11508, 11509, 11511, 11511.5, 11511.7, 11512, 11513, 11514, 11515, 11516, 11517, 11518, 11518.5, 11519, 11519.1, 11520, 11521, 11522, 11523, 11524, 11526, 11527, and 11528, Government Code.

Adopt Section 2017, Article 2, Division 20, Title 16 of the California Code of Regulations to read as follows:

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

In addition to any other requirements for licensure, when considering the approval of an application 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 if it reasonably appears that the applicant may be unable to practice veterinary medicine safely due to mental or physical illness affecting competency. The board shall pay the full cost of such examination. The board shall seek that the evaluation be conducted within 60 days of the date the applicant is advised that the examination is required. The board shall receive the examiner's evaluation within 60 days of the date the examination is completed. 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, and 4883, Business and Professions Code.

Adopt Section 2042, Article 5, Division 20, Title 16 of the California Code of Regulations to read as follows:

**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 any public agency in any state or territory or any licensing entity or authority of this state or another state or territory, any agency of the federal government or United States military, or a foreign country.~~

(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 141, 475, 480, 490, 4856, 4875, and 4883, Business and Professions Code.