Department of Consumer Affairs

Veterinary Medical Board

Department of Consumer Affairs
1747 N. Market Blvd.
1st Floor Hearing Room
Sacramento, California

Wednesday, July 17, 2019
10:00 a.m.

Thursday, July 18, 2019
9:00 a.m.

Board Members

Jaymie Noland, DVM, President
Cheryl Waterhouse, DVM, Vice President
Kathy Bowler, Public Member
Christina Bradbury, DVM
Jennifer Loredo, RVT
Mark Nunez, DVM
Alana Yanez, Public Member

Executive Officer

Jessica Sieferman

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BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • VETERINARY MEDICAL BOARD
1747 North Market Blvd., Suite 230, Sacramento, CA 95834-2987
P (916) 515-5220 | Toll-Free (866) 229-0170 | www.vmb.ca.gov

SECOND AMENDED MEETING NOTICE AND AGENDA
VETERINARY MEDICAL BOARD

Board Members
Jaymie Noland, DVM, President
Cheryl Waterhouse, DVM, Vice President
Kathy Bowler
Christina Bradbury, DVM
Jennifer Loredo, RVT
Mark Nunez, DVM
Alana Yanez

July 17-18, 2019

Department of Consumer Affairs
1747 N. Market Blvd.
1st Floor Hearing Room
Sacramento, California 95834

Action may be taken on any item listed on the agenda.

10:00 a.m. Wednesday, July 17, 2019

1. Call to Order/Roll Call/Establishment of a Quorum

2. Introductions

3. 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).)

4. Review and Approval of April 17-18, 2019 Board Meeting Minutes

5. Report and Update from Department of Consumer Affairs (DCA)

6. Review, Discussion, and Possible Action on Multidisciplinary Advisory Committee (MDC) Report – *Jeff Pollard, DVM*

7. Discussion and Possible Action on California Department of Food and Agriculture (CDFA) Guidelines for Veterinarians: Judicious Use of Antimicrobials in Livestock – *Annette Jones, DVM, CDFA, and Roselle Busch, DVM, CDFA*

8. Update, Discussion, and Possible Action Related to Pet Cremation Services – *Dennis Cuevas-Romero, Deputy Director, Division of Legislative Affairs, DCA, and Gina Sanchez, Bureau Chief, Cemetery and Funeral Bureau*

9. Discussion and Possible Action Regarding Potential Legislation Related to Business and Professions Code Section 4827 and Animal Shelter Services

10. Update, Discussion, and Possible Action on 2019 Legislation
    A. Assembly Bill (AB) 312 (Cooley, 2019) State government: administrative regulations: review
    B. AB 366 (Bloom, 2019) Animals: blood, blood components, and biologics
    C. AB 496 (Low, 2019) Business and professions
    D. AB 528 (Low, 2019) Controlled substances: CURES database
    E. AB 544 (Brough, 2019) Professions and vocations: inactive license fees and accrued and unpaid renewal fees

F. AB 611 (Nazarian, 2019) Sexual abuse of animals
G. AB 613 (Low, 2019) Professions and vocations: regulatory fees
H. AB 1230 (Quirk, 2019) Veterinary medicine: declawing animals
I. AB 1553 (Fong, 2019) Animal impoundment
J. Senate Bill (SB) 53 (Wilk, 2019) Open meetings
K. SB 202 (Wilk, 2019) Animal blood donors
L. SB 627 (Galgiani, 2019) Medicinal cannabis and medicinal cannabis products: veterinary medicine

11. Update, Discussion, and Possible Action on Proposed Regulations
    A. Status Update on Pending Regulations
    B. Sections 2027 and 2027.5, Article 3, Division 20, Title 16 of the California Code of Regulations (CCR) Regarding DVM Graduates and Students of Veterinary Colleges – Job Tasks and Eligibility for R.V.T. Licensure
    C. Section 2032.1, Article 4, Division 20, Title 16 of the CCR Regarding Veterinarian-Client-Patient Relationship and Telemedicine

12. Discussion and Possible Action on Draft 2020 Sunset Review Report

13. Board President Report – *Jaymie Noland, DVM*

14. Registered Veterinary Technician Report – *Jennifer Loredo, RVT*

15. Executive Management Reports
    A. California Horse Racing Board Collaboration
    B. Budget
    C. Enforcement
    D. Licensing/Examination
    E. Hospital Inspection

16. Future Agenda Items and Next Meeting Dates

17. Recess until July 18, 2019, at 9:00 a.m.

9:00 a.m. Thursday, July 18, 2019

18. Reconvene - Establishment of a Quorum

19. Enforcement and Discipline Process Overview – *Robert Stephanopoulos, Enforcement Manager, and Karen Denvir, Deputy Attorney General and Board Liaison, Office of the Attorney General, Department of Justice*

20. Effective Probation Drug and Alcohol Monitoring, Specimen Selection, Evaluation, and Related Issues – *James L. Ferguson, DO, FASAM, Medical Director, Recovery Management Services*

21. Update, Discussion, and Possible Action Regarding Uniform Standards for Substance Abusing Licensees Subcommittee Report – *Mark Nunez, DVM, and Kathy Bowler*

22. Petition for Termination of Probation - Shanna Tungloong, RVT, Registration No. 11243 *(1:00 p.m.)*

CLOSED SESSION

23. Pursuant to Government Code Section 11126(c)(3), the Board Will Deliberate on the Above Petition and Disciplinary Actions

24. Pursuant to Government Code Section 11126(a)(1), the Board will meet in closed session to discuss the Executive Officer Evaluation

RECONVENE OPEN SESSION

25. 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. Items scheduled for a particular day may be moved to an earlier or later day to facilitate the effective transaction of business. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public.

This meeting will be webcast, provided there are no unforeseen technical difficulties or limitations. To view the webcast, please visit **thedcapage.wordpress.com/webcasts/** 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. Meeting adjournment may not be webcast if it is the only item that occurs after a closed session.

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 to participate in the meeting may make a request by contacting the Board at (916) 515-5220, email: vmb@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

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MEETING MINUTES
VETERINARY MEDICAL BOARD

Mission Inn Hotel
3649 Mission Inn Avenue
Riverside, California 92501

10:00 a.m. Wednesday, April 17, 2019

1. Call to Order/Roll Call/Establishment of a Quorum

Dr. Jaymie Noland called the Veterinary Medical Board (Board) meeting to order at 10:00 a.m. Executive Officer, Ms. Jessica Sieferman, called roll; seven members of the Board were present, and a quorum was established.

2. Board President's Remarks, Board Member Comments and Introductions

Members Present
Jaymie Noland, Doctor of Veterinary Medicine (DVM), President
Cheryl Waterhouse, DVM, Vice President
Kathy Bowler, Public Member
Christina Bradbury, DVM
Jennifer Loredo, Registered Veterinary Technician (RVT)
Mark Nunez, DVM
Alana Yanez, Public Member

Staff Present
Jessica Sieferman, Executive Officer
Robert Stephanopoulos, Enforcement Manager
Moneel Singh, Administrative Program Manager
Amanda Drummond, Administrative Program Analyst
Tara Welch, Legal Counsel

Guests Present
Leslie Boudreau, California Registered Veterinary Technicians Association (CaRVTA)
Katherine Buff, RVT, County of Riverside
Mark Cushing, Animal Policy Group
Nancy Ehrlich, CaRVTA
Stacey Evans, Stacey Evans Consulting, LLC
Valerie Fenstermaker, California Veterinary Medical Association (CVMA)
Charis Fifield, VETCBD
Cindy Gonzalez, County of Riverside
Nancy Grittman, American Association of Veterinary State Boards (AAVSB)

Paul Hansbury, Lovingly and Legally Grown
Jeffrey Leacox, Esq., Greenberg Traurig
Bonnie Lutz, Esq.
Max Mikalonis, K Street Consulting
Grant Miller, DVM, CVMA
Elaine Myers, CaRVTA
John Pascoe, DVM, University of California, Davis (UC Davis)
Ken Pawlowski, DVM, CVMA
Emma Perez-Singh, County of Riverside
Jaymie Peyton, DVM, UC Davis
Jeff Pollard, DVM, Board Multidisciplinary Advisory Committee (MDC)
Tim Shu, DVM, VETCBD
Richard Sullivan, DVM
Susan Tibbon, Lovingly and Legally Grown
David Urrutia, County of Riverside

3. Public Comment on Items Not on the Agenda

No public comments were received.

4. Review and Approval of January 23-24, 2019 Board Meeting Minutes

The Board made minor changes to the January 23-24, 2019 meeting minutes. Dr. Noland also clarified that in her Board President Report at the January 2019 meeting, the $10 million in cannabis research to be requested by Assemblymember Kalra in a new cannabis bill would be for human research, and Assemblymember Kalra's office was researching whether some of those funds could be allocated to animal cannabis research.

- Dr. Mark Nunez moved and Ms. Kathy Bowler seconded the motion to approve the minutes as amended. The motion carried 7-0.

5. Report and Update from Department of Consumer Affairs

Ms. Sieferman reported on behalf of the Department of Consumer Affairs (DCA), which provided a letter report as a DCA representative was unable to attend the meeting. The Board inquired as to the status of the Executive Officer salary study, and Ms. Sieferman advised that DCA is aiming for the end of April for the study to be completed.

6. Review, Discussion, and Possible Action on Multidisciplinary Advisory Committee (MDC) Report

A. Overview of the April 16, 2019 MDC Meeting

Dr. Jeff Pollard, MDC Chair, addressed the Board regarding the MDC discussion. Dr. Pollard provided an overview of the corporate practice discussion that the MDC held, including a review of approximately 500 survey results regarding corporate practice. The Board asked about the bias of the survey and the control of the survey results, and Ms. Sieferman advised that the intent of the survey was not to provide a statistical analysis, but just to identify if corporate practice is an issue and if it requires further research. Members of the public also provided their input on the discussion, including to encourage the Board to conduct further research into the issue before pursuing any legislative changes. Dr. Pollard advised that the survey would remain open and the MDC would continue working on this issue. The MDC also discussed the development of the cannabis discussion guidelines. The Board and members of the public discussed this issue, and Dr. Pollard advised that with current pending legislation, the MDC guidelines may change. The cannabis discussion guidelines will continue to be a topic at July MDC meeting, and the MDC will be providing their final recommendations to the Board before the January 2020 deadline.

B. MDC Recommendations to Amend Sections 2035.5 and 2030.6, Article 4, Division 20, Title 16 of the California Code of Regulations (CCR) Regarding Minimum Standards and Protocols for Shelter Medicine

Dr. Pollard presented the language approved by the MDC at the January meeting regarding minimum standards and protocols for shelter medicine. Members of the public provided recommended changes for the Board to consider for clarity and consistency purposes. The Board made the following changes to the proposed language:

- Amend CCR section 2035.5 (g) to add "by an RVT, VACSP, or veterinary assistant" so the sentence will read "Rabies vaccines may be administered by an RVT, VACSP, or veterinary assistant to an owned animal…" for clarity purposes.
- Amend CCR section 2030.6 (r)(1) to add the term "surgery" so the sentence will read "A surgery room, separate and distinct from all other rooms" for consistency with the other subsections.
- Amend CCR section 2030.6 (r)(4) to replace the term "surgical" with "surgery" so the sentence will read "The surgery room shall not contain a functional sink with an open drain" for consistency with the other subsections.
- Amend CCR section 2030.6 (r)(5) to strike "…when aseptic surgery services are provided" as it was redundant.

- Ms. Jennifer Loredo moved and Ms. Kathy Bowler seconded the motion to approve the proposed regulatory changes as modified, direct the Executive Officer to take all steps necessary to initiate the rulemaking process, authorize the Executive Officer to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day public comment period, and if no adverse comments are received during the 45-day comment period and no hearing is requested, adopt the proposed regulatory changes. The motion carried 7-0.

7. Interviews, Discussion, and Possible Appointment to Fill Vacant Veterinarian MDC Position

Dr. Noland addressed the Board that there was one vacancy on the MDC for a veterinarian position and five applications were received. Of the five applications, two were chosen to be interviewed by the Board. The Board interviewed Dr. Richard Sullivan and Dr. Jaymie Peyton for the vacancy of the veterinarian position with the MDC. Both Dr. Sullivan and Dr. Peyton provided an overview of their experience, skills, and background, and answered questions posed by the Board.

- Dr. Mark Nunez moved and Ms. Kathy Bowler seconded the motion to appoint Dr. Richard Sullivan to the vacant veterinarian position on the MDC. The motion carried 7-0.

8. Update, Discussion, and Possible Board Action on 2019 Legislation

A. Update on Pet Cremation Legislative Proposal

Ms. Sieferman provided an update that staff and legal counsel met with DCA and the California Cemetery and Funeral Bureau (CFB) about this issue, and CFB advised during their sunset review that they would work with DCA in the future to research this issue and propose solutions at a later time. Ms. Sieferman advised that further research is required at this time, and she does not anticipate any further legislation on these issues this session.

B. Assembly Bill (AB) 312 (Cooley, 2019) State government: administrative regulations: review

Ms. Sieferman provided an overview of AB 312, which was introduced in response to the Little Hoover Commission's 2011 Report. This bill would require each state agency, by January 1, 2022, to review all regulations and identify any outdated regulations. It would be a huge undertaking. and per the Assembly Appropriations Committee analysis, it would cost the Office of Administrative Law (OAL) $2 million to implement and would require over $10 million in general and special funds to implement. The bill is currently on suspense.

Ms. Sieferman stated that the concept was important, and she is dedicated to reviewing the current regulations and identifying any outdated information; but at this high fiscal cost and with the strict timeline, the bill is unnecessary.

- Ms. Kathy Bowler moved and Ms. Alana Yanez seconded the motion to watch AB 312. The motion carried 6-0-1. Dr. Christina Bradbury abstained.

The Board also discussed starting to work on this issue preemptively, as it is a large task, and recommended sending the task to the MDC.

- Dr. Mark Nunez moved and Dr. Cheryl Waterhouse seconded the motion to delegate to the MDC to review current regulations and identify any regulations that are duplicative, overlapping, or outdated. The motion carried 7-0.

C. AB 366 (Bloom, 2016) Animals: blood, blood components, and biologics

Ms. Sieferman provided an overview of AB 366 regarding animal blood banks. The hearing for this bill is set for April 25, 2019, and it is currently in the Assembly. The bill after January 1, 2020, would eliminate the "closed colony model" for blood banks. The executive committee expressed concerns with this bill, including the safety of the product produced, the volume of the blood products needed, the production and availability of blood production products, and the environment of donor animals. The Board and members of the public held a discussion regarding the closed colony model in comparison to the community model, as well as the intent behind this bill and the quality of life for donor dogs.

- Dr. Mark Nunez moved and Dr. Cheryl Waterhouse seconded the motion to oppose AB 366. The motion carried 4-2-1. Ms. Kathy Bowler and Ms. Alana Yanez voted no, and Ms. Jennifer Loredo, RVT, abstained.

D. AB 496 (Low, 2019) Business and professions

Ms. Sieferman provided an overview of AB 496. She stated that there was little to this bill now and anticipated that it would be changing, as it currently only contained non-substantive changes.

- Dr. Christina Bradbury moved and Dr. Cheryl Waterhouse seconded the motion to watch AB 496. The motion carried 7-0.

E. AB 611 (Nazarian, 2016) Sexual abuse of animals

Ms. Sieferman provided an overview of AB 611 regarding sexual abuse of animals. This bill would amend the law to make sexual abuse a misdemeanor for all animals. This bill is with the Senate and has passed through Assembly. Ms. Valerie Fenstermaker noted that Section 2 of the bill, Penal Code section 286.5(b) needs to be revised to change the term "certified veterinary technician" to "registered veterinary technician" as this is the term used in the Veterinary Medicine Practice Act, and the phrase "under the guidance of a licensed veterinarian" should be revised to state "under the supervision of a licensed veterinarian." Ms. Fenstermaker advised that CVMA also has adopted a support position for this bill.

- Dr. Christina Bradbury moved and Dr. Cheryl Waterhouse seconded the motion to support AB 611. The motion carried 7-0.

F. AB 613 (Low, 2019) Professions and vocations: regulatory fees

Ms. Sieferman provided an overview of AB 613 and that this bill would allow boards to make minor incremental changes to their fees without proceeding through the regulatory process. Legal counsel noted that the language would appear only to authorize the Board to make fee increases once every four years through the new process, even though an initial increase in license fees may not be generating the money the Board expected. Ms. Sieferman stated that the bill does not remove the Board's ability to go through the regular rulemaking process to increase fees as needed and is intended to provide a streamlined means to increase the fees.

- Ms. Kathy Bowler moved and Dr. Cheryl Waterhouse seconded the motion to support AB 613 if amended to clarify the bill does not eliminate the Board's ability to obtain a fee increase via [regulatory] means. The motion carried 7-0.

G. AB 1230 (Quirk, 2016) Veterinary medicine: declawing animals

Ms. Sieferman provided an overview of AB 1230 regarding declawing. This bill would prohibit declawing with the exception of therapeutic declaws. The executive committee addressed a concern with the author's office where the bill originally required veterinarians to submit a report for a therapeutic declaw and the Board would be required to investigate the report. The author's office subsequently amended the bill to remove this requirement and instead require the veterinarian to document the therapeutic declaw in the medical record. The Board expressed concerns with outlawing declawing of cats, as it would encourage back-alley declaw procedures, contribute to additional cats not having homes, and that legislation should not dictate the practice of veterinary medicine.

- Dr. Cheryl Waterhouse moved and Ms. Kathy Bowler seconded the motion to oppose AB 1230. The motion carried 6-1. Ms. Alana Yanez voted no.

H. AB 1553 (Fong, 2016) Animal impoundment

Ms. Sieferman provided an overview of AB 1553 regarding animal impoundment. The bill makes non-substantive and technical changes.

- Dr. Mark Nunez moved and Ms. Kathy Bowler seconded the motion to support AB 1553. The motion carried 7-0.

I. Senate Bill (SB) 53 (Wilk, 2016) Open meetings

Ms. Sieferman provided an overview of SB 53 regarding opening meetings. This bill would require that any committee, including task forces and subcommittees of two people to be subject to the Open Meeting Act. Ms. Sieferman commented that subcommittees and task forces do not take official action but primarily perform research and make recommendations to the Board. This bill would be inefficient, costly, and make it difficult for the Board to complete tasks without providing public notice.

- Dr. Mark Nunez moved and Dr. Christina Bradbury seconded the motion to oppose SB 53. The motion carried 7-0.

J. SB 202 (Wilk, 2016) Animal blood donors

SB 202 was discussed with AB 366.

Ms. Sieferman provided an overview of SB 202 regarding animal blood banks. This bill is different from AB 366, as it does not eliminate the closed colony model, but allows community blood banks and makes the closed colony records available to public records requests.

- Dr. Mark Nunez moved and Dr. Christina Bradbury seconded the motion to support SB 202. The motion carried 7-0.

K. SB 627 (Galgiani, 2016) Medical cannabis and medicinal cannabis products: veterinary medicine

Ms. Sieferman provided an overview of SB 627 regarding medical cannabis in veterinary medicine. This bill would authorize a licensee to recommend, dispense, and administer cannabis to an animal. The Board had concern over the bill regarding the lack of information and research on the effects of cannabis in treating animals and the lack of disciplinary action the Board could take if a veterinarian is negligent or incompetent. Multiple public comments were received in support of this bill and clarified that the bill would not authorize licensees to dispense medical cannabis for animals until it is made federally legal. The Board discussed the qualifications of a veterinarian prior to administering, dispensing, or recommending cannabis to animal patients, including the need to take a continuing education course and what conditions should be met prior to endorsing or recommending cannabis products.

- Dr. Cheryl Waterhouse moved and Ms. Jennifer Loredo seconded the motion to oppose SB 627. The motion carried 5-2. Dr. Christina Bradbury and Ms. Alana Yanez voted no.

- Dr. Mark Nunez moved and Dr. Christina Bradbury seconded the motion to delegate to the MDC to determine what conditions must be met for the Board to approve or endorse the recommendations of cannabis products. The motion carried 6-1. Dr. Cheryl Waterhouse voted no.

9. Update, Discussion, and Possible Action Regarding SB 1480 (Hill, Chapter 571, Statutes of 2018), Business and Professions Code Section 4829.5, Drug Consultation

Ms. Sieferman advised the Board that there are concerns regarding the FAQ that is posted on the Board's website, specifically relating to whether a drug consultation is required to be offered for drugs administered at the veterinary premises. The Board and the public discussed the bill, and the Board determined that the terms "dispense" and "furnish" do not include "administration," and the Board did not interpret the law to require drug consultations for drug administration. Additionally, the Board determined that while the animal is within the hospital, it is up to the veterinarian in charge to monitor the patient for any drug side effects, not the owner, so it would not be necessary to offer to provide drug consultation services for drugs administered at the veterinary premises. Whereas, when the client takes the medication home, the client would need to be advised of the side effects to watch for an adverse event.

The Board and veterinary medicine practitioners determined that outpatient procedures include many surgical procedures, such as spay and neuter procedures and other procedures that may include anesthesia. Board members and the public expressed the significant difficulty and potential harm to the patient in performing outpatient services that may require administration of medication to the animal patient if the veterinarian had to stop treatment to contact the client and offer to provide the drug consultation. Public comment noted that spay and neuter services

provided to the community would be significantly delayed if the veterinarians had to discuss with each client every anesthetic and pre-anesthetic drug that may be given to the animal patient. In addition, community vaccination events would also be significantly delayed if veterinarians had to go through the litany of possible side effects for each vaccination to be given to each animal patient.

Public comment referenced the existing requirement under California Code of Regulations, title 16, section 2032.1, subdivision (b)(3), the veterinarian-client-patient relationship, which requires the veterinarian to communicate with the client a course of treatment appropriate to the circumstance, and that communication includes the drug consultation to the client for drugs administered to the animal patient at the veterinary premises. Public comment expressed that adding a new requirement to provide the drug consultation for drugs administered to the animal patient would be duplicative of the existing regulatory requirement to communicate the treatment plan that includes the drug consultation. Public comment noted that regulation already covers the scenario when the veterinarian administers the drug to the animal patient, and the statute, BPC section 4829.5, covers the scenario for drug consultation when the client administers the medication to the animal patient at home. Further, the significant list of requirements under BPC section 4829.5 are proving confusing for veterinarians trying to comply with the new requirements, which currently have several provisions that would not apply to administered medications. Members of the public also commented on this discussion and echoed the opinions the Board expressed.

10. Update, Discussion, and Possible Action on Proposed Regulations

A. Status Update on Pending Regulations

Due to time constraints, the Board did not discuss this agenda item in detail. Documentation was provided in the Board packet that reflected a status update on pending regulations.

B. Sections 2027 and 2027.5,Article 3, Division 20, Title 16 of the CCR Regarding DVM Graduates – Veterinary Technician Registration

Due to time constraints, the Board held this discussion on the second day of meetings.
Legal counsel, Ms. Tara Welch, provided an overview of this topic. In January 2017, the Board looked at this topic and the existing regulation that authorized DVM graduates to work as an RVT without obtaining registration. Last year, legislation passed that closed that loophole. The Board was presented with the language previously approved by the Board that will be brought back to the Board in July with amendments to reflect the new statute for their consideration and review. Additionally, the Board will discuss at the July meeting if they wish to authorize veterinary students who have not graduated to take the RVT examination, and how much schooling should be completed before they are authorized to take that examination.

C. Sections 2003, Article 1, Section 2017, Article 2, and Section 2042, Article 5, Division 20, Title 16 of the CCR Regarding Consumer Protection Enforcement Initiative (CPEI)

Due to time constraints, the Board held this discussion on the second day of meetings.

Ms. Amanda Drummond addressed the Board that the CPEI rulemaking was noticed by OAL on March 8, 2019, and the comment period for this regulatory package remains open from March 8 until April 22, 2019. To date, one comment was received. Ms. Drummond provided a summary of the comment and a recommended response of the Board for their consideration. The Board made minor amendments to the comment, including that while they understand the concerns raised in the comment, that the Board lacks the authority or resources to provide mental health services to licensees, but that licensees are encouraged to utilize the resources provided by professional organizations.

- Dr. Mark Nunez moved and Ms. Kathy Bowler seconded the motion to approve the recommended response, as amended, to the CPEI comment received. The motion carried 7-0.

11. Update, Discussion, and Possible Action Regarding Uniform Standards for Substance Abusing Licensees Subcommittee Report

Due to time constraints, the Board held this discussion on the second day of meetings.

Dr. Mark Nunez provided an update from the subcommittee on behalf of himself and Ms. Kathy Bowler. Previously, the Board approved language and chose option 3 to trigger the uniform standards following determination by a judge that a licensee is a substance abuser. Ms. Sieferman provided an overview of the research that the DCA Substance Abuse Coordination Committee has conducted and their findings. Dr. Nunez provided their recommendations and updated the he and Ms. Bowler will review the recommendations from the DCA Substance Abuse Coordination Committee to incorporate into the Board regulatory proposal. Ms. Sieferman advised that she will take the recommendations and formulate them to model conditions to ensure there is no confusion on how to implement these conditions and bring the results to the July meeting.

12. Update, Discussion, and Possible Action Regarding the Administration of the California Veterinary Technician Examination

Ms. Sieferman addressed the Board and stated that this topic was discussed at the January meeting when the Board requested research be completed to determine if the California Veterinary Technician Examination (CVTE) and Veterinary Technician National Examination (VTNE) could be combined into one examination to help eliminate costs for RVTs. Ms. Sieferman reviewed the CVTE and determined that there were no gaps between the CVTE and the VTNE, and that the CVTE is a jurisprudence examination and is not meeting the requirements in statute to qualify this examination to remain. Ms. Sieferman advised that the

Board has the ability to unapprove the CVTE and that there are other options to ensure that RVTs understand the regulations, including an affidavit. AAVSB provided a comparative analysis for the Board and determined that the VTNE does meet the needs for California RVTs to become licensed. Additional public comment received from stakeholders encouraged the Board to unapprove the CVTE as it presents as a financial barrier to RVTs obtaining initial licensure.

- Dr. Mark Nunez moved that the Board pursue through legislation and develop an affidavit under penalty of perjury that the RVT applicants have read the California regulations and legislation and eliminate the CVTE. The motion was withdrawn.

- Dr. Christina Bradbury moved and Ms. Jennifer Loredo seconded the motion to unapprove the CVTE that is currently being administered. The motion carried 7-0.

13. Review and Possible Approval of Records Retention Schedule

Due to time constraints, the Board did not discuss this agenda item.

14. Board President Report – Jaymie Noland, DVM

Due to time constraints, the Board did not discuss this agenda item.

15. Registered Veterinary Technician Report – Jennifer Loredo, RVT

Due to time constraints, the Board did not discuss this agenda item.

16. Executive Officer and Staff Reports

A. Administrative/Budget

Due to time constraints, the Board did not discuss this agenda item in detail. Documentation was provided in the Board packet that reflected a status update on administration/budgets.

B. Enforcement

Due to time constraints, the Board held this discussion on the second day of meetings.

Mr. Robert Stephanopoulos addressed the Board and provided a brief update on the enforcement unit and the statistics contained in the report, including how a change in processing will help reduce Attorney General (AG) costs. Mr. Stephanopoulos stated that staff has been proactive in working with the AG's office and reduced the timelines for pending cases. The Board also discussed subject matter expert trainings and ways to improve upon the processes and recommendations from experts.

C. Licensing/Examination

Due to time constraints, the Board did not discuss this agenda item in detail. Documentation was provided in the Board packet that reflected a status update on licensing/examinations.

D. Hospital Inspection

Due to time constraints, the Board did not discuss this agenda item in detail. Documentation was provided in the Board packet that reflected a status update on hospital inspections.

E. Strategic Plan Update

Due to time constraints, the Board did not discuss this agenda item in detail. Documentation was provided in the Board packet that reflected a status update on the strategic action plan.

17. Future Agenda Items

Due to time constraints, the Board held this discussion on the second day of meetings.

Dr. Noland inquired as to the status of the July meeting, as members of the public are having a difficult time finding affordable lodging. Ms. Sieferman advised that she is working to find reasonable accommodations for the July meeting and would update the Board. If accommodations cannot be found in the Bay Area, the Board will hold the meeting in Sacramento.

Ms. Bowler requested that a future agenda item be to have a representative from a lab come and speak to the Board about drug testing results and how to better interpret results for purposes of disciplinary decisions.

18. Recess until Thursday, April 18, 2019, at 9:00 a.m.

The meeting was recessed at 6:05 p.m.

9:00 a.m., Thursday, April 18, 2019

19. Reconvene - Establishment of a Quorum

Dr. Noland called the Board meeting to order at 9:05 a.m. Dr. Noland called roll; seven members of the Board were present, and a quorum was established.

20. Introductions

Members Present
Jaymie Noland, DVM, President
Cheryl Waterhouse, DVM, Vice President
Kathy Bowler, Public Member
Christina Bradbury, DVM
Jennifer Loredo, Registered Veterinary Technician (RVT)
Mark Nunez, DVM
Alana Yanez, Public Member

Staff Present
Jessica Sieferman, Executive Officer
Robert Stephanopoulos, Enforcement Manager
Amanda Drummond, Administrative Program Analyst
Sidney Villareal, Probation Monitor
Tara Welch, Legal Counsel

Guests Present
Patrick Fong, County of Riverside
Lisa Grosso, Petitioner
Vallera J. Johnson, Administrative Law Judge (ALJ), Office of Administrative Hearings
Amanda Jones, Petitioner
Miranda McCroskey, Attorney
Tory Polin, Deputy Attorney General (DAG), Office of the Attorney General, Department of Justice
Maria Sanchez, Kennedy Court Reporters

21. Special Order of Business

A. Petition for Reinstatement – Lisa Grosso, Registration No. 9644

ALJ Johnson presided over the petition for reinstatement. DAG Tory Polin updated and presented the case against Ms. Lisa Grosso. Ms. Grosso and her legal representation, Ms. Miranda McCroskey, presented her case for the petition for reinstatement. Ms. Grosso answered questions from the DAG and members of the Board. ALJ Johnson closed the hearing.

B. Petition for Termination of Probation – Amanda Jones, RVT, Registration No. 12441

ALJ Johnson presided over the petition for termination of probation. DAG Tory Polin updated and presented the case against Ms. Amanda Jones. Ms. Jones represented herself and presented her petition for reinstatement. Ms. Jones answered questions from the DAG and members of the Board. ALJ Johnson closed the hearing.

CLOSED SESSION

22. Pursuant to Government Code Section 11126(c)(3), the Board Will Deliberate on Disciplinary Actions.

Petition for Reinstatement – Lisa Grosso, Registration No. 9644
The Board moved to grant the petition for reinstatement of licensure.

Petition for Termination of Probation – Amanda Jones, RVT, Registration No. 12441
The Board moved to grant the petition for termination of probation.

In the Matter of the Accusation Against Samuel A. Thomas, DVM, and Pet Headquarters Veterinary Hospital – Case No. 1002459437
The Board moved to adopt the decision after rejection.

In the Matter of the Accusation Against Glen Weber, DVM - Case No. 4602016000354, OAH No. 2018030477
The Board moved to adopt the decision after rejection and dismiss the accusation.

23. Adjournment

- Dr. Cheryl Waterhouse moved, and Dr. Mark Nunez seconded, to adjourn the meeting.

The meeting adjourned at 4:37 p.m.

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MEMORANDUM

DATE	July 17, 2019
TO	Veterinary Medical Board
FROM	Jessica Sieferman, Executive Officer
SUBJECT	**Agenda Item 7. Discussion and Possible Action on California Department of Food and Agriculture (CDFA) Guidelines for Veterinarians: Judicious Use of Antimicrobials in Livestock**

The California Department of Food and Agriculture (CDFA) Antimicrobial Use and Stewardship (AUS) developed *Guidelines for Veterinarians: Judicious Use of Antimicrobials in Livestock* and requests Board feedback prior to finalizing. For more detailed information, please refer to the attached documents.

Attachments:

1. CDFA Background Memo
2. Original SB 27 bill analysis
3. California's Livestock: Use of Antimicrobial Drugs law
4. Revised Judicious Use Guidelines (Producer)
5. Revised Judicious Use Guidelines (Veterinarian)
6. A similar bill proposed in New York
7. CDFA Presentation to the VMB

June 24, 2019

Dear member of the California Veterinary Medical Board,

California Senate Bill 27 (Hill), signed by Governor Brown on October 10, 2015, resulted in additions to the California Food and Agricultural Code (Division 7, Chapter 4.5, Sections 14400-14408; attached PDF pg. 14-16) that address the sales and use of medically important antimicrobial drugs for livestock, development of voluntary antimicrobial stewardship guidelines and best management practices, and monitoring of antimicrobial use as well as antimicrobial resistance patterns in bacteria. The California Department of Food and Agriculture (CDFA), responsible for the implementation of 4.5 FAC § 14400-14408, requested funding for the development of the Antimicrobial Use and Stewardship (AUS) program. Funding was made available on July 1, 2016, and initial positions were filled between November of 2016 and March of 2017.

Specific conditions of the law became effective January 1, 2018, requiring all previously over the counter medically important antimicrobial drugs (MIADs) to be administered with a prescription or veterinary feed directive ordered by a California licensed veterinarian under a valid veterinarian-client-patient relationship (FAC 14401). Additionally, veterinarians may decide to use MIADs in livestock to treat, control the spread of, and, in some cases, prevent disease or infection (FAC 14402). The law prohibits the administration of MIADs in a regular pattern to prevent disease unless they are necessary in relation to surgery or a medical procedure (FAC 14402(d)). Although the FDA had requested the removal of growth promotion indications from all MIADs, which went into effect on January 1, 2017, 14402(d) was added to address concerns that MIADs would be used for continuous durations at lower than therapeutic doses for growth promotion under the guise of disease prevention. The attached transcript of the Assembly Floor Analysis (PDF pg. 1-3), dated one month prior to the signing of SB 27, provides documentation of this concern.

CDFA AUS maintains a transparent process of implementation and openly receives feedback from all stakeholders. Upon the development of the program, several stakeholder groups, especially consumer and environmental advocacy groups, requested clarification of “regular pattern” (FAC 14402(d)). In response, CDFA AUS released an educational statement for veterinarians and livestock producers regarding the meaning of “regular pattern” in August of 2017. The statement was removed from the website in October 2017 after concerns were raised by a number of stakeholder groups. At that time, some stakeholder groups recommended that the Department promulgate regulations to clarify what specific regular pattern practices are prohibited by law; example regulations were suggested. CDFA AUS determined that the suggested language did not define “regular pattern” as intended, but instead described specific scenarios to be prohibited. A set of example scenarios cannot account for the complexity and nuance that goes into the medical decision-making process performed by a licensed veterinarian. Further, CDFA does not have the authority to regulate the practice of veterinary medicine, only gather on-farm and voluntarily submitted information from livestock producers, as well as provide recommendations for antimicrobial stewardship.

The standard of veterinary medical practice evolves in California and is solely enforceable through the Veterinary Medicine Practice Act by the Veterinary Medical Board (FAC 14408). An alternative regulatory approach is being considered in a New York bill that requires the VMB to enforce a similar type of law, with additional prohibitions and requirements (PDF pg. 33-38). In California, the Department has advised that clarification be communicated through guidelines, as the professional judgment of a veterinarian is essential to justifying the use of MIADs.

The *Guidelines for Veterinarians: Judicious Use of Antimicrobials in Livestock*, developed by AUS, are based on sound scientific principles and highlight relevant laws that must be considered in the decision-making process for antimicrobial therapy in livestock medicine. The guidelines have been in a revision process for two years in an effort to gain consensus from all stakeholder groups. AUS program intends to promote effective antimicrobial stewardship by encouraging engagement in antimicrobial use and resistance monitoring and education for both veterinarians and producers.

We look forward to discussing the implementation of SB 27 (specifically 4.5 FAC § 14402) further at your Board meeting on July 17, where we hope you might contribute the Board's large body of expertise to the concluding edits of this document.

Thank you for your careful review of this matter.

CDFA Antimicrobial Use and Stewardship

(Without Reference to File)

SENATE THIRD READING
SB 27 (Hill)
As Amended September 10, 2015
Majority vote

SENATE VOTE: 25-10

Committee	Votes	Ayes	Noes
Agriculture	7-1	Perea, Gallagher, Cooper, Dodd, Eggman, Irwin, Salas	Grove
Appropriations	15-0	Gomez, Bloom, Bonta, Calderon, Chang, Nazarian, Eggman, Gallagher, Eduardo Garcia, Holden, Jones, Rendon, Wagner, Weber, Wood	
Agriculture	7-0	Perea, Gallagher, Dodd, Irwin, Jones-Sawyer, Mathis, Quirk	

SUMMARY: Prohibits, beginning January 1, 2018, the use of medically important anti-microbial drugs (MIAMs) for the treatment of livestock animals, except pursuant to a prescription or feed directive from a licensed veterinarian and when, in the professional judgment of a licensed veterinarian, the MIAMs are necessary: 1) to treat a disease or infection; 2) to control the spread of disease or infection; or 3) in relation to surgery or a medical procedure. This bill allows for prophylaxis to prevent the elevated risk of disease transmission or infection and forbids the use of MIAMs for growth promotion and feed efficiency. Specifically, **this bill**:

1) In order to implement and monitor compliance with the MIAM rules, the bill requires the California Department of Food and Agriculture (CDFA) to:

   a) Coordinate with the federal Food and Drug Administration (FDA) to develop a program to track antimicrobial drug sales, use, resistance, and management practices; and,

   b) Develop antimicrobial stewardship guidelines on good management practices in consultation with the Veterinary Medical Board (VMB), the California Department of Public Health (DPH), universities, and cooperative extensions; and,

   c) Conduct outreach and training, and report to the Legislature by January 1, 2019, the results of outreach and monitoring activities.

FISCAL EFFECT: According to the Assembly Appropriations Committee, this bill has:

1) Estimated General (GF) and Special Fund (SF) costs of approximately $864,000 in 2015-16 and $4.8 million in 2016-17 to develop programs, stewardship guidelines, monitoring systems and procedures, and regulations, as well as begin training, inspections, and MIAMs use tracking. Annual GF and SF costs of approximately $4.3 million thereafter to continue

training, inspections, and tracking. Some of these costs may be funded from federal and local sources, and potentially offset in part with civil fine revenue.

2) Potentially significant costs to VMB and DPH to help develop stewardship guidelines and training materials.

COMMENTS: Antimicrobial drugs have been widely used in human medicine since the 1940s. Antimicrobial drugs have significant health benefits in both human and animal medicine, and are important and valuable tools used to treat and prevent illness and infection. Incidences of antimicrobial resistance have been recorded over time and, if left unchecked, pose a threat to public health.

The Centers for Disease Control and Prevention (CDC) estimates that in the United States, more than two million people are sickened every year with antibiotic-resistant infections, with at least 23,000 infections resulting in death. CDC notes that the use of antibiotics is the single most important factor leading to antibiotic resistance around the world. Up to 50% of all antibiotics prescribed for people are either not needed or not optimally effective as prescribed. Antibiotics are also used in food-producing animals for the purpose of promoting growth, which CDC recommends phasing out.

The FDA has issued several industry recommendations regarding the use of MIAMs in the feed and drinking water of food-producing animals. The recommendations contained in Guidance for Industry #152, #213, and #219 establish lists of antibiotics important to human health, promote judicious use of those drugs in food production, and encourage veterinary oversight to ensure compliance with industry best practices.

In March 2015, President Obama issued a national action plan on combating antibiotic-resistant bacteria. The five-year action plan articulated goals of slowing the emergence of resistant bacteria, strengthening surveillance efforts, advancing the development and use of rapid diagnostics to identify resistant bacteria, accelerate development of new antibiotics, treatments, and vaccines, and improve collaboration among stakeholders. For antimicrobial use in food animals, the plan seeks to implement FDA guidance.

According to the author, overuse and misuse of antibiotics in livestock animals, especially antibiotics important in human medicine, contributes to antibiotic resistance. To address the overuse and misuse, this bill is intended to ensure veterinary oversight; encourage judicious use of MIAMS and prohibit use for growth promotion and other nontherapeutic purposes; and, monitor MIAM sales, usage, management practices, and resistance.

According to supporters, many antimicrobials used in food production are currently available at feed stores and online, without any veterinary prescription or oversight and this bill will stop this practice along with making all use of MIAMs require a prescription. Furthermore, supporters argue the prophylactic use exception has been carefully crafted for judicious use of MIAMs, and the bill explicitly forbids MIAM use for growth promotion and feed efficiency.

While recent amendments removed much of the opposition, those still opposed argue this bill explicitly authorizes the routine use of antibiotics on animals that are not sick through the exception for prophylactic use to prevent disease transmission or infection. Opponents fear prophylactic use will allow back door use for nontherapeutic purposes, and is precisely the low-

dose use that contributes most to resistant bacteria. Furthermore, opponents assert that surveillance of MIAM use in food animal production needs to be mandatory.

Analysis Prepared by: Victor Francovich / AGRI. / (916) 319-2084 FN: 0002319

FOOD AND AGRICULTURAL CODE - FAC

DIVISION 7. AGRICULTURAL CHEMICALS, LIVESTOCK REMEDIES, AND COMMERCIAL FEEDS [12500 - 15340] *(Division 7 enacted by Stats. 1967, Ch. 15.)*

CHAPTER 4.5. Livestock: Use of Antimicrobial Drugs [14400 - 14408] *(Chapter 4.5 added by Stats. 2015, Ch. 758, Sec. 1.)*

14400. For purposes of this chapter, the following definitions apply:

(a) "Medically important antimicrobial drug" means an antimicrobial drug 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.

(b) "Livestock" means all animals and poultry, including aquatic and amphibian species, that are raised, kept, or used for profit. Livestock does not include bees or those species that are usually kept as pets, such as dogs, cats, and pet birds.

(c) "Veterinary feed directive" has the same definition as in Section 558.3 of Title 21 of the Code of Federal Regulations.

(Added by Stats. 2015, Ch. 758, Sec. 1. (SB 27) Effective January 1, 2016.)

14401. Beginning January 1, 2018, a medically important antimicrobial drug shall not be administered to livestock unless ordered by a licensed veterinarian through a prescription or veterinary feed directive, pursuant to a veterinarian-client-patient relationship that meets the requirements of Section 2032.1 of Title 16 of the California Code of Regulations.

(Added by Stats. 2015, Ch. 758, Sec. 1. (SB 27) Effective January 1, 2016.)

14402. (a) Beginning January 1, 2018, a medically important antimicrobial drug may be used when, in the professional judgment of a licensed veterinarian, the medically important antimicrobial drug is any of the following:

(1) Necessary to treat a disease or infection.

(2) Necessary to control the spread of a disease or infection.

(3) Necessary in relation to surgery or a medical procedure.

(b) A medically important antimicrobial drug may also be used when, in the professional judgment of a licensed veterinarian, it is needed for prophylaxis to address an elevated risk of contraction of a particular disease or infection.

(c) A person shall not administer a medically important antimicrobial drug to livestock solely for purposes of promoting weight gain or improving feed efficiency.

(d) Unless the administration is consistent with subdivision (a), a person shall not administer a medically important antimicrobial drug in a regular pattern.

(Added by Stats. 2015, Ch. 758, Sec. 1. (SB 27) Effective January 1, 2016.)

14403. (a) Notwithstanding Sections 14401 and 14402 of this code and Article 15 (commencing with Section 4196) of Chapter 9 of Division 2 of the Business and Professions Code, medically important antimicrobial drugs may be sold by retailers licensed pursuant to Article 5 (commencing with Section 14321) of Chapter 4 of Division 7 with a prescription or veterinary feed directive from a licensed veterinarian.

(b) This section shall not be construed to invalidate the requirement to obtain a prescription or veterinary feed directive to administer a medically important antimicrobial drug as required by Section 14401.

(c) The department may promulgate regulations to implement this section.

(Added by Stats. 2015, Ch. 758, Sec. 1. (SB 27) Effective January 1, 2016.)

14404. (a) The department, in consultation with the Veterinary Medical Board, the State Department of Public Health, universities, and cooperative extensions, shall develop antimicrobial stewardship guidelines and best management practices for veterinarians, as well as livestock owners and their employees who are involved with administering medically important antimicrobial drugs, on the proper use of medically important antimicrobial drugs for disease treatment, control, and prevention. The guidelines shall include scientifically validated practical alternatives to the use of medically important antimicrobial drugs, including, but not limited to, the introduction of effective vaccines and good hygiene and management practices.

(b) The department shall consult with livestock producers, licensed veterinarians, and any other relevant stakeholders on ensuring livestock timely access to treatment for producers in rural areas with limited access to veterinary care.

(c) For purposes of this section, "antimicrobial stewardship" is a commitment to do all of the following:

(1) To use medically important antimicrobial drugs only when necessary to treat, control, and, in some cases, prevent, disease.

(2) To select the appropriate medically important antimicrobial drug and the appropriate dose, duration, and route of administration.

(3) To use medically important antimicrobial drugs for the shortest duration necessary and to administer them to the fewest animals necessary.

(Added by Stats. 2015, Ch. 758, Sec. 1. (SB 27) Effective January 1, 2016.)

14405. (a) It is the intent of the Legislature that the department coordinate with the United States Department of Agriculture, the federal Food and Drug Administration, and the federal Centers for Disease Control and Prevention to implement the expanded antimicrobial resistance surveillance efforts included in the National Action Plan for Combating Antibiotic-Resistant Bacteria, and that the information gathered through this effort will help lead to a better understanding of the links between antimicrobial use patterns in livestock and the development of antimicrobial resistant bacterial infections.

(b) (1) The department shall gather information on medically important antimicrobial drug sales and usage, as well as antimicrobial resistant bacteria and livestock management practice data. Monitoring efforts shall not be duplicative of the National Animal Health Monitoring System and the National Antimicrobial Resistance Monitoring System, and, to the extent feasible, the department shall coordinate with the United States Department of Agriculture, the federal Centers for Disease Control and Prevention, and the federal Food and Drug Administration in the development of these efforts.

(2) In coordinating with the National Animal Health Monitoring System and the National Antimicrobial Resistant Monitoring System, the department shall gather representative samples from all of the following:

(A) California's major livestock segments.

(B) Regions with considerable livestock production.

(C) Representative segments of the food production chain.

(c) The department shall work with willing participants to gather samples and shall consult with, and conduct outreach to, livestock producers, licensed veterinarians, and any other relevant stakeholders on the implementation of the monitoring efforts. Participation in this effort shall be done in a manner that does not breach veterinary-client-patient confidentiality laws.

(d) (1) The department shall report to the Legislature by January 1, 2019, the results of its outreach activities and monitoring efforts. The department shall advise the Legislature as to whether or not participation is sufficient to provide statistically relevant data. The report shall be submitted in compliance with Section 9795 of the Government Code.

(2) This subdivision is inoperative on January 1, 2023, pursuant to Section 10231.5 of the Government Code.

(e) The department shall seek funds from federal, state, and other sources to implement this section.

(f) The department may promulgate regulations to implement this section.

(Added by Stats. 2015, Ch. 758, Sec. 1. (SB 27) Effective January 1, 2016.)

14406. The department has the authority to request and receive copies of veterinary feed directives from the livestock owner, veterinarian, or distributor to fully implement the provisions of this chapter.

(Added by Stats. 2015, Ch. 758, Sec. 1. (SB 27) Effective January 1, 2016.)

14407. Notwithstanding the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), any information provided pursuant to this chapter and Section 14902.5, if that section is added by Senate Bill 770 of the 2015–16 Regular Session of the Legislature, shall be held confidential, and shall not be disclosed to any person or governmental agency, other than the department or the Veterinary Medical Board, for the purposes of enforcing the Veterinary Medicine Practice Act (Chapter 11 (commencing with Section 4800) of Division 2 of the Business and Professions Code), unless the data is aggregated to prevent the identification of an individual farm or business. Information may be shared with federal agencies so long as it is protected by the federal Confidential Information Protection and Statistical Efficiency Act of 2002 (Public Law 107-347).

(Added by Stats. 2015, Ch. 758, Sec. 1. (SB 27) Effective January 1, 2016.)

14408. (a) A person who violates this chapter shall be liable for a civil penalty of not more than two hundred and fifty dollars ($250) for each day a violation occurs.

(b) (1) For a second or subsequent violation, a person who violates this chapter shall be punishable by an administrative fine, levied by the secretary, in the amount of five hundred dollars ($500) for each day a violation occurs.

(2) In addition to the administrative fine, the violator shall attend an educational program on the judicious use of medically important antimicrobial drugs that has been approved by the secretary. The violator shall successfully complete the program and provide proof to the secretary within 90 days from the occurrence of the violation.

(c) Subdivisions (a) and (b) do not apply to licensed veterinarians. If the Veterinary Medical Board determines that a veterinarian is in violation of the Veterinary Medicine Practice Act (Chapter 11 (commencing with Section 4800) of Division 2 of the Business and Professions Code), the veterinarian may be subject to disciplinary sanctions pursuant to the act.

(d) The moneys collected pursuant to this article shall be deposited into the Department of Food and Agriculture Fund and shall be available for expenditure upon appropriation by the Legislature.

(Added by Stats. 2015, Ch. 758, Sec. 1. (SB 27) Effective January 1, 2016.)

Guidelines for Judicious Use of Antimicrobials in Livestock

The core foundation for antimicrobial stewardship and judicious use of antibiotics in livestock is an effective relationship between a veterinarian and livestock owners. Biosecurity and herd health plans developed and revised under the guidance of a veterinarian are vital to maintain productivity, animal health and welfare, as well as a safe and secure food supply. Livestock owners, and their employees responsible for animal care, play a critical role in the success of a herd health plan. Recognizing early signs of illness in animals, such as slight changes in behavior, requires skill and experience, and it demonstrates a dedication to animal care and stockmanship. Various tools and/or scoring systems (e.g., monitoring feed and water consumption, calf health scores, the California Mastitis Test, and automated animal health trackers) may assist with the training and day-to-day activities of those responsible for animal care.

In California, the potential use of medically important antimicrobial drugs (hereafter referred to as antibiotics) in livestock must be deemed necessary under the professional judgment of a California licensed veterinarian, within the context of a valid veterinarian-client-patient relationship (VCPR) and in accordance with current veterinary medical practice and legal parameters.[a] To use antibiotics effectively and responsibly, a veterinarian must first develop a preliminary or general diagnosis, or have an indication of elevated risk of disease or infection.[b,c] The diagnostic process includes consideration of the history, clinical judgement, and epidemiological knowledge of the veterinarian.

Once the need for antibiotic therapy has been established, the following are essential to practice the judicious use of antibiotics:

These guidelines are intended to aid livestock owners and their employees responsible for animal care in responsible antibiotic use under the guidance of a veterinarian in compliance with state and federal laws.

1) The decision to use antibiotics for sick or at-risk animals should be made promptly and, when appropriate, antibiotic therapy should be initiated in a timely manner to minimize the infectious burden, improve therapeutic outcomes, and reduce the development of antibiotic resistance.

2) In deciding to implement the use of an antibiotic, a veterinarian may consider the expected benefit from therapy.
   a) Antibiotic therapy may be indicated for treatment in animals with an infectious disease or evidence of an infectious disease before a final diagnosis can be made. The veterinarian may assess the likelihood the illness is a result of a bacterial infection, the expected outcome of starting antibiotic therapy, and potential adverse effects of antibiotic therapy.
   b) Antibiotic therapy may be required for control to decrease the severity of disease, reduce shedding of infectious bacteria, and minimize chances for spreading the disease to additional animals.
   c) Antibiotic therapy may be necessary for prevention to address an elevated risk of contracting a particular disease or infection when the ability to predict outcomes to infectious exposure is not possible, but infection is anticipated based on the veterinarian's professional judgment regarding animal-specific risk factors.
   d) Medically important antibiotics shall not be administered to livestock solely for purposes of promoting weight gain or improving feed efficiency.
   e) Keeping accurate treatment and production records that include health outcomes of treated animals may aid the veterinarian in monitoring the effectiveness of animal health and disease prevention plans, reviewing treatment

[a] Medically important antimicrobial drugs and are defined as those listed in Appendix A of the U.S. Food and Drug Administration's Guidance for Industry #152.
[b] Defined in the Veterinary Medicine Practice Act, Title 16 of the California Code of Regulations, Section 2032.1.
[c] Allowable and prohibited uses of medically important antimicrobial drugs in livestock are described in 4.5 FAC § 14402. Attached in Appendix D.

plans and procedures, and identifying optimal management practices and judicious on-farm use of antibiotics that promote antibiotic stewardship.

3) General supportive care (e.g., quality feed and water, shelter, and ventilation) provided for ill animals may reduce the need or duration of antibiotic therapy or improve treatment outcomes.
   a) The use of alternatives to antibiotic therapy may be considered when recognized by scientific studies to improve animal welfare with no negative effects on treatment outcome.

4) Choosing appropriate antibiotic(s) and course of therapy for the treatment, control, or prevention of a disease must be under the oversight of a licensed veterinarian. The veterinarian's recommendation is based on a working diagnosis, relevant scientific information, standard of care consistent with current veterinary medical practice in this state, the animal owner's values and expectations – while in compliance with state and federal laws.
   a) Veterinarians may not use antibiotics to prevent disease in a regular pattern, unless in relation to surgery or to a medical procedure. Examples of antibiotics used in a regular pattern to prevent disease include, but are not limited to:
      i) Antibiotics given to prevent disease beyond the period of elevated risk determined in the professional judgment of the licensed veterinarian.
      ii) Antibiotics given to prevent disease out of habit in a recurrent manner solely based on the animal's age or weight, the calendar date, or a life stage event of the animal(s) without the presence of an elevated risk of a particular disease or infection determined in the professional judgment of the licensed veterinarian.
   b) Antibiotics may be used in an extra-label manner only when authorized by a California licensed veterinarian within the context of a valid VCPR and when the health of an animal is threatened, or suffering or death may result from failure to treat. The circumstances of use must comply with federal regulatory requirements.[d]
   c) Livestock owners and their employees responsible for animal care should carefully follow treatment protocols as they are written and have been communicated. Before altering the case definition or course of treatment, consult the veterinarian of record.
   d) Livestock owners and their employees responsible for animal care should follow all instructions printed on the label or otherwise provided by the veterinarian.

5) Antibiotics kept on-farm for the existing or anticipated needs to treat livestock should be accompanied by a veterinarian's clear instructions for use. Responsible practices include the following:
   a) Avoid stockpiling antibiotics beyond anticipated needs.
   b) Take care to ensure stored antibiotics are not expired.
   c) Store antibiotics according to the approved product label.
   d) Antibiotics should be stored in a secure location that allows for timely access by authorized persons.
   e) Dispose of expired or unusable antibiotics and contaminated animal products appropriately to avoid environmental contamination. To find locations to dispose of unwanted pharmaceuticals, needles, and syringes, visit: https://search.earth911.com/; type "medications" or "medical sharps" in the search field; type in your zip code; call any of the listed locations to confirm this service is currently provided.

[d] Extra-label drug use (ELDU) in food-animal species is permitted under the Animal Medicinal Drug Use Clarification Act of 1994 if criteria are met as defined in Title 21 in the Code of Federal Regulations, Part 530. ELDU ("Off-Label Use") is any use of an FDA-approved drug that differs from instructions on the approved product label (species, animal production class, dose, volume per injection site, route, frequency, duration, or indication).

Guidelines for Veterinarians: Judicious Use of Antimicrobials in Livestock

The practices and protocols developed and implemented by veterinarians, livestock owners, and personnel responsible for animal care are critical to the promotion and maintenance of animal health and welfare, the conservation of animal resources, and the protection of public health.[1-3] Established biosecurity and therapeutic recommendations, including treatment protocols, are vital to limiting the severity and the spread of disease or infection in livestock.[4] In the event of a disease occurrence, timing is everything.[5,6] The ability to recognize early signs of disease or infection in animals, and to identify those animals with an elevated risk of contracting a particular disease or infection, are vital to the successes of infectious disease prevention, control, and treatment.[2,7] Various tools and/or scoring systems may facilitate the training and day-to-day activities of those responsible for animal care.[2,7]

In California, the use of medically important antimicrobial drugs (MIADs) in livestock must be deemed necessary under the professional judgement of a licensed veterinarian, within the context of a valid veterinarian-client-patient relationship and in accordance with current veterinary medical practice and legal parameters.[a] To effectively and appropriately employ the use of MIADs, a veterinarian must first initiate a general or preliminary diagnosis of disease or infection, or have indication of an elevated risk of contracting a particular disease or infection, in an individual animal or group of animals.[8,b,c] The diagnostic process may incorporate relevant history, production performance, clinical signs, physical examination, and/or diagnostic test results.[9]

Once a veterinarian has identified a possible indication to use medically important antimicrobial drugs (MIADs), judicious use includes careful consideration of the following practices:

These guidelines are intended to serve as an adjunct to professional judgement. The following are based on current scientific principles and state and federal laws regarding MIADs.

1) Antimicrobial therapy should be initiated in a timely manner, often before a definitive diagnosis can be made, in order to minimize the infectious burden to the animal(s) and the environment, reduce the amount of MIADs necessary to affect clinical outcome, improve clinical response to therapy, and diminish the development of antimicrobial resistance.[4,6,10,11]

2) Antimicrobials should be reserved for cases that would be expected to provide a measurable benefit to the clinical outcome.[12] The following indications may be considered when determining the benefit of therapy:

    a) Antimicrobial therapy may be indicated for treatment in animals with evidence of infectious disease before a final diagnosis can be made. Prudently consider the use of MIADs in chronic or moribund cases or those cases that may have no anticipated recovery for production purposes.[12,13]
    b) Antimicrobial therapy may be necessary for control to decrease the risk of a subclinical infection resulting in clinical signs of disease, reduce shedding of infectious bacteria, and minimize chances of disease transmission.
    c) Antimicrobial therapy may be necessary for prevention to address an elevated risk of contracting a particular disease or infection when the ability to predict outcomes to infectious exposure is not possible, but infection is anticipated based on a licensed veterinarian's professional judgment regarding animal-specific risk factors.

[a] Medically important antimicrobial drugs (MIADs) are defined as those listed in Appendix A of the U.S. Food and Drug Administration's Guidance for Industry #152, including critically important, highly important, and important.
[b] As defined in the Veterinary Medicine Practice Act, 16 CCR § 2032.1. Attached in Appendix A.
[c] Allowable and prohibited uses of medically important antimicrobial drugs in livestock are described in 4.5 FAC § 14402. Attached in Appendix D.

d) MIADs shall not be administered to livestock solely for purposes of promoting weight gain or improving feed efficiency.[6,d]

3) Veterinarians are encouraged to work with clients to maintain accurate drug inventory, measures of production performance, and treatment records that include clinical outcomes. Assembly and analysis of this information may aid in monitoring treatment efficacy, reviewing treatment protocols and management procedures, providing objectives for communication and training of those responsible for livestock care on improving disease detection, and optimize identification of animals at risk of an unfavorable outcome and allow for appropriate management. [1,2,7,14]

   a) Veterinarians maintain medical records in compliance with state and federal regulations.[e] Except where disclosure is allowed per California and federal laws, veterinary medical records are considered confidential and are prohibited from disclosure without client consent.[f]

4) Ancillary treatments and supportive care may be used when shown to reduce the need for MIADs, improve clinical response to therapy, or to improve animal welfare with no deleterious effect on treatment outcome.[2,15]

5) Appropriate antimicrobial selection should be made based on knowledge of the identified or suspected pathogen(s), compliance with federal regulatory requirements, and the expected efficacy of the drug as determined by available scientific medical evidence, the clinical experience of the veterinarian, results of initial treatment, and/or antimicrobial susceptibility.[9,16,19,g]

   a) Carefully consider the use of combination antimicrobial therapy for cases with impaired host defenses, polymicrobial infections, or emergence of resistance is shown to be reduced. Limit combinations to those with predictable synergistic effects, where effective, broad spectrum antimicrobials are not available.[5,8,10,18]
   b) Antimicrobial susceptibility testing should be performed by laboratories using current and validated methods approved by the Clinical and Laboratory Standards Institute.[13,17]
   c) Interpretation and application of antimicrobial susceptibility test results to the individual animal or the herd requires the knowledge and expertise of a licensed veterinary medical professional.[17] Consults with veterinary specialists may be useful on a case-by-case basis.

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[e] 16 CCR 2032.3, 16 CCR 2032.2, and 21 CFR Part 558

[f] BPC 4857

[g] The Animal Medicinal Drug Use Clarification Act (AMDUCA) permits Extralabel Drug Use (ELDU) in food-producing animals, by or on the lawful order of a licensed veterinarian within the context of a valid veterinarian-client-patient relationship, if criteria are met as defined in Title 21 in the Code of Federal Regulations, Part 530. Attached in Appendix B. A veterinarian must select a drug that is labeled for its intended use and that contains the same active ingredient which is in the required dosage form and concentration, except where a veterinarian finds that the approved drug is clinically ineffective for its intended use. See www.FARAD.org for more informative resources on ELDU.

5) Establish optimal antimicrobial therapy regimens for the treatment, control, or prevention of disease or infection as supported by relevant clinical trials and principles of veterinary medicine.[9,13] Use must comply with federal and state legal requirements.[h,i]

   a) Utilize an adequate dose, route of administration, and appropriate dosing frequency, to achieve and maintain steady-state drug concentration above the known or predictable minimum inhibitory concentration of the identified or likely pathogen(s).[6,8,19,20]
   b) Target methods of drug delivery, such as local or regional therapy, when feasible and likely to achieve the desired drug concentration at the site of infection.[10,13]
   c) Duration of therapy should be long enough to achieve the desired clinical response but short enough to minimize the risk of adverse effects and selection of resistant bacteria.[6,8,13,19-21,j]
   e) In circumstances when multiple animals are affected or at risk of contracting a disease or infection, antimicrobials should be administered to the fewest number of animals necessary.
   f) MIADs may not be used to prevent disease in a regular pattern, unless in relation to surgery or to a medical procedure.[k] Examples of MIADs used in a regular pattern to prevent disease include, but are not limited to:
      i) MIADs given to prevent disease beyond the period of elevated risk[l] determined in the professional judgement of the licensed veterinarian.
      i) MIADs given to prevent disease out of habit in a recurrent manner solely based on the animal's age or weight, the calendar date, or a life stage event of the animal(s) without the presence of an elevated risk of a particular disease or infection determined in the professional judgment of the licensed veterinarian.

6) Avoid oversupplying MIADs beyond the anticipated needs of therapy for ill or at-risk animals.[1]

[h] AMDUCA permits ELDU in food-producing animals, by or on the lawful order of a licensed veterinarian within the context of a valid veterinarian-client-patient relationship, if criteria are met as defined in Title 21 in the Code of Federal Regulations, Part 530. Attached in Appendix B. ELDU ("Off-Label Use") is any use of an FDA-approved drug that differs from instructions on the approved product label (species, animal production class, dose, volume per injection site, route, frequency, duration, or indication). See www.FARAD.org for more informative resources on ELDU.

[i] Allowable and prohibited uses of medically important antimicrobial drugs in livestock are described in 4.5 FAC § 14402. Attached in Appendix D.

[j] Currently, there is a dearth of scientific literature to support evidence-based decisions on effective duration of antimicrobial therapies in the practice of veterinary medicine on livestock animals.

[k] Allowable and prohibited uses of medically important antimicrobial drugs in livestock are described in 4.5 FAC § 14402. Attached in Appendix D.

Appendix A

Title 16, California Code of Regulations, Section 2032.1 – Veterinarian-Client-Patient Relationship

(a) It is unprofessional conduct for a veterinarian to administer, prescribe, dispense or furnish a drug, medicine, appliance, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture or bodily injury or disease of an animal without having first established a veterinarian-client-patient relationship with the animal patient or patients and the client, except where the patient is a wild animal or the owner is unknown.

(b) A veterinarian-client-patient relationship shall be established by the following:

(1) The client has authorized the veterinarian to assume responsibility for making medical judgments regarding the health of the animal, including the need for medical treatment,

(2) The veterinarian has sufficient knowledge of the animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s). This means that the veterinarian is personally acquainted with the care of the animal(s) by virtue of an examination of the animal or by medically appropriate and timely visits to the premises where the animals are kept, and

(3) The veterinarian has assumed responsibility for making medical judgments regarding the health of the animal and has communicated with the client a course of treatment appropriate to the circumstance.

(c) A drug shall not be prescribed for a duration inconsistent with the medical condition of the animal(s) or type of drug prescribed. The veterinarian shall not prescribe a drug for a duration longer than one year from the date the veterinarian examined the animal(s) and prescribed the drug.

(d) As used herein, “drug” shall mean any controlled substance, as defined by Section 4021 of Business and Professions code, and any dangerous drug, as defined by Section 4022 of Business and Professions code.

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

Appendix B

Title 21, Code of Federal Regulations, Part 530 – Extralabel Drug Use in Animals

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 351, 352, 353, 355, 357, 360b, 371, 379e.

Source: 61 FR 57743, Nov. 7, 1996, unless otherwise noted.

Subpart A—General Provisions

§530.1 Scope.

This part applies to the extralabel use in an animal of any approved new animal drug or approved new human drug by or on the lawful order of a licensed veterinarian within the context of a valid veterinary-client-patient relationship.

§530.2 Purpose.

The purpose of this part is to establish conditions for extralabel use or intended extralabel use in animals by or on the lawful order of licensed veterinarians of Food and Drug Administration approved new animal drugs and approved new human drugs. Such use is limited to treatment modalities when the health of an animal is threatened or suffering or death may result from failure to treat. This section implements the Animal Medicinal Drug Use Clarification Act of 1994 (the AMDUCA) (Pub. L. 103-396).

§530.3 Definitions.

(a) *Extralabel use* means actual use or intended use of a drug in an animal in a manner that is not in accordance with the approved labeling. This includes, but is not limited to, use in species not listed in the labeling, use for indications (disease or other conditions) not listed in the labeling, use at dosage levels, frequencies, or routes of administration other than those stated in the labeling, and deviation from the labeled withdrawal time based on these different uses.

(b) *FDA* means the U.S. Food and Drug Administration.

(c) The phrase *a reasonable probability that a drug's use may present a risk to the public health* means that FDA has reason to believe that use of a drug may be likely to cause a potential adverse event.

(d) The phrase *use of a drug may present a risk to the public health* means that FDA has information that indicates that use of a drug may cause an adverse event.

(e) The phrase *use of a drug presents a risk to the public health* means that FDA has evidence that demonstrates that the use of a drug has caused or likely will cause an adverse event.

(f) A *residue* means any compound present in edible tissues that results from the use of a drug, and includes the drug, its metabolites, and any other substance formed in or on food because of the drug's use.

(g) A *safe level* is a conservative estimate of a drug residue level in edible animal tissue derived from food safety data or other scientific information. Concentrations of residues in tissue below the safe level will not raise human food safety concerns. A safe level is not a safe concentration or a tolerance and does not indicate that an approval exists for the drug in that species or category of animal from which the food is derived.

(h) *Veterinarian* means a person licensed by a State or Territory to practice veterinary medicine.

(i) A *valid veterinarian-client-patient relationship* is one in which:

(1) A veterinarian has assumed the responsibility for making medical judgments regarding the health of (an) animal(s) and the need for medical treatment, and the client (the owner of the animal or animals or other caretaker) has agreed to follow the instructions of the veterinarian;

(2) There is sufficient knowledge of the animal(s) by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s); and

(3) The practicing veterinarian is readily available for followup in case of adverse reactions or failure of the regimen of therapy. Such a relationship can exist only when the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s) by virtue of examination of the animal(s), and/or by medically appropriate and timely visits to the premises where the animal(s) are kept.

§530.4 Advertising and promotion.
Nothing in this part shall be construed as permitting the advertising or promotion of extralabel uses in animals of approved new animal drugs or approved human drugs.

§530.5 Veterinary records.
(a) As a condition of extralabel use permitted under this part, to permit FDA to ascertain any extralabel use or intended extralabel use of drugs that the agency has determined may present a risk to the public health, veterinarians shall maintain the following records of extralabel uses. Such records shall be legible, documented in an accurate and timely manner, and be readily accessible to permit prompt retrieval of information. Such records shall be adequate to substantiate the identification of the animals and shall be maintained either as individual records or, in food animal practices, on a group, herd, flock, or per-client basis. Records shall be adequate to provide the following information:

(1) The established name of the drug and its active ingredient, or if formulated from more than one ingredient, the established name of each ingredient;

(2) The condition treated;

(3) The species of the treated animal(s);

(4) The dosage administered;

(5) The duration of treatment;

(6) The numbers of animals treated; and

(7) The specified withdrawal, withholding, or discard time(s), if applicable, for meat, milk, eggs, or any food which might be derived from any food animals treated.

(b) A veterinarian shall keep all required records for 2 years or as otherwise required by Federal or State law, whichever is greater.

(c) Any person who is in charge, control, or custody of such records shall, upon request of a person designated by FDA, permit such person designated by FDA to, at all reasonable times, have access to, permit copying, and verify such records.

Subpart B—Rules and Provisions for Extralabel Uses of Drugs in Animals

§530.10 Provision permitting extralabel use of animal drugs.
An approved new animal drug or human drug intended to be used for an extralabel purpose in an animal is not unsafe under section 512 of the act and is exempt from the labeling requirements of section 502(f) of the act if such use is:

(a) By or on the lawful written or oral order of a licensed veterinarian within the context of a valid veterinarian-client-patient relationship; and

(b) In compliance with this part.

§530.11 Limitations.
In addition to uses which do not comply with the provision set forth in §530.10, the following specific extralabel uses are not permitted and result in the drug being deemed unsafe within the meaning of section 512 of the act:

(a) Extralabel use in an animal of an approved new animal drug or human drug by a lay person (except when under the supervision of a licensed veterinarian);

(b) Extralabel use of an approved new animal drug or human drug in or on an animal feed;

(c) Extralabel use resulting in any residue which may present a risk to the public health; and

(d) Extralabel use resulting in any residue above an established safe level, safe concentration or tolerance.

§530.12 Labeling.
Any human or animal drug prescribed and dispensed for extralabel use by a veterinarian or dispensed by a pharmacist on the order of a veterinarian shall bear or be accompanied by labeling information adequate to assure the safe and proper use of the product. Such information shall include the following:

(a) The name and address of the prescribing veterinarian. If the drug is dispensed by a pharmacy on the order of a veterinarian, the labeling shall include the name of the prescribing veterinarian and the name and address of the dispensing pharmacy, and may include the address of the prescribing veterinarian;

(b) The established name of the drug or, if formulated from more than one active ingredient, the established name of each ingredient;

(c) Any directions for use specified by the veterinarian, including the class/species or identification of the animal or herd, flock, pen, lot, or other group of animals being treated, in which the drug is intended to be used; the dosage, frequency, and route of administration; and the duration of therapy;

(d) Any cautionary statements; and

(e) The veterinarian's specified withdrawal, withholding, or discard time for meat, milk, eggs, or any other food which might be derived from the treated animal or animals.

§530.13 Extralabel use from compounding of approved new animal and approved human drugs.
(a) This part applies to compounding of a product from approved animal or human drugs by a veterinarian or a pharmacist on the order of a veterinarian within the practice of veterinary medicine. Nothing in this part shall be construed as permitting compounding from bulk drugs.

(b) Extralabel use from compounding of approved new animal or human drugs is permitted if:

(1) All relevant portions of this part have been complied with;

(2) There is no approved new animal or approved new human drug that, when used as labeled or in conformity with criteria established in this part, will, in the available dosage form and concentration, appropriately treat the condition diagnosed. Compounding from a human drug for use in food-producing animals will not be permitted if an approved animal drug can be used for the compounding;

(3) The compounding is performed by a licensed pharmacist or veterinarian within the scope of a professional practice;

(4) Adequate procedures and processes are followed that ensure the safety and effectiveness of the compounded product;

(5) The scale of the compounding operation is commensurate with the established need for compounded products (e.g., similar to that of comparable practices); and

(6) All relevant State laws relating to the compounding of drugs for use in animals are followed.

(c) Guidance on the subject of compounding may be found in guidance documents issued by FDA.

Subpart C—Specific Provisions Relating to Extralabel Use of Animal and Human Drugs in Food-Producing Animals

§530.20 Conditions for permitted extralabel animal and human drug use in food-producing animals.
(a) The following conditions must be met for a permitted extralabel use in food-producing animals of approved new animal and human drugs:

(1) There is no approved new animal drug that is labeled for such use and that contains the same active ingredient which is in the required dosage form and concentration, except where a veterinarian finds, within the context of a valid veterinarian-client-patient relationship, that the approved new animal drug is clinically ineffective for its intended use.

(2) Prior to prescribing or dispensing an approved new animal or human drug for an extralabel use in food animals, the veterinarian must:

(i) Make a careful diagnosis and evaluation of the conditions for which the drug is to be used;

(ii) Establish a substantially extended withdrawal period prior to marketing of milk, meat, eggs, or other edible products supported by appropriate scientific information, if applicable;

(iii) Institute procedures to assure that the identity of the treated animal or animals is carefully maintained; and

(iv) Take appropriate measures to assure that assigned timeframes for withdrawal are met and no illegal drug residues occur in any food-producing animal subjected to extralabel treatment.

(b) The following additional conditions must be met for a permitted extralabel use of in food-producing animals an approved human drug, or of an animal drug approved only for use in animals not intended for human consumption:

(1) Such use must be accomplished in accordance with an appropriate medical rationale; and

(2) If scientific information on the human food safety aspect of the use of the drug in food-producing animals is not available, the veterinarian must take appropriate measures to assure that the animal and its food products will not enter the human food supply.

(c) Extralabel use of an approved human drug in a food-producing animal is not permitted under this part if an animal drug approved for use in food-producing animals can be used in an extralabel manner for the particular use.

§530.21 Prohibitions for food-producing animals.
(a) FDA may prohibit the extralabel use of an approved new animal or human drug or class of drugs in food-producing animals if FDA determines that:

(1) An acceptable analytical method needs to be established and such method has not been established or cannot be established; or

(2) The extralabel use of the drug or class of drugs presents a risk to the public health.

(b) A prohibition may be a general ban on the extralabel use of the drug or class of drugs or may be limited to a specific species, indication, dosage form, route of administration, or combination of factors.

§530.22 Safe levels and analytical methods for food-producing animals.
(a) FDA may establish a safe level for extralabel use of an approved human drug or an approved new animal drug when the agency finds that there is a reasonable probability that an extralabel use may present a risk to the public health. FDA may:

(1) Establish a finite safe level based on residue and metabolism information from available sources;

(2) Establish a safe level based on the lowest level that can be measured by a practical analytical method; or

(3) Establish a safe level based on other appropriate scientific, technical, or regulatory criteria.

(b) FDA may require the development of an acceptable analytical method for the quantification of residues above any safe level established under this part. If FDA requires the development of such an acceptable analytical method, the agency will publish notice of that requirement in the Federal Register.

(c) The extralabel use of an animal drug or human drug that results in residues exceeding a safe level established under this part is an unsafe use of such drug.

(d) If the agency establishes a safe level for a particular species or category of animals and a tolerance or safe concentration is later established through an approval for that particular species or category of animals, for that species or category of animals, the safe level is superseded by the tolerance or safe concentration for that species or category of animals.

§530.23 Procedure for setting and announcing safe levels.
(a) FDA may issue an order establishing a safe level for a residue of an extralabel use of an approved human drug or an approved animal drug. The agency will publish in the Federal Register a notice of the order. The notice will include:

(1) A statement setting forth the agency's finding that there is a reasonable probability that extralabel use in animals of the human drug or animal drug may present a risk to the public health;

(2) A statement of the basis for that finding; and

(3) A request for public comments.

(b) A current listing of those drugs for which a safe level for extralabel drug use in food-producing animals has been established, the specific safe levels, and the availability, if any, of a specific analytical method or methods for drug residue detection will be codified in §530.40.

§530.24 Procedure for announcing analytical methods for drug residue quantification.
(a) FDA may issue an order announcing a specific analytical method or methods for the quantification of extralabel use drug residues above the safe levels established under §530.22 for extralabel use of an approved human drug or an approved animal drug. The agency will publish in the Federal Register a notice of the order, including the name of the specific analytical method or methods and the drug or drugs for which the method is applicable.

(b) Copies of analytical methods for the quantification of extralabel use drug residues above the safe levels established under §530.22 will be available upon request from the Communications and Education Branch (HFV-12), Division of Program Communication and Administrative Management, Center for Veterinary Medicine, 7500 Standish Pl., Rockville, MD 20855. When an analytical method for the detection of extralabel use drug residues above the safe levels established under §530.22 is developed, and that method is acceptable to the agency, FDA will incorporate that method by reference.

§530.25 Orders prohibiting extralabel uses for drugs in food-producing animals.
(a) FDA may issue an order prohibiting extralabel use of an approved new animal or human drug in food-producing animals if the agency finds, after providing an opportunity for public comment, that:

(1) An acceptable analytical method required under §530.22 has not been developed, submitted, and found to be acceptable by FDA or that such method cannot be established; or

(2) The extralabel use in animals presents a risk to the public health.

(b) After making a determination that the analytical method required under §530.22 has not been developed and submitted, or that such method cannot be established, or that an extralabel use in animals of a particular human drug or animal drug presents a risk to the public health, FDA will publish in the Federal Register, with a 90-day delayed effective date, an order of prohibition for an extralabel use of a drug in food-producing animals. Such order shall state that an acceptable analytical method required under §530.22 has not been developed, submitted, and found to be acceptable by FDA; that such method cannot be established; or that the extralabel use in animals presents a risk to the public health; and shall:

(1) Specify the nature and extent of the order of prohibition and the reasons for the prohibition;

(2) Request public comments; and

(3) Provide a period of not less than 60 days for comments.

(c) The order of prohibition will become effective 90 days after date of publication of the order unless FDA publishes a notice in the Federal Register prior to that date, that revokes the order of prohibition, modifies it, or extends the period of public comment.

(d) The agency may publish an order of prohibition with a shorter comment period and/or delayed effective date than specified in paragraph (b) of this section in exceptional circumstances (e.g., where there is immediate risk to the public health), provided that the order of prohibition states that the comment period and/or effective date have been abbreviated because there are exceptional circumstances, and the order of prohibition sets forth the agency's rationale for taking such action.

(e) If FDA publishes a notice in the Federal Register modifying an order of prohibition, the agency will specify in the modified order of prohibition the nature and extent of the modified prohibition, the reasons for it, and the agency's response to any comments on the original order of prohibition.

(f) A current listing of drugs prohibited for extralabel use in animals will be codified in §530.41.

(g) After the submission of appropriate information (i.e., adequate data, an acceptable method, approval of a new animal drug application for the prohibited extralabel use, or information demonstrating that the prohibition was based on incorrect data), FDA may, by publication of an appropriate notice in the Federal Register, remove a drug from the list of human and animal drugs prohibited for extralabel use in animals, or may modify a prohibition.

(h) FDA may prohibit extralabel use of a drug in food-producing animals without establishing a safe level.

Subpart D—Extralabel Use of Human and Animal Drugs in Animals Not Intended for Human Consumption

§530.30 Extralabel drug use in nonfood animals.

(a) Because extralabel use of animal and human drugs in nonfood-producing animals does not ordinarily pose a threat to the public health, extralabel use of animal and human drugs is permitted in nonfood-producing animal practice except when the public health is threatened. In addition, the provisions of §530.20(a)(1) will apply to the use of an approved animal drug.

(b) If FDA determines that an extralabel drug use in animals not intended for human consumption presents a risk to the public health, the agency may publish in the Federal Register a notice prohibiting such use following the procedures in §530.25. The prohibited extralabel drug use will be codified in §530.41.

Subpart E—Safe Levels for Extralabel Use of Drugs in Animals and Drugs Prohibited From Extralabel Use in Animals

§530.40 Safe levels and availability of analytical methods.

(a) In accordance with §530.22, the following safe levels for extralabel use of an approved animal drug or human drug have been established: [Reserved]

(b) In accordance with §530.22, the following analytical methods have been accepted by FDA: [Reserved]

§530.41 Drugs prohibited for extralabel use in animals.

(a) The following drugs, families of drugs, and substances are prohibited for extralabel animal and human drug uses in food-producing animals.

(1) Chloramphenicol;

(2) Clenbuterol;

(3) Diethylstilbestrol (DES);

(4) Dimetridazole;

(5) Ipronidazole;

(6) Other nitroimidazoles;

(7) Furazolidone.

(8) Nitrofurazone.

(9) Sulfonamide drugs in lactating dairy cattle (except approved use of sulfadimethoxine, sulfabromomethazine, and sulfaethoxypyridazine);

(10) Fluoroquinolones; and

(11) Glycopeptides.

(12) Phenylbutazone in female dairy cattle 20 months of age or older.

(13) Cephalosporins (not including cephapirin) in cattle, swine, chickens, or turkeys:

(i) For disease prevention purposes;

(ii) At unapproved doses, frequencies, durations, or routes of administration; or

(iii) If the drug is not approved for that species and production class.

(b) The following drugs, families of drugs, and substances are prohibited for extralabel animal and human drug uses in nonfood-producing animals: [Reserved]

(c) [Reserved]

(d) The following drugs, or classes of drugs, that are approved for treating or preventing influenza A, are prohibited from extralabel use in chickens, turkeys, and ducks:

(1) Adamantanes.

(2) Neuraminidase inhibitors.

[62 FR 27947, May 22, 1997, as amended at 67 FR 5471, Feb. 6, 2002; 68 FR 9530, Feb. 28, 2003; 68 FR 14134, Mar. 24, 2003; 71 FR 14377, Mar. 22, 2006; 77 FR 745, Jan. 6, 2012]

The most current version may be found on the Electronic Code of Federal Regulations website: https://www.ecfr.gov/cgi-bin/text-idx?SID=3fba2570d1166f25cadaa2e0065b7e95&mc=true&node=pt21.6.530&rgn=div5

Compliance Policy Guide 615.115 – Extralabel Use of Medicated Feeds for Minor Species

Prior to 1994, the Federal Food, Drug, and Cosmetic Act (the FD&C Act) did not permit the extralabel use of animal drugs, but the Agency exercised enforcement discretion regarding extralabel use of animal drugs provided certain criteria were met. These criteria were published in Compliance Policy Guide 7125.06 and were largely incorporated into the Animal Medicinal Drug Use Clarification Act of 1994 (AMDUCA). AMDUCA amended the FD&C Act to permit extralabel uses under certain conditions. The regulations promulgated pursuant to AMDUCA are codified at 21 CFR part 530.

AMDUCA does not permit extralabel use of medicated feeds. However, when there are no approved treatment options available and the health of animals is threatened, and suffering or death would result from failure to treat the affected animals, extralabel use of medicated feed may be considered for treatment of minor species. Because of the need to have therapeutic options available for treatment of minor species, and to help ensure animal safety and human food safety, FDA is issuing this revised CPG to provide guidance to FDA staff with respect to factors to consider when determining whether to take enforcement action against a veterinarian, animal producer, feed manufacturer, and/or feed distributor for the extralabel use of OTC and VFD medicated feeds in minor species. In general, the Agency will not recommend or initiate enforcement action against the veterinarian, animal producer, feed mill, or other distributor when extralabel use is consistent with this document.

Appendix C

Definitions of Antimicrobial Use for Treatment, Control and Prevention:

The American Veterinary Medical Association (AVMA) professional policies provide guidance on the practice of veterinary medicine. The AVMA encourages its members to voluntarily adhere to policies impacting the practice of veterinary medicine, as these policies are developed by peers on behalf of the profession. AVMA policies are not, and do not supersede, law or regulation. AVMA's concise definitions[m] of treatment, control and prevention of individual animals and animal populations alleviate confusion and assist veterinarians in clearly communicating their intentions when prescribing or recommending antimicrobial use.[n]

Antimicrobial prevention of disease (synonym: prophylaxis):
1) Prevention is the administration of an antimicrobial to an individual animal to mitigate the risk for acquiring disease or infection that is anticipated based on history, clinical judgement, or epidemiological knowledge.
2) On a population basis, prevention is the administration of an antimicrobial to a group of animals, none of which have evidence of disease or infection, when transmission of existing undiagnosed infections, or the introduction of pathogens, is anticipated based on history, clinical judgement or epidemiological knowledge.

Antimicrobial control of disease (synonym: metaphylaxis):
1) Control is the administration of an antimicrobial to an individual animal with a subclinical infection to reduce the risk of the infection becoming clinically apparent, spreading to other tissues or organs, or being transmitted to other individuals.
2) On a population basis, control is the use of antimicrobials to reduce the incidence of infectious disease in a group of animals that already has some individuals with evidence of infectious disease or evidence of infection.

Antimicrobial treatment of disease:
1) Treatment is the administration of an antimicrobial as a remedy for an individual animal with evidence of infectious disease.
2) On a population basis, treatment is the administration of an antimicrobial to those animals within the group with evidence of infectious disease.

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[m] AVMA Definitions of Antimicrobial Use for Treatment, Control and Prevention can be found at https://www.avma.org/KB/Policies/Pages/AVMA-Definitions-of-Antimicrobial-Use-for-Treatment-Control-and-Prevention.aspx

[n] Smith, D.R., et al. The AVMA's definitions of antimicrobial uses for prevention, control, and treatment of disease. *J Am Vet Med Assoc.* 2019 Apr 1;254(7):792-797. doi: 10.2460/javma.254.7.792

Appendix D

Division 7, Food and Agriculture Code, Chapter 4.5 – Livestock: Use of Antimicrobial Drugs

§14402.

(a) Beginning January 1, 2018, a medically important antimicrobial drug may be used when, in the professional judgment of a licensed veterinarian, the medically important antimicrobial drug is any of the following:

(1) Necessary to treat a disease or infection.

(2) Necessary to control the spread of a disease or infection.

(3) Necessary in relation to surgery or a medical procedure.

(b) A medically important antimicrobial drug may also be used when, in the professional judgment of a licensed veterinarian, it is needed for prophylaxis to address an elevated risk of contraction of a particular disease or infection.

(c) A person shall not administer a medically important antimicrobial drug to livestock solely for purposes of promoting weight gain or improving feed efficiency.

(d) Unless the administration is consistent with subdivision (a), a person shall not administer a medically important antimicrobial drug in a regular pattern.

(Added by Stats. 2015, Ch. 758, Sec. 1. (SB 27) Effective January 1, 2016.)

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STATE OF NEW YORK

5742--A

2019-2020 Regular Sessions

IN SENATE

May 14, 2019

Introduced by Sens. KAVANAGH, HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law and the state finance law, in relation to protecting medically important antimicrobials for human public health

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative findings. The legislature declares that the overuse and misuse of medically important antimicrobials poses a serious public health threat.

The World Health Organization has stated that "without urgent, coordinated action by many stakeholders, the world is headed for a post-antibiotic era, in which common infections and minor injuries which have been treatable for decades can once again kill." In 2016, members of the UN General Assembly adopted a political declaration acknowledging that "the resistance of bacterial, viral, parasitic and fungal microorganisms to antimicrobial medicines that were previously effective for treatment of infections is mainly due to: the inappropriate use of antimicrobial medicines in public health, animal, food, agriculture and aquaculture sectors; ... resistance to antibiotics, which are not like other medicines ... is the greatest and most urgent global risk, requiring increased attention and coherence at the international, national and regional levels."

The legislature further finds that overuse and misuse of medically important antimicrobials in livestock production is a significant component of the threat posed. The United States Food and Drug Administration and the Centers for Disease Control and Prevention have stated that there is a definitive link between the routine use of medically impor-

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD11330-08-9

tant antimicrobials on industrial farms and the crisis of antimicrobial-resistant infections in humans.

The issue of antimicrobial misuse and overuse, whether in people or animals, is a significant and urgent public health matter.

It has been estimated that seventy percent of all antimicrobials sold in the United States are for use in food-producing animals, often to compensate for the effects of unsanitary and overcrowded conditions on farms.

Many of the antimicrobials provided to food-producing animals are identical to, or from the same class as, drugs used in human medicine to treat serious conditions (i.e., medically important drugs). Thus, antimicrobial-resistant bacteria that emerge and spread from food-producing animals in farm settings to infect humans can be very dangerous because the antibiotics usually used to treat the infections in humans may no longer be effective against them.

The legislature further finds that, as with any use of medically important antimicrobials in animals, such use must be closely supervised by a New York state licensed veterinarian or those veterinarians authorized to practice within the state. Moreover, that it is the licensed veterinarian who must ensure that the use of medically important antimicrobials is appropriate and necessary.

The legislature therefore intends to place appropriate restrictions on the misuse and overuse of medically important antimicrobials in food-producing animals by ensuring that veterinarians have the clear authority to control the use of medically important antimicrobials in food-producing animals in New York state and that their practices are following the best scientific evidence.

The purpose of this act is to protect public health by preserving the effectiveness of medically important antimicrobials now and for future generations by eliminating the use of those medicines in food-producing animals for disease prevention, resulting in a reduction in the rise and spread of antimicrobial-resistant bacteria and antimicrobial-resistant infections in humans.

§ 2. The education law is amended by adding a new article 135-A to read as follows:

ARTICLE 135-A

COMBATING ANTIMICROBIAL RESISTANCE ACT

§ 6720. Short title. This act shall be known and may be cited as the "combating antimicrobial resistance act of 2019."

§ 6721. Definitions. As used in this section:

1. "Antimicrobial" means any substance of natural, semi-synthetic, or synthetic origin that at in vivo concentrations kills or inhibits the growth of microorganisms by interacting with a specific target. The term antimicrobial is a collective for antiviral, antibacterial, antifungal, antiparasitic, and antiprotozoal agents.

2. "Antimicrobial class" means antimicrobial agents with related molecular structures, often with a similar mode of action because of

interaction with a similar target and thus subject to a similar mechanism of resistance.

3. "Antimicrobial resistance (AMR)" means the ability of a microorganism to multiply or persist in the presence of an increased level of an antimicrobial relative to the susceptible counterpart of the same species.

4. "Disease control" means administration of antimicrobial agents to a group of animals containing sick and healthy individuals (presumed to be infected), to minimize or resolve clinical signs of infectious disease and to prevent further spread of the disease.

5. "Disease prevention" means administration of antimicrobial agents to an individual or a group of animals at risk of acquiring a specific infection or in a specific situation where infectious disease is likely to occur if the antimicrobial agent is not administered.

6. "Disease treatment" means administration of antimicrobial agents to an individual or group of animals showing clinical signs of infectious disease or that test positive for a disease.

7. "Food-producing animal" means:

(a) All cattle, swine, or poultry, regardless of whether the specific animal is raised for the purpose of producing food for human consumption; or

(b) Any animal of a type that the department of agriculture and markets identifies by rule as livestock typically used to produce food for human consumption, including aquatic and amphibian species.

8. "Livestock producer" means a person raising a food-producing animal for commercial purposes.

9. "Medically important antimicrobial" means a drug that is composed in whole or in part of:

(a) A form of the antibiotic classes of penicillin, tetracyline, macrolide, lincosamide, streptogramin, aminoglycoside, sulfonamide, or cephalosporin; or

(b) A drug from an antimicrobial class that is categorized as critically important, highly important, or important in the World Health Organization list of Critically Important Antimicrobials for Human Medicine (5th Revision, 2016), or a subsequent revision or successor document issued by the World Health Organization that is recognized by rule by the department of health.

10. "Veterinary Feed Directive" has the same definition as in section 558.3 of title 21 of the code of federal regulations.

§ 6722. Prohibition of certain antimicrobial administration. Beginning January first, two thousand twenty, medically important antimicrobials shall not be administered to a food-producing animal unless ordered by a licensed veterinarian who has visited the farm operation within the previous six months, through a prescription or Veterinary Feed Directive, pursuant to a veterinarian-client-patient relationship that meets the requirements as defined by the New York state office of professions.

§ 6723. Authorization of certain antimicrobial administration. 1. Beginning January first, two thousand twenty, a livestock producer may provide a medically important antimicrobial to a food-producing animal only if a licensed veterinarian, in the exercise of professional judgment, determines that the provision of the medically important antimicrobial to the animal is necessary:

(a) To control the spread of a disease or infection;

(b) To treat a disease or infection; or

(c) In relation to surgical or other medical procedures.

2. Medically important antimicrobials shall not be administered by any person to food-producing animals solely for the purposes of promoting weight gain, improving feed efficiency, or disease prevention.

3. A veterinarian who determines that the provision of a medically important antimicrobial to a food-producing animal is necessary for a purpose described in this section shall specify an end date for the provision of the antimicrobial to the animal.

4. A livestock producer may administer a medically important antimicrobial to a food-producing animal only for the purpose as determined by a licensed veterinarian under this article. The livestock producer may provide the antimicrobial only for the duration specified by the veterinarian.

§ 6724. Annual reports. 1. Veterinarians licensed to practice in New York state, or who are licensed in a bordering state and practice in the state, and who prescribe medically important antimicrobials or write a Veterinary Feed Directive for one or more sets of food-producing animals must file an annual report under this section in a form and manner required by the department by rule. This report will be submitted to the commissioner, the commissioner of health, the commissioner of agriculture and markets, the temporary president of the senate, the senate minority leader, the speaker of the assembly, and the minority leader of the assembly. If any medically important antimicrobials were prescribed to, provided to, or administered to food-producing animals during the reporting period, the annual report must contain the following information:

(a) The total number of food-producing animals provided with medically important antimicrobials;

(b) The name of each medically important antimicrobial provided;

(c) The species of food-producing animals that were provided with each medically important antimicrobial;

(d) The quantity of each medically important antimicrobial prescribed to each species of food-producing animal;

(e) The number of days that each medically important antimicrobial was intended to be provided to a food-producing animal;

(f) The dosage of each medically important antimicrobial that was intended to be provided to a food-producing animal;

(g) The method for providing each medically important antimicrobial to a food-producing animal;

(h) The purpose for providing each medically important antimicrobial to a food-producing animal; and

(i) The disease or infection, if any, that was intended to be controlled due to the provision of each medically important antimicrobial.

2. For the purposes of paragraph (h) of subdivision one of this section, the purpose for providing a medically important antimicrobial to a food-producing animal must be reported as:

(a) Disease control; or

(b) Disease treatment; or

(c) Necessary for surgical or other medical procedures.

3. Information reported under this section should be made publicly available by the department of health annually in an online searchable database of aggregated data. Such database shall protect the identity of a licensed veterinarian, an individual farm or business.

4. Information reported under this section is a public record and is not subject to exemption from public disclosure as required under the New York state freedom of information law.

5. The state board of veterinary medicine, the department of health and the department of agriculture and markets will consult as necessary to fulfill the requirements of this section.

§ 6725. Antimicrobial stewardship guidelines. 1. The state board of veterinary medicine, in consultation with the department of agriculture and markets, the department of health, universities, and cooperative extensions, shall develop antimicrobial stewardship guidelines and best management practices for veterinarians, livestock owners, and their employees who are involved with the administering of medically important antimicrobials on the proper use of medically important antimicrobials for disease treatment and control. The guidelines shall include scientifically validated practical alternatives to the use of medically important antimicrobials, including, but not limited to, good hygiene and management practices. The guidelines shall be reviewed and updated periodically, as necessary.

2. The state board of veterinary medicine shall consult with livestock producers, licensed veterinarians, and other relevant stakeholders on ensuring that livestock grown in rural areas with limited access to veterinary care have timely access to treatment.

3. For the purposes of this section, "antimicrobial stewardship" is a commitment to do all of the following:

(a) To use medically important microbials only when necessary to treat or control disease;

(b) To select the appropriate medically important microbial and the appropriate dose, duration, and route of administration; and

(c) To use medically important microbials for the shortest duration necessary and allowable, and to administer them to the fewest animals necessary.

§ 6726. Implementation. 1. The state board of veterinary medicine, the department of health, and the department of agriculture and markets shall coordinate with the United States Department of Agriculture, the United States Food and Drug Administration, and the Centers for Disease Control and Prevention to implement the expanded antimicrobial resistance surveillance efforts included in the National Action Plan for Combating Antibiotic-Resistant Bacteria, and that the information gathered through this effort will help lead to a better understanding of the links between antimicrobial use patterns in livestock and the development of antimicrobial-resistant bacterial infections.

2. (a) The department of health, the state board of veterinary medicine, the department of agriculture and markets, veterinarians, and livestock producers shall gather information on medically important antimicrobial sales and usage as well as antimicrobial-resistant bacteria and livestock management practice data. Monitoring efforts shall not be duplicative of the National Animal Health Monitoring System or the National Antimicrobial Resistance Monitoring System, and, to the extent feasible, will coordinate with the United States Department of Agriculture, the Centers for Disease Control and Prevention, and the United States Food and Drug Administration in the development of these efforts.

(b) In coordinating with the National Animal Health Monitoring System and the National Antimicrobial Resistance Monitoring System, the department of health, the state board of veterinary medicine and the department of agriculture and markets shall gather representative samples of biological isolates from all of the following:

(i) New York state's major livestock segments;

(ii) regions with considerable livestock production; and

(iii) representative segments of the food production chain.

(c) The department of health, the state board of veterinary medicine and the department of agriculture and markets shall report to the legislature by January first, two thousand twenty-one, the results of their outreach activities and monitoring efforts.

§ 6727. Authority to receive Veterinary Feed Directives. The department of agriculture and markets has the authority to request and receive copies of all Veterinary Feed Directives issued in the state from veterinarians, livestock owners, feed mills, or distributors to fully implement the provisions of this article.

§ 6728. Violations. 1. A person or entity who violates this article shall be liable for a civil penalty of not more than two hundred and fifty dollars per farm operation for each day a violation occurs.

2. (a) For a second or subsequent violation, a person or entity who violates this article shall be punishable by an administrative fine in the amount of five hundred dollars per farm operation for each day a violation occurs.

(b) In addition to the administrative fine, the violator shall attend an educational program to be jointly developed by the department of health and the state board of veterinary medicine on the judicious use of medically important antimicrobials. The violator shall successfully complete the program and provide proof to the board within ninety days from the occurrence of the violation.

3. Subdivisions one and two of this section shall not apply to licensed veterinarians. A veterinarian who violates this section is subject to discipline as defined in subarticle three of article one hundred thirty of title eight of this chapter.

4. The moneys collected pursuant to this article shall be deposited into the antibiotics education fund established pursuant to section ninety-seven-j of the state finance law and be available for expenditure upon appropriation by the legislature.

§ 3. The state finance law is amended by adding a new section 97-j to read as follows:

§ 97-j. Antibiotics education fund. 1. There is hereby established in the custody of the state comptroller a special fund to be known as the "antibiotics education fund".

2. Such fund shall consist of all monies recovered from the assessment of any penalty authorized by article one hundred thirty-five-A of the education law.

3. Moneys of the fund shall be deposited to the credit of the fund and shall, in addition to any other moneys made available for such purpose, be available to the department for the purpose of antibiotics educational programs. All payments from the antibiotics education fund shall be made on the audit and warrant of the state comptroller on vouchers certified and submitted by the commissioner.

§ 4. This act shall take effect January 1, 2020.

Guidelines for Veterinarians: Judicious Use of Antimicrobials

July 17, 2019

Annette Jones, DVM

Rosie Busch, DVM

California Department of Food and Agriculture

Overview

- California's "Livestock: Use of Antimicrobial Drugs" law: How it Applies to Veterinarians
- Review of Revised Judicious Use Guidelines (Veterinarian)
- Questions and Comments

“Livestock: Use of Antimicrobial Drugs” law

Additions to the Food and Agricultural Code:
Division 7, Chapter 4.5, Sections 14400-14408

Featured Sections

- **14401: VCPR Requirement**
- **14402: Limitations of Use**
- **14404: Guideline Development Mandate**

At the same time:

Federal restrictions on feed and water MIADs (took affect 2017)

Veterinarian CE requirement: SB 361 (2015)

Food and Agricultural Code

Division 7, Chapter 4.5

Section 14401. Beginning January 1, 2018, a medically important antimicrobial drug shall not be administered to livestock unless ordered by a licensed veterinarian through a prescription or veterinary feed directive, pursuant to a veterinarian-client-patient relationship that meets the requirements of Section 2032.1 of Title 16 of the California Code of Regulations.

Food and Agricultural Code

Division 7, Chapter 4.5

Section 14402.

(a) Beginning January 1, 2018, a medically important antimicrobial drug may be used when, in the professional judgment of a licensed veterinarian, the medically important antimicrobial drug is any of the following:

(1) Necessary to treat a disease or infection.

(2) Necessary to control the spread of a disease or infection.

(3) Necessary in relation to surgery or a medical procedure.

(b) A medically important antimicrobial drug may also be used when, in the professional judgment of a licensed veterinarian, it is needed for prophylaxis to address an elevated risk of contraction of a particular disease or infection.

(c) A person shall not administer a medically important antimicrobial drug to livestock solely for purposes of promoting weight gain or improving feed efficiency.

(d) Unless the administration is consistent with subdivision (a), a person shall not administer a medically important antimicrobial drug in a regular pattern.

Food and Agricultural Code

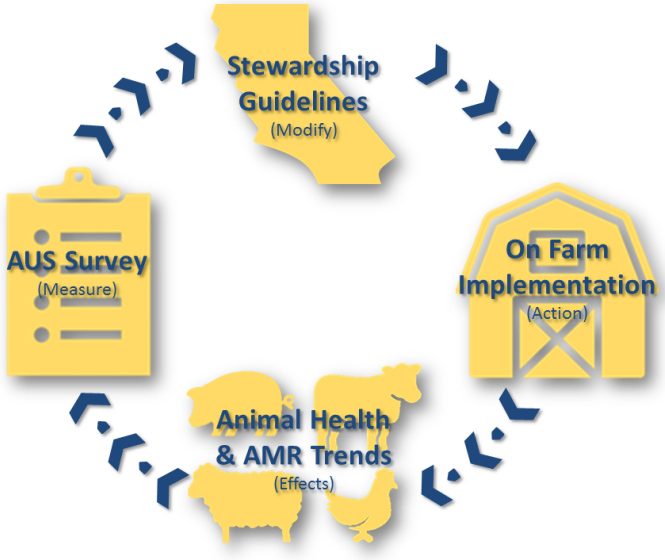
Division 7, Chapter 4.5

Section 14404.

- (a) The department, in consultation with the Veterinary Medical Board, the State Department of Public Health, universities, and cooperative extensions, shall develop antimicrobial stewardship guidelines and best management practices for veterinarians, as well as livestock owners and their employees who are involved with administering medically important antimicrobial drugs, on the proper use of medically important antimicrobial drugs for disease treatment, control, and prevention. The guidelines shall include scientifically validated practical alternatives to the use of medically important antimicrobial drugs, including, but not limited to, the introduction of effective vaccines and good hygiene and management practices.
- (b) The department shall consult with livestock producers, licensed veterinarians, and any other relevant stakeholders on ensuring livestock timely access to treatment for producers in rural areas with limited access to veterinary care.
- (c) For purposes of this section, “antimicrobial stewardship” is a commitment to do all of the following:
- (1) To use medically important antimicrobial drugs only when necessary to treat, control, and, in some cases, prevent, disease.
- (2) To select the appropriate medically important antimicrobial drug and the appropriate dose, duration, and route of administration.
- (3) To use medically important antimicrobial drugs for the shortest duration necessary and to administer them to the fewest animals necessary.

Other Requirements

- Voluntary data gathering from producers
- CDFA to promulgate regulations of sales of MIADs
- Timely access to veterinary treatment
  - Identify ‘rural’ areas with limited access to veterinary care
  - Consult with producers and licensed veterinarians
- CDFA to develop stewardship guidelines



Why Antimicrobial Stewardship?

- Reduce the need for antimicrobial drugs with infectious disease prevention
- Use antimicrobials appropriately to optimize livestock health and minimize selection for antimicrobial resistance

How Guidelines Will Be Used

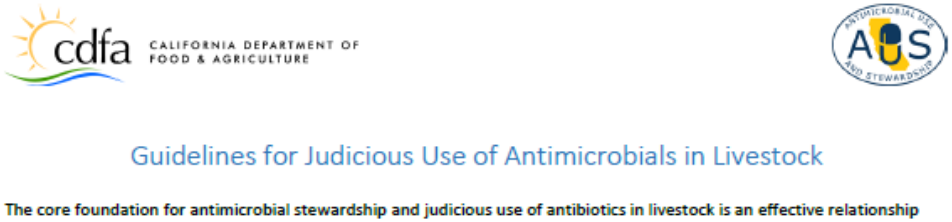
To be used by veterinarians to implement good antimicrobial stewardship

Almost 2 year process of drafting and review, with animal science and veterinary experts, as well as legal authority contributing

Goal: science based policy and direction

Outline of Judicious Use Guidelines

1. Guideline Text *(3 pages)*
2. Appendix A: Title 16, California Code of Regulations, Section 2032.1 – Veterinarian-Client-Patient Relationship *(1 page)*
3. Appendix B: Title 21, Code of Federal Regulations, Part 530 – Extralabel Drug Use in Animals *(7 pages)*
4. Compliance Policy Guide 615.115 – Extralabel Use of Medicated Feeds for Minor Species *(1 page)*
5. Appendix C: Definitions of Antimicrobial Use for Treatment, Control and Prevention *(1 page)*
6. Appendix D: Division 7, Food and Agriculture Code, Chapter 4.5 – Livestock: Use of Antimicrobial Drugs §14402 *(1 page)*
7. References *(1 page)*



cdfa CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

Guidelines for Judicious Use of Antimicrobials in Livestock

The core foundation for antimicrobial stewardship and judicious use of antibiotics in livestock is an effective relationship between a veterinarian and livestock owners. Biosecurity and herd health plans developed and revised under the guidance of a veterinarian are vital to maintain productivity, animal health and welfare, as well as a safe and secure food supply. Livestock owners, and their employees responsible for animal care, play a critical role in the success of a herd health plan. Recognizing early signs of illness in animals, such as slight changes in behavior, requires skill and experience, and it demonstrates a dedication to animal care and stockmanship. Various tools and/or scoring systems (e.g., monitoring feed and water consumption, calf health scores, the California Mastitis Test, and automated animal health trackers) may assist with the training and day-to-day activities of those responsible for animal care.

In California, the potential use of medically important antimicrobial drugs (hereafter referred to as antibiotics) in livestock must be deemed necessary under the professional judgment of a California licensed veterinarian, within the context of a valid veterinarian-client-patient relationship (VCPR) and in accordance with current veterinary medical practice and legal parameters.[a] To use antibiotics effectively and responsibly, a veterinarian must first develop a preliminary or general diagnosis, or have an indication of elevated risk of disease or infection.[b,c] The diagnostic process includes consideration of the history, clinical judgement, and epidemiological knowledge of the veterinarian.

Once the need for antibiotic therapy has been established, the following are essential to practice the judicious use of antibiotics:

These guidelines are intended to aid livestock owners and their employees responsible for animal care in responsible antibiotic use under the guidance of a veterinarian in compliance with state and federal laws.

1) The decision to use antibiotics for sick or at-risk animals should be made promptly and, when appropriate, antibiotic therapy should be initiated in a timely manner to minimize the infectious burden, improve therapeutic outcomes, and reduce the development of antibiotic resistance.

2) In deciding to implement the use of an antibiotic, a veterinarian may consider the expected benefit from therapy.
   a) Antibiotic therapy may be indicated for treatment in animals with an infectious disease or evidence of an infectious disease before a final diagnosis can be made. The veterinarian may assess the likelihood the illness is a result of a bacterial infection, the expected outcome of starting antibiotic therapy, and potential adverse effects of antibiotic therapy.
   b) Antibiotic therapy may be required for control to decrease the severity of disease, reduce shedding of infectious bacteria, and minimize chances for spreading the disease to additional animals.
   c) Antibiotic therapy may be necessary for prevention to address an elevated risk of contracting a particular disease or infection when the ability to predict outcomes to infectious exposure is not possible, but infection is anticipated based on the veterinarian's professional judgment regarding animal-specific risk factors.
   d) Medically important antibiotics shall not be administered to livestock solely for purposes of promoting weight gain or improving feed efficiency.
   e) Keeping accurate treatment and production records that include health outcomes of treated animals may aid the veterinarian in monitoring the effectiveness of animal health and disease prevention plans, reviewing treatment

[a] Medically important antimicrobial drugs and are defined as those listed in Appendix A of the U.S. Food and Drug Administration's Guidance for Industry #152.
[b] Defined in the Veterinary Medicine Practice Act, Title 16 of the California Code of Regulations, Section 2032.1.
[c] Allowable and prohibited uses of medically important antimicrobial drugs in livestock are described in 4.5 FAC § 14402. Attached in Appendix D.

Guideline Text Review

- Covering veterinary guidance only
- Producer guidance mirrors veterinary

Outline of Guideline Text

Introduction: Antimicrobials must be used with valid VCPR.

1. Antibiotics should be used for sick or at-risk animals.
2. Veterinarians consider many factors when prescribing MIADs.
3. Supportive Care and Alternatives can be used when scientifically supported and no negative animal welfare effects.
4. Selection of appropriate antibiotics and legal restrictions.
5. Dispensing and storing medication considerations for MIADs.

Next Steps for CDFA

Final Reviews of Judicious Use Guidelines

(and align Producer guidelines with any changes)

Formally Finalized with Support from CDFA Executive Office

Published on Website for public use

Veterinary Education and Promotion

Questions or Comments?

Thank You

Additional Information

Veterinary Medical Board
BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • VETERINARY MEDICAL BOARD
1747 North Market Blvd., Suite 230, Sacramento, CA 95834-2987
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MEMORANDUM

DATE	July 17, 2019
TO	Veterinary Medical Board
FROM	Jessica Sieferman, Executive Officer
SUBJECT	**Agenda Item 9. Discussion and Possible Action Regarding Potential Legislation Related to Business and Professions Code Section 4827 and Animal Shelter Services**

During the Board's April 2019 meeting, the Board approved the MDC's proposed amendments to Sections 2035.5 and 2030.6, Article 4, Division 20, Title 16 of the California Code of Regulations (CCR) Regarding Minimum Standards and Protocols for Shelter Medicine

Shortly thereafter, the Board was inundated with emails and letters from California Animal Welfare Association and various shelters requesting the Board rescind the proposal and/or postpone any action pertaining to the proposed regulations, pending input from California Animal Welfare and the impacted cities and counties that will be impacted.

As demonstrated in the attached email, staff clarified the proposal, existing law, and all past and future public comment opportunities.

In response, California Animal Welfare Association contacted Senate Business, Professions and Economic Development Committee (BP&ED) and the Governor's Office for assistance in passing the attached legislative proposal.

The Governor's Office requested DCA discuss this issue to determine if a solution/compromise can be reached. In addition, Senate BP&ED may convene a stakeholder meeting during summer recess to continue the conversation.

Action Requested:
Please review and provide input on the attached proposed legislative language.

Attachments:
1. Email Response to Department of Public Health, San Bernardino County
2. Proposed legislative language

From: Sieferman, Jessica@DCA
To: "Cronin, Brian"
Cc: Singh, Moneel@DCA; Drummond, Amanda@DCA; Jill Tucker; Dr. Noland
Subject: RE: Veterinary Medical Board Request for Reconsideration - CCR 2035.5 and 2030.6
Date: Friday, May 31, 2019 2:53:00 PM
Attachments: image009.png
image010.png
image013.png
image019.png
image021.png

Hi, Brian.

Thank you for your interest in the proposed regulations for animal shelter facility minimum standards.

The Board encourages and appreciates input from all those affected by Board regulations. Public participation is crucial when making any regulatory changes, which is why the Board held 15 public meetings over the past five years discussing the proposed regulations for animal shelter facilities. During the Multidisciplinary Committee (MDC) meetings, multiple members from the public and industry participated, including Erica Hughes from California Animal Welfare Organization. The meeting dates, webcasts, meeting materials, and meeting minutes of the MDC's and Board's discussions of the animal shelter facilities proposal are provided below for your reference.

Animal Shelter Facility Minimum Standards Discussions

2015 MDC Meetings

July 20
- Webcast
- Materials
- Minutes

2016 MDC Meetings

January 19
- Webcast
- Materials
- Minutes

April 19
- Webcast
- Materials
- Minutes

July 19
- Webcast
- Materials
- Minutes

October 18
- Webcast
- Materials
- Minutes

2017 MDC Meetings

January 17
- Webcast
- Materials
- Minutes

April 18
- Webcast
- No Materials
- Minutes

July 25
- Webcast
- Materials
- Minutes

October 17
- Webcast
- Materials
- Minutes

2018 MDC Meetings

February 20
- Webcast
- Materials
- Minutes

May 22
- Webcast
- Materials
- Minutes

August 28
- Webcast
- Materials
- Minutes

November 13
- Webcast
- Materials
- Minutes

2019 MDC Meeting

January 22
- Webcast
- Materials
- Minutes

VMB Meeting

April 17
- Webcast
- Materials
- Minutes pending Board approval

Although the proposed regulations have been approved by the Board, the public can still provide feedback during the 45-day comment period for the proposed regulations that occurs after the notice is published on the Board's website and distributed to the Board's interested parties list. If the Board receives any adverse comments, the public may provide further input during a public Board meeting. The public comment period and the Board meeting will most likely not occur until early next year, as there are many more steps before it gets to that point.

The rulemaking process is lengthy, intentionally transparent, and governed by the Administrative Procedures Act (APA). As the Board has provided ample opportunity over the past five years for public input and additional opportunities to comment on the proposed regulations are forthcoming, the Board is unable to postpone the rulemaking process for the proposed regulations.

It is important to note that all premises where veterinary medicine, dentistry, surgery, and the various branches thereof is being practiced must be registered with the Board. Business and Professions Code section 4826 provides the acts that constitute the practice of veterinary medicine. Accordingly, if veterinary medicine is being practiced at an animal shelter facility, the facility is currently subject to premises registration and must comply with the applicable minimum facility standards set forth in California Code of Regulations, title 16, sections 2030 through 2030.3. The Board recognizes that animal shelters may struggle with some of the existing minimum standard requirements, so the Board is proposing this rulemaking to make it easier for animal shelters that provide veterinary medical services to comply.

If you have not already done so, I recommend you subscribe to our interested parties list here. That will ensure you receive notifications of proposed regulations, public comment notices, meeting notices, and more. If you have any additional questions about the rulemaking process, please contact our administrative analyst, Amanda Drummond.

Thank you,

Jessica Sieferman
Executive Officer
Veterinary Medical Board
Department of Consumer Affairs
1747 N. Market Blvd, Suite 230
Sacramento, CA 95834
Direct: (916) 515-5222

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From: Cronin, Brian <BCronin@dph.sbcounty.gov>
Sent: Friday, May 24, 2019 11:54 AM
To: Sieferman, Jessica@DCA <Jessica.Sieferman@dca.ca.gov>

Cc: Singh, Moneel@DCA <Moneel.Singh@dca.ca.gov>; Drummond, Amanda@DCA <Amanda.Drummond@dca.ca.gov>; Jill Tucker <jill@calanimals.org>
Subject: RE: Veterinary Medical Board Request for Reconsideration - CCR 2035.5 and 2030.6

Good afternoon, Jessica,

Thank you for your response. I have copied Jill Tucker, CEO with the California Animal Welfare Association (CalAnimals) on this communication. At this time, I respectfully request that the VMB consider postponing any action pertaining to the proposed regulations, pending input from CalAnimals and the Cities and Counties that will be affected by the actions taken by the VMB.

Historically, when a significant regulatory action is considered at the state level, I would seek input from those who will be the most affected to make sure they have the opportunity to comment and be engaged.

Please advise if you feel the request to postpone any further action by the VMB regarding animal shelter regulations can be granted at this time.

Thank you for your consideration of this request.

Brian Cronin
Chief of Animal Care and Control
Department of Public Health
Phone: 909-387-9152
Fax: 909-387-0125
351 North Mountain View Avenue
3rd Floor, Room 302
San Bernardino, CA 92415-0003

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www.SBCounty.gov

From: Sieferman, Jessica@DCA [mailto:Jessica.Sieferman@dca.ca.gov]
Sent: Friday, May 24, 2019 9:48 AM
To: Cronin, Brian <BCronin@dph.sbcounty.gov>
Cc: Singh, Moneel@DCA <Moneel.Singh@dca.ca.gov>; Drummond, Amanda@DCA <Amanda.Drummond@dca.ca.gov>
Subject: RE: Veterinary Medical Board Request for Reconsideration - CCR 2035.5 and 2030.6

Good morning, Brian.

Thank you for your email and bringing your concerns to our attention. Currently, if animal shelters are providing vaccinations, deworming, medications etc. in the shelters, premises registrations would be required (BPC § 4826 and § 4853). Your request to add an animal shelter exception under BPC § 4827 would require legislation. To clarify, are you requesting the Board consider a legislative change *in lieu of* the proposed regulatory amendments?

Jessica Sieferman
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Direct: (916) 515-5222

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From: Cronin, Brian <BCronin@dph.sbcounty.gov>
Sent: Thursday, May 23, 2019 2:09 PM
To: Drummond, Amanda@DCA <Amanda.Drummond@dca.ca.gov>
Cc: Singh, Moneel@DCA <Moneel.Singh@dca.ca.gov>; Sieferman, Jessica@DCA <Jessica.Sieferman@dca.ca.gov>
Subject: RE: Veterinary Medical Board Request for Reconsideration - CCR 2035.5 and 2030.6

Good afternoon Ms. Drummond,

Thank you for providing the below response. The concerns presented pertain to the interpretation or definition of "providing animal shelter medicine" in a fixed facility. When this topic was originally presented several years ago, it was the opinion of members of the Veterinary Medical Board (VMB) that all animal shelters were providing veterinary medicine by vaccinating animals upon admission, providing deworming medication for parasite control, providing medications that were obtained through a veterinarian who examined the animal patient at a private veterinary clinic, etc. In my opinion, the proposed regulations still fail to address if an animal shelter would be required to obtain a Premises Permit to provide vaccinations, deworming, medications dispensed by a private veterinarian, etc.

Many individuals who have reviewed the proposed regulations and who have followed this dialogue over the past several years, still believe further clarification is required to define when an animal shelter is providing veterinarian medicine at a fixed facility to avoid any misunderstanding or misinterpretation.

In reviewing the practice act, I believe this concern could be easily addressed under Business and Professions Code section 4827 Practice Exceptions. An additional subsection can be added to address what specific functions are allowed within an animal shelter setting, without the facility requiring a Premises Permit.

I have attached three (3) letters authored by the California Animal Welfare Association (CalAnimals) for your reference, which touch upon the concerns mentioned herein along with other concerns previously presented to the VMB for your review.

If you should have any questions pertaining to this response, please feel free to contact me at this email address.

Brian Cronin
Chief of Animal Care and Control
Department of Public Health
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Fax: 909-387-0125
351 North Mountain View Avenue
3rd Floor, Room 302
San Bernardino, CA 92415-0003

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From: Drummond, Amanda@DCA [mailto:Amanda.Drummond@dca.ca.gov]
Sent: Thursday, May 23, 2019 11:13 AM
To: Cronin, Brian <BCronin@dph.sbcounty.gov>
Cc: Singh, Moneel@DCA <Moneel.Singh@dca.ca.gov>; Sieferman, Jessica@DCA <Jessica.Sieferman@dca.ca.gov>
Subject: RE: Veterinary Medical Board Request for Reconsideration - CCR 2035.5 and 2030.6

Good morning Mr. Cronin,

Thank you for your letter addressing your concerns with the proposed minimum standards for shelter medicine. I have reviewed your letter, but wanted to reach out to you for further clarification. In the proposed language (please see attached), the first paragraph of CCR section 2030.6 states the following:

"For purposes of these regulations, "animal shelter facility" shall mean a building, or part of a building, where veterinary medicine and its various branches are being practiced on stray, unwanted, or seized animals that are deposited with or impounded by a privately or publicly operated agency or organization. An animal shelter facility shall meet the following standards"

What this means is that the subsections (a) – (s) in CCR section 2030.6 are only applicable to shelters which provide veterinary services. If a shelter is not providing veterinary services, then this regulation would not be applicable. The Board is specifically trying to address shelters that are providing veterinary services to animals and develop regulations for minimum standards for those shelters.

In light of this, do you still have concerns regarding the proposed regulations?

If so, please let me know and I will communicate with my Executive Officer further and discuss presenting these concerns to the Board.

Thank you,

Amanda Drummond

Administrative Programs Coordinator, Veterinary Medical Board
1747 N. Market Blvd, Suite 230 | Sacramento, CA 95834
Direct: (916) 515-5238 | Fax: (916) 928-6849

From: VMB@DCA
Sent: Friday, May 17, 2019 12:06 PM
To: Drummond, Amanda@DCA <Amanda.Drummond@dca.ca.gov>
Cc: Singh, Moneel@DCA <Moneel.Singh@dca.ca.gov>
Subject: FW: Veterinary Medical Board Request for Reconsideration - CCR 2035.5 and 2030.6

From: Cronin, Brian <BCronin@dph.sbcounty.gov>
Sent: Friday, May 17, 2019 11:54 AM
To: VMB@DCA <VMB@dca.ca.gov>
Subject: Veterinary Medical Board Request for Reconsideration - CCR 2035.5 and 2030.6

Good afternoon,

On behalf of the County of San Bernardino, Department of Public Health, Animal Care and Control Division, attached please find a request for reconsideration for the regulations approved by the California Veterinary Medical Board on April 17, 2019. Specifically, sections 2035.5 and 2030.6 should be repealed due to the significant impacts that will result from implementation of the referenced code sections.

Your consideration of this request is appreciated.

Respectfully,

Brian Cronin
Chief of Animal Care and Control
Department of Public Health
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Fax: 909-387-0125
351 North Mountain View Avenue
3rd Floor, Room 302
San Bernardino, CA 92415-0003

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BUSINESS AND PROFESSIONS CODE - BPC
DIVISION 2. HEALING ARTS [500 - 4999.129]
(Division 2 enacted by Stats. 1937, Ch. 399.)

CHAPTER 11. Veterinary Medicine [4800 - 4917]
(Chapter 11 repealed and added by Stats. 1937, Ch. 933.)

ARTICLE 2. Practice Provisions [4825 - 4831]
(Article 2 added by Stats. 1937, Ch. 933.)

4827.
Nothing in this chapter prohibits any person from:

(a) Practicing veterinary medicine as a bona fide owner of one's own animals. This exemption applies to the following:

(1) The owner's bona fide employees.

(2) Any person assisting the owner, provided that the practice is performed gratuitously.

(b) Lay testing of poultry by the whole blood agglutination test. For purposes of this section, "poultry" means flocks of avian species maintained for food production, including, but not limited to, chickens, turkeys, and exotic fowl.

(c) Making any determination as to the status of pregnancy, sterility, or infertility upon livestock, equine, or food animals at the time an animal is being inseminated, providing no charge is made for this determination.

(d) Administering 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.

(Amended by Stats. 1999, Ch. 83, Sec. 5. Effective January 1, 2000.)

(e) Administer preventative vaccinations, excluding rabies vaccinations, to any stray, 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 or its agencies or humane society and has received proper training in the administration of the preventative vaccination.
(Thought: document on impound card vaccination given)
(Would allow shelters to continue to vaccinate animals upon intake)

(f) Administer non-prescription deworming medications to any stray, 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 or its agencies or humane society and has received proper training in the administration of the non-prescription deworming medications.
(Thought: document on impound card dewormer given)
(Would allow shelter to continue to treat animals in their care for parasites)

(g) Administer medication prescribed by a veterinarian, licensed in the State of California, to any stray, 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 or its agencies or humane society and has received a written treatment plan and has a dispensing protocol in place for the tracking of dispensed prescribed medication.
(Thought: see attached sample page of treatment record)
(Would allow a shelter to continue care as directed by a licensed vet at the same level of care an owner would in a home setting. Would require shelter to document treatment / on-going care provided per written directive from the vet.)

(h) Administer wound care follow up *(changing of bandages/ wraps)* as directed by a veterinarian, licensed in the State of California, to any stray, 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 or its agencies or humane society and has received a written treatment plan and has a wound care protocol in place for the tracking of care provided.
(Thought: see attached sample page of treatment record)
(Example that comes to mind: dog is involved in a fight with another animal. Vet bandages/wraps wound and directs bandage/wrap to be changed in 3 days. Releases dog back to shelter.

Would allow shelter to change dressing without having to transport animal back to vet. Documentation of dressing change would be required, but could be tracked on the attached treatment record example.

California Code of Regulations
Title 16. Professional and Vocational Regulations
Division 20. Veterinary Medical Board

PROPOSED LANGUAGE

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

{Text in brackets indicates the existing CCR section/subsection on which the language is based.}

CCR 2030.6. Minimum Standards – Animal Shelter Medicine in Fixed Facility

For purposes of these regulations, "animal shelter facility" shall mean a building, or part of a building, where veterinary medicine and its various branches are being practiced on stray, unwanted, or seized animals that are deposited with or impounded by a privately or publicly operated agency or organization. An animal shelter facility shall meet the following standards:

(a) All instruments, apparatus, and apparel shall be kept clean and sanitary at all times. **{2030}**
(b) Indoor lighting for halls, wards, reception areas, and examining and surgical rooms shall be adequate for their intended purpose. **{2030 (a)}**
(c) Fire precautions shall meet the requirements of local and state fire prevention codes. **{2030 (f)(1)}**
(d) The facility, temperature, and ventilation shall be maintained so as to assure the comfort of all patients. **{2030 (f)(2)}**
(e) The floors, table tops, and counter tops in areas where animals are being treated shall be made of a material suitable for regular disinfecting and cleaning and shall be cleaned and disinfected regularly. **{2030 (g)(7)}**
(f) The animal shelter facility shall have a reception area or office. **{2030(b)}**
(g) The animal shelter facility shall have an examination room separate from other areas of the facility. **{2030(c)}**
(h) Current veterinary reference materials shall be readily available at the facility. **{2030(f)(9)}**
(i) All drugs and biologicals shall be stored and maintained according to the manufacturer's recommendations and administered, prescribed, and dispensed in compliance with state and federal laws. **{2030(f)(6)}**
(j) The animal shelter facility shall have the ability to provide diagnostic radiological services either on the premises or through outside services. Radiological procedures shall be conducted in accordance with Health and Safety Code standards. **{2030 (f)(4)}**
(k) The animal shelter facility shall have the ability to provide clinical pathology and histopathology diagnostic laboratory services either on the premises or through outside services**. {2030 (f)(5)}**
(l) The animal shelter facility shall have appropriate drugs, including oxygen, and equipment to provide immediate emergency care. **{2030 (f)(12)}**

(m) The disposal of waste material shall comply with all applicable federal, state, and local laws and regulations. **{2030 (f)(3)}**

(n) If animals are housed or retained in the animal shelter facility for treatment, the following shall be provided: **{2030 (d)}**

(1) Compartments or exercise runs or areas for animals shall be consistent with husbandry standards and shall be comfortable, sanitary, and provide for effective separation of animals and waste products. **{2030 (d)(1)}**

(2) Effective separation of known or suspected contagious animals. **{2030 (d)(2)}**

(3) When medically, safely, and/or species appropriate for a given species, where animals are kept on the veterinary premises for 24 hours or more, the animals shall be provided with an opportunity for proper exercise. Compliance with this paragraph may be achieved by the use of exercise runs/areas or by providing the animal with the opportunity for outdoor walks. **{2030.1 (a)}**

(o) When the facility is closed, a sign shall be posted and visible outside the primary entrance with a telephone number and location where emergency care is available. An answering machine or service shall be used to notify the public when the facility will be re-opened and where after-hours emergency care is available. If no after-hours emergency care is available, full disclosure shall be provided to the public prior to rendering services. **{2030 (e)}**

(p) Anesthetic equipment in accordance with the procedures performed shall be maintained in proper working condition and available at all times. **{2030 (f)(10)}**

(q) Sanitary methods for the disposal of deceased animals shall be provided**. {2030 (f)(7)}**

(r) If aseptic surgery is performed, the following shall be provided**: {2030 (g)}**

(1) A room, separate and distinct from all other rooms, shall be reserved for aseptic surgical procedures that require aseptic preparations. A veterinarian may perform emergency aseptic surgical procedures in another room when the room designated for aseptic surgery is occupied or temporarily unavailable. **{2030 (g)(1)}**

(2) Storage in the surgery room shall be limited to items and equipment normally related to aseptic surgery and surgical procedures. Equipment not normally related to surgery and surgical procedure includes, but is not limited to, equipment used for dental prophylaxis, autoclaves, and non-surgical radiographic equipment. **{2030 (g)(2)}**

(3) Open shelving is prohibited in the surgical room. **{2030 (g)(3)**

(4) The surgical room shall not contain a functional sink with an open drain. **{2030 (g)(4)}**

(5) Surgery room doors shall be able to be fully closed, fill the entire door space, be made of a material suitable for regular disinfecting and cleaning, and be cleaned and disinfected regularly, and not provide access from outside the facility when aseptic surgery services are provided. **{2030 (g)(5)}**

(6) The surgery room shall be well-lighted, have equipment for viewing radiographs, and have effective emergency lighting with a viable power source. **{2030 (g)(6)}**

(7) Surgical instruments and equipment shall be:

a. Adequate for the type of surgical procedures performed. **{2030 (g)(8)(A)}**

b. Sterilized as required by the surgical procedure performed and instruments used. **{2030 (g)(8)(B)}**

(8) In any sterile procedure, a separate sterile pack shall be used for each animal. **{2030 (g)(9)}**

(9) All instruments, packs, and equipment shall be sterilized and have an indicator that reacts to and verifies sterilization. **{2030 (g)(10)}**

(10) The following attire shall be required for aseptic surgery: **{2030 (g)(11)}**

(A) Each member of the surgical team shall put on an appropriate sanitary cap and sanitary mask that covers his or her hair and mouth, nose, and any facial hair, except for eyebrows or eyelashes. All members of the surgical team who will be handling the instruments or touching the surgical site shall wear sterilized surgical gowns with long sleeves and sterilized gloves. **{2030 (g)(11)(A)}**

(B) Ancillary personnel in the surgery room shall wear clean clothing, footwear, sanitary cap, and mask. **{2030 (g)(11)(B)}**

(s) When performing clean surgery, the instruments used to perform such surgery shall have been sterilized, and the surgeon(s) and ancillary personnel shall wear appropriate apparel. **{2030 (h)}** For purposes of this subsection, "clean surgery" shall mean the performance of a surgical procedure for the treatment of a condition and under circumstances that, consistent with the standards of good veterinary medicine, do not warrant the use of aseptic surgical procedures. **{2030 (h)}**

Note: Authority cited: Sections 4808 and 4854, Business and Professions Code. Reference: Sections 4854 and 4883, Business and Professions Code.

CCR Section 2035.5. Duties of Supervising Veterinarian and Animal Health Care Tasks for R.V.T., VACSP Holder, and Veterinary Assistant in Animal Shelter Setting

(a) Notwithstanding subsection (c) of section 2035 and pursuant to subdivisions (a) and (b) of section 4840 of the code, limited medical care may be provided in a shelter setting by an R.V.T., VACSP holder, or veterinary assistant for the specific purpose of controlling infectious and zoonotic disease, controlling acute pain, and preventing environmental contamination if all the following are met:

(1) The supervising veterinarian has direct knowledge of the animal population and examines the animal(s) at such time as good veterinary medical practice requires consistent with the particular delegated animal health care tasks.

(2) The supervising veterinarian establishes written orders for:

(A) The indirect supervision of an R.V.T., VACSP holder, or veterinary assistant for vaccinations and prophylactic control of internal parasites and external parasites on intake.

(B) The indirect supervision of an R.V.T. for the treatment of clinical conditions based on an animal's symptoms.

(C) The direct supervision of a VACSP holder or veterinary assistant by an R.V.T. for the treatment of clinical conditions based on an animal's symptoms.

(3) Treatment rendered under paragraph (2) may be continued only under the direction of a licensed veterinarian.

(b) Emergency animal care may be rendered by an R.V.T. pursuant to section 2069.

(c) An R.V.T., VACSP holder, or veterinary assistant shall not diagnose, perform surgery, or prescribe pursuant to section 4840.2 of the code.

(d) The supervising veterinarian shall maintain whatever physical presence is reasonable within the facility to ensure that the requirements in subsections (a) through(c) are met.

(e) Animals that have been adopted and returned to the shelter by the owner for treatment of a medical condition shall be examined by a veterinarian prior to treatment or dispensing medication pursuant to section 2032.1, unless the care is continued treatment of an existing medical condition prior to the animal being adopted and the R.V.T. is following the treatment protocol established by the veterinarian.

(f) For animals surrendered to a shelter with valid prescription medication, an R.V.T., VACSP holder, or veterinary assistant may continue administration of the prescription medication prior to veterinarian examination.

(g) Rabies vaccines may be administered to an owned animal upon redemption from an animal shelter and pursuant to the direct order, written order, or telephonic order of a veterinarian licensed in this state.

Note: Authority cited: Sections 4808 and 4836, Business and Professions Code. Reference: Sections 4836, 4836.1, and 4840, Business and Professions Code.

Veterinary Medical Board
BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • VETERINARY MEDICAL BOARD
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MEMORANDUM

DATE	July 17, 2019
TO	Veterinary Medical Board
FROM	Moneel Singh, Operations Manager
SUBJECT	**Agenda Item 10. Update, Discussion and Possible Board Action on 2019 Legislation**

The information below was based on legislation, statuses, and analyses (if any) publicly available on July 16, 2019. Legislation is amended, statuses are updated, and analyses are added frequently; thus, hyperlinks are provided throughout this document to ensure members and the public have access to the most up to date information. Printed legislation will not be included in meeting packets.

A. Assembly Bill (AB) 312 (Cooley, 2019) State government: administrative regulations
Status: Failed
Analysis: Assembly Appropriations 04/01/19
Board Position: Watch and to delegate to the MDC to review regulations

This bill would require each state agency to, on or before January 1, 2022, review its regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, revise those identified regulations, as provided, and report its findings and actions taken to the Legislature and Governor, as specified. The bill would repeal these provisions on January 1, 2023.

B. AB 366 (Bloom, 2019) Animals: blood, blood components and biologics
Status: Failed
Analysis: None
Board Position: Oppose

This bill not withstanding any law, commencing January 1, 2022, prohibit a person from engaging in the production of canine blood and blood component products or for retail sale and distribution unless that person is licensed as a canine blood bank by the Secretary of Food and Agriculture, among other specified requirements, including the requirement that the operations are performed under the direct supervision of a licensed veterinarian or board-certified specialist.

The bill would prohibit a canine blood bank from paying a person for canine blood or blood component products and would require a canine blood bank to keep specified records.

C. AB 496 (Low, 2019). Business and professions

Status: Senate Floor
Analysis: Senate Floor Analyses
Board Position: Watch

This bill would replace gendered terms with nongendered terms and make various other non-substantive changes.

Existing law authorizes the director to audit and review, upon the director's own initiative or upon the request of a consumer or licensee, inquiries and complaints regarding, among other things, dismissals of disciplinary cases of specified licensees and requires the director to report to the Chairpersons of the Senate Business and Professions Committee and the Assembly Health Committee annually regarding any findings from such an audit or review.

This bill would instead require the director to report to the Chairpersons of the Senate Business, Professions and Economic Development Committee and the Assembly Business and Professions Committee.

Existing law defines the term "licentiate" to mean any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated or referred to, as specified.

This bill would instead define "licensee" to mean any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated or referred to, as specified, and would provide that any reference to licentiate be deemed to refer to licensee.

D. AB 528 (Low, 2019) Controlled substances: CURES database

Status: Senate Appropriations Committee Hearing Date: 8/12/19

Analysis: Assembly Business and Professions, 4/8/19
Assembly Appropriations, 4/22/19
Assembly Floor Analysis 4/26/19
Senate Business, Professions and Economic Development, 6/29/19

Changes the required timeframe in which pharmacists are required to report dispensed prescriptions to the state's prescription drug monitoring program (PDMP) from seven days to the following business day.

This bill will allow the veterinarian to report the information required as soon as reasonable possible but not more than seven days after the date a controlled substance is dispensed.

Existing law requires a health care practitioner authorized to prescribe, order, administer, furnish, or dispense controlled substances included on Schedule II, Schedule III, or Schedule IV, and a pharmacist upon licensure, to submit an application to obtain approval to electronically access information in the CURES database.

This bill would permit a licensed physician and surgeon to submit an application to obtain approval to electronically access information in the CURES database.

Existing law requires an authorized health care practitioner to consult the CURES database to review a patient's-controlled substance history before prescribing a Schedule II, Schedule

III, or Schedule IV controlled substance to the patient for the first time and at least once every 4 months thereafter if the controlled substance remains part of the treatment of the patient.

This bill would instead require the authorized health care practitioner to consult the CURES database to review the patient's-controlled substance history at least once every 6 months after the first time the substance is prescribed.

E. AB 544 (Brough, 2019) Professions and vocations: inactive license fees and accrued and unpaid renewal fees

Status: Failed
Analysis: Assembly Appropriations, 4/29/19
Assembly Business and Professions, 5/15/2019
Board Position: Oppose

This bill would limit the maximum fee for the renewal of a license in an inactive status to no more than 50% of the renewal fee for an active license. The bill would also prohibit a board from requiring payment of accrued and unpaid renewal fees as a condition of reinstating an expired license or registration.

F. AB 611 (Nazarian, 2019) Sexual abuse of animals

Status: Referred to Appropriations Suspense File
Analysis: Assembly Public Safety, 3/18/19
Assembly Appropriations, 4/1/19
Senate Public Safety, 6/3/19
Senate Appropriations, 6/24/19
Board Position: Support

Existing law makes it a misdemeanor to sexually assault certain animals for the purpose of gratifying the sexual desires of a person.

This bill would repeal that provision and would instead prohibit sexual contact, as defined, with any animal. The bill would make a violation of these provisions punishable as a misdemeanor. The bill would also authorize the seizure of an animal used in the violation of this offense.

Existing law makes it a misdemeanor for persons convicted of certain animal abuse crimes to own, possess, maintain, care for, reside with, or have custody of an animal for a specified period after conviction.

This bill would add animal sexual abuse to the list of offenses which result in that prohibition.

Existing law requires a veterinarian that has reasonable cause to believe an animal under their care has been a victim of animal abuse or cruelty to promptly report the abuse or cruelty to the appropriate law enforcement authorities of the county, city, or city and county in which it occurred. Existing law makes a violation of these provisions a misdemeanor.

This bill would expand that reporting requirement to include when the veterinarian has reasonable cause to believe an animal has been a victim of sexual abuse or kept without proper care and attention, as specified.

G. AB 613 (Low, 2019) Professions and vocations: regulatory fees.

Status: In Committee: Hearing postponed by committee
Analysis: Assembly Business and Professions, 4/1/19
Assembly Appropriations, 4/8/19
Assembly Floor Analysis 4/17/19
Senate Business, Professions and Economic Development, 6/29/19
Board Position: Support

This bill would authorize each board within the department to increase every 4 years any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index for the preceding 4 years, subject to specified conditions. The bill would require the Director of Consumer Affairs to approve any fee increase proposed by a board except under specified circumstances. By authorizing an increase in the amount of fees deposited into a continuously appropriated fund, this bill would make an appropriation.

H. AB 1230 (Quirk) Veterinary medicine: declawing animals

Status: Failed
Analysis: Assembly Business and Professions 4/19/19
Board Position: Opposed

This bill would prohibit a person from performing a declawing on a cat or other animal unless the person is licensed as a veterinarian and the veterinarian is performing the declawing for a therapeutic purpose. The bill would require a veterinarian to prepare and file a written statement with the board if the veterinarian determines that a declawing is necessary for a therapeutic purpose and would make a veterinarian subject to a determination by the board to revoke the veterinarian's license if the veterinarian does not comply with that requirement within 30 days of the procedure. Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program.

I. AB 1553 (Fong, 2019) Animal impoundment

Status: Chaptered by Secretary of State – Chapter 7, Statutes of 2019
Analysis: Assembly Business and Professions, 4/20/19
Senate Business, Professions and Economic Development, 5/30/19
Senate Floor Analyses 6/5/19
Board Position: Support

Existing law governs the seizure, rescue, adopting out, and euthanasia of abandoned and surrendered animals by animal control officers, law enforcement officers, animal shelters, and rescue organizations.

This bill would make technical, nonsubstantive changes to those provisions by replacing references to a "pound" with references to an animal shelter and by replacing references to destroying an animal with references to humanely euthanizing the animal.

J. Senate Bill (SB) 53 (Wilk, 2019) Open meetings

Status: Assembly Appropriations
Analysis: Senate Governmental Organization
Senate Appropriations, 4/8/19
Senate Floor Analyses 4/10/19

Board Position: Oppose

This bill would specify that the definition of "state body" includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in his or her their official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

K. SB 202 (Wilk, 2019) Animal blood donors

Status: Assembly Appropriations
Analysis: Senate Agriculture, 3/28/19
Senate Judiciary, 4/22/19
Senate Floor Analyses 5/18/19
Assembly Judiciary
Board Position: Support

This bill would modify the definition of a commercial blood bank for animals to include establishments that collect blood not only from "captive closed-colony" animals that are kept, housed, or maintained for the purpose of collecting blood, but also "community-sourced" animals, as defined, that are brought by their guardians to the commercial blood bank for animals to have their blood collected. The bill would require a commercial blood bank for animals to include, in its written protocol, blood-borne pathogen testing for all canine and feline blood donors, as provided. The bill would delete the above-described exemption from the California Public Records Act, except for personal information of guardians of community-sourced animal donors, as provided.

L. SB 627 (Galgiani, 2019) Medicinal cannabis and medicinal cannabis products: veterinary medicine

Status: Assembly Appropriations
Analysis: Senate Business, Professions, and Economic Development 5/2/19
Senate Appropriations 5/3/19
Senate Floor Analyses 5/18/19
Assembly Business and Professions Committee 7/5/19
Board Position: Oppose

SB 627 would, among other things, authorize veterinarians to recommend medicinal cannabis or medicinal cannabis products for use on animal patients. It would also require the Board to issue guidelines on the appropriate administration and use of medicinal cannabis on an animal patient. The Board would be required to report to the Legislature on January 1, 2021, and every six months thereafter, on the status and progress of developing the guidelines. During the April 2019 meeting, the Board opposed SB 627 (Galgiani, 2019).

The Board acknowledged that cannabis and cannabis products may have potential health benefits to animals. However, there is still a significant need for funding for cannabis research so that veterinarians and the public are informed on the possible efficacious use of cannabis to treat animals and ensure the full protection of consumers and their animals. While other medications and dangerous drugs have been provided to animal patients without significant research, those were not previously identified as Schedule I Controlled Substances, as is cannabis.

In the Assembly Business and Professions Committee analysis of SB 627, multiple policy issues and recommended amendments were identified, many mirroring the Board's concerns, including the lack of research and necessary funding for the research. In addition, one of the amendments removed the Board's reporting requirement to the Legislation and replaced it with a 2022 deadline for adopting recommendation guidelines.

During the July 9, 2019 Committee hearing, the author's office accepted all amendments in the Committee analysis, the Chair provided a "Do Pass" recommendation, and the bill passed out of Committee to the Assembly Appropriations Committee.

Although the Committee analysis specifically raised concerns about the lack of research and funding for said research, there were no proposed amendments in the analysis to address the concerns. Shortly after the July 9, 2019 hearing, Committee staff requested the Executive Officer and legal counsel draft language that would address the concerns for the author's consideration (attached). Committee staff also forwarded the language to the Assembly Appropriations Committee for consideration.

In an effort to incorporate the amendments in the language, the Board may want to consider an "oppose unless amended" position.

Veterinary Medical Board

Proposed Amendments to address animal cannabis research provisions

[These amendments are intended to address the policy concerns raised on page 5 of the Assembly Business and Professions Committee analysis and submitted for inclusion with the Assembly Business and Professions Committee amendments, which are detailed in the July 5, 2019 Committee analysis, accepted by the author at the Committee's July 9, 2019 hearing.]

Proposed Amendments:

On page 5, strike lines 23 through 28.

On page 19, between lines 26 and 27, below the Committee amendments to Section 14205 of the Food & Agriculture Code, insert:

SEC. 13 Section 11362.9 of the Health and Safety Code is amended to read:

11362.9.
(a) (1) It is the intent of the Legislature that the state commission objective scientific research by the premier research institute of the world, the University of California, regarding the efficacy and safety of administering cannabis as part of medical treatment. If the Regents of the University of California, by appropriate resolution, accept this responsibility, the University of California shall create a program, to be known as the California Cannabis Research Program. Whenever "California Marijuana Research Program" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the California Cannabis Research Program.

(2) The program shall develop and conduct studies intended to ascertain the general medical safety and efficacy of cannabis and, if found valuable, shall develop medical guidelines for the appropriate administration and use of cannabis. The studies may include studies to ascertain the effect of cannabis on motor skills.

(b) The program may immediately solicit proposals for research projects to be included in the cannabis studies. Program requirements to be used when evaluating responses to its solicitation for proposals, shall include, but not be limited to, all of the following:

(1) Proposals shall demonstrate the use of key personnel, including clinicians or scientists and support personnel, who are prepared to develop a program of research regarding cannabis' general medical efficacy and safety.

(2) Proposals shall contain procedures for outreach to patients with various medical conditions who may be suitable participants in research on cannabis.

(3) Proposals shall contain provisions for a patient registry.

(4) Proposals shall contain provisions for an information system that is designed to record information about possible study participants, investigators, and clinicians, and deposit and analyze data that accrues as part of clinical trials.

(5) Proposals shall contain protocols suitable for research on cannabis, addressing patients diagnosed with acquired immunodeficiency syndrome (AIDS) or human immunodeficiency virus (HIV), cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The proposal may also include research on other serious illnesses, provided that resources are available and medical information justifies the research.

(6) Proposals shall demonstrate the use of a specimen laboratory capable of housing plasma, urine, and other specimens necessary to study the concentration of cannabinoids in various tissues, as well as housing specimens for studies of toxic effects of cannabis.

(7) Proposals shall demonstrate the use of a laboratory capable of analyzing cannabis, provided to the program under this section, for purity and cannabinoid content and the capacity to detect contaminants.

(c) In order to ensure objectivity in evaluating proposals, the program shall use a peer review process that is modeled on the process used by the National Institutes of Health, and that guards against funding research that is biased in favor of or against particular outcomes. Peer reviewers shall be selected for their expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the applicants or the topic of an approach taken in the proposed research. Peer reviewers shall judge research proposals on several criteria, foremost among which shall be both of the following:

(1) The scientific merit of the research plan, including whether the research design and experimental procedures are potentially biased for or against a particular outcome.

(2) Researchers' expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the topic of, and the approach taken in, the proposed research.

(d) If the program is administered by the Regents of the University of California, any grant research proposals approved by the program shall also require review and approval by the research advisory panel.

(e) It is the intent of the Legislature that the program be established as follows:

(1) The program shall be located at one or more University of California campuses that have a core of faculty experienced in organizing multidisciplinary scientific endeavors and, in particular, strong experience in clinical trials involving psychopharmacologic agents. The campuses at which research under the auspices of the program is to take place shall accommodate the administrative offices, including the director of the program, as well as a data management unit, and facilities for storage of specimens.

(2) When awarding grants under this section, the program shall utilize principles and parameters of the other well-tested statewide research programs administered by the

University of California, modeled after programs administered by the National Institutes of Health, including peer review evaluation of the scientific merit of applications.

(3) The scientific and clinical operations of the program shall occur, partly at University of California campuses, and partly at other postsecondary institutions, that have clinicians or scientists with expertise to conduct the required studies. Criteria for selection of research locations shall include the elements listed in subdivision (b) and, additionally, shall give particular weight to the organizational plan, leadership qualities of the program director, and plans to involve investigators and patient populations from multiple sites.

(4) The funds received by the program shall be allocated to various research studies in accordance with a scientific plan developed by the Scientific Advisory Council. As the first wave of studies is completed, it is anticipated that the program will receive requests for funding of additional studies. These requests shall be reviewed by the Scientific Advisory Council.

(5) The size, scope, and number of studies funded shall be commensurate with the amount of appropriated and available program funding.

(6) Funding shall be appropriated for both human and animal patient studies.

(f) All personnel involved in implementing approved proposals shall be authorized as required by Section 11604.

(g) Studies conducted pursuant to this section shall include the greatest amount of new scientific research possible on the medical uses of, and medical hazards associated with, cannabis *for treatment of human and animal patients*. The program shall consult with the Research Advisory Panel analogous agencies in other states, and appropriate federal agencies in an attempt to avoid duplicative research and the wasting of research dollars.

(h) The program shall make every effort to recruit qualified patients and qualified physicians *and veterinarians* from throughout the state.

(i) The cannabis studies shall employ state-of-the-art research methodologies.

(j) The program shall ensure that all cannabis used in the studies is of the appropriate medical quality and shall be obtained from the National Institute on Drug Abuse or any other federal agency designated to supply cannabis for authorized research. If these federal agencies fail to provide a supply of adequate quality and quantity within six months of the effective date of this section, the Attorney General shall provide an adequate supply pursuant to Section 11478.

(k) The program may review, approve, or incorporate studies and research by independent groups presenting scientifically valid protocols for medical research, regardless of whether the areas of study are being researched by the committee.

(l) (1) To enhance understanding of the efficacy and adverse effects of cannabis as a pharmacological agent, the program shall conduct focused controlled clinical trials on the usefulness of cannabis in patients diagnosed with AIDS or HIV, cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The program may add research on other serious illnesses, provided that resources are

available and medical information justifies the research. The studies shall focus on comparisons of both the efficacy and safety of methods of administering the drug to patients, including inhalational, tinctural, and oral, evaluate possible uses of cannabis as a primary or adjunctive treatment, and develop further information on optimal dosage, timing, mode of administration, and variations in the effects of different cannabinoids and varieties of cannabis.

(2) The program shall examine the safety of cannabis in patients with various medical disorders, including cannabis's interaction with other drugs, relative safety of inhalation versus oral forms, and the effects on mental function in medically ill persons.

(3) *For treatment of animal patients, the program also shall examine the safety of cannabis treatment in various animal species and breeds.*

(4) The program shall be limited to providing for objective scientific research to ascertain the efficacy and safety of cannabis as part of medical treatment, and should not be construed as encouraging or sanctioning the social or recreational use of cannabis.

(m) (1) Subject to paragraph (2), the program shall, prior to any approving proposals, seek to obtain research protocol guidelines from the National Institutes of Health and shall, if the National Institutes of Health issues research protocol guidelines, comply with those guidelines.

(2) If, after a reasonable period of time of not less than six months and not more than a year has elapsed from the date the program seeks to obtain guidelines pursuant to paragraph (1), no guidelines have been approved, the program may proceed using the research protocol guidelines it develops.

(n) In order to maximize the scope and size of the cannabis studies, the program may do any of the following:

(1) Solicit, apply for, and accept funds from foundations, private individuals, and all other funding sources that can be used to expand the scope or timeframe of the cannabis studies that are authorized under this section. The program shall not expend more than 5 percent of its General Fund allocation in efforts to obtain money from outside sources.

(2) Include within the scope of the cannabis studies other cannabis research projects that are independently funded and that meet the requirements set forth in subdivisions (a) to (c), inclusive. In no case shall the program accept any funds that are offered with any conditions other than that the funds be used to study the efficacy and safety of cannabis as part of medical treatment. Any donor shall be advised that funds given for purposes of this section will be used to study both the possible benefits and detriments of cannabis and that he or she will have no control over the use of these funds.

(o) (1) Within six months of the effective date of this section, the program shall report to the Legislature, the Governor, and the Attorney General on the progress of the cannabis studies.

(2) Thereafter, the program shall issue a report to the Legislature every six months detailing the progress of the studies. The interim reports required under this paragraph shall include, but not be limited to, data on all of the following:

(A) The names and number of diseases or conditions under study.

(B) The number of patients enrolled in each study by disease.

(C) Any scientifically valid preliminary findings.

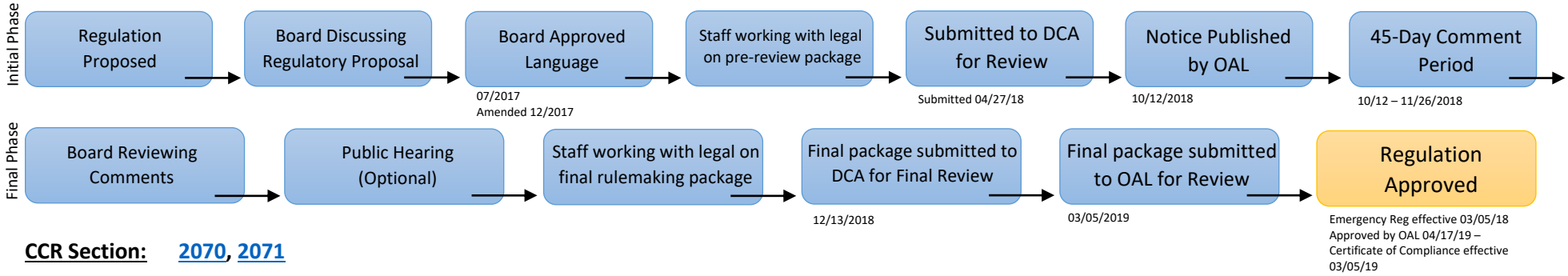
(p) If the Regents of the University of California implement this section, the President of the University of California shall appoint a multidisciplinary Scientific Advisory Council, not to exceed 15 members, to provide policy guidance in the creation and implementation of the program. Members shall be chosen on the basis of scientific expertise. Members of the council shall serve on a voluntary basis, with reimbursement for expenses incurred in the course of their participation. The members shall be reimbursed for travel and other necessary expenses incurred in their performance of the duties of the council.

(q) No more than 10 percent of the total funds appropriated may be used for all aspects of the administration of this section.

(r) This section shall be implemented only to the extent that funding for its purposes is appropriated by the Legislature in the annual Budget Act.

Status of Pending VMB Regulations

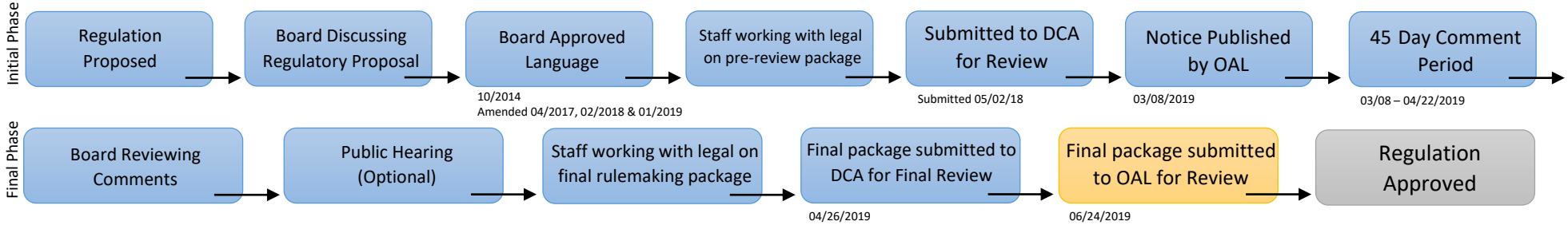
Fee Schedule



CCR Section: 2070, 2071

Notes: The emergency rulemaking package was approved 03/05/2018 and a standard rulemaking package has been submitted to DCA for review effective 04/27/2018. The package was noticed by OAL on 10/12/2018 and the 45-day comment period closed on 11/26/2018.
A re-adoption of the emergency regulations package was approved by OAL on 08/01/2018 and granted a 90-day extension. A 2nd re-adoption of the emergency regulations package approved by OAL on 10/16/2018. OAL approved the certificate of compliance on 04/17/2019 and the regulation became permanent on 03/05/2019.

Consumer Protection Enforcement Initiative (CPEI)



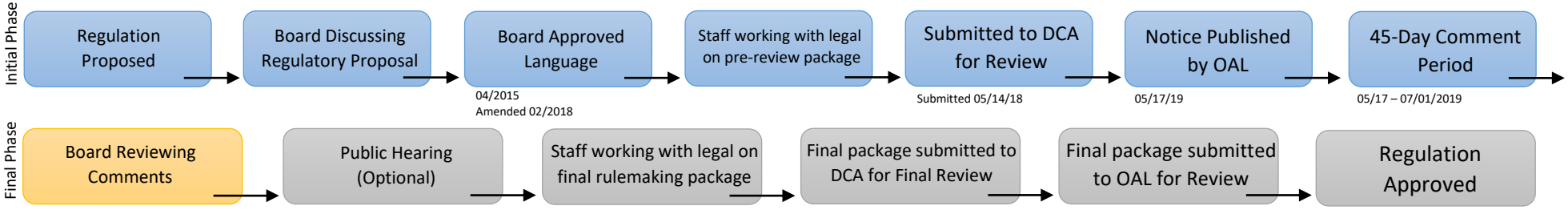
CCR Section: 2003, 2017, 2042

Notes: The CPEI rulemaking package was originally submitted through DCA for review in 07/2017, but due to recommendations received from Legal Affairs, the package was returned to the Board and amendments were made to the proposed language effective 02/2018. The rulemaking package was re-submitted to DCA for review effective 05/02/2018. Comments and recommendations were received from Agency and the Board amended the proposed language at the 01/2019 meeting. The package was noticed by OAL on 03/08/2019 and the 45-day comment period closed on 04/22/2019. The final rulemaking package was submitted to OAL for review on 06/24/2019.

Updated 07/10/2019

Status of Pending VMB Regulations

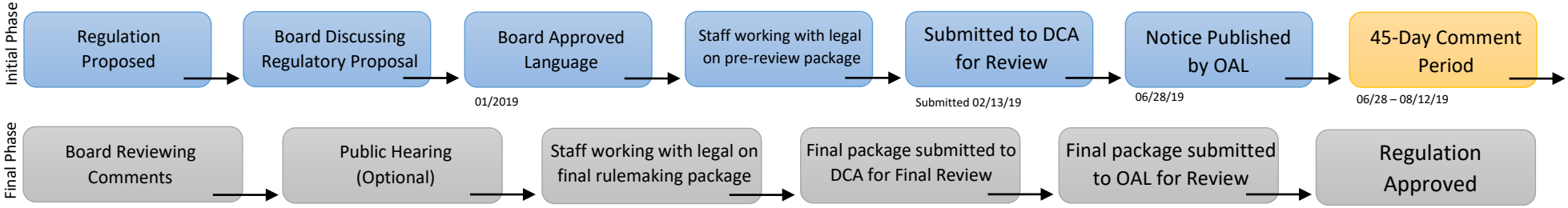
Telemedicine



CCR Section: **2032.1**

Notes: The Telemedicine proposed language was approved in 04/2015 and then amended in 02/2018. The rulemaking package has been submitted to DCA for review effective 05/14/2018. The package was noticed by OAL on 05/17/2019 and the 45-day comment period closed on 07/01/2019. The Board will review public comments received at the July meeting for further consideration.

Substantially Related Criteria Regarding Criminal Convictions



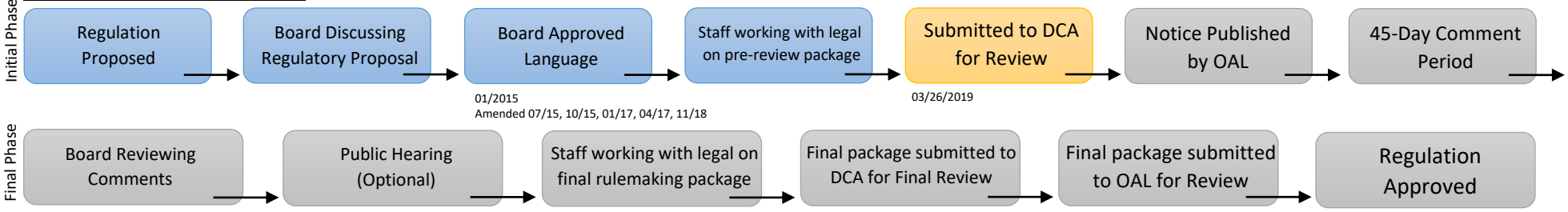
CCR Section: **2040 and 2041**

Notes: This regulation was approved by the Board at the 01/2019 meeting. This regulatory proposal is mandated by AB 2138 (Chiu, Chapter 995, Statutes of 2018) and must be implemented by July 1, 2020. The package was submitted to OAL on 06/17/19 and noticed on 06/28/19. The 45-day comment period will be open from 06/28 - 08/12/19.

Updated 07/10/2019

Status of Pending VMB Regulations

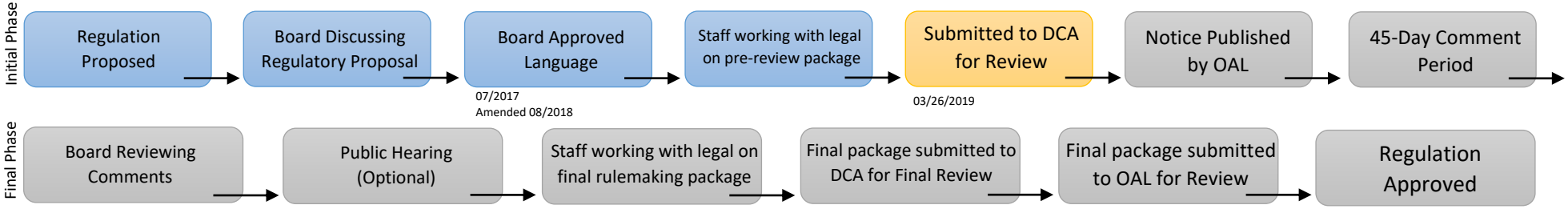
Disciplinary Guidelines



CCR Section: **2006**

Notes: The Disciplinary Guidelines rulemaking package proposed language was approved in 01/2015 and then amended 07/2015, 10/2015, 01/2017, 04/2017 and 11/2018. The rulemaking package has been submitted to DCA on 03/26/2019 and the package is with Budgets as of 03/27/2019.

Veterinary Technician Education



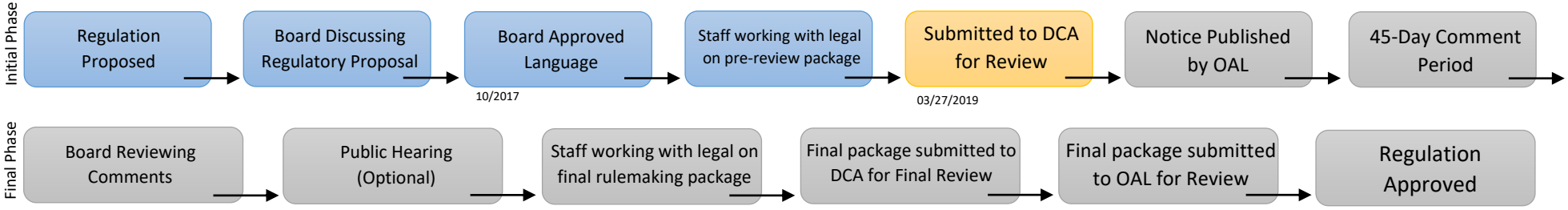
CCR Section: **2036.1, 2064, 2065.1, 2065.2, 2065.6, 2065.7, 2065.8, 2066, 2068.5**

Notes: *RVT Alternate Route:* In 02/2015 the MDC approved proposed language. In 07/2015 the Board approved proposed language.
RVT Student Exemption: In 07/2015 the MDC approved proposed language. In 10/2015 the Board approved proposed language.
RVT AVMA School Approval: In 07/2016 the Board approved proposed language.
The RVT Alternate Route, RVT Student Exemption and RVT AVMA School Approval were combined and approved in 07/2017. The language was amended at the 08/2018 Board meeting. The rulemaking package has been submitted to DCA on 03/26/2016 and the package is with Budgets as of 03/27/2019

Updated 07/10/2019

Status of Pending VMB Regulations

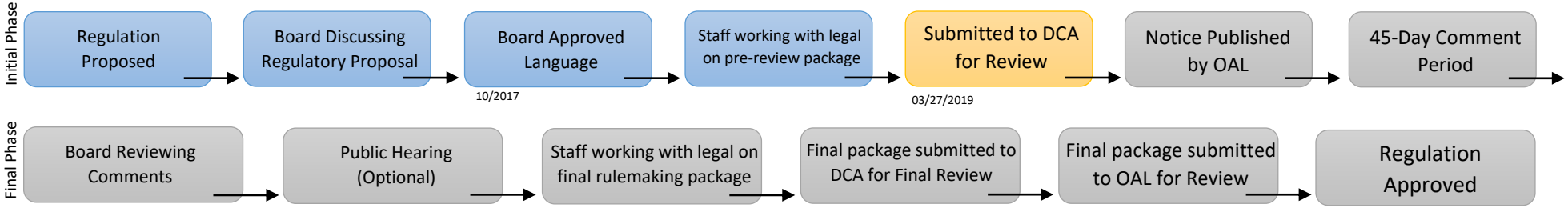
Drug Compounding



CCR Section: **2090-2096**

Notes: The Drug Compounding rulemaking package proposed language was approved in 10/2017. The rulemaking package has been submitted to DCA on 03/27/2019 and the package is with Budgets as of 03/28/2019.

Animal Physical Rehabilitation

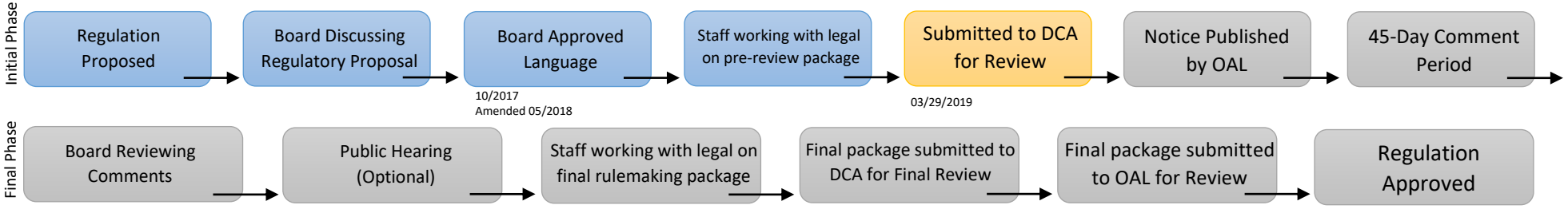


CCR Section: **2038.5**

Notes: The Animal Rehabilitation rulemaking package was previously filed with OAL and withdrawn in 11/2015. Three taskforce meetings were held to discuss this issue (06/2016, 10/2016, 02/2017). In 10/2017 the Board approved proposed language. The rulemaking package has been submitted to DCA on 03/27/2019 and the package is with Budgets as of 03/28/2019.

Status of Pending VMB Regulations

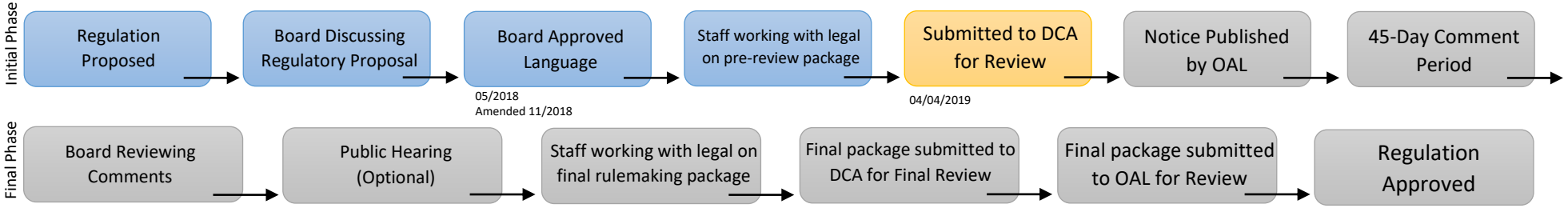
Emergency Animal Care



CCR Section: 2069

Notes: The Emergency Animal Care rulemaking package proposed language was approved by the Board in 10/2017 but brought back for further discussion at its 02/2018 meeting. The Board approved language at the 05/2018 meeting. The rulemaking package has been submitted to DCA on 03/29/2019 and the package is with Budgets as of 04/02/2019.

RVT Job Tasks



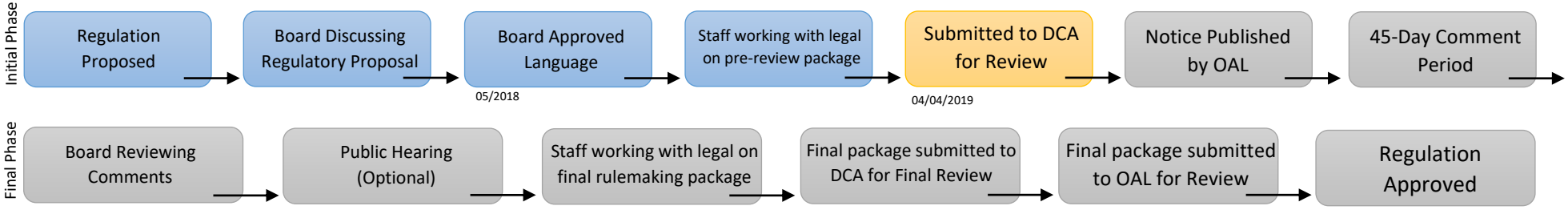
CCR Section: 2036

Notes: The RVT Job Tasks rulemaking package proposed language was approved by the MDC at their 10/2017 meeting and discussed at the Board's 02/2018 meeting. The Board approved language at the 05/2018 meeting. At the 11/2018 meeting, the Board amended the approved language to include drug compounding. The rulemaking package has been submitted to DCA on 04/04/2019 and the package is with Budgets as of 04/05/2019.

Updated 07/10/2019

Status of Pending VMB Regulations

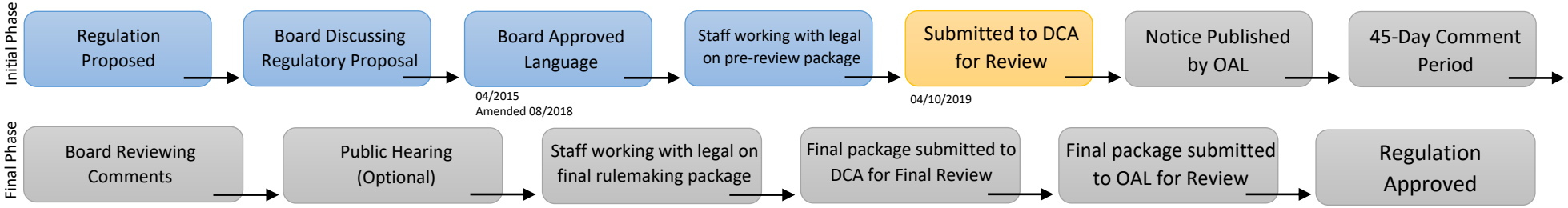
Duties of Supervising Veterinarian



CCR Section: 2035

Notes: The Duties of a Supervising Veterinarian proposed regulations were approved by the Board at the 05/2018 meeting. This regulation was previously called "Extended Duty" for Registered Veterinary Technicians. The rulemaking package has been submitted to DCA on 04/04/2019 and the package is with Budgets as of 04/05/2019.

Veterinarian-Client-Patient Relationships (VCPRs)

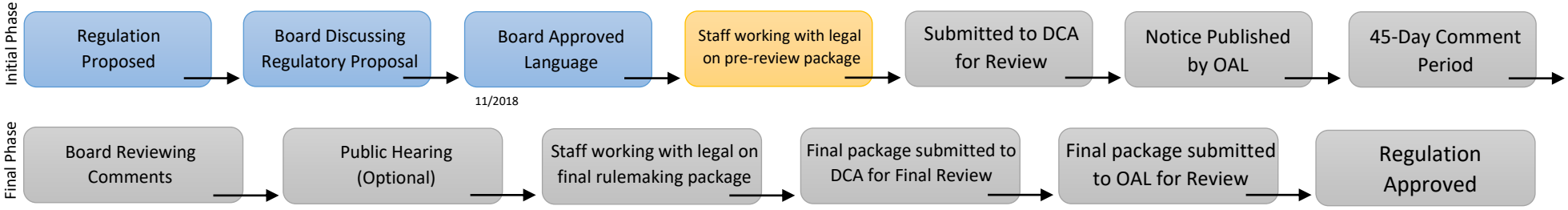


CCR Section: 2032.15, 2032.25

Notes: VCPRs was originally included with Telemedicine and Minimum Standards and approved at the 04/2015 meeting, but a byproduct of separating the Telemedicine from Minimum Standards cause the VCPRs to be dropped off. The language was re-presented to the Board at the 08/2018 meeting where additional changes were approved. The rulemaking package has been submitted to DCA on 04/10/2019 and the package is with Budgets as of 04/10/2019.

Status of Pending VMB Regulations

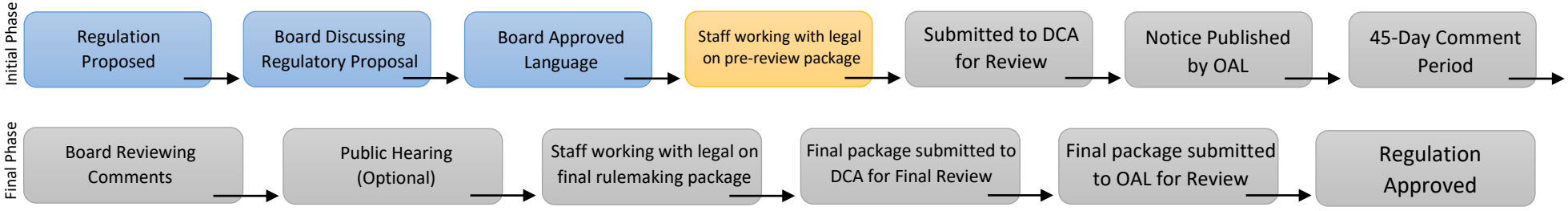
Minimum Standards for Alternate Veterinary Premises



CCR Section: **2030, 2030.05, 2030.1, 2030.15, 2030.2, 2030.3, 2030.4, 2030.5**

Notes: The Minimum Standards for Alternate Veterinary Premises proposed regulations were approved by the MDC at their 02/2018 meeting and forwarded to the Board for discussion. The Board approved language at the 11/2018 meeting. Board staff is working with legal to develop the initial rulemaking package prior to submitting to DCA for review.

Shelter Minimum Standards

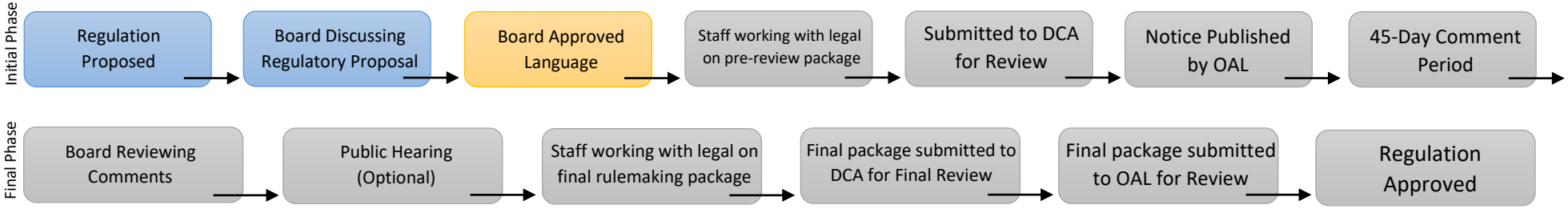


CCR Section: **2035.5, 2030.6**

Notes: The Shelter Minimum Standards concept was approved by the MDC at the 01/2019 meeting and the Board made minor amendments and approved the language at the 04/2019 meeting. Board staff is working with legal to develop the initial rulemaking package prior to submitting to DCA for review.

Status of Pending VMB Regulations

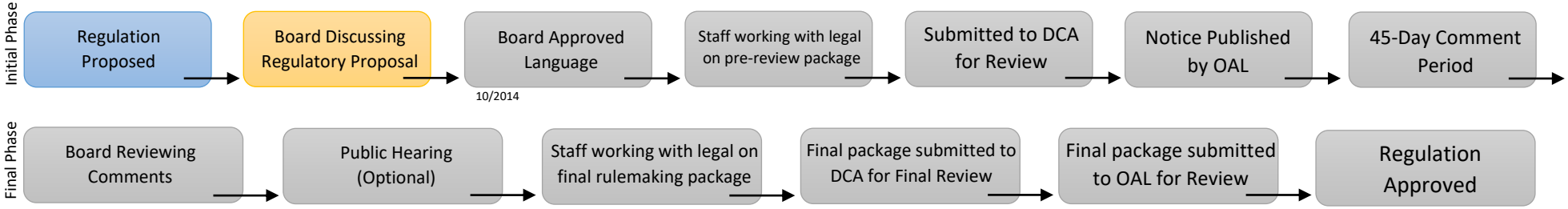
VCPR/Informed Client Consent



CCR Section: 2032.1

Notes: The VCPR/Informed Client Consent proposed regulations was presented as a question from the MDC regarding the requirements of a veterinarian to advise clients about dental radiographs at the 11/2018 meeting. The Board reviewed this at the 01/2019 meeting and decided to proceed with regulatory amendments. This regulatory package is on hold pending the approval of the Telemedicine regulations.

Uniform Standards for Abuse

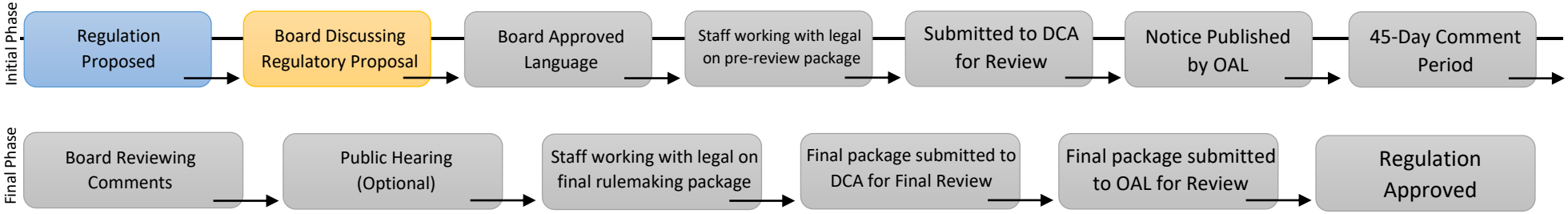


CCR Section: 2006, 2006.5, 2076

Notes: The Uniform Standards for Abuse rulemaking proposed language was approved in 10/2014 and was on hold per legal from 04/2015-03/2016. Pending amendments to be re-submitted to the Board for review and approval. As discussed at the 11/2018 meeting, DCA is reviewing the Uniform Standards of other healing arts Boards and it was recommended to hold off on developing the regulatory package until DCA has completed their review and recommendations. At the 01/2019 meeting, the Board created a subcommittee to look at Uniform Standards further. At the 04/2019 meeting the subcommittee provided a brief update on the Uniform Standards and the Board will continue to look at this issue at the July meeting.

Status of Pending VMB Regulations

Veterinary Student Exemption/RVT Exam Eligibility



CCR Section: 2027, **2027.5**

Notes: The Veterinary Student Exemption proposal was discussed and conceptionally approved 04/2017. This regulation is pending updates required by new Business and Professions Code (BPC) 4841.2 per SB 1480 (Hill, Chapter 571, Statutes of 2018). The Board briefly reviewed the proposed language at the 04/2019 meeting and agreed to bring the discussion back to the July meeting for further consideration.

Updated 07/10/2019

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
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MEMORANDUM

DATE	July 17, 2019
TO	Veterinary Medical Board
FROM	Amanda Drummond, Administrative Programs Coordinator
SUBJECT	**Agenda Item 11B. Sections 2027 and 2027.5, Article 3, Division 20, Title 16 of the California Code of Regulations (CCR) Regarding DVM Students and Graduates**

Background

For over three years, the Veterinary Medical Board's (Board) Multidisciplinary Advisory Committee (MDC) discussed the issue of licensure exemptions for veterinary college students and graduates who seek to obtain a doctorate of veterinary medicine (DVM). The initial focus of the discussion was the license exemption language in Business and Professions Code (BPC) section 4830 and CCR section 2027 and what is permissible for a DVM student under direct supervision of a veterinarian and what curricular or non-curricular settings are covered under the student licensure exemptions.

The issues evolved over time to include the regulatory authority of DVM graduates to perform health care tasks of a registered veterinary technician (RVT) and whether DVM graduates should be practicing as an RVT without ever becoming licensed or registered by the Board. The issue was resolved through a legislative recommendation of the Board to clarify that a DVM graduate could not perform animal health care tasks of an RVT unless the DVM graduate obtained veterinarian licensure or veterinary technician registration. The recommendation also included a delayed implementation of the statute to provide appropriate notice and due process to DVM graduates who were working as RVTs without Board licensure or registration. The Board's recommendation was enacted by Senate Bill (SB) 1480 (Hill, Chapter 571, Statutes of 2018) and provided, in new BPC section 4841.2, that DVM graduates must be Board licensed or registered on or after January 1, 2020, in order to perform RVT health care tasks.

The Board is asked now to consider amending CCR section 2027 to conform it to the new statutory license or registration requirements of DVM graduates performing RVT health care tasks. In addition, BPC section 4841.2 removed the ability of a DVM graduate to perform animal health care tasks; however, CCR section 2027 cites to the authority and reference of BPC section 4846.2, which authorizes the Board to require a DVM graduate to fulfill such other remedial or other requirements as the Board, by regulation, may prescribe. As CCR section 2027 would be revised to remove DVM graduates, the citations to BPC section 4846.2 would no longer apply to section 2027. As such, the Board should consider whether the authority and reference citations should be corrected to cite to BPC sections 4836 and 4840, which establish

animal health care tasks that may be performed by a veterinary assistant and RVT. The Board is also asked to consider whether CCR section 2027 should be revised to remove the citation to subsection (a) of section 2022, which currently pertains only to a DVM student of an AVMA accredited, Board approved college, so that DVM students of all Board recognized veterinary colleges are authorized to perform RVT health care tasks.

In addition, the Board is asked to consider the issue of whether a DVM graduate, from an accredited college or other Board-recognized college, may be eligible to take the RVT examination and review proposed CCR section 2027.5, as revised by legal counsel following a brief discussion at the April 2019 Board meeting changing the amount of schooling required to be RVT examination eligible.

Attachments

- BPC sections 4830, 4836, 4840, 4841.2, 4841.5, 4846.1, and 4846.2
- CCR, title 16, section 2022
- Proposed language to amend CCR section 2027 and adopt CCR section 2027.5

Business and Professions Codes

Section 4830

(a) This chapter does not apply to:

(1) Veterinarians while serving in any armed branch of the military service of the United States or the United States Department of Agriculture while actually engaged and employed in their official capacity.

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

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

(4) A student of a veterinary medical program accredited by the American Veterinary Medical Association Council on Education who participates as part of his or her formal curriculum in the diagnosis and treatment with direct supervision, or in surgery with immediate supervision, provided all of the following requirements are met:

(A) The clinical training site has been approved by the university where the student is enrolled.

(B) The student has prior training in diagnosis, treatment, and surgery as part of the formal curriculum.

(C) The student is being supervised by a California-licensed veterinarian in good standing, as that term is defined in paragraph (1) of subdivision (b) of Section 4848.

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

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

(b) (1) For purposes of paragraph (3) of subdivision (a), a regularly licensed veterinarian in good standing who is called from another state by a law enforcement agency or animal control agency, as defined in Section 31606 of the Food and Agricultural Code, to attend to cases that are a part of an investigation of an alleged violation of federal or state animal fighting or animal cruelty laws within a single geographic location shall be exempt from the licensing requirements of this chapter if the law enforcement agency or animal control agency determines that it is necessary to call the veterinarian in order for the agency

or officer to conduct the investigation in a timely, efficient, and effective manner. In determining whether it is necessary to call a veterinarian from another state, consideration shall be given to the availability of veterinarians in this state to attend to these cases. An agency, department, or officer that calls a veterinarian pursuant to this subdivision shall notify the board of the investigation.

(2) Notwithstanding any other provision of this chapter, a regularly licensed veterinarian in good standing who is called from another state to attend to cases that are a part of an investigation described in paragraph (1) may provide veterinary medical care for animals that are affected by the investigation with a temporary shelter facility, and the temporary shelter facility shall be exempt from the registration requirement of Section 4853 if all of the following conditions are met:

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

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

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

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

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

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

Section 4836

(a) The board shall adopt regulations establishing animal health care tasks and an appropriate degree of supervision required for those tasks that may be performed only by a registered veterinary technician or a licensed veterinarian.

(b) The board also may adopt regulations establishing animal health care tasks that may be performed by a veterinary assistant as well as by a registered veterinary technician or a licensed veterinarian. The board shall establish an appropriate degree of supervision by a registered veterinary technician or a licensed veterinarian over a veterinary assistant for any tasks established under this subdivision and the degree of supervision for any of those tasks shall be higher than, or equal to, the degree of supervision required when a registered veterinary technician performs the task.

(c) The board may adopt regulations, as needed, to define subdivision (c) of Section 4840, including, but not limited to, procedures for citations and fines, in accordance with Section 125.9.

Section 4840

(a) Registered veterinary technicians and veterinary assistants are approved to perform those animal health care services prescribed by law under the supervision of a veterinarian licensed or authorized to practice in this state.

(b) Registered veterinary technicians may perform animal health care services on those animals impounded by a state, county, city, or city and county agency pursuant to the direct order, written order, or telephonic order of a veterinarian licensed or authorized to practice in this state.

(c) Registered veterinary technicians may apply for registration from the federal Drug Enforcement Administration that authorizes the direct purchase of sodium pentobarbital for the performance of euthanasia as provided for in subdivision (d) of Section 4827 without the supervision or authorization of a licensed veterinarian.

Section 4841.2

(a) Except as provided in subdivision (b), 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.

(b) If, on or before January 1, 2020, 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, 2020, unless the graduate is issued a license or registration as otherwise required under this chapter.

Section 4841.5

To be eligible to take the written and practical examination for registration as a registered veterinary technician, the applicant shall:

(a) Be at least 18 years of age.

(b) (1) Furnish satisfactory evidence of graduation from, at minimum, a two-year curriculum in veterinary technology, in a college or other postsecondary institution approved by the board, or the equivalent thereof as determined by the board. In the case of a private postsecondary institution, the institution shall also be approved by the Bureau for Private Postsecondary Education.

(2) For purposes of this subdivision, education or a combination of education and clinical practice experience may constitute the equivalent of the graduation requirement imposed under this subdivision, as determined by the board.

Section 4846.1

If the veterinary college from which an applicant is graduated is not recognized by the board, the board shall have the authority to determine the qualifications of such graduates and to review the quality of the educational experience attained by them in an unrecognized veterinary college. The board shall have the authority to adopt rules and regulations to implement this provision.

Section 4846.2

If the board finds in evaluating the graduate described in Section 4846.1 that such applicant is deficient in qualification or in the quality of his educational experience the board may require such applicant to fulfill such other remedial or other requirements as the board, by regulation, may prescribe.

California Code of Regulations (CCR)

CCR, title 16, section 2022

(a) In accordance with the provisions of Section 4846 of the Business and Professions Code, the Board recognizes veterinary colleges accredited by the American Veterinary Medical Association (“AVMA”).

(b) All other veterinary colleges must have academic standards equivalent to schools accredited by the AVMA in order to be recognized by the Board. Evaluation of the academic standards, veterinary courses and practices of these schools will be made after an application for a license has been received.

California Code of Regulations
Title 16. Professional and Vocational Regulations
Division 20. Veterinary Medical Board

PROPOSED LANGUAGE

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Amend Section 2027 of Article 3 of Division 20 of Title 16 of the California Code of Regulations to read as follows:

§ 2027. ~~Graduates and~~ Students of Veterinary Colleges - Job Tasks.
A junior or senior student ~~or a graduate~~ of a recognized veterinary college specified~~listed~~ in Section 2022~~(a),~~ who is performing any animal health care task in a veterinary premises 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.

Note: Authority cited: Sections 4808 and 4836~~4846.2~~, Business and Professions Code. Reference: Section 4836 and 4840~~4846.2~~, Business and Professions Code.

Add Section 2027 of Article 3 of Division 20 of Title 16 of the California Code of Regulations to read as follows:

§ 2027.5 – Graduates of Veterinary Colleges – Eligibility for R.V.T. Licensure.
(a) Any person who receives a veterinary medical degree from a recognized ~~an accredited~~ veterinary college specified in Section 2022~~, subsection (a),~~ or a person who is within two years~~eight (8) months~~ of his or her anticipated graduation from a recognized~~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.

Note: Authority cited: Sections 4808, Business and Professions Code. Reference: Section 4841.5, Business and Professions Code.

Veterinary Medical Board

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MEMORANDUM

DATE	July 17, 2019
TO	Veterinary Medical Board
FROM	Amanda Drummond, Administrative Programs Coordinator
SUBJECT	**Agenda Item 11C. Section 2032.1, Article 4, Division 20, Title 16 of the CCR Regarding Veterinarian-Client-Patient Relationship and Telemedicine**

Background

The regulatory language for telemedicine was approved by the Veterinary Medical Board (Board) in April of 2015, and amended in February of 2018. The regulatory package was submitted to the Department of Consumer Affairs (DCA) on May 14, 2018. The regulatory proposal for telemedicine was noticed by the Office of Administrative Law (OAL) on May 17, 2019, which began the 45-day comment period. The 45-day comment period closed on July 1, 2019, and the Board received two comments during the comment period. Following the 45-day comment period, Board staff will prepare the final rulemaking package that includes the Final Statement of Reasons, which will address all comments received during the comment period.

- Summary of comment one (1):

Many aggressive pets cannot tolerate a "hands-on exam" in the veterinary facility and by requiring a hands-on exam the veterinary staff could be placed in danger. Additionally, if aggressive pets are brought in for a hands-on examination, they often receive a pre-examination IM injection of anesthetic agents, which can increase the risk of anesthetic death in the patient. Further, due to the advancement of technology, a remote video examination allows the veterinarian to provide services in a relaxed home environment and provide the same services of a hands-on exam, without the potential of the pet masking symptoms by being stressed in a foreign environment. Telemedicine services will also allow clients in remote areas to visit a veterinarian without having to travel far distances and provide for better service of care. The new Remote Video Exam should be regulated, not prohibited. The Board is asked to delay revising the VCPR and veterinary telemedicine regulation pending further discussion of the benefits to the veterinarian, the veterinary profession, the public, and all animals.

- Board staff recommended response to comment one (1):

While telemedicine is proving to be an effective form of treatment in human health care, animals are fundamentally different and cannot benefit from telemedicine in the same aspects that humans can. Unlike people, animals are unable to communicate their sickness or symptoms.

Communication is expressed solely by the animal owner, who likely has no veterinary training to properly diagnose or express a sickness or symptom of the animal. For these reasons, it is important that the VCPR is developed in person and not based solely on telephonic or electronic means. Otherwise, the veterinarian would not be familiar with the animal's medical history and could not effectively provide the best level of care via telemedicine. For veterinary science to be effective, it is important that the VCPR be established in person, so a full physical examination can be performed, and the veterinarian can get to know the animal. It is only after this relationship has been established that telemedicine may be an effective method of the continuance of treatment.

Following the lead of the American Veterinary Medical Association (AVMA), the Board determined it necessary to clarify the veterinarian-client-patient relationship (VCPR) to underscore the importance of the VCPR requirement, even when using telemedicine. It is the belief of both the AVMA and the Board that a VCPR must be established prior to providing telemedicine services. This relationship must be established in person, so that the proper level of care can be obtained, prior to supplemental services (i.e., telemedicine) being provided. The implementation of these regulations will address the problems identified by providing additional clarification to the VCPR, and how that relationship is developed.

While the Board is sensitive to the dangers of aggressive animals to veterinary staff, or the difficulties of obtaining veterinary care in remote areas, telemedicine services are unable to provide an adequate diagnosis when initially establishing a VCPR, due to the lack of hands-on services, such as the ability to feel the animal, listen to heart and lungs, check the eyes and ears, etc. Telemedicine services are an acceptable form of services following the establishment of a VCPR, but for an initial diagnosis, the Board stands behind its approach that the initial VCPR must be established in person.

- Summary of comment two (2):

Since California is generally recognized as a leader, it should take the direction of the American Association of American Association (AAVSB), instead of proposing verbiage that would move the veterinary profession backwards. "Telemedicine has always existed in medicine when considering the workings such as cytologists, hematologists, pathologists and radiologists. This would be true in both human medicine and veterinary medicine. Most general practitioners have not been involved with telemedicine as the nature of their practice it to have a personal relationship with their client with time to directly provide a hands-on examination of the patient." The regulation would make telemedicine veterinarians criminals; perhaps the Board should look at public complaints directed at veterinarians without prior hands-on examinations and propose regulations to deal with those specific issues, rather than to blanket all practice situations.

- Board staff recommended response to comment two (2):

In a memorandum dated September 28, 2017, the AAVSB expressed their support for the position statement regarding telehealth, drafted by the AVMA, which identified the need for a "hands-on" exam for the initial establishment of a VCPR. After careful review by the Board, and after participating in the AAVSB's December 4, 2017 webinar on this topic, the Board expressed its concerns to the AAVSB about its draft policy and the interpretations of the policy as discussed in the webinar.

It was mentioned in the webinar that the AAVSB's draft policy statement was intentionally non-descript to allow states the flexibility to adopt policies consistent with their respective practices. The Board believes that AAVSB should be very clear and provide a framework for states to make informed decisions and formulate appropriate laws and regulations governing the use of telemedicine in practice. AAVSB should be the leader in defining where and how a VCPR is established, under what conditions the practice of telemedicine takes place, where the practitioner must be licensed, etc.

The critical public policy consideration is whether a veterinarian can establish a VCPR with a "virtual exam." The Board strongly believes that a VCPR should be established only with an in-person, hands-on examination. The Board has heard a number of reasons that a veterinarian should be able to use a "virtual exam" to establish a VCPR, however, the Board does not believe that such arguments outweigh the risks of not having a thorough in person examination of the animal patient to make an informed diagnosis. Although, a medical history is just as important in veterinary medicine as in human medicine, the physical examination is critical in veterinary medicine because the patient cannot speak for themselves and the client often misinterprets the symptoms an animal is displaying.

Following the establishment of the initial VCPR, the VCPR is able to be transferred to a secondary veterinarian for purposes of specialty medicine. During these instances, the initial VCPR will remain intact and telemedicine services are able to be utilized. Further, the initially prescribing veterinarian is also authorized to provide telemedicine services, once an initial VCPR has been established.

Attachments

- Comments received regarding the Telemedicine regulatory proposal.

Rolan Tripp, DVM, CABC

Author, Speaker, Consultant

Pet Perception Management™

(714) 496-9958

DrRolanTripp@gmail.com

June 28, 2019

To: California Veterinary Medical Board
Fm: Rolan Tripp, DVM
Re: Proposed regulatory action concerning redefining the VCPR

Introduction

This letter is in response to a request for public comments regarding proposed regulatory wording changes. As a California licensed veterinarian, I genuinely appreciate the notice and request for comments.

I am a strong supporter of the California Veterinary Medical Board and organized veterinary medicine in general. Here is historical evidence. I have served as:

- President of the student chapter of the AVMA while still in veterinary school at UCD
- Chair of membership for the California Veterinary Medical Association (CVMA)
- President of the Santa Clara VMA
- Volunteer author of numerous articles for the Southern California VMA
- CVMA Delegate to the AVMA
- Elected to a 6 yr term on the AVMA Council on Veterinary Service (2009-15)
- During that service, periodically consulted with Sue Geranen of the CVMB
- In 40 years of practice there has never been a public complaint lodged against me
- The CVMB worked with the Oregon and Washington State VMB when I relocated

I have a special interest in Veterinary Telecommunications.

- My first article was published in the CVMA Journal, “The California Veterinarian” January 1984 issue, Titled, “Veterinary Telecommunications”
- Two years later in 1986, I started my company in California and now a registered corporation in Washington State, called, “Veterinary Telecommunications.”
- That company has many DBA sub-entities that also are involved in some way related to Veterinary Telecommunications.
- I am the Founder of the Veterinary Future Society (www.VeterinaryFutureSociety.org.)
- In 2011 I gave the Keynote address at the CanWest International Veterinary Meeting on the title, “The Future of Veterinary Practice.”
- I was invited to lecture at both the 2018 and 2019 Veterinary Innovation Summit (VIS), on the “The Future of Televeterinary Practice.”
- After the first VIS meeting I was interviewed by Veterinary Practice News (VPN) regarding Televeterinary Practice.
- In the last year, I have published 2 articles in VPN regarding Televeterinary Practice

- As a behaviorist I am certified by the *International Assn of Animal Behavior Consultants*
- I am one of the founders and current chair and spokesperson for the Televeterinary Coalition (www.Televeterinary.org), a loosely organized volunteer group of US veterinarians who network to share an interest in the future opportunities of Veterinary Telemedicine, also referred to as **Televeterinary**.

Reasons to Oppose the Proposed Wording of the VCPR

Since CVMA and SCVMA represent predominantly veterinary facility owners, it is natural that they would support regulations that require all clinical transactions to occur at a veterinary facility. My goal here is to present tele-examination advantages to the veterinary facility owners, clinicians, clients and patients that may not have been considered.

1. As a behaviorist, I have been utilizing veterinary telecommunications since 1986 in the non-medical field of client education about behavior modification. I have consulted in over 20 states and 2 countries. The recent combination of broadband and smartphone penetration now makes it possible to see the animal and the client in real-time, high-definition via cell-webcam with speakerphone. ("A Remote Video Exam.") This is a new type of imaging of the pet at home that potentially allows dedicated clients to access direct opinions from the most knowledgeable veterinarians in the world. This new tool and opportunity should be regulated, but not prohibited.
2. Pet and people welfare are improved when fearful and/or aggressive pets do not need to enter a building that has strange people and strange pets.
3. Many fear aggressive pets cannot tolerate a "hands-on exam" in the veterinary facility anyway. Requiring taking this pet in may result in harm to the vet staff (who are part of the public) as well as harm to the pet and owner. There may even be Board liability if an owner is injured due to a Board required office visit.
4. If the fear aggressive pet is brought in, the exam often involves a pre-exam IM injection of anesthetic agents - when the pet has maximal catecholamine release. This unnecessarily and significantly increases risk of pet anesthetic death.
5. A remote video exam of the pet in the home environment allows the veterinarian to see skin lesions, gait, rashes, a pet's mental state and movement more clearly in the relaxed home setting. A "hands-on exam" has indications, just like skin scraping, blood tests and all other clinical diagnostic tests and treatments.
6. A stressed pet in the clinic may mask symptoms and make the diagnosis more difficult.
7. Clients with disabilities or those who do not drive could still get an expert DVM opinion and next steps which may or may not involve a veterinary visit.
8. Clients in remote areas may not be willing to drive the distance to see a DVM.
9. Clients able to drive should still be allowed to obtain direct consultation from any veterinary expert they wish, anywhere in the world.
10. The televeterinarian must still be able to defend any tentative diagnosis, prognosis or treatment plan. Each is licensed in their respective state or country, so the public is still protected by recourse.
11. Kaiser Permanente, the human medical field, now offers phone and video consultations, whether or not the patient as been previously seen by that doctor. Once people experience this, they often request the same for their pet, then ask, "Why not?"

12. A Veterinary Practice owner may be able to provide the public better service if working with a televeterinarian who can address client concerns more quickly and help triage or remotely monitor the DVM's clinical cases.
13. If the VCPR can be established remotely, a new pet to the practice can be prescribed calming medications to make the first veterinary visit more positive and successful.
14. A full audio-visual **recording** of the veterinary interaction with client and pet would set a higher standard of medical record for Veterinary Medical Board review.
15. Active changes in remote prescribing are happening right now in other countries.
16. The AAVSB now recommends that each jurisdiction promulgate appropriate regulations defining how to establish sufficient knowledge of the animal(s), including the following:

*"A recent examination of the animal or group of animals**, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically**; or B. Through medically appropriate and timely visits to the premises at which the animal or group of animals are kept."*

State and Federal Cooperation
I believe the state should continue as the veterinary regulating body. However, as veterinary video consultation between countries increase, complaints may come to our federal government. I contacted my Representative to the US Congress, **Jaime Herrera Beutler** who sits on the *Congressional Subcommittee on Labor, Health and Human Services*. (See attached)

My letter today to the Board is an offer to provide gratis consulting if willing to consider modifications in the regulation wording. Alternatively, perhaps the board could collaborate in a discussion on how to manage flow of complaints from other countries.

Proposal to Stall

In closing, this letter is a request for the CVMB to delay revising the VCPR and Veterinary Telemedicine regulation wording pending further discussion of the benefits to the veterinarian, the veterinary profession, the public and all animals.

Sincerely,

Rolan Tripp, DVM, CABC
California Veterinary License 7003

Addendum 1:

Excerpt from the Colorado VMB Policy on Veterinary Telehealth

- Place the welfare of patients first;
- Maintain the generally accepted standards of practice;
- Maintain medical records with regard to the Veterinarian-Client-Patient Relationship (VCPR) and Telehealth visits;
- Adhere to recognized ethical codes governing the profession;
- Accept responsibility for the supervision of technicians and staff;
- Protect client/patient confidentiality.

Addendum 2:
An example of the current rate of change related to regulation of Televeterinary.

The UK is considering allowing Rx Prescription based on remote evaluation alone.

RCVS Council agrees wide-ranging review of guidance on 'under care' and 24/7 cover

14 June 2019

Please note: we published a response to concerns arising from this Council decision on 19 June 2019.

The Council of the Royal College of Veterinary Surgeons (RCVS) yesterday gave the go-ahead for a wide-ranging review of a number of key provisions of the supporting guidance to the *RCVS Code of Professional Conduct*, following ongoing discussions around trialling the development of telemedicine services, including remote prescribing, in UK veterinary practice.

The review was recommended to RCVS Council by its Standards Committee following its lengthy and detailed exploration of the implications of new technologies for both animal health and welfare and veterinary regulation – a key strategic objective for the RCVS, first identified as part of the Vet Futures initiative in 2015.

The main areas under consideration include the provision of 24-hour emergency cover and the interpretation and application of an animal being under the care of a veterinary surgeon.

During the course of its discussions, which included numerous meetings and reports, a public consultation and examination of external legal advice, the Committee identified a number of anomalies in the College's existing guidance that could affect how the Code's provisions were applied across a range of different scenarios.

JAIME HERRERA BEUTLER
3RD DISTRICT, SOUTHWEST WASHINGTON

COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT, AND RELATED AGENCIES
SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES
SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT

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June 4, 2019

Dr. Rolan Tripp
15315 SE Evergreen Hwy
Vancouver, WA 98683-9208

Dear Dr. Tripp,

Thank you for approaching my office regarding the difficulties surrounding the delivery of remote veterinary medical care. I appreciate your willingness to meet with my staff and update me on the current status of this emerging service. Based on your account of the situation, I can certainly understand your frustrations with the current system, especially as it pertains to cross-state service hindrances and restrictions.

Following my briefing on this issue, I have made sure that my legislative team is aware of the concerns you have shared, and I will give full consideration to any proposals that will increase the efficiency of veterinary services. Going forward, please feel free to reach out again with any follow up information or potential solutions.

Sincerely,

Jaime Herrera Beutler

Jaime Herrera Beutler
Member of Congress

Drummond, Amanda@DCA

From: Jerry Owens <jowensdvm@aol.com>
Sent: Monday, July 1, 2019 4:47 AM
To: Drummond, Amanda@DCA; Sieferman, Jessica@DCA
Subject: verbiage of telemedicine legislation

Follow Up Flag: Flag for follow up
Flag Status: Flagged

[EXTERNAL]: jowensdvm@aol.com

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831 Madrone Rd.
Glen Ellen, CA 95442

June 28, 2019

California Veterinary Medical Board

Sacramento, CA.

To the California Veterinary Medical Board:

I am a concerned California veterinarian and disapprove of your current proposal to limit telemedicine in California. I believe that since California is generally recognized as a leader, that you should take the direction the AAVSB has indicated instead of proposing verbiage that would move us backwards.

I have been in private referral specialty practice in the SF Bay Area since 1976 and have provided telemedicine consultations for that entire time. I provide consultations on subjects including medical, surgical and radiological problems. My primary clients are practicing veterinarians, but I also provide consultations directly to animal owners and breeders. Ninety nine percent of the time I do not see the animal directly and therefore do not have a “hands-on” opportunity with the animal. I rarely ever see the client and in many instances do not know or even have a personal relationship with referring veterinarian. I never have felt that this is has been a problem. To my knowledge, there has never been a complaint from the public about my services or myself. I suspect this may be the case with other veterinarians as well, who have not been practicing veterinary medicine providing without a hands-on exam. Your legislation would make me and others to be criminals if we continued practicing that way. If there have been complaints from the public directed towards veterinarians who have practiced veterinary medicine in the state of California without prior hands-on examinations, perhaps we should look at those complaints and propose regulations to deal with those specific issues, rather than to blanket all practice situations.

Telemedicine has always existed in medicine when considering the workings of specialists such as cytologists, hematologists, pathologists and radiologists. This would be true in both human medicine and veterinary medicine. Most general practitioners have not been involved with telemedicine as the nature of their practice is to have a personal relationship with their client with time to directly provide a hands-on examination of the patient.

I urge that your board reconsider drafting a legal document that demands a hands-on examination before delivery of any remote veterinary medical services.

Sincerely yours,

Jerry M. Owens, DVM

Diplomate American College of Veterinary Radiology (ACVR)

Member:

AVMA, CVMA, MCVMA, REVMA

CVMA delegate to

the MCVMA

Member,

Board of Directors of the SVME (Society of Veterinary Medical Ethics)
President-elect of the AVMHS (American Veterinary Medical History Society)
Past president, American College of Veterinary Radiology
Historian, American College of veterinary Radiology
Member: Rotary International - Sonoma Valley Rotary

0777 - Veterinary Medical Board
Analysis of Fund Condition

Prepared 6-19-2019

(Dollars in Thousands)

Governor's Budget

w/ Projections Through May 2019

	Prelim Actuals 2017-18	CY 2018-19	BY 2019-20	BY+1 2020-21	BY+2 2021-22
BEGINNING BALANCE	$ 1,822	$ 1,503	$ 1,359	$ 1,601	$ 1,710
Prior Year Adjustment	$ -	$ -	$ -	$ -	$ -
Adjusted Beginning Balance	$ 1,822	$ 1,503	$ 1,359	$ 1,601	$ 1,710
REVENUES AND TRANSFERS					
Revenues:					
4129200 Other regulatory fees	$ 154	$ 157	$ 91	$ 91	$ 91
4129400 Other regulatory licenses and permits	$ 1,206	$ 1,253	$ 1,429	$ 1,429	$ 1,429
4127400 Renewal fees	$ 3,559	$ 3,896	$ 4,276	$ 4,276	$ 4,276
4121200 Delinquent fees	$ 16	$ 31	$ 22	$ 22	$ 22
4140000 Sales of documents	$ -	$ -	$ -	$ -	$ -
4143500 Miscellaneous services to the public	$ 1	$ 1	$ 1	$ 1	$ 1
4163000 Income from surplus money investments	$ 18	$ 41	$ 10	$ 25	$ 25
4171400 Escheat of unclaimed checks and warrants	$ 2	$ 4	$ 4	$ 4	$ 4
Totals, Revenues	$ 4,956	$ 5,383	$ 5,833	$ 5,848	$ 5,848
Totals, Resources	$ 6,778	$ 6,886	$ 7,192	$ 7,449	$ 7,558
EXPENDITURES					
Disbursements:					
1111 Program Expenditures (S/O)	$ 4,913	$ 5,173	$ 5,237	$ 5,342	$ 5,449
8880 Financial Information System for California (S/O)	$ 6	$ -	$ -1	$ -	$ -
9892 Supplemental Pension Payments	$ -	$ 37	$ 80	$ 80	$ 80
9990 Statewide Pro Rata	$ 356	$ 317	$ 275	$ 317	$ 317
Total Disbursements	$ 5,275	$ 5,527	$ 5,591	$ 5,739	$ 5,846
FUND BALANCE					
Reserve for economic uncertainties	$ 1,503	$ 1,359	$ 1,601	$ 1,710	$ 1,712
Months in Reserve	3.3	2.9	3.3	3.5	3.4

NOTES:

A. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING BY+1

B. ASSUMES INTEREST RATE AT 1.5%.

C. ACTUAL DISPLAYS NET PROGRAM EXPENDITURES.

D. REVENUE AND EXPENDITURES ARE PROJECTED THROUGH MAY 2019

VETERINARY MEDICAL BOARD - 0777
BUDGET REPORT
FY 2018-19 EXPENDITURE PROJECTION
Prelim FM 11

OBJECT DESCRIPTION	FY 2015-16 ACTUAL EXPENDITURES (MONTH 13)	FY 2016-17 ACTUAL EXPENDITURES (MONTH 13)	FY 2017-18 ACTUAL EXPENDITURES (Prelim 12)	FY 2018-19 BUDGET ACT 2018	CURRENT YEAR EXPENDITURES 5/31/2019	PERCENT SPENT	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE	COMMENTS
PERSONNEL SERVICES									
Salary & Wages (Staff)	993,433	1,019,574	992,880	**1,143,000**	998,618	87%	1,097,551	45,450	
Statutory Exempt (EO)	90,636	94,812	101,102	**82,000**	88,682	108%	96,744	(14,744)	
Temp Help Reg (Seasonals)		25,472	33,116	**33,000**	51,874	2	68,986	(35,986)	**Based on 2 RA's working 960 hours each**
Board Member Per Diem	6,900	7,700	9,500	**14,000**	200	0%	9,600	4,400	
Committee Members (DEC)	5,700	4,600	3,400	**11,000**	0	0%	7,400	3,600	
Overtime	1,995	426	2,259	**0**	0	N/A	0	0	
Staff Benefits	610,044	666,328	679,391	**741,000**	630,619	85%	693,094	47,906	
TOTALS, PERSONNEL SVC	**1,708,708**	**1,818,912**	**1,821,648**	**2,024,000**	**1,769,993**	**87%**	**1,973,374**	**50,626**	
OPERATING EXPENSE AND EQUIPMENT									
General Expense	39,907	34,243	20,335	**26,000**	17,650	68%	21,180	4,820	
Fingerprint Reports	520	512		**6,000**	5,050	0%	6,200	(200)	Estimate
Minor Equipment	6,919	124	10,393	**7,000**	663	0%	1,000	6,000	Reduce to 1k for savings
Printing	19,795	26,881	43,491	**18,000**	39,295	218%	39,295	(21,295)	3YR Average; DCA Printing $5,495; based on average, assume liquidating of mailing cost
Communication	5,416	1,336	1,721	**18,000**	1,904	11%	2,285	15,715	Estimate
Postage	28,278	23,402	28,498	**26,000**	5,811	22%	26,726	(726)	3YR Average; DCA Postage $8,908
Insurance		20	6,280	**0**	7,419	0%	7,419	(7,419)	DGS Statewide Subcharge
Travel In State	70,768	72,636	32,523	**148,000**	18,387	0%	58,642	89,358	3YR Average
Travel, Out-of-State	0	0	0	**0**	178	0%	178	(178)	
Training	6,244	68		**18,000**	4,835	27%	6,200	11,800	
Facilities Operations	114,242	117,554	120,058	**102,000**	111,422	109%	121,740	(19,740)	9,956/Month; $598 for DGS
C & P Services - Interdept.	2		84	**0**	90	0%	0	0	Manual charge
C & P Services - External	227,251	257,713		**148,000**	84,653	57%	64,653	83,347	Elavon $47k; Maximus $27,003, American Express $9k, FS Solutions $1650 - **Liquidate $20k from Maximus**
DEPARTMENTAL SERVICES (PRO RATA):								0	
Office of Information Services	453,708	488,657	506,000	**487,000**	446,417	92%	487,000	0	Project to full budget; YTD is estimate
Admin/Exec	286,698	261,981	301,000	**333,000**	305,250	92%	333,000	0	Project to full budget; YTD is estimate
Interagency Services					2,447	0%	3,200	(3,200)	DGS Prorata
IA w/ OPES	72,166	70,832	0	**50,000**	62,788	126%	62,788	(12,788)	OPES Contract through three quarters. **Do not charge 4th quarter or approx. $39k**
DO I- Spec Ops (Internal)	6,882	6,439	7,000	**10,000**	9,167	92%	10,000	0	Project to full budget; YTD is estimate
Communications Division	19,000	50,079	9,000	**11,000**	10,083	92%	11,000	0	Project to full budget; YTD is estimate
Program Policy Review Division		1,308	47,000	**39,000**	35,750	92%	39,000	0	Project to full budget; YTD is estimate
INTERAGENCY SERVICES:								0	
Consolidated Data Center	2,230	26	8,070	**8,000**	2	0%	2	7,998	YTD
DP Maintenance & Supply	10,884			**0**		0%		0	
Information Technology	0	3,369	27,033	**5,000**	672	0%	750	4,250	Estimate
EXAM EXPENSES:								0	
Exam Supplies				**1,000**	0	0%	0	1,000	
Exam Freight				**0**	0	0%	0	0	
Exam Site Rental				**5,000**	0	0%	0	5,000	
C/P Svcs-External Expert Administrative	26,988			**0**	39,066	0%	39,066	(39,066)	PSI - YTD $31,827
C/P Svcs-External Expert Examiners		40,686	288,948	**31,000**	0	0%	0	31,000	Estimate
C/P Svcs-External Subject Matter	55,341	36,688		**0**	26,768	0%	36,415	(36,415)	SMEs
ENFORCEMENT:								0	
Attorney General	510,785	657,122	837,755	**806,000**	594,319	74%	733,043	72,957	Through May 2019
Office Admin. Hearings	105,233	151,691	113,215	**196,000**	196,360		236,000	(40,000)	Through April 2019
Court Reporters	6,043	9,363	59,601		23,590		35,000	(35,000)	Estimate
Evidence/Witness Fees	173,628	162,244	124,067	**163,000**	122,596	75%	124,050	38,950	Estimate
DOI - Investigations	617,594	825,796	522,000	**549,000**	503,250	92%	549,000	0	Project to full budget; YTD is estimate
CI/Ext - Subject Matter Experts				**0**	132,025		170,476	(170,476)	
Major Equipment								0	
Other (Vehicle Operations)				**3,000**		0%	0	3,000	
TOTALS, OE&E	**2,866,522**	**3,300,770**	**3,114,072**	**3,214,000**	**2,807,907**	**87%**	**3,225,308**	**(11,308)**	
TOTAL EXPENSE	**4,575,230**	**5,119,682**	**4,935,720**	**5,238,000**	**4,577,900**	**87%**	**5,198,682**	**39,318**	
Sched. Reimb. - External/Private									
Sched. Reimb. - Fingerprints		(5,640)		**(11,000)**	(3,055)		**(11,000)**	0	
Sched. Reimb. - Other	(3,525)		(4,225)	**(15,000)**	(177,058)		**(15,000)**	0	
Unsched. Reimb. - Other	(158,407)	(197,407)	(215,789)						
NET APPROPRIATION	**4,413,298**	**4,916,635**	**4,715,706**	**5,212,000**	**4,397,787**	**84%**	**5,172,682**	**39,318**	
							SURPLUS/(DEFICIT):	**0.8%**	

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MEMORANDUM

DATE	July 17, 2019
TO	Veterinary Medical Board
FROM	Robert Stephanopoulos. Enforcement Manager
SUBJECT	**Enforcement Report – Agenda Item 15C**

Staff Update

The number of pending cases rose again last quarter to over 1800 cases. This is a result of the enforcement team's lack of resources and growing number of complaints received, which has been further increased by the additional applicant conviction cases now managed by intake and investigations. Management is looking into obtaining additional staff to address this ever-increasing backlog. Further, overtime has been authorized to provide additional resources into the assignment and investigation of this substantial number of cases.

Attorney General's Office Updates

Attorney General and OAH costs rose last quarter due to cases which proceeded with lengthy hearings. As previously mentioned, when a case is transmitted to the AG's office, staff will include terms to which the Board might be willing to agree; however, in some cases, due to the evidence obtained and in the interest of consumer protection, the only terms staff/management will agree to is the surrender of the respondent's license.

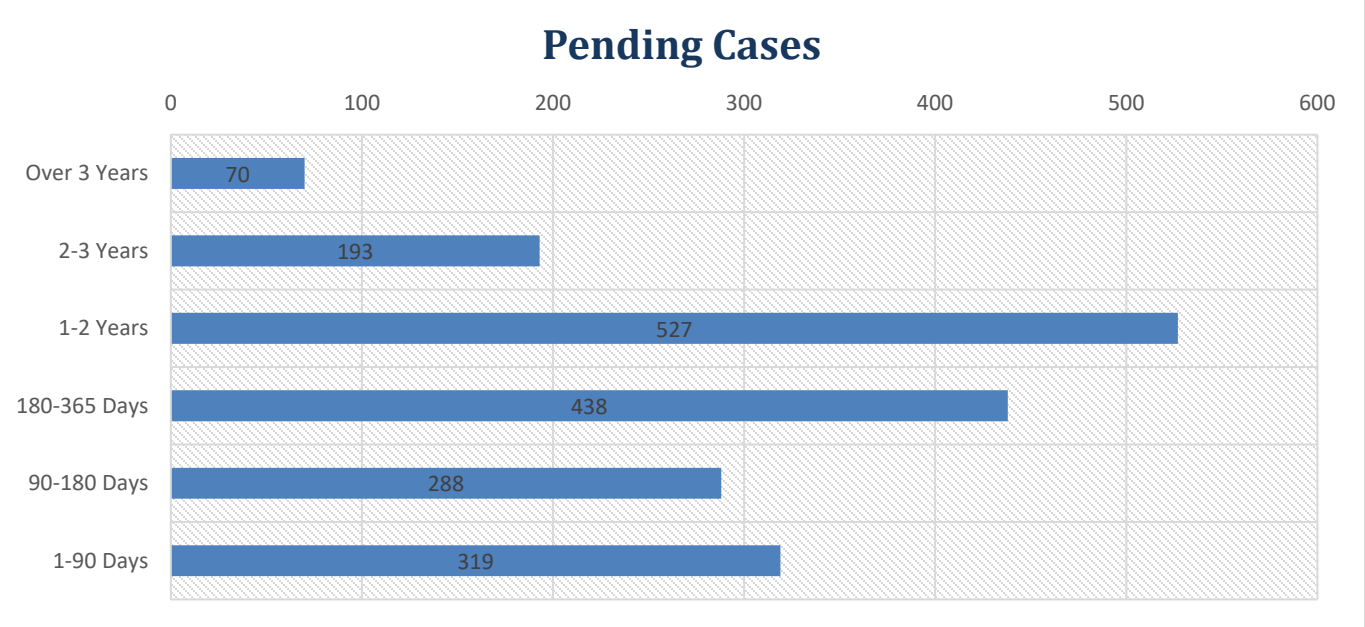
Expert Witness Program

In the interest of streamlining the expert witness program, the Board's new DAG liaison, Karen Denvir, has been invited to provide input to ensure our experts and their resulting reports are the best they can be. In addition, all the Board's experts have been invited to attend the Medical Board of California's expert witness training this fall; trainings will be offered in both northern and southern California.

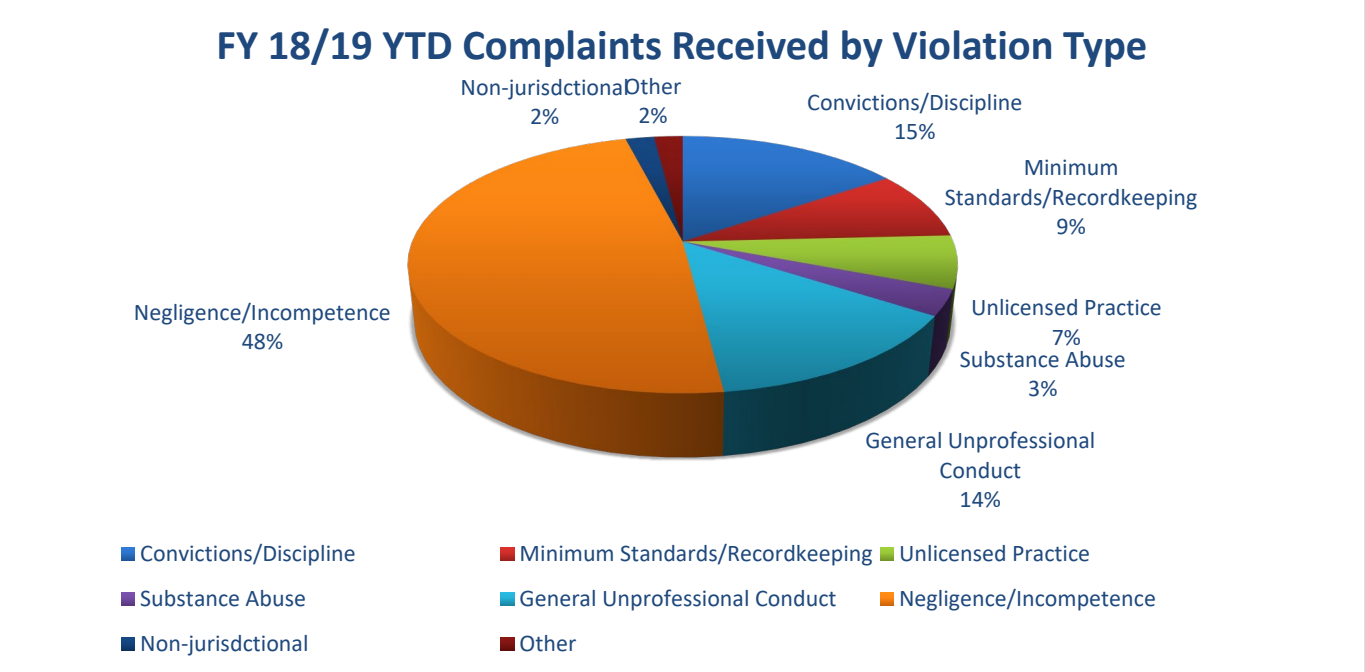
Division of Investigation

Board staff continues to identify whether DOI services are required to further a case. This has resulted in multiple cases being referred to the Board's inspection unit for investigation, providing significant advantages over DOI (reduced cost, quicker turnaround, etc.). DOI is still utilized when an undercover operation is required, and/or when witness statements need to be taken.

Complaint Investigation



As shown in the previous graph, the number of cases over three years rose slightly to 70; however, this is partly because consolidated cases and AG cases are now included in the statistics. In addition, the number of aging complaints which moved into this bracket last quarter matched the number of cases over three years which were closed (over 20). Moreover, with the inclusion of AG, consolidated, and intake cases, each of the bars increased slightly; however, this graph is now representative of the total complaints pending (over 1800). As previously mentioned, enforcement continues to prioritize the oldest cases (along with overall priority specified in BPC §4875.1) for investigation.



The Board documented a significant number of complaint allegations into BreEZe last quarter; however, it appears the percentages of complaints received by violation type are virtually identical to the figures presented during the previous Board meeting. Once again the Board's highest priority cases per BPC §4875.1 (negligence/incompetence) made up about half of all complaints received, which makes it difficult to efficiently triage cases when half of all cases received are to be expedited based on their high priority.

Pending complaints at intake more than doubled over the months of April and May, approaching 300 complaints pending; however, due to the tireless work of Dillon Christensen, Terry Perry, and Kimberly Gorski, all pending complaints have been assigned. Further, the intake team assigned the most cases to investigation of the prior two fiscal years, coming in at 347. Note: the statistics below do not reflect these intake numbers, as they were pulled prior to this accomplishment.

Mail Vote Results

The results of the April 1, 2019, May 1, 2019, and June 1, 2019 mail vote items can be viewed below.

STIPULATED SETTLEMENT	**VOTE**	**RESULT**
Goraya, Jaswinder	5 – Adopt 1 – Hold for Discussion	Adopt
Anderson, Joy	5 – Adopt 1 – Recuse	Adopt
PROPOSED DECISION	**VOTE**	**RESULT**
Hatt, Celina	5 – Non-adopt 1 – Recuse	Non-adopt
Tya Henderson, DVM	3 – Adopt 2 – Hold for Discussion	Hold for Discussion
Morgan Barajas, RVT	7 – Adopt	Adopt
Juan Casillas, DVM	4 – Adopt 2 – Hold for Discussion 1 – Recuse	Hold for Discussion
CORRECTED PROPOSED DECISION	**VOTE**	**RESULT**
Venetian Pet Hospital; Steven C Ayres, DVM	7 – Adopt	Adopt
Jose Gutierrez, RVT	7 – Adopt	Adopt
STIPULATED SETTLEMENT	**VOTE**	**RESULT**
Marina Kotlarenko, DVM; Cahuenga Pet Hospital	7 – Adopt	Adopt
Rebecca Wong-Benavidez, DVM	6 – Adopt 1 – Not Adopt	Adopt
DEFAULT	**VOTE**	**RESULT**
Tiffancy Wright, RVT	7 – Adopt	Adopt
Ursula Yeager, RVT	6 – Adopt	Adopt
PETITION FOR TERMINATION OF PROBATION	**VOTE**	**RESULT**
Amanda Jones, RVT	6 – Adopt	Adopt
Lisa Grosso, RVT	7 – Adopt	Adopt
STIPULATED SURRENDER	**VOTE**	**RESULT**
Casey Delanoy, DVM	7 – Adopt	Adopt
Hong Park, DVM	7 – Adopt	Adopt

Statistical Report

ENFORCEMENT STATISTICS FISCAL YEAR 2017 - 2019

*As of June 20, 2019

COMPLAINTS AND CONVICTIONS											
	FY 2017 - 2018						FY 2018 - 2019				
Complaints and Convictions	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD		QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Complaints Received	281	238	265	238	1022		239	226	357	321	1143
Convictions Received	20	22	22	15	79		18	39	36	15	108
Average Days to Intake	3	3	7	12	6		50	56	33	51	47
Closed at Intake	0	0	0	0	0		1	1	0	0	2
Pending at intake	0	4	28	20	20		179	105	116	121	121
Average Days to Intake - Average cycle time from complaint received, to assignment to an investigator.											

UNLICENSED ACTIVITY COMPLAINTS RECEIVED											
	FY 2017 - 2018						FY 2018 - 2019				
Unlicensed Activity Complaints	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD		QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Received	34	27	9	24	94		24	14	13	12	63

DESK INVESTIGATIONS											
	FY 2017 - 2018						FY 2018 - 2019				
Desk Investigation	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD		QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Assigned	304	257	263	264	1088		91	327	320	395	1133
Closed	201	268	186	114	769		93	166	109	99	467
Average Days to Complete	235	178	261	316	247		351	345	232	198	287
Pending	807	779	851	1002	1002		996	1151	1372	1667	1667
Average Days to Complete Desk Investigations - Average cycle time from complaint receipt to closure											

SWORN INVESTIGATIONS											
	FY 2017 - 2018						FY 2018 - 2019				
Sworn Investigations	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD		QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Assigned	4	32	19	17	72		6	10	3	1	20
Closed	15	13	16	11	55		24	18	7	8	57
Average Days to Complete	490	279	482	345	349		279	400	484	409	368
Pending	60	77	81	81	81		62	55	50	43	43
Average Days to Complete Sworn Investigations - Average cycle time from complaint receipt to closure.											

ALL TYPES OF INVESTIGATIONS											
	FY 2017 - 2018						FY 2018 - 2019				
All Types of Investigations	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD		QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Closed Without Discipline	176	243	155	263	837		82	156	118	106	462
Cycle Time - No Discipline	261	161	233	333	247		330	369	240	203	295
All pending cases	867	860	960	1103	1103		1199	1311	1538	1831	1831

ENFORCEMENT STATISTICS FISCAL YEAR 2017 - 2019

*As of June 20, 2019

CITATIONS											
	FY 2017 - 2018						FY 2018 - 2019				
Citations	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD		QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Issued	13	2	2	8	25		0	4	3	0	7
Avg Days to Complete Cite	703	175	753	755	596		N/A	1081	969	N/A	1033
Citations appealed	3	0	0	0	3		0	0	0	0	0
Average Days to Issue a Citation - Average cycle time from complaint receipt to the effective date of the citation.											

ATTORNEY GENERAL CASES											
	FY 2017 - 2018						FY 2018 - 2019				
Attorney General Cases	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD		QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Initiated / Referred to the AG	27	19	15	5	66		10	15	37	12	40
Pending at the AG	95	100	95	86	86		127	126	145	123	123
Statement of Issues Filed	11	8	16	8	43		1	1	1	3	6
Accusations Filed	9	11	5	11	36		8	3	9	2	22

ATTORNEY GENERAL CASES CLOSURES											
	FY 2017 - 2018						FY 2018 - 2019				
AG Case Action	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD		QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Closed Without Discipline*	2	2	0	1	5		7	3	8	22	40
Closed With Discipline	11	10	9	15	45		12	13	10	12	47
Average Days to Close (Discipline)	756	553	566	909	696		807	643	239	1079	710
Average Days to Close a Discipline Case - Average cycle time from complaint receipt to the effective date of disciplinary order.											
**Closed without discipline relates to cases which have been withdrawn, dismissed, or declined by the AG's office.*											

PROBATION											
	FY 2017 - 2018						FY 2018 - 2019				
Probation	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD		QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
New Probation Cases	11	4	8	8	31		10	8	3	8	29
Probation Completed	4	7	2	0	13		8	6	6	7	27
Active Cases	108	106	104	100	100		107	109	106	107	107
Probationary Licenses	4	1	0	1	6		0	5	2	0	7
All applicants pending licensure	17	22	18	16	16		22	20	16	14	14
Tolled	6	7	6	8	8		8	8	10	10	10
Petition to Revoke	4	9	12	18	18		15	17	19	21	21

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MEMORANDUM

DATE	July 17, 2019
TO	Veterinary Medical Board
FROM	Moneel Singh, Operations Manager
SUBJECT	**Licensing/Examination Report**

Staff Update

On June 3, 2019, Kellie Flores was hired to serve as the Board's Lead Analyst. Ms. Flores came for the Bureau of Cannabis Control's licensing unit. Prior to that, Ms. Flores was an enforcement analyst for the California State Board of Optometry. Ms. Flores started her state career as a Hospital Inspections Technician with the Veterinary Medical Board in 2014. Her knowledge, experience, and excitement to improve processes makes her a valuable addition to our team.

On June 18, the Board's licensing technician, Michael Hewitt, accepted a promotional opportunity at the Department of Treasury. Mr. Hewitt served the Board's licensing unit since 2016 and will be missed. The licensing unit appreciates his hard work and dedication and wishes him success as he progresses in his state career. The unit anticipates filling the vacancy within the next few months.

Updated Renewal Process

In May 2019, the Board launched its revised renewal process. The original six-page renewal was replaced with a one-page notice referring licensees to renew through BreEZe. Licensees will no longer complete the paper coupon and mail back to the Board. Staff also created a step-by-step guide to assist licensees in registering for BreEZe and renewing online.

This will save licensees time, allowing for same day renewals rather than wait several weeks for processing. This new process also saves printing and postage costs and decreases staff workload. In addition, the licensing unit worked with DCA's Office of Public Affairs to launch a social media online renewal campaign to encourage licensees to renew online.

Fingerprint Requirement Fully Implemented

Business and Professions Code (BPC) section 144 was amended in 2010 to require all applicants (which applies to initial and renewal applicants) to be fingerprinted for conducting criminal history record checks through the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI was not previously required).

In response, the Board adopted California Code of Regulations section 2010.05 to require "a veterinarian who was initially licensed prior to January 1, 1960, a registered veterinary technician who was initially licensed prior to January 1, 2004, or any licensee for whom an electronic record of the submission of fingerprints no longer exists or was never created…" to submit a full set of fingerprints as a condition of renewal. Failure to comply with this section would render the renewal application incomplete and the license would not be renewed (CCR § 2010.05(c)).

While CCR section 2010.05 was effective in 2012, the Board's system was not designed to hold renewals in the absence of fingerprint results. When the Board transitioned to BreEZe 2016, the system had the capability to hold renewals in the absence of results, but the functionality was not being utilized. As a result, thousands of licensees are still practicing without ever have fulfilled this requirement.

To remedy this, the licensing unit recently worked with DCA's BreEZe team to update the system. Now, the system will check for the presence of fingerprint results prior to issuing renewal notices. If results are missing, the one-page renewal will indicate the licensee must fulfil the requirement in order to renew. Licenses will not be renewed unless fingerprint results are received.

Diversion Program

The next Diversion Evaluation Committee (DEC) meeting is scheduled for October 2019. The DEC meets every February, June, and October. There is currently one participant in the Diversion Program. Currently, there are two DEC vacancies and Board staff will be starting the recruitment process within the next few weeks.

The Board's Diversion Program contract with MAXIMUS expires December 2019; in collaboration with the Department's contract and legal staff, Departmental diversion program managers the diversion program Request for Proposal has completed. The contract is now up for bid and will meet in September to review and score all bids received.

California Veterinary Technician Examination (CVTE) Elimination Update

Since the Board unapproved the CVTE in April, staff worked diligently the DCA's cashiering team to identify and contact all impacted applicants, update the system and issue refunds to those who paid for but did not take the examination. This resulted in roughly $80,000 in refunds being issued. Refunds will not impact the Board's appropriation (budget); refunds come directly from the Board's fund.

Examination Development and Workshops

Due to recruitment challenges since the last Board meeting, examination workshops and the occupational analysis schedule was revised (below). The OA is still on track for completion in December 2019.

Occupational Analysis Workshops	
February 21-22, 2019	Occupational Analysis SME Interviews
March 28-29, 2019	Occupational Analysis
July 17-19, 2019	Occupational Analysis
Veterinarian Examination	
May 16-17, 2019	Item Writing
June 20-21, 2019	Item Review
June 27-28, 2019	Exam Construction
August 8-9, 2019	Passing Score

Examination Statistics

CALIFORNIA STATE BOARD EXAMINATION					
Nov. 2017 – Apr. 2018		May – Oct 2018		Nov. 2018 – Apr. 2019	
Candidates	Pass %	Candidates	Pass %	Candidates	Pass %
334	84%	221	76%	302	82%

NORTH AMERICAN VETERINARY LICENSING EXAMINATION					
Mar./Apr. 2018		Nov./Dec. 2018		Mar./Apr. 2019	
Candidates	Pass %	Candidates	Pass %	Candidates	Pass %
97	60%	395	86%	88	59%

VETERINARY TECHNICIAN NATIONAL EXAMINATION					
Jul./Aug. 2018		Nov./Dec 2018		Mar./Apr. 2019	
Candidates	Pass %	Candidates	Pass Pct.	Candidates	Pass Pct.
267	68%	312	67%	213	67%

Applications

The licensing unit received 5% less veterinarian applications, 14% less premises registration applications, and 4% less VACSP applications compared to last fiscal year. However, the university license and RVT applications increased by 25% and 4% respectively. With the elimination of the CVTE, the licensing unit anticipates a higher increase in RVT applications in the following years.

Applications Received											
	Fiscal Year 2017-18						Fiscal Year 2018-19				
	Q1	Q2	Q3	Q4	YTD		Q1	Q2	Q3	Q4	YTD
	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun			Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	
VET	142	235	378	231	986		126	316	315	183	940
UNIV	0	0	52	16	68		24	9	19	33	85
RVT	246	193	206	250	895		250	205	219	260	934
HSP	82	78	57	85	302		54	53	62	92	261
VACSP	425	531	467	502	1925		426	421	463	538	1848
Total	895	1037	1160	1084	4176		880	1004	1078	1106	4068

Licenses Issued											
	Fiscal Year 2017-18						Fiscal Year 2018-19				
	Q1	Q2	Q3	Q4	YTD		Q1	Q2	Q3	Q4	YTD
	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun			Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	
VET	174	116	81	360	731		177	139	85	364	765
UNIV	0	0	1	37	38		15	22	8	17	62
RVT	146	129	154	172	601		144	132	187	200	663
HSP	74	61	47	71	253		39	19	59	128	245
VACSP	415	475	303	400	1593		275	322	293	483	1373
Total	809	781	586	1040	3216		650	634	632	1192	3108

Licensee Population	
as of July 2, 2019	
Veterinarian Licenses*/**	14,759/12,664
Veterinarian Licenses – California**	11,858
University Veterinarian*/**	98/98
Veterinarian – Internship**	35
Veterinarian – Reciprocity**	49
Registered Veterinary Technician Licenses*/**	9,136/7,074
Registered Veterinary Technician Licenses – California**	7,045
Premise Permits*/**	4,070/3,488
Premise Permits – Exempt**	96
Veterinary Asst. Cont. Sub. Permit*/**	5,673/4,317
**includes delinquent, inactive, and clear licensees; **clear licensees*	

Applications Received
Fiscal Year 2018-2019

License Type	Quarter 1				Quarter 2				Quarter 3				Quarter 4			
	July	August	September	Total	October	November	December	Total	January	February	March	Total	April	May	June	Total
VET	48	39	39	**126**	198	65	53	**316**	98	91	126	**315**	70	40	73	**183**
UNIV	11	13	0	**24**	4	5	0	**9**	0	0	19	**19**	15	15	3	**33**
RVT	56	124	70	**250**	80	48	77	**205**	71	84	64	**219**	84	112	64	**260**
HSP	13	26	15	**54**	36	6	11	**53**	25	21	16	**62**	37	26	29	**92**
VACSP	153	152	121	**426**	163	127	131	**421**	205	127	131	**463**	167	173	198	**538**
TOTAL	**281**	**354**	**245**	**880**	**481**	**251**	**272**	**1004**	**399**	**323**	**356**	**1078**	**373**	**366**	**367**	**1106**
YEAR TO DATE																**4068**

Licenses Issued
Fiscal Year 2018-2019

License Type	Quarter 1				Quarter 2				Quarter 3				Quarter 4			
	July	August	September	Total	October	November	December	Total	January	February	March	Total	April	May	June	Total
VET	80	63	34	**177**	69	47	23	**139**	19	29	37	**85**	34	135	195	**364**
UNIV	2	7	6	**15**	7	11	4	**22**	4	3	1	**8**	3	6	8	**17**
RVT	41	54	49	**144**	54	41	37	**132**	80	61	46	**187**	42	111	47	**200**
HSP	4	31	4	**39**	4	4	11	**19**	29	20	10	**59**	54	38	36	**128**
VACSP	105	91	79	**275**	127	107	88	**322**	137	105	51	**293**	138	189	156	**483**
TOTAL	**232**	**246**	**172**	**650**	**261**	**210**	**163**	**634**	**269**	**218**	**145**	**632**	**271**	**479**	**442**	**1192**
YEAR TO DATE																**3108**

Veterinary Medical Board
BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • VETERINARY MEDICAL BOARD
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MEMORANDUM

DATE	June 21, 2019
TO	Veterinary Medical Board
FROM	Patty Rodriguez, Inspection Program Manager
SUBJECT	**Inspection Program Report**

Staffing

Staff is working with Personnel and recruitment efforts are underway for three additional inspection positions. The positions consist of two analysts and an office technician. These vacancies will be posted on CalHR's website soon. We anticipate interviews to take place in July and hope to have the additional staff in place by August.

Recruitment is also underway for Inspectors. Interviews for two additional Inspectors will take place later this month. We will be filling a Northern California vacancy and will be adding an Inspector in Southern California.

Inspections

Staff continues to streamline the Inspection Report process in the field as well as in the office. We hope to implement the use of cloud technology for the upcoming Inspection season to greatly reduce the vast amount of paper associated with inspection and compliance documentation. In doing so, we will simultaneously reduce the amount of office space needed for Inspection files. Future projects include a scanning project of past inspection files to Breeze.

Efforts to reduce the compliance document review backlog prior to the start of the start of the new Inspection season continues; the additional staff will greatly assist in this endeavor.

Annual Inspector training is scheduled for August; training consists of two days for returning Inspectors and four days for new Inspectors which include two days of field training. Staff anticipates Inspector performance evaluations to take place this fiscal year as the budget permits.

Statistics July 1, 2018 to June 30, 2019	
Routine Inspections Assigned	**463**
Routine Inspections Performed	**423**
Complaint/Probation Related Inspections Performed	**36**
Complaint/Probation Related Inspections Pending	**33**
Compliance Document Review	**November 2017**
Inspection Reports Pending Review	**223**
Compliance Rate	**26%**
Average Number Days to Close Inspection	**209**
Expenditures	**$152,500**

Inspection Survey Results

When an inspection is closed, an Inspection Survey is sent with closure letter to the practice. Licensee or practice managers are invited to rate not only the Inspector but also the Board if they have interacted with the Board office. Results of the survey for this fiscal year show consistently high ratings overall for our Inspectors. The results also indicate the effectiveness of the Inspection Program as an educational component of the Board, (*Did our Inspector explain the minimums standard requirements to you* – 99.1%). Results are also highly favorable for Board office contact. Although the area of Timeliness is the lowest (68%), this can be attributed to the backlog in reviewing inspection compliance documents, an area we are actively working to improve.

Did our Inspector fully identify him or herself?		
Rating	FY 18/19	**Percentage**
Yes	116	**100%**
No	0	**NA**
Total Responses	**116**	

Did our Inspector explain the minimum standards requirements to you?		
Rating	FY 18/19	**Percentage**
Yes	115	**99.1%**
No	1	**<1%**
Total Responses	**116**	

If deficiencies were noted, were you given adequate time to correct them?		
Rating	FY 18/19	**Percentage**
Yes	108	**100%**
No	0	**0%**
Total Responses	**108**	

Was our Inspector professional and courteous?		
Rating	FY 18/19	**Percentage**
Yes	114	98.3%
No	2	<2%
Total Responses	**116**	

How would you rate our Inspector? Area: **Knowledge**		
Rating	FY 18/19	**Percentage**
Excellent	107	**92%**
Satisfactory	9	**8%**
Unsatisfactory	0	**0%**
No Opinion	0	**0%**
Total Responses	**116**	

How would you rate our Inspector? Area: **Helpfulness**		
Rating	FY 18/19	**Percentage**
Excellent	104	**90%**
Satisfactory	9	**7%**
Unsatisfactory	3	**3%**
No Opinion	0	**0%**
Total Responses	**116**	

How would you rate our Inspector? Area: **Courtesy**		
Rating	FY 18/19	**Percentage**
Excellent	105	**91%**
Satisfactory	9	**8%**
Unsatisfactory	2	**1%**
No Opinion	0	**0%**
Total Responses	**116**	

How would you rate our Inspector? Area: **Thoroughness**		
Rating	FY 18/19	**Percentage**
Excellent	105	**91%**
Satisfactory	11	**9%**
Unsatisfactory	0	**0%**
No Opinion	0	**0%**
Total Responses	**116**	

Have you ever requested information or assistance from the VMB office?		
Rating	FY 18/19	**Percentage**
Yes	50	**43%**
No	66	**57%**
Total Responses	**116**	

If yes, how would you rate the service? Area: **Timeliness**		
Rating	FY 18/19	**Percentage**
Excellent	34	**68%**
Satisfactory	13	**26%**
Unsatisfactory	3	**6%**
No Opinion	0	**0%**
Total Responses	**50**	

If yes, how would you rate the service? Area: **Accuracy**		
Rating	FY 18/19	**Percentage**
Excellent	41	**82%**
Satisfactory	6	**12%**
Unsatisfactory	3	**6%**
No Opinion	0	**0%**
Total Responses	**50**	

If yes, how would you rate the service? Area: **Courtesy**		
Rating	FY 18/19	**Percentage**
Excellent	39	**78%**
Satisfactory	10	**20%**
Unsatisfactory	0	**0%**
No Opinion	1	**2%**
Total Responses	**50**	

If yes, how would you rate the service? Area: **Effectiveness**		
Rating	FY 18/19	**Percentage**
Excellent	37	**74%**
Satisfactory	11	**22%**
Unsatisfactory	2	**4%**
No Opinion	0	**0%**
Total Responses	**50**	

If yes, how would you rate the service? Area: **Professional Demeanor**		
Rating	FY 18/19	**Percentage**
Excellent	39	**78%**
Satisfactory	9	**18%**
Unsatisfactory	2	**4%**
No Opinion	0	**0%**
Total Responses	**50**	

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MEMORANDUM

DATE	July 17, 2019
TO	Veterinary Medical Board
FROM	Jessica Sieferman, Executive Officer
SUBJECT	**Agenda Item 15. Future Agenda Items and Next Meeting Dates**

- **Future Items for October 9-11, 2019 (Sacramento):**
  - Cannabis Guidelines
  - Corporate Practice of Veterinary Medicine
  - Draft 2020 Sunset Review Report
  - Including Potential Legislative Proposals
  - 2020-2024 Strategic Plan
  - Election of Officers

- **Tentative Teleconference: November 21, 2019**
  - Adopt Final 2020 Sunset Review Report
  - Adopt Cannabis Guidelines

- **Proposed 2020 Schedule:**
  - January 29-30, 2020
  - April 22-23, 2020
  - July 22-23, 2020
  - October 21-22, 2020

:

Veterinary Medical Board Enforcement Program

Enforcement Overview

- Enforcement Team:
  - 1 Manager, 2 Intake Technicians, 4 Analysts
- 1,000+ Complaints Annually
- Filed roughly 80 Disciplinary Actions (17/18)
- Issued 25 Citations (17/18)
- Roughly 1,300 Pending

Enforcement Overview

- Complaint Sources:
  - Consumers
  - Profession
  - Convictions
  - Other Government Agencies
  - Unlicensed Individuals

- Jurisdiction Determined at Intake

Complain Investigations

- Desk investigation - Gather Records, Statements, etc.
  - Field investigation – Inspections, Witness Interviews, Undercover etc.
  - Subject Matter Expert Review

- Staff Recommendations:
    - Closed, no violation or insufficient evidence
    - Letters of Education/Correction
    - Citation and Fine
    - Referral to the Attorney General's Office for Disciplinary action against the license

Citation and Fine

- Minor incidents of negligence, incompetence, fraud, or deception
- Record keeping violations
- Minor issues involving sanitation
- Operating veterinary facility with expired premise permit
- Practicing with expired veterinary license
- Failure to display license
- Failure to provide records to client upon request
- Failure to respond to the Board with requested information
- Unlicensed Activity
- Failure to update your address of record

Citation and Fine

- **Citation Classifications** (CCR § 2043):
  - Class "A" ($250-$3,000):
    - Violation did not and/or could not cause patient death or harm
  - Class "B" ($1,000-$4,000)
    - Violation did cause harm or could cause patient death or harm
  - Class "C" ($2,000-$5,000)
    - Violation caused patient death or serious harm, endangered the health or safety of another person or animal, multiple violations
    - Unlicensed Practice
- **Considerations:**
  - Nature and severity
  - Willful
  - History of same or similar nature.
  - Cooperation
  - Mitigated or attempted to mitigate any damage or injury
  - Other matters as justice may require

Formal Discipline

- Deny, Revoke, or Suspend (BPC § 4883 (a-r))
  - Criminal convictions – substantially related
  - Fraud, deception, negligence or incompetence
  - Fraud, misrepresentation, or deception in obtaining a license
  - Using dangerous drugs or alcohol in a dangerous or injurious manner
  - Major and/or repeated violations
  - Cruelty to animals

Substantially Related

"A veterinarian, like a physician, holds a position that requires honesty, trustworthiness, and compliance with the laws and regulations governing the responsibilities of the profession. A veterinarian serves on the front line of animal patient care' and is routinely charged with exercising independent judgement and discretion in making important health care decisions that can significantly impact a patient's health.

A veterinarian must always act in a manner that reflects responsibility and good judgement in order to maintain the integrity of the profession, promote public confidence in the profession, and function efficiently in all aspects of patient care."

Formal Disciplinary Action

- Rehabilitation Criteria (CCR § 2041)
  - Nature and severity
  - Subsequent acts
  - Time elapsed
  - Compliance with parole, probation, restitution, etc.
  - Rehabilitation evidence submitted by applicant

Formal Discipline

- Governed by the Administrative Procedures Act
- Due Process
  - Notice
  - Opportunity to be heard
- Deputy Attorney General represents Executive Officer (“Complainant”)
- Licensee/Applicant (“Respondent”) may or may not be represented.

Formal Discipline

Burden of Proof:

- Initial Applications:
  - Applicant – establish fitness for licensure by a preponderance of the evidence
- Revoking/Suspending a License
  - Complainant – clear and convincing evidence

Formal Discipline

Possible Outcomes:

- Stipulated Settlement or Administrative Law Judge
  - Probation, Surrender, Public Reprimand, or Revocation

Board Ultimately Decides

- Could adopt, reject, counter, or remand back to ALJ

Public Information

- Complaints are NOT public information.
- Citations are public for five years from the date the citation is satisfied.
- Disciplinary action is public indefinitely.
- Board is mandated to post actions on the internet related to its licensees. **(BPC § 27)**

Discussion Questions

Questions

- Web address: *vmb.ca.gov*
- Phone: 916-515-5220
- Address: 1747 North Market Boulevard, Suite 230
- Sacramento, CA 95834
- Join the Board's email list for updates on Board meetings and other Board information
- Also find the Board on Twitter and Facebook!

California Veterinary Medical Board

THANK YOU!

Protection of the public shall be the highest priority for the Veterinary Medical Board. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

Business & Professions Code Section 4800.1

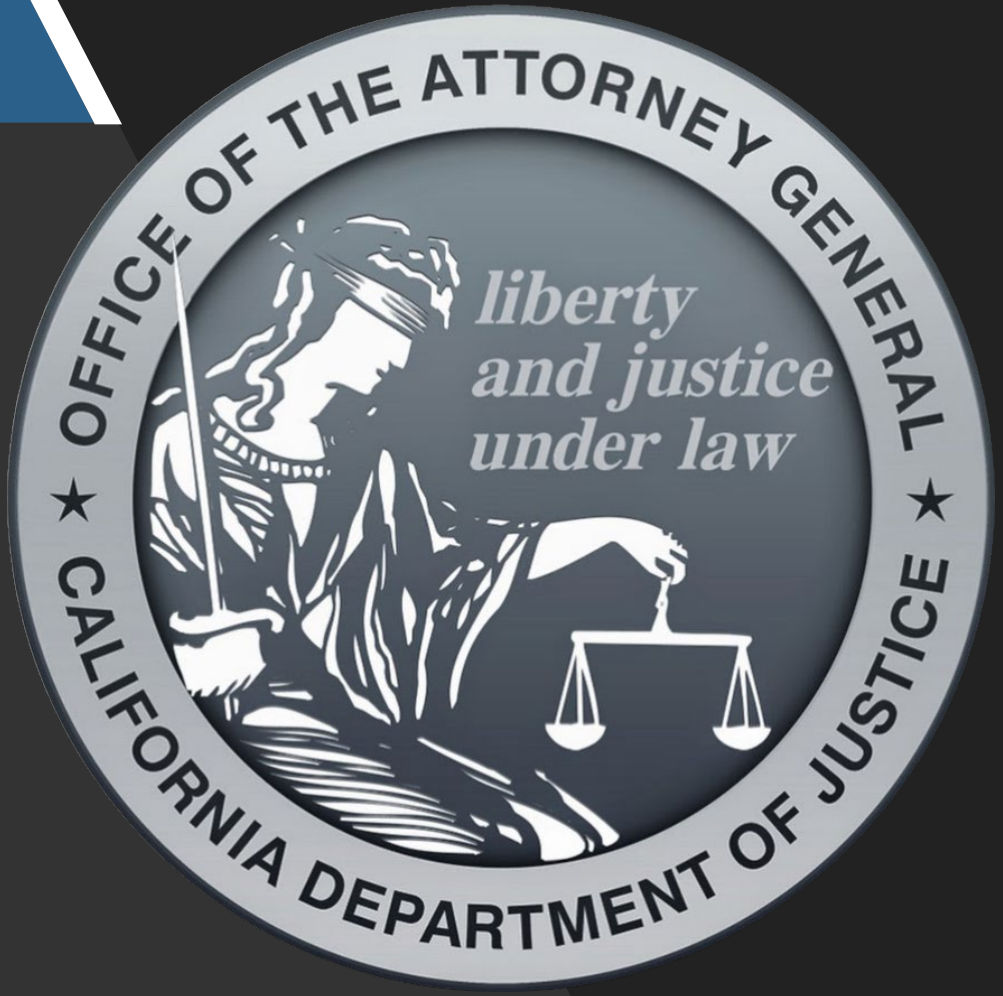
OFFICE OF

THE ATTORNEY GENERAL

AND THEIR ROLE IN

THE DISCIPLINARY PROCESS

Presented by: Deputy Attorney General
Karen R. Denvir



The Office of the Attorney General represents state agencies and employees in judicial and other proceedings.

(Gov. Code, § 11040)

AGO's Mission

It is our duty to serve our state and work honorably every day to fulfill California's promise. The Attorney General and Department of Justice employees provide leadership, information and education in partnership with state and local governments and the people of California to:

- *Enforce and apply all of our laws fairly and impartially.*
- *Ensure justice, safety and liberty for everyone.*
- *Encourage economic prosperity, equal opportunity and tolerance.*
- *Safeguard California's human, natural and financial resources for this and future generations.*

Licensing Section Mission

To Protect Integrity in Business and Professions

Enforcement of licensing laws:

- Removes the bad apple.
- Deters others from similar bad conduct.
- Promotes public confidence in licensed professionals.

Licensing Section Clients

- Mostly Department of Consumer Affairs Agencies
  - Health Care – About 60 %
    - dentists, chiropractors, nurses, pharmacies and pharmacists, marriage & family therapists, social workers, optometrists psychiatric technicians, veterinarians
  - Non-Health Care – About 40 %
    - accountants, architects, athletic commission, auto repair shops, contractors, cosmetologists, Bureau of Private Post-Secondary Education

Receipt of File from Agency

- The case is received and initially reviewed: SDAG
  - Expedite file?
    - Dependent on type and timing of case at issue
      - Agency: e-mail request for representation for time -sensitive matters (copy all SDAGs in the AGO location handling matter)

- Matter Type
  - Accusation
  - Statement of Issues
  - Petition to Revoke Probation
  - Request for Interim Suspension Order
  - Request for PC 23 recommendation (criminal court)
  - 820 Petition
  - Other
  - Statute of limitations?

Receipt of File from Agency (Cont.)

- Appropriate geographical location: Determine which AGO location will handle case
  - Factors:
    - Respondent's area of residence
    - Location where events occurred – primary witnesses
  - Case assigned to DAG
    - Some cases also assigned to paralegal for pleading preparation
    - Based on DAG caseload, liaison duties, experience
  - Case file opened in ProLaw
    - Assignment letter to client
    - File transfer to assigned DAG

Initial Analysis by Assigned DAG

- Agency Cover Letter
  - Possible violations, documents enclosed
    - Statute of Limitations
      - Applicable?
      - Include in Agency Transmittal Letter
        - Jurisdictional Issues?
          - Unlicensed
            - Review License Information
              - Certified License History
              - Prior Discipline?
                - Identify any associated respondents, cases, licenses
                  - Consolidate?

Review of Investigative File/Evidence

- Investigative Report
  - Documentary Evidence List
    - Provided as Identified?
  - Witness List
    - Complete?
    - Declarations?
  - Certified records
    - Critical documents/information missing?
      - Certified records?
        - Criminal Convictions
        - Police Reports (see Lake v. Reed (1997) 16 Cal. 4th 448)
        - Disciplinary action by other/out of state agency
        - Board records
          - License history, prior discipline, prior citations

Review of Investigative File/Evidence (Cont.)

- Medical records to support standard of care, records violations
  - Foundational declarations
    - Custodian of records
      - Photographs/Video
        - Applicable?
        - Include in Agency Transmittal Letter
          - Social Media
            - With foundational declaration

Review of Investigative File/Evidence (Cont.)

- Witnesses
  - Witness interviews
  - Witness declarations
  - Contact information for witnesses
    - Updates
  - Experts (to follow)

- Respondent
  - Respondent interview
    - Exploration of respondent's defenses
    - Admissions
      - Ask the question!

Expert Witnesses

- EXPERT
  - Person with special knowledge, skill, experience, training or education sufficient to qualify him or her as an expert on the subject to which his or her testimony relates
    - EXPERT NECESSARY?
      - In matters where the case requires an opinion or information on an issue that is sufficiently beyond common experience such that the opinion or information will assist the trier of fact (the ALJ)
        - For cases where possible violation of standards of care or practice/trade standards are at issue
          - Example: Failure by veterinarian to properly diagnose and treat condition of animal

Expert Witnesses (Cont.)

- Need current curriculum vitae (C.V.) for expert
  - Contact information with file?
- Agency letter sent to expert regarding assignment
  - Applicable?
- Written opinion from expert

Expert Witnesses (Cont.)

EXPERT OPINION REVIEW: Issues

- Finds no violation, deviation from standard of care, yet case is transferred to AGO
  - Expert not experienced/qualified in specific area at issue in the case
    - Has the expert reviewed all evidence?
      - Opinion not supported by available evidence
        - Admissible evidence must support opinion, cannot be based on assumptions, suspicion
          - Inconsistencies in opinion

Expert Witnesses (Cont.)

Can expert opinion problems be resolved?

- Clarification by expert
  - Your communications with the expert are discoverable!
- Another expert opinion?
- Must provide <u>all</u> opinions in discovery

Options After File Review

Can expert opinion problems be resolved?

- Return file to agency for further investigation or expert review
  - Decline to prosecute, return to agency with analysis
    - If able to Identify pertinent statutory/regulatory violations supported by evidence provided. . .

…proceed to pleading preparation

Pleading Preparation

Accusation/SOI

- Jurisdictional paragraph
  - License history/Application history
    - Relevant statutes and regulations
      - Charging paragraphs
        - Causes for Discipline/Denial
        - Unnecessary detail (it was a dark and stormy night!)
        - Variation between offices/DAGs
        - Difference between pleading facts necessary to charges and pleading the evidence!

Pleading Preparation (Cont.)

Other

- Variations between Investigation Report and Accusation
  - DAG considers violations cited by agency, but independently determines what violations are appropriate and supported by the evidence
  - DAG may identify violations not listed and may find that some listed are not viable
  - Revisions to pleading prior to filing
  - Amendments to pleading after filing

Service and Response to Accusation/SOI/Other Pleading

The accusation or other pleading is served on the respondent's address of record and possibly on any other address that is identified by the agency or the AG's office .

Notice of Defense

- Respondent must file a Notice of Defense (NOD) within 15 days after service of the pleading (Govt. Code section 11506)
  - Request for a hearing
    - Statement of Issues – applicant already requested a hearing
      - May withdraw Request for Hearing
  - Failure to file a NOD: Default Decision
    - If no NOD filed, agency may proceed by default for failure to file NOD
    - Relief for good cause if requested within 7 days of service of Default Decision
  - Receipt of NOD
    - Check for notification of representation by counsel on form

Request to Set for Hearing

- A request to set for hearing is submitted to OAH
  - Parties are required to meet and confer
    - Dates coordinated with respondent/respondent's counsel
  - Factors
    - OAH calendar
    - Open dates for DAG and respondent/opposing counsel
    - Key witness availability
      - Trial setting conference
        - Length of hearing is estimated
          - Depends on number of witnesses, estimate to put on case in chief, estimate for defense
            - Venue (location of hearing)

Hearing Date Received from OAH

- Notice of Hearing served

- Prehearing and Settlement Conference

Discovery

- Govt. Code section 11507.6 provides the exclusive right to and method of discovery in administrative proceedings (Govt. Code section 11507.5)
  - Parties entitled to obtain information upon written request made to the other party prior to the hearing
    - Within 30 days of service by the agency of the initial pleading or
    - Within 15 days after service of an additional pleading
  - Subpoenas
    - May be used to compel production of documents at reasonable time and place or at a hearing (*subpoena duces tecum*)
      - May be used to compel attendance at a hearing
        - Written notice to witness to attend (Govt. Code section 11450.50)
          - Person served may object to subpoena/SDT
            - Motion to Quash
            - Motion for Protective Order

Hearing

- Respondent's Failure to Appear
  - Default Decision
  - Administrative Law Judge
    - Testimony at Hearing
      - Relevant, necessary
      - Record of Hearing
        - Court reporter

Standard of Proof

- Accusations
  - Burden on Complainant to a Clear and Convincing Standard
    - Professional versus vocational license
      - *See Ettinger v. Board of Medical Quality Assurance (1982) 136 Cal.App. 3d 853*
      - *Imports Performance v. Dept. of Consumer Affairs, Bureau of Automotive Repair (2011) 201 Cal.App. 4th 911*
  - Statement of Issues
    - Burden of Applicant to Preponderance of Evidence Standard
  - Other
    - Citation; Petition to Revoke; ISO = Preponderance of Evidence Standard

Post Hearing

Proposed Decision

- Timing
  - Due to agency within 30 days after submission of case
    - 30 days after submission to agency, PD becomes public record pursuant to Govt. Code section 11517©(1) (does not mean it is adopted)
    - No prejudice to rights of agency if not within time limit
      - *See Ettinger v. Board of Medical Quality Assurance (1982) 136 Cal.App. 3d 853*
      - *Imports Performance v. Dept. of Consumer Affairs, Bureau of Automotive Repair (2011) 201 Cal.App. 4th 911*
        - Adoption/ Non-Adoption
          - Argument on non-adoption
          - Correct technical, clerical errors

Reconsideration
Final Decision
Case Closure
Writ

Settlement

- Timing
  - Factors affecting

- Agency Offer of Settlement
  - Sometimes contingent on additional information
  - Evidence of rehabilitation/ mitigation
  - Agency requirement prior to offer to respondent

    - Other Factors

Settlement (Cont.)

- Negotiations with Respondent
  - Cost recovery
  - Standard Terms
  - Optional Terms – tailored to violations
    - Sometimes unique terms. Settlement can encompass any terms that are not against public policy/law.

    - Proposed Stipulation in Settlement
      - Agency approval of draft stipulation
      - Acceptance
        - Board may ultimately reject despite coordination with agency staff

          - Hearing

Settlement (Cont.)

- Reasons to Settle
  - Risk Avoidance
    - Avoidance of Time/Expense
      - Prompt Restitution to Victim
        - Prompt Reimbursement of Expenses
          - Stipulations are Good
            - Trump Card/Client has Last Word

Cost Recovery – Business and Professions Code section 125.3

- Allows the Board to request the ALJ to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.
- OAH Rule 1042– proof of reasonable costs may be made by declaration with specific and sufficient facts to support costs actually incurred and their reasonableness.
- Cost declaration must include tasks, time spent on each task, how costs calculated, if any bills or invoices – submit copy.
- If costs are an estimate, must explain why actual cost information is not available.

Cost Recovery cont.

- *Zuckerman* factors (2002) 29 Cal.4th 32.:
- *(a) whether Respondent has been successful at hearing in getting the charges dismissed or reduced;*
- *(b) Respondent's subjective good faith belief in the merits of his or her position;*
- *(c) Whether Respondent has raised colorable challenge to the proposed discipline;*
- *(d) The financial ability of Respondent to pay*
- *(e) Whether the scope of the investigation was appropriate in light of the alleged misconduct.*

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Monitoring FAQ's:

Presented by
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Questions:

- **Will the Test Tell Me What I Want to Know?**
- **What Won't the Test Tell Me?**
- **What laboratories do you use?**
- **What is Validity Testing? Dilution?**
  - What is an invalid specimen?
  - How do you handle a dilute?
  - How do you follow up after a Dilute Specimen?
  - What about High Creatinine?
- **What are the Detection Periods of Different Specimens?**
- **Why are some Alcohol Biomarkers Negative when some aren't?**
- **Is PEth Testing Junk Science?**
- **What Type of MRO are you?**

Will the Test Tell Me What I Want to Know?

- **Yes, if it is:**
  - The right test
  - Collected the right way
  - At the right time
  - Tested at the right lab
  - On the right specimen
  - Looking for the right drug or alcohol biomarker

Is it the Right Test?

- **Are you looking for the most sensitive current information?**
  - Urine or Oral Fluid
- **Are you looking for a pattern of use over a longer period of time?**
  - Hair, Nail, PEth
- **Are you looking to confirm intentional use vs accidental use or environmental exposure?**
  - Not always possible
    - EtG/EtS
    - Parent drugs (Cocaine, Methamphetamine, others) in hair
  - More likely with Hair/Nail, PEth

Is It Collected the Right Way?

- The “Myth” of observed collections
  - A “monitored” collection is not an “observed” collection
  - Some sites either do not do observed collections or do not do enough of them
- Questionable Collections:
  - Bottle ‘A’ and ‘B’ different colors
  - Creatinine/specific gravity mismatches
- Follow-up ASAP with either:
  - Another observed collection at a different site or with a different collector
  - An alternative specimen test

Is It a Right Laboratory?

- **Limited National Certification Standards and QC for Clinical/Recovery Monitoring Testing:**
  - SAMHSA/NLCP only certifies laboratories for federal workplace testing panels and drugs
    - This certification is the strictest and is indicative of general high standards at other areas of NLCP certified labs
    - If possible we favor laboratories that have NLCP certified areas
  - CAP, CLIA, various state agencies certify processes, not specific tests
  - FDA
    - Clears some screening kits
    - Has no authority over certification processes (GC/MS/MS or LC/MS/MS
    - Has no authority over LDTs
  - Most testing uses Laboratory Developed Tests (LDTs)

What laboratories do you use?

- We use a number of different appropriately certified laboratories according to type, service, need and location. The labs we choose are selected for their experience in recovery monitoring panels, cost and proven turnaround time efficiencies.
- Our goal is to understand your program needs and match those needs with the best choice or mix of testing laboratories

LDT's

- **Laboratory Developed Test (LDT)**
  - Most Recovery Monitoring testing involves LDT's
  - "Test developed and characteristics determined by…"
  - LDT's should be adequately supported by peer reviewed data
  - No current national certification or clearance for LDT's
  - Laboratory selection crucial (SAMHSA/NLCP, CAP, CLIA, State)

Does enough data exist to support an interpretation of a result that will benefit both the program and the participant?

Remember:

- **The drug testing we do is not like workplace drug testing**
  - More drugs and drug metabolites
  - Lower cutoffs
  - More specimen types
  - Greater effects from specimen concentration
  - Less peer reviewed data regarding quantitative levels and their meaning
  - More room for error, usually human

Not Workplace Testing but Still Forensic:

- **Screening: The first step (Either in the lab or at Point of Collection-POCT)**
  - Sensitive but not specific
  - Most specimens are negative
  - Sensitivity: The proportion of truly positive results, as measured by the gold standard, that are identified as positive by the test under study
- **Confirmation: The second step (In the lab)**
  - Specific and sensitive
  - Most specimens that go from screening to confirmation are positive, and results must be quantitative
  - Specificity: The proportion of truly negative results, as measured by the gold standard, that are identified as negative by the test under study
- **Both Screening and Confirmation must be positive for the test to be reported positive**

Cutoffs

Cutoffs are quantitative levels. If alcohol or drug is present above cutoff, the specimen is positive, if not the specimen is negative.

- Three Types:
  - Limit of Detection (LOD): The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.
  - Limit of Quantitation (LOQ): For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.
  - Administrative: Above both LOQ, and LOD. Balances detection and forensic defensibility requirements
- Cutoffs may vary

What Won't the Test Tell Me?

- A negative result does not guarantee the absence of alcohol or drug
- Positive alcohol or drug levels do not differentiate acceptable use from abuse even if elevated
- Positive alcohol or drug levels do not indicate impairment
- There is no dose/result relationship because there is no way to tell if level is rising or falling
- Monitoring programs push the edges of the testing envelope with the number of analytes tested for and the low cutoffs used
- We collect two bottles so that reconfirmations are possible, and they should be done at a different lab
- We cannot distinguish THC from CBD

Cannabidiol (CBD) vs Tetrahydrocannabinol (THC)

- CBD is extracted from cannabis plants
  - THC content is considered contamination, but it's almost always there!
  - THC levels vary greatly
- Epidiolex is a prescription form of CBD
  - Schedule V
  - FDA cleared for treatment of two rare and severe forms of epilepsy, Lennox-Gastaut syndrome and Dravet syndrome, in patients two years of age and older.
- Except for Epidiolex, CBD is a Schedule I substance (no medical use)
  - Participants should be advised not to use CBD
  - They should also be advised that THC positive drug test results will not be excused because of CBD use.

Please Discuss Invalid Specimens

Definition:

- Laboratory report of a drug test for a specimen that contains:
  - An unidentified adulterant, or
  - Unknown interfering substance, or
  - Has abnormal physical characteristics, or
  - Has an endogenous substance at an abnormal concentration that prevents the lab from obtaining a valid drug test result.

Urine Validity Testing Includes

- Measures of urine concentration/dilution
  - Creatinine on all specimens
  - Specific gravity only if creatinine <20 mg/dL
- pH
- General screen for oxidants
- Specimen appearance
- Abnormal Physical Characteristic (Specified)
- Bottle A and Bottle B – Different Appearance

Causes of Testing Interference

- **Interference with screening:**
  - Immunoassay interference:
    - Certain prescriptions cause screening interferences: some NSAIDs, Cipro and other fluoroquinolones, metronidazole
- **Interference with confirmation:**
  - Specific GC/MS or LC/MS interference or
  - the inability to obtain a forensically defensible data peak
  - Frequently caused by oxidants
- **Specimen ageing**
  - causes pH and nitrite (oxidant) elevations
  - UTI also may cause nitrite (oxidant) elevations
- **No reconfirmations for invalid specimens**

Two Measures of Urine Specimen Concentration

Values selected for analysis should be expected to parallel each other as specimen concentration increases or decreases

- Creatinine and Specific Gravity
- Dilute
  - Both measures out of acceptable range
  - Low creatinine by itself is a warning flag
- Substituted
  - Both measures so far out of range that specimen is not consistent with normal human urine

Why Two Measures?

- Forensic testing always involves two different tests
- If Creatinine and Specific Gravity do not parallel each other, the specimen is invalid:
  - Observed recollection is strongly recommended if no legitimate medical explanation
  - If collection was observed the observation was not done properly
  - If significant time has elapsed since the problem collection, consider alternative specimen collection

Remember the “Myth” of observed collections

How Do You Handle Dilute Specimens?

- We will implement your required protocols
- We suggest using the Dilute Specimen Protocol

Dilute or Low ‘C’ Protocol

- One way to address the dilution problem is with your authorization:
  - FSSolutions inquires of the Certifying Scientist whether or not there appeared to be any data for a particular analyte at 50% of the screening cutoff
  - If the laboratory reports that there is no screening data below cutoff, then there is nothing more to do with this specimen. The program *may* elect to test by using an alternative specimen, usually hair, nail, or PEth.
  - If the laboratory reports that there is suspected analyte present at 50% of cutoff, then authorize the laboratory to do an immediate confirmation of that analyte at the laboratory’s lower limit of quantitation (LOQ).
  - If this LOQ confirmation is positive, this will produce a confirmed and actionable result.
- Probably not worth doing unless creatinine is less than 20 mg/dL

Dilute Specimens, Why Do We Care?

- Average creatinine concentration range is 100 mg/dL -150 mg/dL
- Creatinine not considered low if above 20 mg/dL
- The solution to pollution is dilution
- 4460 workplace specimens studied, creatinine corrected to 100:
  - Opiates positives increased 18%
  - Amphetamines positives increased 58%
  - THCA positives increased 105%

J Price, J, *J. Addict. Med.* Volume 7, Number 2, March/April 2013

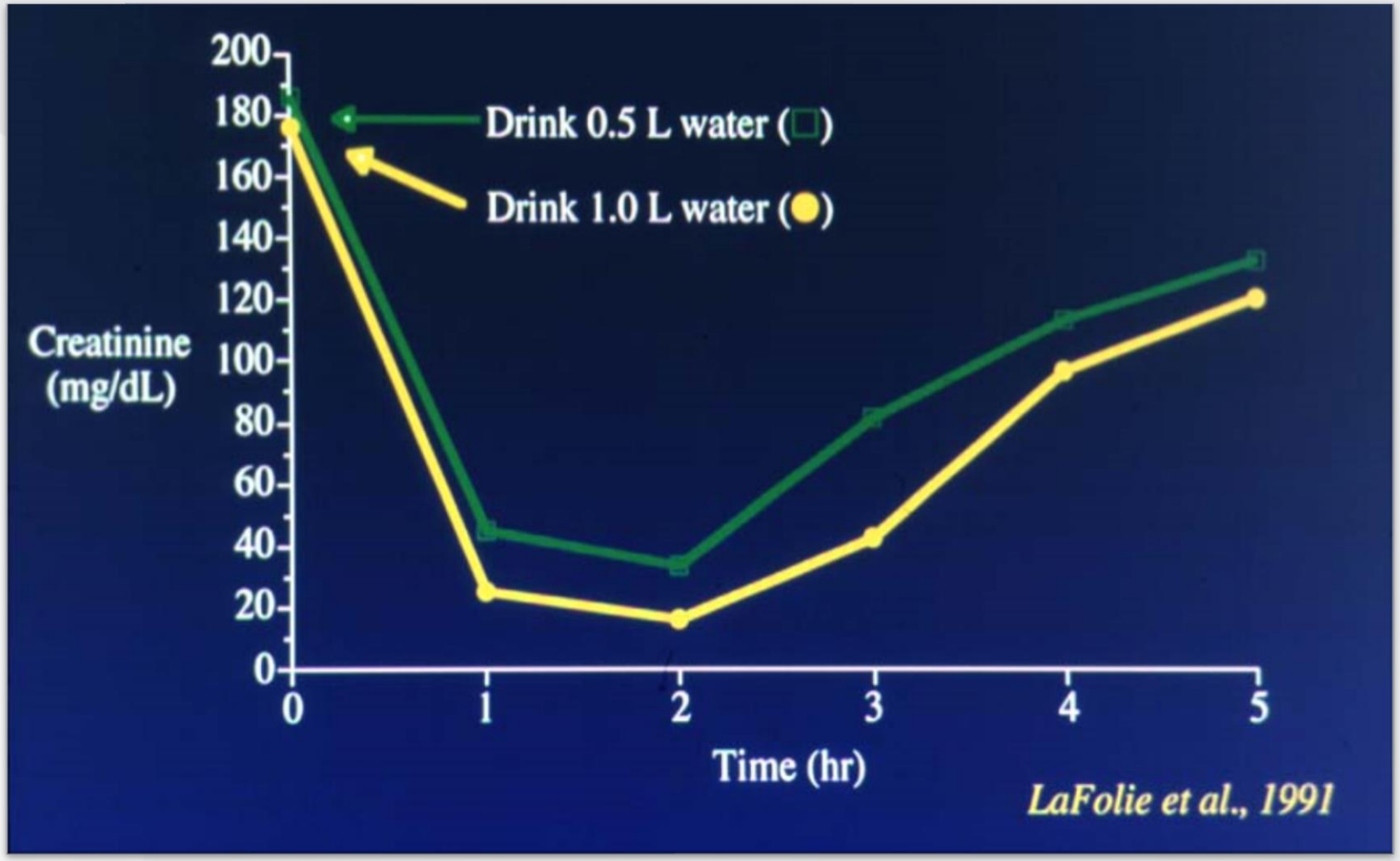
What About Really High Creatinine?

- Dilution makes it more difficult to find drugs in the specimen, high concentration makes it easier
- No good evidence to prove high creatinine is related to anything other than relative dehydration
- Still raises suspicions in my mind

“Shy Bladders”

- Occurs when a donor cannot provide an adequate specimen on demand
  - 30 mL in bottle ‘A’
  - 15 mL in bottle ‘B’
- Collector discards inadequate specimen
- Collector allows donor up to 40 ounces of fluid over a time period of up three hours
- Donor not allowed to leave the collection site
- Refusal to drink is not a refusal to test
- Medical evaluation if no specimen produced after three hours

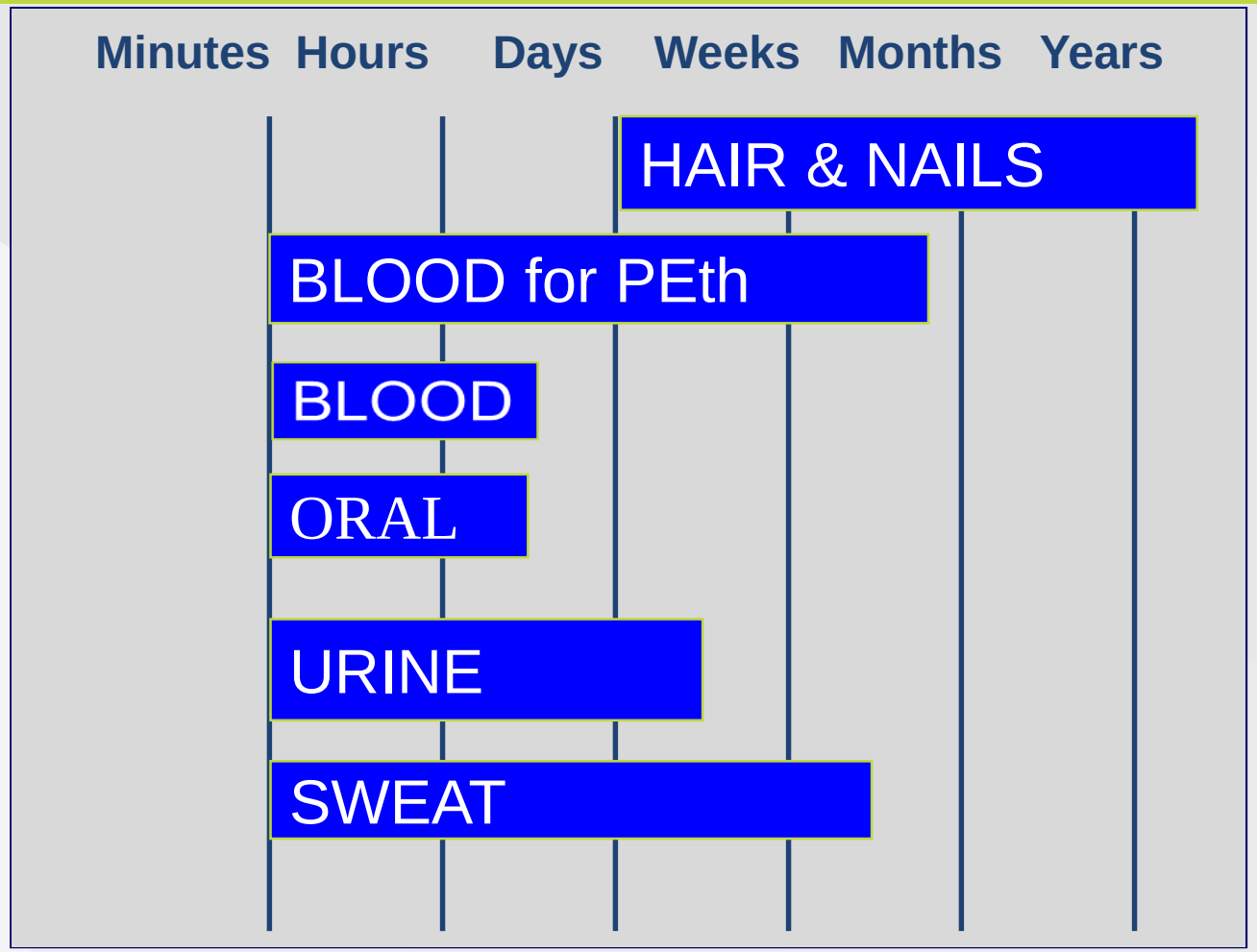
The Effect of Water Consumption on Urinary Creatinine



What is The Best Way to Follow Up After a Dilute Specimen?

- The best way to pass a drug test is not to take one
- Short detection period
  - If dilution or tampering was intended to hide a drug, the drug may be gone by the time re-collection is performed
- Recommendation: Test an alternative specimen with a longer detection period
  - Hair/nails for drug/s
  - PEth for alcohol
- Sensitivity
  - Urine is a more sensitive matrix
  - Alternative specimens less sensitive: More ingestion needed before hair, nails, PEth become positive.
- Using all available matrices gives better perspective on what is actually happening, but
- A negative hair test does not invalidate a positive urine test and vice versa

What are the Detection Periods of Different Specimens?



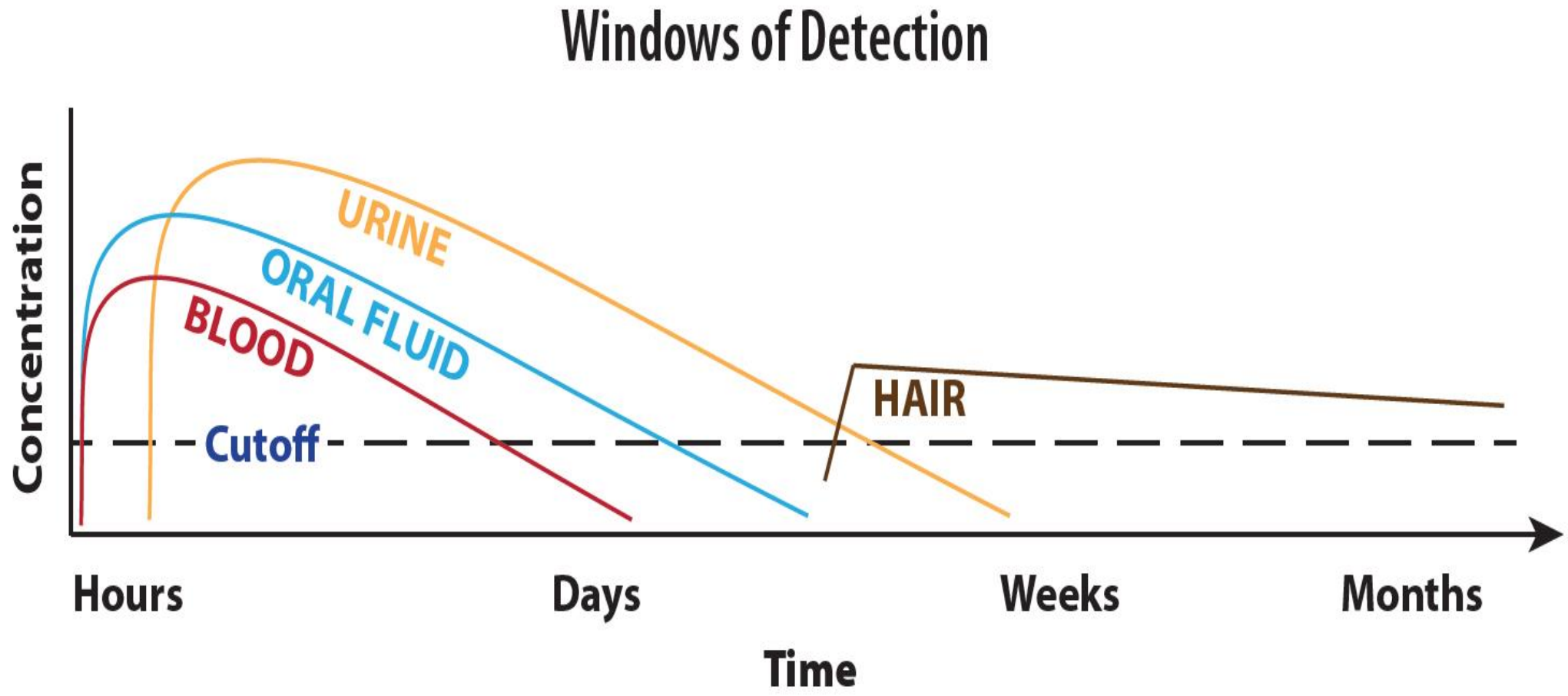


Figure 1. "Look-back" Timeframes for Urine, Oral Fluid, and Hair Compared to Blood (Cone EJ, personal communication, December 2016).

What are the Detection Periods of Different Specimens?

Urine:

- In urine all detection periods depend on several factors:
  - the dosage strength,
  - the time the dose was taken,
  - and the concentration of the specimen being tested.

Urine Detection Periods

- All things being equal the approximate detection periods are:
  - EtG/EtS 80 hours (Urine alcohol should not be used by itself)
  - Opioid detections are 3-5 days
  - Benzodiazepine detection periods vary widely:
    - Diazepam, chlordiazepoxide and metabolites temazepam and oxazepam 4-8 weeks
    - Alprazolam 4-6 days
    - Clonazepam 10-14 days
    - Lorazepam 9-12 days

What are the Advantages of Urine Drug Testing?

Advantages

- Extensive Scientific Base
- Accurate & Reliable
- Mature Technology

Disadvantages

- 2-3 Day Window of Detection for most
- Easy to Adulterate/Dilute
- No Dose/Concentration Relationship

What are the Detection Periods of Different Specimens?

Hair and Nail:

- Hair testing using scalp hair: 90 days
- Hair testing using hair from other parts of the body: 90 days to one year
- Nail testing using fingernails: 120 days
- Nail testing using toenails: 150 days
- These are all approximations

What are the Advantages of Alternative Specimens?

- Collection may have less “Yuck Factor”
- Multiple Sampling may be possible
- Greater Specimen Stability (e.g., hair)
- Lower Disease Risk in Specimen Handling (e.g., hair, sweat)
- Easier Shipment and Storage
- Differences in Window of Detection
  - Example: Pre-employment (Hair) vs. Post-Accident (Oral Fluid)
- May be more difficult to Substitute/Adulterate

How about the Disadvantages of Alternative Specimens?

- Dealing with Lower Analyte Concentrations
  - Urine/blood: ng/mL= parts per billion; Hair/nails: pg/mg = parts per trillion
- Requires More Sensitive Analytical Methods
  - Examples: Elisa, GC/MS/MS, LC/MS/MS
- May Confirm Parent Drug, Metabolite, or Both Parent and Metabolite
  - Metabolite/s are necessary to confirm ingestion
- Hair/nails require “chronic use” of substance for detection at achievable cutoff concentrations
- Limited amount of specimen: qns or insufficient specimen quantity concerns
- Lower levels of confirmed drug

Urine vs Hair/Nail

Urine testing is the forensic backbone of any testing program

- Very sound and well-studied scientific background
- Long established case history in legal situations
- Urine is easily tampered with at collection even if collection is observed
- Urine is a more sensitive testing medium and will show positive where there is less usage of drug
- Urine confirmed positives are easily forensically reconfirmed at other certified laboratories

Hair/Nail vs Urine

Hair and possibly nail testing are useful adjuncts to a sound urine program

- Significant amount of scientific data but not as much as urine
- More controversial case history that is still being worked out
- Limited data on nails
- Hair is less easy to tamper with
- Hair is not as sensitive as urine to drug usage and is thought to show a pattern of use rather than a single use
- No reconfirmation possible for nail testing

Interpretation Guidelines

- **Generally speaking, the longer the detection period of the specimen, the more drug usage required to produce a positive result**
- **All specimen results are two dimensional:**
  - Is the analyte concentration going up or down?
  - Results from different collections using the same specimen matrix within the detection window can help answer that question
  - Multiple results using alternative specimens may be less clear, but may hint at total amount of usage

Rate of Hair Growth (mm/day)

Scalp Crown	**0.35**
Vertex	**0.44**
Beard	**0.27**
Chin	**0.38**
Eyebrow	**0.16**
Axilla	**0.30**
Chest	**0.40**
Thigh	**0.20**

Growth Stages of Hair

ANAGEN PHASE - persists for years

Growing stage (80-90% of hair)

↓

CATAGEN PHASE - lasts 2-3 weeks

Transition

↓

TELOGEN PHASE - lasts a few months

Resting stage (10-20% of hair)

Telogen (Resting) vs Anagen(Growth)

Body Area	% Telogen Hair	% Anagen Hair	Telogen Duration	Follicles Density (1/Cm²)	Depth of Follicle
Scalp	13	85	3-4 Months	350	3 - 5 mm
Beard	30	70	10 Weeks	500	2 - 4 mm
Upper Lip	35	65	6 Weeks	500	1 - 2.5 mm
Axillae	70	30	3 Months	65	3.5 - 4.5 mm
Trunk				70	2 - 4.5 mm
Pubic Area	70	30	12 Weeks	70	3.5 - 4.5 mm
Arms	80	20	18 Weeks	80	
Legs and Thighs	80	20	24 Weeks	60	2.5 - 4 mm
Breasts	70	30		65	3 - 4.5 mm

Unresolved Issues in Hair Testing

- Relationship of dose to hair concentration
- Relationship of time of use vs. detection
- Mechanism of drug entry into hair
- Environmental drug exposure vs ingestion
- Effectiveness of wash procedures in removing external contamination, especially cocaine
- Influence of hair color and texture on test results
- Interpretation of results: metabolites required to confirm ingestion

Action on Alternative Specimen Results?

- Alternative specimens can provide a beneficial back-up approach to strong forensic urine based monitoring programs
- One drug test result by itself does not make a diagnosis, but..
- It can provide a helpful perspective of the total picture
- Alternative specimen testing may be able to do the same thing for “gray area” urine results
- Remember we need metabolite present to assume ingestion

Urine and Alternative Specimens in Monitoring

- **Urine Testing is the Forensic Backbone of the Program**
- **Follow up invalid or indeterminate results with an alternative specimen (hair, nails, PEth, with appropriate detection period**
- **Randomness is Key**
  - Random testing frequency
  - Random choice of specimen
  - Follow-up to all unexpected results

Example: If Urine Test Frequency is:

- Diagnostic Monitoring or Substance Use Disorder, Mild:
  - Weekly urines for 12 months, then no less than twice monthly, minimum 38 tests per year
- Substance Use Disorder, Moderate-severe:
  - Year 1 - urines 48 times a year
  - Year 2 - urines 36 times a year
  - Year 3 - urines 24 times a year
  - Year 4 - urines 18 times a year
  - Year 5 - urines 24 times a year

Then Hair Frequency Can Be:

- Diagnostic Monitoring or Substance Use Disorder, Mild:
  - Twice yearly during contract
- Substance Use Disorder, Moderate-severe:
  - Year 1 - 3 times a year (starting at 4th month)
  - Year 2 - 3 times a year
  - Year 3 - 3 times a year
  - Year 4 - 3 times a year
  - Year 5 - 4 times a year

Alcohol Consumption Monitoring

Alcohol Testing - Common Matrices

- Blood: Short and longer windows of detection, invasive
  - Short: Blood ethanol
  - Longer: PEth, AST, GGT, ALT, CDT
- Breath: Short window of detection
  - EBT
  - Personal breath testers i.e. Soberlink
- Oral Fluid: Short window of detection
  - Ethanol
- Urine: Longer window of detection
  - Fermentation issue for urine alcohol
  - EtG. EtS,

Why is a Specimen Negative for Alcohol But Positive for EtG/EtS?

- The urine detection period for alcohol is significantly less than it is for EtG/EtS
- Additionally, there are so many causes for positive urine alcohol readings other than drinking that urine alcohol should never be used without EtG/EtS
  - Glucose present
  - Microorganisms present in the urine
  - Urine stored at room temperature without preservative for one or more days

Why is EtG Positive but PEth Negative?

- **Could also ask the opposite: EtG negative but PEth positive?**
- **Or urine positive but hair negative?**
- **Different specimens have different drug uptake characteristics and different detection periods.**
  - Urine: Fast uptake, very sensitive, very specific
  - Hair/Nails: Slow uptake (7-10 days or more for nails), not sensitive, very specific
  - PEth: Slow uptake (3-4 days), not sensitive, very specific

EtG/EtS Interpretation Issues

- EtG can be both formed and degraded in a urine sample – retests often differ greatly in concentration due to bacterial contamination
- EtS is not produced *in vitro* and is stable
- EtG is one factor used to suggest alcohol ingestion but,
  - *A thorough Medical Review is recommended to identify other potential sources for the alcohol exposure*
- Results are affected by hydration: lower creatinine leads to lower EtG results
- All results require EtS to be present with EtG to confirm the presence of EtG from alcohol ingestion.
- This information has been successful in defending positive EtG results.

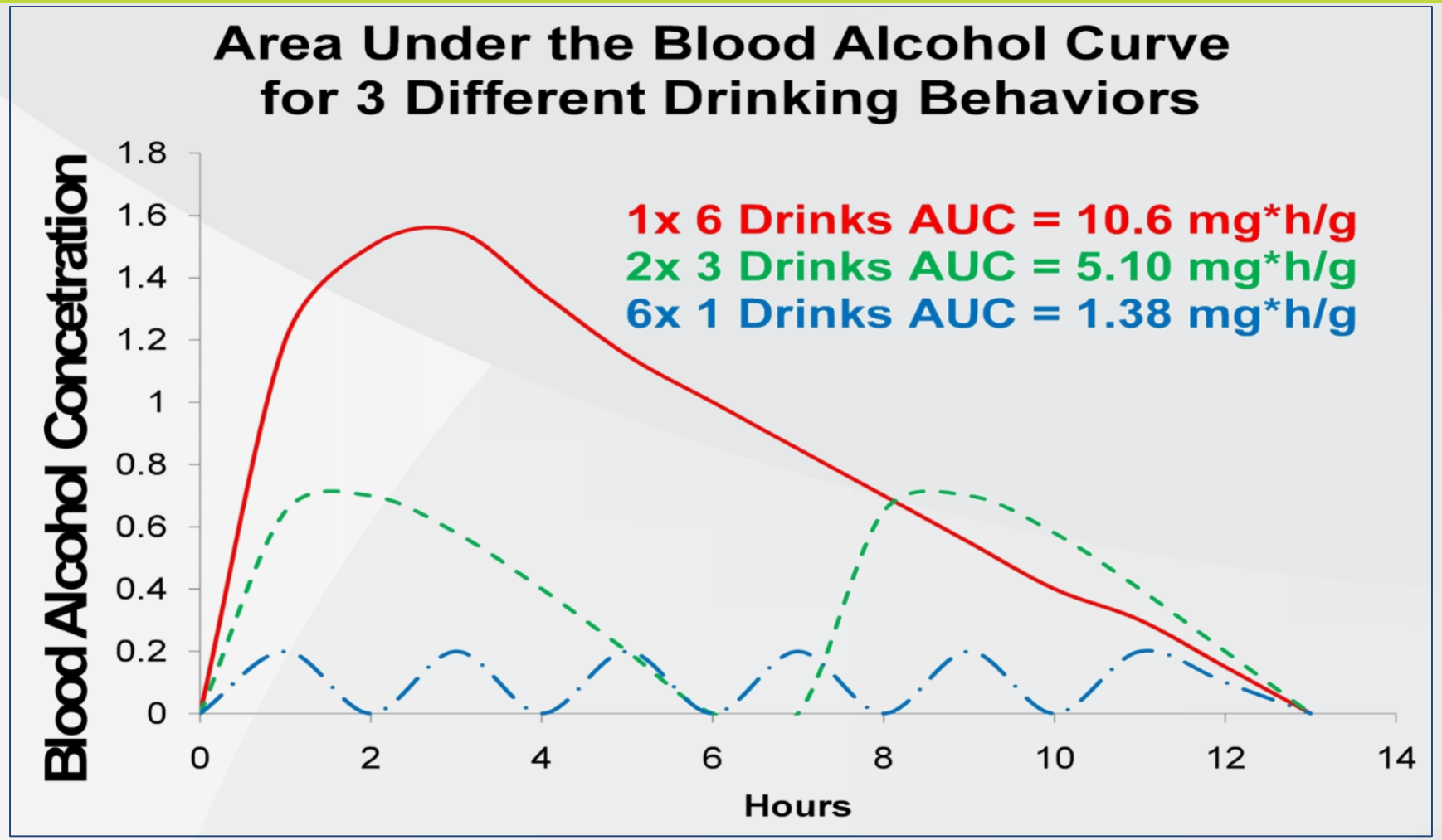
Phosphatidyl Ethanol (PEth)

- A direct biomarker that incorporates into cellular membranes
- Long lifespan - $t^{1/2}$ 4.4 days
- Stable molecule, minimally metabolized
- Stays in red cell membrane until it decomposes or cell dies.
- 2-4 week window of detection
- 5 molecular fractions comprise 80% of total PEth in blood
  - 16:0/18:1, 16:0/18:2, 16:0/20:4, 18:1/18:1, 18:1/18:2
  - Only 16:0/18.1, 16:0/18.2, 18:1/18:1 are routinely tested
  - Only 16:0/18.1 routinely reported

PEth Indications

- Testing blood for phosphatidyl ethanol (PEth) is a reliable way to determine alcohol ingestion of at least 2-3 standard drinks or more occurring in the 2-4 weeks prior to the test
- PEth testing is ordered when there is significant concern about possible alcohol use
  - Following a low positive EtG/EtS test when participant denies alcohol consumption
  - After a third dilute UDS or any UDS with extremely low creatinine
  - As part of an initial, recovery status or appropriateness for completion evaluation
  - Following any reported suspicion of drinking

Blood Alcohol Concentration



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Is PEth Testing Junk Science?

- It is an LDT, but:
- Research has been ongoing since 1983
- No false positives have been reported (Kechagias, et al, 2015)
- Single ethanol dose of 30-47gm (2-3 drinks) would be expected to produce positive 16:0/18:1 at 20 ng cutoff (Javors, et al, 2016)
- Statistically significant differences in the mean values and confidence intervals of total PEth concentrations in heavy drinkers(>60g/day) and social drinkers(<60g/day) (Wurst, et al, 2010)

More Research

- 32 males, 12 females studied for three months:1-2 glasses of wine/day produced PEth up to 60 ng/mL (Kechagias, et al, 2015)
- 80 females aged 18-35: 2+ glasses of wine a day produced PEth 127 ng/mL (Stewart, et al 2010**)**
- 252 participants: PEth results in combination with previous EtG results allow differentiation between exposure and drinking (Skipper, et al, 2013)

PEth Testing and Split Specimen Reconfirmation

- **Two Testing Techniques**:
  - Whole blood is more common
  - Blood Spot done at one laboratory
- **20 ng/mL is a low but generally accepted cutoff**
- **When the donor denies ethanol ingestion, offer reconfirmation:**
  - For spot testing, the only option is the same lab tests another spot
  - For whole blood testing the specimen can have true reconfirmation at another lab
  - If drawn in a timely fashion, whole blood can be used as a follow up to blood spot even though it is not a true reconfirmation
  - Be careful about disciplinary action without reconfirmation

What Kind of MRO is Your MRO?

Healthcare Professional vs DOT?

- **DOT/HHS testing is the starting point for all MROs**
  - Purely forensic, deterrent testing
  - Medically explained positives downgraded to negatives by the MRO
  - Benefit of the doubt goes to the donor
- **Healthcare:**
  - Forensic or non forensic detection testing
  - No positives downgraded to negatives
  - All positives must be explained
  - Benefit of the doubt given or not on case by case basis

The Role of Medical Review

- Collaboration: independent and impartial
- Look for legitimate and/or acceptable explanation(s) for laboratory non-negative results.
- Consult with other experts (toxicologists, consultant physicians) when assistance is needed on problem test results, resolve the issues that can be resolved, report the findings and the result.

Healthcare Professional vs DOT?

Monitoring MRO Review is a Combination

- Forensic principles required when license action in question
- All positives reported as positives
- All positives must be explained but explanations may not be acceptable
- Prescriptions
  - DOT/HHS: Once a valid prescription, always a valid prescription
  - Monitoring: Program defines length of time RX is acceptable

Should all Positives Have an MRO Review?

I may be biased…

- Certainly, if there is any dispute about the result, MRO offers an unbiased opinion
- When legal action may be pending, an MRO review helps solidify the case and may prevent inappropriate legal action that may not stand up in a hearing
- For complicated results like EtG/EtS, PEth, benzodiazepine metabolites etc, MRO review may help clarify

What Happens During an MRO Review?

- Identify participant
- Explain verification process
- Donor Advisory Statement (Miranda)
- Ask non-result related questions (if necessary):
  - Collection inquiries?
- Inform of test result
- Seek result specific information:
  - Medical issues, RX, OTC meds, etc.
- Inform of how MRO will report
- Give split specimen testing options
- Answer questions
- Leave MRO phone number

Conclusion

Each Drug Test Result Stands on its Own:

- A second result does not invalidate the first result
- An alternative specimen result does not invalidate a urine result
- In either case the second result may support the first
- BUT: Failure of a split specimen to reconfirm the original result does invalidate the original result

Just Remember -

No matter how hard we work,
No matter how right we are…..

Questions?

Thank You!

Veterinary Medical Board
BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • VETERINARY MEDICAL BOARD
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MEMORANDUM

DATE	July 18, 2019
TO	Veterinary Medical Board
FROM	Mark Nunez, DVM, and Kathy Bowler Uniform Standards for Substance Abusing Licensees Subcommittee
SUBJECT	**Agenda Item 21. Update, Discussion, and Possible Action Regarding Uniform Standards for Substance Abusing Licensees Subcommittee Report**

Background:

As previously discussed in more detail here, the Board approved draft regulations and Uniform Standards for Substance Abusing Licensees in 2014. Due to the length of time lapsed, the Board agreed it is best to review, potentially revise, and readopt the language. The Board created a two-member subcommittee to work with staff, legal counsel, and the Deputy Attorney General liaison to make formal recommendations to the Board.

During its initial meeting, the subcommittee discussed the 2014 approved language with the Board's Executive Officer (EO). In 2014, the Board was provided three options to determine what would trigger the Uniform Standards:

1. Presumption of substance abuse if conduct involved drugs or alcohol;
2. Clinical diagnosis of substance abuse; or
3. Finding of substance abuse after formal hearing.

The Board chose the third option. The subcommittee discussed the pros and cons for each and determined the third was still the best option.

The subcommittee then discussed concerns raised regarding the implementation of the Uniform Standards. The Uniform Standards will be used by Administrative Law Judges (ALJs), deputy attorneys general, and Board staff when considering proposed decisions and stipulated settlements. Much like the Board's Disciplinary Guidelines, ALJs will "copy and paste" specific standards into Board-ordered probation conditions. Many of the Uniform Standards, however, were not written as probation conditions. Rather, the majority were written to provide strict standards *if* specific conditions were ordered.

For example, Uniform Standard #1 Clinical Diagnostic Evaluations begins with "*If a healing arts board orders […]"* and provides specific requirements that must be met *if* ordered. Uniform Standard #1 is represented in the 2014 Board-approved language as Condition 6 and begins with, "Upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation." This language is problematic as it does not inform the respondent or Board staff when the Board might require the evaluation.

As written, the 2014 language implies every condition is required every time and removes flexibility originally afforded to the Board. The EO requested the subcommittee re-evaluate the standards and determine what probation conditions should be mandatory in every probationary order involving substance abusing licensees and what should be optional (determined on a case-by-case basis).

Upon review, the subcommittee recommended five conditions be required, and the remaining be made optional:

Required:

1. Notification of Employer or Supervisor Information
2. Biological Fluid Testing
3. Abstain From the Use of Controlled Substances and Dangerous Drugs
4. Abstain From the Use of Alcohol
5. Violation of Probation Condition for Substance-Abusing Licensee

If Warranted (Optional):

1. Clinical Diagnostic Evaluations and Reports
2. Substance Abuse Support Group Meetings
3. Worksite Monitor for Substance-Abusing Licensee
4. Drug or Alcohol Use Treatment Program

The Board agreed with these recommendations during the April meeting.

Update:

Based on the subcommittee's input, the EO revised the 2014 language to clarify the required vs. optional conditions and drafted model language to properly implement the Uniform Standards. The attached proposed language and Uniform Standards are modeled on the Medical Board of California's successful Uniform Standard rulemaking and closely mirror the Substance Abuse Coordination Committee's (SACC) Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (April 2011).

Action Requested:

Please review and consider the attached proposed regulations and Uniform Standards for Substance Abusing Licensees.

Uniform Standards for Substance-Abusing Licensees

July 2019

Veterinary Medical Board

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Jessica Sieferman, Executive Officer

Created 07/2019

Uniform Standards for Substance-Abusing Licensees
Veterinary Medical Board

July 2019

Jessica Sieferman
Executive Officer

Robert Stephanopoulos
Enforcement Program Manager

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California Code of Regulations, Title 16, Division 20, Article 1

§ 2006. Disciplinary Guidelines.

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board shall consider the disciplinary guidelines entitled: "Veterinary Medical Board Disciplinary Guidelines, November 2018,~~July 2012 Edition~~" which are hereby incorporated by reference. Deviation from these guidelines, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation - for example: the presence of mitigating or aggravating factors; the age of the case; evidentiary problems.

(b) Notwithstanding subsection (a), the Board shall use the Uniform Standards for Substance-Abusing Licensees as provided in section 2006.5, without deviation, for each individual proven to be a substance-abusing licensee.

Note: Authority cited: Sections 315, 315.2, 315.4, 4808, and 4845(d), Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 141, 480, 4890, 315, 315.2, 315.4, 4830.5, 4830.7, 4836.2, 4836.5, 4837, 4839.5, 4842, 4845, 4845.5, 4855, 4856, 4857, 4876, 4883, and 4886, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

§ 2006.5. Uniform Standards for Substance-Abusing Licensees.

(a) If, after notice and a hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the Government Code (commencing with section 11500 et seq.), the Board finds that the evidence proves that an individual is a substance-abusing licensee, then the terms and conditions contained in the document entitled "Uniform Standards for Substance-Abusing Licensees, July 2019," which are hereby incorporated by reference, shall be used in any probationary order of the Board affecting that licensee.

(b) Nothing in this section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

(c) The following probationary terms and conditions shall be used without deviation in the case of a substance-abusing licensee:

(1) Clinical Diagnostic Evaluations and Reports; Temporary Removal From Practice.

(A) If the Board orders a licensee who is on probation due to a substance abuse problem to undergo a clinical diagnostic evaluation, the following applies:

1. The clinical diagnostic evaluation shall be conducted by a licensed practitioner who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of health care professionals with substance abuse disorders, and is approved by the Board.

2. The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.

3. The evaluator shall not have a current or former financial, personal, or business relationship with the licensee within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation.

4. The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee has a substance abuse problem; whether the licensee is a threat to himself or herself or others; and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and ability to practice safely. If the evaluator determines during the evaluation process that a licensee is a threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24) hours of such a determination.
5. In formulating his or her opinion as to whether the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed, including participation in an inpatient or outpatient treatment program, the evaluator shall consider the following factors:
a. License type;
b. Licensee's history;
c. Documented length of sobriety/time that has elapsed since substance use;
d. Scope and pattern of substance abuse;
e. Treatment history;
f. Medical history;
g. Current medical condition;
h. Nature, duration, and severity of substance abuse problem; and
i. Whether the licensee is a threat to himself or herself or the public.
6. The cost of an evaluation shall be borne by the licensee.
7. For all evaluations, a final written report shall be provided to the Board no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator requests additional information or time to complete the evaluation and report, an extension may be granted, but shall not exceed thirty (30) days from the date the evaluator was originally assigned the matter.
(B) Whenever the Board orders a licensee to undergo a clinical diagnostic evaluation, the Board shall order the licensee to cease practice pending the results of the clinical diagnostic evaluation and review by the Board.
(C) While awaiting the results of the clinical diagnostic evaluation, the licensee shall undergo random biological fluid testing at least two (2) times per week.
(D) The Board shall review the clinical diagnostic evaluation report within five (5) business days of receipt to determine whether the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations shall be imposed on the licensee based on the recommendations made by the evaluator. No licensee shall be returned to practice until he or she has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating that a licensee has not used, consumed, ingested, or administered to himself or herself a prohibited substance, as defined in section 2006.51, subsection (e).
(2) Notice of Employer or Supervisor Information. If a licensee whose license is on probation has an employer or supervisor, the licensee shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of all employers and supervisors and shall give specific, written consent for the Board, the worksite monitor, and his or her employers and supervisors to communicate regarding the licensee's work status, performance, and monitoring.

(3) Biological Fluid Testing.
(A) The Board shall require biological fluid testing of substance-abusing licensees.
(B) For the purposes of this section, the terms “biological fluid testing” and “testing” mean the acquisition and chemical analysis of a licensee's urine, blood, breath, or hair.
(C) The Board may order a licensee to undergo a biological fluid test on any day, at any time, including weekends and holidays. Additionally, the licensee shall be subject to 52-104 random tests per year within the first year of probation, and 36-104 random tests per year during the second year of probation and for the duration of the probationary term, up to five (5) years. If there have been no positive biological fluid tests in the previous five (5) consecutive years of probation, testing may be reduced to one (1) time per month.
(D) Nothing precludes the Board from increasing the number of random tests to the first-year level of frequency for any reason, including, but not limited to, if the Board finds or has suspicion that a licensee has committed a violation of the Board's testing program or has committed a violation as identified in section 2006.52, subsection (a), in addition to ordering any other disciplinary action that may be warranted.
(E) The scheduling of biological fluid testing shall be done on a random basis, preferably by a computer program, except when testing on a specific date is ordered by the Board or its designee.
(F) The licensee shall be required to make daily contact with the Board or its designee to determine if biological fluid testing is required. The licensee shall be tested on the date of the notification as directed by the Board or its designee.
(G) Prior to changing testing locations for any reason, including during vacation or other travel, alternative testing locations must be approved by the Board and meet the requirements set forth in section 2006.55.
(H) The cost of biological fluid testing shall be borne by the licensee.
(I) Exceptions to Testing Frequency Schedule.
1. Previous Testing Orders/Sobriety. In cases where the Board has evidence that a licensee has participated in a treatment or monitoring program requiring random testing prior to being subject to testing by the Board, the Board may give consideration to that testing in altering the Board's own testing schedule so that the combined testing is equivalent to the requirements of this section.
2. Violation(s) Outside of Employment. A licensee whose license is placed on probation for a single conviction or incident or two convictions or incidents spanning greater than seven years from each other, where those violations did not occur at work or while on the licensee's way to work, where alcohol or drugs were a contributing factor, may bypass the first-year testing frequency requirements and participate in the second-year testing frequency requirements.
3. Not Employed in Health Care Field. The Board may reduce the testing frequency to a minimum of twelve (12) times per year for any licensee who is not practicing or working in any health care field. If a reduced testing frequency schedule is established for this reason, and if a licensee wants to return to practice or work in a health care field, the licensee shall notify and secure the approval of the Board. Prior to returning to any health care employment, the licensee shall be required to test at the first-year testing frequency requirement for a period of at least sixty (60) days. At such time the person

returns to employment in a health care field, if the licensee has not previously met the first-year testing frequency requirement, the licensee shall be required to test at the first-year testing frequency requirement for a full year before he or she may be reduced to testing frequency of at least thirty-six (36) tests per year.
4. Tolling. The Board may postpone all testing for any licensee whose probation is placed in a tolling status while the licensee is not residing in California, provided the overall length of the probationary period is also tolled. A licensee shall notify the Board upon the licensee's return to California and shall be subject to biological fluid testing as provided in this section. If the licensee returns to employment in a health care field and has not previously met the first-year testing frequency requirements, the licensee shall be subject to completing a full year at the first-year testing frequency requirements, otherwise the second-year testing frequency requirements shall be in effect.
5. Substance Abuse Disorder Not Diagnosed. In cases where no current substance abuse disorder diagnosis is made, a lesser period of monitoring and biological fluid testing may be adopted by the Board, but shall not be less than twenty-four (24) times per year.
(J) Reinstatement of License or Reduction of Penalty. Nothing herein shall limit the Board's authority to reduce or eliminate the penalties herein pursuant to a petition for reinstatement or reduction of penalty filed pursuant to Government Code section 11522.
(4) Group Support Meetings. If the Board requires a licensee to participate in group support meetings, the following shall apply:
(A) When determining the frequency of group support meetings to be attended, the Board or the evaluator shall give consideration to the following:
1. The licensee's history;
2. The documented length of sobriety/time that has elapsed since substance use;
3. The recommendation of the clinical evaluator;
4. The scope and pattern of use;
5. The licensee's treatment history; and
6. The nature, duration, and severity of substance abuse.
(B) The facilitator of a group support meeting shall conform to the following requirements:
1. He or she shall have a minimum of three (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or nationally certified organizations.
2. He or she shall not have a current or former financial, personal, or business relationship with the licensee within the last five (5) years. A licensee's previous participation in a group support meeting led by the same facilitator does not constitute a current or former financial, personal, or business relationship.
3. He or she shall provide to the Board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
4. He or she shall report a licensee's unexcused absence to the Board within twenty-four (24) hours.
(C) Any costs associated with attending and reporting on group support meetings shall be borne by the licensee.

(5) Worksite Monitor Requirements and Responsibilities.
(A) The Board may require the use of worksite monitors. If the Board determines that a worksite monitor is necessary for a particular licensee, the licensee shall, within 30 calendar days of the effective date of that determination, submit to the Board or its designee for prior approval the name of a worksite monitor. The worksite monitor shall meet the following criteria to be approved by the Board:
1. The worksite monitor shall not have a current or former financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the Board; however, under no circumstances shall a licensee's worksite monitor be an employee or supervisee of the licensee.
2. The worksite monitor's scope of practice shall include the scope of practice of the licensee being monitored, be another licensed health care professional if no monitor with like scope of practice is available, or, as approved by the Board, be a person in a position of authority who is capable of monitoring the licensee at work.
3. If a licensed professional, the worksite monitor shall have an active unrestricted license with no disciplinary action within the last five (5) years.
4. The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and agrees to monitor the licensee as set forth by the Board.
(B) The worksite monitor shall adhere to the following required methods of monitoring the licensee:
1. Have face-to-face contact with the licensee in the work environment on as frequent a basis as determined by the Board, but not less than once per week.
2. Interview other staff in the office regarding the licensee's behavior, if requested by the Board.
3. Review the licensee's work attendance.
(C) Reporting by the worksite monitor to the Board shall comply with the following:
1. The worksite monitor shall verbally report any suspected substance abuse to the Board and the licensee's employer or supervisor as defined in subsection (c)(2) within one (1) business day of occurrence. If the suspected substance abuse does not occur during the Board's normal business hours, the verbal report shall be made to the Board within one (1) hour of the next business day. A written report that includes the date, time, and location of the suspected abuse; the licensee's actions; and any other information deemed important by the worksite monitor shall be submitted to the Board within forty-eight (48) hours of the occurrence.
2. The worksite monitor shall complete and submit a written report monthly or as directed by the Board. The report shall include the following:
a. The licensee's name and license number;
b. The worksite monitor's name and signature;
c. The worksite monitor's license number, if applicable;
d. The worksite location(s);
e. The dates the licensee had face-to-face contact with the monitor;

f. The names of worksite staff interviewed, if applicable;
g. An attendance report;
h. Any change in behavior and/or personal habits; and
i. Any indicators that can lead to suspected substance abuse.
(D) The licensee shall complete any required consent forms and execute agreements with the approved worksite monitor(s) and the Board authorizing the Board and worksite monitor to exchange information.
(E) If the monitor resigns or is no longer available, the licensee shall, within five (5) calendar days of such resignation or unavailability, submit to the Board the name and qualifications of a replacement monitor who will be assuming that responsibility within fifteen (15) calendar days. If the licensee fails to obtain approval of a replacement monitor within sixty (60) calendar days of the resignation or unavailability of the monitor, the licensee shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The licensee shall cease the practice of veterinary medicine until a replacement monitor is approved and assumes monitoring responsibility.
(F) Worksite monitoring costs shall be borne by the licensee.
(6) The licensee must remain in compliance with all terms and conditions of probation. If the licensee commits a major or minor violation, as defined in section 2006.52, the Board will execute the disciplinary actions required by that section, and impose any additional terms or conditions necessary for public protection or to enhance the rehabilitation of the licensee.

Note: Authority cited: Sections 315, 315.2, 315.4, 4808, and 4845(d), Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

§ 2006.51. Results of Biological Fluid Tests of Substance-Abusing Licensees.
(a) If the results of a biological fluid test indicate that a licensee has used, consumed, ingested, or administered to himself or herself a prohibited substance, the Board shall order the licensee to cease practice and instruct the licensee to leave any place of work where he or she is practicing medicine or providing medical services. The Board shall also immediately notify all of the licensee's employers, and supervisors as defined under section 2006.5, subsection (c)(2), if any, and work site monitor, if any, that the licensee may not provide medical services or practice veterinary medicine while the cease-practice order is in effect.
(b) A biological fluid test will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance.
(c) After the issuance of a cease-practice order, the Board shall determine whether the positive biological fluid test is in fact evidence of prohibited substance use by consulting with the specimen collector and the laboratory, communicating with the licensee, his or her treating physician(s), other health care provider, or group facilitator, as applicable.
(d) If no prohibited substance use exists, the Board shall lift the cease-practice order within one (1) business day.

(e) For the purposes of this Article, “prohibited substance” means an illegal drug; a lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by the licensee and approved by the Board; alcohol; or other substance the licensee has been instructed by the Board not to use, consume, ingest, or administer to himself or herself.
(f) If the Board confirms that a positive biological fluid test is evidence of use of a prohibited substance, the licensee has committed a major violation, as defined in section 2006.52, and the Board shall impose any or all of the consequences set forth in section 2006.52, in addition to any other terms or conditions the Board determines are necessary for public protection or to enhance the rehabilitation of the licensee.

Note: Authority cited: Sections 315, 315.2, 315.4, 4808, and 4845(d), Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

§ 2006.52. Actions by Substance-Abusing Licensees and Consequences Thereof.
(a) A licensee who does any of the following shall be deemed to have committed a major violation of his or her probation:
(1) Fails to undergo a required clinical diagnostic evaluation;
(2) Commits multiple minor violations of probation conditions and terms;
(3) Treats a patient or patients while under the influence of a prohibited substance;
(4) Engage in any drug or alcohol related act that is a violation of state or federal law or regulation;
(5) Fails to undergo biological fluid testing when ordered;
(6) Uses, consumes, ingests, or administers to himself or herself a prohibited substance;
(7) Knowingly uses, makes, alters, or possesses any object or product in such a way as to defraud or attempt to defraud a biological fluid test designed to detect the presence of a prohibited substance; or
(8) Fails to comply with any term or condition of his or her probation that impairs public safety.
(b) If a licensee commits a major violation, the Board will take one or more of the following actions:
(1) Issue an immediate cease-practice order and order the licensee to undergo a clinical diagnostic evaluation at the expense of the licensee. Any order issued by the Board pursuant to this subsection shall state that the licensee must test negative for at least a month of continuous biological fluid testing before being allowed to resume practice.
(2) Increase the frequency of biological fluid testing.
(3) Refer the licensee for further disciplinary action, such as suspension, revocation, or other action as determined by the Board.
(c) A licensee who does any of the following shall be deemed to have committed a minor violation of his or her probation:
(1) Fails to submit required documentation to the Board in a timely manner;
(2) Has an unexcused absence at a required meeting;

(3) Fails to contact a worksite monitor as required; or
(4) Fails to comply with any term or condition of his or her probation that does not impair public safety.
(d) If a licensee commits a minor violation, the Board will take one or more of the following actions:
(1) Issue a cease-practice order;
(2) Order practice limitations;
(3) Order or increase supervision of licensee;
(4) Order increased documentation;
(5) Issue a citation and fine, or a warning letter;
(6) Order the licensee to undergo a clinical diagnostic evaluation at the expense of the licensee;
(7) Take any other action as determined by the Board.
(e) Nothing in this section shall be considered a limitation on the Board's authority to revoke the probation of a licensee who has violated a term or condition of that probation.

Note: Authority cited: Sections 315, 315.2, 315.4, 4808, and 4845(d), Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

§ 2006.53. Request by a Substance-Abusing Licensee to Return to Practice.
(a) Before a licensee may request to return to full time practice after the issuance of a cease-practice order or after the imposition of practice restrictions following a clinical diagnostic evaluation, the Board, in conjunction with the evaluator, shall ensure that the licensee meets the following criteria:
(1) Demonstrated sustained compliance with his or her current treatment or recovery program, as applicable;
(2) Demonstrated ability to practice safely as evidenced by current worksite monitor reports (if currently being monitored), evaluations conducted by licensed health care practitioners, and any other information relating to the licensee's substance abuse and recovery therefrom; and
(3) Negative biological fluid tests or biological fluid tests indicating that the licensee has not used, consumed, ingested, or administered to himself or herself a prohibited substance, as defined in section 2006.51, subsection (e), for at least six (6) months, two (2) positive worksite monitor reports (if currently being monitored), and complete compliance with other terms and conditions of probation.
(b) Before a substance-abusing licensee may request a full and unrestricted license, the licensee shall demonstrate:
(1) Sustained compliance with the terms of the disciplinary order, if applicable;
(2) Successful completion of a treatment or recovery program, if required;
(3) Consistent and sustained participation in activities that promote and support the licensee’s recovery, including, but not limited to, ongoing support meetings, therapy, counseling, a relapse prevention plan, and community activities.

(4) Ability to practice veterinary medicine safely; and
(5) Continuous sobriety for three (3) to five (5) years.

Note: Authority cited: Sections 315, 315.2, 315.4, 4808, and 4845(d), Business and Professions Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

§ 2006.54. Disclosure of Substance-Abusing Licensee Information.
For licensees subject to section 2006.5, the Board shall disclose the following information to the public for licensees who are participating in a board monitoring/diversion program regardless of whether the licensee is a self-referral or a Board referral. However, the disclosure shall not contain information that the restrictions are a result of the licensee's participation in a diversion program.
(a) Licensee's name;
(b) Whether the licensee's practice is restricted, or the license is on inactive status; and
(c) A detailed description of any restriction imposed.

Note: Authority cited: Sections 315 and 4808, Business and Professions Code. Reference: Sections 315 and 4871, Business and Professions Code.

§ 2006.55. Requirements for Laboratories/Testing Locations and Specimen Collectors for Testing Substance-Abusing Licensees.
If the Board uses a private-sector vendor that provides laboratories or testing locations or specimen collection for testing substance-abusing licensees, the laboratory, location, or collection service shall meet all the following standards:
(a) The vendor must report to the Board any major violation, as defined in section 2006.52.
(b) The vendor must ensure that its laboratory, testing, or specimen collection providers or contractors meet all of the following:
(1) Specimen collectors shall either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the United States Department of Transportation.
(2) Specimen collectors shall conform to the current United States Department of Transportation Specimen Collection Guidelines.
(3) Testing locations shall comply with the Urine Specimen Collection Guidelines published by the United States Department of Transportation without regard to the type of test administered.
(4) Specimen collectors shall observe the collection of testing specimens.
(5) Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.
(6) Testing locations shall submit a specimen to a laboratory within one (1) business day of receipt and all specimens collected shall be handled pursuant to chain of custody procedures. The laboratory shall process and analyze the specimen and provide legally defensible test results to the Board within seven (7) business days of receipt of the

specimen. The Board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.
(7) Specimen collection and testing locations shall possess all the materials, equipment, and technical expertise necessary in order to test every licensee for which it is responsible on any day of the week.
(8) Testing locations shall be able to scientifically test for urine, blood, and hair specimens for the detection of alcohol and illegal and controlled substances.
(9) Testing sites that are located throughout California.
(10) An automated 24-hour toll-free telephone system and/or a secure on-line computer database that allows the licensee to check in daily for testing.
(11) A secure, HIPAA-compliant website or computer system to allow staff access to drug test results and compliance reporting information that is available twenty-four (24) hours a day.
(12) Employment of or contract with toxicologists that are licensed physicians and have knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate laboratory biological fluid test results, medical histories, and any other information relevant to biomedical information.
(c) A toxicology screen will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance.

Note: Authority cited: Sections 315, 315.2, 315.4, 4808, and 4845(d), Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

§ 2006.56. Requirements for Diversion Program Vendors.
If the Board uses a private-sector diversion program services vendor, all of the following shall apply:
(a) The vendor shall comply with all of the following:
(1) The vendor is fully responsible for the acts and omissions of its subcontractors and persons either directly or indirectly employed by any of them. No subcontract shall relieve the vendor of its responsibilities and obligations. All state policies, guidelines, and requirements apply to all subcontractors.
(2) If a subcontractor fails to provide effective or timely services, but not limited to any other subcontracted services, the vendor will terminate services of said subcontractor within thirty (30) business days of notification of failure to provide adequate services.
(3) The vendor shall notify the Board within five (5) business days of termination of said subcontractor.
(b) An external audit shall be conducted at least once every three (3) years by a qualified, independent reviewer or review team from outside the Department of Consumer Affairs with no real or apparent conflict of interest with the vendor providing the monitoring services. The independent reviewer or review team shall consist of individuals who are competent in the professional practice of internal auditing and assessment processes and qualified to perform audits of monitoring programs.

(c) The audit in subsection (b) shall assess the vendor's performance in adhering to the uniform standards established by the Board. The reviewer must provide a report of their findings to the Board by June 30 of each three (3) year cycle. The report shall identify any material inadequacies, deficiencies, irregularities, or other non-compliance with the terms of the vendor's monitoring services that would interfere with the Board's mandate of public protection.
(d) The Board and the Department of Consumer Affairs shall respond to the findings in the audit report.

§ 2006.57. Reporting Requirements Relating to Substance-Abusing Licensees.
(a) The Board shall report the following information on a yearly basis to the Department of Consumer Affairs and the Legislature as it relates to licensees with substance abuse problems who are on probation:
(1) Number of intakes into a diversion program;
(2) Number of probationers whose conduct was related to a substance abuse problem;
(3) Number of referrals for treatment programs;
(4) Number of relapses (break in sobriety);
(5) Number of cease-practice orders;
(6) Number of suspensions;
(7) Number terminated from program for noncompliance;
(8) Number of successful completions based on uniform standards;
(9) Number of major violations; nature of violation, and action taken; and
(10) Number of licensees who successfully completed probation.
(b) For each reporting category described in subsection (a), the Board shall identify the licensing category and the specific substance abuse problem (e.g., cocaine, alcohol, Demerol, etc.), and whether the licensee is in a diversion program and/or probation program.
(c) If the reporting data indicates that licensees in specific licensing categories or with specific substance abuse problems have either a higher or lower probability of success, that information shall be taken into account when determining the success of terms and conditions of probation. The information may also be used to determine the risk factor when the Board is determining whether a license should be revoked or placed on probation.
(d) The Board shall use the following criteria to determine if its terms and conditions of probation protect patients from harm and are effective in assisting its licensees in recovering from substance abuse problems in the long term:
(1) At least one hundred percent (100%) of licensees whose licenses were placed on probation as a result of a substance abuse problem successfully completed probation, or had their licenses to practice revoked or surrendered on a timely basis based on noncompliance with terms and conditions of probation.
(2) At least seventy-five percent (75%) of licensees who successfully completed probation did not have any substantiated complaints related to substance abuse for at least five (5) years after completion.

(e) For purposes of measuring outcomes and effectiveness relating to biological fluid testing as described in section 2006.5, subsection (c)(3), the Board shall collect and report historical data (as available) and post-implementation data as follows:
(1) Historical Data. The Board should collect the following historical data (as available) for a period of two years prior to implementation of the Uniform Standards for Substance-Abusing Licensees, for each person subject to testing for banned substances, who has done any of the following:
(A) Tested positive for a banned substance;
(B) Failed to appear or call in for testing on more than three occasions;
(C) Failed to pay testing costs; or
(D) Given a diluted or invalid specimen.
(2) Post-Implementation Data - Three Years. The Board shall collect data annually for a period of three (3) years following implementation of the Uniform Standards for Substance-Abusing Licensees for every licensee subject to testing for banned substances pursuant to section 2006.5, subsection (c)(3). The data collected shall be reported to the Department of Consumer Affairs and the Legislature, upon request, and shall include, but may not be limited to:
(A) Licensee identification;
(B) License type;
(C) Probation effective date;
(D) General range of testing frequency for each licensee;
(E) Dates testing requested;
(F) Dates tested;
(G) Identity of the entity that performed each test;
(H) Date(s) licensee tested positive;
(I) Date(s) Board was informed of positive test(s);
(J) Date(s) of questionable tests (e.g. dilute, high levels);
(K) Date(s) Board was notified of questionable test(s);
(L) Identification of substances detected or questionably detected;
(M) Date(s) licensee failed to appear for testing;
(N) Date(s) Board notified of licensee's failure to appear;
(O) Date(s) licensee failed to call in for testing;
(P) Date(s) Board was notified that licensee failed to call in for testing;
(Q) Date(s) licensee failed to pay for testing;
(R) Date(s) licensee was removed/suspended from practice (identify which); and
(S) Final outcome and effective date (if applicable).

Note: Authority cited: Sections 315, 315.2, 315.4, 4808, Business and Professions Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code.

INTRODUCTION

Pursuant to section 315 of the Business and Professions Code, the Veterinary Medical Board (Board) is directed to use the standards developed by the Department of Consumer Affairs, Substance Abuse Coordination Committee (SACC) for substance-abusing licensees. On April 11, 2011, the SACC developed uniform standards to be used by all healing arts boards.

The Board's Uniform Standards for Substance-Abusing Licensees, developed in accordance with the SACC uniform standards, shall be used in every case where it has been determined that the individual is a substance-abusing licensee as provided in section 2006.5, article 1, division 20, title 16 of the California Code of Regulations. To implement these terms and conditions of probation, any reference to the Board also means Veterinary Medical Board staff or its designee.

In order to ensure that stipulated settlements and proposed decisions submitted to the Board do not deviate in any way from the Uniform Standards, the following proposed language has been prepared to address the required and optional terms and conditions under the Uniform Standards. The Uniform Standards contain required terms and conditions that must be applied in cases involving substance-abusing licensees, as well as optional terms and conditions that may, at the discretion of the Board, be applied in such cases if warranted. Each of the following probationary terms indicates whether the term is required or optional.

These terms and conditions shall be used in lieu of any similar standard or optional term or condition proposed in the Board's Disciplinary Guidelines, which are incorporated by reference in section 2006, article 1, division 20, title 16 of the California Code of Regulations. However, the Board's Disciplinary Guidelines should still be used in formulating the penalty and in considering additional terms or conditions appropriate for greater public protection (e.g., other standards or optional terms and conditions of probation).

LANGUAGE TO COMPLY WITH THE UNIFORM STANDARDS FOR SUBSTANCE-ABUSING LICENSEES

The Veterinary Medical Board's Uniform Standards for Substance-Abusing Licensees (Cal. Code Regs., tit. 16, § 2006, et seq.) contain new required conditions that must be applied in cases involving substance-abusing licensees, as well as new optional conditions that may, at the discretion of the Board, be applied in such cases. In order to ensure that stipulated settlements submitted to the Board do not deviate in any way from those Uniform Standards, the following proposed language has been prepared to address the new required conditions, and the new optional conditions, under those Uniform Standards.

Required Terms and Conditions:

1. **Notice of Employer or Supervisor Information.** Within seven (7) days of the effective date of this Decision, Respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of any and all employers and supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's worksite monitor, and Respondent's employers and supervisors to communicate regarding Respondent's work status, performance, and monitoring.

2. **Biological Fluid Testing.** Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall make daily contact with the Board or its designee to determine whether biological fluid testing is required. Respondent shall be tested on the date of the notification as directed by the Board or its designee. The Board may order a Respondent to undergo a biological fluid test on any day, at any time, including weekends and holidays. Except when testing on a specific date as ordered by the Board or its designee, the scheduling of biological fluid testing shall be done on a random basis. The cost of biological fluid testing shall be borne by the Respondent.

   During the first year of probation, Respondent shall be subject to 52 to 104 random tests. During the second year of probation and for the duration of the probationary term, up to five (5) years, Respondent shall be subject to 36 to 104 random tests per year. Only if there have been no positive biological fluid tests in the previous five (5) consecutive years of probation, may testing be reduced to one (1) time per month. Nothing precludes the Board from increasing the number of random tests to the first-year level of frequency for any reason.

   Prior to practicing veterinary medicine, Respondent shall select a laboratory or service, approved in advance by the Board or its designee, that will conduct random, unannounced, observed, biological fluid testing.
   Prior to changing testing locations for any reason, including during vacation or other

travel, alternative testing locations must be approved by the Board and meet the requirements above.

A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and Respondent.

If a biological fluid test result indicates Respondent has used, consumed, ingested, or administered to himself or herself a prohibited substance, the Board shall order Respondent to cease practice and instruct Respondent to leave any place of work where Respondent is practicing veterinary medicine or providing veterinary medical services. The Board shall immediately notify all of Respondent's employers, supervisors and work monitors, if any, that Respondent may not practice veterinary medicine or provide veterinary medical services while the cease-practice order is in effect.

A biological fluid test will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited substance use exists, the Board shall lift the cease-practice order within one (1) business day.

After the issuance of a cease-practice order, the Board shall determine whether the positive biological fluid test is in fact evidence of prohibited substance use by consulting with the specimen collector and the laboratory, communicating with the licensee, his or her treating physician(s), other health care provider, or group facilitator, as applicable.
For purposes of this condition, the terms "biological fluid testing" and "testing" mean the acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

For purposes of this condition, the term "prohibited substance" means an illegal drug, a lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by Respondent and approved by the Board, alcohol, or any other substance the Respondent has been instructed by the Board not to use, consume, ingest, or administer to himself or herself.

If the Board confirms that a positive biological fluid test is evidence of use of a prohibited substance, Respondent has committed a major violation, as defined in section 2006.52(a), and the Board shall impose any or all of the consequences set forth in section 2006.52(b), in addition to any other terms or conditions the Board determines are necessary for public protection or to enhance Respondent's rehabilitation.

3. **Abstain from the Use of Controlled Substances and Dangerous Drugs.** Respondent shall abstain completely from personal use, possession, injection, consumption by any route, including inhalation of all controlled substances as defined in the California Uniform Controlled Substances Act (Health and Safety Code section 11007), dangerous drugs as defined by Business and Professions

Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide illness or condition.

Within fifteen (15) calendar days of receiving any lawful prescription medications, Respondent shall notify the Board or its designee in writing of the following: prescriber's name, address, and telephone number; medication name and strength; and issuing pharmacy name, address, and telephone number. Respondent shall also provide a current list of prescribed medication with the prescriber's name, address, and telephone number on each quarterly report submitted to the Board or its designee. Respondent shall provide the Board or its designee with a signed and dated medical release covering the entire probation period.

Respondent shall identify for the Board, a single physician, nurse practitioner, or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances, or mood altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis. Quarterly reports are due for each year of probation throughout the entire length of probation as follows:

- For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 7th.
- For the period covering April 1st through June 30th, reports are to be completed and submitted between July 1st and July 7th.
- For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 7th.
- For the period covering October 1st through December 31st, reports are to be completed and submitted between January 1st and January 7th.

The quarterly report shall include, but not be limited to:

1. Respondent's name;
2. Respondent's license number;
3. Physician, nurse practitioner, or physician assistant's name and signature;
4. Physician, nurse practitioner, or physician assistant's license number;
5. Dates Respondent had face-to-face contact or correspondence (written and verbal) with physician, nurse practitioner, or physician assistant;
6. Respondent's compliance with this condition;
7. If any substances have been prescribed, identification of a program for the time-limited use of any substances;
8. Any change in behavior and/or personal habits;
9. Assessment of the Respondent's ability to practice safely;
10. Recommendation dependent on Respondent's progress and compliance with this condition on whether to continue with current prescription plan and/or treatment, modify plan and/or treatment, or require Respondent to cease practice; and

11. Other relevant information deemed necessary by the physician, nurse practitioner, physician, or the Board.

Respondent is ultimately responsible for ensuring his/her physician, nurse practitioner or physician assistant submits complete and timely reports. Failure to ensure each submission of complete and timely reports shall constitute a violation of probation.

The Board may require a single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine. Respondent shall execute a release authorizing the release of pharmacy and prescribing records as well as physical and mental health medical records. Respondent shall also provide information of treating physicians, counselors, or any other treating professional as requested by the Board.

Respondent shall ensure that he/she is not in the presence of or in the same physical location as individuals who are using illegal substances, even if Respondent is not personally ingesting the drug(s). Any positive result that registers over the established laboratory cut off level shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent's license.

Respondent also understands and agrees that any positive result that registers over the established laboratory cut off level shall be reported to each of Respondent's employers.

4. **Abstain from the Use of Alcohol.** Respondent shall abstain completely from the use of products or beverages containing alcohol.

5. **Violation of Probation Condition for Substance-Abusing Licensee.** Failure to fully comply with any term or condition of probation is a violation of probation.

   A. If Respondent commits a major violation of probation as defined by section 2006.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

      (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical diagnostic evaluation to be conducted in accordance with section 2006.5, subdivision (c)(1), of Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice order issued by the Board or its designee shall state that Respondent must test negative for at least a month of continuous biological fluid testing before being allowed to resume practice. For purposes of the determining the length of time a Respondent must test negative while undergoing continuous biological fluid testing following issuance of a cease-practice order, a month is defined as thirty calendar (30) days. Respondent may not resume the practice of veterinary medicine until notified in writing by the Board or its designee that he or she may do so.

(2) Increase the frequency of biological fluid testing.
(3) Refer Respondent for further disciplinary action, such as suspension, revocation, or other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 2006.52, subd. (b).)

B. If Respondent commits a minor violation of probation as defined by section 2006.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:
(1) Issue a cease-practice order;
(2) Order practice limitations;
(3) Order or increase supervision of Respondent;
(4) Order increased documentation;
(5) Issue a citation and fine, or a warning letter;
(6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in accordance with section 2006.5, subdivision (c)(1), of Title 16 of the California Code of Regulations, at Respondent's expense;
(7) Take any other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 2006.52, subd. (d).)

C. Nothing in this Decision shall be considered a limitation on the Board's authority to revoke Respondent's probation if he or she has violated any term or condition of probation. (See Cal. Code Regs., tit. 16, § 2006.52, subs. (e).) 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, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

Optional Terms and Conditions:

6. **Clinical Diagnostic Evaluations and Reports.** Within thirty (30) calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as may be required by the Board or its designee, Respondent shall undergo and complete a clinical diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed board-certified physician and surgeon. The examiner shall consider any information provided by the Board or its designee and any other information he or she deems relevant, and shall furnish a written evaluation report to the Board or its designee.

   The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of physicians and surgeons with substance abuse disorders, and is approved by the Board or its designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations. The evaluator shall not have a current or former financial, personal, or business relationship with

Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation. The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a threat to himself or herself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to Respondent's rehabilitation and ability to practice safely. If the evaluator determines during the evaluation process that Respondent is a threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24) hours of such a determination.

In formulating his or her opinion as to whether Respondent is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed, including participation in an inpatient or outpatient treatment program, the evaluator shall consider the following factors: Respondent's license type; Respondent's history; Respondent's documented length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use); Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical history and current medical condition; the nature, duration and severity of Respondent's substance abuse problem or problems; and whether Respondent is a threat to himself or herself or the public.

For all clinical diagnostic evaluations, a final written report shall be provided to the Board no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator requests additional information or time to complete the evaluation and report, an extension may be granted, but shall not exceed thirty (30) days from the date the evaluator was originally assigned the matter.

The Board shall review the clinical diagnostic evaluation report within five (5) business days of receipt to determine whether Respondent is safe to return to either part-time or full-time practice and what restrictions or recommendations shall be imposed on Respondent based on the recommendations made by the evaluator. Respondent shall not be returned to practice until he or she has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating that he or she has not used, consumed, ingested, or administered to himself or herself a prohibited substance, as defined in section 2006.51, subdivision (e), of Title 16 of the California Code of Regulations.

Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic evaluation, including any and all testing deemed necessary by the examiner, the Board or its designee, shall be borne by the licensee.

Respondent shall not engage in the practice of veterinary medicine until notified by the Board or its designee that he or she is fit to practice veterinary medicine safely. The period of time that Respondent is not practicing veterinary medicine shall not be counted toward completion of the term of probation. Respondent shall undergo

biological fluid testing as required in this Decision at least two (2) times per week while awaiting the notification from the Board if he or she is fit to practice veterinary medicine safely.

Respondent shall comply with all restrictions or conditions recommended by the examiner conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified by the Board or its designee.

7. **Substance Abuse Support Group Meetings.** Within thirty (30) days of the effective date of this Decision, Respondent shall submit to the Board or its designee, for its prior approval, the name of a substance abuse support group which he or she shall attend for the duration of probation. Respondent shall attend substance abuse support group meetings at least once per week, or as ordered by the Board or its designee. Respondent shall pay all substance abuse support group meeting costs.

   The facilitator of the substance abuse support group meeting shall have a minimum of three (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or nationally certified organizations. The facilitator shall not have a current or former financial, personal, or business relationship with Respondent within the last five (5) years. Respondent's previous participation in a substance abuse group support meeting led by the same facilitator does not constitute a prohibited current or former financial, personal, or business relationship.

   The facilitator shall provide a signed document to the Board or its designee showing Respondent's name, the group name, the date and location of the meeting, Respondent's attendance, and Respondent's level of participation and progress. The facilitator shall report any unexcused absence by Respondent from any substance abuse support group meeting to the Board, or its designee, within twenty-four (24) hours of the unexcused absence.

8. **Worksite Monitor for Substance-Abusing Licensee.** Within thirty (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a worksite monitor, the name and qualifications of one or more licensed physician and surgeon, other licensed health care professional if no physician and surgeon is available, or, as approved by the Board or its designee, a person in a position of authority who is capable of monitoring the Respondent at work.

   The worksite monitor shall not have a current or former financial, personal, or familial relationship with Respondent, or any other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board or its designee. . If it is impractical for anyone but Respondent's employer to serve as the worksite monitor, this requirement may be waived by the Board or its designee, however, under no circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

The worksite monitor shall have an active unrestricted license with no disciplinary action within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth by the Board or its designee.

Respondent shall pay all worksite monitoring costs.

The worksite monitor shall have face-to-face contact with Respondent in the work environment on as frequent a basis as determined by the Board or its designee, but not less than once per week; interview other staff in the office regarding Respondent's behavior, if requested by the Board or its designee; and review Respondent's work attendance.

The worksite monitor shall verbally report any suspected substance abuse to the Board and Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected substance abuse does not occur during the Board's normal business hours, the verbal report shall be made to the Board or its designee within one (1) hour of the next business day. A written report that includes the date, time, and location of the suspected abuse; Respondent's actions; and any other information deemed important by the worksite monitor shall be submitted to the Board or its designee within 48 hours of the occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the Board or its designee which shall include the following: (1) Respondent's name and Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3) the worksite monitor's license number, if applicable; (4) the location or location(s) of the worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance; (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can lead to suspected substance abuse by Respondent. Respondent shall complete any required consent forms and execute agreements with the approved worksite monitor and the Board, or its designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

If the worksite monitor resigns or is no longer available, Respondent shall, within five (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of veterinary medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of veterinary medicine until a replacement monitor is approved and assumes monitoring responsibility.

9. **Drug or Alcohol Use Treatment Program.** Upon order of the Board, Respondent shall successfully complete an inpatient, outpatient or any other type of recovery and relapse prevention treatment program as directed by the Board.

   When determining if Respondent should be required to participate in inpatient, outpatient or any other type of treatment, the Board shall take into consideration the recommendation of the clinical diagnostic evaluation, license type, Respondent's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether Respondent is a threat to himself or herself or others. All costs associated with completion of a drug or alcohol abuse treatment program shall be paid by the Respondent.

   The treatment facility staff and services shall meet the following qualifications and requirements:

   1. Licensure and/or accreditation by appropriate regulatory agencies;
   2. Sufficient resources available to adequately evaluate the physical and mental needs of Respondent, provide for safe detoxification, and manage any medical emergency;
   3. Professional staff who are competent and experienced members of the clinical staff;
   4. Treatment planning involving a multidisciplinary approach and specific aftercare plans; and
   5. Means to provide treatment and progress documentation to the provider.

Title 16. Professional and Vocational Regulations
Division 20. Veterinary Medical Board

PROPOSED LANGUAGE

Changes to the existing regulation are shown in single underline for new text and ~~single strikeout~~ for deleted text.

Amend Section 2006 of Article 1 of Division 20 of Title 16 of the California Code of Regulations to read as follows:

§ 2006. Disciplinary Guidelines.
(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board shall consider the disciplinary guidelines entitled: "Veterinary Medical Board Disciplinary Guidelines, November 2018,~~July 2012 Edition~~" which are hereby incorporated by reference. Deviation from these guidelines, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation - for example: the presence of mitigating or aggravating factors; the age of the case; evidentiary problems.
(b) Notwithstanding subsection (a), the Board shall use the Uniform Standards for Substance-Abusing Licensees as provided in section 2006.5, without deviation, for each individual proven to be a substance-abusing licensee.

Note: Authority cited: Sections 315, 315.2, 315.4, 4808, and 4845(d), Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 141, 480, 4890, 315, 315.2, 315.4, 4830.5, 4830.7, 4836.2, 4836.5, 4837, 4839.5, 4842, 4845, 4845.5, 4855, 4856, 4857, 4876, 4883, and 4886, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

Add Sections 2006.5 through 2006.57 of Article 1 of Division 20 of Title 16 of the California Code of Regulations to read as follows:

§ 2006.5. Uniform Standards for Substance-Abusing Licensees.
(a) If, after notice and a hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the Government Code (commencing with section 11500 et seq.), the Board finds that the evidence proves that an individual is a substance-abusing licensee, then the terms and conditions contained in the document entitled "Uniform Standards for Substance-Abusing Licensees, July 2019," which are hereby incorporated by reference, shall be used in any probationary order of the Board affecting that licensee.
(b) Nothing in this section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

(c) The following probationary terms and conditions shall be used without deviation in the case of a substance-abusing licensee:
(1) Clinical Diagnostic Evaluations and Reports; Temporary Removal From Practice.
(A) If the Board orders a licensee who is on probation due to a substance abuse problem to undergo a clinical diagnostic evaluation, the following applies:
1. The clinical diagnostic evaluation shall be conducted by a licensed practitioner who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of health care professionals with substance abuse disorders, and is approved by the Board.
2. The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.
3. The evaluator shall not have a current or former financial, personal, or business relationship with the licensee within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation.
4. The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee has a substance abuse problem; whether the licensee is a threat to himself or herself or others; and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and ability to practice safely. If the evaluator determines during the evaluation process that a licensee is a threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24) hours of such a determination.
5. In formulating his or her opinion as to whether the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed, including participation in an inpatient or outpatient treatment program, the evaluator shall consider the following factors:
a. License type;
b. Licensee's history;
c. Documented length of sobriety/time that has elapsed since substance use;
d. Scope and pattern of substance abuse;
e. Treatment history;
f. Medical history;
g. Current medical condition;
h. Nature, duration, and severity of substance abuse problem; and
i. Whether the licensee is a threat to himself or herself or the public.
6. The cost of an evaluation shall be borne by the licensee.
7. For all evaluations, a final written report shall be provided to the Board no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator requests additional information or time to complete the evaluation and report, an extension may be granted, but shall not exceed thirty (30) days from the date the evaluator was originally assigned the matter.
(B) Whenever the Board orders a licensee to undergo a clinical diagnostic evaluation, the Board shall order the licensee to cease practice pending the results of the clinical diagnostic evaluation and review by the Board.
(C) While awaiting the results of the clinical diagnostic evaluation, the licensee shall undergo random biological fluid testing at least two (2) times per week.

(D) The Board shall review the clinical diagnostic evaluation report within five (5) business days of receipt to determine whether the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations shall be imposed on the licensee based on the recommendations made by the evaluator. No licensee shall be returned to practice until he or she has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating that a licensee has not used, consumed, ingested, or administered to himself or herself a prohibited substance, as defined in section 2006.51, subsection (e).

(2) Notice of Employer or Supervisor Information. If a licensee whose license is on probation has an employer or supervisor, the licensee shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of all employers and supervisors and shall give specific, written consent for the Board, the worksite monitor, and his or her employers and supervisors to communicate regarding the licensee's work status, performance, and monitoring.

(3) Biological Fluid Testing.

(A) The Board shall require biological fluid testing of substance-abusing licensees.

(B) For the purposes of this section, the terms “biological fluid testing” and “testing” mean the acquisition and chemical analysis of a licensee's urine, blood, breath, or hair.

(C) The Board may order a licensee to undergo a biological fluid test on any day, at any time, including weekends and holidays. Additionally, the licensee shall be subject to 52-104 random tests per year within the first year of probation, and 36-104 random tests per year during the second year of probation and for the duration of the probationary term, up to five (5) years. If there have been no positive biological fluid tests in the previous five (5) consecutive years of probation, testing may be reduced to one (1) time per month.

(D) Nothing precludes the Board from increasing the number of random tests to the first-year level of frequency for any reason, including, but not limited to, if the Board finds or has suspicion that a licensee has committed a violation of the Board's testing program or has committed a violation as identified in section 2006.52, subsection (a), in addition to ordering any other disciplinary action that may be warranted.

(E) The scheduling of biological fluid testing shall be done on a random basis, preferably by a computer program, except when testing on a specific date is ordered by the Board or its designee.

(F) The licensee shall be required to make daily contact with the Board or its designee to determine if biological fluid testing is required. The licensee shall be tested on the date of the notification as directed by the Board or its designee.

(G) Prior to changing testing locations for any reason, including during vacation or other travel, alternative testing locations must be approved by the Board and meet the requirements set forth in section 2006.55.

(H) The cost of biological fluid testing shall be borne by the licensee.

(I) Exceptions to Testing Frequency Schedule.

1. Previous Testing Orders/Sobriety. In cases where the Board has evidence that a licensee has participated in a treatment or monitoring program requiring random testing prior to being subject to testing by the Board, the Board may give consideration to that

testing in altering the Board's own testing schedule so that the combined testing is equivalent to the requirements of this section.
2. Violation(s) Outside of Employment. A licensee whose license is placed on probation for a single conviction or incident or two convictions or incidents spanning greater than seven years from each other, where those violations did not occur at work or while on the licensee's way to work, where alcohol or drugs were a contributing factor, may bypass the first-year testing frequency requirements and participate in the second-year testing frequency requirements.
3. Not Employed in Health Care Field. The Board may reduce the testing frequency to a minimum of twelve (12) times per year for any licensee who is not practicing or working in any health care field. If a reduced testing frequency schedule is established for this reason, and if a licensee wants to return to practice or work in a health care field, the licensee shall notify and secure the approval of the Board. Prior to returning to any health care employment, the licensee shall be required to test at the first-year testing frequency requirement for a period of at least sixty (60) days. At such time the person returns to employment in a health care field, if the licensee has not previously met the first-year testing frequency requirement, the licensee shall be required to test at the first-year testing frequency requirement for a full year before he or she may be reduced to testing frequency of at least thirty-six (36) tests per year.
4. Tolling. The Board may postpone all testing for any licensee whose probation is placed in a tolling status while the licensee is not residing in California, provided the overall length of the probationary period is also tolled. A licensee shall notify the Board upon the licensee's return to California and shall be subject to biological fluid testing as provided in this section. If the licensee returns to employment in a health care field and has not previously met the first-year testing frequency requirements, the licensee shall be subject to completing a full year at the first-year testing frequency requirements, otherwise the second-year testing frequency requirements shall be in effect.
5. Substance Abuse Disorder Not Diagnosed. In cases where no current substance abuse disorder diagnosis is made, a lesser period of monitoring and biological fluid testing may be adopted by the Board, but shall not be less than twenty-four (24) times per year.
(J) Reinstatement of License or Reduction of Penalty. Nothing herein shall limit the Board's authority to reduce or eliminate the penalties herein pursuant to a petition for reinstatement or reduction of penalty filed pursuant to Government Code section 11522.
(4) Group Support Meetings. If the Board requires a licensee to participate in group support meetings, the following shall apply:
(A) When determining the frequency of group support meetings to be attended, the Board or the evaluator shall give consideration to the following:
1. The licensee's history;
2. The documented length of sobriety/time that has elapsed since substance use;
3. The recommendation of the clinical evaluator;
4. The scope and pattern of use;
5. The licensee's treatment history; and
6. The nature, duration, and severity of substance abuse.

(B) The facilitator of a group support meeting shall conform to the following requirements:
1. He or she shall have a minimum of three (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or nationally certified organizations.
2. He or she shall not have a current or former financial, personal, or business relationship with the licensee within the last five (5) years. A licensee's previous participation in a group support meeting led by the same facilitator does not constitute a current or former financial, personal, or business relationship.
3. He or she shall provide to the Board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
4. He or she shall report a licensee's unexcused absence to the Board within twenty-four (24) hours.
(C) Any costs associated with attending and reporting on group support meetings shall be borne by the licensee.
(5) Worksite Monitor Requirements and Responsibilities.
(A) The Board may require the use of worksite monitors. If the Board determines that a worksite monitor is necessary for a particular licensee, the licensee shall, within 30 calendar days of the effective date of that determination, submit to the Board or its designee for prior approval the name of a worksite monitor. The worksite monitor shall meet the following criteria to be approved by the Board:
1. The worksite monitor shall not have a current or former financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the Board; however, under no circumstances shall a licensee's worksite monitor be an employee or supervisee of the licensee.
2. The worksite monitor's scope of practice shall include the scope of practice of the licensee being monitored, be another licensed health care professional if no monitor with like scope of practice is available, or, as approved by the Board, be a person in a position of authority who is capable of monitoring the licensee at work.
3. If a licensed professional, the worksite monitor shall have an active unrestricted license with no disciplinary action within the last five (5) years.
4. The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and agrees to monitor the licensee as set forth by the Board.
(B) The worksite monitor shall adhere to the following required methods of monitoring the licensee:
1. Have face-to-face contact with the licensee in the work environment on as frequent a basis as determined by the Board, but not less than once per week.
2. Interview other staff in the office regarding the licensee's behavior, if requested by the Board.
3. Review the licensee's work attendance.

(C) Reporting by the worksite monitor to the Board shall comply with the following:
1. The worksite monitor shall verbally report any suspected substance abuse to the Board and the licensee's employer or supervisor as defined in subsection (c)(2) within one (1) business day of occurrence. If the suspected substance abuse does not occur during the Board's normal business hours, the verbal report shall be made to the Board within one (1) hour of the next business day. A written report that includes the date, time, and location of the suspected abuse; the licensee's actions; and any other information deemed important by the worksite monitor shall be submitted to the Board within forty-eight (48) hours of the occurrence.
2. The worksite monitor shall complete and submit a written report monthly or as directed by the Board. The report shall include the following:
a. The licensee's name and license number;
b. The worksite monitor's name and signature;
c. The worksite monitor's license number, if applicable;
d. The worksite location(s);
e. The dates the licensee had face-to-face contact with the monitor;
f. The names of worksite staff interviewed, if applicable;
g. An attendance report;
h. Any change in behavior and/or personal habits; and
i. Any indicators that can lead to suspected substance abuse.
(D) The licensee shall complete any required consent forms and execute agreements with the approved worksite monitor(s) and the Board authorizing the Board and worksite monitor to exchange information.
(E) If the monitor resigns or is no longer available, the licensee shall, within five (5) calendar days of such resignation or unavailability, submit to the Board the name and qualifications of a replacement monitor who will be assuming that responsibility within fifteen (15) calendar days. If the licensee fails to obtain approval of a replacement monitor within sixty (60) calendar days of the resignation or unavailability of the monitor, the licensee shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The licensee shall cease the practice of veterinary medicine until a replacement monitor is approved and assumes monitoring responsibility.
(F) Worksite monitoring costs shall be borne by the licensee.
(6) The licensee must remain in compliance with all terms and conditions of probation. If the licensee commits a major or minor violation, as defined in section 2006.52, the Board will execute the disciplinary actions required by that section, and impose any additional terms or conditions necessary for public protection or to enhance the rehabilitation of the licensee.

Note: Authority cited: Sections 315, 315.2, 315.4, 4808, and 4845(d), Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

§ 2006.51. Results of Biological Fluid Tests of Substance-Abusing Licensees.
(a) If the results of a biological fluid test indicate that a licensee has used, consumed, ingested, or administered to himself or herself a prohibited substance, the Board shall order the licensee to cease practice and instruct the licensee to leave any place of work where he or she is practicing medicine or providing medical services. The Board shall also immediately notify all of the licensee's employers, and supervisors as defined under section 2006.5, subsection (c)(2), if any, and work site monitor, if any, that the licensee may not provide medical services or practice veterinary medicine while the cease-practice order is in effect.
(b) A biological fluid test will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance.
(c) After the issuance of a cease-practice order, the Board shall determine whether the positive biological fluid test is in fact evidence of prohibited substance use by consulting with the specimen collector and the laboratory, communicating with the licensee, his or her treating physician(s), other health care provider, or group facilitator, as applicable.
(d) If no prohibited substance use exists, the Board shall lift the cease-practice order within one (1) business day.
(e) For the purposes of this Article, “prohibited substance” means an illegal drug; a lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by the licensee and approved by the Board; alcohol; or other substance the licensee has been instructed by the Board not to use, consume, ingest, or administer to himself or herself.
(f) If the Board confirms that a positive biological fluid test is evidence of use of a prohibited substance, the licensee has committed a major violation, as defined in section 2006.52, and the Board shall impose any or all of the consequences set forth in section 2006.52, in addition to any other terms or conditions the Board determines are necessary for public protection or to enhance the rehabilitation of the licensee.

Note: Authority cited: Sections 315, 315.2, 315.4, 4808, and 4845(d), Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

§ 2006.52. Actions by Substance-Abusing Licensees and Consequences Thereof.
(a) A licensee who does any of the following shall be deemed to have committed a major violation of his or her probation:
(1) Fails to undergo a required clinical diagnostic evaluation;
(2) Commits multiple minor violations of probation conditions and terms;
(3) Treats a patient or patients while under the influence of a prohibited substance;
(4) Engage in any drug or alcohol related act that is a violation of state or federal law or regulation;
(5) Fails to undergo biological fluid testing when ordered;
(6) Uses, consumes, ingests, or administers to himself or herself a prohibited substance;

(7) Knowingly uses, makes, alters, or possesses any object or product in such a way as to defraud or attempt to defraud a biological fluid test designed to detect the presence of a prohibited substance; or
(8) Fails to comply with any term or condition of his or her probation that impairs public safety.
(b) If a licensee commits a major violation, the Board will take one or more of the following actions:
(1) Issue an immediate cease-practice order and order the licensee to undergo a clinical diagnostic evaluation at the expense of the licensee. Any order issued by the Board pursuant to this subsection shall state that the licensee must test negative for at least a month of continuous biological fluid testing before being allowed to resume practice.
(2) Increase the frequency of biological fluid testing.
(3) Refer the licensee for further disciplinary action, such as suspension, revocation, or other action as determined by the Board.
(c) A licensee who does any of the following shall be deemed to have committed a minor violation of his or her probation:
(1) Fails to submit required documentation to the Board in a timely manner;
(2) Has an unexcused absence at a required meeting;
(3) Fails to contact a worksite monitor as required; or
(4) Fails to comply with any term or condition of his or her probation that does not impair public safety.
(d) If a licensee commits a minor violation, the Board will take one or more of the following actions:
(1) Issue a cease-practice order;
(2) Order practice limitations;
(3) Order or increase supervision of licensee;
(4) Order increased documentation;
(5) Issue a citation and fine, or a warning letter;
(6) Order the licensee to undergo a clinical diagnostic evaluation at the expense of the licensee;
(7) Take any other action as determined by the Board.
(e) Nothing in this section shall be considered a limitation on the Board's authority to revoke the probation of a licensee who has violated a term or condition of that probation.

Note: Authority cited: Sections 315, 315.2, 315.4, 4808, and 4845(d), Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

§ 2006.53. Request by a Substance-Abusing Licensee to Return to Practice.
(a) Before a licensee may request to return to full time practice after the issuance of a cease-practice order or after the imposition of practice restrictions following a clinical diagnostic evaluation, the Board, in conjunction with the evaluator, shall ensure that the licensee meets the following criteria:

(1) Demonstrated sustained compliance with his or her current treatment or recovery program, as applicable;
(2) Demonstrated ability to practice safely as evidenced by current worksite monitor reports (if currently being monitored), evaluations conducted by licensed health care practitioners, and any other information relating to the licensee's substance abuse and recovery therefrom; and
(3) Negative biological fluid tests or biological fluid tests indicating that the licensee has not used, consumed, ingested, or administered to himself or herself a prohibited substance, as defined in section 2006.51, subsection (e), for at least six (6) months, two (2) positive worksite monitor reports (if currently being monitored), and complete compliance with other terms and conditions of probation.
(b) Before a substance-abusing licensee may request a full and unrestricted license, the licensee shall demonstrate:
(1) Sustained compliance with the terms of the disciplinary order, if applicable;
(2) Successful completion of a treatment or recovery program, if required;
(3) Consistent and sustained participation in activities that promote and support the licensee's recovery, including, but not limited to, ongoing support meetings, therapy, counseling, a relapse prevention plan, and community activities.
(4) Ability to practice veterinary medicine safely; and
(5) Continuous sobriety for three (3) to five (5) years.

Note: Authority cited: Sections 315, 315.2, 315.4, 4808, and 4845(d), Business and Professions Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

§ 2006.54. Disclosure of Substance-Abusing Licensee Information.
For licensees subject to section 2006.5, the Board shall disclose the following information to the public for licensees who are participating in a board monitoring/diversion program regardless of whether the licensee is a self-referral or a Board referral. However, the disclosure shall not contain information that the restrictions are a result of the licensee's participation in a diversion program.
(a) Licensee's name;
(b) Whether the licensee's practice is restricted, or the license is on inactive status; and
(c) A detailed description of any restriction imposed.

Note: Authority cited: Sections 315 and 4808, Business and Professions Code. Reference: Sections 315 and 4871, Business and Professions Code.

§ 2006.55. Requirements for Laboratories/Testing Locations and Specimen Collectors for Testing Substance-Abusing Licensees.
If the Board uses a private-sector vendor that provides laboratories or testing locations or specimen collection for testing substance-abusing licensees, the laboratory, location, or collection service shall meet all the following standards:
(a) The vendor must report to the Board any major violation, as defined in section 2006.52.

(b) The vendor must ensure that its laboratory, testing, or specimen collection providers or contractors meet all of the following:
(1) Specimen collectors shall either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the United States Department of Transportation.
(2) Specimen collectors shall conform to the current United States Department of Transportation Specimen Collection Guidelines.
(3) Testing locations shall comply with the Urine Specimen Collection Guidelines published by the United States Department of Transportation without regard to the type of test administered.
(4) Specimen collectors shall observe the collection of testing specimens.
(5) Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.
(6) Testing locations shall submit a specimen to a laboratory within one (1) business day of receipt and all specimens collected shall be handled pursuant to chain of custody procedures. The laboratory shall process and analyze the specimen and provide legally defensible test results to the Board within seven (7) business days of receipt of the specimen. The Board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.
(7) Specimen collection and testing locations shall possess all the materials, equipment, and technical expertise necessary in order to test every licensee for which it is responsible on any day of the week.
(8) Testing locations shall be able to scientifically test for urine, blood, and hair specimens for the detection of alcohol and illegal and controlled substances.
(9) Testing sites that are located throughout California.
(10) An automated 24-hour toll-free telephone system and/or a secure on-line computer database that allows the licensee to check in daily for testing.
(11) A secure, HIPAA-compliant website or computer system to allow staff access to drug test results and compliance reporting information that is available twenty-four (24) hours a day.
(12) Employment of or contract with toxicologists that are licensed physicians and have knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate laboratory biological fluid test results, medical histories, and any other information relevant to biomedical information.
(c) A toxicology screen will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance.

Note: Authority cited: Sections 315, 315.2, 315.4, 4808, and 4845(d), Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

§ 2006.56. Requirements for Diversion Program Vendors.
If the Board uses a private-sector diversion program services vendor, all of the following shall apply:

(a) The vendor shall comply with all of the following ~~shall disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services as follows~~:
(1) The vendor is fully responsible for the acts and omissions of its subcontractors and persons either directly or indirectly employed by any of them. No subcontract shall relieve the vendor of its responsibilities and obligations. All state policies, guidelines, and requirements apply to all subcontractors.
(2) If a subcontractor fails to provide effective or timely services, but not limited to any other subcontracted services, the vendor will terminate services of said subcontractor within thirty (30) business days of notification of failure to provide adequate services.
(3) The vendor shall notify the Board within five (5) business days of termination of said subcontractor.
(b) An external audit shall be conducted at least once every three (3) years by a qualified, independent reviewer or review team from outside the Department of Consumer Affairs with no real or apparent conflict of interest with the vendor providing the monitoring services. The independent reviewer or review team shall consist of individuals who are competent in the professional practice of internal auditing and assessment processes and qualified to perform audits of monitoring programs.
(c) The audit in subsection (b) shall assess the vendor's performance in adhering to the uniform standards established by the Board. The reviewer must provide a report of their findings to the Board by June 30 of each three (3) year cycle. The report shall identify any material inadequacies, deficiencies, irregularities, or other non-compliance with the terms of the vendor's monitoring services that would interfere with the Board's mandate of public protection.
(d) The Board and the Department of Consumer Affairs shall respond to the findings in the audit report.

§ 2006.57. Reporting Requirements Relating to Substance-Abusing Licensees.
(a) The Board shall report the following information on a yearly basis to the Department of Consumer Affairs and the Legislature as it relates to licensees with substance abuse problems who are on probation:
(1) Number of intakes into a diversion program;
(2) Number of probationers whose conduct was related to a substance abuse problem;
(3) Number of referrals for treatment programs;
(4) Number of relapses (break in sobriety);
(5) Number of cease-practice orders;
(6) Number of suspensions;
(7) Number terminated from program for noncompliance;
(8) Number of successful completions based on uniform standards;
(9) Number of major violations; nature of violation, and action taken; and
(10) ~~Number of licensees who successfully returned to practice~~Number of licensees who successfully completed probation.
~~(11) Number of patients harmed while in diversion.~~
(b) For each reporting category described in subsection (a), the Board shall identify the licensing category and the specific substance abuse problem (e.g., cocaine, alcohol,

Demerol, etc.), and whether the licensee is in a diversion program and/or probation program.
(c) If the reporting data indicates that licensees in specific licensing categories or with specific substance abuse problems have either a higher or lower probability of success, that information shall be taken into account when determining the success of terms and conditions of probation. The information may also be used to determine the risk factor when the Board is determining whether a license should be revoked or placed on probation.
(d) The Board shall use the following criteria to determine if its terms and conditions of probation protect patients from harm and are effective in assisting its licensees in recovering from substance abuse problems in the long term:
(1) At least one hundred percent (100%) of licensees whose licenses were placed on probation as a result of a substance abuse problem successfully completed probation, or had their licenses to practice revoked or surrendered on a timely basis based on noncompliance with terms and conditions of probation.
(2) At least seventy-five percent (75%) of licensees who successfully completed probation did not have any substantiated complaints related to substance abuse for at least five (5) years after completion.
(e) For purposes of measuring outcomes and effectiveness relating to biological fluid testing as described in section 2006.5, subsection (c)(3), the Board shall collect and report historical data (as available) and post-implementation data as follows:
(1) Historical Data. The Board should collect the following historical data (as available) for a period of two years prior to implementation of the Uniform Standards for Substance-Abusing Licensees, for each person subject to testing for banned substances, who has done any of the following:
(A) Tested positive for a banned substance;
(B) Failed to appear or call in for testing on more than three occasions;
(C) Failed to pay testing costs; or
(D) Given a diluted or invalid specimen.
(2) Post-Implementation Data - Three Years. The Board shall collect data annually for a period of three (3) years following implementation of the Uniform Standards for Substance-Abusing Licensees for every licensee subject to testing for banned substances pursuant to section 2006.5, subsection (c)(3). The data collected shall be reported to the Department of Consumer Affairs and the Legislature, upon request, and shall include, but may not be limited to:
(A) Licensee identification;
(B) License type;
(C) Probation effective date;
(D) General range of testing frequency for each licensee;
(E) Dates testing requested;
(F) Dates tested;
(G) Identity of the entity that performed each test;
(H) Date(s) licensee tested positive;
(I) Date(s) Board was informed of positive test(s);
(J) Date(s) of questionable tests (e.g. dilute, high levels);

(K) Date(s) Board was notified of questionable test(s);
(L) Identification of substances detected or questionably detected;
(M) Date(s) licensee failed to appear for testing;
(N) Date(s) Board notified of licensee's failure to appear;
(O) Date(s) licensee failed to call in for testing;
(P) Date(s) Board was notified that licensee failed to call in for testing;
(Q) Date(s) licensee failed to pay for testing;
(R) Date(s) licensee was removed/suspended from practice (identify which); and
(S) Final outcome and effective date (if applicable).

Note: Authority cited: Sections 315, 315.2, 315.4, 4808, Business and Professions Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code.

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • VETERINARY MEDICAL BOARD
1747 North Market Blvd., Suite 230, Sacramento, CA 95834-2978
P (916) 515-5220 | Toll-Free (866) 229-0170 | www.vmb.ca.gov

VMB Board Meeting
July 18, 2019 - 1:00 p.m.

Veterinary Medical Board

Special Order of Business:

Petition for Termination of Probation – Shanna Tungloong - RVT No. 11243

BOARD MEMBERS:

Jaymie J. Noland, DVM

Cheryl Waterhouse, DVM

Mark T. Nunez, DVM

Christina Bradbury, DVM

Jennifer Loredo, RVT

Kathy Bowler, Public Member

Alana Yanez, Public Member

EXECUTIVE OFFICER:

Jessica Sieferman

IN THE MATTER OF THE PETITION FOR EARLY TERMINATION OF PROBATION OF:

SHANNA TUNGLOONG

Registered Veterinary Technician License No. 11243

Exhibit No.	Item	Marked	Introduced
1	Notice of Hearing		
2	License History Certification		
3	Decision and Order		
4	Petition for Modification of Penalty, dated February 16, 2019, along with attachments in support of request		
5	Probation Report		

EXHIBIT 1

Veterinary Medical Board

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • VETERINARY MEDICAL BOARD
1747 North Market Blvd., Suite 230, Sacramento, CA 95834-2987
P (916) 515-5520 | Toll-Free (866) 229-6849 | www.vmb.ca.gov

June 10, 2019

Shanna Tungloong, RVT
4501 Snell Ave. #2215
San Jose, CA 95136

RE: HEARING NOTICE
OAH Case No. 2019060254
Petition for Termination – Shanna Tungloong, RVT

Dear Ms. Tungloong:

You are hereby notified that a hearing will be held before the Veterinary Medical Board, Department of Consumer Affairs at:

Date: July 18, 2019
Time: 1:00 p.m.
Location: Veterinary Medical Board
1747 N Market Blvd.
Hearing Room
Sacramento, CA 95834

The hearing will be conducted before the Veterinary Medical Board, Department of Consumer Affairs and an administrative law judge of the Office of Administrative Hearings, who will preside over the Petition for Termination matter.

If you object to the place of the hearing, you must notify the presiding officer within ten (10) days after this notice is served on you. Failure to notify the presiding officer within ten (10) days will deprive you of a change in the place of hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents, or other things by applying to:

Office of Administrative Hearings
Attn: General Jurisdiction
2349 Gateway Oaks, Suite 200
Sacramento CA 95833

INTREPRETER: Pursuant to section 11435.20 of the Government Code, the hearing shall be conducted in English language. If a party or party's witness does not proficiently speak or understand the English language and before commencement of the hearing requests language assistance, an agency subject to the language assistance requirement in section 11435.15 of the Government Code shall provide a certified interpreter or an interpreter approved by the

administrative law judge conducting the proceedings. The cost of providing the interpreter shall be paid by the agency having jurisdiction over the matter if the administrative law judge or hearing officer so directs, otherwise by the party for whom the interpreter is provided. If you or a witness requires the assistance of an interpreter, ample advance notice of this fact should be given to the Office of Administrative Hearings so that appropriate arrangements can be made.

CONTINUANCES: Under section 11524 of the Government Code, the agency may grant a continuance, but when an administrative law judge of the Office of Administrative Hearings has been assigned to the hearing, no continuance may be granted except by him or her or by the presiding judge for good cause. When seeking a continuance, a party shall apply for the continuance within 10 working days following the time the party discovered or reasonably should have discovered the event or occurrence which establishes good cause for the continuance. A continuance may be granted for good cause after the 10 working days have lapsed only if the party seeking the continuance is not responsible for and has made a good faith effort to prevent the condition or even establishing the good cause.

Please visit the Board's website at www.vmb.ca.gov to get a copy of the agenda or feel free to contact me at (916) 515-5244.

Sincerely,

Sidney Villareal

Sidney Villareal
Probation Monitor

cc: Karen Denvir, Deputy Attorney General
Office of Administrative Hearings

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL
(Separate Mailings)

Case Name: Shanna Tungloong, Modification of Penalty
Case No: IA 2013 26

I declare:

I, the undersigned, am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Veterinary Medical Board for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Veterinary Medical Board is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On July 10, 2019, I served the attached Notice of Hearing by placing a true copy thereof enclosed in a sealed envelope as certified mail with return receipt requested, and another true copy of the Notice of Hearing was enclosed in a second sealed envelope as first-class mail in the internal mail collection system at the Veterinary Medical Board at 1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834, addressed as follows:

Shanna Tungloong, RVT
4501 Snell Ave. #2215
San Jose, CA 95136

Certified Article No.: 7013 1090 0001 1327 7248

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct, and that this declaration was executed on July 10, 2019, at Sacramento, California.

Sidney Villareal
Declarant

Sidney Villareal
Signature

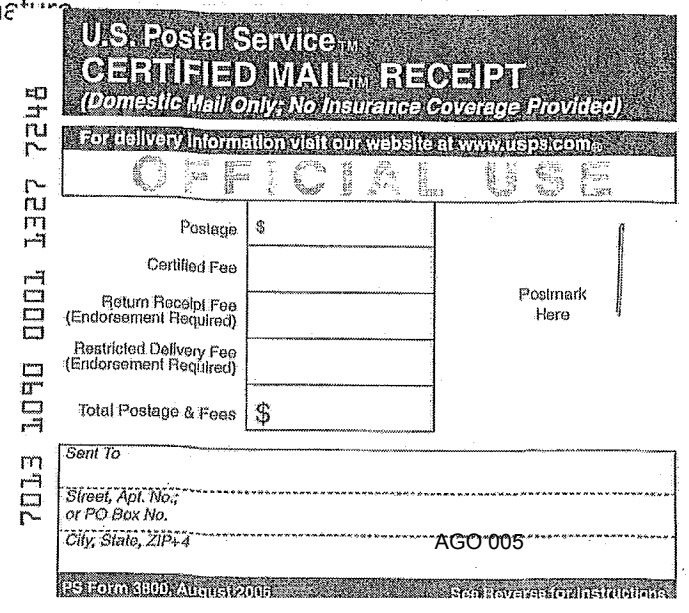


EXHIBIT 2

Veterinary Medical Board

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • VETERINARY MEDICAL BOARD
1747 North Market Blvd., Suite 230, Sacramento, CA 95834-2978
P (916) 515-5220 | Toll-Free (866) 229-0170 | www.vmb.ca.gov

CERTIFICATION OF LICENSE HISTORY

This is to certify that I, Robert Stephanopoulous, Enforcement Manager, of the California State Veterinary Medical Board (Board), have custody and control of the official records of the Board, and that the following information was obtained from the records of **SHANNA TUNGLOONG**:

Address of Record:
Shanna Tungloong
4501 Snell Ave. #2215
San Jose, CA 95136

RVT No. 11243:

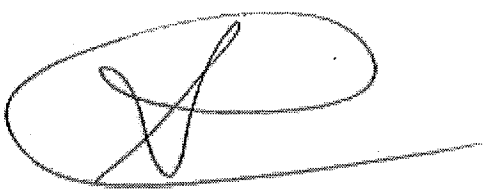
Issued:	10/29/2015
Expiration:	09/30/2019
Status:	Current - Probation

Prior Discipline: **Yes**

Case No. IA 2013 26	Respondent stipulated to a 5 year probation term once her RVT registration was issued; based on multiple criminal convictions

Citations: **None**

Given under my hand and the seal of the State Veterinary Medical Board, at Sacramento, California, this 24th day of June 2019.



Robert Stephanopoulous, Enforcement Manager

EXHIBIT 3

BEFORE THE
VETERINARY MEDICAL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against: **SHANNA MARIE TUNGLOONG** **Veterinary Technician Registration Applicant** Respondent.	Case No. IA 2013 26

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Veterinary Medical Board as its Decision in this matter.

This Decision shall become effective on January 2, 2015

It is so ORDERED December 3, 2014

Tom Kuhn

FOR THE VETERINARY MEDICAL BOARD

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General
ASPASIA A. PAPAVASSILIOU
Deputy Attorney General
State Bar No. 196360
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 622-2199
Facsimile: (510) 622-2270
E-mail: Aspasia.Papavassiliou@doj.ca.gov
Attorneys for Complainant

BEFORE THE
VETERINARY MEDICAL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against: SHANNA MARIE TUNGLOONG Veterinary Technician Registration Applicant Respondent.	Case No. IA 2013 26 STIPULATED SETTLEMENT AND DISCIPLINARY ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Annemarie Del Mugnaio (Complainant) is the Executive Officer of the Veterinary Medical Board (Board). She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Aspasia A. Papavassiliou, Deputy Attorney General.

2. Respondent Shanna Marie Tungloong (Respondent) is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

3. On or about September 10, 2012, Respondent filed an application dated September 7, 2012, with the Board to obtain a Veterinary Technician Registration.

JURISDICTION

4. Statement of Issues No. IA 2013 26 was filed before the Board and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on February 21, 2014.

5. A copy of Statement of Issues No. IA 2013 26 is attached as exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. IA 2013 26. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. IA 2013 26.

10. Respondent agrees that her application for a Veterinary Technician Registration is subject to denial and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format

(PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS ORDERED that Respondent's application for a Veterinary Technician Registration is granted. Upon successful completion of the licensure examination and all other licensing requirements, a Veterinary Technician Registration shall be issued to Respondent. The registration shall be immediately revoked, the order of revocation stayed, and Respondent will be placed on probation for a period of five (5) years on the following conditions.

1. **Obey All Laws**

Respondent shall obey all federal and state laws and regulations substantially related to the practice of veterinary medicine. Further, within thirty (30) days of any arrest or 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.

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 to the Board, upon request.

3. **Cooperation with Probation Surveillance**

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. 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 practice in another state. Respondent shall notify the Board immediately upon return to California.

4. **No Preceptorships or Supervision of Interns**

Respondent shall not supervise a registered intern and shall not perform any of the duties of a preceptor.

5. **Notice to Employers**

Respondent shall notify all present and prospective employers of the decision in this case and the terms, conditions, and restrictions imposed on Respondent by the decision in this case. Within thirty (30) days of the effective date of this decision and within fifteen (15) days of Respondent undertaking new employment, Respondent shall cause his or her employer to report to the Board in writing, acknowledging the employer has read the Accusation and decision in this case and understands Respondent's terms and conditions of probation. Relief veterinarians shall notify employers immediately.

6. **Tolling of Probation**

If Respondent resides out of state upon or after effective date of the decision, he or she must comply with the following conditions only: quarterly reports and interviews, tolling of probation, continuing education 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 or as determined

by the Board. Should Respondent fail to engage in the practice of veterinary medicine in California as set forth above, the time outside of the practice shall not apply to reduction of the probationary terms.

7. **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.

8. **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. Upon successful completion of probation and all payment of all fees due, Respondent's license will be fully restored.

9. **No Ownership**

Respondent shall not have any legal or beneficial interest in any business, firm, partnership, or corporation currently or hereinafter licensed or registered by the Board and shall not own any veterinary hospital.

10. **No Management or Administration**

Respondent shall not manage or be the administrator of any veterinary hospital.

11. **Psychological Evaluation**

Within thirty (30) days of the effective date of this 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 psychotherapist (psychiatrist or psychologist), to determine Respondent's ability to practice veterinary medicine safely, who 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 psychotherapy, submit the name and qualification of one of more psychotherapists of Respondent's 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.

12. **Rehabilitation Program – Alcohol or Drug**

Within thirty (30) days of the effective date of this decision, Respondent shall submit in writing a(n) alcohol/drug rehabilitation program in which Respondent shall participate to the Board for its prior approval. In the quarterly written reports to the Board, Respondent shall provide documentary evidence of continuing satisfactory participation in this program. All costs shall be borne by Respondent.

13. **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.

14. **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 prescribed by a licensed practitioner for a bona fide illness. Respondent shall submit to random drug testing during the period of probation.

15. **Abstention from Alcohol Use**

Respondent shall abstain completely from the use of alcoholic beverages.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Veterinary Technician Registration application. I

enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: 10/20/2014

S. Tungloong

SHANNA MARIE TUNGLOONG
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

Dated: 10/30/2014

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General

Aspasia Papav

ASPASIA A. PAPAVASSILIOU
Deputy Attorney General
Attorneys for Complainant

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AGO 016

Exhibit A

Statement of Issues No. IA 2013 26

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General
ASPASIA A. PAPAVASSILIOU
Deputy Attorney General
State Bar No. 196360
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 622-2199
Facsimile: (510) 622-2270
E-mail: Aspasia.Papavassiliou@doj.ca.gov
Attorneys for Complainant

BEFORE THE
VETERINARY MEDICAL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against: SHANNA MARIE TUNGLOONG Registered Veterinary Technician Applicant Respondent.	Case No. IA 2013 26 STATEMENT OF ISSUES

Complainant alleges:

PARTIES

1. Annemarie DelMugnaio (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Veterinary Medical Board, Department of Consumer Affairs.

2. On or about September 10, 2012, the Veterinary Medical Board, Department of Consumer Affairs received an application for a Registered Veterinary Technician License from Shanna Marie Tungloong (Respondent). On or about September 7, 2012, Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application for licensure as a Registered Veterinary Technician on December 11, 2012.

///

JURISDICTION

3. This Statement of Issues is brought before the Veterinary Medical Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Business and Professions Code (Code) section 118 states, in part:

"(a) The withdrawal of an application for a license after it has been filed with a board in the department shall not, unless the board has consented in writing to such withdrawal, deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground."

5. Code section 4875 provides, in part, that Board may revoke or suspend the license of any person to practice veterinary medicine, or any branch thereof, in this state for any causes provided in the Veterinary Medicine Practice Act (Bus. & Prof. Code, § 4800, et seq.). In addition, the Board has the authority to assess a fine not in excess of $5,000 against a licensee for any of the causes specified in section 4883 of that code. Such fine may be assessed in lieu of, or in addition to, a suspension or revocation.

STATUTORY PROVISIONS

6. Section 480 of the Code states:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

"(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

. . .

"(3)(A) Done any act that if done by a licentiate of the business or profession in question,

would be grounds for suspension or revocation of license.

"(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made."

7. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

"As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

8. Section 4883 of the Code states, in part:

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

"(a) 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.

. . .

"(g) 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. The record of the conviction is conclusive evidence thereof. 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. The board may order

the license suspended or revoked, or assess a fine, or decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

"(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 4211, 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 [the Veterinary Medicine Practice Act], 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 or any combination thereof and the record of the conviction is conclusive evidence."

FACTUAL BACKGROUND

9. Respondent has numerous criminal convictions, as follows:

A. On or about May 6, 2002, in the Superior Court of California, Tuolumne County, Case No. CRM 7917, entitled *The People of the State of California v. Shanna Marie Tungloong*, Respondent pled guilty to, and was convicted of, violating Vehicle Code section 12500, subdivision (a) (driving without a valid license), a misdemeanor. Respondent was ordered to pay a fine of $350.

B. On or about May 31, 2002, in the Superior Court of California, Tuolumne County, Case No. CRM 8413, entitled *The People of the State of California v. Shanna Marie Tungloong*, Respondent pled no contest to, and was convicted of, violating Health and Safety Code sections 11377, subdivision (a) (possession of controlled substance methamphetamine); 11364 (possession of a smoking device); and 11357, subdivision (b) (possession of marijuana), misdemeanors.

Respondent was placed on 18 months of court-ordered probation.

C. On or about June 28, 2002, in the Superior Court of California, Tuolumne County, Case No. CRM 8101, entitled *The People of the State of California v. Shanna Marie Tungloong*, Respondent pled no contest to, and was convicted of, violating Health and Safety Code sections 11375, subdivision (b)(2) (unlawful possession of prescription drug Diazepam); 11377, subdivision (a) (possession of controlled substance Diazepam); 11357, subdivision (b) (possession of marijuana), and 11364 (possession of a smoking device), misdemeanors. Respondent was placed on 18 months of court ordered probation and ordered to do the following: enroll, participate, and successfully complete a drug treatment program; participate in an AIDS education program; obey all laws, orders, and rules of the court, probation department, and treatment program; abstain from the use of alcoholic beverages and controlled substances; consent to blood and or urine or other chemical testing at the request of the probation officer; submit her person, vehicle, and residence to search at any time by the probation officer; and pay a restitution fine in the amount of $100.00.

D. On or about April 16, 2004, in the Superior Court of California, Tuolumne County, Case No. CRM 8787, entitled *The People of the State of California v. Shanna Marie Tungloong*, Respondent pled no contest to, and was convicted of, violating Vehicle Code section 10851, subdivision (a) (taking a vehicle without consent), a felony reduced to a misdemeanor under Penal Code Section 17, subdivision (b); and section 12500, subdivision (a) (driving without a license), a misdemeanor. Respondent was placed on 36 months of court ordered probation, with the following terms and conditions: serve 60 days in county jail and pay a fine in the amount of $494.00.

E. On or about February 8, 2005, in the Superior Court of California, Mariposa County, Case No. 3390, entitled *The People of the State of California v. Shanna Marie Tungloong*, Respondent pled guilty to, and was convicted of, violating Penal Code sections 273.5 (inflicting corporal injury on spouse or co-habitant); 245, subdivision (a)(1) (assault with a deadly weapon, not firearm, great bodily injury likely); and 422 (threatening crime with intent to terrorize), misdemeanors. Respondent was ordered to serve five days in county jail and placed on probation

for 36 months with various terms and conditions, including payment of a fine in the amount of $300.00.

F. On or about April 19, 2005, in the Superior Court of California, Mariposa County, Case No. 4129A, entitled *The People of the State of California v. Shanna Marie Tungloong*, Respondent pled guilty to, and was convicted of, violating Penal Code section 273.5 (inflicting corporal injury on spouse or co-habitant), a misdemeanor. Respondent was ordered to serve 30 days in county jail and placed on probation for 36 months with various terms and conditions, including payment of a fine in the amount of $356.00.

G. On or about April 19, 2005, in the Superior Court of California, Mariposa County, Case No. 4114, entitled *The People of the State of California v. Shanna Marie Tungloong*, Respondent pled guilty to, and was convicted of, violating Health and Safety Code section 11550, subdivision (a) (being under the influence of controlled substance methamphetamine), a misdemeanor. Respondent was placed on 36 months of court ordered probation which included various terms and conditions, including payment of a fine in the amount of $386.00.

10. In a letter accompanying her application for a Registered Veterinary Technician License, Respondent admitted that she "was convicted of being under the influence of a controlled substance several times over the course of three years."

FIRST CAUSE FOR DENIAL OF APPLICATION
(Substantially Related Conviction)
(Bus. & Prof. Code §§ 480, subd (a)(1) and 4883, subd. (a))

11. Respondent has subjected her application for a Registered Veterinary Technician License to denial under Code sections 480, subdivision (a)(1), and 4883, subdivision (a), in that she was convicted of a crime substantially related to the qualifications, functions, or duties of a registered veterinary technician. The circumstances are set forth in paragraphs 9 and 10, above.

SECOND CAUSE FOR DENIAL OF APPLICATION
(Unprofessional Conduct)
(Bus. & Prof. Code § 4883, subd. (g))

12. Respondent has subjected her application for a Registered Veterinary Technician License to denial under Code section 4883, subdivision (g), in that she engaged in unprofessional conduct. The circumstances are set forth in paragraphs 9 and 10, above.

THIRD CAUSE FOR DENIAL OF APPLICATION
(Conviction of Violating State Statute Regulating Controlled Substances/Dangerous Drugs)
(Bus. & Prof. Code § 4883, subd. (g)(1))

13. Respondent's application for a Registered Veterinary Technician License is subject to denial under Code section 4883, subdivision (g)(1), in that Respondent was convicted of violating a statute or rule of this state regulating dangerous drugs or controlled substances, as set forth more particularly in paragraphs 9 and 10, above.

FOURTH CAUSE FOR DENIAL OF APPLICATION
(Self-Administration of a Controlled Substance)
(Bus. & Prof. Code § 4883, subd. (g)(2)(A))

14. Respondent's application for a Registered Veterinary Technician License is subject to denial under Code section 4883, subdivision (g)(2)(A), in that Respondent self-administered controlled substances, as set forth more particularly in paragraphs 9 and 10, above.

FIFTH CAUSE FOR DENIAL OF APPLICATION
(Dangerous Use of Drugs)
(Bus. & Prof. Code § 4883, subd. (g)(2)(B))

15. Respondent's application for a Registered Veterinary Technician License is subject to denial under Code section 4883, subdivision (g)(2)(B), in that Respondent used dangerous drugs in a dangerous or injurious manner, as set forth more particularly in paragraphs 9 and 10, above.

SIXTH CAUSE FOR DENIAL OF APPLICATION
(Conviction of Criminal Offenses Involving a Controlled Substance)
(Bus. & Prof. Code § 4883, subd. (g)(2)(C))

16. Respondent's application for a Registered Veterinary Technician License is subject to denial under Code section 4883, subdivision (g)(1), in that Respondent was convicted of more than one criminal offense involving the use, consumption, or self-administration of a dangerous drug or controlled substance, as set forth more particularly in paragraphs 9 and 10, above.

SEVENTH CAUSE FOR DENIAL OF APPLICATION
(Acts Which if Done by Licentiate Would be Cause for Discipline)
(Bus. & Prof. Code § 480, subd. (a)(3))

17. Respondent's application for a Registered Veterinary Technician License is subject to denial under Code section 480, subdivision (a)(3)(A), in that Respondent committed acts, which, if done by a registered veterinary technician, would constitute grounds for discipline under the

following Code sections: 490 (Conviction of Substantially Related Crime), and 4883, subdivisions (a) (Conviction of Substantially Related Crime); (g) (Unprofessional Conduct); (g)(1) (Conviction of Violating State Statute Regulating Controlled Substances/Dangerous Drugs); (g)(2)(A) (Self-Administration of a Controlled Substance); (g)(2)(B) (Dangerous Use of Drugs); and (g)(2)(C) (Conviction of Criminal Offenses Involving a Controlled Substance). The circumstances are set forth in paragraphs 9 and 10, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Statement of Issues, and that following the hearing, the Veterinary Medical Board issue a decision:

1. Denying the application of Shanna Marie Tungloong for a Registered Veterinary Technician License;

2. Taking such other and further action as deemed necessary and proper.

DATED: February 19, 2014

ANNEMARIE DELMUGNAIO
Executive Officer
Veterinary Medical Board
Department of Consumer Affairs
State of California
Complainant

EXHIBIT 4

VMB Veterinary Medical Board

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • VETERINARY MEDICAL BOARD
1747 North Market Blvd., Suite 230, Sacramento, CA 95834-2978
P (916) 515-5220 | Toll-Free (866) 229-0170 | www.vmb.ca.gov

PETITION FOR REINSTATEMENT OR MODIFICATION OF PENALTY

INSTRUCTIONS: Please type or print neatly. All blanks must be completed; if not applicable enter N/A. If more space is needed attach additional sheets. Attached to this application should be a "Narrative Statement" and two original verified recommendations from a veterinarian licensed by the Board who has personal knowledge of activities since the disciplinary action was imposed.

TYPE OF PETITION [Reference Business and Professions Code section 4887]

☐ Reinstatement of Revoked/Surrendered License or Registration ☐ Modification of Probation ☒ Termination of Probation

NOTE: A Petition for Modification and/or Termination of Probation can be filed together. If you are requesting Modification, you must specify in your "Narrative Statement" the term(s) and condition(s) of your probation that you want reduced or modified and provide an explanation. Please check all boxes above that apply.

PERSONAL INFORMATION

NAME: First: Shanna Middle: Marie Last: Tungloong

Other name(s) licensed under, if any:

HOME ADDRESS: Number & Street: 4501 Snell Ave #2215 City: San Jose State: Ca Zip: 95136

HOME TELEPHONE NUMBER: ( ) N/A

WORK TELEPHONE NUMBER: [redacted]

CELL NUMBER: [redacted]

E-mail address: [redacted]

CA License or Registration Number: Tec 11243

Are you licensed by any other state(s) or country(ies) (please include license number(s), issue date(s), and status of license(s)):

No

ATTORNEY INFORMATION (If Applicable)

Will you be represented by an attorney? ☒ No ☐ Yes (If "Yes," please provide the following information)

NAME:

ADDRESS:

PHONE:

DISCIPLINARY INFORMATION

Provide a brief explanation in your "Narrative Statement" as to the cause for the disciplinary action (e.g., negligence or incompetence, self use of drugs or alcohol, extreme departures from sanitary conditions, conviction of a crime, etc.)

Have you ever had your license revoked, suspended, voluntarily surrendered, denied, or placed on probation in any other state or country? ☒ No ☐ Yes

(If Yes, give a brief cause for administrative action or license denial in your "Narrative Statement" section, including dates and discipline ordered (e.g., 5 years probation.)

VETERINARIAN/REGISTERED TECHNICIAN BACKGROUND

Total number of years in veterinary practice: 7years

CONTINUING EDUCATION (List continuing education completed since the date of the disciplinary action)

8th annual back to school seminar 2015

9th annual back to school Seminar 2016

Back to school Seminar 2018

CURRENT OCCUPATION OTHER THAN VETERINARIAN OR REGISTERED VET TECHNICIAN
(Answer only if currently not practicing as a Veterinarian or Registered Vet Technician)

List employer, address, e-mail address, phone number, job title, and duties:

EMPLOYMENT HISTORY (list for the past 5 years only)

Provide the employer's name, address, phone number, job title and dates of employment:

Sage Veterinary Centers 907 Del Ave Campbell Ca RVT 2016-present

Peninsula Animal Hospital 1023 austin ave Pacific Grove Ca

[redacted] RVT 2012 - 2016

REHABILITATION

Describe any rehabilitative or corrective measures you have taken since your license/registration was disciplined. List dates, nature of programs or courses, and current status. You may include any community service or volunteer work.

I attend three AA meetings a month.

CURRENT COMPLIANCE

Since the effective date of your last Veterinary Medical Board disciplinary action have you:

1. Been placed on criminal probation or parole? ☐ Yes ☒ No
2. Been charged in any pending criminal action by any state, local or federal agency or court? ☐ Yes ☒ No
3. Been convicted of any criminal offense? (A conviction includes a no contest plea; disregard traffic offenses with a $100 fine or less.) ☐ Yes ☒ No
4. Been charged or disciplined by any other veterinary board? ☐ Yes ☒ No
5. Surrendered your license to any other veterinary board? ☐ Yes ☒ No
6. Had your licensee manager's premise permit disciplined? ☐ Yes ☒ No
7. Had any civil malpractice claims filed against you of $10,000 or more? ☐ Yes ☒ No
8. Become addicted to the use of narcotics or controlled substances? ☐ Yes ☒ No
9. Become addicted to or received treatment for the use of alcohol? ☐ Yes ☒ No
10. Been hospitalized for alcohol or drug problems or for mental illness? ☐ Yes ☒ No

NOTE: If your answer is "Yes" to **any** of the above questions, please explain in the "Narrative Statement."

COST RECOVERY

Was cost recovery ordered? ☒ No ☐ Yes If yes, what is the remaining balance? _____

When is payment anticipated? _____

DECLARATION

Executed on February 16th 20 19, at San Jose (City), Ca (State).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that all statements and documents attached in support of this petition are true and correct.

Shanna Tungloong
Petitioner (print name)

S Tungloong
Signature

The information in this document is being requested by the Veterinary Medical Board (Board) pursuant to Business and Professions Code section 4887. In carrying out its licensing or disciplinary responsibilities, the Board requires this information to make a determination on your petition for reinstatement or modification of penalty. You have a right to access the Board's records containing your personal information as defined in Civil Code section 1798.3. The Custodian of Records is the Executive Officer at the address shown on the first page.

Shanna Tungloong
4501 Snell Ave #2215
San Jose, CA

January 23, 2019

Veterinary Medical Board
1747 N. Market Blvd., Suite 230
Sacramento, CA. 95834-2978

Dear Veterinary Medical Board,

I am petitioning to appeal my probation term. I would like my probationary period to end and for my record to reflect that I have completed it successfully. I have been on probation for approximately three years. During that time, I have been in compliance with all of the specified terms. I was put on probation by the Veterinary Medical Board in response to substance abuse charges from fourteen years ago. Since these charges were on my record, the VMB required this probationary period as a condition for receiving my RVT license.

I graduated from Carrington College in 2012, where I completed my course of study in veterinary technology. My probationary period began in January 2015. I received a psychological evaluation (which the Doctor sent to the VMB in 2015). In fulfillment of the requirements specified by the Board I have been adhering to the following guidelines: I attend at least three AA meetings per month, for which I send documentation to the Board. Each day after midnight I check in with the phone application to determine whether a drug test will be required the following morning. I am current on the required fees associated with my probationary period. I am a member of VECCS, and I read the VECCS bimonthly journals. I will be attending the VECCS conference this April. I attended the Davis back to school symposia in 2018, 2016, and 2015.

The main reason I wish to have my probation terms ended is due to the financial strain it is putting on my family. I love my career and I love medicine. I am not the person I was fifteen years ago. I hope my compliance to my probation terms can be proof of that.

Thank you for your consideration,
Shanna Tungloong
S Tungloong

PENINSULA ANIMAL HOSPITAL
1023 Austin Ave.
Pacific Grove, CA 93950

December 19, 2018

Gentlemen/Madams,

Ms. Shanna Tungloong, joined our practice in May of 2012, and her tenure lasted until September of 2016. She was an exemplary employee. She was punctual, hard working, and industrious. Patient care improved significantly when she joined the practice. Our anesthetic monitoring improved, hospitalized patients were tracked better and inventory management was improved.

Ms. Tungloong is ambitious, and directed. She is creating a rewarding life for herself and her daughter. I feel I can attest to her good character. She and I would like her probation period to end.

If I can be of further assistance, please contact me at [redacted]

I declare under penalty of perjury under the laws of The State of California that the foregoing is true and correct.

Sincerely yours,

Aaron Cohen DVM

Aaron Cohen, DVM

Terence Krentz, DVM

Sage Veterinary Centers

Department of Emergency and Critical Care

907 Dell Ave.

Campbell, CA 95008

408-343-7243

12/12/18

To whom this may concern,

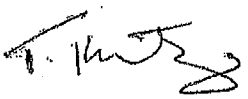
I declare under penalty of perjury under the laws of California that the foregoing is true and correct.

I am a board-eligible criticalist employed at Sage Veterinary Centers. Shanna Tungloong has been employed in our CCU and has been novel employee. Her personal evaluation has been consistently excellent since she's been in our employ since November 2016.

I highly recommend Shanna for her licensure as an RVT and removal of her probationary period.

Sincerely,

Dr. Terence Krentz



SHANNA TUNGLOONG

4501 snell ave #2215, San Jose, CA 95136 | [redacted]

SUMMARY

Licensed Veterinary Technician in California with seven years of progressive experience in animal hospitals and clinics. A compassionate provider with a dedication to providing thorough education to animal owners on best practices in preventative care.

SKILLS

- monitoring the critically ill.
- placing intravenous catheters
- monitoring fluid ins and outs
- monitoring the oxygen dependent patient
- calculating cri's
- monitoring the diabetic patient
- managing feeding tubes
- monitoring the ecg

EXPERIENCE

11/2016 to Current — **ccu rvt**
sage veterinary and emergency centers — campbell, ca
Critical care veterinary technician for two years

05/2012 to 08/2016 — **peninsula animal hospital**
Aaron C|ohen — pacific grove , ca
Veterinary technician at a small animal practice

EDUCATION AND TRAINING

2012 — **Associate of Science**: veeterinary technology
carrington college — san jose, ca

UNIVERSITY OF CALIFORNIA, DAVIS

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO  SANTA BARBARA • SANTA CRUZ

SCHOOL OF VETERINARY MEDICINE
CENTER FOR CONTINUING PROFESSIONAL EDUCATION
ONE SHIELDS AVENUE
DAVIS, CA 95616
Tel (530) 752- 3905
http://www.vetmed.ucdavis.edu/CE/

THIS IS TO CERTIFY THAT

Shanna Tungloong

(ATTENDEE)

ATTENDED THE
BACK TO SCHOOL RVT/VETERINARY TECHNICAN/ASSISTANT CE SEMINAR
ON **JULY 21-22, 2018**
AT GLADYS VALLEY HALL,
UC DAVIS SCHOOL OF VETERINARY MEDICINE

THIS PROGRAM HAS BEEN REVIEWED AND ASSIGNED UP TO 16 HOURS OF SCIENTIFIC CONTINUING EDUCATION CREDIT BY THE SCHOOL OF VETERINARY MEDICINE.

JODI L. WESTROPP, DVM, PhD, DACVIM
DIRECTOR, CENTER FOR CONTINUING
PROFESSIONAL EDUCATION

PLEASE NOTE:
VETERINARY MEDICAL ETHICS AND STATE LICENSING AUTHORITIES
REQUIRE YOU TO ONLY CLAIM THE HOURS YOU ACTUALLY ATTENDED

NUMBER OF HOURS ACTUALLY ATTENDED 12

UNIVERSITY OF CALIFORNIA, DAVIS

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SCHOOL OF VETERINARY MEDICINE
CENTER FOR CONTINUING PROFESSIONAL EDUCATION
(530) 752-3905
FAX (530) 752-6728

ONE SHIELDS AVENUE
DAVIS, CALIFORNIA 95616-8734

THIS IS TO CERTIFY THAT

Shonna Tungleang

(ATTENDEE)

ATTENDED THE
UC DAVIS
9th ANNUAL BACK TO SCHOOL SEMINAR
PRESENTED BY THE
UC DAVIS CENTER FOR CONTINUING PROFESSIONAL EDUCATION
ON **JULY 23-24, 2016**
AT GLADYS VALLEY HALL AND SCHALM HALL,
UC DAVIS SCHOOL OF VETERINARY MEDICINE

THIS PROGRAM HAS BEEN REVIEWED AND ASSIGNED UP TO 16 HOURS OF SCIENTIFIC CONTINUING EDUCATION CREDIT BY THE SCHOOL OF VETERINARY MEDICINE.

KARL E. JANDREY, DVM, MAS, DACVECC
DIRECTOR, CENTER FOR CONTINUING
PROFESSIONAL EDUCATION

PLEASE NOTE:
VETERINARY MEDICAL ETHICS AND STATE LICENSING AUTHORITIES
REQUIRE YOU TO ONLY CLAIM THE HOURS YOU ACTUALLY ATTENDED

NUMBER OF HOURS ACTUALLY ATTENDED: 16 hours

UNIVERSITY OF CALIFORNIA, DAVIS

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SCHOOL OF VETERINARY MEDICINE
CENTER FOR CONTINUING PROFESSIONAL EDUCATION
(530) 752-3905
FAX (530) 752-6728

ONE SHIELDS AVENUE
DAVIS, CALIFORNIA 95616-8734

THIS IS TO CERTIFY THAT

Shanna Tungloong

(ATTENDEE)

ATTENDED THE
UC DAVIS
8th ANNUAL BACK TO SCHOOL SEMINAR
PRESENTED BY THE
UC DAVIS CENTER FOR CONTINUING PROFESSIONAL EDUCATION
ON **JULY 26, 2015**
AT GLADYS VALLEY HALL,
UC DAVIS SCHOOL OF VETERINARY MEDICINE

THIS PROGRAM HAS BEEN REVIEWED AND ASSIGNED UP TO 8 HOURS OF SCIENTIFIC CONTINUING EDUCATION CREDIT BY THE SCHOOL OF VETERINARY MEDICINE.

KARL E. JANDREY, DVM, MAS, DACVECC
DIRECTOR, CENTER FOR CONTINUING
PROFESSIONAL EDUCATION

PLEASE NOTE:
VETERINARY MEDICAL ETHICS AND STATE LICENSING AUTHORITIES
REQUIRE YOU TO ONLY CLAIM THE HOURS YOU ACTUALLY ATTENDED

NUMBER OF HOURS ACTUALLY ATTENDED 8

AGO 036

2018 Performance Appraisal

Shanna Tungloong

Location:	Campbell	**Date of Hire:**	11/8/2016
Department:	CCU	**Date in Current Position:**	11/8/2016
Job Title:	Registered Veterinary Technician	**Performance Period**	
Lead:	Rachel Schwager	**From:**	January 1, 2018
		To:	December 31, 2018

Performance Objectives *(SMART)*

	Objective	Measurement	Accomplishment (appraisal phase)
1	Attend CE or symposium		
2	Place central line		
3	Improve suturing techniques		
4	Ventilator case management		
5			

General Performance Summary

Summary of Accomplishments (1-5 with examples)
• Advancing nursing skills. Shanna has become more comfortable with difficult skills such as placing sampling catheters, nasogastric tubes, and calculating difficult CRIs • Shanna has taken initiative with CE and is constantly looking to improve her skills and expand her knowledge. • Increased proficiency with Smart Flow and ezyVet and assists other department staff to make accurate treatment sheets.

Summary of Performance Strengths (1-3 with examples)
• Shanna's communication skills have improved dramatically over the past year. She is able to effectively communicate with team members and bring frustrations and concerns to her lead/manager in a professional manner. • Shanna has the highest standard for patient care. She is thoughtful and thinks ahead about what that patient may need throughout her shift and is still able to keep an eye on patients not under her care to help strengthen developing team members. • Shanna is extremely reliable. She shows up to work every day on time and ready to help. She has picked up additional shifts when needed and she is so much appreciated by her lead and manager.

2018 Performance Appraisal

Shanna Tungloong

Location:	Campbell	**Date of Hire:**	11/8/2016
Department:	CCU	**Date in Current Position:**	11/8/2016
Job Title:	Registered Veterinary Technician	**Performance Period**	
Lead:	Rachel Schwager	**From:**	January 1, 2018
		To:	December 31, 2018

Summary of Performance Enhancement/Growth (1-3 with examples)

- Shanna should continue to leverage doctors and other senior nursing staff in order to continue enhancing her skills as well as explore CE opportunities.
- Shanna is encouraged to continue utilizing constructive outlets for her stress.
- Shanna is encouraged to continue to help integrate new team members, provide training moments when applicable, and to help create a positive, welcoming culture in CCU.
- It is a goal of 2019 to get all CCU nursing staff adequately trained in ventilator case management. While the opportunity to manage a "live" ventilator case is rare, there will be training materials and hands-on training provided to increase the confidence and comfort of our nurses.

EXHIBIT 5

Veterinary Medical Board

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • VETERINARY MEDICAL BOARD
1747 North Market Blvd., Suite 230, Sacramento, CA 95834-2978
P (916) 515-5220 | Toll-Free (866) 229-0170 | www.vmb.ca.gov

PETITION FOR MODIFICATION OF PENALTY

PROBATION UNIT REPORT

PETITIONER:	Shanna Marie Tungloong
TYPE OF PETITION:	Termination of Probation
CASE NUMBER:	IA 2013 26
CURRENT ADDRESS:	4501 Snell Ave. #2215 San Jose, CA 95136
ADDRESS OF RECORD:	Same as above
WORK TELEPHONE #:	[redacted]
CELL PHONE #:	[redacted]
REGISTERED VETERINARY TECHNICIAN REGISTRATION:	RVT 11243
ISSUE DATE:	October 29, 2015
EXPIRATION DATE:	September 30, 2019

BACKGROUND INFORMATION:

On December 3, 2014, the Veterinary Medical Board's (Board) Stipulated Settlement and Disciplinary Order for Shanna Tungloong was adopted in case number IA 2013 36 and went into effect on January 2, 2015. The Order granted the Registered Veterinary Technician (RVT) Registration application for Tungloong and that upon successful completion of the licensure examination and all other licensing requirements a registration would be issued. Once the registration was issued, it was immediately revoked, stayed, and placed on probation for five (5) years.

Ms. Tungloong's registration was issued on November 2, 2015, making her period of probation from November 2, 2015 to November 2, 2020. However, Ms. Tungloong's probation was on a "tolled" status from September 26, 2016 to February 23, 2017 while she was not employed. This makes her new projected end date of probation March 28, 2021.

REASON FOR DISCIPLINE:

On or about September 10, 2012, the Board received an application for a Registered Veterinary Technician registration from Ms. Tungloong. On December 11, 2012 said previously submitted

application for RVT registration was denied. The reason for the denial of the application was due to seven (7) misdemeanor cases and convictions over a three (3) year period of time (2002-2005). The various charges included: driving without a valid license, possession of a controlled substance methamphetamine, possession of a smoking device, possession of marijuana, unlawful possession of a controlled substance Diazepam, taking a vehicle without consent, driving without a license, inflicting corporal injury on spouse/cohabitant, assault with a deadly weapon not firearm, threatening crime with intent to terrorize, and being under the influence of a control substance methamphetamine.

PROBATION COMPLIANCE REPORT:

Below are applicable terms and conditions of Ms. Tungloong's probation and their compliance: .

Obey All Laws	*In compliance*
Quarterly Reports & Interviews	*Some violations in the past; in compliance currently*

Quarterly Report violation letters were sent out to Ms. Tungloong on three (3) occasions:

- January 27, 2016 for the previous quarter (22 days late)
- November 4, 2016 for the previous quarter (30 days late)
- May 24, 2017 for the previous quarter (49 days late)

Cooperation w/ Probation Surveillance	*Paid $3,100 out of $3,800 due*
Notice to Employers	*In compliance*
Psychological Evaluation	*In compliance; successfully completed on 1/13/2016*
Rehabilitation Program	*In compliance*
Submit to Drug Testing	*Overall in compliance*

Ms. Tungloong has been called to biological fluid test a total of 71 times thus far on probation and has failed to submit a sample on six (6) of said occasions:

- November 30, 2015, March 16, 2016, May 27, 2016, September 21, 2016, June 4, 2017, and July 21, 2018
- Documented explanations were received for the missed tests on November 30, 2015, March 16, 2016, March 27, 2016, and July 21, 2018

Ms. Tungloong has failed to log-in/check into the testing system on eight (8) occasions.

Repeated dilute tests were occurring in Ms. Tungloong's testing history. Historically, she provided:

- one (1) dilute test result in 2016
- four (4) dilute tests in 2017
- eight (8) dilute tests in 2018

A Violation Letter was sent to Ms. Tungloong addressing the dilute issue on November 7, 2018. An explanation was provided of her normal routine on a day she was selected to test and the amount of fluids she would consume. A subsequent Phosphatidylethanol (blood) test was administered on November 14, 2018 and resulted with a negative specimen.

Abstention from Controlled Substances	*In compliance; zero positive tests*
Abstention from Alcohol Use	*In compliance; zero positive tests*

OUT-OF-STATE LICENSES/REGISTRATIONS

Ms. Tungloong does not hold any veterinary licenses or registrations outside of California.

Submitted by: Sidney Villareal
Probation Monitor

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

Veterinary Medical Board
1747 N. Market Blvd., Suite 230, Sacramento, CA 95834
Telephone: 916-515-5220 Fax: 916-928-6852 | www.vmb.ca.gov

Regular & Certified Mail

January 27, 2016

Shanna Tungloong
1023 Austin Ave
Pacific Grove, CA 93950

Re: VIOLATION LETTER
Case No. IA 2013 26

Dear Shanna Tungloong:

This letter is in regards to the Quarterly Report for October 1st – December 31st 2015 which was due on January 5th per your disciplinary order. Your disciplinary order states the following:

QUARTERLY REPORTS
You shall report quarterly to the Board and 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. 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.

The Board's records do not show you have submitted a report for Quarter 4 of 2015 which was due on January 5, 2016. Please submit the Quarterly Report immediately. This report will be noted as a late submission.

This letter is not a full audit of your probation file, this notice is addressing only the failure to submit this particular quarterly report as required per your disciplinary order.

Failure to come into compliance with the terms and conditions of your probationary order may result in the Board seeking subsequent disciplinary action against your license including, but not limited to, the filing of a Petition to Revoke.

If you have any questions or concerns, please feel free to contact the Board.

Regards,

Christy Bell
Probation Monitor
(916) 515-5244

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

Veterinary Medical Board
1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834
Telephone: 916-515-5220 Fax: 916-928-6849 | www.vmb.ca.gov

DECLARATION OF SERVICE BY CERTIFIED MAIL & REGULAR MAIL

RE: Shanna Tungloong **LICENSE NO: TEC 11243**

I, the undersigned declare that I am over 18 years of age; my business address is 1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834. I served a true copy of the attached letter by Certified Mail on the following, by placing same in an envelope addressed as follows:

NAME AND ADDRESS
Shanna Tungloong
1023 Austin Ave
Pacific Grove, CA 93950

CERTIFIED NUMBER:
7014 3490 0001 3144 3358

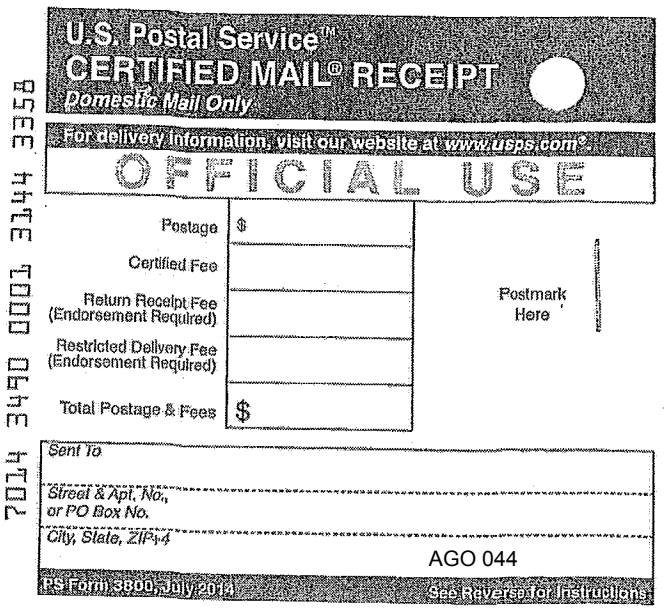
Said envelope was then, on January 27, 2016, sealed and deposited in the United States Mail at 1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834, the county in which I am employed, as certified mail and regular mail with postage thereon fully prepaid, return receipt requested.

Executed on **January 27, 2016,** at Sacramento, California.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

DECLARANT:

Ray Delaney
Enforcement Analyst
Veterinary Medical Board



STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

Veterinary Medical Board
1747 N. Market Blvd., Suite 230, Sacramento, CA 95834
Telephone: 916-515-5220 Fax: 916-928-6852 | www.vmb.ca.gov

Regular & Certified Mail

November 4, 2016

Shanna Tungloong, RVT
760 Lobos Street
Monterey, CA 93940

Re: VIOLATION LETTER
Case No. IA 2013 26

Dear Ms. Tungloong:

This letter is in regards to the Quarterly Report for July 1 – September 30, 2016 which was due on October 5, 2016 per your disciplinary order. Your disciplinary order states the following:

QUARTERLY REPORTS
You shall report quarterly to the Board and 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. 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.

The Board's records do not show you have submitted a report for Quarter 3 of 2016 which was due on October 5, 2016. Please submit the Quarterly Report immediately. This report will be noted as a late submission.

This letter is not a full audit of your probation file, this notice is addressing only the failure to submit this particular quarterly report as required per your disciplinary order.

Failure to come into compliance with the terms and conditions of your probationary order may result in the Board seeking subsequent disciplinary action against your license including, but not limited to, the filing of a Petition to Revoke.

If you have any questions or concerns, please feel free to contact the Board.

Regards,

Jaspreet Pabla
Probation Monitor
(916) 515-5244

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.
Veterinary Medical Board
1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834
Telephone: 916-515-5220 Fax: 916-928-6849 | www.vmb.ca.gov

DECLARATION OF SERVICE BY CERTIFIED MAIL & REGULAR MAIL

RE: Tungloong, Shanna, RVT **LICENSE NO: TEC: 11243**

I, the undersigned declare that I am over 18 years of age; my business address is 1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834. I served a true copy of the attached letter by Certified Mail on the following, by placing same in an envelope addressed as follows:

NAME AND ADDRESS
Tungloong, Shanna, RVT
760 Lobos Street
Monterey, CA 93940

CERTIFIED NUMBER:
7015 0640 0003 5431 8168

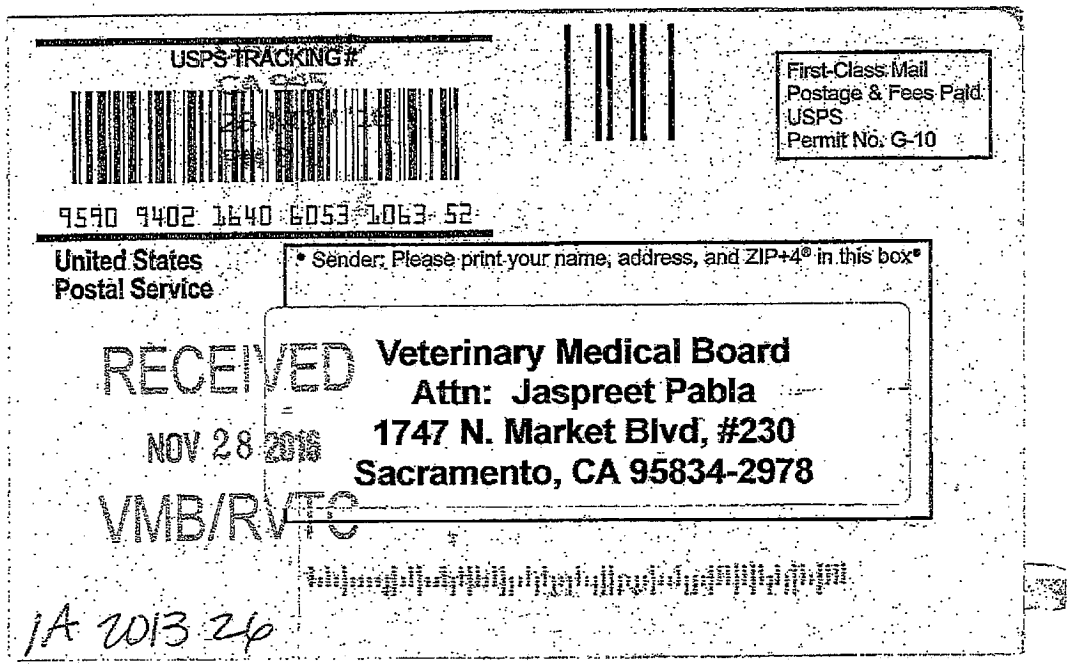
Said envelope was then, on November 4, 2016, sealed and deposited in the United States Mail at 1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834, the county in which I am employed, as certified mail and regular mail with postage thereon fully prepaid, return receipt requested.

Executed on **November 4, 2016**, at Sacramento, California

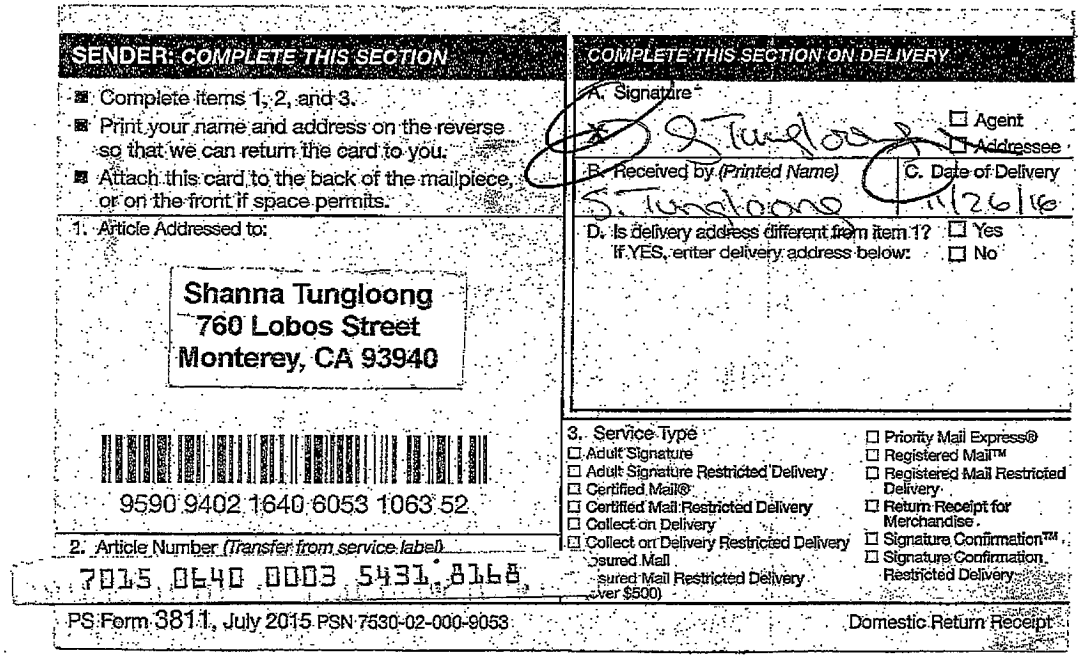
I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

DECLARANT:

Kimberly Gorski
Enforcement Technician
Veterinary Medical Board


USPS TRACKING #
9590 9402 1640 6053 1063 52
First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10
United States
Postal Service
* Sender: Please print your name, address, and ZIP+4® in this box*
RECEIVED
NOV 28 2016
VMB/RVTC
Veterinary Medical Board
Attn: Jaspreet Pabla
1747 N. Market Blvd, #230
Sacramento, CA 95834-2978
IA 2013 24

AGO 047



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Shanna Tungloong
760 Lobos Street
Monterey, CA 93940

9590 9402 1640 6053 1063 52

2. Article Number (Transfer from service label)
7015 0640 0003 5431 8168

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature
S Tungloong ☐ Agent ☐ Addressee

B. Received by (Printed Name) S. Tungloong
C. Date of Delivery 11/26/16

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ sured Mail
- sured Mail Restricted Delivery
- ver $500)
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

Veterinary Medical Board
1747 N. Market Blvd., Suite 230, Sacramento, CA 95834
Telephone: 916-515-5220 Fax: 916-928-6852 | www.vmb.ca.gov

Certified Mail

May 24, 2017

Shanna M. Tungloong, RVT
6067 Crossview Circle
San Jose, CA 95120

Re: VIOLATION LETTER
Case No. IA 2013 26

Dear Ms. Tungloong:

This letter is in regards to the Quarterly Report for January 5th thru March 5th which was due on April 5th per your disciplinary order. Your disciplinary order states the following:

QUARTERLY REPORTS
You shall report quarterly to the Board and 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. 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.

The Board's records do not show you have submitted a report for Quarter 1 of 2017 which was due on April 5, 2017. Please submit the Quarterly Report immediately. This report will be noted as a late submission.

This letter is not a full audit of your probation file; this notice is addressing only the failure to submit this particular quarterly report as required per your disciplinary order.

If you have any questions or concerns, please feel free to contact the Board.

Regards,

Jaspreet Pabla
Probation Monitor
(916) 515-5244

STATE OF CALIFORNIA
DCA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

Veterinary Medical Board
1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834
Telephone: 916-515-5220 Fax: 916-928-6849 | www.vmb.ca.gov

DECLARATION OF SERVICE BY CERTIFIED MAIL

RE: Shanna M. Tungloong, RVT **LICENSE NO: RVT: 11243**

I, the undersigned declare that I am over 18 years of age; my business address is 1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834. I served a true copy of the attached letter by Certified Mail on the following, by placing same in an envelope addressed as follows:

NAME AND ADDRESS
Shanna M. Tungloong, RVT
6067 Crossview Circle
San Jose, CA 95120

CERTIFIED NUMBER:
7016 1370 0001 2621 8900

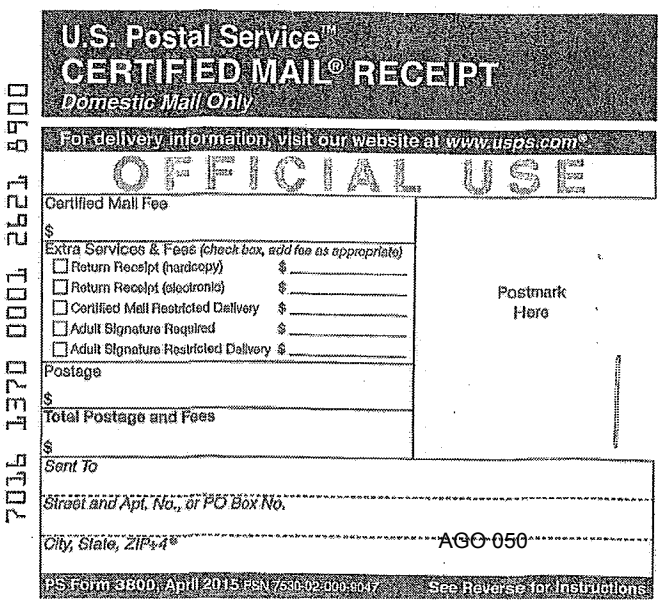
Said envelope was then, on May 24, 2017, sealed and deposited in the United States Mail at 1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834, the county in which I am employed, as certified mail with postage thereon fully prepaid, return receipt requested.

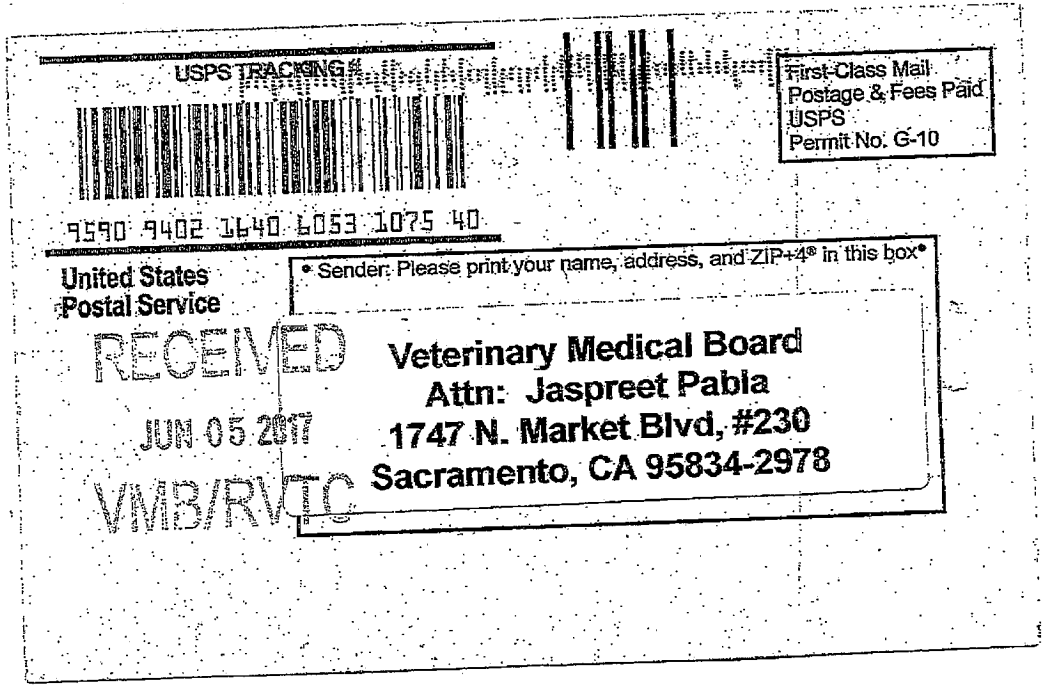
Executed on **May 24, 2017**, at Sacramento, California

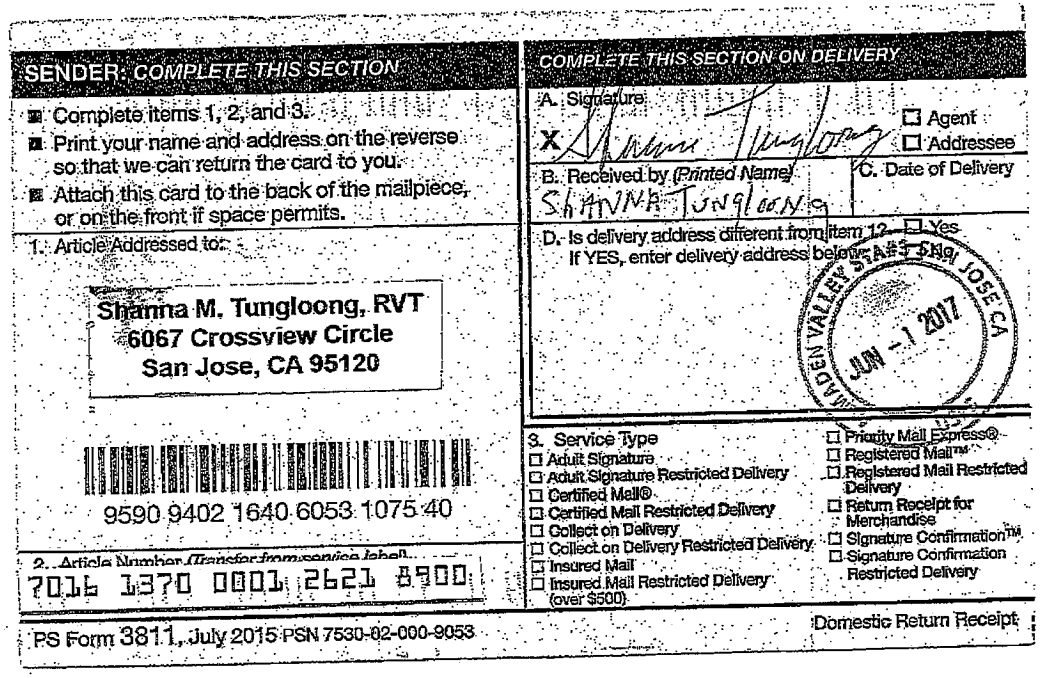
I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

DECLARANT: Kimberly Gorski

Kimberly Gorski
Enforcement Technician
Veterinary Medical Board




USPS TRACKING
First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10
9590 9402 1640 6053 1075 40
United States
Postal Service
• Sender: Please print your name, address, and ZIP+4® in this box•
RECEIVED
JUN 05 2017
VMB/RVTC
Veterinary Medical Board
Attn: Jaspreet Pabla
1747 N. Market Blvd, #230
Sacramento, CA 95834-2978



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Shanna M. Tungloong, RVT
6067 Crossview Circle
San Jose, CA 95120

9590 9402 1640 6053 1075 40

2. Article Number (Transfer from service label)
7016 1370 0001 2621 8900

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Shanna Tungloong ☐ Agent ☐ Addressee

B. Received by (Printed Name) SHANNA TUNGLOONG C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below:

WILLOW GLEN VALLEY STA SAN JOSE CA JUN - 1 2017

3. Service Type
- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☑ Insured Mail
- ☐ Insured Mail Restricted Delivery (over $500)
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

PHAMATECH Laboratories & Diagnostics

AGENCY ACCESS: DCA - Veterinary Medical Board

Tungloong, Shanna (18200)
11/23/2015 to 11/02/2020

- Failed Logins (Calendar View | Table View)
- Past Selections (Calendar View | Table View)

Past Selections

Date Selected	Result	Result Date	Hours Difference	Comments	Actions
05/27/2016	Pending for 0 days			Save Comment	Mark as Pending
05/19/2016	NEGATIVE	05/26/2016	190 hours	Save Comment	
05/16/2016	NEGATIVE	05/23/2016	142 hours	Save Comment	
04/26/2016	NEGATIVE	04/29/2016	94 hours	Save Comment	
04/21/2016	NEGATIVE	04/26/2016	142 hours	Save Comment	
04/11/2016	NEGATIVE	04/20/2016	238 hours	Save Comment	
03/30/2016	NEGATIVE	04/12/2016	334 hours	Save Comment	
03/16/2016	Pending for 72 days			Save Comment	Mark as Pending
03/11/2016	NEGATIVE	03/21/2016	261 hours	Save Comment	
02/26/2016	NEGATIVE	03/04/2016	190 hours	Save Comment	
02/17/2016	NEGATIVE	03/04/2016	406 hours	Save Comment	
02/09/2016	NEGATIVE	02/24/2016	382 hours	Save Comment	
01/28/2016	NEGATIVE	02/09/2016	310 hours		

				Save Comment	
01/19/2016	NEGATIVE	01/26/2016	238 hours	Save Comment	
01/13/2016	NEGATIVE	01/21/2016	214 hours	Save Comment	
12/22/2015	NEGATIVE	12/28/2015	166 hours	Save Comment	
12/21/2015	NEGATIVE	12/28/2015	190 hours	Save Comment	
12/17/2015	NEGATIVE	12/24/2015	190 hours	Save Comment	
11/30/2015	Pending for 179 days			Save Comment	Mark as Pending
11/25/2015	NEGATIVE	12/04/2015	238 hours	Save Comment	

Total Records: 21
Pages: 1 2 NEXT

PHAMATECH
Laboratories & Diagnostics

AGENCY ACCESS: DCA - Veterinary Medical Board

Tungloong, Shanna (18200)
11/23/2015 to 11/02/2020

- Failed Logins (Calendar View | Table View)
- Past Selections (Calendar View | Table View)

Failed Logins

Day	Count		Reason	Actions
04/02/2016	3	Failed to log in		Save
03/27/2016	2	Failed to log in		Save
02/11/2016	1	Failed to log in	system down	Save

Total Records: 3

FirstSource SOLUTIONS

Detailed Test History Report
Chronological By Event Version
CA VMB
CA VMB -org
06/01/2016 - 06/24/2019

Shanna Marie Tungloong
4501 Snell Ave.#2215,
San Jose, CA, 95136

Status: Active **Frequency Code:** Random **SSN/ID:** [redacted]

Missed Call History:

Date	Details
09/20/2016	Missed Call
09/21/2016	Missed Call Scheduled For Testing - Opt # 1
09/22/2016	Missed Call
09/23/2016	Missed Call
09/24/2016	Missed Call
10/21/2017	Missed Call

Row Count: 6

Detailed Test History:

Date	Access Time	Result	Obs	Obs Conf	Notes	Comments
06/27/2016	07:24	Specimen # 210632965 - Negative - Test Option - 1 - Creatinine:54.7 mg/dL	Y	Y		

AGO 056

Date	Access Time	Result	Obs	Obs Conf	Notes	Comments
07/11/2016	01:07	Specimen # 210632979 - Negative - Test Option - 1 - Creatinine:32.0 mg/dL	Y	Y		
07/13/2016	00:21	Specimen # 210632978 - Negative - Test Option - 1 - Creatinine:61.3 mg/dL	Y	Y		
07/22/2016	07:35	Specimen # 210632966 - Canceled-Flaw - Test Option - 1 - Creatinine:10.2 mg/dL	Y	Y	**Result Notes:** CREATININE 10.2 MG/DL, SPECIFIC GRAVITY 1.0010 This specimen has a specific gravity that is too low for the measured creatinine which makes it an invalid specimen. Was it an observed collection? James L. Ferguson, DO, FASAM Medical Director, Recovery Management Services	
08/04/2016	06:01	Specimen # 210632967 - Negative - Test Option - 1 - Creatinine:Dilute	Y	Y	**Result Notes:** CREATININE 14.8 MG/DL, SPECIFIC GRAVITY 1.0022	
08/16/2016	07:24	Specimen # 210632977 - Negative - Test Option - 1 - Creatinine:287.3 mg/dL	Y	Y		
08/22/2016	00:31	Specimen # 210632968 - Negative - Test Option - 1 - Creatinine:435.8 mg/dL	Y	Y	**Result Notes:** CREATININE 435.8 MG/DL	
09/15/2016	00:17	Specimen # 210632969 - Negative - Test Option - 1 - Creatinine:27.7 mg/dL	Y	Y		
09/21/2016		Test scheduled, No result found.	Y		**No Show Alert Comments** (alert date 10/05/2016): Did not access system for test message.	
03/27/2017	09:30	Specimen # 210632976 - Negative - Test Option - 1 - Creatinine:31.4 mg/dL	Y	Y		
04/06/2017	00:43	Specimen # 210632970 - Negative - Test Option - 1 - Creatinine:73.6 mg/dL	Y	Y		
04/13/2017	02:05	Specimen # 210632971 - Negative - Test Option - 1 - Creatinine:66.7 mg/dL	Y	Y		
04/20/2017	01:21	Specimen # 210632972 - Negative - Test Option - 1 - Creatinine:Dilute	Y	Y	**Result Notes:** Creatinine 17.7 mg/dL, Specific Gravity 1.0026	

Date	Access Time	Result	Obs	Obs Conf	Notes	Comments
05/03/2017	01:51	Specimen # 210632973 - Negative - Test Option - 1 - Creatinine:72.9 mg/dL	Y	Y		
05/08/2017	02:37	Specimen # 210632974 - Negative - Test Option - 1 - Creatinine:20.5 mg/dL	Y	Y		
05/12/2017	00:26	Specimen # 210632975 - Negative - Test Option - 1 - Creatinine:15.1 mg/dL	Y	Y	**Result Notes:** Creatinine 15.1 mg/dL, Specific Gravity 1.0031	
06/01/2017	00:20	Specimen # 210863898 - Negative - Test Option - 1 - Creatinine:25.2 mg/dL	Y	Y		
06/04/2017	01:47	Test scheduled, No result found.	Y		**No Show Alert Comments** (alert date 06/18/2017): No test found at lab for this day	
07/19/2017	01:19	Specimen # 210863897 - Negative - Test Option - 3 - Creatinine:23.3 mg/dL	Y	Y		
08/11/2017	00:00	Specimen # 210863896 - Negative - Test Option - 3 - Creatinine:Dilute	Y	Y	**Result Notes:** Creatinine 15.4 MG/DL;DILUTE Specific Gravity 1.0029	
08/22/2017	01:02	Specimen # 210863873 - Negative - Test Option - 3 - Creatinine:45.0 mg/dL	Y	Y		
09/26/2017	01:19	Specimen # 210863874 - Negative - Test Option - 3 - Creatinine:50.9 mg/dL	Y	Y		
10/07/2017	00:04	Specimen # 210863875 - Negative - Test Option - 3 - Creatinine:Dilute	Y	Y	**Result Notes:** CREATININE 14.8 mg/dL Specific Gravity 1.0026 Dilute **Not Observed Alert Comments** (alert date 10/11/2017): Dilute **Not Observed Alert Comments** (alert date 10/12/2017): Per COC Pt was observed by collector	
11/08/2017	00:02	Specimen # 210863876 - Negative - Test Option - 3 - Creatinine:31.3 mg/dL	Y	Y		
11/09/2017	00:02	Specimen # 210863877 - Negative - Test Option - 3 - Creatinine:Dilute	Y	Y	**Result Notes:** CREATININE 11.3 mg/dL Specific Gravity 1.0016 Dilute	
12/26/2017	00:28	Specimen # 210863879 - Negative - Test Option - 3 - Creatinine:45.8 mg/dL	Y	Y		

Date	Access Time	Result	Obs	Obs Conf	Notes	Comments
02/18/2018	00:12	Specimen # 210863880 - Negative - Test Option - 3 - Creatinine:35.9 mg/dL	Y	Y		
03/28/2018	00:03	Specimen # 210863881 - Negative - Test Option - 3 - Creatinine:73.1 mg/dL	Y	Y		
04/19/2018	00:08	Specimen # 210863895 - Negative - Test Option - 3 - Creatinine:17.4 mg/dL	Y	Y	**Result Notes:** CREATININE 17.4 mg/dL	
05/14/2018	00:05	Specimen # 210863894 - Negative - Test Option - 3 - Creatinine:Dilute	Y	Y	**Result Notes:** CREATININE 15.5 mg/dL Specific Gravity 1.0025 Dilute	
05/15/2018	00:37	Specimen # 210863893 - Negative - Test Option - 3 - Creatinine:24.2 mg/dL	Y	Y		
07/06/2018	00:01	Specimen # 210863890 - Negative - Test Option - 3 - Creatinine:Dilute	Y	Y	**Result Notes:** CREATININE 12.6 mg/dL Specific Gravity 1.0021 Dilute	
07/21/2018	00:05	Test scheduled, No result found.	Y			
08/22/2018	00:02	Specimen # 210876675 - Negative - Test Option - 3 - Creatinine:27.8 mg/dL	Y	Y		
09/15/2018	00:05	Specimen # 210863883 - Negative - Test Option - 3 - Creatinine:19.7 mg/dL	Y	Y	**Result Notes:** CREATININE 19.7 mg/dL	
10/19/2018	00:30	Specimen # 210863884 - Negative - Test Option - 3 - Creatinine:11.0 mg/dL	Y	Y	**Result Notes:** DILUTE SPECIMEN: CREATININE:11.0 mg/dL SPECIFIC GRAVITY:1.0022	
10/23/2018	00:20	Specimen # 210863885 - Negative - Test Option - 3 - Creatinine:7.8 mg/dL	Y	Y	**Result Notes:** DILUTE SPECIMEN: CREATININE:7.8 mg/dL SPECIFIC GRAVITY:1.0018	
11/13/2018	00:49	Specimen # 210863889 - Negative - Test Option - 3 - Creatinine:7.7 mg/dL	Y	Y	**Result Notes:** DILUTE SPECIMEN: CREATININE:7.7 mg/dL SPECIFIC GRAVITY:1.0021	
11/14/2018	00:00	Specimen # 211139854 - Special - Negative	N	N		
11/23/2018	00:00	Specimen # 210863888 - Negative - Test Option - 3 - Creatinine:123.7 mg/dL	Y	Y		

Date	Access Time	Result	Obs	Obs Conf	Notes	Comments
12/07/2018	00:04	Specimen # 210863887 - Negative - Test Option - 3 - Creatinine:7.1 mg/dL	Y	Y	**Result Notes:** DILUTE SPECIMEN: CREATININE:7.1 mg/dL SPECIFIC GRAVITY:1.0022	
12/27/2018	00:08	Specimen # 210863886 - Negative - Test Option - 3 - Creatinine:9.7 mg/dL	Y	Y	**Result Notes:** DILUTE SPECIMEN: CREATININE:9.7 mg/dL SPECIFIC GRAVITY:1.0026	
12/27/2018	00:08	Unscheduled Test - Specimen # 210863886 - Negative - Creatinine:9.7 mg/dL	N	Y	**Result Notes:** DILUTE SPECIMEN: CREATININE:9.7 mg/dL SPECIFIC GRAVITY:1.0026	
01/19/2019	00:14	Specimen # 210642163 - Negative - Test Option - 3 - Creatinine:8.2 mg/dL	Y	Y	**Result Notes:** DILUTE SPECIMEN: CREATININE:8.2 mg/dL SPECIFIC GRAVITY:1.0022	
01/26/2019	00:00	Specimen # 210642164 - Negative - Test Option - 3 - Creatinine:6.5 mg/dL	Y	Y	**Result Notes:** DILUTE SPECIMEN: CREATININE:6.5 mg/dL SPECIFIC GRAVITY:1.0024	
04/09/2019	01:26	Specimen # 210642165 - Negative - Test Option - 3 - Creatinine:56.9 mg/dL	Y	Y		
04/30/2019	00:00	Specimen # 210642166 - Negative - Test Option - 3 - Creatinine:15.9 mg/dL	Y	Y	**Result Notes:** SPECIFIC GRAVITY:1.0048 CREATININE:15.9 mg/dL	
05/11/2019	00:02	Specimen # 210642167 - Negative - Test Option - 3 - Creatinine:110.5 mg/dL	Y	Y		
05/14/2019	00:01	Specimen # 210642168 - Negative - Test Option - 3 - Creatinine:28.9 mg/dL	Y	Y		
06/04/2019	00:15	Specimen # 210642169 - Negative - Test Option - 3 - Creatinine:12.2 mg/dL	Y	Y	**Result Notes:** SPECIFIC GRAVITY:1.0033 CREATININE:12.2 mg/dL	

Row Count: 50

Villareal, Sidney@DCA

From: Shanna <[redacted]
Sent: Monday, November 30, 2015 7:32 PM
To: Pabla, Jaspreet@DCA
Subject: Drug testing

This is my documentation of today's events at Urgent care in Monterey.
I signed in at the office to submit my sample at 1:20.
Went in to restroom with Tana (observer 1) to submit urine sample and missed the cup for the first half of my urine stream. Did not have enough sample then to fill up the split sample cups.
Went back to an exam room. Drank ~8oz water and waited for 30 minutes.
Went back to restroom with Tana and tried to submit sample, this time it wasn't nearly enough.
I then went back and waited another 45 minutes and then tried to submit another sample with Maria G (observer 2) it was almost enough to fill both sample cups but didn't reach the line so the observer poured it out.
I then called Phamatech and they said the employees at urgent care were following the protocol and that's all they could do. I then called Ms Pabla and she said to document the events.
I needed to get back to work I had already taken a 2 hour lunch and was needed at work.
I'm very sorry this happened I will make sure to drink plenty and not miss the cup in the future (if today's incident didn't ruin my opportunity).

Shanna Tungloong
11/30/15

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

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Veterinary Medical Board
1747 N. Market Blvd., Suite 230, Sacramento, CA 95834
Telephone: 916-515-5220 Fax: 916-928-6849 | www.vmb.ca.gov

Regular & Certified Mail

April 15, 2016

Shanna Tungloong
1023 Austin Ave.
Pacific Grove, CA 93950

Re: Violation of Disciplinary Order

Ms. Shanna Tungloong:

This letter is a notice of violation of your disciplinary order. Pursuant to the terms of your disciplinary order, you are required to submit to biological fluid testing upon request by the Veterinary Medical Board (Board) or its designee (Phamatech).

Prior to the commencement of your probation, Phamatech provided you with instructions to login for daily notification. Per these instructions, you are required to log into a secure internet site or call into a phone system on a daily basis. If you are selected for a drug test, you must have your drug test performed that day at an approved collection site.

The Board's records indicate the following:

- You failed to login on March 27, 2016.
- After being selected, you failed to submit for testing on March 16, 2016.

The Board requires a statement from you, explaining your noncompliance with this requirement. This statement will be noted in your probationary file.

Failure to come into compliance with the terms and conditions of your disciplinary order may result in the Board seeking subsequent disciplinary action against your license including, but not limited to, the filing of a Petition to Revoke.

Please note, this is not a full audit of your probationary file, this notice is addressing only the failures to login and submit for testing, as required per your disciplinary order.

Should you have any questions regarding this matter, please contact me at (916) 515-5224.

Regards,

Ray Delaney
Enforcement Analyst
Veterinary Medical Board

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

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Veterinary Medical Board
1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834
Telephone: 916-515-5220 Fax: 916-928-6849 | www.vmb.ca.gov

DECLARATION OF SERVICE BY CERTIFIED MAIL & REGULAR MAIL

Re: Shanna Tungloong License No.: RVT 11243

I, the undersigned declare that I am over 18 years of age; my business address is 1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834. I served a true copy of the attached letter by Certified Mail on the following, by placing same in an envelope addressed as follows:

NAME AND ADDRESS
Shanna Tungloong
1023 Austin Ave
Pacific Grove, CA 93950

CERTIFIED NUMBER:
7015 0640 0003 5431 7826

Said envelope was then, on April 15, 2016, sealed and deposited in the United States Mail at 1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834, the county in which I am employed, as certified mail and regular mail with postage thereon fully prepaid, return receipt requested.

Executed on **April 15, 2016,** at Sacramento, California.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

DECLARANT:

Elizabeth Coronel
Enforcement Analyst
Veterinary Medical Board

7015 0640 0003 5431 7826

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☐ Certified Mail Restricted Delivery $
☐ Adult Signature Required $
☐ Adult Signature Restricted Delivery $
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Total Postage and Fees
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City, State, ZIP+4®
AGO 063
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

April 23rd, 2016

To whom it concerns,

This letter's purpose is to state the reasons why I violated probation.

The Boards records indicate the following:
Failed to login on march 27, 2016.
After being selected, failed to submit for testing on march 16, 2016.

I am trying my best to be compliant and call in every day. March 27th was Easter and by the days activities and celebrations, logging in for reporting that day completely escaped me. I completely forgot and I am very upset about this.

As for the failing to submit for testing, I did report and submit a urine sample to Monterey Bay Urgent Care on march 16, 2016. I am sending the Urgent Cares labs protocol paper stating that they received my sample, and my copy of the Chain of Custody Form with this letter.

I really want to successfully complete the terms of my probation so that I may attain my license.

Shanna Tungloong
License no. 11243
Tungloong
4/23/16

CHAIN OF CUSTODY FORM

PHAMATECH, INC.
15175 Innovation Dr., San Diego, CA 92128
TOLL-FREE: 1-877-635-5840

SPECIMEN ID NO. 6001904027 LAB ACCESSION NO.

STEP 1: TO BE COMPLETED BY COLLECTOR OR EMPLOYER/AGENCY REPRESENTATIVE

A. Employer Name, Address and I.D. No.

CA DEPARTMENT OF CONSUMER AFFAIRS FORM

B. Collection Site Address: [illegible]
Collection site name: [illegible]
Collection site phone: [illegible]
Collector Phone No. ( ) [illegible]
Collector Fax No. ( ) [illegible]

C. Donor SSN or Employee I.D. No. [redacted] D. Donor ID Verified By: ☒ Photo I.D. ☐ Employer Rep

E. Reason for Test: ☐ Pre-Employment ☒ Random ☐ Reasonable Suspicion/Cause ☐ Post Accident ☐ Periodic ☐ Other

STEP 2: TO BE COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100°F? ☒ Yes ☐ No, enter remarks	Specimen Collection: ☐ Single ☒ Split ☐ None Provided (Enter Remarks Below)	☒ Observed (Enter Remarks Below)

REMARKS: DNA DATA

STEP 3: TO BE COMPLETED BY COLLECTOR AND DONOR - Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor intials seal(s).

STEP 4: TO BE COMPLETED BY COLLECTOR AND DONOR

TEST(S) REQUESTED BY EMPLOYER:

ATTN COLLECTOR: DONOR PAYS COLLECTION FEE AT TIME OF COLLECTION.

PLEASE NOTE: THE COLLECTION IS OBSERVED. An observed collection is defined as # 1-3 below.

1. Removing all articles from your pockets and person.
2. Removing clothing from your ankles to above your waist.
3. Being physically observed by a collector of the same sex as the licensee, which must visually observe the urine stream leaving the body and entering the collection device. Please note that some collection sites may provide hospital type gowns to change into to make it more convenient to provide an observed specimen.

Enter Account Number: 1820C Donor Name: Tunacao, Shonna

I authorize the collection of this specimen for the purpose of a drug screen. I acknowledge that the specimen container(s) was/were sealed with tamper-proof seal(s) in my presence; and that the information provided on this form and on the label(s) affixed to the specimen container(s) is correct. I authorize the laboratory to release the results of the test to the company identified on this form or its designated agents.

Tunacao Shonna _____ / _____ / _____ / _____
(PRINT) DONOR'S NAME (LAST, FIRST, MID) SIGNATURE OF DONOR INITIAL MONTH DAY YEAR

STEP 5: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

I certify that the specimen given to me by the donor identified on this form was collected, labeled, sealed, and released to the Delivery Service noted, in accordance with applicable requirements.

X [illegible] 12:17 AM PM
Signature of Collector Time of Collection

Jaime R. Galot 07/16/16
(PRINT) Collector's Name (First, MI, Last) (Mo/Day/Yr.)

SPECIMEN BOTTLE(S) RELEASED TO: FedEx
Name of Delivery Service Transferring Specimen to Lab

RECEIVED AT LAB:

X _____
Signature of Accessioner

_____ / /
(PRINT) Accessioner's Name (First, MI, Last) (Mo/Day/Yr.)

Primary Specimen Bottle Seal Intact
☐ Yes
☐ No, Enter Remark To Right

Monterey Bay Urgent Care Visit	M.A ONLY - NOTE
Location: 245 Washington Street Monterey CA 93940	Telephone (831) 372-2273 Fax (831) 372-2295

Name	Shanna Tungloong		DOS: 03/16/2016
Date of Birth: [redacted]	Gender: Female Age: 32 Years 6 Months	Account: [redacted]	
Employer: CA DEPT OF CONSUMER AFFAIRS			

Procedures or Treatments Completed

See scanned results in Lab tab dated 03/16/2016 if checked	Documented below if checked
☒ Urine Drug Screen – Employer ☐ Express Urine Drug Screen -- Employer ☐ BAT- Employer ☐ Express Urine Drug -Personal ☐ BAT- Personal	☐ Allergy Shot ☐ Patient brought medication. Name of drug: Route: Location: Lot Number: Exp Date: Date: 03/16/2016 Time Initials:

See Immunization records dated 03/16/2016 if checked	See Pregnancy Test requisition results in Orders dated 03/16/2016 if checked
☐ Immunization ☐ Employer ☐ Personal	☐ HCG (POC Pregnancy screening)
Phlebotomy Only	
☐ Chomp ☐ Quest ☐ Hunter ☐ Other	

Notes:

Assessment/Plan:

All Orders ⊙	
Treatment ⊙ (CPT codes, E&M)	UDC Drug Screening
Diagnosis (ICD-10 codes) ⊙	Z00.00 Encounter for general adult medical examination without abnormal findings
Patient Education ⊙	
Follow Up:	☒ As needed or ☒ with Employer if services were requested by Employer Patient advised to follow-up sooner or as needed at this clinic or at an emergency department if patient develops a reaction any medication given.
Disposition:	Disposition: ☒ Home
Insert Signature: ⊙	MA Name: tgabot DOS: 03/16/2016

Employer Protocol and/or Consent

[CONSENT]

Monterey Bay Urgent Care
Patient Account History 2/15/2003 To 4/21/2016

Patient : Shanna Tungloong # MONEMP51515

03/16/16 - Summary

Charges:	21.00	
Adjs:	0.00	
Patient Payment:	21.00	[03/16/2016, Credit Card, 21.00]
Balance:	0.00	

03/16/16 - Financial Details

Service	Diagnoses	Billing Provider	Service Location	Charge Amt.	Ins.Pending	Pat.Due
UDC	Z00.00	Ronald Villemaire	Monterey Bay Urgent Care	21.00	0.00	0.00

Drug Screening

Payment Type	Amount	
Patient Payment:	21.00	[03/16/2016, Credit Card, 21.00]

Totals	Charges	Pat. Pmts.	Ins. Pmts.	Adjs.	Balance	Ins.Pending	Pat.Due
	21.00	21.00	0.00	0.00	0.00	0.00	0.00

Villareal, Sidney@DCA

From: Hayes, Catherine@DCA
Sent: Saturday, July 21, 2018 11:56 AM
To: Villareal, Sidney@DCA
Subject: Fwd: Testing

Not sure if you got this or not.

Catherine

Sent from my iPad

Begin forwarded message:

> **From:** Shanna [redacted]
> **Date:** July 21, 2018 at 12:18:18 AM PDT
> **To:** "Hayes," <catherine.hayes@dca.ca.gov>
> **Subject: Testing**
>
> Hi Catherine,
> I've been selected for testing tomorrow but I have my mandatory continuing education for my rvt license tomorrow and then directly after I have to get to work. I registered for this event 2 weeks ago. Could I possibly makeup the testing another time? I can provide verification of my CE credits and my work hours if needed.
> Thank you
> Shanna Tungloong

Villareal, Sidney@DCA

From: Shanna [redacted]
Sent: Wednesday, August 22, 2018 10:45 AM
To: DCA, Probation VMB@DCA
Subject: Documents
Attachments: PDFMailer.pdf

I actually attended 12 hrs.
Here's my time clock for that day, July 21st. When I couldn't test.

T-Mobile Wi-Fi
10:43 AM
59%
online3.timeanywhere.com
NOVAtimeAnywhere
Date
Pay Code
In
Out
07/18/2018 0[WORK HOURS] 02:04 PM 12:05 AM
07/19/2018 0[WORK HOURS] 01:46 PM 11:47 PM
07/20/2018 42[VOL SHRT SHFT U]
07/20/2018 0[WORK HOURS] 01:57 PM 08:17 PM
07/21/2018 42[VOL SHRT SHFT U]
07/21/2018 0[WORK HOURS] 01:38 PM 11:04 PM
07/23/2018 42[VOL SHRT SHFT U]
07/23/2018 0[WORK HOURS] 01:59 PM 11:14 PM
07/25/2018 0[WORK HOURS] 01:59 PM 12:21 AM
07/26/2018 42[VOL SHRT SHFT U]
07/26/2018 0[WORK HOURS] 02:07 PM 11:03 PM
07/27/2018 0[WORK HOURS] 01:45 PM 12:15 AM
07/28/2018 42[VOL SHRT SHFT U]

UNIVERSITY OF CALIFORNIA, DAVIS

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SCHOOL OF VETERINARY MEDICINE
CENTER FOR CONTINUING PROFESSIONAL EDUCATION
ONE SHIELDS AVENUE
DAVIS, CA 95616
Tel (530) 752- 3905
http://www.vetmed.ucdavis.edu/CE/

THIS IS TO CERTIFY THAT

Shanna Tungloong

(ATTENDEE)

ATTENDED THE
BACK TO SCHOOL RVT/VETERINARY TECHNICAN/ASSISTANT CE SEMINAR
ON **JULY 21-22, 2018**
AT GLADYS VALLEY HALL,
UC DAVIS SCHOOL OF VETERINARY MEDICINE

THIS PROGRAM HAS BEEN REVIEWED AND ASSIGNED UP TO 16 HOURS OF SCIENTIFIC CONTINUING EDUCATION CREDIT BY THE SCHOOL OF VETERINARY MEDICINE.

JODI L. WESTROPP, DVM, PhD, DACVIM
DIRECTOR, CENTER FOR CONTINUING
PROFESSIONAL EDUCATION

PLEASE NOTE:
VETERINARY MEDICAL ETHICS AND STATE LICENSING AUTHORITIES
REQUIRE YOU TO ONLY CLAIM THE HOURS YOU ACTUALLY ATTENDED

NUMBER OF HOURS ACTUALLY ATTENDED_____

Veterinary Medical Board
1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834
Telephone: 916-515-5220 Fax: 916-928-6849 | www.vmb.ca.gov

November 7, 2018

VIOLATION LETTER

Shanna Tungloong, RVT
4501 Snell Ave., Apt 2215
San Jose, CA 95136

RE: DILUTE TEST RESULTS

Dear Ms. Tungloong:

This letter is to inform you that you are currently in noncompliance with your probation Order. On two occasions, (specifically 10/19/2018 and 10/23/2018) FirstSource Solutions reported to the Board that your biological fluid specimens tested as a "dilute".

When a specimen tests negative for all drugs and when that specimen is also "dilute", a concern exists about the accuracy of the test result. As urine concentration decreases so does the concentration of the drugs that are being tested for in that specimen. This decreases the likelihood of those drugs being found by the laboratory. This ultimately puts the validity of the test at risk.

Please provide the Board with a detailed explanation by **November 19, 2018**, regarding these dilute tests. Failure to comply with the terms and conditions of your probationary order may result in the Board seeking subsequent disciplinary action against your license including, but not limited to, the filing of a Petition to Revoke your probation.

If you have any questions or concerns about these violations, please contact me at (916) 515-5244 or by email at Sidney.Villareal@dca.ca.gov .

Sincerely,

Sidney Villareal

Sidney Villareal
Probation Monitor

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL
(Separate Mailings)

Case Name: Shanna Tungloong, RVT
Case No: IA 2013 26

I declare:

I, the undersigned, am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Veterinary Medical Board for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Veterinary Medical Board is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On November 7, 2018, I served the attached Violation Letter by placing a true copy thereof enclosed in a sealed envelope as certified mail with return receipt requested, and another true copy of the Violation Letter was enclosed in a second sealed envelope as first-class mail in the internal mail collection system at the Veterinary Medical Board at 1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834, addressed as follows:

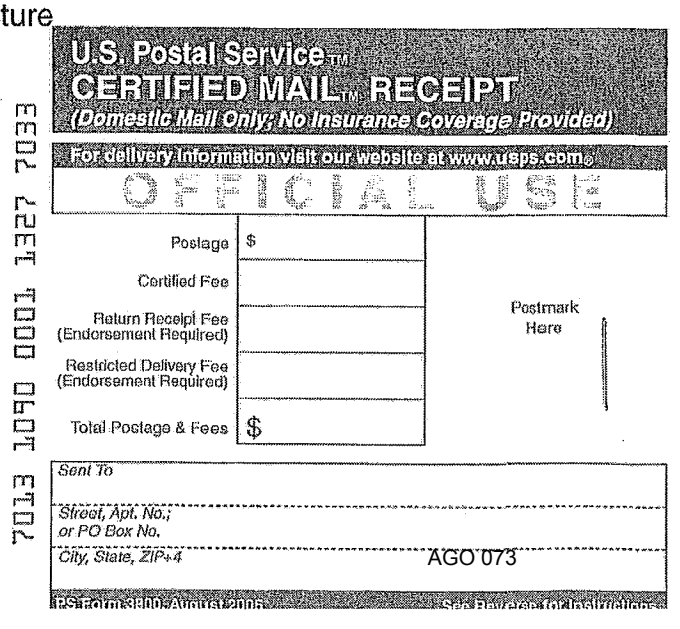
Shanna Tungloong, RVT
4501 Snell Ave., Apt 2215
San Jose, CA 95136

Certified Article No.: 7013 1090 0001 1327 7033

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct, and that this declaration was executed on November 7, 2018, at Sacramento, California,

Sidney Villareal
Declarant

Sidney Villareal
Signature



Villareal, Sidney@DCA

From: Shanna <[redacted]
Sent: Wednesday, November 14, 2018 10:26 AM
To: DCA, Probation VMB@DCA
Subject: Fwd: Probation violation

> Dear Veterinary Medical Board,
>
> I received a letter informing me of two instances in which my urine tested too dilute. This letter is intended to provide an explanation of the circumstances surrounding those dilute tests, in order to help determine why they may have been too dilute.
>
> Here is a description of my routine on days when I have to test:
> I wake up and call the testing facilities first thing, since I work swing shift (2pm-12am) and wake up later in the day. Then, I have my first cup of coffee, urinate, shower, refill my coffee cup, finish my hair, and makeup. Then I urinate once more and leave the house to go straight to the testing facility. Usually I drink water on my way there because I want to make sure to be able to produce enough urine for the required sample. Then I get there and provide the sample.
>
> This is the same routine that I have followed since having my current schedule, which has been since the beginning of 2017.
>
> A dilute test has never happened before and I don't understand why my typical routine has yielded a more dilute sample than usual. I would like to avoid having dilute tests in the future and am willing to alter my routine in order to avoid this occurring again. I have been working very hard to fulfill the terms of my probation and want to complete my probation term successfully.
>
> Please inform me with any suggestions you may have.
>
> Thank you for your time and consideration.
>
> Sincerely,
> Shanna Tungloong