



# MEMORANDUM

<b>DATE</b>	October 8, 2020
<b>TO</b>	Veterinary Medical Board
<b>FROM</b>	Karen Halbo, Regulatory Counsel, Attorney III, Department of Consumer Affairs (DCA) Justin Sotelo, Lead Administrative & Policy Analyst
<b>SUBJECT</b>	<b>Agenda Item 9A. Status Update on Pending Regulations</b>

The Veterinary Medical Board (Board) currently has 20 rulemaking packages that are pending the regulatory process. Ten of those packages have been submitted to DCA and are in various stages of the initial or final phase of the process, as identified in the attached document. The remaining ten packages are pending Board approval or further development from Board staff before submission.

Changes in the status of rulemaking packages since July 2020 are provided below:

**Criminal Conviction Substantial Relationship and Rehabilitation Criteria (AB 2138 (Chiu, Ch. 995, Stats. 2018)) – Pending Final Approval from Department of Finance (DOF) and Office of Administrative Law (OAL)**

**California Code of Regulations (CCR), Title 16, Sections: [2040](#), [2041](#)**

On June 11, 2020, the resubmission rulemaking package was submitted to OAL for final approval. On June 16, 2020, the Std. 399 Form (Economic and Fiscal Impact Statement) was submitted to DOF for final approval. In mid-July, Board staff worked with the DCA Budget Office to address revisions on the Std. 399 Form per DOF’s request. On July 22, 2020, OAL notified Board staff that they had completed their review of the resubmission rulemaking package; however, final approval from DOF is needed in order for OAL to approve the package. In late July and August, Board staff and DCA Budget Office were again asked to make additional revisions to the Std. 399 Form per DOF’s request. On September 16, 2020, the Business, Consumer Services, and Housing Agency (Agency) reapproved the Std. 399 Form, and it was resubmitted to DOF on that same date. Once the Board receives final approval from DOF, it can complete the final approval process with OAL.

**Fee Schedule Certificate of Compliance – Published by OAL; Public Hearing Scheduled; Concurrently Proceeding with Emergency Readoption Process**

**CCR, Title 16, Sections: [2070](#), [2071](#)**

For the Fee Schedule Certificate of Compliance package, the Board was able to invoke Governor Gavin Newsom's COVID-19 related Executive Orders, [N-40-20](#) and [N-66-20](#), which extended Administrative Procedure Act deadlines by a total of 120 additional days. The package was approved by the DCA Regulations Unit and Budget Office in late July and submitted to the DCA Director on July 23, 2020. On August 1, 2020, the package was approved by the DCA Director and submitted to Agency on August 5, 2020. In late August, revisions were made to the Initial Statement of Reasons and Std. 399 per Agency's request. On September 14, 2020, the package was approved by Agency. On September 15, 2020, the package was submitted to OAL and [published](#) on September 25, 2020; a public hearing was requested. The 45-day public comment period closes on November 9, 2020, and the public hearing is scheduled for November 10, 2020. On September 23, 2020, given that the Certificate of Compliance deadline is November 24, 2020, OAL recommended that the Board submit a re-adoption of the emergency regulations. An emergency re-adoption would extend the effective date of the Board's emergency regulations by 90 days, plus two additional 60-day extensions per the Governor Executive Orders cited above, giving the Board additional time to submit the Certificate of Compliance package. While the Board is proceeding with the original Certificate of Compliance package, staff will concurrently proceed with the emergency re-adoption process.

**Animal Physical Rehabilitation – Public Hearing Held on August 13, 2020; Proposed Responses to 45-Day Public Comments Approved by Board; Proposed Responses to Outstanding Comments and Public Hearing Testimony to be Considered by Board**

**CCR, Title 16, Section: [2038.5](#)**

On August 13, 2020, the Board held a public hearing; additional written comments and oral testimony were received. The Board also approved proposed responses to written comments received during the 45-day public comment period. Any outstanding or new substantive comments received during the public hearing will be addressed by the Board on October 22, 2020.

**Veterinarian-Client-Patient Relationships (VCPRs) – 45-Day Public Comment Period Closed; Board to Consider Comment Received**

**CCR, Title 16, Sections: [2032.15](#), [2032.25](#)**

On July 20, 2020, the 45-day public comment period closed; a letter of support with conditions was received. The Board will review and consider that letter on October 22, 2020. If no action is required, Board staff will proceed with preparing the Final Statement of Reasons (FSR) and final rulemaking package.

**RVT Job Tasks – 15-Day Public Comment Period Closed (for Modified Text); Staff Preparing Final Rulemaking Package**

**CCR, Title 16, Section: [2036](#)**

On July 20, 2020, the 45-day public comment period closed; no comments in opposition to the regulatory proposal were received. On [July 23, 2020](#), the Board considered and approved modified regulatory text regarding drug compounding. On August 12, 2020, the modified text was noticed for 15 days, and the comment period closed on August 27, 2020; no comments in opposition to the modified text were received. Board staff is preparing the final rulemaking package for review and approval by DCA, Agency, and OAL.

**RVT Emergency Animal Care – 45-Day Public Comment Period Closed; Board to Consider Comment Received**

**CCR, Title 16, Section: [2069](#)**

On July 20, 2020, the 45-day public comment period closed; one comment with concerns was received. The Board will consider that comment on October 22, 2020. If no action is required, Board staff will proceed with preparing the final rulemaking package for review and approval by DCA, Agency, and OAL.

**Duties of a Supervising Veterinarian – 45-Day Public Comment Period Closed; Delegated back to Multidisciplinary Advisory Committee (MDC) for Recommendation**

**CCR, Title 16, Section: [2035](#)**

On August 3, 2020, the 45-day public comment period closed; no comments were received. On August 13, 2020, the Board voted to delegate the proposed language back to the MDC to discuss concerns raised by Agency related to terminology used in the proposed language. Additionally, concerns were raised regarding the necessity of the rulemaking package. Upon further review, Board staff, legal counsel, and the Board's Deputy Attorney General liaison do not believe the rulemaking is necessary for consumer protection. The MDC will discuss this item on October 21, 2020, and make a recommendation.

## **Drug Compounding – 45-Day Public Comment Period Closed; Board to Consider Comment Received and Other Possible Modifications**

### **CCR, Title 16, Sections: [2090-2095](#)**

On July 17, 2020, the rulemaking package was [published](#) by OAL. On August 31, 2020, the 45-day public comment closed; a letter with recommendations was received. The Board will consider the letter and discuss other possible modifications to the regulatory language on October 22, 2020 (re: flavoring agents and revisions requested by the DCA Regulations Unit).

## **Disciplinary Guidelines – 45-Day Public Comment Period Closed; Board to Consider Additional Minor Modifications**

### **CCR, Title 16, Section: [2006](#)**

On July 17, 2020, the rulemaking package was [published](#) by OAL. On August 31, 2020, the 45-day public comment closed; no comments were received. The Board will consider additional minor modifications to the Disciplinary Guidelines on October 22, 2020.

## **RVT Education – Modified Text Approved by Board; Staff to Resubmit for Agency Approval**

### **CCR Sections: 2036.1, [2064](#), [2065](#), 2065.1, 2065.2, [2065.6](#), [2065.7](#), [2065.8](#), [2066](#), [2068.5](#)**

The original rulemaking package was approved by Agency on July 6, 2020. On [July 23, 2020](#), the Board approved modified regulatory language regarding the five-year expiration of education and experience credits. Board staff is revising the regulatory documents to reflect the modified language to resubmit for Agency approval and OAL publication.

## **Application After Failing Examination – Approved by Board; Staff to Prepare and Submit Initial Rulemaking Package**

### **CCR, Title 16, Section: [2010](#)**

The regulatory proposal was approved by the Board at the [July 23, 2020](#) meeting. Board staff will prepare the necessary documents so that the initial rulemaking package can be submitted to DCA for review.

**Limited Term RVT Examination Eligibility Window – Approved by Board; Staff to Prepare and Submit Section 100 Submittal**

**CCR, Title 16, Section: [2068.7](#)**

The regulatory proposal was approved by the Board at the [July 23, 2020](#) meeting. Board staff will prepare the necessary documents so that the Section 100 submittal can be submitted to DCA for review.

**Eligibility Evaluation – National Veterinarian Examination – Pending Board Review and Approval**

**CCR, Title 16, Section: [2010.1](#)**

The regulatory proposal is pending Board review and approval at the October 22, 2020 meeting.

**Attachment:**

1. Status of Pending VMB Regulations – Updated October 8, 2020

**Status of Pending VMB Regulations**

Rulemaking Title	Current Status	INITIAL PHASE										FINAL PHASE					
		Concept Date(s)	Board Approval	Submitted to DCA for PRE-Review	Submitted to DCA for INITIAL Review	DCA Director Approval	Submitted to Agency/ Agency Approval	Notice Submitted to OAL/ Notice Published by OAL	45-Day Comment Period	Public Hearing (Optional)	15-Day Comment Period (Modified Text), if applicable	Submitted to DCA for FINAL Review	FINAL DCA Director Approval	Submitted to Agency/ FINAL Agency Approval	Submitted to DOF/ DOF Approval	Submitted to OAL/ OAL Approval	Effective Date
Criminal Conviction Substantial Relationship and Rehabilitation Criteria (AB 2138)	Pending DOF and OAL Final Approval	1/8/19	1/23/19 1/30/20 (Modified Text)	-	2/13/19	5/1/19	5/3/19 6/13/19	6/17/19 6/28/19	6/28/19 - 8/12/19	N/A	2/10/20 - 2/25/20 (Resubmittal)	8/14/19 3/3/20 (Resubmittal)	8/26/19 3/23/20 (Resubmittal)	8/28/19 10/1/19 3/10/20 5/27/20 (Resubmittal)	10/3/19 6/16/20 (Resubmittal)	10/9/19 11/20/19 (Withdrawn) 6/11/20 (Resubmittal)	
Fee Schedule Certificate of Compliance	45-Day Comment Period closes 11/9/20; Public Hearing scheduled for 11/10/20; concurrently proceeding w/ Emergency Re-adoption Process		4/23/20 (Revised Text)	3/12/20	6/16/20 7/9/20	8/1/20	8/5/20 9/14/20	9/15/20 9/25/20	9/25/20 - 11/9/20	11/10/20							
Disciplinary Guidelines	45-Day Comment Period closed on 8/31/20; Board to consider minor modifications on 10/22/20	1/20/15	7/2015 10/2015 1/2017 4/2017 11/2018 10/22/20 (Modifications to be considered)	-	3/26/19	4/20/20	4/27/20 6/30/20	7/6/20 7/17/20	7/17/20 - 8/31/20	N/A	After 10/22/20						
RVT Education	Revised Text was approved on 7/23/20; Board staff revising regulatory docs for Agency reapproval	10/20/14	7/26/17 8/29/18 7/23/20 (Revised Text)	-	3/26/19	5/30/20	6/5/20 7/6/20										
Animal Physical Rehabilitation	Public Hearing held on 8/13/20; Board approved responses to comments received during 45-Day Comment Period; Board to review revised responses on 10/22/20	Beginning in 2011	10/18/17	-	3/27/19	1/21/20	1/23/20 3/2/20	3/3/20 3/13/20	3/13/20 - 4/27/20	8/13/20							
Drug Compounding	Board to consider modifications and letter with recommendations on 10/22/20	10/20/14	10/18/17 10/10/19 1/30/20 10/22/20 (Modified Text to be considered)	-	3/27/19	3/22/20	4/20/20 6/23/20	6/30/20 7/17/20	7/17/20 - 8/31/20 (1 letter with recommendations received)	N/A	After 10/22/20						

**Red Text** = Updates since last meeting

= Completed

= Current Status/ Pending



