



MEMORANDUM

DATE	October 15, 2020
TO	Veterinary Medical Board
FROM	Justin Sotelo, Lead Administrative & Policy Analyst
SUBJECT	Agenda Item 9.D. Sections 2032.15 and 2032.25, Article 4, Division 20, Title 16 of the CCR Regarding Veterinarian-Client-Patient Relationship in Absence of Client Communication and Written Prescriptions in Absence of Originally Prescribing Veterinarian

Background

The Board's Veterinarian-Client-Patient Relationship (VCPR) regulatory proposal was originally included in the 2014 Telemedicine and Minimum Standards proposal, but was separated from that proposal and re-presented to the Board at its August 2018 meeting, where additional changes were approved. On April 10, 2019, the regulatory package was submitted to the Department of Consumer Affairs (DCA) for concurrent review by the Legal Affairs Division and Budget Office. On March 13, 2020, the package was submitted to the DCA Director and approved on April 1, 2020. On April 2, 2020, the package was submitted to the Business, Consumer Services, and Housing Agency (Agency) and approved on May 18, 2020. The package was then submitted to the Office of Administrative Law (OAL) on May 26, 2020, and [published](#) on June 5, 2020. The 45-day public comment period closed on July 20, 2020.

During the 45-day public comment period, the Board received three written comments: one letter in support with conditions (**Attachment 1**); and two letters in support (**Attachment 2**). While the Administrative Procedure Act (APA) does not require the Board to review or respond to letters of support during the final rulemaking process, the letter of support with conditions raises concern with statements made in the [Initial Statement of Reasons \(ISR\)](#), but not with the actual [text](#) of the proposed regulation. Accordingly, the Board is asked to review the concerns raised.

Letter of Support with Conditions

In their letter of support with conditions, the California Association of Animal Physical Therapists (CAAPT) and the Animal Physical Therapy Coalition (APTC) raise concern of the potential for the proposed regulations to "serve as a barrier to future regulation/legislation as it relates to a veterinarian making a referral/provide medical

clearance to allow another qualified non-vet professional to provide rehabilitative services for animals under veterinary indirect supervision at another location.” (See **Attachment 1**.) CAAPT/APTC assert that statements in the ISR regarding transfer of the animal patient from one clinic for veterinary care at a different location and the limited extension of the VCPR to only a designated veterinarian at the same location where the medical records are kept may affect the veterinarian’s ability to provide medical clearance and use the VCPR at one location to allow for veterinary indirect supervision of animal rehabilitation services performed at another location by a qualified physical therapist.

CAAPT/APTC highlight this issue because of the Board’s past discussions of the VCPR and premises registration requirements that may be used to disallow the transfer of rehabilitation care and services to a qualified physical therapist at another location. CAAPT/APTC express their hope that the regulatory proposal will not be used in the future as a barrier to new regulatory changes as they relate to constructing a framework to allow animal rehabilitation to be performed under indirect veterinary supervision by a physical therapist at another location. CAAPT/APTC assert that exemption language may be necessary in the future to allow for the safe access of a wider array of services so more animals can get the care they need, where they need it. CAAPT/APTC contend that an onsite VCPR and/or veterinary premises registration should not serve as the barrier for common sense change in the future as it relates to animal rehabilitation services.

Board Response

CAAPT/APTC has not submitted objections to or recommendations on the regulatory proposal. Rather, CAAPT/APTC raise concerns with how the proposal may affect future legislation or Board regulation that may authorize a California licensed veterinarian to refer an animal patient to a qualified physical therapist to perform animal rehabilitation services under indirect supervision. As such, it appears no modifications to the proposed regulatory text are necessary to resolve CAAPT/APTC’s concerns.

CAAPT/APTC has expressed concern with statements made in the ISR. Although the APA does not require the Board to respond to letters in support of a proposed rulemaking, the Board may wish to include in its FSR the following response to the concerns raised:

Proposed Response: To diagnose, prescribe, dispense, or furnish a drug, medicine, appliance, or treatment for an animal patient, a California licensed veterinarian must establish and maintain a VCPR. (Business and Professions Code (BPC) §§ [4826](#), [4830](#), subd. (a)(2); California Code of Regulations (CCR), title 16,¹ § [2032.1](#).) No person may diagnose, administer a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of an animal unless they are a California

¹ All further references to the CCR refer to title 16.

licensed veterinarian or supervised by a California licensed veterinarian. (BPC § [4826](#).)

If a veterinarian refers an animal patient to a secondary veterinarian, the secondary veterinarian must establish a new VCPR with the animal patient. This requirement is established in CCR section [2032.1](#), which requires the client to authorize the veterinarian to assume responsibility for making medical judgments regarding the health of the animal, including the need for medical treatment, the veterinarian has sufficient knowledge of the animal to initiate a general or preliminary diagnosis of the medical condition of the animal, and 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. However, the VCPR may continue to exist under CCR section [2032.15](#) when the original veterinarian is absent and designates another veterinarian to serve the animal patient, as specified.

There is no statutory provision authorizing a California licensed veterinarian to refer an animal patient for rehabilitation treatment to be performed by a physical therapist, and a physical therapist who is not a licensed veterinarian cannot establish a VCPR.

This regulatory proposal clarifies situations where the client seeks medical treatment for the animal patient, but the original veterinarian is unavailable. As described in greater detail in the [ISR](#), the proposal would clarify the ability of a designated veterinarian to prescribe, dispense, and furnish medications on the basis of the VCPR established by the original veterinarian, restructure the existing regulation to address circumstances when the client and animal patient are traveling and in need of emergency medication, and circumstances when the original prescribing veterinarian is unavailable to authorize a refill.

If legislation is enacted by the California State Legislature that may conflict with this proposal, the statutory provisions would override the regulatory provision in conflict with the statute. At that time, the Board could review and amend the conflicting regulations. However, the Board currently does not have the ability to authorize a physical therapist to perform animal rehabilitation services under indirect supervision at a location separate from the supervising veterinarian who established the VCPR.

Proposed Modifications to Regulatory Text

This proposal was the result of a review by the Multidisciplinary Advisory Committee (MDC) of issues surrounding telemedicine in 2014. Initially, the MDC's telemedicine proposal would have prohibited the practice of telemedicine. However, that initial concept was reviewed and revised multiple times by the MDC and Board, and, as of January 1, 2020, telemedicine may be conducted within an existing VCPR.

During the MDC's discussion of telemedicine issues, they determined revisions to the VCPR regulations regarding designated veterinarians also were necessary to address these issues. Discussion of the existence of the VCPR in the absence of the original

veterinarian centered on limiting the VCPR extension to only veterinarians serving at the same location where the animal patient's medical records were kept. As described in the October 20, 2014 MDC [meeting materials](#), the MDC sought to address potential misuse of the VCPR regulations by a designated veterinarian who was located at a remote location, had not examined the animal patient, and changed the diagnosis and treatment plan without ever being physically present with the animal.

To prohibit misuse of the VCPR by a designated veterinarian, the current proposal would require the designated veterinarian to be located where the medical records are kept or working in the same practice as the original prescribing veterinarian. (Prop. CCR §§ 2032.15, subs. (a)(1), 2032.25, subs. (b)(2).) However, this language may be unnecessary and potentially creates more confusion.

In recent years, veterinary practices have expanded beyond one location, and veterinarians may be providing animal health care services at multiple veterinary premises. Those practices frequently utilize electronic software that provides access to electronic medical records at one location but uploaded from a different location. If the client calls one location associated with the original veterinarian but that is different from the location where the VCPR was established, the rulemaking proposal may not clearly accommodate these situations. This is a concern, especially given the recent wildfires that may destroy the veterinary premises where the VCPR was established, requiring the client to contact another veterinary premises associated with the original veterinarian for medication refills.

Notably, CCR section [2032.15](#) provides an extension of the VCPR in the absence of client communication. This presumes the client has not presented the animal patient to the designated veterinarian for examination. As such, it appears the original intent of this regulation was to allow the client to call in to the veterinary premises where the original veterinarian practices and get a prescription refill or other medical treatment, as specified in the regulation. The regulation also requires the designated veterinarian to have sufficient knowledge of the animal's medical condition. If the original veterinarian has designated another veterinarian to provide continued medical treatment to the animal patient, the original veterinarian should ensure the designated veterinarian has access to the animal patient's medical records.

The resolution of the issue of access to the patient's medical records is continued in CCR section [2032.25](#), which currently requires a designated veterinarian who authorizes a prescription refill to be in possession of and review the animal patient's records, and enter the prescription refill in the animal patient's records. As noted above, veterinary practices are expanding their use of electronic medical records and making them accessible at multiple locations. It appears the regulations currently contain sufficient protection to ensure the designated veterinarian has access to and reviews the patient's medical records for the limited purpose of serving in the absence of the original veterinarian.

Further, given the COVID-19 pandemic and greater need for telemedicine, the proposed regulations should be reviewed in terms of their utility for clients needing more access to veterinary care.

To address the potential confusion as to the utility of the proposal by a designated veterinarian who works with the original veterinarian but at a location different from where the VCPR was established, and to reduce the potential negative effect on access to veterinary care, the Board may wish to consider modifying the proposal as follows:

Proposed Text Modifications:

1. Proposed CCR section 2032.15, subsection (a)(1), strike the phrase “at the same location where the medical records are kept”
2. Proposed CCR section 2032.25, subsection (b)(2), strike the phrase “, and the veterinarian authorizing the refill was working in the same practice as the original prescribing veterinarian,”

It is important to note that if after the proposal is enacted, the Board determines that the VCPR regulations are being misused and negatively affecting animal patient care, the Board could review the regulations at that time for potential amendments.

Action Requested

The Board is asked to consider and approve the proposed response to the written comment received during the 45-day public comment period, and direct staff to incorporate the response into the FSR when proceeding with the final rulemaking package.

Additionally, the Board is asked to review and consider a motion to approve the proposed Modified Text for a 15-day comment period and, if there are no adverse comments received during that 15-day public comment period, delegate to the Executive Officer the authority to adopt the proposed regulatory changes, as modified, and also delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.

Attachments:

1. Letter in Support (with conditions) from Karen Atlas, PT, MPT, CCRT on behalf of the California Association of Animal Physical Therapists and the Animal Physical Therapy Coalition
2. Letters in Support from: (1) Bryan D. Halteman, President, DVM, MBA, on behalf of the California Veterinary Medical Association; and (2) Nancy Ehrlich, RVT, Regulatory/Legislative Advocate on behalf of the California Registered Veterinary Technicians Association
3. [Notice of Proposed Changes](#)
4. [Initial Statement of Reasons](#)
5. [Proposed Language](#)
6. Modified Text



July 20, 2020

Justin Sotelo, Lead Administrative & Policy Analyst
 Timothy Rodda, Administration/Licensing Manager
 Veterinary Medical Board
 1747 North Market Blvd., Suite 230
 Sacramento, CA 95834

Re: Comment expressing Support* (with conditions) to VMB's Proposed Regulatory Action Concerning: Veterinarian-Client-Patient Relationship in Absence of Client Communications, § 2032.15
 Written Prescriptions in Absence of Originally Prescribing Veterinarian, § 2032.25

Dear Mr. Sotelo and Mr. Rodda:

On behalf of the California Association of Animal Physical Therapists (CAAPT) and the Animal Physical Therapy Coalition (APTC), I am writing to express our SUPPORT* (with conditions) of the proposed regulatory changes to clarify the terms and conditions as they relate to the veterinarian-client-patient relationship (VCPR). It is our understanding that this clarifying language is necessary for when *medical care* is transferred to another veterinarian at the same location as where medical records are kept. While understanding this need for clarification of a VCPR for *medical services*, this should in no way serve as a barrier to future regulation/legislation as it relates to a veterinarian making a referral/provide medical clearance to allow another qualified non-vet professional to provide *rehabilitative services* for animals under veterinary indirect supervision at another location.

We understand that the main purpose of this regulation is to fill the unintended gap that could be improperly used for telemedicine. However, there was mention by the Board's Multidisciplinary Advisory Committee within the Initial Statement of Reasons (ISR) that gives us pause for our full support.

Specifically, the ISR included the following narrative:

In addition, the MDC expressed concern in situations where the animal patient is transferred from one clinic to another clinic (e.g., the animal is transferred from a general clinic to a specialty clinic for treatment). The MDC determined that appropriate animal care requires examination and establishing a VCPR. Accordingly, if the animal patient is transferred to another clinic, the original VCPR established at the first clinic should not transfer to veterinary care at a different location. To resolve the issue of animal transfer

and VCPR requirements, the regulation would limit extension of the VCPR to a Attachment 1 designated veterinarian at the same location where the medical records are kept.

*The reason we take pause for concern is due to the potential unintended consequences affecting the creation of future regulations affecting the veterinarian's ability to provide medical clearance and use their VCPR at one location to allow for veterinary indirect supervision of animal rehabilitation services at another location performed by a qualified physical therapist who has undergone advanced training specifically on animals.

The matter of legislating and regulating animal physical therapy/animal physical rehabilitation has been a long, contentious, and unresolved issue with this Board. On several occasions, they have suggested that because of the VCPR requirement and premise permit mandate, that rehabilitative services (though not yet defined in regulation or statute) cannot be performed in the absence of an onsite veterinarian. We are concerned that this regulation will cause a barrier to codify the recommendations made by the legislatively-mandated VMB's Animal Physical Rehabilitation Stakeholder's Task Force namely:

California licensed physical therapists with advanced certification in Animal Physical Rehabilitation (with such certification to be defined by the Veterinary Medical Board and the Physical Therapy Board working cooperatively) may provide Animal Physical Rehabilitation under the degree of supervision to be determined by the veterinarian who has established a veterinarian-client-patient relationship on a veterinary premises or an Animal Physical Rehabilitation Premises (as defined in regulation by the Veterinary Medical Board and the Physical Therapy Board working cooperatively), or a range setting.

We highlight this matter because this Board has discussed in the past that the VCPR requirement and premise permit requirement may be used to disallow the transfer of rehab care and services to a qualified physical therapist at another location. We are hopeful that this regulatory change will not be used in the future as a barrier to new regulatory changes as they relate to constructing a framework to allow animal rehabilitation to occur under indirect veterinary supervision at different location by another qualified non-vet practitioner.

In short, we support the creation of the VMB's proposed regulatory change provided it will not be used later to serve as a barrier to access to qualified animal physical therapists. Consumers have been asking for more access to qualified PT's for their pets for years, so if enacted, then exemption language may be necessary in future to allow for the safe access of a wider array of services so more animals can get the care they need, where they need it. An onsite VCPR and/or veterinary premise permit should not serve as the barrier for common sense change in the future as it relates to animal rehabilitation services.

Sincerely,



Karen Atlas, PT, MPT, CCRT
3208 State Street
Santa Barbara, CA 93105

President: California Association of Animal Physical Therapists (CAAPT)
Animal Physical Therapy Coalition (APTC)

Attachment 1

Past-Member: California Veterinary Medical Board's Animal Physical Rehabilitation Stakeholder's Task Force

Cc: Kimberly Kirchmeyer, Director, California Department of Consumer Affairs
Jessica Sieferman, Executive Officer, California Veterinary Medical Board
California Veterinary Medical Board Members

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June 10, 2020

Justin Sotelo
Veterinary Medical Board
1747 North Market Blvd., Suite 230
Sacramento, CA 95834

RE: Comments on Proposed Regulations
CCR 16, Sections 2032.15 and 2032.25

The California Veterinary Medical Association, representing over 7,800 veterinary professionals in the state, including veterinarians, registered veterinary technicians, and veterinary students, supports the proposed regulatory amendments to the California Code of Regulations, Title 16, Sections 2032.15 and 2032.25 regarding the Veterinarian-Client-Patient Relationship (VCPR) in the absence of client communication or the originally prescribing veterinarian.

The CVMA has fielded numerous inquiries from members who find the existing regulations confusing. The CVMA appreciates the VMB's efforts to clarify these regulations.

Sincerely,



Bryan D. Halteman, DVM MBA
CVMA President

CaRVTA<info@carvta.org>
Mon 6/15/2020 1:02 PM

To:

- Sotelo, Justin@DCA

June 15, 2020

Veterinary Medical Board
1747 N Market Blvd. Ste 230
Sacramento CA 95834

re: Support for Proposed Changes to VCPR

Dear VMB:

I am writing on behalf of the California Registered Veterinary Technicians Association in support of the proposed changes to Sections 2032.15 & 2032.25 of the California Veterinary Medicine Practice Act.

The proposed changes will benefit our animal patients by allowing veterinarians to prescribe needed medication in the absence of the original prescribing veterinarian.

Yours truly,
Nancy Ehrlich, RVT
Regulatory/Legislative Advocate, CaRVTA

**TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 20. VETERINARY MEDICAL BOARD**

**NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
Veterinarian-Client-Patient Relationship in Absence of Client Communications, § 2032.15
Written Prescriptions in Absence of Originally Prescribing Veterinarian, § 2032.25**

NOTICE IS HEREBY GIVEN that the Veterinary Medical Board (Board) is proposing to take the action described in the Informative Digest.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" in this notice.

WRITTEN COMMENT PERIOD

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Person" in this Notice, must be **received by the Board at its office no later than July 20, 2020**, or must be received by the Board at the hearing, should one be scheduled.

AVAILABILITY OF MODIFICATIONS

The Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by section 4808 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC section 4883, the Board is considering amending sections 2032.15 and 2032.25 of article 4 of division 20 of title 16 of the California Code of Regulations (CCR)¹.

INFORMATIVE DIGEST

BPC section 4808 authorizes the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Veterinary Medicine Practice Act (Act).

¹ All CCR references are to title 16 unless otherwise noted.

This regulatory proposal will amend CCR sections 2032.15 and 2032.25 regarding veterinarian-client-patient relationships (VCPRs) in the absence of client communication and in the absence of the original prescribing veterinarian. Specifically, the Board is proposing the following:

- Amend CCR section 2032.15, subsection (a), to establish that when the original veterinarian is absent, the VCPR may continue to exist in the absence of client communication when the designated veterinarian serves at the same location where the medical records are kept. Additionally, this proposal seeks to conform the language in the regulation to the language and terminology used by the Board.
- Amend CCR section 2032.25, subsection (a), to clarify that, absent establishing a VCPR, prescribing, dispensing, or furnishing dangerous drugs constitutes unprofessional conduct and make clarifying and conforming revisions to the subsection.
- Amend CCR section 2032.25, subsection (b)(1), to clarify that a veterinarian may serve in the absence of the treating veterinarian and prescribe, dispense, or furnish drugs on an emergency basis for a traveling patient only as necessary to maintain the health of the animal until they can return to the originally treating veterinarian, if the veterinarian, prior to providing a prescription refill, makes a reasonable effort to contact the original prescribing veterinarian and documents in the medical record the communication or his or her attempt to contact the original prescribing veterinarian.
- Amend CCR section 2032.25, subsection (b)(1), to strike the 72-hour limitation on prescribing, dispensing, or furnishing the drug on an emergency basis for a traveling patient.
- Amend CCR section 2032.25, subsection (b), paragraphs (2) and (3), to remove existing paragraph (2) and add language to authorize the veterinarian to prescribe, dispense, or furnish a drug to an animal patient when the original prescribing veterinarian is unavailable to authorize the refill and the veterinarian authorizing the refill is working in the same practice as the original prescribing veterinarian, if the veterinarian authorizing the refill is in possession of and has reviewed the animal patient's records, orders the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill, enters the prescription refill in the medical record and, in the veterinarian's professional judgment, believes that failure to refill the prescription may interrupt the animal patient's ongoing care and have an adverse effect on the animal patient's wellbeing.

POLICY STATEMENT OVERVIEW/ANTICIPATED BENEFITS OF PROPOSAL

The primary mission of the Board is to protect consumers and animals through the development and maintenance of professional standards. This regulatory proposal promotes the safety of animals and the public by clarifying the circumstances under which a designated veterinarian may continue treatment of an animal patient in the absence of the originating veterinarian. This regulatory proposal will provide additional services to animals who are injured/ill and protect California consumers and their animals. By amending and adopting the proposed regulations, the Board seeks to ensure that California consumers and their animals are protected by being provided with veterinary services when in need, while ensuring proper prescribing, treating, and documentation protocols.

Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board has conducted and search of any similar regulations of these topics and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

The Board will be required to ensure compliance with the proposed regulations through the Board's inspection programs. Any increased workload and costs are anticipated to be minor and absorbable within existing resources.

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None**Nondiscretionary Costs/Savings to Local Agencies:** None**Local Mandate:** None**Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement:** None**Business Impact:**

The Board has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations would authorize designated veterinarians to provide services to clients who have animals in need in the absence of the original veterinarian.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None**EFFECT ON SMALL BUSINESS**

The Board has determined that the proposed regulations will not affect small businesses. The proposed regulations would authorize designated veterinarians to provide services to animals who are in need in the absence of the original veterinarian.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:**Impact on Jobs/Businesses:**

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, or the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

Benefits of Regulation:

This regulatory proposal focuses on providing additional services to California consumers and their animals and to help animals who may be ill/injured and need necessary prescriptions in order to maintain a healthy quality of life. By adopting this regulatory proposal, the Board will be authorizing veterinarians other than the original diagnosing veterinarian to continue treatment under the established VCPR and refill prescriptions as needed in order to maintain the health of the animal patient. This regulatory proposal does not affect the health and welfare of California residents, worker safety, or the state's environment.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose or as effective and less burdensome to affected private persons than the proposal described in this Notice or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1747 North Market Blvd., Suite 230, Sacramento, California 95834.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 1747 North Market Blvd., Suite 230, Sacramento, California 95834.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Justin Sotelo
Address:	Veterinary Medical Board 1747 North Market Blvd., Suite 230 Sacramento, CA 95834
Telephone No.:	916-515-5238

Fax No.: 916-928-6849
E-Mail Address: Justin.Sotelo@dca.ca.gov

The backup contact person is:

Name: Timothy Rodda
Address: Veterinary Medical Board
1747 North Market Blvd., Suite 230
Sacramento, CA 95834
Telephone No.: 916-515-5227
Fax No.: 916-928-6849
E-Mail Address: Timothy.Rodda@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.vmb.ca.gov.

**Veterinary Medical Board
Department of Consumer Affairs**

Initial Statement of Reasons

Hearing Date: No hearing has been scheduled for the proposed action.

Subject Matter of Proposed Regulations: Veterinarian-Client-Patient Relationships (VCPRs)

Sections Affected: California Code of Regulations (CCR), Title 16, Division 20, Article 4, Sections 2032.15 and 2032.25¹

Background and Statement of the Problem:

Business and Professions Code (BPC) Section 4800.1 mandates that the protection of the public shall be the highest priority of the Veterinary Medical Board (Board) in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. The Board enforces the Veterinary Medicine Practice Act (Act) and oversees veterinarian licensees, registered veterinary technicians (RVTs), registered veterinary premises, and veterinary assistant controlled substance permit holders.

BPC section 4808 grants the Board the authority to adopt, amend, or repeal rules and regulations that are reasonably necessary to carry into effect the Veterinary Medicine Practice Act (Act). BPC section 4883 authorizes the Board to deny, revoke, or suspend a license or registration or assess a fine for, among other things, unprofessional conduct. CCR section 2032.1, subsection (a), provides that 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 VCPR.

If the originating veterinarian who established the VCPR with the animal patient is unavailable, CCR section 2032.15, subsection (a), allows a VCPR to continue to exist in the absence of client communication when: (1) a VCPR was established with an original veterinarian, and another designated veterinarian serves in the absence of the original veterinarian; (2) the designated veterinarian has assumed responsibility for making medical judgments regarding the health of the animal; (3) the designated veterinarian has sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal, as specified; and (4) the designated veterinarian has continued, and documented in the medical record, the medical, treatment, diagnostic and/or therapeutic plan that was set forth by the original veterinarian. For medications, existing CCR section 2032.25 authorizes a designated veterinarian to prescribe, dispense, or furnish the drug only as necessary to maintain the animal

¹ All CCR references are to title 16 unless otherwise noted.

patient until the return of the originally treating veterinarian, but in any case, no longer than 72 hours.

After CCR sections 2032.15 and 2032.25 were enacted in 2014, the Board began discussing minimum standards of veterinary practice that included issues involving a designated veterinarian's ability to diagnose and treat animals through telemedicine. In addition, questions were raised regarding the circumstances under which a designated veterinarian could refill a prescription based on the originating veterinarian's diagnosis and treatment plan. This proposal seeks to provide clarity to the regulations regarding delegated veterinarian VCPR authority.

SPECIFIC PURPOSE, ANTICIPATED BENEFIT, AND RATIONALE:

Amend Subsection (a) of Section 2032.15 of Article 4 of Division 20 of Title 16 of the CCR:

Purpose: This regulatory amendment makes minor, grammatical changes to the regulation for clarity and consistency purposes.

Anticipated Benefit: The Board anticipates that consumers and veterinarians will benefit from the clarifying revisions in this proposal.

Rationale: The amendment to this subsection is necessary to provide clarity and consistency to the regulation. The regulation currently refers to a "veterinary-client-patient relationship," which is not consistent with CCR section 2032.1, which provides the actions necessary to establish a veterinarian-client-patient relationship. To conform this subsection to CCR section 2032.1, the proposal would change three instances of the term "veterinary-client-patient relationship" to "veterinarian-client-patient relationship" found in subsection (a), (a)(1), and (a)(3).

Amend Subsection (a)(1) of Section 2032.15 of Article 4 of Division 20 of Title 16 of the CCR:

Purpose: The purpose of this proposal is to clarify that a VCPR established by an originating veterinarian can only continue to exist in the absence of client communication when the originating veterinarian designates to a second veterinarian (designated veterinarian) who is providing veterinary medical services to the animal patient at the same location where the animal patient's medical records are kept.

Anticipated Benefit: The Board anticipates that the health, safety, and welfare of consumers and their animals will benefit from the clarifying proposal. The Board also anticipates that designated veterinarians will benefit from the clarified language.

Rationale: This proposal is necessary to clarify the circumstances under which the VCPR established by the originating veterinarian can continue in effect through a designated veterinarian. At the April 23, 2014 meeting of the Board's Multidisciplinary Advisory Committee (MDC), concern was raised that a designated veterinarian could usurp the VCPR requirement

and provide diagnosis and treatment different from the originating veterinarian when the designated veterinarian is in a remote location from the animal patient. This form of veterinary medicine practice is commonly referred to as telemedicine. The intent of the regulation was not to authorize telemedicine, but to enable the consumer (client) and animal patient to receive veterinary medical services from a second veterinarian while the originating veterinarian is unavailable. To make certain the animal patient is provided safe and effective care, a veterinarian must examine the animal patient in person to determine the appropriate diagnosis and treatment of the animal. This is because animal patients are unable to communicate to the veterinarian their symptoms; a veterinarian providing diagnosis and treatment solely on the basis of the client's observations of the animal is insufficient to properly diagnose and treat the animal. To correct the unintended gap in the VCPR requirement that could be improperly used for telemedicine by a designated veterinarian who has not personally examined the animal patient and has no access to the animal patient's medical records, the proposal would require the designated veterinarian to serve at the same location where the medical records are kept.

In addition, the MDC expressed concern in situations where the animal patient is transferred from one clinic to another clinic (e.g., the animal is transferred from a general clinic to a specialty clinic for treatment). The MDC determined that appropriate animal care requires examination and establishing a VCPR. Accordingly, if the animal patient is transferred to another clinic, the original VCPR established at the first clinic should not transfer to veterinary care at a different location. To resolve the issue of animal transfer and VCPR requirements, the regulation would limit extension of the VCPR to a designated veterinarian at the same location where the medical records are kept.

Amend Subsection (a) of Section 2032.25 of Article 4 of Division 20 of Title 16 of the CCR:

Purpose: The purpose of this proposal is to clarify that prescribing, dispensing, or furnishing dangerous drugs constitutes unprofessional conduct, unless a VCPR has been established, and make minor, nonsubstantive changes to the subsection.

Anticipated Benefit: The Board anticipates that veterinarians, consumers, and their animals will benefit from the clarifying proposal.

Rationale: The proposal is necessary to clarify that prescribing, dispensing, or furnishing dangerous drugs is unprofessional conduct, unless a VCPR has been established. Section 2032.25 provides authority for veterinarians who prescribe, dispense, or furnish drugs for animal use in the absence of the originally prescribing veterinarian, who established the VCPR with the animal patient. However, the existing language is unclear because it states prescribing, dispensing, or furnishing drugs is unprofessional conduct if performed without an appropriate prior examination and a medical indication.

To establish a VCPR, the client must authorize the originating veterinarian to assume responsibility for making medical judgments regarding the health of the animal, including the need for medical treatment, the veterinarian must have sufficient knowledge of the animal to

initiate at least a general or preliminary diagnosis of the medical condition of the animal by personally examining the animal patient or by medically appropriate and timely visits to the premises where the animal is kept, and the veterinarian must assume responsibility for making medical judgments regarding the health of the animal and communicate with the client a course of treatment appropriate to the circumstance. As such, the VCPR is more robust and appropriate for the treatment of the animal patient, rather than merely requiring a subsequent veterinarian to perform an examination and diagnose a medical indication, as the regulation currently requires.

This proposal is necessary to clarify that, absent establishing a VCPR, prescribing, dispensing, or furnishing dangerous drugs constitutes unprofessional conduct. In this way, the animal patient will be better protected through appropriate diagnosis and treatment, and the regulation will conform to the VCPR requirements.

The proposal will also make clarifying and conforming revisions to the subsection. CCR section 2002 defines "Business and Professions Code" to mean "code." To conform to the proper reference established in CCR section 2002 and make the regulation consistent with the Board's other regulations, this proposal would change "Business and Professions Code" to "code."

Amend Paragraphs (1), (2), and (3) of Subsection (b) of Section 2032.25 of Article 4 of Division 20 of Title 16 of the CCR:

Purpose: The purpose of this proposal is to clarify the emergency circumstance when a subsequent veterinarian can prescribe, dispense, or furnish drugs for use on an animal patient in the absence of the originating veterinarian who established the VCPR.

Anticipated Benefit: The Board anticipates that veterinarians will benefit from the clarifying provisions in the regulation, and consumers and their animals will benefit from the expanded emergency circumstance when the consumer can obtain medication for treatment of their animal from a subsequent veterinarian.

Rationale: This proposal is necessary to clarify confusion as to the circumstances when a subsequent veterinarian can prescribe, dispense, or furnish a drug for use on an animal patient in the absence of the originating veterinarian who established a VCPR. At the MDC's April 23, 2014 meeting, concern was raised regarding the clarity of a subsequent veterinarian's ability to prescribe, dispense, or furnish medications, and that it is difficult to determine the exact circumstance that allows a veterinarian to refill a prescription without establishing a VCPR. Additional concerns raised were whether a veterinarian could act as a pharmacist by filling prescriptions written by another veterinarian and whether the veterinarian providing the prescription refill in the absence of the prescribing veterinarian has to work at the same premises and have access to the animal patient's medical records.

To establish a VCPR, the client must authorize the originating veterinarian to assume responsibility for making medical judgments regarding the health of the animal, including the

need for medical treatment, the veterinarian must have sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal by personally examining the animal patient or by medically appropriate and timely visits to the premises where the animal is kept, and the veterinarian must assume responsibility for making medical judgments regarding the health of the animal and communicate with the client a course of treatment appropriate to the circumstance. However, there are circumstances in which an animal patient needs medication and either the animal patient is traveling, or the originating veterinarian is unavailable to refill the prescription.

To address these issues and clarify the ability of a subsequent veterinarian to prescribe, dispense, and furnish medications without establishing a VCPR, the proposal would restructure the existing regulation to address circumstances when the client and animal patient are traveling and in need of emergency medication and circumstances when the original prescribing veterinarian is unavailable to authorize a refill.

Subsection (b)(1) Client and Animal Travel

The proposal would exempt a subsequent veterinarian from establishing a VCPR in order to prescribe, dispense, or furnish drugs on an emergency basis for a traveling patient only as necessary to maintain the health of the animal until they can return to the originally treating veterinarian. The proposal would remove the existing limitation that the medications provided could not be prescribed, dispensed, or furnished for use longer than 72 hours. In this way, the proposal expands the ability of a consumer to obtain emergency medication for the animal patient when the consumer and animal patient are traveling and, at the time of the need for medication, are unable to return to the originating veterinarian.

In order for the subsequent veterinarian to utilize this VCPR exemption, the veterinarian, prior to providing a prescription refill, would need to make a reasonable effort to contact the original prescribing veterinarian. This attempt to contact is necessary to ensure that the animal patient has been examined by an originating veterinarian and has been diagnosed with a condition requiring medication. This exemption is not intended to allow consumers to approach veterinarians for medications when the animal has not been properly diagnosed and no VCPR exists with an originating veterinarian. However, this exemption would allow a consumer to obtain the necessary medication for the animal's condition without having the animal reexamined, rediagnosed, and represcribed the medication, as long as the consumer had established a VCPR with an originating veterinarian. In addition, the proposal would require the subsequent veterinarian to document the communication, or attempt to communicate, in the medical record.

Subsection (b)(2) Original Prescribing Veterinarian Unavailable

The proposal would restructure the existing VCPR exemption for medication by combining subsection (b), paragraphs (2) and (3), to clarify the circumstances in which a client may obtain medication for the animal patient when the original prescribing veterinarian is unavailable. At the MDC's October 20, 2014 meeting, concern was raised over the confusion created in the existing regulation that would provide a VCPR exemption for a veterinarian who had transmitted

an order for drugs to another veterinarian or RVT when the licensee had consulted with the veterinarian or RVT who had reviewed the animal patient's records and the licensee was designated as the veterinarian to serve in the absence of the animal patient's veterinarian. The general terms "veterinarian" and "licensee" lacked clarity as to which veterinarian, the originating veterinarian who had established the VCPR, or the subsequent veterinarian refilling the prescription while the originating veterinarian was away from the premises.

To clarify the VCPR exemption for circumstances when the originating veterinarian is unavailable, the proposal strikes the unnecessary language in paragraph (2) and provides that the VCPR exemption for prescribing, dispensing, or administered drugs is available when the original prescribing veterinarian is unavailable to authorize the refill and the veterinarian authorizing the refill is working in the same practice as the original prescribing veterinarian. This provision better clarifies the two different veterinarians – the original prescribing veterinarian and the veterinarian authorizing the refill.

In addition, the proposal restructures existing paragraph (3) to also require the veterinarian authorizing the refill to be in possession of and review the animal patient's medical record, order the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill, and enter the prescription refill in the animal patient's medical record. These requirements are necessary to ensure the animal patient is provided the appropriate medication, strength, and amount for the diagnosed condition.

Further, the veterinarian authorizing the refill would have to determine that failure to refill the prescription may interrupt the animal patient's ongoing care and have an adverse effect on the animal patient's well-being. This provision ensures that the animal patient only receives the refill from the non-originating veterinarian when the refill is necessary. Outside of these circumstances, the prescribing, dispensing, or furnishing veterinarian would have to establish their own VCPR with the client and animal patient.

Underlying Data

- April 23, 2014 Veterinary Medical Board (Board) Multidisciplinary Advisory Committee (MDC) Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
- October 20, 2014 MDC Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
- February 19, 2015 MDC Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
- April 28-29, 2015 Board Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
- January 18-19, 2016 Board Meeting Agenda (inadvertently dated January 18-29, 2016); Relevant Meeting Materials; and Meeting Minutes
- August 29-30, 2018 Board Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes

Business Impact

The Board has made the initial determination that the proposed regulatory action would have no significant adverse economic impact on business. The proposed regulations would authorize designated veterinarians to provide services to clients who have animals in need in the absence of the original veterinarian.

Economic Impact Analysis

This regulatory proposal would have the following effects:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California. This regulatory proposal authorizes designated veterinarians in the absence of a VCPR and the original veterinarian to provide services to California consumers and their animals if a specific set of criteria has been met.

This regulatory proposal benefits the health, safety, and welfare of California consumers and their animals because the proposed regulation would authorize designated veterinarians to provide services and medications to California consumers and their animals to aid in emergency situations, while still ensuring specific criteria are met.

This regulatory proposal focuses on identifying the exemptions to the VCPR in the absence of client communication and the originating veterinarian and does not affect worker safety or the state's environment.

The Board indicates that any requirements for veterinarians to comply with the proposal would likely be incorporated into the routine operations of the veterinary premises and are not anticipated to result in additional costs.

Overview

There are approximately 12,400 veterinarians in California. The proposal will impact all licensed veterinarians. This proposal clarifies the circumstances under which a subsequent veterinarian can provide veterinary medical care and/or medication to an animal patient in accordance with the VCPR established by the originating veterinarian. The Board estimates approximately 80 to 90 percent (2,800 to 3,150) of the approximately 3,500 veterinary premises are small businesses. The Board does not anticipate the creation or elimination of businesses as a result of the proposal.

Economic Impact Assessment of Benefits

The Board has determined the proposal would benefit the health, safety, and welfare of California consumers and their animals by improving veterinary medical care. This proposal does not affect worker safety or the state's environment. BPC section 4808 grants the Board the authority to adopt, amend, or repeal rules and regulations that are reasonably necessary to carry into effect the Veterinary Medicine Practice Act. BPC section 4883 authorizes the Board to deny, revoke, or suspend a license or registration or assess a fine for, among other things, unprofessional conduct. The proposal would implement, interpret, and make specific BPC section 4883, by clarifying unprofessional conduct in terms of VCPRs.

While difficult to quantify, this proposal improves the quality of life in California for both California consumers and their animals by ensuring animals receive quality veterinary medical care by providing safeguards when the animal's originating veterinarian is not available. The Board also anticipates that veterinarians will benefit from clarification as to the circumstances under which a subsequent veterinarian can provide veterinary medical care and/or medication to an animal patient in accordance with the VCPR established by the originating veterinarian.

Requirements for Specific Technologies or Equipment

This regulatory proposal does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the regulation has been proposed or would be as effective or less burdensome to affected private persons and effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Fiscal Impact Assessment

The proposed regulations establish requirements for veterinarians to establish a VCPR, as specified. The Board will be required to ensure compliance through its inspection programs, and any enforcement-related workload and costs to ensure compliance will be minimal and absorbable within existing resources.

**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 Sections 2032.15 and 2032.25 of Article 4 of Division 20 of Title 16 of the California Code of Regulations to read as follows:

2032.15. Veterinarian-Client-Patient Relationship in Absence of Client Communication

(a) A veterinarian-client-patient relationship may continue to exist, in the absence of client communication, when:

(1) A veterinarian-client-patient relationship was established with an original veterinarian, and another designated veterinarian serves at the same location where the medical records are kept in the absence of the original veterinarian, and;

(2) The designated veterinarian has assumed responsibility for making medical judgments regarding the health of the animal(s), and;

(3) The designated 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(s) or by medically appropriate and timely visits to the premises where the animal(s) is kept, or has consulted with the veterinarian who established the veterinarian-client-patient relationship, and;

(4) The designated veterinarian has continued the medical, treatment, diagnostic and/or therapeutic plan that was set forth and documented in the medical record by the original veterinarian.

(b) If the medical, treatment, diagnostic and/or therapeutic plan differs from that which was communicated to the client by the original veterinarian, then the designated veterinarian must attempt to communicate the necessary changes with the client in a timely manner.

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

2032.25. Written Prescriptions in Absence of Originally Prescribing Veterinarian.

(a) Absent establishing a veterinarian-client-patient relationship (VCPR) as defined in section 2032.1, ~~P~~prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 of the ~~Business and Professions Code~~ code ~~without an appropriate prior examination and a medical indication,~~ constitutes unprofessional conduct.

(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

(1) The licensee was a veterinarian serving in the absence of the treating veterinarian and the drugs were prescribed, dispensed, or furnished on an emergency basis for a traveling patient only as necessary to maintain the health of the animal patient until they could return to the originally treating veterinarian, but in any case no longer than 72 hours. Prior to providing a prescription refill pursuant to this section, the veterinarian shall have made a reasonable effort to contact the original prescribing veterinarian, and shall have documented the communication, or his or her attempt to contact the original prescribing veterinarian, in the animal patient's medical record.

(2) The original prescribing veterinarian was unavailable to authorize the refill, and the veterinarian authorizing the refill was working in the same practice as the original prescribing veterinarian, and: The veterinarian transmitted the order for the drugs to another veterinarian or registered veterinary technician and both of the following conditions exist:

(A) ~~The licensee had consulted with the veterinarian or registered veterinary technician who had reviewed the patient's records.~~

(B) ~~The licensee was designated as the veterinarian to serve in the absence of the animal patient's veterinarian.~~

~~(3) (A) The licensee was a veterinarian serving in the absence of the treating veterinarian, veterinarian who authorized the refill was in possession of and had reviewed the animal patient's records, and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill, and entered the prescription refill in the animal patient's medical records.~~

(B) In the veterinarian's professional judgment, failure to refill the prescription might have interrupted the animal patient's ongoing care and might have had an adverse effect on the animal patient's well-being.

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

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

MODIFIED TEXT

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Modifications to the proposed regulatory language are shown in double underline for new text and ~~double strikethrough~~ for deleted text.

Amend Sections 2032.15 and 2032.25 of Article 4 of Division 20 of Title 16 of the California Code of Regulations to read as follows:

2032.15. Veterinarian-Client-Patient Relationship in Absence of Client Communication

(a) A veterinarian-client-patient relationship may continue to exist, in the absence of client communication, when:

(1) A veterinarian-client-patient relationship was established with an original veterinarian, and another designated veterinarian serves ~~at the same location where the medical records are kept~~ in the absence of the original veterinarian, and;

(2) The designated veterinarian has assumed responsibility for making medical judgments regarding the health of the animal(s), and;

(3) The designated 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(s) or by medically appropriate and timely visits to the premises where the animal(s) is kept, or has consulted with the veterinarian who established the veterinarian-client-patient relationship, and;

(4) The designated veterinarian has continued the medical, treatment, diagnostic and/or therapeutic plan that was set forth and documented in the medical record by the original veterinarian.

(b) If the medical, treatment, diagnostic and/or therapeutic plan differs from that which was communicated to the client by the original veterinarian, then the designated veterinarian must attempt to communicate the necessary changes with the client in a timely manner.

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

2032.25. Written Prescriptions in Absence of Originally Prescribing Veterinarian.

(a) Absent establishing a veterinarian-client-patient relationship (VCPR) as defined in section 2032.1, Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 of the Business and Professions Code without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.

(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

(1) The licensee was a veterinarian serving in the absence of the treating veterinarian and the drugs were prescribed, dispensed, or furnished on an emergency basis for a traveling patient only as necessary to maintain the health of the animal patient until they could return to the originally treating veterinarian, but in any case no longer than 72 hours. Prior to providing a prescription refill pursuant to this section, the veterinarian shall have made a reasonable effort to contact the original prescribing veterinarian, and shall have documented the communication, or his or her attempt to contact the original prescribing veterinarian, in the animal patient's medical record.

~~(2) The original prescribing veterinarian was unavailable to authorize the refill, and the veterinarian authorizing the refill was working in the same practice as the original prescribing veterinarian, and: The veterinarian transmitted the order for the drugs to another veterinarian or registered veterinary technician and both of the following conditions exist:~~

~~(A) The licensee had consulted with the veterinarian or registered veterinary technician who had reviewed the patient's records.~~

~~(B) The licensee was designated as the veterinarian to serve in the absence of the animal patient's veterinarian.~~

~~(3) (A) The licensee was a veterinarian serving in the absence of the treating veterinarian, veterinarian who authorized the refill was in possession of and had reviewed the animal patient's medical records, and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill, and entered the prescription refill in the animal patient's medical records.~~

~~(B) In the veterinarian's professional judgment, failure to refill the prescription might have interrupted the animal patient's ongoing care and might have had an adverse effect on the animal patient's well-being.~~

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