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**State of California  
Office of Administrative Law**

In re:  
Veterinary Medical Board

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections: 2006.5, 2006.51, 2006.52,  
2006.53, 2006.54, 2006.55,  
2006.56

Amend sections: 2006

Repeal sections:

NOTICE OF APPROVAL OF REGULATORY  
ACTION

Government Code Section 11349.3

OAL Matter Number: 2023-1228-03

OAL Matter Type: Regular (S)

In this rulemaking action, the Board adopts uniform standards for the discipline of substance-abusing licensees. The regulations define the terms "prohibited substance" and biological fluid testing," specifies disciplinary actions for violations of probation, and set forth reporting requirements. Further, the regulations establish procedures and requirements for clinical diagnostic evaluations when ordered by the Board, licensee requests to return to practice, and use of private sector vendors for laboratory testing or wellness program services. In addition, the Board adopts the "Veterinary Medical Board Uniform Standards for Substance-Abusing Licensees, January 2022 Edition," which is incorporated by reference in the regulations.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 4/1/2024.

Date: February 12, 2024



Thanh Huynh  
Senior Attorney

For: Kenneth J. Pogue  
Director

Original: Jessica Sieferman, Executive  
Officer

Copy: Jeffrey Olguin

## NOTICE PUBLICATION/REGULATORY ACTION SUBMISSION

**REGULAR**

STD. 400 (REV. 10/2019)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-2023-1017-04</b>	REGULATORY ACTION NUMBER <b>2023-1228-035</b>	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California**FEB 12 2024**  
1:52 PMAGENCY WITH RULEMAKING AUTHORITY  
Veterinary Medical Board, Department of Consumer Affairs

AGENCY FILE NUMBER (if any)

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
<b>OAL USE ONLY</b>	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER <b>2023, 43-2</b>	PUBLICATION DATE <b>10-27-23</b>	

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Uniform Standards for Substance-Abusing Licensees		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 2006.5, 2006.51, 2006.52, 2006.53, 2006.54, 2006.55, 2006.56	
		AMEND 2006	
TITLE(S) 16		REPEAL	
3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input checked="" type="checkbox"/> Other (Specify) <u>Kimberly Kirchmeyer, Director, Department of Consumer Affairs</u>			
7. CONTACT PERSON Jeffrey Olguin	TELEPHONE NUMBER (916) 282-6893	FAX NUMBER (Optional) (916) 928-6849	E-MAIL ADDRESS (Optional) jeffrey.olguin@dca.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

12/20/23

TYPED NAME AND TITLE OF SIGNATORY

Jessica Siefertman, Executive Officer, Veterinary Medical Board

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED****FEB 12 2024****Office of Administrative Law**

DEPARTMENT OF CONSUMER AFFAIRS  
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS  
DIVISION 20. VETERINARY MEDICAL BOARD

ORDER OF ADOPTION

Uniform Standards for Substance-Abusing Licensees

Amend Section 2006 of, and add Sections 2006.5, 2006.51, 2006.52, 2006.53, 2006.54, 2006.55, 2006.56 to, Article 1 of Division 20 of Title 16 of the California Code of Regulations to read as follows:

**§ 2006. Disciplinary Guidelines and Uniform Standards for Substance-Abusing Licensees.**

- (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, October 2021-January 2022 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) If the conduct found to be grounds for discipline involves drugs and/or alcohol, the individual shall be presumed to be a substance-abusing licensee for purposes of section 315 of the Code. If the individual does not rebut that presumption, in addition to any and all other relevant terms and conditions in the Disciplinary Guidelines, the terms and conditions in the "Veterinary Medical Board Uniform Standards for Substance-Abusing Licensees, January 2022 Edition" which are hereby incorporated by reference, shall be used when applying probationary conditions in the disciplinary order.

Note: Authority cited: Sections 315, 315.4, 4808, and 4845(d), Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 141, 315, 315.2, 315.4, 480, 490, 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. Actions by Substance-Abusing Licensees and Consequences Thereof.**

- (a) For purposes of this Article, 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 the licensee and approved by the Board, or alcohol or any other substance the licensee has been instructed by the Board not to use, consume, ingest, or self-administer.

(b) For purposes of this Article, "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.

(c) A licensee who does any of the following shall be deemed to have committed a major violation of probation:

(1) Fails to complete a Board-ordered program;

(2) Fails to undergo a required clinical diagnostic evaluation;

(3) Commits multiple minor violations of probation conditions and terms;

(4) Treats a patient or patients while under the influence of a prohibited substance;

(5) Engages in any drug- or alcohol- related act that is a violation of state or federal law or regulation;

(6) Fails to undergo biological fluid testing when ordered;

(7) Uses, consumes, ingests, or self-administers a prohibited substance;

(8) 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

(9) Fails to comply with any term or condition of probation which presents an immediate threat to the violator or to the public.

(d) If a licensee commits a major violation, the Board shall take one (1) or more of the following actions:

(1) Issue an immediate cease-practice order and order the licensee to undergo a clinical diagnostic evaluation, in accordance with section 2006.51, 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.

(e) A licensee who does any of the following shall be deemed to have committed a minor violation of 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 probation which does not present an immediate threat to the violator or to the public.
- (f) If a licensee commits a minor violation, the Board shall take one (1) 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, in accordance with section 2006.51, at the expense of the licensee;
  - (7) Take any other action as determined by the Board.
- (g) 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, 315.4, 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. Clinical Diagnostic Evaluations for Substance-Abusing Licensees.**

- (a) If the Board orders a licensee who is either in a wellness program or whose license is on probation due to a substance abuse problem to undergo a clinical diagnostic evaluation, then the following apply:
- (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 themselves 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 themselves or others, the evaluator shall notify the Board within twenty-four (24) hours of such a determination.
- (5) In formulating an opinion as to whether the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations may 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 themselves 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 and determine within ten (10) business days of receipt 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 the licensee has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating that the licensee has not used, consumed, ingested, or self-administered a prohibited substance.
- (e) The licensee 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.

Note: Authority cited: Sections 315, 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. 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 the licensee's 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 self-administered a prohibited substance 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, 315.4, 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.

**§ 2006.53. Disclosure of Substance-Abusing Licensee Information.**

For licensees subject to the terms and conditions of the Uniform Standards for Substance-Abusing Licensees in section 2006, the Board shall disclose the following information to the public for licensees who are participating in a Board monitoring/wellness 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 wellness 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.

**§ 2006.54. 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 shall report to the Board any major violation, as defined in section 2006.5.
- (b) The vendor shall 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 United States 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 shall be notified of non-negative test results within one (1) business day and shall 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 shall be located throughout California.
  - (10) Testing sites shall be equipped with:
    - (A) 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; and
    - (B) A secure, Health Insurance Portability and Accountability Act (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.
  - (11) Testing sites shall employ or contract with toxicologists who 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 shall 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 and 4808, Business and Professions Code.  
Reference: Section 315, Business and Professions Code.

**§ 2006.55. Requirements for Wellness Program Vendors.**

If the Board uses a private-sector wellness 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 shall 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 California 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 shall 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 California Department of Consumer Affairs shall respond to the findings in the audit report.

Note: Authority cited: Sections 315 and 4808, Business and Professions Code.  
Reference: Section 315, Business and Professions Code.

**§ 2006.56. Reporting Requirements Relating to Substance-Abusing Licensees.**

(a) The Board shall report the following information on a yearly basis to the California 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 wellness 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 wellness 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, the Board shall collect and report historical data (as available) and post-implementation data as follows:

(1) Historical Data.

The Board may collect the following historical data (as available) for a period of two (2) 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 (3) occasions;

(C) Failed to pay testing costs; or

(D) Given a diluted or invalid specimen.

(2) Post-Implementation Data—Three (3) 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. The data collected shall be reported to the California 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, and 4808, Business and Professions Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code.



Veterinary Medical Board

Uniform Standards for  
Substance-Abusing  
Licensees

January 2022



1747 N. Market Blvd., Suite 230 Sacramento, CA 95834

(916) 515-5220

[www.vmb.ca.gov](http://www.vmb.ca.gov)

Jessica Siefertman, Executive Officer

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# CALIFORNIA CODE OF REGULATIONS, TITLE 16, DIVISION 20, ARTICLE 1

## § 2006. Disciplinary Guidelines and Uniform Standards for Substance-Abusing Licensees.

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- (b) If the conduct found to be grounds for discipline involves drugs and/or alcohol, the individual shall be presumed to be a substance-abusing licensee for purposes of section 315 of the code. If the individual does not rebut that presumption, in addition to any and all other relevant terms and conditions in the Disciplinary Guidelines, the terms and conditions in the "Veterinary Medical Board Uniform Standards for Substance-Abusing Licensees, January 2022 Edition" which are hereby incorporated by reference, shall be used when applying probationary conditions in the disciplinary order.

Note: Authority cited: Sections 315, 315.4, 4808, and 4845(d), Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 141, 315, 315.2, 315.4, 480, 490, 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. Actions by Substance-Abusing Licensees and Consequences Thereof.

- (a) For purposes of this Article, 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 the licensee and approved by the Board, or alcohol or any other substance the licensee has been instructed by the Board not to use, consume, ingest, or self-administer.
- (b) For purposes of this Article, "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.
- (c) A licensee who does any of the following shall be deemed to have committed a major violation of probation:
- (1) Fails to complete a Board-ordered program;
  - (2) Fails to undergo a required clinical diagnostic evaluation;
  - (3) Commits multiple minor violations of probation conditions and terms;
  - (4) Treats a patient or patients while under the influence of a prohibited substance;
  - (5) Engages in any drug- or alcohol- related act that is a violation of state or federal law or regulation;

(6) Fails to undergo biological fluid testing when ordered;

(7) Uses, consumes, ingests, or self-administers a prohibited substance;

(8) 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

(9) Fails to comply with any term or condition of probation which presents an immediate threat to the violator or to the public.

(d) If a licensee commits a major violation, the Board shall take one (1) or more of the following actions:

(1) Issue an immediate cease-practice order and order the licensee to undergo a clinical diagnostic evaluation, in accordance with section 2006.51, 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.

(e) A licensee who does any of the following shall be deemed to have committed a minor violation of 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 probation which does not present an immediate threat to the violator or to the public.

(f) If a licensee commits a minor violation, the Board shall take one (1) 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, in accordance with section 2006.51, at the expense of the licensee;

(7) Take any other action as determined by the Board.

(g) 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, 315.4, 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. Clinical Diagnostic Evaluations for Substance-Abusing Licensees.**

(a) If the Board orders a licensee who is either in a wellness program or whose license is on probation due to a substance abuse problem to undergo a clinical diagnostic evaluation, then the following apply:

(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 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 others, the evaluator shall notify the Board within twenty-four (24) hours of such a determination.

(5) In formulating an opinion as to whether the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations may 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 themselves 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 and determine within ten (10) business days of receipt 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 the licensee has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating that the licensee has not used, consumed, ingested, or self-administered a prohibited substance.

(e) The licensee 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.

Note: Authority cited: Sections 315, 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. 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 the licensee's 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 self-administered a prohibited substance 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, 315.4, 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.

#### **§ 2006.53. Disclosure of Substance-Abusing Licensee Information.**

For licensees subject to the terms and conditions of the Uniform Standards for Substance-Abusing Licensees in section 2006, the Board shall disclose the following information to the public for licensees who are participating in a Board monitoring/wellness 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 wellness 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.

#### **§ 2006.54. 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 shall report to the Board any major violation, as defined in section 2006.5.

(b) The vendor shall 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 United States 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 shall be notified of non-negative test results within one (1) business day and shall 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 shall be located throughout California.

(10) Testing sites shall be equipped with:

(A) 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; and

(B) A secure, Health Insurance Portability and Accountability Act (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.

(11) Testing sites shall employ or contract with toxicologists who 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 shall 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 and 4808, Business and Professions Code. Reference: Section 315, Business and Professions Code.

**§ 2006.55. Requirements for Wellness Program Vendors.**

If the Board uses a private-sector wellness 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 shall 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 California 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 shall 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 California Department of Consumer Affairs shall respond to the findings in the audit report.

Note: Authority cited: Sections 315 and 4808, Business and Professions Code. Reference: Section 315, Business and Professions Code.

**§ 2006.56. Reporting Requirements Relating to Substance-Abusing Licensees.**

(a) The Board shall report the following information on a yearly basis to the California 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 wellness 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 wellness 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, the Board shall collect and report historical data (as available) and post-implementation data as follows:
- (1) Historical Data.
- The Board may collect the following historical data (as available) for a period of two (2) 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 (3) occasions;
  - (C) Failed to pay testing costs; or
  - (D) Given a diluted or invalid specimen.



(2) Post-Implementation Data—Three (3) 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. The data collected shall be reported to the California 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, and 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 (BPC), 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 the "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees" to be used by all healing arts boards. On March 4, 2019, the SACC adopted revisions to the Uniform Standard #4, and those revisions which are reflected herein.

The Board's Uniform Standards for Substance-Abusing Licensees (Uniform Standards), 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, 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 VETERINARY MEDICAL BOARD'S UNIFORM STANDARDS FOR SUBSTANCE-ABUSING LICENSEES**

These Veterinary Medical Board's Uniform Standards contain required conditions that must be applied in cases involving substance-abusing licensees, as well as optional conditions that may, at the discretion of the Board, be applied in such cases. In order to ensure that proposed decisions and stipulated settlements submitted to the Board do not deviate in any way from these Uniform Standards, the following language shall be used for the Uniform Standards terms and conditions included in a proposed decision or stipulated settlement.

### **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.

[Source: Uniform Standard #3 of "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees," developed April 2011 and revised March 4, 2019.]

#### **2. Biological Fluid Testing.**

Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of 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 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 vacation or absence, any alternative to Respondent's drug testing requirements (including frequency) 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 self-administered 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 worksite 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, their treating physician(s), other health care provider, or group facilitator, as applicable.

#### Exceptions to Testing Frequency Schedule.

- (A) Previous Testing Orders/Sobriety. In cases where the Board has evidence that Respondent 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.
- (B) Violation(s) Outside of Employment. If Respondent 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 Respondent's way to work, where alcohol or drugs were a contributing factor, Respondent may bypass the first-year testing frequency requirements and participate in the second-year testing frequency requirements.
- (C) Not Employed in Health Care Field. The Board may reduce the testing frequency to a minimum of twelve (12) times per year if Respondent is not practicing or working in any health care field. If a reduced testing frequency schedule is established for this reason, and if Respondent wants to return to practice or work in a health care field, Respondent shall notify and secure the approval of the Board. Prior to returning to any health care employment, Respondent shall be required to test at the first-year testing frequency requirement for a period of at least sixty (60) days. At such time as Respondent returns to employment in a health care field, if Respondent has not previously met the first-year testing frequency requirement, Respondent shall be required to test at the first-year testing frequency requirement for a full year before they may be reduced to testing frequency of at least thirty-six (36) tests per year.
- (D) 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.
- (E) Licensed Supervision During Practice. The Board may reduce testing frequency to a minimum of 24 times per year if Respondent is practicing veterinary medicine and receives a minimum of fifty percent (50%) supervision per day by a supervisor licensed by the Board.

"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.

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 Respondent has been instructed by the Board not to use, consume, ingest, or self-administer.

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 2006.5, subsection (c), and the Board shall impose any or all of the consequences set forth in section 2006.5, subsection (d), in addition to any other terms or conditions the Board determines are necessary for public protection or to enhance Respondent's rehabilitation.

Reinstatement of License or Reduction of Penalty. Nothing herein shall limit the Board's authority to reduce or eliminate the penalties or terms and conditions specified herein pursuant to a petition for reinstatement or reduction of penalty filed pursuant to Business and Professions Code section 4887.

[Source: Uniform Standards #4, 8, 9, 10 of "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees," developed April 2011 and revised March 4, 2019.]

### **3. Abstain from the Use of Alcohol, Controlled Substances, and Dangerous Drugs.**

Respondent shall abstain completely from personal use, possession, injection, consumption by any route, including inhalation of all psychotropic (mood altering) drugs, alcohol, 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 a licensed health care practitioner for a bona fide illness or condition and approved by the Board.

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:

- (A) For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 7th.
- (B) For the period covering April 1st through June 30th, reports are to be completed and

submitted between July 1st and July 7th.

(C) For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 7th.

(D) 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:

(A) Respondent's name;

(B) Respondent's license number;

(C) Physician, nurse practitioner, or physician assistant's name and signature;

(D) Physician, nurse practitioner, or physician assistant's license number;

(E) Dates Respondent had face-to-face contact or correspondence (written and verbal) with physician, nurse practitioner, or physician assistant;

(F) Respondent's compliance with this condition;

(G) If any substances have been prescribed, identification of a program for the time-limited use of any substances;

(H) Any change in behavior and/or personal habits;

(I) Assessment of Respondent's ability to practice safely;

(J) 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

(K) Other relevant information deemed necessary by the physician, nurse practitioner, physician, or the Board.

Respondent is ultimately responsible for ensuring their 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 they are 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.

[Source: Uniform Standards #4, 8 of "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees," developed April 2011 and revised March 4, 2019; BPC section 315.2.]

#### 4. Violation of Probation Condition for Substance-Abusing License.

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 2006.5, subsection (c), 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 2006.51 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 the Respondent 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.
- (B) If Respondent commits a minor violation of probation as defined by section 2006.5, subsection (e), 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 2006.51 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.
- (C) Nothing in this Decision shall be considered a limitation on the Board's authority to revoke Respondent's probation if the Respondent has violated any term or condition 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, 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.

[Source: Uniform Standards #8, 9, 10 of "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees," developed April 2011 and revised March 4, 2011, BPC sections 315.2, 315.4.]

### **Optional Terms and Conditions:**

#### **5. Clinical Diagnostic Evaluations and Reports; Temporary Removal from Practice.**

Within thirty (30) calendar days of the effective date of this Decision, and on whatever periodic basis thereafter, or upon order of the Board as may be required by the Board or its designee, Respondent shall undergo and complete a clinical diagnostic evaluation to determine Respondent's fitness to practice, including any and all testing deemed necessary, by a licensed practitioner approved by the Board. The examiner shall consider any information provided by the Board or its designee and any other information they deem relevant and shall furnish a written evaluation report to the Board or its designee.

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 professionals 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 themselves 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 themselves or others, the evaluator shall notify the Board within twenty-four (24) hours of such a determination.

In formulating an 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 themselves 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 and determine within ten (10) 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 they have at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating that they have not used, consumed, ingested, or self-administered a prohibited substance.

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 the Respondent 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 the Respondent 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.

[Source: Uniform Standards #1, 2 of "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees," developed April 2011 and revised March 4, 2019, BPC section 315.4.]

## **6. 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 the Respondent 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.

[Source: Uniform Standard #5 of "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees," revised April 2011.]

## 7. 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 individuals, whose scope of practice includes Respondent's scope of practice, is another licensed health care professional if no worksite monitor with a like scope of practice is available, or, as approved by the Board or its designee, a person in a position of authority who is capable of monitoring 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 they have 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 license 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.

[Source: Uniform Standards #7, 13 of "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees," developed April 2011 and revised March 4 2019.]

#### **8. 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 themselves or others. All costs associated with completion of a drug or alcohol abuse treatment program shall be paid by Respondent.

The treatment facility staff and services shall meet the following qualifications and requirements:

- (A) Licensure and/or accreditation by appropriate regulatory agencies;
- (B) Sufficient resources available to adequately evaluate the physical and mental needs of Respondent, provide for safe detoxification, and manage any medical emergency;
- (C) Professional staff who are competent and experienced members of the clinical staff;
- (D) Treatment planning involving a multidisciplinary approach and specific aftercare plans; and
- (E) Means to provide treatment and progress documentation to the provider.

[Source: Uniform Standards #6, 13 of "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees," developed April 2011 and revised March 4, 2019.]



# Disciplinary Guidelines ~~October 2021~~ January 2022

## Veterinary Medical Board



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Jessica Sieferman, Executive Officer

Revised ~~10/2021~~ 10/2022

## Disciplinary Guidelines

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# VETERINARY MEDICAL BOARD

## DISCIPLINARY GUIDELINES

### INTRODUCTION

The Veterinary Medical Board (Board) developed the Disciplinary Guidelines outlined in this manual for its Executive Officer, staff, legal counsel, administrative law judges, and other persons involved in the Board's enforcement process to be used for the purpose of creating judgment orders in formal disciplinary actions. These guidelines are published in regulations for the public and the profession so that the processes used by the Board to impose discipline are readily available and transparent.

The Board recognizes that each case is unique and that mitigating or aggravating circumstances in a particular case may necessitate variations. Therefore, the Board has developed minimum and maximum penalties to assist in determining the appropriate level of discipline. If an administrative law judge finds that a violation occurred but assesses less than the minimum penalty for that violation, the Board requests that the administrative law judge fully explain the reasons and the circumstances for the deviation. In addition, probationary conditions are divided into two categories, 1) standard terms and conditions that are used for all cases, and 2) optional terms and conditions that are used for specific violations and circumstances unique to a specific case.

The Board grants licenses to veterinarians, grants registrations to veterinary premises and veterinary technicians, and issues veterinary assistant controlled substance permits. If there is action taken against both the individual licensee and the premises registration, then the disciplinary order should reflect actions against each. However, in some cases, minimum standard violations are so severe that it is necessary to take immediate action and suspend the license of a facility. In these instances, the veterinary license and the premises registration may be disciplined separately, and the disciplinary order should reflect the separate action.

Because of the severity of cases resulting in actions taken by the Office of the Attorney General, the Board has established that the minimum penalty shall always include revocation or suspension with the revocation or suspension stayed and terms and conditions of probation imposed. The threat of the revocation or suspension being reinstated helps to ensure compliance with the probationary terms and conditions. The Board recommends that for alcohol or drug abuse related violations, the minimum term of probation should be five years, and in addition, the mandatory terms and conditions listed specifically for this type of case shall be imposed.

A respondent may be represented by private counsel during enforcement



proceedings, up to entry of a final disciplinary order. Following entry of the final order, including, but not limited to, while the respondent is on probation, the respondent may receive the assistance of private counsel, but the respondent shall communicate directly with Board staff. Written communications from the Board will only be sent to the respondent.

## PENALTIES BY BUSINESS AND PROFESSIONS CODE SECTION NUMBER

<b>Section</b>	<b>4883(a); 4836.2(c)(5); 4837(b); 4842(d); 480(a)(1); 490</b>
<b>Violation</b>	<b>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</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty (as appropriate)</b>	Revocation and/or suspension stayed Two-year probation \$2,000 fine Standard terms and conditions Optional terms and conditions including but not limited to: Suspension Limitations on practice Supervised practice No ownership of a veterinary hospital or clinic No management of a veterinary hospital/no supervision of interns or residents Continuing education Psychological evaluation and/or treatment Medical evaluation and/or treatment Rehabilitation program Submit to drug testing Abstain from controlled substances/alcohol Community service Restitution Ethics training

Maximum penalties should be considered if the criminal act caused or threatened harm to an animal or the public, if there have been limited or no efforts at rehabilitation, or if there were no mitigating circumstances at the time of the commission of the offense(s).

Minimum penalties may be considered if there is evidence of an attempt(s) at self-initiated rehabilitation. Evidence of self-initiated rehabilitation includes, but is not limited to, pro bono services to nonprofit organizations or public agencies that improve the care and treatment of animals or improve generally society's interactions with animals. Self-initiated rehabilitation measures also include, but are not limited to, specific training in areas of weakness, full restitution to persons harmed by the licensee or registrant, completion of treatment or other conditions of probation ordered by the court, or compliance with all laws since the date of the occurrence of the crime.

<b>Section</b>	<b>4883(b); 4837(d)</b>
<b>Violation</b>	<b>Having professional connection with, or lending the licensee's or registrant's name to, any illegal practitioner of veterinary medicine and the various branches thereof</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$2,000 fine Optional terms and conditions including but not limited to: 30-day suspension for each offense No ownership of a veterinary hospital or clinic No management of a veterinary hospital/no supervision of interns or residents Ethics training
<p>Maximum penalties should be considered if the acts or omissions caused or threatened harm to an animal or client, or if there are prior violations of the same type of offense.</p> <p>Minimum penalties may be considered if the acts or omissions did not cause or threaten harm to an animal or cause detriment to a client.</p>	

<b>Section</b>	<b>4883(c); 4836.2(c)(4); 4836.5; 4837(e)</b>
<b>Violation</b>	<b>Violation or attempt to violate, directly or indirectly, any of the provisions of the chapter</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$1,000 fine Optional terms and conditions including but not limited to: Restitution Ethics training
<p>Maximum penalties should be considered if the actions were intended to subvert investigations by the Board or in any way hide or alter evidence that would or could be used in any criminal, civil, or administrative actions.</p> <p>Minimum penalties may be considered if the acts or omissions did not cause or threaten harm to an animal or cause detriment to a client.</p>	

<b>Section</b>	<b>4883(d), (e)</b>
<b>Violation</b>	<b>Fraud or dishonesty in applying, treating, or reporting on tuberculin or other biological tests. Employment of anyone but a veterinarian licensed in the State to demonstrate the use of biologics in the treatment of animals</b>
<b>Maximum Penalty</b>	Revocation or suspension and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$5,000 fine Optional terms and conditions including but not limited to: 30-day suspension of license and/or premises registration Medical records review Continuing education Community service
<p>Maximum penalties should be considered if the acts or omissions caused public exposure of reportable diseases (rabies, brucellosis or tuberculosis) or other hazardous diseases of zoonotic potential.</p> <p>Minimum penalties may be considered if the acts or omissions did not cause or threaten harm to an animal or cause detriment to a client.</p>	

<b>Section</b>	<b>4883(f)</b>
<b>Violation</b>	<b>False or misleading advertising</b>
<b>Maximum Penalty</b>	Revocation and/or suspension and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation 30-day suspension Standard terms and conditions \$2,000 fine Optional terms and conditions including but not limited to: Restitution Ethics training
<p>Maximum penalties should be considered if the advertising was deceptive, caused or threatened harm to an animal, or caused a client to be misled and suffer monetary damages. In that case, one of the probationary terms should be restitution to any client damaged as a result of the violation. The more severe penalty should be considered when there are prior violations of the same type of offense.</p> <p>Minimum penalties may be considered if the acts or omissions did not cause or threaten harm to an animal or cause detriment to a client.</p>	

<b>Section</b>	<b>4883(g); 4836.2(c)(2), (3); 4837(c)</b>
<b>Violation</b>	<p><b>Unprofessional conduct</b> that includes, but is not limited to, the following:</p> <p>(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.</p> <p>(2) (A) The use of, or prescribing for, or administering to oneself, any controlled substance.</p> <p>(B) The use of any of the dangerous drugs specified in Section 4022, 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, 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.</p> <p>(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. 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.</p> <p>(3) A violation of any federal statute, rule, or regulation or any of the statutes, rules, or regulations of this state regulating dangerous drugs or controlled substances.</p>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	<p>Revocation and/or suspension stayed</p> <p>Two-year probation</p> <p>Standard terms and conditions</p> <p>\$5,000 fine</p> <p>Optional terms and conditions including but not limited to:</p> <ul style="list-style-type: none"> <li>30-day suspension</li> <li>Supervised practice</li> <li>Psychological evaluation and/or treatment</li> <li>Medical evaluation and/or treatment</li> <li>Surrender DEA license/send proof of surrender to Board within 10 days of the effective date of the Decision</li> <li>No ownership of a veterinary hospital or clinic</li> <li>No management of a veterinary hospital/no supervision of interns or residents</li> <li>Rehabilitation program</li> </ul>

	Submit to drug testing Abstain from use of alcohol and drugs Ethics training
<p>Maximum penalties should be considered if acts or omissions caused or threatened harm to an animal or a client or if there are prior violations of the same type of offense.</p> <p>Minimum penalties may be considered if acts or omissions did not cause harm to an animal, there are no prior violations of the same type of offense, and there is evidence of self-initiated rehabilitation.</p> <p>When considering minimum penalties, the terms of probation should include a requirement that the licensee submit the appropriate medical reports (including psychological treatment and therapy), submit to random drug testing, submit to a limitation of practice, or practice under the supervision of a California licensed veterinarian as applicable on the facts of the case, and submit quarterly reports to the Board (in writing or in person as the Board directs). The Board requires a minimum of five-years' probation for any violation related to alcohol or drug abuse.</p> <p>Business and Professions Code section 4836.2(d) prohibits issuance of a VACSP to any applicant with a state or federal felony controlled substance conviction.</p>	

<b>Section</b>	<b>4883(g)</b>
<b>Violation</b>	<b>General unprofessional conduct</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty (as appropriate)</b>	Written Public Reproval Revocation and/or suspension stayed Two-year probation Standard terms and conditions Optional terms and conditions including but not limited to: 30-day suspension Limitations on practice Supervised practice No ownership of a veterinary hospital or clinic No management of a veterinary hospital/no supervision of interns or residents Continuing education Psychological evaluation and/or treatment Medical evaluation and/or treatment Rehabilitation program Submit to drug testing Abstain from controlled substances/alcohol Community service

	Restitution Ethics training
<p>Maximum penalties should be considered if the acts or omissions caused substantial harm to an animal or a client, or if there are prior violations of the same type of offense.</p> <p>Minimum penalties may be considered if there are no prior violations, if there are mitigating circumstances such as the length of time since the offense(s) occurred, if the acts or omissions did not cause substantial harm to an animal or a client, or if there is evidence of a self-initiated rehabilitation.</p>	

<b>Section</b>	<b>4883(h)</b>
<b>Violation</b>	<b>Failure to keep the licensee's or registrant's premises and all equipment therein in clean and sanitary condition. (Requirements for sanitary conditions are also outlined in Sections 4853.5 and 4854 (practice sanitation standards).)</b>
<b>Maximum Penalty</b>	Revocation or suspension of premises registration and a \$5,000 fine.
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions Fine—not less than \$50 nor more than \$500 per day, not to exceed \$5,000 Optional terms and conditions including but not limited to: 30-day suspension or suspension until compliance with minimum standards of practice is achieved Random hospital inspections

Maximum penalties should be considered if the acts or omissions caused or threatened harm to animals or the public, if there are prior actions and/or no attempt to remedy the violations, for example, unsanitary or hazardous workplace, improper sterilization of instruments, or improper husbandry practices, or if there are prior violations of a similar nature.

Minimum penalties may be considered if the acts or omissions did not cause or threaten harm to animals or people, or remedial action has been taken to correct the deficiencies.

Note—A veterinary license and a premises registration can be disciplined separately.

<b>Section</b>	<b>4883(i)</b>
<b>Violation</b>	<b>Negligence in the practice of veterinary medicine</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Three-year probation Standard terms and conditions Fine—not less than \$50 nor more than \$500 per day, not to exceed \$5,000 Optional terms and conditions including but not limited to: 30-day suspension or suspension until compliance with minimum standards of practice is achieved Random hospital inspections Medical records review Ethics training Continuing education
<p>Maximum penalties should be considered if the acts or omissions caused or threatened harm to animals or the public, if there are prior actions and/or no attempt to remedy the violations.</p> <p>Minimum penalties may be considered if the acts or omissions did not cause or threaten harm to animals or people, remedial action has been taken to correct the deficiencies and there is remorse for the negligent acts.</p>	

<b>Section</b>	<b>4883(i)</b>
<b>Violation</b>	<b>Incompetence in the practice of veterinary medicine</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Three-year probation Standard terms and conditions \$2,000 fine Optional terms and conditions including but not limited to: 30-day suspension Supervised practice Medical records review Hospital inspections Continuing education Clinical written examination Community service Restitution Ethics training
<p>Maximum penalties should be considered based on the following factors: if the acts or omissions caused harm to an animal or an animal has died, there are limited or</p>	



no efforts at rehabilitation, or there are no mitigating circumstances at the time of the commission of the offense(s).

Minimum penalties may be considered if the acts or omissions did not cause substantial harm to an animal, there is evidence of rehabilitation, and there are mitigating circumstances such as no prior discipline, remorse for the harm that occurred, cooperation with the Board's investigation, etc.

<b>Section</b>	<b>4883(i) 480(a)(2)</b>
<b>Violation</b>	<b>Fraud and/or deception in the practice of veterinary medicine</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Three-year probation Standard terms and conditions \$2,000 fine Optional terms and conditions including but not limited to: 30-day suspension Hospital inspections Supervised practice Clinical written examination Community service Restitution Ethics training

Maximum penalties should be considered based on the following factors: if the acts or omissions caused harm to an animal or an animal has died, there is limited or no evidence of rehabilitation or no mitigating circumstances at the time of the commission of the offense(s).

Minimum penalties may be considered if the acts or omissions did not cause substantial harm to an animal, there is evidence of rehabilitation and there are mitigating circumstances such as no prior discipline, remorse for the harm that occurred, cooperation with the Board's investigation, etc.

<b>Section</b>	<b>4883(j); 4836.2(c)(4); 4836.5; 4842(b)</b>
<b>Violation</b>	<b>Aiding or abetting in acts which are in violation of any of the provisions of this chapter</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$1,000 fine

	Optional terms and conditions including but not limited to: 30-day suspension Ethics training
Maximum penalties should be considered if the acts or omissions caused or threatened harm to an animal or client and the acts were repeated after a prior violation of the same type of offense.	
Minimum penalties may be considered if the acts or omissions did not cause or threaten harm to an animal or cause detriment to a client, there were no prior actions, and there is evidence of remorse and an acknowledgement of the violation.	

<b>Section</b>	<b>4883(k); 4836.2(c)(1); 4837(a); 4842(c)</b>
<b>Violation</b>	<b>Fraud, misrepresentation, or deception in obtaining a license, registration, or permit</b>
<b>Maximum and Minimum Penalty</b>	Revocation and a \$5,000 fine
Note—In this instance, the gravity of the offense warrants revocation in all cases since there was no legal basis for licensure in the first place.	

<b>Section</b>	<b>4883(l); 4842(e)</b>
<b>Violation</b>	<b>The revocation, suspension, or other discipline by another state or territory of a license, certificate, or registration to practice veterinary medicine or as a veterinary technician in that state or territory</b>
<b>Maximum Penalty</b>	Revocation
<b>Minimum Penalty</b>	The penalty that would have been applicable to the violation if it had occurred in the State of California

<b>Section</b>	<b>4883(m)</b>
<b>Violation</b>	<b>Cruelty to animals or conviction on a charge of cruelty to animals, or both</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$5,000 fine Optional terms and conditions including but not limited to: 60-day suspension Psychological evaluation and/or treatment Medical evaluation and/or treatment Continuing education Ethics training

Note—While the Board believes this violation is so severe that revocation is the only appropriate penalty, it recognizes that a lesser penalty may be appropriate where there are mitigating circumstances of a significant nature.

<b>Section</b>	<b>4883(n); 141</b>
<b>Violation</b>	<b>Disciplinary actions taken by any federal, state, or territory, public agency, or by another country for any act substantially related to the practice of veterinary medicine or the practice of a veterinary technician</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$2,000 fine Optional terms and conditions including but not limited to: 30-day suspension Continuing education

Maximum penalties should be considered if the acts or omissions caused or threatened harm to an animal or the public, there is limited or no evidence of rehabilitation, and there were no mitigating circumstances at the time of the commission of the offense(s).

Minimum penalties may be considered if there is evidence of attempts at self-initiated rehabilitation taken prior to the filing of the accusation. Self-initiated rehabilitation measures include pro bono services to nonprofit organizations or public agencies that improve the care and treatment of animals or improve generally society's interactions with animals. Self-initiated rehabilitation measures also include specific training in areas of weakness, full restitution to persons harmed by the licensee or registrant, completion of treatment or other conditions of probation ordered by the court, and compliance with all laws since the date of the occurrence of the violation.

<b>Section</b>	<b>4883(o); 4837(e)</b>
<b>Violation</b>	<b>Violation, or the assisting or abetting violation, of any regulations adopted by the Board pursuant to this chapter</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions 30-day suspension \$1,000 fine

	Optional terms and conditions including but not limited to: Continuing education Restitution Ethics Training
<p>Maximum penalties should be considered if the acts or omissions caused or threatened harm to the animal or the public, there was more than one offense, there is limited or no evidence of rehabilitation, and there were no mitigating circumstances at the time of the offense(s).</p> <p>Minimum penalties may be considered if there is evidence of attempts at self-initiated rehabilitation. Self-initiated rehabilitation measures include pro bono services to nonprofit organizations or public agencies that improve the care and treatment of animals or improve generally society's interactions with animals. Self-initiated rehabilitation measures also include specific training in areas of weakness, full restitution to persons harmed by the licensee or registrant, completion of treatment or other conditions of probation ordered by the court, and compliance with all laws since the date of the occurrence of the violation.</p>	

<b>Section</b>	<b>4855</b>
<b>Violation</b>	<b>Written Records</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions 30-day suspension \$1,000 fine Optional terms and conditions including but not limited to: Medical records review Continuing education
<p>Maximum penalties should be considered when there is a lack of records or omissions and/or alterations that constitute negligence.</p> <p>Minimum penalties may be considered when there is evidence of carelessness and corrective measures have been implemented to correct the process whereby the records were created.</p>	

<b>Section</b>	<b>4856</b>
<b>Violation</b>	<b>Failure to permit the inspection of records or premises by the Board</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation

	Standard terms and conditions \$1,000 fine Optional terms and conditions including but not limited to: 30-day suspension Medical records review Ethics training
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Maximum penalties should be considered if there is a deliberate attempt to prevent access to the Board, prior discipline of the managing licensee or the premises, or no mitigating circumstances at the time of the refusal.

Minimum penalties may be considered when there are mitigating circumstances at the time of the request for records, where there is no deliberate attempt to prevent the Board from having access to the records, or when there are no prior violations of a similar nature.

<b>Section</b>	<b>4857</b>
<b>Violation</b>	<b>Impermissible disclosure of information about animals and/or about clients</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$1,000 fine Optional terms and conditions including but not limited to: 30-day suspension Ethics training

Maximum penalties should be considered when there is a breach of confidentiality.

Minimum penalties may be considered when the breach is inadvertent or when there is no prior action against the licensee.

Note—The severity of violations may determine whether action taken is citation and fine or formal discipline.

<b>Section</b>	<b>4830.5</b>
<b>Violation</b>	<b>Duty to report staged animal fighting</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$1,000 fine Optional terms and conditions including but not limited to: 30-day suspension

	Continuing education Ethics training
Maximum penalties should be considered when an animal or animals have been killed or severely harmed.	
Minimum penalties may be considered on a case-by-case basis.	

<b>Section</b>	<b>4830.7</b>
<b>Violation</b>	<b>Duty to report animal abuse or cruelty</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Considered on a case-by-case basis

<b>Section</b>	<b>4836.5; 4837</b>
<b>Violation</b>	<b>Disciplinary proceedings against veterinarians and registered veterinary technicians</b>
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Revocation and/or suspension stayed Two-year probation Standard terms and conditions \$1,000 fine Optional terms and conditions including but not limited to: 30-day suspension Continuing education Ethics training

Maximum penalties should be considered if the acts or omissions caused or threatened harm to an animal or client, or the acts were repeated after a prior violation of the same type of offense.

Minimum penalties may be considered if the acts or omissions did not cause or threaten harm to an animal or client, or if there are no prior violations.

## STANDARD ORDERS

The following text may be used as the introductory paragraph in the disciplinary Order:

**1. License Revoked**

Respondent's license [registration or permit] is revoked.

**2. Revocation, Stayed, Probation**

However, the revocation is stayed, and Respondent is placed on probation for [insert number of years] years upon the following terms and conditions.

**3. License Suspension**

Respondent's license shall be suspended for [insert specific number of days, months]. [See specific violation for recommended time of suspension.]

**4. Application denied**

Respondent's license [registration or permit] application is denied.

**5. Application approved, license issued**

Respondent's license [registration or permit] application is approved, and upon completion of all prerequisites for licensure, the license [registration or permit] shall be issued to Respondent.

**6. Application granted, license issued, revoked, stayed, probation**

Respondent's license [registration or permit] application is approved, and upon completion of all prerequisites for licensure, the license [registration or permit] shall be issued to Respondent, and immediately revoked. However, the revocation is stayed, and Respondent shall be placed on probation for [insert number of years] years upon the following conditions.

**7. Application denied, probationary registration [or VACSP] issued [RVT or VACSP holders only]**

Respondent's registration [or VACSP] application is denied; however, the denial is stayed, and a probationary registration [or permit] shall be issued to Respondent for a term of [insert number of years] years [for RVT only, no more than 3 years per BPC section 4845] on the following conditions. Upon completion of all terms and conditions of probation, and upon completion of all prerequisites for licensure, Respondent may be issued a permanent registration [VACSP].

**8. Application for temporary veterinarian license granted, license issued, revoked, stayed, probation (veterinarian only)**

Respondent's application for a temporary veterinarian license is approved,

and upon completion of all statutory and regulatory requirements for licensure, and all conditions precedent to licensure, a temporary veterinarian license shall be issued to Respondent. Failure to successfully complete all statutory and regulatory requirements within two (2) years from the effective date shall void this decision and it will have no effect. Upon issuance of a temporary veterinarian license, said license will be immediately revoked. The revocation will be stayed, and Respondent placed on [insert number of years] years' probation (Probationary Term) on the following terms conditions. Any and all additional licenses or permits subsequently issued to Respondent during the Probationary Term shall be subject to any and all statutory and regulatory prerequisites and the specific terms and conditions specified below. The Probationary Term is cumulative and does not restart with the issuance of any additional license or permit.



## PROBATION TERMS AND CONDITIONS

### Standard Terms and Conditions of Probation (1–15)

The Board recommends one- to five-year probation, as appropriate, in cases where probation is part of a disciplinary order.

<b>1.</b>	<b>Obey all Laws</b>
<p>Respondent shall obey all federal and state laws and regulations substantially related to the practice of veterinary medicine. Within thirty (30) days of any arrest, Respondent shall notify the Board. Within thirty (30) days of any 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. Obey all laws shall not be tolled.</p>	
<b>2.</b>	<b>Quarterly Reports</b>
<p>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. Omission or falsification in any manner of any information on these reports 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, registration or permit. If the final written quarterly report is not made as directed, the period of probation shall be extended until the final report is received by the Board. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation.</p>	
<b>3.</b>	<b>Interview with the Board</b>
<p>Within 30 days of the effective date of the Decision, Respondent shall appear in person for an interview with the Board or its designee to review the terms and conditions of probation. Thereafter, Respondent shall, upon reasonable request, report or appear in person as directed. Interview with the Board shall not be tolled.</p>	

**4. Cooperation with Board Staff**

Respondent shall cooperate with the Board's inspection program and with the Board's monitoring and investigation of Respondent's compliance with the terms and conditions of Respondent's probation. Respondent may receive the assistance of private counsel, but Respondent shall communicate directly with the Board or its designee, and written communications from the Board will only be sent to the Respondent. Respondent shall make available all patient records, hospital records, books, logs, and other documents relating to the practice of veterinary medicine to the Board, upon request.

Respondent shall claim all certified mail issued by the Board, respond in a timely manner to all notices and requests for information, and submit Reports, Identification Update reports or other reports similar in nature, as requested and directed by the Board or its designee. Respondent is encouraged to contact the Board's probation monitoring program representative at any time Respondent has a question or concern regarding the terms and conditions of Respondent's probation.

**5. Probation Monitoring Costs**

Probation monitoring costs are set at a rate of \$100 per month for the duration of the probation. These costs shall be payable to the Board on a schedule as directed by the Board or its designee.

**6. Changes of Employment or Address**

Respondent shall notify the Board, and appointed probation monitor in writing, of any and all changes of employment, location, and address within fourteen (14) calendar days of such change. This includes, but is not limited to, termination or resignation from employment, change in employment status, and change in supervisors, administrators or directors. Respondent shall also notify Respondent's probation monitor AND the Board IN WRITING of any changes of residence or mailing address within fourteen (14) calendar days. P.O. Boxes are accepted for mailing purposes; however, Respondent must also provide Respondent's physical residence address as well.

**7. No Supervision of Students, Interns, or Residents**

Respondent shall not supervise students, interns, or residents.

**8. Notice to Employers**

During the period of probation, Respondent shall notify all present and prospective employers of this Decision and the terms, conditions, and restrictions imposed on Respondent by this Decision, as follows:

Within thirty (30) days of the effective date of this Decision and within fifteen (15) days of Respondent undertaking any new employment, Respondent shall cause Respondent's supervisor and/or managing licensee (licensee manager) to report to the Board in writing, acknowledging that the listed individual(s) has/have read this Decision, including the terms, conditions, and restrictions imposed. It shall be Respondent's responsibility to ensure that Respondent's supervisor and/or licensee manager submit timely acknowledgment(s) to the Board.

If Respondent provides veterinary services as a relief veterinarian, Respondent shall notify each individual or entity with whom Respondent is employed or contracted and require the supervisor and/or licensee manager to submit to the Board timely acknowledgement of receipt of the notice.

**9. Notice to Employees**

Throughout the probationary period, and in a manner that is visible to all licensed, registered, or permitted veterinary employees at the veterinary premises, Respondent shall post a notice, provided or approved by the Board, that recites the violations for which Respondent has been disciplined and the terms and conditions of probation.

## **10. Tolling of Probation**

Respondent shall notify the Board or its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting more than thirty (30) calendar days and shall notify the Board or its designee within fifteen (15) calendar days of Respondent's return to practice. Any period of non-practice will result in the Respondent's probation being tolled.

Non-practice is defined as any period of time exceeding thirty (30) calendar days in which Respondent is not engaging in the practice of veterinary medicine in California.

It shall be considered a violation of probation if Respondent's periods of temporary or permanent residence or practice outside California total two years. However, it shall not be considered a violation of probation if Respondent is residing and practicing in another state of the United States and is on active probation with the licensing authority of that state, in which case the two-year tolling limitation period shall begin on the date probation is completed or terminated in that state.

The following terms and conditions, if required, shall not be tolled:

- Obey All Laws
- Interview with the Board
- Tolling of Probation
- Maintain a Current and Active License
- Cost Recovery
- Submit to Drug Testing
- Abstain From Controlled Substances
- Abstain From Alcohol Use

Non-practice is also defined as any period that Respondent fails to engage in the practice of veterinary medicine in California for a minimum of 24 hours per week for the duration of probation (except reasonable time away from work for vacations, illnesses, etc.) or as determined by the Board. While tolled for not meeting the hourly requirement, Respondent shall comply with all terms and conditions of this Decision.

Any period of tolling will not apply to the reduction of the probationary term.

**11. Maintain a Current and Active License**

At all times while on probation, Respondent shall maintain a current and active license with the Board. Maintain a current and active license shall not be tolled.

**12. 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. No petition for modification or termination of probation shall be considered while there is an accusation or petition to revoke probation pending against Respondent.

**13. License Surrender While on Probation/Suspension**

Following the effective date of this Decision, should Respondent cease to practice veterinary medicine due to retirement or health issues, or be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender Respondent's license to practice veterinary medicine to the Board for surrender. The Board or its designee has the discretion to grant the request for surrender or to take any other action it deems appropriate and reasonable. Upon formal acceptance of the license surrender, Respondent will no longer be subject to the terms and conditions of probation. The surrender constitutes a record of discipline and shall become a part of the Respondent's license history with the Board.

Respondent must relinquish Respondent's license to the Board within ten (10) days of receiving notification from the Board that the surrender has been accepted.

**14. 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 or a petition to revoke probation is filed. Upon successful completion of probation and all payment of fees due, Respondent's license will be fully restored.

**15. Cost Recovery**

Pursuant to Section 125.3 of the California Business and Professions Code, within thirty (30) days of the effective date of this Decision, Respondent shall pay to the Board its enforcement costs including investigation and prosecution, in the amount of [insert dollar amount of costs], which may be paid over time in accordance with a Board-approved payment plan, within six (6) months before the end of the probation term. Cost recovery shall not be tolled.

## Optional Terms and Conditions of Probation (1–24)

Note—In addition to the standard terms and conditions of probation, optional terms and conditions of probation are assigned based on violations and fact patterns specific to individual cases.

<b>1.</b>	<b>Suspension—Individual License</b>
<p>As part of probation, Respondent is suspended from the practice of veterinary medicine for _____, beginning the effective date of this Decision. During the suspension, Respondent shall not enter any veterinary hospital which is registered by the Board unless seeking treatment for one's own animal. Additionally, Respondent shall not manage, administer, or be a consultant to any veterinary hospital or veterinarian during the period of actual suspension and shall not engage in any veterinary-related service or activity.</p>	
<b>2.</b>	<b>Suspension—Premises</b>
<p>As part of probation, Premises License Number _____, issued to Respondent _____, is suspended for _____, beginning the effective date of this Decision. During the period of suspension, said premises may not be used by any party for any act constituting the practice of veterinary medicine, surgery, dentistry, and/or the various branches thereof.</p>	
<b>3.</b>	<b>Posted Notice of Suspension</b>
<p>If suspension is ordered, Respondent shall post a notice of the Board's Order of Suspension, in a place clearly visible to the public. The notice, provided by the Board, shall remain posted during the entire period of actual suspension.</p>	
<b>4.</b>	<b>Limitation on Practice</b>
<p>(A) During probation, Respondent is prohibited from practicing _____ (Type of practice).</p> <p>(B) Respondent is prohibited from practicing veterinary medicine from a location or mobile veterinary practice that does not have a current premises registration issued by the Board.</p>	

**5. Inspections**

If Respondent is the owner or managing licensee of a veterinary premises, the following probationary conditions apply:

- (A) The location or mobile veterinary practice shall hold a current premises registration issued by the Board, and Respondent shall make the practice or location available for inspections by a Board representative to determine whether the location or veterinary practice meets minimum standards for a veterinary premises. The inspections will be conducted on an announced or unannounced basis and shall be held during normal business hours. The Board reserves the right to conduct these inspections on at least a quarterly basis during probation. Respondent shall pay the Board for the cost of each inspection, which is \$500.
- (B) As a condition precedent to any premises registration issued to Respondent as owner or managing licensee, the location or mobile veterinary practice for which application is made shall be inspected by a Board representative to determine whether the location or mobile veterinary practice meets minimum standards for a veterinary premises. Respondent shall submit to the Board, along with any premises registration application, a \$500 inspection fee.

**6. Supervised Practice**

Respondent shall not practice veterinary medicine until a supervisor is approved by the Board or its designee. If the supervisor terminates or is otherwise no longer available, Respondent shall not practice until a new supervisor has been approved by the Board or its designee. Any potential costs associated with practice supervision shall be borne by Respondent.

Respondent shall submit to the Board or its designee, for its prior approval, the name and qualifications of one or more proposed supervisors of Respondent's choice. Each supervisor shall have been licensed in California and have held a valid California license for at least five (5) years and not have ever been subject to any disciplinary action by the Board.

Upon approval by the Board or its designee and within thirty (30) days of the effective date of the Decision, Respondent shall have Respondent's supervisor submit a report to the Board in writing stating the supervisor has read the Decision in case number \_\_\_\_\_ [insert case number]. Should Respondent change employment, Respondent shall have the new supervisor, within fifteen (15) days after employment



commences, submit a report to the Board in writing stating the supervisor has read the Decision in case number \_\_\_\_\_ [insert case number].

Respondent's supervisor shall file quarterly reports with the Board. These reports shall be in a form designated by the Board and shall include a narrative section where the supervisor provides the supervisor's conclusions and opinions concerning the veterinary services performed by Respondent and the basis for those conclusions and opinions.

Respondent's supervisor shall submit the reports directly to the Board's Probation Monitor within seven (7) calendar days after the end of the preceding quarter. The quarterly reporting periods and due dates are as follows:

<b>Reporting Time Period</b>	<b>Due No Later Than</b>
January 1 to March 31 (Quarter I)	April 7
April 1 to June 30 (Quarter II)	July 7
July 1 to September 30 (Quarter III)	October 7
October 1 to December 31 (Quarter IV)	January 7

The supervisor shall notify the Board of the dates and location where Respondent rendered services during each month covered by the supervisor's report.

The supervisor shall have full and random access to all animal patient records of Respondent. The supervisor may evaluate all aspects of Respondent's practice regardless of Respondent's areas of deficiencies.

The supervisor shall be physically present and quickly and easily available at the location. The supervision shall require an occasional random observation of the work performed by Respondent. The level of supervised practice shall be, as required by the Board or its designee:

**Levels of Supervised Practice:**

- Full-Time—100%
- Substantial—75%
- Moderate—50%
- Partial—25%

The level of supervised practice may be modified as determined necessary by the Board or its designee. Respondent will not be eligible for a decrease

in supervised practice until such time as: 1) Respondent has successfully completed at least 25% of the probationary term; 2) Respondent is deemed to be in full compliance with all terms and conditions of the probationary order; 3) Respondent has consistently received favorable quarterly supervised practice reports; and, 4) the Board has received a written recommendation by the supervisor.

## **7. Medical Records Review**

Within 30 calendar days of the effective date of this Decision, Respondent shall provide to the Board or its designee the name and qualifications of one or more proposed reviewer of the medical records of animal patients created and maintained by Respondent. If Respondent's terms of probation include Supervised Practice, that supervisor also may serve as the medical records reviewer. Each reviewer shall be a licensed veterinarian in California, have held a valid California license for at least five (5) years, and have never been subject to any disciplinary action by the Board.

The Board or its designee shall provide the approved reviewer with copies of this Decision. Within fifteen (15) calendar days of the reviewer's receipt of this Decision, the reviewer shall sign an affirmation that they have reviewed the terms and conditions of this Decision and fully understands the role of the reviewer.

If Respondent fails to obtain the Board's or its designee's approval of a reviewer within sixty (60) calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease practicing veterinary medicine within three (3) calendar days after being notified. Respondent shall cease practice until a reviewer is approved to provide medical records review services.

The reviewer shall review a minimum of ten percent (10%) of Respondent's animal patient medical records or fifteen (15) records (whichever is greater), a minimum of twelve (12) times per year. The reviewer shall determine the method of random selection of medical records to review and shall access the medical records directly from where the medical records are being kept. Review of Respondent's medical records shall not be delegated to Respondent or Respondent's staff. The reviewer's random selection of medical records shall include medical records that correlate to the animal patient care issues or other issues identified in the disciplinary action that resulted in this Decision. Respondent is required to make all

animal patient medical records available for immediate inspection and copying by the reviewer at all times during business hours. The reviewer shall immediately notify the Board's Probation Monitor if Respondent fails or refuses to make the medical records available for inspection and/or copying.

Any potential costs associated with conducting the medical records review shall be borne by Respondent.

The reviewer shall evaluate the medical records to assess: 1) The medical necessity and appropriateness of Respondent's treatment; 2) Respondent's compliance with minimum standards of practice in the diagnosis and treatment of animal patients; 3) Respondent's maintenance of necessary and appropriate treatment; 4) Respondent's maintenance of necessary and appropriate records and chart entries; and 5) Respondent's compliance with existing statutes and regulations governing the practice of veterinary medicine.

The reviewer shall submit quarterly reports to the Board on a form designated by the Board. The reports shall be submitted by the reviewer directly to the Board's Probation Monitor within seven (7) calendar days after the end of the preceding quarter. The quarterly reporting periods and due dates are as follows:

<b>Reporting Time Period</b>	<b>Due No Later Than</b>
January 1 to March 31 (Quarter I)	April 7
April 1 to June 30 (Quarter II)	July 7
July 1 to September 30 (Quarter III)	October 7
October 1 to December 31 (Quarter IV)	January 7

**8. No New Ownership**

Respondent shall not have any new legal or beneficial interest in any veterinary business, firm, partnership, or corporation for the duration of Respondent's probation.

**9. No Management**

Respondent shall not manage or function as the responsible licensee manager for any veterinary hospital for the duration of Respondent's probation. For purposes of this term, "responsible licensee manager" means the individual set forth in Business and Professions Code section 4853, subdivision (c).

**10. Continuing Education**

Within sixty (60) days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board for its prior approval, an educational program or course related to Respondent's specific area(s) of weakness which shall not be less than \_\_\_\_\_ [insert hours per year], for each year of probation. Upon successful completion of the course, Respondent shall provide proof to the Board. This program shall be in addition to the Continuing Education required of all licensees for licensure renewal. All costs shall be borne by Respondent.

**11. Clinical Training**

Within sixty (60) days of the effective date of this Decision, Respondent shall submit an outline of an intensive clinical training program to the Board for its prior approval. The exact number of hours and the specific content of the program shall be determined by the Board or its designee. Respondent shall successfully complete the training program and may be required to pass an examination related to the program's contents administered by the Board or its designee. All costs shall be borne by Respondent.

**12. Clinical or Written Examination**

Within sixty (60) days of the effective date of this Decision, or upon completion of the clinical training programs, Respondent shall take and pass a species-specific practice (clinical/written) examination to be administered by the Board or its designee. If Respondent fails this examination, Respondent must wait three (3) months between reexaminations, except that after three (3) failures, Respondent must wait

one (1) year to take each necessary reexamination thereafter. All costs shall be borne by Respondent. If Respondent fails to take and pass this examination by the end of the first year of probation, Respondent shall cease the practice of veterinary medicine until this examination has been successfully passed and Respondent has been so notified by the Board in writing.

### **13. Psychological Evaluation**

Within thirty (30) days of the effective date of this Decision, Respondent shall submit to the Board, for its prior approval, the name and qualifications of one or more psychotherapists of Respondent's choice. Upon approval, and within sixty (60) 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-approved psychotherapist (psychiatrist or psychologist), to determine Respondent's ability to practice veterinary medicine safely. The psychotherapist 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 or 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.

#### **ALTERNATIVE: PSYCHIATRIC EVALUATION AS A CONDITION PRECEDENT TO PRACTICE**

As of the effective date of the Decision, Respondent shall not engage in the practice of veterinary medicine until notified in writing by the Board of this determination that Respondent is mentally fit to practice safely. If recommended by the psychotherapist (psychiatrist or psychologist) and approved by the Board or its designee, Respondent shall be barred from practicing veterinary medicine until the treating psychotherapist recommends, in writing, and stating the basis therefore, that Respondent can safely practice veterinary medicine, and the Board approves the

recommendation. All costs shall be borne by Respondent.

**14. Psychotherapy**

Within thirty (30) days of the effective date of this Decision, Respondent shall submit to the Board, for its prior approval, the name and qualifications of one or more psychotherapists of Respondent's choice. Upon approval, Respondent shall undergo and continue treatment until the Board deems that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board. The Board may require Respondent to undergo psychiatric evaluations by a Board-appointed psychiatrist. All costs shall be borne by Respondent.

If the treating psychotherapist finds that Respondent cannot practice safely or independently, the psychotherapist shall notify the Board within three (3) working days. Upon notification by the Board, Respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee that Respondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the Board is required until the Board or its designee has notified Respondent that they may resume practice. Respondent shall document compliance with this condition in the manner required by the Board.

**15. Medical Evaluation**

Within thirty (30) days of the effective date of this Decision, Respondent shall submit to the Board, for its prior approval, the name and qualifications of one or more physicians of Respondent's choice. Upon approval and on a periodic basis thereafter as may be required by the Board or its designee, Respondent shall undergo a medical evaluation by a Board-approved physician, to determine Respondent's ability to practice veterinary medicine safely. The physician shall furnish a medical report to the Board or its designee. If Respondent is required by the Board or its designee to undergo medical treatment, Respondent shall, within thirty (30) days of written notice from the Board, submit the name and qualifications of a physician of Respondent's choice to the Board for its prior approval. Upon approval of the treating physician by the Board, Respondent shall undergo and continue medical treatment until further notice from the Board. Respondent shall have the treating physician submit quarterly written reports to the Board. All costs shall be borne by Respondent.

If at any time an approved evaluating physician or Respondent's approved treating physician determines that Respondent is unable to practice safely or independently as a veterinarian, the evaluating or treating physician shall notify the Board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the Board or its designee of this determination, Respondent shall cease all practice and shall not resume practice until notified by the Board that practice may be resumed.

ALTERNATIVE: MEDICAL EVALUATION  
AS A CONDITION PRECEDENT TO PRACTICE

As of the effective date of this Decision, Respondent shall not engage in the practice of veterinary medicine until notified in writing by the Board of its determination that Respondent is medically fit to practice safely. If recommended by the physician and approved by the Board or its designee, Respondent shall be barred from practicing veterinary medicine until the treating physician recommends, in writing and stating the basis therefore, that Respondent can safely practice veterinary medicine, and the Board approves said recommendation.

**16. 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 (for the duration of probation/for one/for two years) to the Board for its prior approval. Respondent shall provide documentary evidence in the quarterly written reports to the Board of continuing satisfactory participation in this program. All costs shall be borne by Respondent.

Components of the treatment contract shall be relevant to the violation and to the Respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random biological fluid testing, abstention from drugs and alcohol, use of worksite monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluation, and other appropriate rehabilitation or monitoring programs. All costs of participating in the program(s) shall be borne by the Respondent.

**17. Continuing Prevention and Support Groups**

Within thirty (30) days of the effective date of this Decision, Respondent shall begin regular attendance at a recognized and established substance abuse recovery support group in California (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) that has been approved by the Board or its designee. Respondent must attend at least one group meeting per week unless otherwise directed by the Board or its designee. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation. Failure to attend or submit documentation thereof shall be considered a violation of probation.

**18. 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.

Respondent shall make daily contact as directed by the Board or its designee to determine if Respondent must submit to drug testing. Respondent shall submit the drug test on the same day that Respondent is notified that a test is required.

Any confirmed positive test for alcohol or any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall result in a cease practice order resulting in a period of nonpractice/suspension from work by Respondent and may be a cause for revocation of probation. Respondent may not resume the practice of veterinary medicine in any form until notified by the Board in writing. Submit to drug testing shall not be tolled.



**19. Abstain from Controlled Substances**

Respondent shall abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act (Health and Safety Code section 11000 et seq.), and dangerous drugs as defined in Business and Professions Code Section 4022, except for medication lawfully prescribed to Respondent by a licensed practitioner for a bona fide illness. Upon request of the Board or its designee, Respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of Respondent's treatment. Abstain from controlled substances shall not be tolled.

**20. Abstain from Alcohol Use**

Respondent shall abstain from the use of products or beverages containing alcohol. Abstain from alcohol use shall not be tolled.

**21. Community Service**

Within sixty (60) days of the effective date of this Decision, Respondent shall submit a community service program to the Board for its prior approval. In this program, Respondent shall provide free services on a regular basis to a community or charitable facility or agency for at least \_\_\_\_\_ [insert number of hours] per \_\_\_\_\_ [insert increment of time] for the first \_\_\_\_\_ [insert increment of time] of probation. All services shall be subject to prior Board approval.

**22. Fine**

Respondent shall pay to the Board a fine in the amount of \_\_\_\_\_ [insert dollar amount] (not to exceed \$5,000) pursuant to Business and Professions Code sections 4875 and 4883. Respondent shall make the payments as follows: \_\_\_\_\_.

**23. Restitution**

Respondent shall make restitution to any injured party in the amount of \_\_\_\_\_ [insert dollar amount]. Proof of compliance with this term shall be submitted to the Board within sixty (60) days of the effective date of this Decision.

**24. Ethics Training**

Respondent shall submit to the Board for its prior approval, an ethics training course for a minimum of \_\_\_\_\_ [insert number of hours] during the probationary period. Respondent shall provide proof of successful completion of the course to the Board. All costs shall be borne by Respondent.

## DEFINITIONS

**Negligence**—A departure from the standard of care or practice. It can be an act of omission or commission. Harm or injury is not a necessary component of administrative negligence because we do not seek monetary damages (redress).

**Incompetence**—A lack of knowledge or ability in discharging professional obligations.

**Fraud**—An intentional act or omission to deceive or mislead another person by misrepresentation, deceit, or concealment of a material fact.

**Deception**—Any act or omission that deceives or misleads another person.

Both fraud and deception can exist despite truthful statements if the statements made, whether written or oral, have a tendency to mislead or do in fact mislead.