

**Veterinary Medical Board**

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

Telephone: 916-515-5220 Fax: 916-928-6849 | www.vmb.ca.gov



**AMENDED MEETING NOTICE and AGENDA**  
**VETERINARY MEDICAL BOARD**

**January 18-19, 2016**

1747 N. Market Blvd. – 1<sup>st</sup> Floor Hearing Room  
Sacramento, California

**10:00 a.m. Wednesday, January 18, 2016**

1. Call to Order - Establishment of a Quorum
2. Introductions
3. Review and Approval of October 19-20, 2016 Meeting Minutes
4. Swearing in of New Board President, Cheryl Waterhouse, DVM
5. Proposed Regulations
  - A. Status of Pending Regulations
  - B. Discuss and Consider Amendments to the Disciplinary Guidelines - Section 2006 of Title 16 of the California Code of Regulations
6. Review and Discuss Request from the City of Los Angeles for a Guarantee Letter Regarding an Exemption from Licensure for Veterinarians Providing Care and Treatment to Animals Participating in the 2024 Olympic and Paralympic Games.
7. Update on Registered Veterinary Technician School Reporting Pursuant to Section 2064 of Title 16 of the California Code of Regulations
8. Review and Discuss Reciprocity Issues and License Eligibility for Veterinary Applicants Who Possess Work Experience in a Foreign Territory; Potential Revisions to Existing Reciprocity Statute (Business and Professions Code section 4848(b)(1))
9. Discuss Proposed Changes to Section 2030.3(c) of Title 16 of the California Code of Regulations regarding Telemedicine and Review American Veterinary Medical Association (AVMA) Proposed Guidelines
10. Multidisciplinary Advisory Committee Report – Dr. Jon Klingborg
  - A. Review and Consideration of Multidisciplinary Advisory Committee Items and Recommendations ([See Attached Agenda](#))
11. Board Chair Report – Dr. Cheryl Waterhouse
12. Registered Veterinary Technician Report – Jennifer Loredó
13. Discuss Implementation Issues Regarding the Veterinary Assistant Controlled Substances Permit Program
14. Review Revenue and Expenditure Reports and Discuss Need for a Fee Increase of Initial License and Renewal Fees; Potential Action
15. Executive Officer & Staff Reports
  - A. Administrative/Budget

- B. Enforcement
- C. Licensing/Examination- Report from Office of Professional Examination Services regarding the Veterinary Law Examination Study
- D. Hospital Inspection

16. Agenda Items and Next Meeting Dates – February 2, 2017 – Animal Rehabilitation Task Force Meeting (Sacramento); April 19-20, 2017 (Oakland); July 26-27, 2017 (Sacramento/Southern California); October 18-19, 2017 (Fresno)

- A. Agenda Items for Next Meeting
- B. Multidisciplinary Advisory Committee Meetings – April 18, 2017; TBD

17. Public Comment on Items Not on the Agenda

Note: The board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. (Government Code Sections 11125, 11125.7(a)).

18. Recess until January 19, 2017, at 9:00 a.m.

**9:00 a.m. Thursday, January 19, 2017**

19. Reconvene - Establishment of a Quorum

20. Introductions

21. Petition for Reduction of Penalty – Trinity Reese – 9:00 a.m.

22. Petition for Reduction of Penalty – Kristina Miranda – 10:00 a.m.

23. Petition for Reduction of Penalty – Tiffany Mestas – 11:00 a.m.

**CLOSED SESSION**

24. Pursuant to Government Code Section 11126(c)(3), the Board will meet in closed session to deliberate and vote on the above petitions and disciplinary matters, including stipulations and proposed decisions.

25. Pursuant to Government Code Section 11126(a)(1), the Board will meet in closed session to evaluate the performance of the Executive Officer.

**RETURN TO OPEN SESSION**

26. Adjournment

Introductions are voluntary. This agenda can be found on the Veterinary Medical Board website at [www.vmb.ca.gov](http://www.vmb.ca.gov). Times stated are approximate and subject to change. This meeting will conform to the Open Meeting Act. Agenda discussions and report items are subject to action being taken on them during the meeting by the Board at its discretion. The Board provides the public the opportunity at meetings to address each agenda item during the Board's discussion or consideration of the item. Total time allocated for public comment may be limited. Agenda items may be taken out of order.

The Board plans to webcast items 1-23 at this meeting on its website at [www.vmb.ca.gov](http://www.vmb.ca.gov). Webcast availability cannot, however, be guaranteed due to limitations on resources or technical difficulties that may arise. If you wish to participate or to have a guaranteed opportunity to observe and participate, please plan to attend at a physical location.

The meeting locations are accessible to the physically disabled. Other disability-related accommodations or modifications can be provided upon request. Please make your request for disability-related accommodations by contacting the Board at (916) 515-5220 or sending a written request to 1747 N. Market St., Suite 230, Sacramento, CA 95834. Provide at least five (5) business days' notice prior to the meeting to help ensure availability of requested accommodations.

**MISSION**

The mission of the Veterinary Medical Board is to protect consumers and animals by regulating licensees, promoting professional standards and diligent enforcement of the practice of veterinary medicine.

**Veterinary Medical Board**

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

Telephone: 916-515-5220 Fax: 916-928-6849 | www.vmb.ca.gov



**MEETING MINUTES**

**October 19-20, 2016**

The Mission Inn  
3649 Mission Inn Avenue,  
Riverside, California

**9:00 a.m. Wednesday, October 19, 2016**

**1. Call to Order - Establishment of a Quorum**

Dr. Mark Nunez called the Veterinary Medical Board (Board) meeting to order at 9:01 a.m. Executive Officer, Annemarie Del Mugnaio, called roll; eight members of the Board were present and thus a quorum was established.

**2. Introductions**

Board Members Present

Mark Nunez, DVM, President  
Cheryl Waterhouse, DVM, Vice President  
Kathy Bowler, Public Member  
Lee Heller, J.D., PhD, Public Member  
Jennifer Loreda, RVT  
Judie Mancuso, Public Member  
Jaymie Noland, DVM  
Richard Sullivan, DVM

Staff Present

Annemarie Del Mugnaio, Executive Officer  
Nina Galang, Administrative Program Coordinator  
Kurt Heppler, Legal Counsel  
Ethan Mathes, Administrative Program Manager  
Candace Raney, Enforcement Manager  
Diann Sokoloff, Supervising Deputy Attorney General  
Cesar Victoria, DCA Webcast

Guests Present

Nancy Ehrlich, RVT, California Registered Veterinary Technician Association  
Valerie Fenstermaker, California Veterinary Medical Association  
Diane Isbell, DVM  
Jon Klingborg, DVM, Multidisciplinary Advisory Committee, Chair  
John Pascoe, DVM, University of California, Davis  
Ken Pawlowski, DVM, California Veterinary Medical Association  
Marshall Scott, DVM, California Veterinary Medical Association  
Dan Segna, DVM, California Veterinary Medical Association  
Ron Terra, DVM, Western University of Health Sciences

### **3. Review and Approval of July 20-21, 2016 Meeting Minutes**

Lee Heller made grammatical corrections.

- Judie Mancuso moved and Dr. Cheryl Waterhouse seconded the motion to approve the July 20-21, 2016 meeting minutes as amended. The motion carried 8-0.

### **4. Election of Officers**

- Dr. Richard Sullivan nominated Dr. Cheryl Waterhouse for President. The Board voted 8-0.
- Lee Heller nominated Dr. Mark Nunez for Vice-President and Dr. Mark Nunez declined the nomination.
- Kathy Bowler nominated Dr. Richard Sullivan for Vice-President and Dr. Richard Sullivan accepted the nomination. The Board voted 8-0.

### **5. Review of Occupational Analysis and Examination Development – Heidi Lincer-Hill, Office of Professional Examination Services**

Office of Professional Examination Services (OPES) Chief, Heidi Lincer, and Tracy Montez of the Department of Consumer Affairs (DCA) gave a presentation on the Board's latest Occupational Analysis (OA), Examination Development and the purpose of OPES examination development.

Ms. Lincer explained that the OA and examination validation cycle occurs every 5-7 years and takes 9 months to one year to complete. Entry level and experienced practitioners serve as subject matter experts throughout the cycle and the weights or percentages of each practice subject area are determined by surveys and/or committees. Additionally, Ms. Lincer explained how examination performance is monitored and the roles and responsibilities of Board staff in examination development.

Ms. Lincer noted that OPES has not been legally challenged on any examinations, but professions have been challenged within the industry. Ms. Montez explained that examination methodology is not unique to California and other states follow the same guidelines as a way to defend the examination development process.

Ms. Del Mugnaio clarified that the Board has not been challenged, but other professions have been challenged.

Ms. Montez provided a brief overview of the occupational analysis and examination history. She noted that if there were strong justification of a deficiency in the practice survey and examination, it would be brought to the Board's attention.

Ms. Lincer confirmed that the Board's RVT occupational analysis will be completed and available in December 2016. Once completed it will take some time to develop and/or update the exam as OPES will need to compare the national examination OA.

The response rate from the Registered Veterinary Technician (RVT) profession in relation to the most recent veterinary technician OA was high; therefore, the results should be better since they will be based on a large survey. OPES is waiting for the American Association of Veterinary State Boards

(AAVSB) OA to be completed to compare with the California OA. Ms. Montez noted changes that need to be made to the California exam have been identified during previous OAs.

Ms. Montez discussed passing rates on examinations. Fluctuations tend to happen at the beginning of a new examination validation cycle as candidates get used to the testing structures and specific material. A variance of 10 percent passing rate is considered normal for new examinations.

Ms. Del Mugnaio clarified that the intent of the discussion is to provide an overview of the exam, but exact information regarding what is going to be covered in the test cannot be provided. Discussion of examination questions should not occur, as it is a violation of the confidential process. Examination concerns must be brought to Board staff.

Nancy Ehrlich expressed concerns about the test plan. She noted that the California Registered Veterinary Technicians Association (CaRVTA) developed a study guide and was not notified that the test plan had changed. Ms. Del Mugnaio clarified that the Board does not have an obligation to inform organizations when changes to a test plan occur. Information is available on the PSI website, including the revision date and a link is posted on the Board's website. Administrative Program Manager, Ethan Mathes, confirmed that examination candidates are provided a current hard copy of the candidate information bulletin, which includes the examination plan.

Legal Counsel, Kurt Heppler, noted that the concept that the Board would approve an industry's test plan is outside the scope of the Board. Mr. Mathes confirmed that the Board did not approve an industry test plan or study guide.

Ms. Heller identified the "How do I obtain a license" link on the Board's website to be under construction. Mr. Mathes confirmed that the link is not currently live but there are forms available on the website. Kathy Bowler asked the staff to review the Board's website for potential link issues. Ms. Del Mugnaio clarified that the Board's website is not under construction, only one link.

## **6. Update on Registered Veterinary Technician School Reporting Pursuant to Section 2064 of title 16 of the California Code of Regulations**

### **A. Review BPPE Program Approval**

Mr. Mathes received a 100 percent response on each application sent to all 18 RVT programs throughout California. The responses to the applications that have been reviewed so far have been thorough and address some specific areas of Board concerns (disclosure of pass rates, disclosure of transferability of credits, and faculty qualifications). Mr. Mathes will follow up on any responses requiring additional information.

Mr. Heppler expressed that he does not see a depreciable loss of consumer protection based on the review of the RVT programs requirements with the Bureau for Private Postsecondary Education (BPPE) and the American Veterinary Medical Association (AVMA). A Memorandum of Understanding (MOU) that authorizes a sharing of information, similar to MOUs executed by other Boards, is still under construction. There is no exact date on the completion of the MOU at the moment.

Ms. Del Mugnaio clarified that MOUs typically cover unannounced site inspection and complaint investigation to confirm ongoing compliance.

Mr. Heppler explained a new operational change has been established regarding the rulemaking process. The Business, Consumer Services, and Housing Agency (Agency) now requests documents be sent to

them first for review and then the rulemaking process may commence. Mr. Heppler clarified that the director does not have veto power at the initial stage.

Mr. Heppler suggested that the Board must make a new motion to comply with the new operational procedures if the Board would still like to proceed with the rulemaking process. He also clarified that the MOU would not be part of the rulemaking process.

Ms. Del Mugnaio clarified that the language approved by the Board in July 2016 included California Code of Regulations (CCR) sections 2064 and 2065.8.

The Board agreed to change the word “and” to “or” in CCR section 2065(a)(2).

Ms. Del Mugnaio noted that the last year’s VTNE scores will be available on October 20, 2016 and Board staff can draft language to address either the California or national examination dropping below 10 percent of the average. The Board conceptually agreed.

Mr. Heppler noted that he will work with staff on the MOU and that it will be made available to the public.

- Dr. Richard Sullivan moved and Dr. Jaymie Noland seconded the motion to approve the revisions to CCR section 2064 and 2065.8 (previously approved by the Board in July 2016), the revisions to CCR section 2065(a)(2), direct staff to submit the text and related rulemaking forms to the Director of DCA and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received from either agency, take the necessary steps to commence the rulemaking process and set the matter for hearing. The motion carried 8-0.

## **7. Proposed Regulations**

### **A. Status of Pending Regulations**

Ms. Del Mugnaio noted that the Telemedicine language would need to be revisited at the next Board meeting. She also added that she is actively recruiting for a Retired Annuitant to help move the pending regulations through the lengthy review process.

### **B. Discuss and Consider Potential Amendments to the Registered Veterinary Technician School Approval Regulations - Sections 2064-2066 of Title 16 of the California Code of Regulations**

*Agenda Item 7B was discussed under Agenda Item 6.*

## **8. Multidisciplinary Advisory Committee Report – Dr. Jon Klingborg**

### **A. Review and Consideration of Multidisciplinary Advisory Committee Items and Recommendations**

Dr. Jon Klingborg reviewed a list of existing priorities with the Multidisciplinary Advisory Committee (MDC) and noted that a number of items were not discussed at their meeting due to time constraints.

The Shelter Medicine Subcommittee, Dr. Allan Drusys and David Johnson, are continuing to work on obtaining feedback from the shelter community, especially regarding different types of shelters. The Subcommittee identified nine items on the list of priorities, including whether or not a Veterinary Assistant Controlled Substances Permit (VACSP) would be needed for various shelter staff.

Regarding the “Extended Duties” for RVTs, the California Veterinary Medical Association (CVMA) identified none, other than those within the shelter environment. CaRVTA suggested restricting duties for veterinary assistants.

The list of restricted duties for veterinary assistants was proposed by CaRVTA and is as follows:

1. Administration of anesthetic agents during induction, monitoring, and recovery from anesthesia
2. Central line placement (jugular or femoral PICCs)
3. Invasive procedures including inserting nasogastric tubes, inserting urinary catheters, or tracheal placement/suctioning
4. Assessment of patient condition
5. CSF/spinal taps
6. Rabies specimen processing
7. Chest tube placement
8. Intraosseous catheter placement
9. Centesis including (cysto, abdominal, thoraco)
10. Advanced nerve blocking techniques
11. Administration of injectable controlled drugs.

Dr. Nunez suggested sending the issue of restricted duties for veterinary assistants back to the MDC as a new priority item. Ms. Del Mugnaio suggested calling it an “exclusions” list for veterinary assistants. Dr. Richard Sullivan requested that the MDC look at the exclusions list from the perspective of need and access to care.

Ms. Ehrlich clarified that the list submitted by CaRVTA was intended to be for private facilities, not shelters.

Dr. Cheryl Waterhouse recommended removing items #1, #4, #6, and #11 from the list.

- Jennifer Loreda moved and Lee Heller seconded the motion to send the list submitted by CaRVTA, with the exclusion of #1, #4, #6, and #11, to the MDC for further research. The motion carried 6-2. Dr. Mark Nunez and Dr. Jaymie Noland opposed the motion.

Regarding the Veterinary Student Exemption discussion, the MDC voted and passed version #1 of the proposed language. The Board agreed that the approved version provides a higher level of consumer protection. Dr. Klingborg added that the licensee still retains the responsibility to supervise the student.

Ms. Del Mugnaio noted that the MDC struck the phrase “in place of” in version #1 of Business and Professions Code (BPC) section 4830(a)(5)(B). The Board agreed that the phrase “a mechanism for ensuring that the consumer is protected as the student is training at the site” is too vague.

Dr. Ron Terra from Western University of Health Sciences (WesternU) agreed that version #2 is vague. He suggested neither version of BPC section 4830 (a)(5)(B) is needed because there is already an MOU in place and WesternU complies with current BPC section 4830 requirements in order to be accredited. Dr. Terra expressed support for the language in BPC section 4830 (a)(5)(A) and interpreted proposed section BPC section 4830(a)(5)(B) as giving the Board and Legislature unnecessary authority over the curriculum.

- Dr. Cheryl Waterhouse moved and Lee Heller seconded the motion to accept version #1 of proposed BPC sections 4830(a)(5)(A) and 4830(a)(5)(B), with the exclusion of the phrase “in place of.” The motion carried 8-1. Dr. Jaymie Noland opposed the motion.

Dr. Klingborg noted that the MDC voted to strike the phrase “or a graduate” from CCR section 2027 and keep the language regarding “junior” or “senior” class standings. Dr. Klingborg requested the Board’s approval on the “Current 2027” language included in his handout.

Dr. John Pascoe expressed that the “proposed” language is clearer than the “Current 2027” language. By removing the class standings, it acknowledges flexibility with the pace of the curriculum.

- Judie Mancuso moved and Dr. Richard Sullivan seconded the motion to accept the proposed changes to the language listed under “Current 2027” with the exclusion of the phrase “or a graduate,” and the addition of the language “outside the university” after the word “premises.” The motion carried 7-0-1. Dr. Jaymie Noland abstained.

Dr. Klingborg noted that the MDC voted to table the discussion on allowing Doctor of Veterinary Medicine (DVM) graduates to sit for RVT exam and requested guidance from the Board.

The Board discussed allowing the new pathway for DVM graduates to site for the RVT examination and suggested exploring retroactivity for RVT exam eligibility for past DVM graduates. Dr. Waterhouse suggested adding a provision for veterinary graduates who have already been practicing as an RVT for a year or more.

Ms. Del Mugnaio noted that exam scores expire after five years and suggested attaching a time frame for when the candidate is considered ineligible to sit for the RVT exam.

Mr. Heppler noted the Board can determine whether or not to commence with the rulemaking at the January 2017 Board meeting.

- Dr. Mark Nunez moved and Judie Mancuso seconded the motion to adopt CCR section 2027.5.
- Dr. Mark Nunez withdrew his motion to adopt CCR section 2027.5 since the Board has agreed to address veterinary graduates who are currently functioning as RVTs.
- Lee Heller moved and Jennifer Loreda seconded the motion to direct the MDC to research the issue of allowing veterinary graduates a pathway to sit for the RVT exam, research the issue of how long to allow them to function as RVTs without a veterinary license, and direct Legal Counsel to research and report back findings regarding prospectivity at the January 2017 MDC and Board meeting. The motion carried 8-0.

Regarding rodeos, Dr. Klingborg noted that one issue has been owners not seeking care for their injured animals. There appears to be a lack of enforcement of this issue, but the MDC felt that enforcement is the role of the animal control officer and it is the rodeo management’s responsibility to ensure that a veterinarian or RVT is present.

With respect to the Board’s role, the MDC suggested adding a couple of tasks to the emergency care duties that an RVT may perform, such as pain management and sedation. Dr. Waterhouse expressed support for having animal control officers perform the tasks of pain management and sedation since they are already equipped with the necessary drugs.



Ms. Del Mugnaio added that RVTs have the opportunity to call Animal Control when an animal injury goes untreated since they have knowledge of the law. Dr. Sullivan noted that BPC section 4830.5 requires licensees to report animal abuse or cruelty.

- Dr. Jaymie Noland moved and Lee Heller seconded the motion to task the MDC with researching the addition of pain management and sedation to the list of emergency care duties an RVT can perform. The motion carried 8-0.

Ms. Del Mugnaio will include the motions in the Board's Sunset Review response to the Legislature.

The following items were identified to be added to the list of MDC's priorities:

- Exclusions for veterinary assistants
- Pathway for veterinary graduates to take the RVT exam
- Addition of pain management and sedation to the emergency care duties list for RVTs at rodeos.

Dr. Klingborg added that the MDC will also discuss the following:

- Enforcement Report
- Drug Compounding
- Anesthesia vs. Sedation
- Drug Counseling.

## **9. 2016 Legislation Report**

- A. SB 1193 (Hill) Veterinary Medical Board: executive officer**
- B. SB 945 (Monning) Pet boarding facilities**
- C. AB 2505 (Quirk) Animals: euthanasia**
- D. SB 1039 (Hill) Professions and vocations**
- E. AB 2269 (Waldron) Animal shelters: research animals: prohibitions**
- F. SB 1348 (Canella) Licensure applications: military experience**
- G. SB 1182 (Galgiani) Controlled substances**

Senate Bill (SB) 1193, SB 945, Assembly Bill (AB) 2505, SB 1039, AB 2269, SB 1348, and SB 1182 have been chaptered.

### **H. AB 2419 (Jones) Public postsecondary education: The New University of California**

AB 2419 has not been chaptered yet.

### **I. Pet Lover's License Plate Update**

Ms. Del Mugnaio noted that she is working with the California Department of Food and Agriculture (CDFA) on the Pet Lover's License Plate program's transition to CDFA. The proposed legislation should be available in December.

## **10. 2017 Legislative Proposals**

- A. Discuss and Consider Amending Business and Professions Code Section 4887 to Extend the Time Before a Petitioner May Petition for Reinstatement or Modification of Penalty.**

Mr. Heppler provided a breakdown of the three options:

- 1) Option #1 is a statutory amendment to stagger the waiting period for a Respondent to file a petition
- 2) Option #2 is a procedural mechanism to assign all petitions for reinstatement or modification of penalty to an Administrative Law Judge (ALJ)
- 3) Option #3 is a logistical consideration to add a third day to all quarterly board meetings for the purpose of holding petition hearings and conducting closed session.

Enforcement Manager, Candace Raney, noted that the Office of Administrative Hearings has significantly increased staff and their backlog in hearings has been reduced.

Dr. Nunez suggested a hybrid model where the Board has the option to send the petitioner case out to an ALJ.

Dr. Jaymie Noland expressed concern that cases are being pushed back and not being prioritized based on the length of their probation.

Dr. Sullivan suggested utilizing online voting more and adding a day for contested cases and petition hearings.

Mr. Heppler added that Option #1 can be amended to include language such as “may be granted an early term for petitioning the Board based on due cause.”

Ms. Del Mugnaio noted that the Board may decide at the time of adopting a decision whether or not to include an option to allow the respondent to come back early to petition for reduction in penalty or reinstatement. The Board should also consider whether one year is enough time for a petitioner to demonstrate rehabilitation.

Ms. Raney noted that voluntary surrenders typically come about during stipulated settlements, not during hearings.

Ms. Del Mugnaio noted that the Disciplinary Guidelines rulemaking has not been filed yet and proposed amendments to the language can still be added to the rulemaking file.

- Dr. Richard Sullivan moved to table the discussion until after seeing the cases at the Board meeting on October 20, 2016. The motion did not receive a second.
- Dr. Cheryl Waterhouse moved and Kathy Bowler seconded the motion to adopt Option #1 and under Part #1, add “except that the Board may, at its discretion and for good cause demonstrated, permit reapplication after not less than one year has elapsed from the effective date ....” The motion carried 7-1. Dr. Richard Sullivan opposed the motion.

**B. Review and Discuss Reciprocity Issues and License Eligibility for Applicants Who are Foreign Trained or Possess Work Experience in Foreign Territory; Potential Revisions to Existing Statute**

## **1. Reciprocity for Veterinarians (BPC section 4848 (b)(1))**

Dr. Nunez explained that the point of the discussion was to determine if the clinical practice required of applicants applying for reciprocity must be completed domestically, or if it can be completed in a foreign land.

Dr. Nunez proposed clarifying the requirement that clinical training must be obtained in the United States (U.S.), Canadian province, or U.S. territory, requiring that the license and clinical training are both obtained domestically. Ms. Loredo expressed support for Dr. Nunez's proposal.

Mr. Heppler suggested pursuing a legislative amendment to clarify Dr. Nunez's proposal at the front of the statute.

Ms. Del Mugnaio added that the proposed change has been the intent of the Board since the regulations were first developed and the discussion aims to clarify the ambiguity of the language.

Dr. Noland noted that there are a number of AVMA-accredited schools across the world and felt that students should be better informed that their foreign education and/or experience may not qualify for the reciprocity pathway to licensure. She also expressed support for clinical experience in the U.S.

Internist, Jonathan Kreissler, requested a greater discussion on equivalency. Mr. Kreissler shared that it can be an undue hardship to take the North American Veterinary Licensing Examination (NAVLE) again and expressed concerns regarding a disparity between statute and the application instructions. He questioned the intent of the requirements and inquired about the evidence that the requirements provide assurance of consumer protection.

Dr. Nunez noted that the reciprocity pathway does not prevent you from taking the NAVLE or State board examination.

Mr. Kreissler requested the Board to add the phrase "at the discretion of the Board" to allow exceptions to the regulations. Mr. Heppler suggested that the Board could strengthen the language by including "considering special circumstances."

Dr. Waterhouse suggested exempting those that are AVME-board certified.

Mr. Kreissler added that since the NAVLE is only offered twice a year, there is no way to sustain a living as a veterinarian during the waiting period.

Ms. Del Mugnaio requested clarification from the Board regarding the intent to align the clinical experience with the education, training, and licensure requirements within the U.S., Canadian province, and U.S. territories.

The Deputy Attorney General, Diann Sokoloff, added that the regulatory language does not align with the statutory language, but pointed out that the Board has authority to be more restrictive in its regulation.

Mr. Heppler suggested putting this item on the agenda for the next Board meeting for a conceptual discussion to resolve the item legislatively.

- Dr. Mark Nunez moved and Judie Mancuso seconded the motion to clarify existing BPC section 4848(b)(1) to make mandatory the minimum of two years of clinical veterinary medicine experience and the completion of a minimum of 2,944 hours of clinical practice be obtained in the U.S., Canadian province, or U.S. territory. The Board voted 4-4 and the motion did not pass. Dr. Cheryl Waterhouse, Dr. Jaymie Noland, Lee Heller, and Judie Mancuso opposed the motion.
- Judie Mancuso moved and Dr. Mark Nunez seconded the motion to clarify the intent of the original language which requires that the location of the clinical training received is consistent with where the license was received. The motion carried 7-1. Lee Heller opposed the motion.

## 2. RVT Graduates of Foreign Institutions

Dr. Nunez noted that the point of the discussion was to determine if there is a way for RVT applicants who have completed programs that are not AVMA-accredited to satisfy the educational requirements to sit for the veterinary technician examinations.

Dr. Nunez suggested communicating with the American Association of Veterinary State Boards (AAVSB) to recommend the creation of a pathway similar to the two certification programs for graduates of non- accredited veterinary schools: Educational Commission for Foreign Veterinary Graduates (ECFVG) and the Program for the Assessment of Veterinary Education Equivalence (PAVE).

Ms. Del Mugnaio attended the AAVSB national conference and reported that the groundwork has been laid for AAVSB to consider this pathway for foreign graduates. She also encouraged AAVSB create a task force or subcommittee to continue the work on this and that staff would draft a Memorandum to the AAVSB to initiate a task force to address this issue. Ms. Loreda agreed to serve as a representative of the Board to work with an AAVSB Task Force.

## 11. Board Chair Report – Dr. Mark Nunez

Dr. Nunez reviewed a list of outreach activities, meetings, and trainings that have occurred since the last Board meeting, as well as upcoming activities.

July 22, 2016	Ms. Del Mugnaio and Mr. Mathes attended the CaRVTA Conference at the University of California, Davis
August 1-4, 2016	Hospital Inspectors Training
September 22-24, 2016	Dr. Nunez, Dr. Waterhouse, Ms. Bowler and Ms. Del Mugnaio attended the annual AAVSB meeting in Scottsdale, AZ
October 4, 2016	Animal Rehabilitation Task Force
October 30, 2016	Dr. Nunez attended the CVMA Board of Governors Meeting
November 3, 2016	Expert Witness Training in San Diego, CA

### A. American Association of Veterinary State Boards 2016 Conference Report

Ms. Del Mugnaio provided a brief overview of the discussion points at the annual AAVSB Conference and noted that foreign veterinary technicians, animal physical rehabilitation, shelter medicine, and drug compounding were topics that she raised during the Executive Director’s forum.

Ms. Del Mugnaio added that AAVSB has been working on a Telemedicine guidance document, which may be ready by January 2017.

In some states, such as California, the term “nurse” is title protected; however, in states where it is not title protected, Ms. Del Mugnaio shared that there has been a push for the term veterinary “nurse” to be more commonly used as a uniform title instead of veterinary “technician.”

Ms. Ehrlich shared that there has been discussion regarding the adoption of a uniform Practice Act. Ms. Del Mugnaio noted that the issue with this idea is that some states do not register veterinary technicians.

## **12. Discussion and Consideration of Recommendation(s) from Animal Rehabilitation Task Force**

Ms. Del Mugnaio noted that the next Animal Rehabilitation (AR) Task Force meeting is tentatively set for February 2, 2017.

Dr. Nunez reviewed a list of the motions passed at the second meeting of the Animal Rehabilitation Task Force:

- Five categories of professionals who may engage in the practice of AR (veterinarians, RVTs, veterinary assistants, physical therapists, and physical therapy assistants)
- The following policy statement: “Veterinarians have sufficient education and training to provide animal physical rehabilitation.”
- RVTs performing animal physical rehabilitation must have additional training in animal physical rehabilitation to provide services under indirect supervision
- RVTs who do not have additional training in animal physical rehabilitation must work under the direct supervision of a veterinarian or within a range setting
- RVTs are allowed to perform animal physical therapy under the direct supervision of a veterinarian unless in a range setting, in which case the supervising veterinarian may determine the level of supervision
- Veterinary assistants may provide animal physical rehabilitation under the direct supervision of a veterinarian or an RVT.

The next issues to be discussed at the Task Force meeting are what physical therapists and physical therapy assistants are allowed to perform on animals for the purposes of physical rehabilitation, as well as what level of supervision is necessary and in which settings.

The Animal Rehabilitation Task Force also discussed animal rehabilitation outreach efforts, regulatory matters with regard to enforcement and oversight, and which board will be responsible for oversight.

## **13. Registered Veterinary Technician Report – Jennifer Loredó**

Jennifer Loredó provided a report on the issues raised at the CaRVTA conference including:

- The status of pending regulations pertaining to RVT matters
- Enforcement of CCR section 2064
- The RVT examination fee structure
- Update on the VACSP program roll out
  - Concern regarding fingerprinting process and background checks
- Drug compounding and RVT supervision
- Occupational analysis survey for the VTNE and outreach efforts
- California RVT examination statistics pending in the Board
- Issues raised by CaRVTA Board

- Retroactive fingerprinting for RVTs
- Possible new eligibility category for RVT licensure (e.g. veterinary school graduates, Animal Science Bachelor degrees, etc.).

Mr. Mathes noted that there are regulations in place which authorize the Board to fingerprint upon renewal; however, this process was only functional in DCA's legacy system, Applicant Tracking System (ATS). The issue will need to be revisited since the process is not functional in the new online system, BreZE.

#### **A. RVT Exam Validation and Test Plan Discussion**

The Board received a letter from CaRVTA regarding the VTNE test plan, including questions regarding the content, domain, question answers being legally valid (i.e. "all of the above," "none of the above"), etc. and the letter was elevated to the AAVSB. In response, the AAVSB replied to the Board with practice domains and the OA completed in 2012.

#### **B. Future RVT Agenda Items**

Ms. Del Mugnaio noted that it is on the agenda for Dr. Sullivan to continue working on the recruitment of a representative to serve on the Committee on Veterinary Technician Education and Activities (CVTEA).

#### **14. Public Comment on Items Not on the Agenda**

*There were no comments from public/outside agencies/associations.*

#### **15. Recess until October 20, 2016, at 9:00 a.m.**

**9:00 a.m. Thursday, October 20, 2016**

#### **16. Reconvene - Establishment of a Quorum**

Dr. Mark Nunez called the Board meeting to order at 9:09 a.m. Executive Officer, Annemarie Del Mugnaio, called roll; eight members of the Board were present and thus a quorum was established.

#### **17. Introductions**

##### Board Members Present

Mark Nunez, DVM, President  
 Cheryl Waterhouse, DVM, Vice President  
 Kathy Bowler, Public Member  
 Lee Heller, J.D., PhD, Public Member  
 Jennifer Loredo, RVT  
 Judie Mancuso, Public Member  
 Jaymie Noland, DVM  
 Richard Sullivan, DVM

##### Staff Present

Annemarie Del Mugnaio, Executive Officer  
 Nina Galang, Administrative Program Coordinator

Kurt Heppler, Legal Counsel  
Ethan Mathes, Administrative Program Manager  
Cesar Victoria, DCA Webcast  
Candace Raney, Enforcement Manager  
Diann Sokoloff, Supervising Deputy Attorney General

Guests Present

Nancy Ehrlich, California Registered Veterinary Technician Association

**18. Executive Officer & Staff Reports**

**A. Administrative/Budget**

Mr. Mathes reported on the Board's expenditures during Fiscal Month (FM) 3. He noted that the examination "season" tends to occur during the early part of the Fiscal Year (FY); therefore, many expenses related to examination development tend to occur earlier in the FY.

The Hospital Inspection Program and Attorney General (AG) costs were identified as high-expenditure items and staff will be mindful of these areas in future FMs. Budget Change Proposals (BCPs) are under development for FY 17/18.

The Hospital Inspection Program is currently underfunded and has a net appropriation of \$200,000 through the end of the year. The Board did not anticipate the high costs associated with BreEZe and also experienced higher than anticipated spending in the area of exam costs.

In January 2017, Board members will be provided with the fund condition projections to discuss what needs to be done regarding a proposed fee increase. Ms. Del Mugnaio added that the last time there was a fee increase was in March 2012.

The OPES and PSI expenses covered under the Subject Matter External line item includes the most recent OA and will not be as high in years where no OA is conducted. Mr. Mathes added that the goal is better delineate line items in the future in order to more accurately reflect where expenditures occur.

Ms. Del Mugnaio is meeting with DCA Executive staff and other BreEZe Release 2 Boards on October 27, 2016 to learn how the additional BreEZe costs were charged. DCA is estimating an annual maintenance cost of high \$200,000s for BreEZe, which is significantly higher than was charged for the legacy systems. The workload of Board management has also been significantly impacted in order to triage BreEZe-related issues.

In addition to the backlog of BreEZe maintenance requests, Mr. Mathes added that there are also department wide system changes affecting BreEZe; for example, recently enacted Military Bills. Of the applications the Board has received, 60 percent have been submitted online. The plan is to have the future University License application entirely online.

Mr. Mathes noted that Board staff are looking into using an outside entity to perform a complete audit of all of the Board's set fees. Ms. Loreda reminded the Board that based on recent requests from the RVT community to lower existing fees, there would likely be significant push back from RVTs if the fees are increased.

Ms. Bowler suggested aligning the audit in conjunction with other boards to reduce contract fees.

Ms. Del Mugnaio will communicate with other boards to solicit interest in a collective contract.

## **B. Enforcement**

Ms. Raney updated the Board on the Enforcement Report.

On October 8, 2016, Ms. Raney attended the California Medical Board's Expert Witness Training and opined that in comparison, the Board appears to be on track with regard to our training. One of the factors that may disqualify a Subject Matter Expert (SME) is the ability to testify well at hearings.

On November 3, 2016, the Board is holding a "round table" type of Expert Witness Training in San Diego, CA. The goal of the training is to focus on questions about the process, the expert's role within the process, conflict of interest considerations, and the opportunity for experts to share situations that they did or did not know how to handle. The Complaint Audit Taskforce, Dr. William Grant and Dr. Jeff Pollard, will be in attendance at the training to share some of the lessons learned based on their audit.

The Complaint Investigation Unit received 866 complaints in FY 15/16 and closed 890 complaints.

With regard to formal discipline, 61 cases were forwarded to the AG's Office and 50 cases were closed.

The Probation Monitoring Unit is currently monitoring approximately 90 probationers.

Board members can expect to receive two mail-in votes before the January 2017 Board meeting.

Ms. Raney noted that the Board no longer sends cease and desist letters, and instead, sends a preliminary letter requesting additional information. Ms. Del Mugnaio clarified that this change was made to the process since there is no due process for cease and desist orders. She confirmed that the Board does have the authority to issue a cite and fine for unlicensed activity.

## **C. Licensing/Examination - Update on the Veterinary Assistant Controlled Substance Permit Program (VACSP)**

There have been a lot of questions regarding which individuals need or do not need a VACSP. Ms. Del Mugnaio noted that the VACSP topic needs to be placed on the agenda in order to clarify specific policy decisions.

Ms. Ehrlich expressed concern regarding practitioners assuming that a permit holder is qualified to perform duties allowed with a VACSP and requested that the VACSP postcard be re-done to include the information. Mr. Mathes clarified that the information can be found in the VACSP Frequently Asked Questions (FAQ).

Ms. Ehrlich also noted that the pass rate in July through December 2016 for the California RVT Board examination has gone down from 94 percent to 54 percent since last year. She requested that the Board be more proactive in letting organizations be aware of changes since CaRVTA was not made aware of changes to the test plan. Mr. Mathes confirmed that the current candidate information bulletin is on the Board's website and PSI provides a hard copy to applicants. Dr. Nunez responded that the Board will ensure that all information that is being passed along is current.

Mr. Mathes noted that he has requested an early implementation of the University License to be added to BreEZe in July 2017.



Mr. Mathes clarified that the national examination pass rates broken down by school were recently received and will be published on the Board's website.

#### **D. Hospital Inspection**

Ms. Del Mugnaio noted inspectors have been providing suggestions on how hospitals can improve when risks are identified; more data on the outcomes of the inspections will be made available in January 2017. Board members were also encouraged to participate in ride-alongs during the hospital inspections.

Hospital Inspection Program staff member, Kristina Kennedy, will be leaving the Board staff and management is actively recruiting to fill the position.

#### **E. CURES Report**

Ms. Del Mugnaio noted that the Controlled Substances Utilization Review and Evaluation System (CURES) information included in the agenda items is a Department-wide update. The Board is still waiting on more information regarding the concerns about practitioners being able to speak to one other about a potential drug diversion issues.

The deadline is July 1, 2017 to register with CURES. Ms. Del Mugnaio noted that veterinary licensees are charged a \$12 fee for CURES when renewing their license. Registering for CURES is mandated and is considered non-compliance for not registering.

### **19. Agenda Items and Next Meeting Dates**

#### **A. Agenda Items for Next Meeting**

- January 18-19, 2017 – Sacramento
- April 19-20, 2017 – Oakland (TBD)
- July 26-27, 2017 (dates changed to accommodate the AVMA conference) – Sacramento/Southern California (TBD)
- October 18-19, 2017 – Sacramento/Southern California (TBD)

Ms. Del Mugnaio noted that the location of the July 2017 and October 2017 MDC meetings may be switched depending on the availability of hotels.

The following is a list of discussion items for the next Board meeting:

- Telemedicine
- Reciprocity for Veterinarians who Practice in Foreign Countries
- VACSP Program Update and Policy Discussion
- Fee Structure (including BreEZe costs and budget projections)
- Update to RVT School Reporting (with statistics)

### **CLOSED SESSION**

**20. Pursuant to Government Code Section 11126(c)(3), the Board will meet in closed session to discuss and vote on disciplinary matters including stipulations and proposed decisions.**

Ms. Heller was not present for closed session.

AV 2014 4

The Board non-adopted the proposed decision.

Sally Lespier, 4602016000288

The Board adopted the proposed decision.

AV 2015 18

The Board non-adopted the proposed decision.

D1 2012 44

The Board adopted the proposed decision.

D1 2011 35

The Board adopted the default decision.

AV 2016 24

The Board adopted the default decision.

AV 2015 48

The Board adopted the stipulated settlement.

D1 2010 8

The Board adopted the stipulated settlement.

AV 2013 36

The Board adopted the stipulated settlement.

**21. Pursuant to Government Code Section 11126(a)(1), the Board will meet in closed session to evaluate the performance of the Executive Officer .**

The Board was unable to discuss this item during the allotted amount of time; therefore, it will be placed on the agenda for discussion during closed session at the next Board meeting.

**RETURN TO OPEN SESSION**

**22. Adjournment**

The Board adjourned at 4:14 p.m.

## STATUS OF PENDING VMB REGULATIONS

STATUS OF PENDING VMB REGULATIONS			
<b>Animal Control Officer Training</b>	2039.5	DCA Budget Office Review	July 2014 – Board approved language July 2016 – Submit proposed language as amended to Board for review/approval 8/26/2016 – Publish 45-day notice 10/10/2016 – End of public comment period October 2016 – Submit to DCA Budget Office for review/approval
<b>CPEI (SB 1111)</b>	TBD	DCA Legal Review	October 2014 – Board approved language January 2016 – Submitted to DCA Legal for review/approval
<b>Disciplinary Guidelines</b>	2006	In Progress	January 2015 – Board approved language May 2015 – Disciplinary Guidelines Committee Meeting July 2015 – Submit language to Board for review/approval October 2015 – Board approved amended language January 2017 – Submit amended language to Board for review/approval
<b>Minimum Standards / Telemedicine</b>	2032.1	In Progress	February 2015 – MDC approved amendments to Minimum Standards language April 2015 – Board approved language
<b>RVT Alternate Route School Approval</b>	2068.5	In Progress	February 2015 – MDC approved amended language and forwarded to Board for discussion. July 2015 – Board approved language
<b>RVT Student Exemption (BPC 4841.1)</b>	TBD	In Progress	July 2015 – MDC approved amended language and forwarded to Board for discussion. October 2015 – Board approved language
<b>Uniform Standards for Abuse (SB 1441)</b>	2006, 2006.5, and 2076	In Progress	October 2014 – Board approved language April 2015 – On hold per Legal March 2016 – Hold removed per Legal, approved to continue with rulemaking file
<b>RVT AVMA School Approval</b>	2064, 2065.7, and 2065.8	In Progress	July 2016 – Board approved language

<b>MDC</b>			
<b>Shelter Medicine</b>	TBD	TBD	September 2015 – CVMA task force meetings begin October 2016 – Discussion is ongoing
<b>Animal Rehabilitation</b>	TBD	TBD	November 2015 – Rulemaking file withdrawn from OAL January 2016 – Discussion on hold per Board pending Sunset Review June 2016 – 1 <sup>st</sup> Task Force meeting held in Sacramento, CA 10/4/2016 – 2 <sup>nd</sup> Task Force meeting held in Sacramento, CA
<b>Veterinary Student Exemption</b>	2027, 2027.5	TBD	October 2016 – Discussion is ongoing
<b>“Extended Duty” for Registered Veterinary Technicians</b>	TBD	TBD	October 2016 – Discussion is ongoing



# MEMORANDUM

<b>DATE</b>	January 18, 2016
<b>TO</b>	Veterinary Medical Board
<b>FROM</b>	Jaspreet Pabla Enforcement Analyst
<b>SUBJECT</b>	Updates to Adopted Language – Disciplinary Guidelines

**Background:**

On October 20, 2015, the Board adopted the Board’s Disciplinary Guidelines. In reviewing the guidelines for final submission, the staff has a few more recommendations. Please review the following proposed changes and the rationale for the changes proposed.

**Standard Terms and Conditions**

**3. Interview with the Board**

**Adopted Language**

<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. In addition, if Respondent fails to maintain compliance with the terms and conditions of probation in any respect, subsequent in-person interview may be required.</p> <p>Failure to appear for any scheduled interview without prior notification to Board staff shall be considered a violation of probation.</p>	

**Proposed Changes**

*(See page 13)*

<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. In addition, if Respondent fails to maintain compliance with the terms and conditions of probation in any respect, subsequent in-person interview may be required.</p> <p><del>Failure to appear for any scheduled interview without prior notification to Board staff shall be considered a violation of probation.</del></p>	

**Rationale:** During the disciplinary committee meeting, the determination was made for the sake of consistency; the violation of each term will not be defined. The consequence of a violation of probation is explained clearly in the standard term: violation of probation.

## 9. Tolling of Probation

### Adopted Language

9.	Tolling of Probation
<p>Respondent shall notify the Board or designee in writing within fifteen (15) calendar days of any periods of non-practice lasting more than thirty (3) 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.</p> <p>Non-practice is defined as any period of time exceeding thirty (30) days in which Respondent is not engaging in the practice of veterinary medicine in California. While tolled for residing/practicing outside of California. Respondent must comply with the following terms and conditions of probation: obey all laws, quarterly report, tolling of probation, maintain a valid license and cost recovery.</p> <p>Non-practice is also defined as any period that Respondent fails to engage in the practice of veterinary medicine in California for 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 the Decision.</p> <p>Any period of tolling will not apply to the reduction of the probationary term.</p>	

## Proposed Language

*(See page 15)*

9.	Tolling of Probation
<p>Respondent shall notify the Board or designee in writing within fifteen (15) calendar days of any periods of non-practice lasting more than thirty (3) 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.</p> <p>Non-practice is defined as any period of time exceeding thirty (30) days in which Respondent is not engaging in the practice of veterinary medicine in California. While tolled for residing/practicing outside of California. Respondent must comply with the following terms and conditions of probation: obey all laws, quarterly report, <u>interview with the Board</u>, tolling of probation, maintain a valid license and cost recovery.</p> <p>Non-practice is also defined as any period that Respondent fails to engage in the practice of veterinary medicine in California for 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 the Decision.</p> <p>Any period of tolling will not apply to the reduction of the probationary term.</p>	

### **Rationale:**

Recently we have had probationers start probation in the tolled status, in which instance it is in the probationer's best interest to have an interview with the Board to discuss all the requirements and restrictions imposed by the disciplinary order. Further, this would open the lines of communication between the probationer and the Board staff.

**Optional Terms**

**17. Submit to Drug Testing**

**Adopted Language**

17.	<b>Submit to Drug Testing</b>
<p>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.</p> <p>Respondent shall make daily contact as directed by the [Board or its designee] to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required.</p> <p>Any confirmed positive test for alcohol or any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation and shall result in the automatic 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.</p>	

**Proposed Change**

*(See page 22)*

17.	<b>Submit to Drug Testing</b>
<p>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.</p> <p>Respondent shall make daily contact as directed by the [Board or its designee] to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required.</p> <p>Any confirmed positive test for alcohol or any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment <del>shall be considered a violation of probation</del> and shall result in the automatic 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.</p>	

**Rationale:**

This deletion is to retain consistency with all other terms and conditions. The consequence of a violation of probation is explained clearly in the standard term: violation of probation.



## 18. Abstention from Alcohol Use

### Adopted Language

<b>18.</b>	<b>Abstention from Controlled Substances</b>
Respondent shall completely abstain from the personal use of controlled substances, as defined in the California Uniform Controlled Substances Act, and the abuse of dangerous drugs prescribed for a bona fide illness. Upon request of the Board or its designee, Respondent shall provide documentation from the licensed practitioners that the prescription for the drug was legitimately issued and is a necessary part of Respondent's treatment.	

### Proposed Change

*(See page 22)*

<b>18.</b>	<b>Abstention from Controlled Substances</b>
Respondent shall completely abstain from the personal use of controlled substances, as defined in the California Uniform Controlled Substances Act, and <del>the abuse of</del> dangerous drugs not prescribed for a bona fide illness. Upon request of the Board or its designee, Respondent shall provide documentation from the licensed practitioners that the prescription for the drug was legitimately issued and is a necessary part of Respondent's treatment.	

#### **Rationale:**

Abuse can be a hard to substantiate, this further clarifies what type of uses are allowed.

## 19. Abstention from Alcohol Use

### Adopted Language

<b>19.</b>	<b>Abstention from Alcohol Use</b>
Respondent shall abstain from the intake of alcohol.	

*(See page 22)*

<b>19.</b>	<b>Abstention from Alcohol Use</b>
Respondent shall abstain from the <u>use of products or beverages containing alcohol.</u>	

#### **Rationale:**

The staff would like this term clarified to clearly define the term, "alcohol use."

(See page 24)

## Proposed Change

### Rejecting a Decision

### Proposed Decision

After hearing the case and considering all the evidence presented, the ALJ renders a Proposed Decision that contains: 1) findings of fact, 2) a determination of issues, and 3) a proposed penalty (assuming a violation is found). This Proposed Decision is submitted to the Board for consideration and a final decision.

In making a decision whether to adopt the Proposed Decision as its own decision, the Board may only consider the Proposed Decision itself. The Board may not consider evidence about the case not contained in the Decision. The Board may consider advice of legal counsel regarding their options, the legal sufficiency of the Proposed Decision, and the law applicable to the case at hand. If a Board member is personally acquainted with the licensee to a degree that it affects their decision-making ability, or the Board member has received evidence about the case not contained in the Proposed Decision, the Board member should recuse him or herself from any discussion about the case and the vote on the matter.

The Board may vote on the Proposed Decision by mail ballot or at a meeting in a closed session. Although a Proposed Decision carries great weight based on the fact that the ALJ received the evidence presented at the hearing, the actual testimony of the witnesses and the demeanor of those witnesses, the Board is the final decision-maker. The Board should consider the ALJ's narrative explanation in the Decision and how the Disciplinary Guidelines were applied. If the Decision is outside the Disciplinary Guidelines, the ALJ must explain to the satisfaction of the Board, the factors that were proved that caused the ALJ to deviate from the guidelines.

Adopting any decision is a serious responsibility of a Board member. When considering a Proposed Decision, the Board's legal counsel is present to respond to questions about the legal parameters of the case and the Board's authority. Board members must take time to fully discuss each case and to seek clarification from legal counsel for any question they may have prior to making a final decision on the case

Pursuant to Government Code Section 11517, a Board has threefive basic options when considering a Proposed Decision

~~4. a. adopt the Proposed Decision as written, including the proposed penalty, 2~~

~~b. adopt the Decision and reduce the penalty; or Reduce the proposed penalty and adopt the balance of the Proposed Decision~~

~~3. not adoptc. reject the Proposed Decision. The Proposed Decision must be voted upon by the board within 100 days of receipt or it becomes final as proposed by the ALJ. Make technical or other minor changes in the Proposed Decision that do not affect the factual or legal basis of the proposed decision and adopt it as the decision~~

d. Reject the Proposed Decision and refer the case back to the Administrative Law Judge to take additional evidence.

e. Reject the Proposed Decision, decide the case upon the record, including the transcript, or upon an agreed statement of the parties, with or without taking additional evidence.

## **Non-Adopt - Rejecting a Decision**

### **A Proposed Decision**

Board may choose to reject a Proposed Decision of an ALJ for many reasons, which might be grouped generally under the following categories:

*(See page 25)*

- The Board finds the penalty or terms of probation inappropriate to the violation(s).
- The Board disagrees with the ALJ's determination of the issue(s) in the case.

When a Proposed Decision is not adopted, the Board is required to obtain a copy of the transcript of the hearing and documentary evidence unless this requirement is waived by all parties. Each Board member must read the entire transcript and consider only that evidence presented at the hearing. The DAG and the Respondent are entitled to submit oral or written arguments on the case to the Board. The Board must render its own decision after reading the transcript and arguments within 100 days from the receipt of the transcript.

~~—After the decision has been rendered, all parties will be served with the Decision After Non-Adoption.~~  
Rejection.

The Board can elect to return the non-adopted decision to the OAH if it feels that additional evidence is required before the Board can render its decision. In this instance, the case is returned to the OAH and a new hearing date is scheduled. After the new hearing is complete, the ALJ, the same one as before or a new ALJ if the prior one is unavailable, will issue a new Proposed Decision and the Board will consider the Proposed Decision anew.

### **Rationale:**

To stay consistent with the government code section governing proposed decisions.



# Disciplinary Guidelines

~~July~~  
~~2012~~ Month  
, Year

## Veterinary Medical Board



~~2005 Evergreen Street, 1747 N. Market Blvd., Suite 2250230~~  
Sacramento, CA ~~95815-3831~~95834  
(916) ~~263-2640~~515-5220  
~~www.vmb.ca.gov~~ Susan M.  
~~Geranen~~www.vmb.ca.gov  
www.facebook.com/CA.VetMedBoard/  
twitter.com/vetmedboard

Annemarie Del Mugnaio, Executive Officer

# DISCIPLINARY GUIDELINES

## VETERINARY MEDICAL BOARD

~~July 2012~~ Month, Year

~~Tom Kendall, DVM~~ Jaymie J. Noland, DVM

~~Kim Williams, RVT~~

Jennifer Loreda, RVT

~~Patti Aguiar~~ Elsa Florez, Public Member

~~Richard Johnson~~ Mark T. Nunez, DVM

Judie Mancuso, Public

Member ~~Linda Starr~~ Kathy Bowler, Public

Member

Richard Sullivan, DVM

Cheryl Waterhouse, DVM

*Special thanks to former Board President ~~Stephanie Ferguson~~ Tom Kendall, DVM*

~~Susan M. Geranen~~ Annemarie Del Mugnaio Executive  
Officer

~~Sandra Monterrubio~~ Candace S. Raney Enforcement Program  
Manager

## TABLE OF CONTENTS

### DISCIPLINARY PROVISIONS AND STANDARDS

#### Business and Professions Code Sections

Introduction.....	1
4883(a); 4837(b) Conviction of a crime substantially related to veterinary medicine.....	2
4883(b); 4837 (d) Lending name to illegal practitioner .....	2
4883(c); 4837(e); 4836.5 Violation of the provisions of this chapter .....	3
4883(d)( <del>l</del> )(e) Fraud or dishonesty regarding biological tests; Improper employment to demonstrate the use of biologics in animals .....	3
4883(f) False advertising .....	4
4883(g); 4837(c) Unprofessional conduct - drugs .....	5
4883(g); 4837(c) General unprofessional conduct .....	6
4883(h) Failure to keep premises and equipment clean and sanitary.....	7
4883(i) Negligence.....	7
4883(i) Incompetence .....	8
4883(i) Fraud or deception.....	8
4883(j); 4839.5 Aiding or abetting in acts which are in violation of this chapter .....	9
4883(k); 4837(a) Fraud or misrepresentation in obtaining a license .....	9
4883(l) Discipline of license in another state or territory .....	10
4883(m) Cruelty to animals or conviction on a charge of cruelty to animals, or both .....	10
4883(n) Disciplinary action taken by other agencies that relate to the practice of veterinary medicine.....	10
4883(o) Violation or the assisting or abetting violation of any Board regulations .....	11
4855 Written records.....	11
4856 Inspection of records and premises.....	12
4857 Record Confidentiality .....	12
4830.5 Duty to report staged animal fighting .....	13
4830.7 Duty to report animal abuse or cruelty .....	13
4836.5; 4837 Disciplinary proceedings against veterinarians and RVTs .....	13

#### Probation Terms and Conditions

Standard terms and conditions of probation.....	15
Optional terms and conditions of probation.....	17
Overview guide for disciplinary decisions.....	17

## **Title 16, California Code of Regulations**

2030(a) - (h) Minimum Standards

2032.3 Recordkeeping

### **CITATION AND FINING**

#### **Business and Professions Code, Chapter 11., Article 4.**

4875.2 Citation and Fine Authority

4875.4 Civil Penalties

4875.6 Contesting Citations

### **MISDEMEANOR CITATION**

#### **Business and Professions Code, Chapter 11., Article 2.**

4831 Violations; Misdemeanors; Penalty

4830.5 Staged Animal Fight; Civil Liability

### **OTHER PENALTIES, DISCIPLINARY AUTHORITY OR ALTERNATIVES**

#### **Business and Professions Code, Chapter 1.**

7.5 Conviction of a Crime

118 Withdrawal of Application or Surrender of License

125 Conspiracy with Unlicensed Persons

125.5 Injunction, Restitution, and Reimbursement

125.6 Unprofessional Conduct - Discrimination

#### **Business and Professions Code, Chapter 2.**

480 Grounds for Denial of Licensure

#### **Business and Professions Code, Chapter 3.**

490-493 Conviction of a Crime

#### **Business and Professions Code, Chapter 4.**

495 Public Repeal Procedures

#### **Business and Professions Code, Chapter 5.**

496 - 499 Examination Security



# 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 penalty. If an ~~accusation is sustained and~~ administrative law judge finds that a violation occurred but assesses less than the minimum penalty is assessed for that violation, the Board ~~requires information from~~ may ask the administrative law judge ~~onto explain the circumstances that resulted in less~~ reasoning for applying a penalty lower than the minimum penalty being assessed. 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 and registers grants registrations to veterinary premises and veterinary technicians, and issues veterinary assistant controlled substances permits. If there is action taken against both the individual ~~licensee~~ licensee and the premises permit, then the disciplinary order should reflect actions against ~~both~~ each. However, in some cases, minimum standard violations are so severe that it is necessary to take immediate action and close a facility. In these instances, the veterinary license and the premises permit may be disciplined separately, and the disciplinary order should reflect the separate action.

Because of the severity of cases resulting in ~~action~~ 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 imminent threat of the revocation or suspension being reinstated helps to insure compliance with the probationary terms and conditions. ~~It is the recommendation of the~~ The Board that recommends in any case involving a violation related to alcohol or drug abuse related violations that, the minimum term of probation should be five years. ~~In and in addition, in any case involving a violation related to alcohol or drug abuse violations the mandatory terms and conditions listed specifically for this type of cases~~ case shall be imposed.

~~In cases where the penalties deviate from the minimum to maximum range without explanation of the deviation, the Board may non-adopt the Proposed Decision and review the case itself.~~

## PENALTIES BY BUSINESS AND PROFESSIONS CODE SECTION NUMBER

<b>Section</b>	4883(a); 4837(b)
<b>Violation</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>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b> (as appropriate)	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
<p>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 circumstance at the time of the commission of the offense(s).</p> <p>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, <del>when appropriate,</del> specific training in areas of weakness, full restitution to persons harmed by the licensee or registrant, <del>completions</del><u>completion</u> of treatment or other conditions of probation ordered by the court, or <del>full</del>-compliance with all laws since the date of the occurrence of the <del>criminal act</del><u>crime</u>.</p>	

<b>Section</b>	4883(b); 4837(d)
<b>Violation</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>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>	4883(c); 4837(e); 4839.5
<b>Title Violation</b>	Violation or attempt to violate, directly or indirectly, any of the provisions of the chapter
<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>	4883(d)(e)
<b>Violation</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>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 permit Continuing education Community service

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

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.

<b>Violation</b>	False or misleading advertising
<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 <del>60</del> 30 day suspension Standard terms and conditions \$2,000 fine Optional terms and conditions including but not limited to: Restitution Ethics training

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. ~~One~~In that case, one of the probationary terms ~~in that case~~ 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.

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.

<b>Violation</b>	Unprofessional conduct, that includes, but is not limited to the following: (1) Conviction of a charge of violating any federal statutes or rules or any statute or rule of this state regulating dangerous drugs or controlled substances. (2)(A) The use of, or prescribing for, or administering to himself or herself, any controlled substance. (B)The use of any of the dangerous drugs specified in Section 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. (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. (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.
<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: 30-day suspension Supervised practice Psychological evaluation and/or treatment Medical evaluation and/or treatment Surrender DEA license/send proof of surrender to Board within 10 days of the effective date of the decision. No ownership, of a veterinary hospital or clinic No management of a veterinary hospital/no supervision of interns or residents Rehabilitation program Submit to drug testing Abstain from use of alcohol and drugs
------------------------	---

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.~~

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.

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). ~~Note: in any violation related to alcohol or drug violations the~~ The Board requires a minimum of five years probation for any violation related to alcohol or drug abuse.

<b>Violation</b>	General unprofessional conduct
<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: to: <u>30-day Suspension</u> 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 acts or omissions caused substantial harm to an animal or a client, or if there are prior actions against violations of the licensee or registrant same type of offense.

Minimum penalties may be considered if there are no prior ~~actions~~ 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, ~~and/or~~ if there is evidence of a self-initiated rehabilitation.

<b>Violation</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>Maximum Penalty</b>	Revocation or suspension of premises permit 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: <del>A ten to thirty</del> <u>30-day suspension or suspension until compliance with minimum standards of practice is achieved.</u> 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 the same type of offense.

Minimum penalties may be considered ~~people~~ 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 existing unsanitary conditions.~~

Note - A veterinary license and a premises permit can be disciplined separately.

<b>Section</b>	4883(i)
<b>Violation</b>	Negligence in the practice of veterinary medicine
<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: <del>A ten to thirty</del> 30-day suspension or suspension until in-compliance with minimum standards of practice is achieved. Random hospital inspections
<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 <del>people</del> 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>	4883(i)
<b>Violation</b>	Incompetence in the practice of veterinary medicine
<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: <ul style="list-style-type: none"> <li>30-day suspension</li> <li>Supervised practice<del>✓</del></li> <li>Hospital inspections</li> <li>Continuing education</li> <li>Clinical written examination</li> <li>Community service</li> <li>Restitution</li> <li>Ethics training</li> </ul>
<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 no efforts at rehabilitation, or there are no mitigating circumstances at the time of the commission of the offense(s).</p> <p>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.</p>	

<b>Violation</b>	Fraud and/or Deception in the practice of veterinary medicine
<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 mitigation circumstances such as no prior discipline, remorse for the harm that occurred, cooperation with the Board's investigation, etc.

<b>Section</b>	4883(j); 4839.5
<b>Violation</b>	Aiding or abetting in acts which are in violation of any of the provisions of this chapter
<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>	4883(k); 4837(a)
<b>Violation</b>	Fraud, misrepresentation, or deception in obtaining a license or, <u>registration, or permit.</u>
<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>	4883(l)
----------------	---------



<b>Violation</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>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>	4883(m)
<b>Violation</b>	Cruelty to animals or conviction on a charge of cruelty to animals, or both
<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: to: 30-60-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.

<b>Section</b>	4883(n)
<b>Violation</b>	Disciplinary actions taken by any public agency in any state or territory of any act substantially related to the practice of veterinary medicine or the practice of a veterinary technician.
<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, when appropriate, specific training in areas of weakness, full restitution to persons harmed by the licensee or registrant, ~~completions~~ completion of treatment or other conditions of probation ordered by the court, and full compliance with all laws since the date of the occurrence of the violation.

<b>Section</b>	4883(o)
<b>Violation</b>	Violation, or the assisting or abetting violation of any regulations adopted by the Board pursuant to this chapter
<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, <del>when appropriate</del>, specific training in areas of weakness, full restitution to persons harmed by the licensee or registrant, completion of treatment or other <del>conditions</del> <u>condition</u> of probation ordered by the court, and <del>full</del> compliance with all laws since the date of the occurrence of the violation.</p>	

<b>Section</b>	4855
<b>Title-Violation</b>	Written Records
<b>Maximum Penalty</b>	Revocation and a \$5,000- <del>00</del> 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: <u>Supervised practice</u> Continuing education
<p>Maximum penalties should be considered when there <del>are</del> <u>is</u> 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>	4856
----------------	------

<b>Violation</b>	Failure to permit the inspection of Records or Premises by the Board
<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 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 actions.

<b>Section</b>	4857
<b>Violation</b>	Impermissible disclosure of information about animals and/or about clients
<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

Maximum penalties should be considered when breaching confidentiality ~~puts the animals or clients in jeopardy~~ places a client at risk of some form of retaliation.

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>	4830.5
<b>Violation</b>	Duty to report staged animal fighting
<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 <del>E</del> education <u>education</u> 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>Violation</b>	Duty to report animal abuse or cruelty
<b>Maximum Penalty</b>	Revocation and a \$5,000 fine
<b>Minimum Penalty</b>	Considered on a case-by-case basis

<b>Violation</b>	Disciplinary proceedings against veterinarians and registered veterinary technicians
<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 <del>E</del> education <u>education</u> 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.

Note - The Practice Act is very specific on the authorized duties for RVTs that cannot be performed by ~~unregistered assistants~~ veterinary controlled substance permit holder; therefore, these violations are more serious due to their blatant nature.

## STANDARD TERMS AND CONDITIONS OF PROBATION (1-4115)

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

~~All standard terms and conditions are included in every order of probation applied to the licensee or registrant subject to discipline (Respondent).~~

### 1. **Obey all Laws**

Respondent shall obey all federal and state laws and regulations substantially related to the practice of veterinary medicine. ~~Further, within~~Within thirty (30) days of any arrest or, 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. Respondent shall notify the Board of any change of name or address within 30 days of the change.

### 2. **Quarterly Reports and Interviews**

Respondent shall report quarterly to the Board or its designee, under penalty of perjury, on forms provided by the Board, stating whether there has been compliance with all terms and conditions of probation. ~~In addition, the Board at its discretion may request additional in-person reports of the probationary terms and conditions.~~If the final written quarterly report is not made as directed, the period of probation shall be extended until such time as the final report is received by the Board. Respondent shall make available all patient records, hospital records, books, logs, and other documents. Any period(s) of delinquency in submission of reports as directed may be added to the Board, upon request, total period of probation.

### 3. **Cooperation with Probation Surveillance — Interview with the Board**

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.

~~In~~ Respondent shall comply with the Board's probation surveillance program. All costs for probation monitoring and/or mandatory premises inspections shall be borne by Respondent. addition, if Respondent fails to maintain compliance with terms and conditions of probation in any respect, subsequent in-person interviews may be required.

~~Failure to appear for any scheduled interview without prior notification to Board staff shall be considered a violation of probation.~~

~~Probation monitoring costs are set at a rate of \$100 per month for the duration of the probation. Respondent shall notify the Board of any change of name or address or address of record within thirty (30) days of the change. Respondent shall notify the Board immediately in writing if Respondent leaves California to reside or practice in another state. Respondent shall notify the Board immediately upon return to California.~~

### 4. **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 his or her probation. Respondent shall make available all patient records, hospital records, books, logs, and other documents to the Board, upon request.

### 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.

46.

~~Respondent shall not supervise a registered intern and shall not perform any of the duties of a preceptor students, interns, or residents.~~

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

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

~~Relief veterinarians shall notify employers immediately and require the supervisor and/or managing licensee (licensee manager) to submit timely acknowledgement.~~

~~Respondent shall, upon Upon or before the effective date of this decision, Respondent shall post or circulate a notice which actually recites the offenses violations for which Respondent has been disciplined and the terms and conditions of probation, to all registered veterinary employees, and to any preceptor students, residents, and interns or extern involved in his or her veterinary practice. Within fifteen (15) days of the effective date of this decision, Respondent shall cause his/her employees to report to the Board in writing, acknowledging the employees have read the Accusation and decision in the case and understand Respondent's terms and conditions of probation.~~

~~Respondent shall provide, within thirty (30) days after the effective date of the decision, signed and dated statements from the owners, officers, or any owner or holder of ten percent (10%) or more of the interest in Respondent or Respondent's stock, stating said individuals have read and are familiar with federal and state laws and regulations governing the practice of veterinary medicine.~~

If Respondent resides out of state upon shall notify the Board or after effective date its designee in writing within fifteen (15) calendar days of any periods of the decision, he or she 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. While tolled for residing/practicing outside of California, Respondent must comply with the following terms and conditions only of probation: obey all laws, quarterly reports and interviews, **interview with the Board**, tolling of probation, continuing education maintain a valid license, and cost recovery. If Respondent returns to California he or she must comply or be subject to all probationary conditions for the period of probation.

Respondent, during probation, shall engage in the practice of veterinary medicine in California for a minimum of 24 hours per week for six (6) consecutive months. Non-practice is also defined as any period that or as determined by the Board. Should Respondent fail fails to engage in the practice of veterinary medicine in California for 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. as set forth above, the time outside of the practice shall. While tolled for not meeting the hourly requirement, the Respondent shall comply with all terms and conditions of the Decision.

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

**10.** \_\_\_\_\_

At all times while on probation, Respondent shall maintain a current and active license with the Board, including any period during which suspension or probation is tolled. If Respondent's license, by operation of law, or otherwise expires, upon renewal Respondent's license shall be subject to any and all terms of this probation not previously satisfied.

\_\_\_\_\_|  
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.

\_\_\_\_\_|  
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 his or her 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 his or her license to the Board within ten (10) days of receiving notification from the Board that the surrender has been accepted.

\_\_\_\_\_|  
All costs for probation monitoring and/or mandatory premise 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 written notice by the board or its designee indicating successful completion of probation, Respondent's license will be fully restored.

\_\_\_\_\_|  
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, ~~hearing, and probationary monitoring~~ prosecution, in the amount of \_\_\_\_\_ or the Respondent shall make these payments as follows: \_\_\_\_\_. ~~FAILURE TO PAY THIS AMOUNT TO THE BOARD BY THE STATED DEADLINE SHALL RESULT IN AUTOMATIC REVOCATION OF THE LICENSE FORTHWITH, WITHOUT FURTHER NOTICE OR AN OPPORTUNITY TO BE HEARD.~~



## OPTIONAL TERMS AND CONDITIONS OF PROBATION (1-2123)

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.

### 1. | **Suspension – Individual License**

As part of probation, Respondent is suspended from the practice of veterinary medicine for \_\_\_\_\_, beginning the effective date of this decision. During ~~said~~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.

### 2. | **Suspension – Premises~~Premise~~**

As part of probation, ~~Premises~~Premise License Number \_\_\_\_\_, issued to Respondent \_\_\_\_\_, is suspended for \_\_\_\_\_, beginning the effective date of this decision. During ~~said~~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.

### 3. | **Posted Notice of Suspension**

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.

### 4. | **Limitation on Practice/~~Inspections~~**

(A) During probation, Respondent is prohibited from ~~P~~practicing practicing \_\_\_\_\_ (Type of practice) \_\_\_\_\_

(B) During probation, Respondent is prohibited from ~~the following~~:

1. ~~Practicing~~practicing veterinary medicine from a location or mobile veterinary practice which does not have a current ~~premises~~premise permit issued by the Board; and

### 5. | **Inspections**

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

The location or mobile veterinary practice must not only have a current premises permit issued by the Board, but must also be subject to inspections by a Board representative to determine whether the location or veterinary practice meets minimum standards for a veterinary practice. 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. If the veterinary practice has two consecutive non-compliant inspections, Respondent shall surrender the Premises Permit within ninety (90) days from the date of the second consecutive non-compliant inspection.

As a condition precedent to any Premises Permit 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 practice. Respondent shall submit to the Board, along with any premises permit application, a \$500 inspection fee.

**56. Supervised Practice – Direct or Indirect**

~~Respondent shall not practice only under the supervision of veterinary medicine until a veterinariansupervisor is approved by the Board. The supervision directed may be continuous supervision, substantial supervision, partial supervision, or supervision by daily review, as deemed necessary byits designee.~~

~~Respondent shall submit to the Board. All costs involved with practice supervision shall be borne by Respondent., for its prior approval, the name and qualifications of one or more veterinarians of Respondent's choice. Each supervisor shall have been licensed in California for at leaseleast five (5) years and not have ever been subject to any disciplinary action by the Board. The supervisor shall be independent, with no prior business or personal relationship with Respondent and the supervisor shall not be in a familial relationship with or be an employee, partner, or associate of Respondent.~~

~~Within~~ Upon approval by the Board and within thirty (30) days of the effective date of the decision, Respondent shall have his or her supervisor submit a report to the Board in writing stating the supervisor has read the decision in case number\_\_\_\_\_. Should Respondent change employment, Respondent shall have his/her 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\_\_\_\_\_.

The supervision shall be, as required by the board or its designee, either direct or indirect.

Direct supervision is defined as the physical presence of the supervisor 100% of the time Respondent provides treatment or consultation to the animal patient.

Indirect supervision is defined as review and evaluation of patient records ~~of~~ for those patients for whom Respondent provides treatment or consultation during the period of supervised practice. Levels of indirect supervision shall be established as follows:

- 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; and 3) Respondent has consistently received favorable monthly supervised practice reports and 4) the Board has received a written recommendation by the supervisor.

Respondent's supervisor shall, on a ~~basis~~ frequency to be determined by the Board, review and evaluate all or a designated portion of patient records of those patients for whom Respondent provides treatment or consultation during the period of supervised practice. The supervisor shall review these records to assess 1) the medical necessity and appropriateness of Respondent's treatment; 2) Respondent's compliance with ~~community~~ 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.

Respondent's supervisor shall file monthly 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 his or her conclusions and opinions concerning the issues described above and the basis for his or her conclusions and opinions. Additionally, the supervisor shall maintain and submit with his or her monthly reports a log designating the patient charts reviewed, the date(s) of service reviewed, and the

date upon which the review occurred. If the supervisor terminates or is otherwise no longer available, Respondent shall not practice until a new supervisor has been approved by the Board.

If respondent is an employee rather than a veterinary hospital owner, the supervisor shall additionally notify the Board of the dates and locations of all employment of respondent, during each month covered by his/her report.

**67. | No New Ownership**

Respondent shall not have any new legal or beneficial interest in any business, firm, partnership, or corporation ~~currently or hereinafter licensed or registered by~~ during the Board and shall not own any ~~veterinary hospital~~ duration of his or her probation.

**78. | No Management ~~or Administration~~**

Respondent shall not manage ~~or be the administrator of~~ any veterinary hospital. during the duration of his or her probation.

— |  
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 \_\_\_\_\_ 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.

— |  
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.

— |  
Within sixty (60) days of the effective date of this decision, or upon completion of the education course required above, or upon completion of the clinical training programs, Respondent shall take and pass 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.

— |  
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-appointed approved psychotherapist (psychiatrist or psychologist), to determine Respondent's ability to practice veterinary medicine safely, who shall furnish a psychological report to the Board or its designee. All costs shall be borne by Respondent.

If the psychotherapist (psychiatrist or psychologist) recommends and the Board or its designee directs psychotherapeutic treatment, Respondent shall, within thirty (30) days of written notice of the need for psychotherapy, submit the name and qualification of one of more psychotherapists of Respondent's

choice to the Board for its prior approval. Upon approval of the treating psychotherapist by the Board, Respondent shall undergo and continue psychotherapy until further notice from the Board. Respondent shall have the treating psychotherapist submit quarterly written reports to the Board. All costs shall be borne by Respondent.

**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 ~~said~~the recommendation. All costs shall be borne by Respondent.

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 he/she may resume practice. Respondent shall document compliance with this condition in the manner required by the Board.

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 appointed-approved physician, to determine Respondent's ability to practice veterinary medicine safely, who 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 be automatically suspended 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.

**1415. | 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. In the quarterly written reports to the Board, 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.

**16. | 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.) which 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.

**1517. | 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 he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she 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 be considered a violation of probation and shall result in the automatic 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.

#### **1618. | Abstain from Controlled Substances**

Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and ~~the abuse of~~ dangerous drugs as defined in Section 4211 of the Business and Professions Code, except when lawfully ~~not~~ prescribed by a licensed practitioner for a bona fide illness. Upon request of the Board or its designee, Respondent shall submit to random provide documentation from the licensed practitioner that the prescription for the drug testing during the period of probation was legitimately issued and is a necessary part of Respondent's treatment.

#### **1719. | Abstention from Alcohol Use**

Respondent shall abstain completely from the ~~use intake of alcoholic beverages use of products or beverages containing alcohol.~~

#### **1820. | 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 \_\_\_\_\_ ( ) hours per \_\_\_\_\_ for the first \_\_\_\_\_ of probation. All services shall be subject to prior Board approval.

#### **1921. | Fine**

Respondent shall pay to the Board a fine in the amount of \_\_\_\_\_ (not to exceed five thousand dollars) pursuant to Business and Professions Code sections 4875 and 4883. Respondent shall make said ~~the~~ payments as follows: \_\_\_\_\_.

~~Pursuant to Business and Professions Code Section 125.3, enforcement costs (investigative, legal, and expert review), up to the time of the hearing, can be recovered.~~

#### **2022. | Restitution**

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

~~Note - Name and address of injured party may be inserted in the body of this term.~~

#### **2123. | Ethics Training**

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

## OVERVIEW GUIDE FOR DISCIPLINARY DECISIONS

*Most of the background information provided below is contained in the Department of Consumer Affairs Reference Manual for board members and gives an overview of part of a board's disciplinary process. Certain aspects of this overview were changed by the passage of SB 523 (Kopp, Chapter 938, Statutes of 1995). The changes were in regard to ex parte communications.*

### Accusation/Statement of Issues

The principal responsibility of ~~a licensing board is~~ boards are to protect the public. ~~This is accomplished by determining whether a license should be issued and whether a disciplinary action should be taken against a license~~ licensee. The Administrative Procedure Act (Government Code, Sections 11500 through 11528) prescribes the process necessary to deny, suspend, or revoke a license. An action to suspend or revoke a license is initiated by the filing of an Accusation. An action to deny a license is initiated by the filing of a Statement of Issues.

In disciplinary matters, a Deputy Attorney General (DAG) acts as the Board's prosecutor and coordinates all necessary legal proceedings. If a case is referred to the Office of the Attorney General (OAG) and accepted for prosecution, the DAG assigned the matter will prepare a Statement of Issues or an Accusation. The person against whom the action is filed is called the Respondent.

Once drafted, the Statement of Issues or Accusation is forwarded to the Executive Officer (EO) for approval. ~~Except where the preparation of administrative pleadings is voluminous and routine, the EO will normally review an Accusation or Statement of Issues for accuracy. Board staff will then assign a case number and the EO reviews all Accusations and/or Statement of Issues for accuracy. The EO will sign~~ the pleading document before returning it to the OAG for service on the Respondent.

The document is then served on the Respondent. The Respondent may contest the charges by filing a Notice of Defense and requesting a hearing, because the law requires notice and an opportunity to be heard.

The DAG will then schedule a hearing before an Administrative Law Judge (ALJ) from the Office of Administrative Hearings (OAH).

### Administrative Hearing Process

An administrative hearing is similar to a trial in a civil or criminal court. Both parties have the opportunity to introduce evidence (oral and documentary) and the Respondent has a right to confront his or her accusers.

Although a ~~board~~ Board may sit with ~~the~~ an ALJ and hear the case, most cases are heard solely by the ALJ ~~alone~~ because it is ~~a complex~~ an expensive procedure and may ~~require anywhere from~~ last several days to several weeks of time.

In order to take discipline against a license issued by the Board, either a veterinarian or registered veterinary technician, it must be demonstrated by "clear and convincing evidence" that ~~a violation of~~ Respondent violated the law or a regulation has occurred. The clear and convincing standard is more than the "preponderance of the evidence" standard required for civil trials but less than the "beyond a reasonable doubt" standard for criminal trials.

To sustain a citation against a licensee, the allegations need only be proven ~~to the~~ by "preponderance of the evidence" standard.

## Proposed Decision

After hearing ~~all the witnesses and arguments~~case and considering all of the evidence presented, the ALJ renders a Proposed Decision that contains: 1) findings of fact, 2) a determination of issues, and 3) a proposed penalty (assuming a violation is found). ~~The This Proposed Decision is then submitted to the Board for consideration and a final decision. The Proposed Decision must be acted upon by the Board within 100 days of receipt, or it becomes final by operation of law as proposed by the ALJ.~~

In making a decision whether to adopt the Proposed Decision as its own decision, the Board may only consider the Proposed Decision itself, The Board may not consider evidence about the case not contained in the Decision. The Board may consider advice of legal counsel regarding their options, the legal sufficiency of the Proposed Decision, and the law applicable to the case at hand. If a Board member is personally acquainted with the licensee to a degree that it affects their decision-making ability, or the Board member has received evidence about the case not contained in the Proposed Decision, the Board member should recuse him or herself from any discussion about the case and the vote on the matter.

The Board may vote on the Proposed Decision by mail ballot or at a meeting in a closed session. Although a Proposed Decision carries great weight based on the fact that the ALJ ~~was a witness~~ to received the evidence presented at the hearing, and observed the actual testimony of the witnesses and the demeanor of those witnesses, the Board is the final decision-maker. The Board should consider the ALJ's narrative explanation in the Decision and how the Disciplinary Guidelines were applied. If the Decision is outside the Disciplinary Guidelines, the ALJ must explain to the satisfaction of the Board, the factors that were proved that caused the ALJ to deviate from the standards~~guidelines~~.

Adopting any decision is a serious responsibility of a Board member. When considering a Proposed Decision, the Board's legal counsel is present to respond to questions about the legal parameters of the case and the Board's authority. Board members must take time to fully discuss each case and to seek clarification from legal counsel for any question they may have prior to making a final decision on the case.

~~When Pursuant to Government Code Section 11517, a Board has three basic options when considering a Proposed Decision, the Board has three basic options:~~

- ~~1. a. adopt the Proposed Decision as written, including the proposed penalty, 2~~
- ~~b. adopt the Decision and reduce the penalty; or Reduce the proposed penalty and adopt the balance of the Proposed Decision~~
- ~~3. not adopt. reject the Proposed Decision. The Proposed Decision must be voted upon by the board within 100 days of receipt or it becomes final as proposed by the ALJ. Make technical or other minor changes in the Proposed Decision that do not affect the factual or legal basis of the proposed decision and adopt it as the decision~~
- ~~d. Reject the Proposed Decision and refer the case back to the Administrative Law Judge to take a additional evidence.~~
- ~~e. Reject the Proposed Decision, decide the case upon the record, including the transcript, or upon an agreed statement of the parties, with or without taking additional evidence.~~

## Non-Adopt – Rejecting a Decision

### ~~A~~Proposed Decision

The Board may choose not to adopt~~reject~~ a Proposed Decision of an ALJ for many reasons ~~that~~ which might be grouped generally under the following categories:



- 1-The Board finds the penalty or terms of probation inappropriate to the violation(s).
- 2-The Board disagrees with the ALJ's determination of the issue(s) in the case.

When a Proposed Decision is not adopted, the Board is required to obtain a copy of the transcript of the hearing and documentary evidence unless this requirement is waived by all parties. Each Board member must read the entire transcript and consider only that evidence presented at the hearing. The DAG and the Respondent are entitled to submit oral or written arguments, ~~or oral argument if the Board so orders~~, on the case to the Board. The Board must render its own decision after reading the transcript and arguments within 100 days from the receipt of the transcript.

~~After the decision has been rendered, all parties will be served with the Decision After Non-Adoption.~~ Rejection.

The Board can elect to return the non-adopted decision to the OAH if it feels that additional evidence is required before the Board can render its decision. In this instance, the case is returned to the OAH and a new hearing date is scheduled. After the new hearing is complete, the ALJ, the same one as before or a new ALJ if the prior one is unavailable, will issue a new Proposed Decision and the Board will consider the Proposed Decision anew.

## **FACTORS TO CONSIDER WHEN DECIDING WHETHER TO HOLD OR NONADOPT A STIPULATED SETTLEMENT OR PROPOSED DECISION**

As a general rule, most stipulated settlements and proposed decisions are well reasoned, consistent with the Board's disciplinary guidelines, and may be adopted consistent with sound public policy. If they are not, consider rejecting (or "nonadopting") such decisions. If it is difficult to make that determination, however, stipulated settlements and proposed decisions should be held for closed session discussion.

Consider **nonadopting** a Stipulated Settlement or an ALJ's Proposed Decision in these circumstances:

1. The stipulated settlement or proposed decision does not provide sufficient public protection given the nature of the violations. For example, important terms of probation are missing, the probationary period is too short, probation is not appropriate, or other significant unexplained deviations from your board's disciplinary guidelines.
2. The ALJ made an error in applying the relevant standard of practice for the issues in controversy at the hearing. (Proposed Decision)
3. The ALJ made an error in interpreting law and/or regulations. (Proposed Decision)

Consider **holding** a case for closed session discussion when:

1. You are unsure whether the stipulated settlement or proposed decision protects the public and would like to discuss the merits with other board members.
2. You are unsure about the judge's reasoning and description. (Proposed Decision)
3. If you believe a discussion of the practice issues with licensee members may make it easier for you to make a decision.
4. If you are unsure whether the judge's decision is consistent with the law. (Proposed Decision)
5. After discussion with the assigned board attorney, you still have questions about the case.

Typically, a vote to hold any Decision for closed session discussion requires a hold vote by two (2) or more board members.

## **Petition for Reconsideration**

A Respondent has a right to ~~and may~~ petition the Board ~~before the effective date of the decision for~~ reconsideration of the Board's decision.

~~If a Board does vote~~ before the effective date of the decision. The Board may decide to reconsider its decision, which means it is equivalent would grant Respondent's petition. If the Board needs more time, it may delay the effective date of the decision by ten days for the purposes of deciding whether to reconsider the decision. The Board may decide not adopting a Proposed Decision and the steps listed above apply to reconsider its decision, which means it would deny Repondent's petition. If the 30-day time period lapses or the Board does not act on takes no action before the effective date of the decision, the petition, the request for reconsideration is deemed to be denied by operation of law, and the Board no longer has jurisdiction over the matter.

## **Appeal Process – Writ of Administrative Mandamus**

A Respondent has the right to request reconsideration and if denied, file a Writ to appeal a disciplinary action imposed by a Board.

A decision rendered by a Superior Court can be further appealed to the Court of Appeals and then to the Supreme Court by either the Board or the Respondent.

## **Stipulated Agreement**

~~Once an Accusation has been filed, rather than proceeding to a formal hearing and prior to requesting that the Board consider settlement terms and conditions, the Respondent shall provide mitigating factors and evidence of rehabilitation. Mitigating factors include factors beyond the control of the licensee that existed for a brief period of time but no longer exists that may mitigate the need for certain types of discipline. Evidence of rehabilitation would show that Respondent has taken serious steps to improve behavior and correct actions that led to the need for disciplinary action. The parties may then stipulate (agree) to a determination of the violations charged against the Respondent and to a proposed penalty. Stipulations are negotiated and drafted by the DAG representing the Board and the Respondent and his/her legal counsel. In negotiating a stipulation, the DAG works closely with the Board's EO (or designated Enforcement Program Manager) and utilizes the Board's Disciplinary Guidelines to arrive at a stipulation that is intended to be acceptable to the Board.~~

~~The stipulation is presented to the Board for its consideration in much the same way that a Proposed Decision is presented. Once a stipulation has been signed by the licensee and his or her counsel, if any, the Board must vote to approve or disapprove the stipulation as a whole. If the Board votes to disapprove a proposed stipulation, it may send back recommendations for inclusion into any future stipulations. The Board may look beyond the mere contents of an Accusation, though it must confine its consideration to information that is relevant to the charges at hand. While there is no time limit within which a stipulation must be considered, any undue delays should be avoided.~~

~~**Default Decisions**~~ If a Board reconsiders its decision, it would engage in the same process outlined above for rejecting a Decision, except that there would not be a 100-day deadline for rendering its final decision.

Eligibility to Petition for Reconsideration is limited to Proposed Decisions. A Petition for Reconsideration is the first step available to a party in contesting a final order. This process is governed by Government Code Section 11521. The agency may order reconsideration of all or part of the case on its own motion or on petition of any party.

The process, generally, is as follows:

- Petition for Reconsideration is submitted to the Board by Respondent.
  - The Executive Officer will issue a 10-day Stay of Decision (Stay of Effective Date of Decision) (sample attached)
  - The Board reviews the Petition to determine if it will issue an Order Granting Reconsideration or Order Denying Reconsideration
- If the Board votes to DENY the Petition for Reconsideration
  - The Decision will remain as issued and will become effective.
- If the Board votes to GRANT the Petition for Reconsideration, the Decision and Order will NOT become effective
  - The Order Granting Reconsideration will be sent to Respondent and the order will stay the effective date of the Decision indefinitely. (sample attached)
  - The Board will issue an Order Fixing Time for Submission of Written/Oral Argument (sample attached)
    - Only the Board President has the authority to extend the deadline for submission of Written/Oral Argument
  - Board staff will order transcripts from the hearing
  - Upon conclusion of the Fixed Time for Submission of Written/Oral Argument and receipt of hearing transcripts, the petition is sent to the Board for review.
    - Written/Oral Argument (Board may choose to accept either or both)
    - Argument/New Evidence (Board may choose to accept either or both)
  - The matter will be discussed in closed session at the next regularly scheduled board meeting during which the Board can decide to:
    - uphold the original decision
      - Order prepared by DCA Legal Counsel
    - reduce the penalty
      - Order prepared by DCA Legal Counsel
    - remand the matter back to the ALJ for taking and evaluation of further evidence
    - Other options according to Government Code Section 11517

## **DEFAULT DECISION**

Default Decisions are rare; however, in some cases, the Respondent does not respond to an Accusation by returning the Notice of Defense, fails to return the Notice of Defense in a timely manner, or fails to appear at a scheduled hearing. ~~There is~~ The Respondent has a legal obligation to respond to an Accusation and to be present at a scheduled hearing. Failure to meet the legal obligations do so is grounds for a ~~Default Decision whereby the imposition of discipline is imposed based upon the Respondent's failure to respond~~ by means of issuance of a Default Decision. In these cases the Board need only demonstrate that it has served the Accusation on the licensee at the licensee's address of record. This is one reason it is imperative that licensees maintain a current address of record with the Board; failure to do so can have very serious consequences if the licensee becomes subject to an Accusation but has an old address of record on file with the Board because the Board has no legal obligation to make any attempt to locate the licensee. Service of an Accusation by first class mail is all that is required to prove proper service.

The result of a Default Decision is nearly always a straight revocation of the license. If the Respondent is also a managing licensee ~~for of a premises permit~~ premise, the premises permit will automatically be ~~cancelled~~ cancel by operation of law. If the Accusation was pled against the premises as well as the licensee, the premises permit is revoked along with the license.

## **Appeal Process**

A Respondent has the right to file a Petition for a Writ of Mandate in Superior Court to challenge a disciplinary action imposed by a Board. This may include a request by the Respondent for a stay or postponement of the Board's Decision invoking Disciplinary action. A court has the authority to uphold, set aside a Decision or remand the case to the Board with specific directions for further consideration.

The Superior Court renders a decision based upon the record. That decision could then be appealed to the Court of Appeals.

## **Stipulation**

Once an Accusation has been filed, rather than proceeding to a formal hearing, the parties may stipulate (agree) to a determination of the violations charged against the Respondent and to a the proposed discipline penalty. Stipulations are negotiated and drafted by the DAG representing the Board and the Respondent or his/her legal counsel. In negotiating a stipulation, the DAG is encouraged to work closely with the Board's EO to arrive at a stipulation that will be acceptable to the Board.

The stipulation is presented to the Board for its consideration in much the same way that a Proposed Decision is presented. Once a stipulation has been signed by the licensee and his or her counsel, if any, the Board must vote to approve or disapprove the stipulation as a whole or counter with revised terms. If the Board votes to disapprove a proposed stipulation, it may send back recommendations for inclusion into any future stipulations. In the case of a stipulation, the Board has more latitude to modify its terms as part of the negotiation process and to look beyond the mere contents of an Accusation, though it should confine its consideration to information that is relevant to the charges at hand. While there is no time limit within which a stipulation must be considered, any undue delays should be avoided.

## **PETITION FOR REDUCTION OF PENALTY OR REINSTATEMENT**

In petitioning for Reduction of Penalty or Reinstatement under Business and Professions Code Section 4887 and under Government Code Section 11522, the petitioner has the burden of demonstrating that he or she is fit to safely engage in the practice of veterinary medicine within the scope of current law and accepted standards of practice, unless waived by stipulation.

A Petition for Reduction of Penalty or Reinstatement may be filed 1 year or more from the effective date of the disciplinary decision, unless waived by stipulation.

The process for filing of a Petition for Reduction of Penalty or Reinstatement is as follows:

- Petitioner files the Petition accompanied by all supporting documentation
- The matter is referred to the Division of Investigation for investigation (Petition for Reinstatement)
- The Petition and investigation report is referred to the Office of the Attorney General for assignment to a Deputy Attorney General.
- The matter is set for hearing before the Board in open session at the next regularly scheduled Board meeting.
  - The hearing takes place in open session before the Board and an Administrative Law Judge.
  - The Board considers and decides the matter in closed session.
- The Decision and Order is served on Respondent via regular and certified mail.

## **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 and Deception - Deception - Any act or omission that deceives or misleads another person.~~

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.



Mark Nunez, President, California Veterinary Medical Board

Date

Mr. Thomas Bach  
President International Olympic Committee  
Château de Vidy  
1007 Lausanne  
Switzerland

Re: Los Angeles Candidature Questionnaire Olympic Games 2024 – Stage 2 (G2.34)

Dear President Bach:

This letter is in connection with the Candidature File for the City of Los Angeles, in response to Section 2.4 of the Candidature Questionnaire Olympic Games 2024 (G2.34). The California Veterinary Medical Board (the “Board”) is honored to enthusiastically support Los Angeles’ candidature for the 2024 Olympic and Paralympic Games (the “Games”).

The mission of the Board is to protect consumers and animals through development and maintenance of professional standards, licensing of veterinarians, registered veterinary technicians, and premises, and diligent enforcement of the California Veterinary Medicine Practice Act (the “Act”). Under certain circumstances the Act allows for qualified applicants to be exempted from the California state board examination and granted a temporary license to practice veterinary medicine in the State of California for up to 12 months.

With respect to Guarantee 2.34 of the IOC Questionnaire, I hereby confirm, on behalf of the Board, as follows:

The Board guarantee that veterinarians will be enabled to serve their national delegation during the period of the test events and Olympic and Paralympic Games upon demonstration of their certification as a licensed veterinarian in their respective country of origin and subject to the conditions set forth in the California Veterinary Medical Practice Act.

The Board looks forward to continuing to work with the City of Los Angeles towards our shared objective of Los Angeles being selected to host the Games. Bringing the Games back to California is a great opportunity for us to showcase our State to the world, and we stand ready to partner with the City of Los Angeles in this endeavor.

Sincerely,

Mark Nunez  
President  
California Veterinary Medical Board





**Veterinary Medical Board**

1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834  
Telephone: 916-515-5220 Fax: 916-928-6849 | [www.vmb.ca.gov](http://www.vmb.ca.gov)



## MEMORANDUM

<b>DATE</b>	December 27, 2016
<b>TO</b>	Veterinary Medical Board
<b>FROM</b>	Ethan Mathes, Operations Manager
<b>SUBJECT</b>	Update on Registered Veterinary Technician School Reporting Pursuant to Section 2064 of Title 16 of the California Code of Regulations

**Background:**

In January 2006, the Registered Veterinary Technician Committee (RVTC) began discussions regarding using American Veterinary Medical Association (AVMA) approval criteria as a standard for California veterinary technician school approval. Former Executive Officer, Sue Geranen, noted that Committee members should review the AVMA approval criteria to assure that California schools are meeting a standard that is acceptable to the RVTC and one that is not duplicative with current AVMA processes. The Committee agreed that regulations would need to be developed in order recognize the AVMA accreditation and to maintain oversight over AVMA accredited, California approved veterinary schools, with regards to notification of new schools, reporting pass rates to students, and being placed on probation when necessary.

Previous Legal Counsel, noted that the change to CCR section 2064 is not an across the board exemption, and that the Board still requires AVMA-accredited schools to submit applications to the Board in order for the Board to be notified of the program's existence, as well as to comply with reporting requirements. Ms. Barker also opined that the Board does not have legal authority to defer the Board's approval of a school to another non-governmental agency.

On December 7, 2012, the Board noticed proposed regulatory changes to the California Code of Regulations (CCR), sections 2064-2066.1, that make specific that RVT educational programs accredited by the American Veterinary Medical Association (AVMA) are deemed California Board approved. The proposed regulations also exempt AVMA accredited schools from undergoing separate inspections as AVMA already performs facility inspections.

No public comments were received, the modified language and rulemaking file was approved by the Office of Administrative Law and the Secretary of State, and the regulations took effect January 1, 2015.

The Board discussed at its January 2016 meeting potential amendments to CCR section 2064 that would exempt California veterinary technician schools from both AVMA and Board review and approval. Legal counsel suggested staff further research for comparison the AVMA and California accreditation requirements for equivalency and consumer protection.

At the April 2016 meeting the Board continued its discussion regarding Board approval of California AVMA veterinary technician schools including its review and comparison of AVMA and California veterinary technician school approval requirements. The Board proposed development of a Memorandum of Understand between California and the AVMA to address accreditation reporting. They also requested legal counsel consider amendments to CCR section 2064 that would remove duplicative requirements between the two approval bodies. The Board determined California AVMA veterinary technician school approval is currently required in accordance with CCR section 2064 and directed staff to draft a school approval application to send to all California AVMA registered veterinary programs.

Following the April 2016 meeting, Board staff met with counsel to review and approve the *AVMA Accredited RVT Program Application*. The Application was mailed to all California AVMA accredited veterinary technician programs on May 31, 2016; programs were required to submit their application along with any supplemental material to the Board within 60 days of receipt of Application.

All 19 California AVMA accredited veterinary technician programs have submitted their applications along with supporting documentation.

**Update:**

Staff has completed its initial review of AVMA accredited veterinary technician programs applications. Based on all reviewed applications, programs are generally in compliance with California reporting requirements and most deficiencies are related to student disclosures and/or lack of verifiable supporting documentation. Board staff have also noted areas which programs may improve but are still in compliance (such as adding additional clarity to externship supervision requirements in Contracts/Memorandums and ensuring student disclosures are readily available in multiple formats); Board staff will offer its recommendations for improvement in these areas. Several programs have already met all California requirements.

Follow up letters have recently been sent out requesting additional corroborating information and/or provide program feedback based on its findings in order for programs to better comply with requirements.

**Attachment:+**

RVT AVMA Accredited Program Application Review Summary

RVT School	1. Program Information	2. AVMA Accreditation	3. AVMA Reporting	4. Student Externship (Supervision)	5. Student Externship (Agreement)	6. Student Externship (Site Visit)	7. Program Faculty (Composition)	8. Program Faculty (Qualifications)	9. Program Faculty (Director)	10. Program Faculty (Interim Director)	11. Program Instruction (Ratios)	12. Student Admittance	13. Institutional Approval	14. Compliance with Laws	15. Student Disclosures (Pass Rates)	16. Student Disclosures (Transferability)
Cal. State Polytechnic University-Pomona	Y	Y	Y	Y	N	Y	N	N	N	-	Y	Y	Y	Y	N	N
Carrington College-Citrus Heights Campus	Y	Y	Y	Y	Y	Y	Y	Y	Y	-	Y	Y	Y	Y	Y	Y
Carrington College-Pleasant Hill	Y	Y	Y	Y	Y	Y	Y	Y	N	-	Y	Y	Y	Y	Y	Y
Carrington College-Pomona	Y	Y	Y	Y	Y	Y	Y	Y	Y	-	Y	Y	Y	Y	Y	Y
Carrington College-Sacramento	Y	Y	Y	Y	Y	Y	Y	Y	Y	-	Y	Y	Y	Y	Y	Y
Carrington College-San Jose	Y	Y	Y	Y	Y	Y	Y	Y	Y	-	Y	Y	Y	Y	Y	Y
Carrington College-San Leandro	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Carrington College-Stockton	Y	Y	Y	Y	Y	Y	Y	Y	Y	-	Y	Y	Y	Y	Y	Y
Cosumnes River College	Y	Y	Y	N	N	Y	Y	Y	Y	-	Y	Y	Y	Y	Y	Y
Foothill College	N	Y	Y	N	N	Y	Y	N	Y	-	Y	Y	Y	Y	Y	N
Los Angeles Pierce College	Y	Y	Y	Y	Y	N	N	N	N	-	N	Y	Y	Y	N	N
Mount San Antonio College	Y	Y	Y	Y	Y	N	Y	N	Y	-	N	Y	Y	Y	N	N
Pima Medical Institute-Chula Vista	N	Y	Y	N	Y	Y	Y	Y	Y	-	N	Y	Y	N	N	Y
Platt College-Alhambra	Y	Y	Y	Y	Y	Y	Y	Y	Y	-	Y	Y	Y	Y	Y	Y
Platt College-Ontario	Y	Y	Y	Y	Y	Y	Y	Y	Y	-	Y	Y	Y	Y	Y	Y
Platt College-Riverside	Y	Y	Y	Y	Y	Y	Y	Y	Y	-	Y	Y	Y	Y	Y	Y
San Joaquin Valley College	Y	Y	Y	Y	Y	Y	Y	Y	Y	-	Y	Y	Y	Y	N	N
Stanbridge College	Y	Y	Y	Y	Y	Y	Y	Y	Y	-	Y	Y	Y	Y	Y	Y
Yuba College	Y	Y	Y	Y	N	Y	Y	Y	N	-	Y	Y	Y	Y	N	Y
Compliant - YES	17	19	19	16	15	17	17	15	15	1	16	19	19	18	13	14
Compliant - NO	2	0	0	3	4	2	2	4	4	0	3	0	0	1	6	5
	19	19	19	19	19	19	19	19	19	1	19	19	19	19	19	19



**Veterinary Medical Board**

1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834  
Telephone: 916-515-5220 Fax: 916-928-6849 | www.vmb.ca.gov



## MEMORANDUM

<b>DATE</b>	January 3, 2017
<b>TO</b>	Veterinary Medical Board
<b>FROM</b>	Board Staff
<b>SUBJECT</b>	<b>Review and Discuss Reciprocity Issues and License Eligibility for Veterinary Applicants Who Possess Work Experience in a Foreign Territory; Potential Revisions to Existing Reciprocity Statute (Business and Professions Code section 4848(b)(1))</b>

**Background:**

Board staff has seen an increase in veterinary applicants whose education was earned in a foreign country/institution.

Specifically, and in accordance with Business and Professions Code Section (BPC) 4848(b)(1), a veterinary applicant who "...holds a current valid license in good standing in another state, Canadian province, or United States territory and within three years immediately preceding filing an application for licensure in this state, has practiced clinical veterinary medicine for a minimum of two years and completed a minimum of 2,944 hours of clinical practice."

Staff has received several applications from veterinary applicants who have gained clinical veterinary practice experience in a foreign jurisdiction. That is, foreign experience not in another state, Canadian province, or United States territory. BPC 4848(b)(1) is ambiguous with regard to whether veterinary foreign experience is counted as valid experience for purpose of qualifying the applicant for examination eligibility.

Per existing policy, veterinary applicants with foreign experience are deemed to be not qualified for exam eligibility as a reciprocity applicant due to experience earned outside jurisdictions prescribed in BPC 4848(b)(1).

**Statute Excerpt**

*(b) For purposes of reciprocity, the board shall waive the examination requirements of subdivision (a), and issue a license to an applicant to practice veterinary medicine if the applicant meets all of the following requirements and would not be denied issuance of a license by any other provision of this code:*

*(1) The applicant holds a current valid license in good standing in another state, Canadian province, or United States territory and within three years immediately preceding filing an application for licensure in this state, has practiced clinical veterinary medicine for a minimum of two years and completed a minimum of 2,944 hours of clinical practice. Experience obtained while participating in an American Veterinary Medical Association (AVMA) accredited*

*institution's internship, residency, or specialty board training program shall be valid for meeting the minimum experience requirement.*

**Action Requested**

Determine if a legislative revision is necessary to approve veterinary applicants who have gained clinical veterinary practice experience in a foreign jurisdiction are subject to approval of that experience for purposes of examination eligibility

**Business and Professions Code Section 4853- Registration of Place of Practice  
California Code of Regulations Sections 2030-2037 – Minimum Standards**

**2030. Minimum Standards - Fixed Veterinary Premises.**

**2030.05. Minimum Standards - Licensee Manager.**

**2030.1. Minimum Standards - Small Animal Fixed Premises.**

**2030.2. Small Animal Mobile Clinic.**

**2030.3. Small Animal Vaccination Clinic.**

**2032.05. Humane Treatment.**

**2032. Minimum Standards of Practice.**

**2032.1. Veterinarian-Client-Patient Relationship.**

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

**2032.2. Written Prescriptions.**

**2032.25. Written Prescriptions in Absence of Originally Prescribing Veterinarian.**

**2032.3. Record Keeping; Records; Contents; Transfer.**

**2032.35. Altering Medical Records**

**2032.4 Anesthesia.**

**2037. Dental Operation, Defined**

**2030. Minimum Standards - Fixed Veterinary Premises.**

All fixed premises where veterinary medicine and its various branches are being practiced, and all instruments, apparatus and apparel used in connection with those practices, shall be kept clean and sanitary at all times and shall conform to or possess the following minimum standards:

- (a) Indoor lighting for halls, wards, reception areas, examining and surgical rooms shall be adequate for their intended purpose.
- (b) A reception room and office, or a combination of the two.
- (c) An examination room separate from other areas of the facility and of sufficient size to accommodate the doctor, assistant, patient and client.
- (d) If animals are housed or retained for treatment, the following shall be provided:
  - (1) Compartments for animals which are maintained in a comfortable and sanitary manner.
  - (2) Effective separation of known or suspected contagious animals.
  - (3) If there are to be no personnel on the premises during any time an animal is left at the veterinary facility, prior notice of this fact shall be given to the client. For purposes of this paragraph, prior notice may be accomplished by posting a sign in a place and manner conspicuous to the clients at the entrance of the premises, stating that there may be times when there are no personnel on the premises.
- (e) When a veterinary premises is closed, a sign shall be posted and visible outside the primary entrance with a telephone number and location where emergency care is available. An answering machine or service shall be used to notify the public when the veterinary premises will be re-opened and where after hours emergency care is available. If no after hours emergency care is available, full disclosure shall be provided to the public prior to rendering services.
- (f) The veterinary premises shall meet the following standards:
  - (1) Fire precautions shall meet the requirements of local and state fire prevention codes.
  - (2) The facility, its temperature, and ventilation shall be maintained so as to assure the comfort of all patients.
  - (3) The disposal of waste material shall comply with all applicable state, federal, and local laws and regulations.
  - (4) The veterinary premises shall have the capacity to render diagnostic radiological services, either on the premises or through other commercial facilities. Radiological

procedures shall be conducted in accordance with Health and Safety Code standards.

(5) Clinical pathology and histopathology diagnostic laboratory services shall be available within the veterinary premises or through outside services.

(6) All drugs and biologicals shall be maintained, administered, dispensed and prescribed in compliance with state and federal laws.

(7) Sanitary methods for the disposal of deceased animals shall be provided and maintained.

(8) Veterinary medical equipment used to perform aseptic procedures shall be sterilized and maintained in a sterile condition.

(9) Current veterinary reference materials shall be readily available on the premises.

(10) Anesthetic equipment in accordance with the procedures performed shall be maintained in proper working condition and available at all times.

(11) The veterinary premises shall have equipment to deliver oxygen in emergency situations.

(12) Appropriate drugs and equipment shall be readily available to treat an animal emergency.

(g) A veterinary premises which provides aseptic surgical services shall comply with the following:

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

(A) A veterinary premises which is currently registered with the board, but does not have a separate room reserved for aseptic surgical procedures, shall obtain compliance with this subdivision on or before January 1, 2014.

(B) The board may exempt a veterinary premises which is currently registered with the board, but does not have a separate aseptic surgery room, where it determines that it would be a hardship for the veterinary premises to comply with the provisions of this subdivision.

In determining whether a hardship exists, the board shall give due consideration to the following factors:

1. Zoning limitations.

2. Whether the premises constitutes a historical building.

3. Whether compliance with this requirement would compel the veterinary practice to relocate to a new location.

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

(3) Open shelving is prohibited in the surgical room.

(4) The surgery room shall not contain a functional sink with an open drain.

(5) The doors into the surgery room must be able to be fully closed, fill the entire door space, be made of non-porous material and not provide access from outside the hospital. In cases where the size of the animal prevents entry to the hospital via a regularly-sized door, doors for outside access are permitted as long as such doors are able to be fully closed, fill the entire door space and be made of non-porous material.

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

(7) The floors, table tops, and counter tops of the surgery room shall be of a non-porous material suitable for regular disinfecting, and cleaning, and shall be cleaned and disinfected regularly.

(8) Surgical instruments and equipment shall be:

(A) Adequate for the type of surgical procedures performed.

(B) Sterilized as required by the surgical procedure performed and instruments used.

(9) In any sterile procedure, a separate sterile pack shall be used for each animal.



(10) All instruments, packs and equipment that have been sterilized shall have an indicator that reacts to and verifies sterilization.

(11) The following attire shall be required for aseptic surgery:

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

(B) Ancillary personnel in the surgery room shall wear clean clothing, footwear, sanitary cap and mask.

(h) When performing clean surgery, the instruments used to perform such surgery shall have been sterilized and the surgeon(s) and ancillary personnel shall wear clean clothing and footwear when appropriate.

For purposes of this section, "clean surgery" shall mean the performance of a surgical operation for the treatment of a condition and under circumstances which, consistent with the standards of good veterinary medicine, do not warrant the use of aseptic surgical procedures.

### **2030.05. Minimum Standards - Licensee Manager.**

(a) A Licensee Manager is the California licensed veterinarian named as the Licensee Manager on a facility's premises permit.

(b) The Licensee Manager is responsible for ensuring that the premises for which he/she is manager complies with the requirements in sections 4853, 4854, 4855 and 4856 of the Business and Professions Code, Division 2, Chapter 11, Article 3. The Licensee Manager is responsible for ensuring that the physical and operational components of a premises meet the minimum standards of practice as set forth in sections 2030 through 2032.5 of the California Code of Regulations, Title 16, Division 20, Article 4.

(c) The Licensee Manager is responsible for ensuring that no unlicensed activity is occurring within the premises or in any location where any function of veterinary medicine, veterinary surgery or veterinary dentistry is being conducted off the premises under the auspices of this premises license.

(d) The Licensee Manager shall maintain whatever physical presence is reasonable within the facility to ensure that the requirements in (a) - (c) are met.

(e) Each licensed veterinarian shall be responsible for their individual violations of the Veterinary Medicine Practice Act or any regulation adopted thereunder.

### **2030.1. Minimum Standards - Small Animal Fixed Premises.**

For purposes of these rules and regulations, a "small animal fixed premises" shall mean a fixed veterinary premises which concentrates in providing veterinary services to common domestic household pets.

In addition to the requirements in section 2030, small animal fixed premises shall provide:

(a) Where animals are kept on the veterinary premises for 24 hours or more, the animals shall be provided with an opportunity for proper exercise. Compliance with this section may be achieved by the use of exercise runs or by providing the animal with the opportunity for outdoor walks. Where a premises has exercise runs, they shall be clean and sanitary and provide for effective separation of animals and their waste products.

(b) When the client has not given the veterinarian authorization to dispose of his or her deceased animal, the veterinarian shall be required to retain the carcass in a freezer for at least 14 days prior to disposal.

### **2030.2. Small Animal Mobile Clinic.**

For purposes of these regulations, a "small animal mobile clinic" shall mean a trailer or mobile facility established to function as a veterinary premises which concentrates in providing

veterinary services to common domestic household pets and is required by section 4853 of the code to be registered with the board.

(a) A small animal mobile clinic shall have:

- (1) Hot and cold water.
- (2) A 110-volt power source for diagnostic equipment.
- (3) A collection tank for disposal of waste material.
- (4) Lighting adequate for the procedures to be performed in the mobile clinic.
- (5) Floors, table tops, and counter tops shall be of a non-porous material suitable for regular disinfecting, and cleaning, and shall be cleaned and disinfected regularly.
- (6) Compartments to transport or hold animals, if applicable.

(b) A small animal mobile clinic shall also have:

- (1) indoor lighting for halls, wards, reception areas, examining and surgical rooms, which shall be adequate for its intended purpose.
- (2) an examination room separate from other areas of the facility, which shall be of sufficient size to accommodate the doctor, assistant, patient and client.
- (3) fire precautions that meet the requirements of local and state fire prevention codes,
- (4) temperature and ventilation controls adequate to assure the comfort of all patients.
- (5) a small animal mobile clinic which provides aseptic surgical services shall also have a room separate and distinct from other rooms, which shall be reserved for aseptic surgical procedures. Storage in the surgery room shall be limited to items and equipment normally related to surgery and surgical procedures. A veterinarian may perform emergency aseptic surgical procedures in another room when the room designated for aseptic surgery is occupied or temporarily unavailable. A small animal mobile clinic which provides aseptic surgical services and that is currently registered with the board, but does not have a separate room reserved for aseptic surgical procedures, shall provide the board with the vehicle identification number of the mobile clinic and obtain compliance with this subdivision on or before January 1, 2006.

(A) A small animal mobile clinic that provides aseptic surgery shall also have an examination area separate from the surgery room that is large enough to conduct an examination.

(c) A small animal mobile clinic shall have the ability and equipment to provide immediate emergency care at a level commensurate with the specific veterinary medical services it is providing.

(d) A small animal mobile clinic shall provide either after hours emergency services to its patients or, if no after hours emergency care is available, full disclosure to the public prior to rendering services.

(e) When the client has not given the veterinarian authorization to dispose of his or her deceased animal, the veterinarian shall be required to retain the carcass in a freezer for at least 14 days prior to disposal.

### **2030.3. Small Animal Vaccination Clinic.**

(a) The term "small animal vaccination clinic" shall refer to a location ~~mean a privately or publicly supported vaccination clinic~~ where a veterinarian performs only vaccinations and/or immunizations against disease on multiple animals, and where the veterinarian may also perform preventative procedures for intestinal parasitic control.

(b) A veterinarian must remain on site throughout the duration of a vaccination clinic and must maintain responsibility for all medical decisions made. The veterinarian is responsible for proper immunization and parasitic procedures and the completeness of recommendations made to the public by the paraprofessional staff that the veterinarian supervises or employs. The veterinarian is responsible for consultation and referral of clients when disease is detected or suspected.

(c) The disposal of waste material shall comply with all applicable state, federal, and local laws and regulations.

(d) All drugs and biologicals shall be stored, maintained, administered, dispensed and

prescribed according to the manufacturer's recommendations and in compliance with state and federal laws.

- (e) Lighting shall be adequate for the procedures to be performed in the vaccination clinic.
- (f) Floors, table tops, and counter tops shall be of a non-porous material suitable for regular disinfecting, and cleaning, and shall be cleaned and disinfected regularly.
- (g) Equipment shall be of the type and quality to provide for the delivery of vaccines and parasiticides in the best interest of the patient and with safety to the public.
- (h) Fresh, clean water shall be available for sanitizing and first aid. Disposable towels and soap shall be readily available.
- (i) A vaccination clinic shall have the ability and equipment to provide immediate emergency care at a level commensurate with the specific veterinary medical services it is providing.
- (j) The vaccination clinic shall provide a legible list of the name, address, and hours of operation of all facilities that provide or advertise emergency services and, when applicable, the location of other clinics provided by the same entity on that day, that are located within a 30-minute or 30-mile radius.
- (k) The vaccination clinic shall maintain all vaccination records for a minimum of three (3) years from the date of the vaccination.
- ~~(l) If any diagnostic tests are performed or dangerous drugs are provided, administered, prescribed or dispensed, then a valid veterinary-client-patient relationship must be established, including a complete physical exam and Medical Records as set forth in section 2032.3.~~
- ~~(m)~~ The veterinarian shall be identifiable to the public, including, but not limited to the posting of a copy of the veterinarian's license, as set forth in section 4850 of the Business and Professions Code.

## **2032. Minimum Standards of Practice.**

The delivery of veterinary care shall be provided in a competent and humane manner. All aspects of veterinary medicine shall be performed in a manner consistent with current veterinary medical practice in this state.

### **2032.05. Humane Treatment.**

When treating a patient, a veterinarian shall use appropriate and humane care to minimize pain and distress before, during and after performing any procedure(s).

### **2032.1. Veterinarian-Client-Patient Relationship.**

- (a) It is unprofessional conduct for a veterinarian to administer, prescribe, dispense or furnish a drug, medicine, appliance, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture or bodily injury or disease of an animal without having first established a veterinarian-client-patient relationship with the animal patient or patients and the client, except where the patient is a wild animal or the owner is unknown.
- (b) A veterinarian-client-patient relationship shall be established by the following:
  - (1) The client has authorized the veterinarian to assume responsibility for making medical judgments regarding the health of the animal, including the need for medical treatment,
  - (2) The veterinarian has sufficient knowledge of the animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s). This means that the veterinarian is personally acquainted with the care of the animal(s) by virtue of an examination of the animal or by medically appropriate and timely visits to the premises where the animals are kept, and
  - (3) The veterinarian has assumed responsibility for making medical judgments regarding the health of the animal and has communicated with the client a course of treatment appropriate to the circumstance.
- (c) A drug shall not be prescribed for a duration inconsistent with the medical condition of the animal(s) or type of drug prescribed. The veterinarian shall not prescribe a drug for a duration

longer than one year from the date the veterinarian examined the animal(s) and prescribed the drug.

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

(e) No person may practice veterinary medicine in the State except within the context of a veterinarian-client-patient relationship. A veterinarian-client-patient relationship cannot be established solely by telephonic or electronic means.

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

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

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

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

(3) The designated veterinarian has sufficient knowledge of the animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s). This means that the veterinarian is personally acquainted with the care of the animal(s) by virtue of an examination of the animal(s) or by medically appropriate and timely visits to the premises where the animal(s) is kept, or has consulted with the veterinarian who established the veterinary-client-patient relationship, and;

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

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

### **2032.2. Written Prescriptions.**

(a) A written order, by a veterinarian, for dangerous drugs, as defined by Section 4022 of Business and Professions Code, shall include the following information:

(1) The name, signature, address and telephone number of the prescribing veterinarian.

(2) The veterinarian's license number and his or her federal registry number if a controlled substance is prescribed.

(3) The name and address of the client.

(4) The species and name, number or other identifying information for the animal.

(5) The name, strength, and quantity of the drug(s).

(6) Directions for use, including, if applicable, withdrawal time.

(7) Date of issue.

(8) The number of refills.

(b) All drugs dispensed shall be labeled with the following information:

(1) Name, address and telephone number of the facility.

(2) Client's name.

(3) The species and name, number, or other identifying information for the animal.

(4) Date dispensed.

(5) Directions for use, including, if applicable, withdrawal time.

(6) The manufacturer's trade name of the drug or the generic names, strength (if more than one dosage form exists), and quantity of drug, and the expiration date when established by the manufacturer.

(7) Name of prescribing veterinarian.

(c) Pursuant to section 4170(a)(6) and (7) of the Business and Professions Code, veterinarians must notify clients that they have a choice to obtain either the medication or a written prescription and that they shall not be charged for the written prescription.

### **2032.25. Written Prescriptions in Absence of Originally Prescribing Veterinarian.**

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 of the Business and Professions Code ~~without an appropriate prior examination and a medical indication,~~ absent establishing a veterinary-client-patient-relationship (VCPR) as defined in 2031.1 constitutes unprofessional conduct.

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

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

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

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

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

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

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

### **2032.3. Record Keeping; Records; Contents; Transfer.**

(a) Every veterinarian performing any act requiring a license pursuant to the provisions of Chapter 11, Division 2, of the code, upon any animal or group of animals shall prepare a legible, written or computer generated record concerning the animal or animals which shall contain the following information:

(1) Name or initials of the person responsible for entries.

(2) Name, address and phone number of the client.

(3) Name or identity of the animal, herd or flock.

(4) Except for herds or flocks, age, sex, breed, species, and color of the animal.

(5) Dates (beginning and ending) of custody of the animal, if applicable.

(6) A history or pertinent information as it pertains to each animal, herd, or flock's medical status.

(7) Data, including that obtained by instrumentation, from the physical examination.

- (8) Treatment and intended treatment plan, including medications, dosages, route of administration, and frequency of use.
  - (9) Records for surgical procedures shall include a description of the procedure, the name of the surgeon, the type of sedative/anesthetic agents used, their route of administration, and their strength if available in more than one strength.
  - (10) Diagnosis or assessment prior to performing a treatment or procedure.
  - (11) If relevant, a prognosis of the animal's condition.
  - (12) All medications and treatments prescribed and dispensed, including strength, dosage, route of administration, quantity, and frequency of use.
  - (13) Daily progress, if relevant, and disposition of the case.
- (b) Records shall be maintained for a minimum of three (3) years after the animal's last visit. A summary of an animal's medical records shall be made available to the client within five (5) days or sooner, depending if the animal is in critical condition, upon his or her request. The summary shall include:
- (1) Name and address of client and animal.
  - (2) Age, sex, breed, species, and color of the animal.
  - (3) A history or pertinent information as it pertains to each animal's medical status.
  - (4) Data, including that obtained by instrumentation, from the physical examination.
  - (5) Treatment and intended treatment plan, including medications, their dosage and frequency of use.
  - (6) All medications and treatments prescribed and dispensed, including strength, dosage, route of administration, quantity, and frequency of use.
  - (7) Daily progress, if relevant, and disposition of the case.
- (c)(1) Radiographs and digital images are the property of the veterinary facility that originally ordered them to be prepared. Radiographs or digital images shall be released to another veterinarian upon the request of another veterinarian who has the authorization of the client. Radiographs shall be returned to the veterinary facility which originally ordered them to be prepared within a reasonable time upon request. Radiographs originating at an emergency hospital shall become the property of the next attending veterinary facility upon receipt of said radiograph(s). Transfer of radiographs shall be documented in the medical record.
- (2) Radiograph and digital images, except for intraoral radiographs, shall have a permanent identification legibly exposed in the radiograph or attached to the digital file, which shall include the following:
- (A) The hospital or clinic name and/or the veterinarian's name,
  - (B) Client identification,
  - (C) Patient identification, and
  - (D) The date the radiograph was taken.
- (3) Non-digital intraoral radiographs shall be inserted into sleeve containers and include information in subdivision (c)(2)(A) - (D). Digital images shall have identification criteria listed in subdivision (c)(2)(A) - (D) attached to the digital file.
- (d) Laboratory data is the property of the veterinary facility which originally ordered it to be prepared, and a copy shall be released upon the request of the client.
- (e) The client shall be provided with a legible copy of the medical record when the patient is released following emergency clinic service. The minimum information included in the medical record shall consist of the following:
- (1) Physical examination findings
  - (2) Dosages and time of administration of medications
  - (3) Copies of diagnostic data or procedures
  - (4) All radiographs and digital images, for which the facility shall obtain a signed release when transferred
  - (5) Surgical summary
  - (6) Tentative diagnosis and prognosis, if known
  - (7) Any follow-up instructions.

### **2032.35. Altering Medical Records**

Altering or modifying the medical record of any animal, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct in accordance with Business and Professions Code section 4883(g).

#### **2032.4. Anesthesia.**

(a) General anesthesia is a condition caused by the administration of a drug or combination of drugs sufficient to produce a state of unconsciousness or dissociation and blocked response to a given pain or alarming stimulus.

(b) When administering general anesthesia, a veterinarian shall comply with the following standards:

(1) Within twelve (12) hours prior to the administration of a general anesthetic, the animal patient shall be given a physical examination by a licensed veterinarian appropriate for the procedure. The results of the physical examination shall be documented in the animal patient's medical records.

(2) An animal under general anesthesia shall be observed for a length of time appropriate for its safe recovery.

(3) Provide respiratory monitoring including, but not limited to, observation of the animal's chest movements, observation of the rebreathing bag, or respirometer.

(4) Provide cardiac monitoring including, but not limited to, the use of a stethoscope, pulseoximeter or electrocardiographic monitor.

(5) When administering general anesthesia in a hospital setting, a veterinarian shall have resuscitation or rebreathing bags of appropriate volumes for the animal patient and an assortment of endotracheal tubes readily available.

(6) Records for procedures involving general anesthesia shall include a description of the procedure, the name of the surgeon, the type of sedative and/or anesthetic agents used, their route of administration, and their strength if available in more than one strength.

#### **2032.5. Emergency Hospitals.**

(a) Any veterinary premises that displays any sign, card, or device that indicates to the public that it is an emergency veterinary clinic or hospital shall comply with the following:

(1) Maintain a licensed veterinarian on the premises at all times during the posted hours of operation.

(2) Its advertisements shall clearly state:

(A) A licensed veterinarian is on the premises during the posted emergency hours.

(B) The hours the facility will provide emergency services.

(C) The address and telephone number of the premises.

(b) The phrase "veterinarian on call" shall mean that a veterinarian is not present at the hospital, but is able to respond within a reasonable time to requests for emergency veterinary services and has been designated by a daytime veterinary facility to do so after regular office hours. A veterinary premises which uses a veterinarian on call service shall not be considered to be or advertised as an emergency clinic or hospital.

#### **2037. Dental Operation, Defined**

(a) The term "dental operation" as used in Business and Professions Code section 4826 means:

(1) The application or use of any instrument, device, or scaler to any portion of the animals tooth, gum or any related tissue for the prevention, cure or relief of any wound, fracture, injury or disease of an animal's tooth, gum or related tissue; and

(2) Preventive dental procedures including, but not limited to, the removal of calculus, soft

deposits, plaque, stains or the smoothing, filing, scaling or polishing of tooth surfaces.  
(b) Nothing in this regulation shall prohibit any person from utilizing cotton swabs, gauze, dental floss, dentifrice, or toothbrushes on an animal's teeth.



**Practice Advisory Panel  
Interim Report on Telemedicine  
September 20, 2016**

**Table of Contents**

1. Executive Summary.....	3
1.1. Recommendations and guidelines pertaining to existing AVMA policy .....	3
1.2. Recommendations and guidelines not pertaining to existing AVMA policy.....	4
2. Method of Deliberation .....	6
3. Definitions.....	8
3.1. Veterinarian-client-patient-relationship (VCPR).....	8
3.2. Practice of Veterinary Medicine .....	8
3.3. VCPR in conjunction with the MVPA.....	9
3.4. Telehealth, telemedicine, and mHealth.....	9
3.5. Consultant and veterinarian of VCPR.....	11
4. Telemedicine .....	11
4.1. Telemedicine in relation to the VCPR .....	12
4.2. Telemedicine in production and companion animal medicine .....	12
4.3. Categories of telemedicine .....	13
4.3.1. Client-facing telemedicine .....	14
4.3.2. Non-client, public-facing.....	14
4.3.3. Consultant-facing .....	15
4.3.4. Pharmacy-facing.....	16
4.3.5. Medicated feed distributor facing .....	16
4.3.6. Regulator-facing.....	17
4.4. Telemedicine and veterinary medicine regulations .....	17
4.4.1. Advice vs. practice, and accountability for both.....	17
4.4.2. Telerriage, including poison control services.....	18
5. Telemedicine drivers.....	19

**Disclaimer:** This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.

5.1. Societal demand.....	19
5.2. Veterinary profession’s benefits.....	20
5.3. Competitive market.....	20
6. Telemedicine technology use and the practice of veterinary medicine.....	21
6.1. Telemedicine technology and data use by veterinarians.....	22
6.2. Technology and data use by consumers.....	22
7. Incorporating telemedicine into practice.....	22
7.1. Identify and frame opportunities for appropriate use of telemedicine.....	23
7.2. Veterinary records.....	24
7.3. Informed Consent.....	25
7.4. Financials.....	25
7.5. Ethical use of telemedicine to grow and maintain client base.....	25
7.6. Tools for Practices.....	26
7.6.1. Basic regulatory checklist.....	26
7.6.2. Implementation checklist.....	26
8. Additional topics to be addressed in the AP’s final report.....	27
9. AP Recommendations.....	28
9.1. Recommendations pertaining to existing AVMA policy.....	28
9.2. Recommendations and guidelines not pertaining to existing AVMA policy.....	29
Appendix A: List of sample telemedicine applications and technologies.....	31
Appendix B: Combined charts for state VCPR and telemedicine regulations.....	33

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**

## 1. Executive Summary

The AVMA Board of Directors (BOD) assigned the issue of telemedicine to the Practice Advisory Panel (AP) for its deliberation. The assigned objective is for the AP to advise the BOD on the AVMA's leading role in guiding the profession's responsible use of telemedicine in the veterinary profession by establishing policy, guidelines, and best practices, and by developing resources for practicing veterinarians.

The AP developed from within its membership at Telemedicine Subcommittee, which in turn facilitated establishment and operation of five telemedicine working groups comprised of more than 50 volunteers. The AP is grateful to the numerous volunteers who served on the working groups, provided their expertise and time in tackling complicated issues of telemedicine. The fifth and final working group is slated to conclude its work in November 2016.

This interim report of the AP provides the BOD with the AP's recommendations and guidelines on telemedicine issues resolved to date by consensus of the working groups and AP. The AP plans to address the unresolved issues as well as incorporate the results of the fifth working group in the AP's final report to the BOD in December 2016. The following list provides the AP's recommendations on the issues resolved to date.

### 1.1. Recommendations and guidelines pertaining to existing AVMA policy

- a. Report sections [4.3.3](#) and [4.4](#): That the AVMA revise the **Model Veterinary Practice Act** to include the following. [The AP is also communicating this to the Council on Veterinary Service (CoVS), which has primary oversight of the MVPA.]

*Telemedicine shall only be conducted within an existing VCPR, with the exception for advice given in an emergency care situation, or in the rare situation in which the patient can neither be seen by a veterinarian nor transported to a veterinarian.*

*Any advice given via any medium outside an established VCPR must be given in general terms, not specific to an individual animal, diagnosis, or treatment.*

*The veterinarian that establishes the VCPR is responsible for and has the liability to manage the case and must have a license in the state that the VCPR was established. Any consultant that is giving advice to the veterinarian of VCPR does not have to be licensed in that state. Communication to the client must go through or be controlled by the veterinarian who has established the VCPR.*

**Disclaimer:** This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.

- b. Section [4.4.2](#): That the AVMA revise the policy on **Remote Consulting** as indicated below. [The AP is also communicating this to the Council on Veterinary Service (CoVS), which has primary oversight of the policy.]

***AVMA policy on Remote Consulting***

*With the exception of emergency teletriage, including poison control services, tThe AVMA opposes remote consulting including, but not limited to, telephone or web-based ~~mediate~~telemedicine, offered directly to the public when the intent is to diagnose and/or treat a patient in the absence of a veterinarian-client-patient relationship (VCPR) as defined by the AVMA Model Veterinary Practice Act. Remote consulting directly with the patient owner can be beneficial and is acceptable when performed with an agreement and in collaboration with the attending veterinarian who has established and retains the VCPR.*

**1.2. Recommendations and guidelines not pertaining to existing AVMA policy**

- a. That telemedicine within the veterinary profession be conducted only within existing VCPRs, with the exception of providing emergency teletriage, including animal poison control services.
- b. That without a VCPR, telemedicine should not be practiced, and any advice given should remain in general terms, not specific to an individual animal, diagnosis, treatment, etc. Thus, non-client electronic communications should be in the non-clinical realms of mHealth, web content, and other messaging.
- c. That the AVMA be committed to ensuring access to the convenience and benefits afforded by telemedicine services, while promoting the responsible provision of veterinary medicine.
- d. That the AVMA expect practitioners who provide veterinary care, electronically or otherwise, maintain the highest degree of professionalism.
- e. That the AVMA develop member resources on telemedicine, such as similar to the [Online Pharmacy web page](#), and conduct an education and outreach campaign to get veterinary telemedicine information out to members, policymakers, and other stakeholders.
- f. That the AVMA advocate for enhanced regulatory enforcement to prevent unlicensed individuals from practicing veterinary medicine, including by telemedicine.
- g. That the AVMA advocate for accountability for advice given. (Sections [4.3](#) and [4.4.1](#))

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**

- h. That the AVMA encourage applications and other platforms that appropriately help connect or reconnect existing clients to their established, animal healthcare team and Veterinarian of VCPR. (Section [4.3.1](#))
- i. That the AVMA encourage applications and other platforms that appropriately help connect animal owners or other caretakers with veterinarians licensed to practice in their area. (Section [4.3.1](#))
- j. That the AVMA encourage practitioners to utilize emerging technologies to enhance their accessibility and client communications. (Section [4.3.1](#))
- k. That credentials of all advice givers as well as disclaimers on all telehealth and telemedicine resources need to be prominent so as not to mislead readers or users. (Section [4.3.2.1](#))
- l. That AVMA advocate for continued allowance of teleconsultation between veterinarians of VCPRs and consultants. (Section [4.3.3](#))
  - i. It is the professional discretion of veterinarians of VCPR to consult with specialists or other consultants.
  - ii. Consultants should not be required to hold an active veterinary medical license in the state from which the veterinarian of VCPR practices.
- m. That the AVMA continue to develop and maintain summary information on state regulations pertaining to VCPRs, telemedicine, complementary and alternative veterinary medicine (CAVM) and other practice act exemptions, and sanctions for unauthorized practice of veterinary medicine in a user friendly, interactive tool feasible to the Association and useful to its members. (Section [4.4](#))
- n. That the AVMA advocate for harmonized telemedicine requirements across the nation. (Section [4.4](#))
- o. That the AVMA be committed to advocating for ensured access by veterinarians and the public to the convenience and benefits afforded by telemedicine technologies, while supporting and maintaining the professions' status as the leader in animal health and welfare. (Section [6](#))
- p. That the AVMA develop resources to assist practitioners in monetizing telemedicine appropriately. (Section [7.4](#))
- q. That the AVMA utilize the checklists of section 7.6 of this report when developing member resources on telemedicine. (Section [7.6](#))

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**

Telemedicine is a ***tool*** of practice, not a separate discipline within the profession. The AP recognizes that using telemedicine in the delivery of veterinary medical services offers benefits to animal owners, animal patients, and the profession itself. The appropriate application of telemedicine can enhance animal care by facilitating communication, diagnostics, treatments, client education, scheduling, and other tasks within the veterinary profession. Practitioners must apply existing laws and regulations to the provision of telemedicine services in the state they have license to practice veterinary medicine.

Guidelines and recommendations provided in this document should not be construed to alter the scope of practice of any healthcare provider or authorize the delivery of veterinary health care services not authorized by law. In fact, these guidelines and recommendations support a consistent standard of care and scope of practice regardless of the delivery tool or business model used to enable practitioner-client communications. A practitioner using telemedicine services in the provision of veterinary services must take appropriate steps to establish the veterinarian-client-patient relationship (VCPR) as defined by the laws and regulations of the relevant state authority and conduct all appropriate evaluations and other services consistent with standards of care for the particular patient presentation. Some situations and patient presentations are appropriate for the utilization of telemedicine services, while others are not. The practitioner is responsible for making this determination, and in doing so must adhere to applicable laws and standards of care.

## 2. Method of Deliberation

The AVMA Board of Directors (BOD) assigned the issue of telemedicine to the Practice Advisory Panel (AP) for its deliberation along with other issues encompassed within the AP's charge. The AP established from within its membership a Telemedicine Subcommittee, tasked to:

- Evaluate whether the AVMA Model Veterinary Practice Act requires modification to address telemedicine,
- Consider guideline for when telemedicine is and is not appropriate in veterinary medicine, and
- Help ensure that the AP completes the telemedicine assignment from the BOD.

Based on work of the AP Subcommittee on Telemedicine, the AP established five virtual working groups (WGs), consisting of more than 50 volunteers, to complete work in strategic phases.

**Phase one:** March – May 2016

- **WG on the State of Telemedicine and Comparative Uses**  
Tasked to assess present uses of telemedicine, compare uses across healthcare sectors, and forecast future uses of telemedicine as it relates to veterinary medicine in a summary deliverable that advises the AP as well as other AVMA leadership and membership. The WG

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has *not* been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**

consisted of 11 members possessing a range of essential competencies and perspectives, such as veterinary practice, communications, consulting and referral, service or industry supportive to animal health, insurance provider or advisor, and healthcare IT or informatics.

- **WG on the Regulatory and Legal Aspects of Telemedicine**

Tasked to comprehensively search, compile, distill, and summarily convey the breadth and depth of telemedicine regulations in an end product designed to advise the AP and other AVMA leadership. The WG consisted of 11 members possessing a range of essential competencies and perspectives, such as an attorney, practitioners, and consultants as well as members experience in organized veterinary medicine, veterinary medical specialty boards, and state regulatory boards.

- **WG on Telemedicine Technologies and Applications**

Tasked to provide the AP with perspectives on how telemedicine technologies and applications may be used appropriately and securely to advance veterinary medicine. The WG consisted of 12 members possessing a range of essential competencies and perspectives, such as practice, economics, ethics, legal, and communications, and telemedicine technologies, services, development, and marketing.

#### **Phase two: May – August 2016**

- **WG on Telemedicine Guidelines**

The Working Group on Telemedicine Guidelines (WG) was established by the AVMA's Practice Advisory Panel (AP) to provide an advisory deliverable to the AP on guidelines for what AVMA should advocate as proper use of telemedicine in veterinary medicine. Along with telemedicine position statements from various human healthcare sectors, the results of AVMA's phase 1 telemedicine working groups served as springboards for the WG's deliberations. The WG consisted of 12 members possessing a range of essential competencies and perspectives, such as clinical practice, consultant services, organized veterinary medicine, academia, and regulatory boards.

#### **Phase three: August – November 2016**

- **WG on Telemedicine Education for Providers**

More information on this WG will be provided once it provides its report to the AP.

## 3. Definitions

### 3.1. Veterinarian-client-patient-relationship (VCPR)

The [VCPR](#) is the basis for interaction among veterinarians, their clients, and their patients. In addition to the discussion of VCPRs in Section III of the [AVMA's Principles of Veterinary Medical Ethics](#), below is the AVMA's current definition of "veterinarian-client-patient relationship" (VCPR) as it appears in subsection 20 of the AVMA [Model Veterinary Practice Act](#).

"Veterinarian-client-patient relationship" means that all of the following are required:

- The veterinarian has assumed the responsibility for making medical judgments regarding the health of the patient and the client has agreed to follow the veterinarian's instructions.
- The veterinarian has sufficient knowledge of the patient to initiate at least a general or preliminary diagnosis of the medical condition of the patient. This means that the veterinarian is personally acquainted with the keeping and care of the patient by virtue of:
  - a timely examination of the patient by the veterinarian, or
  - medically appropriate and timely visits by the veterinarian to the operation where the patient is managed.
- The veterinarian is readily available for follow-up evaluation or has arranged for the following:
  - veterinary emergency coverage, and
  - continuing care and treatment.
- The veterinarian provides oversight of treatment, compliance and outcome.
- Patient records are maintained.

This definition of the VCPR differs from that embodied in federal regulation [21 CFR 530.3\(i\)](#), among [states](#), and that of the American Association of Veterinary State Boards' (AAVSB) [Practice Act Model](#).

The WGs and AP recognize that there are locations, such as Alaska, Maine, Washington, and the District of Columbia, that did not have VCPR regulations as of the June 2015 date of the last AVMA search of the regulation.

### 3.2. Practice of Veterinary Medicine

The practice of veterinary medicine is defined in each state's practice act, some of which heavily rely on the AVMA's [Model Veterinary Practice Act](#). Below is an excerpt from the MVPA.

"Practice of veterinary medicine" means:

- To diagnose, prognose, treat, correct, change, alleviate, or prevent animal disease, illness, pain, deformity, defect, injury, or other physical, dental, or mental conditions by any method or mode; including the:
  - performance of any medical or surgical procedure, or

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**



- prescription, dispensing, administration, or application of any drug, medicine, biologic, apparatus, anesthetic, or other therapeutic or diagnostic substance, or
- use of complementary, alternative, and integrative therapies, or
- use of any procedure for reproductive management, including but not limited to the diagnosis or treatment of pregnancy, fertility, sterility, or infertility, or
- determination of the health, fitness, or soundness of an animal, or
- rendering of advice or recommendation by any means including telephonic and other electronic communications with regard to any of the above.
- To represent, directly or indirectly, publicly or privately, an ability and willingness to do an act described in subsection 16(a).
- To use any title, words, abbreviation, or letters in a manner or under circumstances that induce the belief that the person using them is qualified to do any act described in subsection 16(a).

### 3.3. VCPR in conjunction with the MVPA

Section 5 of the AVMA Model Veterinary Practice Act clearly states the VCPR requirement in practicing veterinary medicine (see below), and the AP underscores the importance of these requirements even when utilizing telemedicine.

*“No person may practice veterinary medicine in the State except within the context of a veterinarian-client-patient relationship.”*

*“A veterinarian-client-patient relationship cannot be established solely by telephonic or other electronic means.”*

### 3.4. Telehealth, telemedicine, and mHealth

The AP recognizes that numerous definitions of telemedicine exist (104 peer-reviewed definitions identified in a 2007 study<sup>1</sup>). Debate continues regarding which definition of telehealth and of telemedicine best fit the veterinary profession. The AP plans to resolve the issue and make its definition recommendation to the BOD this December with the AP’s final report.

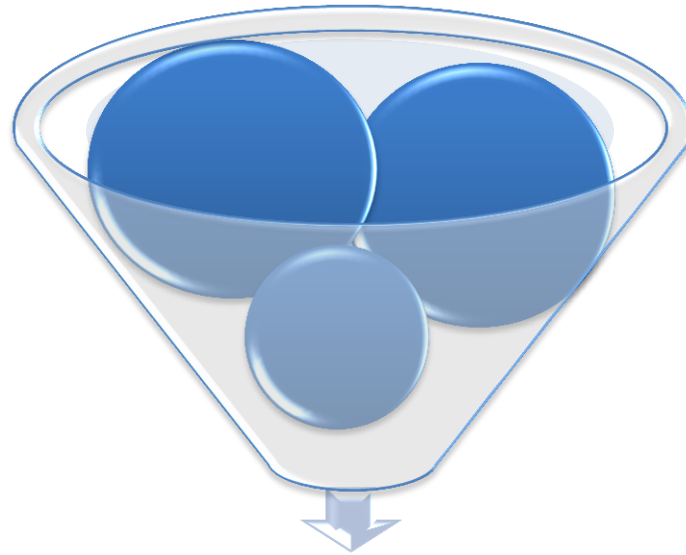
- A common theme among definitions and discussions of **telehealth** is that this overarching term encompasses all uses of technology geared to remotely deliver health information, education, or care.
- **Telemedicine** is as critical subcategory of telehealth and is a ***tool*** available to augment the practice of veterinary medicine.

---

<sup>1</sup> Sood SP, et al. Differences in public and private sector adoption of telemedicine: Indian case study for sectoral adoption. *Studies in Health Technology and Informatics*, 2007, 130:257–268.

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has *not* been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**

- Mobile Health or **mHealth** is a different subcategory of telehealth and employs mobile devices. Some mHealth applications and wearables (e.g. [Veterinary AliveECG](#), [Sonon](#) ultrasound, and [Voyce Pro™](#)) are designed to augment animal health care within VCPRs, while others (e.g., [FitBark](#), [SigaRuminant](#), and [Horse Health Tracker](#)) are designed and marketed directly to consumers for their education and animal monitoring without clinical input (no VCPR).



Telehealth

### 3.5. Consultant and veterinarian of VCPR

The AP understands that there may be confusion regarding roles and responsibilities of the veterinarian of VCPR compared to roles and responsibilities of consultants, thus clarifying differences is important.

**Veterinarian of VCPR:** a licensed veterinarian who has established and is working within a VCPR

- Communicates directly with the animal owner or other caretaker
- Is ultimately liable for patient care
- Because multiple veterinarians may have VCPRs with the same client and patient concurrently, the AP intentionally uses the term “veterinarian of VCPR” instead of “primary veterinarian.”

**Consultant:** an individual from whom the veterinarian of VCPR seeks advice in management of a given case (individual patient, herd, flock, etc.)

- Communicates with the veterinarian of VCPR, not the animal owner or other caretaker
- Does not establish a VCPR, but advises the veterinarian of VCPR

## 4. Telemedicine

Telemedicine has arisen as one of the greatest opportunities and challenges facing medicine in the digital age. For human medicine, telemedicine facilitates consultation, patient monitoring, the delivery of consumer information and educational materials, and improved patient care in underserved and remote areas. The AP is aware that there is growing support for an interstate licensing bill for telemedicine.

As expected, telemedicine has spread into the veterinary medical field as well. Both, the Internet and a dramatic increase in consumer use of mobile technology, have driven awareness of the availability of online resources and sparked creation of an increasing number of applications (apps) that provide basic telemedicine services to animal owners. Although the currently available apps are aimed primarily at pet owners, telemedicine impacts multiple aspects of clinical veterinary practice across species.

The use of telemedicine and digital consulting apps in the veterinary field has been the subject of controversy, with impassioned views from different sides of the issue. On one hand, there are concerns regarding liability, potential for violating the VCPR, and challenges of providing veterinary consultation without a hands-on examination. On the other hand, the technology is more likely to increase in use, giving the profession an opportunity to shape the direction of telemedicine for optimal animal health and welfare benefits.

Controversial aspect of telemedicine in veterinary medicine were further brought into the national spotlight in early 2015, when a Texas veterinarian, disciplined for violating the state’s practice act, filed a lawsuit against the state board. The U.S. Court of Appeals for the Fifth Circuit found that the Texas state

11

**Disclaimer:** This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has *not* been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.

board's requirement that a physical examination of the animal or premises must occur for a valid VCPR does not violate the First or Fourth Amendment. The Texas law challenged in that lawsuit contained language similar to the AVMA Model Veterinary Practice Act, that the VCPR cannot be established solely through electronic or telephone means. The AP is aware that most states have not adopted such specific language, therefore making it even more difficult to predict how courts may rule in the future on the topic of veterinary telemedicine.

#### **4.1. Telemedicine in relation to the VCPR**

The AP recognizes that telemedicine is a rapidly evolving field with the potential to improve the quality of care for animals, and the AP feels that the profession should be committed to investigating all methods of obtaining information about its patients for the purposes of providing safe, competent veterinary care. At this point, the definition of the VCPR does not need to change to encompass the tools of telemedicine; however, the AP understands that in the future as technologies and medicine advance, in-person examination may be among options, but not the only option, to satisfy VCPR requirements.

The AP recognizes that remote technologies currently available to the profession do not fulfill the profession's needs for thorough, in-person examinations, which employ all of a veterinarian's senses and expertise and elicit animal responses, all of which are imperative because veterinary patients cannot verbally convey histories or symptoms. Nonetheless, the AP acknowledges that advances in technologies have made it easier for veterinarians to remotely gather adequate patient information for the provision of *continued* care that would have previously required in-person rechecks.

#### **4.2. Telemedicine in production and companion animal medicine**

The AP perceives **production medicine** as currently being more conducive than other practice segments to utilizing client-facing telemedicine because of factors relating to well established, preventative herd/flock health programs as well as vertical or other integration platforms within production systems. For instance, a vertically integrated poultry system may have a veterinarian at location A and a trained technician under indirect supervision at location B. If an animal health issue arises at location B, part of the response may include the technician collecting data (photographs, videos, production/facility records, etc.) and submitting samples. The veterinarian at location A receives the electronic information from the technician and then may direct veterinary medical intervention, wait for lab results, request additional information, etc. Examples of telehealth that have been used for years in production paradigms include automated monitoring systems that record and transmit information such as animal activity, feed intake, milk production, etc. Such e-records are not only used by production facilities, but can also signal when veterinary intervention may be needed and provide valuable information to the veterinarian.

**Companion animal medicine** has used telemedicine for decades, but primarily in the teleconsulting arena (telecardiology, teleneurology, telepathology, teleradiology, etc.) and less so in the client-facing

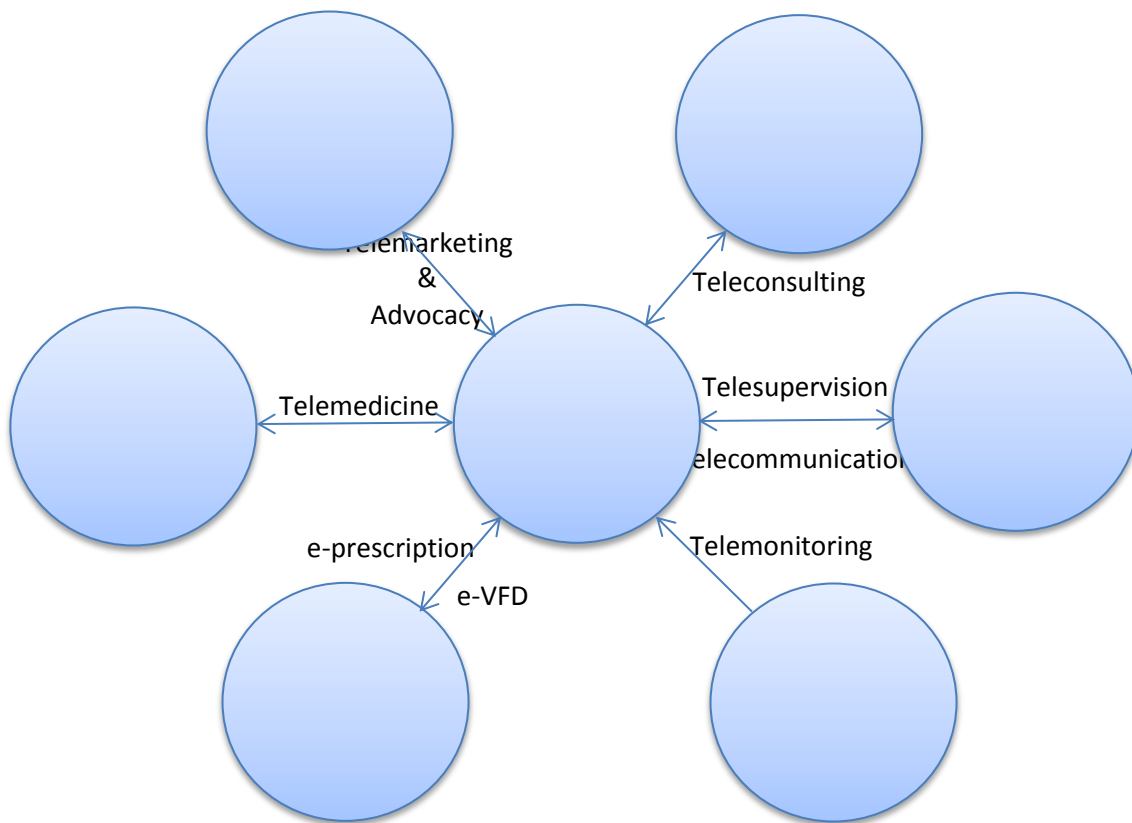
12

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has *not* been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**

arena (mostly focusing on telephone calls, texts, etc.). While companion animal owners in general may not have been utilizing consumer directed telehealth devices, systems, or apps as long as or to the extent of producers, it seems that companion animal owners are definitely being targeted now by device manufacturers and app developers. Some of these telehealth items may be useful for veterinarians, and thus overlap into telemedicine. Navigating this overlap, ensuring compliance with practice regulations and standards, and being pressured by a society expecting similar telemedicine options from their veterinarian as they get from their physician seem to contribute to confusion over telemedicine more for companion animal practices than production animal practices.

### 4.3. Categories of telemedicine

Telemedicine may be divided into categories based on who is involved in the communication (e.g., veterinarian with veterinarian, veterinarian with staff, veterinarian with established client, and veterinarian with non-client). The diagram below provides multiple, electronic communication paths (see [Appendix A](#) for a brief sample of providers and platforms).



While non-veterinarians must not engage in the practice of veterinary medicine through telemedicine or other means, the AP is aware that some advice provided by non-veterinarians

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**

to individuals with animal health, welfare, or behavior concerns may cross over into the scope of practice. Regardless of the communication path, it is imperative that accountability for advice given exist and be enforced.

#### **4.3.1. Client-facing telemedicine**

For this discussion, clients are animal owners or other caretakers with whom the veterinarian has a valid VCPR. The AP emphasizes the benefits of a hands-on evaluation of our veterinary patients to help establish a VCPR.

Client-facing telemedicine models exist that allow the veterinarian to gather all essential veterinary medical information from the animal owner (or other caretaker), access the patient's medical records, and conduct a virtual exam of the patient through real-time video or by attached pictures in store and forward modalities. Telemedicine is a vital tool for the veterinary profession and seems to be greatly desired by society. Utilizing telemedicine appropriately can augment animal health and welfare while also enhancing client education, compliance, and satisfaction.

Furthermore, telemedicine diminishes hurdles to veterinary medical care posed by distance, time, and human resource restrictions. The more accessible veterinarians and their trained support staff are to clients, the less likely those clients are to turn to non-veterinarians for information, guidance, or other help.

Examples: Client portals; e-mails, texts, or telephone calls regarding appointments, progress, or results; emergency calls; etc.

The AP recommends:

- That the AVMA encourage applications and other platforms that appropriately help connect / reconnect existing clients to their established healthcare team and veterinarian of VCPR.
- That the AVMA encourage practitioners to utilize emerging technologies to enhance their accessibility and client communications.

#### **4.3.2. Non-client, public-facing**

Non-clients are individuals with whom the veterinarian does not have a valid VCPR, and without a VCPR, telemedicine should not be practiced. Any advice given should remain in general terms, not specific to an individual animal, diagnosis, treatment, etc. Thus, non-client electronic communications should be in the non-clinical realms of mHealth, web content, and other generalized messaging.

The AVMA [Model Veterinary Practice Act](#) states, "A veterinarian-client-patient relationship cannot be established solely by telephonic or other electronic means."

#### **4.3.2.1. Credentials and disclaimers**

The credentials of all advice givers as well as disclaimers on all resources need to be prominent so as not to mislead readers. An example of a disclaimer actually found by a WG member after searching a site offering animal health care advice states, "*for educational and entertainment purposes only.*"

#### **4.3.2.2. Educational websites and applications**

Educational websites and applications have value, but do not substitute for proper veterinary care. Furthermore, the information on such websites and applications should not convey specifics of treatments. Providing general information about diseases, conditions, injuries, behaviors, and other information pertaining to animals as well as conveying why an animal with a given issue needs to be seen, monitored, rechecked, etc. by a veterinarian is helpful. General promotion of appropriate vaccinations and other aspects of preventative health is also beneficial.

#### **4.3.2.3. Connection platforms**

Non-client applications and website content that connect animal owners (or other caretakers) with veterinarians are resources with great potential. Such platforms help connect owners and caretakers with veterinarians so that the animals get the medical care needed, thus enhance animal health and welfare in general and potentially contribute to practice profitability. AVMA should encourage applications and other platforms that appropriately help connect animal owners (or other caretakers) with veterinarians licensed to practice in their area.

#### **4.3.2.4. Telemarketing for second opinion**

Some platforms specifically market second opinion packages, including review of records. This as well as other teleconsultations with the public and outside of valid VCPRs is a concern. The AVMA's policy on [Remote Consulting](#) further supports the concern.

- The arrangement and review of the record is outside of a VCPR because the marketing provider has not physically examined the animal nor plans to physically examine the animal; thus, it does not qualify as a true second opinion.
- Such marketed arrangement and review of records is not the same as a second opinion sought by a veterinarian of VCPR through consultation with specialists, nor is it the same as an owner having two different veterinarians physically examine the animal(s) in conjunction with record review.

### **4.3.3. Consultant-facing**

For decades, veterinarians operating within valid VCPRs have electronically consulted specialists for assistance with their patients. Such teleconsulting should be allowed to continue and to utilize ever-increasing technologies for the betterment of patient care.

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has *not* been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**

#### Examples of teleconsultations

- Electronic conversations by telephone, videoteleconferencing, texts, etc.
- Transferring / sharing electronic records, digital radiographs, ECGs, ultrasounds, etc.
- Telecardiology, teleneurology, telepathology, teleradiology, etc.
- Consulting with a nutritionist, toxicologist, pathologist, clinician or other subject matter expert associated with a veterinary academic institution or an accredited laboratory.

The AP is aware that some states may have licensure restrictions such that only consultants licensed to practice veterinary medicine within the state may consult within the state. The AP disagrees with such intrastate licensure restrictions. The AP recognizes that the veterinarian of VCPR is liable for patient care, and the AP recommends that AVMA advocate for:

- Professional discretion of veterinarians of VCPRs to be able to consult with whomever they feel has the expertise to appropriately advise on the management of given cases and
- The ability of veterinarians of VCPRs to use consultants without requiring the consultants to be licensed to practice veterinary medicine, or be licensed to practice in the same state.

The AP recommends that the AVMA add the following verbiage to the Model Veterinary Practice Act, and the AP is communicating with the Council on Veterinary Service (CoVS) so that the CoVS will consider the issue as it prepares for the upcoming review of the MVPA.

*"The veterinarian that establishes the VCPR is responsible for and has the liability to manage the case and must have a license in the state that the VCPR was established. Any consultant that is giving advice to the veterinarian of VCPR does not have to be licensed in that state. Communication to the client must go through or be controlled by the veterinarian who has established the VCPR."*

#### **4.3.4. Pharmacy-facing**

Electronic prescribing (aka e-Rx or e-prescribing) is the electronic transmission of doctors' orders for medical prescriptions – new or refills. Software platforms designed for e-prescribing may also help reduce transcription and interpretation errors. While e-prescribing is less common in veterinary medicine compared to other health professions, there is an obvious potential for increased use within the veterinary profession, especially as platforms include components more specific to veterinary medicine, such as owner name and patient species.

#### **4.3.5. Medicated feed distributor facing**

Different, but related to e-prescriptions are electronic Veterinary Feed Directive (e-VFD) orders, which are electronic orders issued by a licensed veterinarian for the use of a VFD drug or combination VFD drugs in or on an animal feed. A VFD (hard copy or electronic) authorizes the animal owner other

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**



caretaker to get and use the medicated feed to treat the animal(s) strictly as stated on the label. For additional information on VFDs, please see the AVMA developed resources, such as a [fillable Veterinary Feed Directive order](#) form, [instructions](#), and additional [steps to follow](#) when writing VFD orders.

#### 4.3.6. Regulator-facing

Electronic certificates of veterinary inspection (e-CVIs) have slowly entered practice. Challenges in using them include e-signature authentication in advance of issuance; not all states, territories, or countries accept them; costs; unfamiliarity by practitioners; and potential preferences for the traditional hardcopy CVIs.

Practitioners should contact their state veterinarian as well as the animal health authority of the receiving destination to learn if e-CVIs are acceptable for the intended animal transport and what the requirements are for the given e-CVI.

The AVMA [Model Veterinary Practice Act](#) states, “No person may practice veterinary medicine in the State except within the context of a veterinarian-client-patient relationship.”

#### 4.4. Telemedicine and veterinary medicine regulations

The AP contends that with the exception of emergency care, such as animal poison control services, telemedicine should not be used outside of existing VCPRs.

Variations in state veterinary medicine practice acts exist across the nation, and most state practice acts do not mention telemedicine. See [Appendix B](#) for the first two pages of a chart compiled by the WG on the State of Telemedicine and Comparative Uses by adding state telemedicine regulations to the pre-existing AVMA chart of state VCPR regulations. The AP recommends that the AVMA continue to develop and maintain this information as well as the information conveyed in the AVMA charts on [“Scope of Practice: Complementary and alternative veterinary medicine \(CAVM\) and other practice act exemptions”](#) and on [“Sanctions for unauthorized practice of veterinary medicine”](#) in a user friendly, interactive tool feasible to the Association and useful to its members. In addition, the American Telemedicine Association has compiled the report, [State Telemedicine Gaps Analysis: Physician Practice Standards & Licensure](#), which compares state human healthcare regulations pertaining to practice, licensure, and telemedicine.

Furthermore, the AP recommends that the AVMA advocate for harmonized telemedicine requirements across the nation.

##### 4.4.1. Advice vs. practice, and accountability for both

When does advice cross into the practice of veterinary medicine? When it involves any of the acts described in the [definition of the practice of veterinary medicine](#). State definitions vary. The AP recommends the following be added to the MVPA and is communicating with the CoVS on the issue.

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has *not* been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**

*"Any advice given via any medium outside an established VCPR must be given in general terms, not specific to an individual animal, group of animals, diagnosis, or treatment."*

#### **4.4.2. Teletriage, including poison control services**

The AP recommends that the AVMA advocate for allowance of emergency teletriage, including poison control services, to provide emergency, potentially lifesaving telemedicine consultations with the public.

##### **4.4.2.1. Rationale for exemption**

The AP recognizes animal health benefits and societal needs for emergency teletriage, including animal poison control services, for immediate, potential life threatening animal health situations (e.g., poison exposure mitigation, animal CPR instructions, and other critical lifesaving advice). While such advice pertaining to specific animals falls under the practice of veterinary medicine and is outside of a VCPR, the AP recognizes the lifesaving impacts these services have and that continued or follow-up animal care with veterinarians of VCPR is typical in most cases.

To fully advocate for these services, the AP recommends that the policy on [Remote Consulting](#) be revised to provide a caveat for teletriage, including poison control services. The proposed revision in the text box on the right also eliminates loopholes afforded in the last sentence of the current policy because:

- "Collaboration" is broad and may be done outside of a VCPR, and
- An "agreement" can be circumvented by clients, online pharmacies, and others.

Suggested revisions are depicted in the text box on the right.

In addition, the AP recommends the following be added to the MVPA and is in communication with the CoVS on the issue.

#### **AVMA policy on Remote Consulting**

With the exception of emergency teletriage, including poison control services,  
~~t~~The AVMA opposes remote consulting including, but not limited to, telephone or web-based ~~media~~telemedicine, offered directly to the public when the intent is to diagnose and/or treat a patient in the absence of a veterinarian-client-patient relationship (VCPR) as defined by the AVMA Model Veterinary Practice Act. ~~Remote consulting directly with the patient owner can be beneficial and is acceptable when performed with an agreement and in collaboration with the attending veterinarian who has established and retains the VCPR.~~

*"Telemedicine shall be conducted within an existing VCPR, with the exception for advice given in an emergency care situation until that patient(s) can be seen by or transported to a veterinarian."*

*"Any advice given via any medium outside an established VCPR must be given in general terms, not specific to an individual animal, group of animals, diagnosis, or treatment."*

#### **4.4.2.2. Accountability for advice given.**

With in-person veterinary care, triage is done by trained technical staff or veterinarians, both of whom convey as part of client education that if the given condition worsens, the owner should not wait, but return immediately for a recheck with the veterinarian or seek immediate help at a veterinary emergency facility. Will such language be utilized in veterinary teletriage? In human medicine, teletriage training is being formally addressed by entities (e.g. [TeleTriage Systems](#)), and teletriage decision support software is being developed (e.g., [LifeBot®](#))

The general public may call veterinarians or others as well as utilize online or mobile platforms to determine if their animal needs to be seen by a veterinarian immediately, if veterinary care can wait, and what they should do in the meantime or instead of veterinary care. If a telemedicine platform conveys to someone that "it's probably fine to wait," and the animal gets worse or dies, not only did the animal and owner suffer and the situation reflect poorly on the profession and those involved, but who has accountability, liability?

- Veterinarians have professional accountability and liability and are encouraged to obtain and maintain professional liability insurance.
- What accountability and liability falls to non-veterinarian employees in telemedicine in general and teletriage in particular?
- What accountability and liability falls to the telemedicine platform company?

The AP will be in communications with the AVMA PLIT regarding additional questions pertaining to this issue and will provide the AP's recommendations in its final report to the BOD in December 2016.

## **5. Telemedicine drivers**

### **5.1. Societal demand**

The AP perceives a growing societal demand for telemedicine in veterinary medicine, similar to telemedicine's use in human healthcare. Access is a key advantage of telemedicine. With user friendly technologies increasingly available, animal owners may access veterinarian services from almost anywhere, thus avoiding stress to their animal(s) that may result from handling and transport as well as

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**

saving time for the people and animals involved. In some cases, ease of access might make the difference between life and death for the animal(s) involved. It may also result in more animals receiving veterinary care as well as some receiving it sooner or longer. Ease of access is even more important in underserved areas. Continued advances in technologies as well as increased public access will certainly facilitate expansion of telemedicine.

The AP also recognizes that if the veterinary profession does not fill this societal demand, others with less veterinary expertise and accountability will, and regulatory enforcement will require more resources to oversee and thereby protect the public. In addition, without veterinarians in the conversations, some animals will end up receiving insufficient, detrimental, or no care.

## **5.2. Veterinary profession's benefits**

Client-facing models exist that allow veterinarians to gather all essential veterinary medical information from animal owners (or other caretakers), access the patient medical records, and conduct virtual exams through synchronous (real-time) or asynchronous (store-and-forward) means. With advancing technologies, veterinarians are more easily and routinely able to gather adequate patient information for the provision of continued care that previously could only be accomplished through an in-person recheck. Such augmentation and advancements to veterinary medicine help mitigate certain challenges (distance, scheduling, availability, etc.) to the provision of animal health care; thus, more animals will be receive care when they need it, enhancing animal health and welfare; contributing to client education, compliance, and satisfaction; and possibly mitigating certain stressors within the profession. In addition, the more accessible veterinarians and their trained support staff are to clients, the less likely those clients are to turn to non-veterinarians for information, guidance, or other help.

## **5.3. Competitive market**

In addition to competitive markets of medical technologies and the veterinary profession in general, telemedicine platforms are filling a niche. The AP recognize that those telemedicine platforms that work on a cost-per-minute or cost-per-consult basis or that compensate consultants based on client ratings may pressure veterinarians or other consultants to push the envelope and give as specific information as possible. A platform may profess that it does not want its subcontractors or other employees to violate the VCPR; but, platform clients who are paying may have other ideas, especially when the same platform employs non-veterinarians offering similar consultations for less cost. Since the platform gets paid either way, there seems to be no real incentive for it to uphold VCPR rules. This is a critical flaw in the system that requires AVMA and regulatory attention, especially considering the VCPR regulations vary across states, some states do not have VCPR regulations, and resource challenges may hinder enforcement.

Furthermore, concerns exist on how to best monetize telemedicine services without allowing such to surpass the importance of accurate, effective, and appropriate animal care.

20

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**

## 6. Telemedicine technology use and the practice of veterinary medicine

The AP recognizes that telemedicine is a rapidly evolving field and that telemedicine technologies can be used to improve animal health and welfare as well as public health and safety. The AP recommends that the AVMA be committed to advocating for ensured access by veterinarians and the public to the convenience and benefits afforded by telemedicine technologies, while maintaining the veterinarian's status as the pre-eminent expert in animal health and welfare.

When or if changes to the definitions of the practice of veterinary medicine or the VCPR are needed, the AP advises against changes to include or exclude specific technologies that can be sold directly to animal owners and that would create quasi-"safe harbors." It is imperative that the AVMA not put itself into a position where it may be interpreted as saying, "Company A's technology is OK because it is NOT the practice of medicine but Company B's technology is not OK because it IS the practice of medicine."

In addition, determining what groups (e.g., internal to the AVMA or the profession, external to the AVMA or the profession, or both) are likely to give the AVMA push back and what concerns they have with respect to telemedicine recommendations will help the AVMA in developing effective changes if or when changes are needed regarding the use of telemedicine in practice.

Turning more to the technology and data, current telemedicine solutions integrate with most electronic medical records, and information can be exchanged securely using common coding language, HL7. One of the biggest limitations is to access both systems at the same time, or to be able to review medical records and simultaneously perform a virtual visit while decreasing the chances of medical errors. Some companies already recognize this limitation and collect medical information in advance. The AP, based on advice from the WG on Telemedicine Technologies and Applications, anticipates continued emergence of creative technologies and applications in the telemedicine arena.

Examples of such platforms include:

- Free Services
  - Primary care veterinarian (veterinarian of VCPR) or ER services – unless given practice has monetized the services
    - Typically only available to existing clients
    - Limited advice given to non-clients due to liability issues
    - Client portals; e-mails, texts, or telephone calls regarding appointments, progress, or results; emergency calls; veterinarian to client videoteleconferencing, etc.
  - Web browser searches - forums, blogs, social media, scientific and nonscientific information

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**

- Hybrid services – e.g., that start off as a free service, but require payment for in-depth consultation
- Paid Services – e.g., primary care veterinarian (veterinarian of VCPR) or ER services if have monetized telemedicine services if monetized

It is also key to focus on how veterinarians, others within the profession, and the public use technology and data, rather than on the technology or data itself.

### 6.1. Telemedicine technology and data use by veterinarians

Generally speaking, there are no restrictions, other than the U.S. Food and Drug Administration (FDA) restrictions, on the technology a veterinarian can use in medical decision making. [CardioPet™](#), [Veterinary AliveECG](#), [Sonon](#) ultrasound, [SPRINT BOLT® Ultralight DR™](#) are just a few of the existing technologies.

Professional judgement of veterinarians seems to give technology companies insulation when it comes to selling animal health products through veterinarian-only channels. Thus, technology companies currently seem to be able to sell technology and data to veterinarians, as long as such does not violate FDA regulations and does not in itself practice veterinary medicine (e.g., conduct an internal algorithm on data to provide animal owner with diagnoses, treatments, etc.).

### 6.2. Technology and data use by consumers

Animal health technologies targeting veterinarians are for the most part dramatically different than those targeting public consumers. Technologies targeting consumers (e.g., [FitBark](#), [SigaRuminant](#), and [Horse Health Tracker](#)) have minimal to no clinical input on interpreting data generated and typically provide only telemonitoring of basic activity and vitals or general animal health education.

But what if a company sells a canine inter-gastric pill that collects data then transmits that data via Bluetooth to a pet owner's mobile app? Would this be practicing veterinary medicine? What if the application performed functions that yielded a list of differential diagnoses for the animal owner or provided the owner with treatment instructions? The AP again stresses that any advice given outside of a VCPR should remain in general terms, not specific to an individual animal, group of animals, diagnoses, or treatments.

## 7. Incorporating telemedicine into practice

Telemedicine is another tool in the toolbox for practicing veterinary medicine within existing VCPRs, and as discussed earlier, it has been used within veterinary medicine for decades. But with society's increasing demand for immediate, electronic information at its fingertips, telemedicine is in ever-increasing demand. AVMA should encourage practitioners to check the practice laws and regulations in

their states as well as consult their given professional liability insurance provider if questions arise regarding telemedicine compliance and liability.

### **7.1. Identify and frame opportunities for appropriate use of telemedicine**

- Many of the free phone calls and email inquiries could be converted into formats conducive for paid consultations.
- Telemedicine is usually short in duration per session and can be easily utilized to address straight forward questions as well as many types of follow-ups. Transitioning to telemedicine for such cases are expected to:
  - Further free up personnel, time, and other resources for patients needing to be seen
  - Save time for the clients involved in the qualifying cases
  - Reducing stress of transport or restraint for the given animals
  - Contribute to client satisfaction
- Optimize personnel availability and accessibility to clients.
- Teleconsulting (telecardiology, teleneurology, telepathology, teleradiology, etc.) allows practices to offer more services, thereby making their practice more appealing to existing and potential clients needing or wanting those services.
- Preventive care and early detection are facets of veterinary medicine in which telemedicine could help by enhancing client access as well as increasing client education, compliance, and satisfaction.
- Hospice and end-of-life care may be managed and evaluated via telemedicine to prevent excessive trips and stress on dying animals, allowing for optimization of hospice plans already in place.
- Practices could implement teletriage services. Doing so will help to better schedule visits that can wait, provide lifesaving advice when needed, and direct animal owners to come in for immediate, emergency care when needed.
- Telemedicine helps to overcome challenges faced by animal owners and other caretakers in underserved regions.
- A member of the WG on Telemedicine Technologies and Applications trialed Google glass to see if the technology would help with remote exams; but, it did not help because of focal distance issues. However, such technology shows promise for eventually having a trained technician

wear the glasses and examine the animal while the veterinarian watches and ask questions in real time.

- A member of the WG on Telemedicine Technologies and Applications is currently exploring the use of [FaceTime](#) for the same purpose, but is finding the same restrictions. A well-focused picture, so far, is one of the best remote triage tools; thus, veterinarians may be able to use such to provide telemedicine based on images from PET, CT, MRI, just as the humans do - sending them through a dedicated server to consultants for additional interpretation.
- Utilize streaming videos or recorded videos to assist in monitoring patients in containment, isolation, or maternity wards.

## 7.2. Veterinary records

Veterinary records, including those generated through utilization of telemedicine, need to be maintained and available in accordance with state laws and regulations. The information within veterinary medical records is confidential. It must not be released except as required or allowed by law, or consent of the owner of the patient [[PVME V\(b\)\(ii\)](#)]. Client and patient privacy should be maintained using established best practices with regard to encryption of data during transmission and at rest.

Veterinary medical records should include, if applicable, copies of all patient-related electronic communications, including client-veterinarian communication, prescriptions, test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telemedicine services. Informed consents obtained in connection by telemedicine should also be filed in the veterinary record. The patient record needs to comply with all established laws and regulations governing veterinary medical records for the given state.

Practices should develop, maintain, and implement written policies and procedures for documentation, maintenance, and transmission of the records of encounters using telemedicine services. Such policies and procedures should address:

- Privacy
- Personnel who will process messages
- Hours of operation
- Types of transactions that will be permitted electronically
- Required patient information to be included in the communication, such as name, species, breed, sex, weight and presenting complaint
- Archival and retrieval
- Quality oversight mechanisms

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**



Policies and procedures for veterinary medical record privacy and security should be:

- Written
- Periodically reviewed and, as needed, updated
- Maintained in an accessible and readily available manner

### **7.3. Informed Consent**

Evidence documenting appropriate informed consent for the use of telemedicine services should be obtained and maintained. Informed consent is part of the medical record and should be included in any form of telemedicine. Appropriate informed consent should be documented in the veterinary medical record and as a baseline include the following, some of which should already be in the record, and some of which is particular to telemedicine:

- Identification of the client, the patient, the practitioner, and the practitioner's credentials;
- Procedures that will be done, including any telemedicine procedures;
- Agreement by the client that it is the role of the veterinarian to determine whether or not the presenting complaint is appropriate for a telemedicine encounter;
- Details on security measures taken with the use of telemedicine services (e.g. encrypting date of service, password protected screen savers, encrypting data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures);
- Hold harmless clause for information lost due to technical failures; and
- Requirement for express client consent to forward medical records to a third party if needed.

### **7.4. Financials**

Veterinarians who offer telemedicine services may save in overhead cost and increase client satisfaction and loyalty. The AP, based on advice from the WG on Telemedicine Technologies and Applications, believes that the most expensive resources veterinarians need to offer expanded telemedicine services are the veterinarians' expertise and time. An office computer with an integrated video camera is generally sophisticated enough to run telemedicine software. In addition, practices may choose to utilize advanced software, higher resolution cameras, and other specialty instruments (including wearables and ingestibles). Monetizing the telemedicine services appropriately is a hurdle recognized by the AP; thus, the AP recommends that the AVMA develop resources to assist practitioners in monetizing telemedicine appropriately.

### **7.5. Ethical use of telemedicine to grow and maintain client base**

Technology seems to depersonalize human interactions, and in veterinary practice, face-to-face encounters with the clients are important as are physical examinations of the animal patients.

25

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has *not* been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**

Depersonalization would occur if telemedicine is adopted as the sole method for practicing veterinary medicine; however, it is not and cannot be the sole method. As mentioned earlier, telemedicine is a tool within the practice of veterinary medicine, and telemedicine should only be used to augment existing VCPR's, not establish them.

The AP recognizes that as technologies advance and as long as face-to-face virtual encounters are guided by the same regulatory and ethical principles of in-person encounters, utilization of telemedicine services does not represent an ethical threat to veterinary best practices. Practitioners should understand the limitations of telemedicine technologies and adhere to the rules and regulations of their area as well as the AVMA's [Principles of Veterinary Medical Ethics](#).

The AP understands that when society implements new technologies, overuse and experimentation may occur along with expansion and barrier demolition. Telemedicine is not anticipated to be any different; however, extrapolating telemedicine experiences from human healthcare may help mitigate issues with telemedicine in the veterinary field.

## **7.6. Tools for Practices**

The following two checklists are intended to assist practices incorporate and utilize telemedicine appropriately, and practices are urged to also check with their state authorities and professional liability providers regarding telemedicine compliance and liability.

### **7.6.1. Basic regulatory checklist**

- The practice of veterinary medicine, including by telemedicine, should only be practiced within existing VCPRs.
- Check with your state, territory, or country to learn the rules and regulations that apply in your area, especially pertaining to your:
  - Veterinary practice act
  - Pharmacy act
  - Licensure
  - Record retention
  - Client confidentiality
- All telemedicine must adhere to the respective rules and regulations of the given state, territory, country.
- Be sure to include all telemedicine services and communications in appropriate patient records and maintain the records as required in your state, territory, or country.
- Staff utilizing telemedicine should be trained to do so properly.

### **7.6.2. Implementation checklist**

- Ensure you have completed the “basic regulatory checklist.”
- Check with your professional liability carrier for any additional recommendations it may have pertaining to providing telemedicine services.

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has *not* been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**

- Establish contingency plans for records security and continued service in the event of a disaster, emergency, or unforeseen event impacting your practice, including your telemedicine services.
- Consider assigning all teletriage to credentialed (DVM, VMD, RVT, CVT, etc.) individuals each shift and ensure the shift has capacity for those assigned to be fully dedicated to telemedicine if needed.
- Recommend the animal(s) be seen by a veterinarian if telemedicine is insufficient or inappropriate for the situation.
- Ensure you have a VCPR with a given individual and animal(s) before providing telemedicine services to that person.
- If posting to a community case photo repository (e.g. [figure1.com](http://figure1.com)) or other photo repository ([Instagram](https://www.instagram.com)), be sure images are respectful, helpful, and devoid of all client identifiers to the extent possible and that you have obtained client consent. Such consent may already be included in your practice's treatment consent form.
- Software technologies must be secure and encrypted if involving patient records or client information.
- Sometimes, simple video streaming using a smartphone or webcam may prove more reliable and easy to use than remote mirroring of the outputs from monitors.
- Monetize telemedicine services appropriately, expressing professional expertise, client convenience, and animal health and welfare.
- Be sure to reply to owners in a timely, professional manner.
- If you have staff dedicated to telemedicine, and especially teletriage, informing the community you serve may enhance clients' perception and utilization of your practice and may draw more clients to your practice.
- If your practice does not have capacity to have someone dedicated to telemedicine, establish specific time(s) during the workday (not relegating to the late evening hours after a full day's work) to incorporate telemedicine consultations. Many practices may already do this without realizing they are conducting telemedicine (e.g., calls to update clients, discuss lab results, and answer client questions).

## 8. Additional topics to be addressed in final report

As mentioned throughout the report, the AP has identified and is deliberating additional issues pertaining to telemedicine that the AP will include in its final report to the BOD in December 2016.

Briefly, such topics include:

- Recommended definitions of telehealth and telemedicine in veterinary medicine
- Professional liability of the veterinarian of VCPR if extending, splitting, or otherwise sharing the VCPR with a remote veterinarian

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**

- Location(s) of the act of practicing veterinary medicine when utilizing telemedicine, and thus licensure and liabilities associated
- Telemedicine in underserved areas
- Level of veterinary supervision and/or credentials recommended for use of telemedicine in veterinary medicine
- Research related to telemedicine within the veterinary profession
- Education and outreach recommendations
- Short-term and long-term AVMA strategy on telemedicine

## 9. AP Recommendations

### 9.1. Recommendations pertaining to existing AVMA policy

- a. Report sections [4.3.3](#) and [4.4](#): That the AVMA revise the **Model Veterinary Practice Act** to include the following. [The AP is also communicating this to the Council on Veterinary Service (CoVS), which has primary oversight of the MVPA.]

*Telemedicine shall only be conducted within an existing VCPR, with the exception for advice given in an emergency care situation, or in the rare situation in which the patient can neither be seen by a veterinarian nor transported to a veterinarian.*

*Any advice given via any medium outside an established VCPR must be given in general terms, not specific to an individual animal, diagnosis, or treatment.*

*The veterinarian that establishes the VCPR is responsible for and has the liability to manage the case and must have a license in the state that the VCPR was established. Any consultant that is giving advice to the veterinarian of VCPR does not have to be licensed in that state. Communication to the client must go through or be controlled by the veterinarian who has established the VCPR.*

- b. Section [4.4.2](#): That the AVMA revise the policy on **Remote Consulting** as indicated below. [The AP is also communicating this to the Council on Veterinary Service (CoVS), which has primary oversight of the policy.]

#### **AVMA policy on Remote Consulting**

*With the exception of emergency teletriage, including poison control services, ~~t~~The AVMA opposes remote consulting including, ~~but not limited to, telephone or web-based~~ ~~media~~ telemedicine, offered directly to the public when the intent is to diagnose and/or treat a patient in the absence of a veterinarian-client-patient relationship (VCPR) as defined by the AVMA Model Veterinary Practice Act. ~~Remote consulting directly with the~~*

~~patient owner can be beneficial and is acceptable when performed with an agreement and in collaboration with the attending veterinarian who has established and retains the VCPR.~~

## 9.2. Recommendations and guidelines not pertaining to existing AVMA policy

- a. That telemedicine within the veterinary profession be conducted only within existing VCPRs, with the exception of providing emergency teletriage, including animal poison control services.
- b. That without a VCPR, telemedicine should not be practiced, and any advice given should remain in general terms, not specific to an individual animal, diagnosis, treatment, etc. Thus, non-client electronic communications should be in the non-clinical realms of mHealth, web content, and other messaging.
- c. That the AVMA be committed to ensuring access to the convenience and benefits afforded by telemedicine services, while promoting the responsible provision of veterinary medicine.
- d. That the AVMA expect practitioners who provide veterinary care, electronically or otherwise, maintain the highest degree of professionalism.
- e. That the AVMA develop member resources on telemedicine, such as similar to the [Online Pharmacy web page](#), and conduct an education and outreach campaign to get veterinary telemedicine information out to members, policymakers, and other stakeholders.
- f. That the AVMA advocate for enhanced regulatory enforcement to prevent unlicensed individuals from practicing veterinary medicine, including by telemedicine.
- g. That the AVMA advocate for accountability for advice given. (Sections [4.3](#) and [4.4.1](#))
- h. That the AVMA encourage applications and other platforms that appropriately help connect or reconnect existing clients to their established, animal healthcare team and Veterinarian of VCPR. (Section [4.3.1](#))
- i. That the AVMA encourage applications and other platforms that appropriately help connect animal owners or other caretakers with veterinarians licensed to practice in their area. (Section [4.3.1](#))
- j. That the AVMA encourage practitioners to utilize emerging technologies to enhance their accessibility and client communications. (Section [4.3.1](#))
- k. That credentials of all advice givers as well as disclaimers on all telehealth and telemedicine resources need to be prominent so as not to mislead readers or users. (Section [4.3.2.1](#))

29

**Disclaimer: This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.**

- I. That AVMA advocate for continued allowance of teleconsultation between veterinarians of VCPRs and consultants. (Section [4.3.3](#))
  - iii. It is the professional discretion of veterinarians of VCPR to consult with specialists or other consultants.
  - iv. Consultants should not be required to hold an active veterinary medical license in the state from which the veterinarian of VCPR practices.
- m. That the AVMA continue to develop and maintain summary information on state regulations pertaining to VCPRs, telemedicine, complementary and alternative veterinary medicine (CAVM) and other practice act exemptions, and sanctions for unauthorized practice of veterinary medicine in a user friendly, interactive tool feasible to the Association and useful to its members. (Section [4.4](#))
- n. That the AVMA advocate for harmonized telemedicine requirements across the nation. (Section [4.4](#))
- o. That the AVMA be committed to advocating for ensured access by veterinarians and the public to the convenience and benefits afforded by telemedicine technologies, while supporting and maintaining the professions' status as the leader in animal health and welfare. (Section [6](#))
- p. That the AVMA develop resources to assist practitioners in monetizing telemedicine appropriately. (Section [7.4](#))
- q. That the AVMA utilize the checklists of section 7.6 of this report when developing member resources on telemedicine. (Section [7.6](#))

## Appendix A: List of sample telemedicine applications and technologies

Teleconsulting	<a href="http://dsuвет.com/index.php/training/ultrasound/">http://dsuвет.com/index.php/training/ultrasound/</a> <a href="http://ecgvet.com/">http://ecgvet.com/</a> <a href="http://epl-inc.com">http://epl-inc.com</a> <a href="http://info.antechimagingsservices.com/">http://info.antechimagingsservices.com/</a> <a href="http://petrays.com/services/">http://petrays.com/services/</a> <a href="http://vet-rad.com/index.html">http://vet-rad.com/index.html</a> <a href="http://www.evetdiagnostics.com/(S(4ub0nkptyy5v1qkdupzca501))/index.aspx">http://www.evetdiagnostics.com/(S(4ub0nkptyy5v1qkdupzca501))/index.aspx</a> <a href="http://www.veterinaryanswers.com/index.html">http://www.veterinaryanswers.com/index.html</a> <a href="https://www.idexx.com/small-animal-health/products-and-services/telemedicine-consultants.html">https://www.idexx.com/small-animal-health/products-and-services/telemedicine-consultants.html</a> <a href="https://www.illumipet.com/">https://www.illumipet.com/</a> <a href="http://www.dvminisight.com">www.dvminisight.com</a> <a href="http://www.oncurapartners.com">www.oncurapartners.com</a> <a href="http://www.sonopath.com">www.sonopath.com</a> <a href="http://www.vet-ct.com">www.vet-ct.com</a>
Telemetry	<a href="http://cardiovet.com/">http://cardiovet.com/</a> <a href="http://fireflyglobal.com/de551-wireless-veterinary-otoscope/">http://fireflyglobal.com/de551-wireless-veterinary-otoscope/</a> <a href="http://petmap.com/">http://petmap.com/</a> <a href="http://voyce.com/">http://voyce.com/</a> <a href="http://www.healcerion.com/product/ultrasound/sonon-300c/">http://www.healcerion.com/product/ultrasound/sonon-300c/</a> <a href="https://www.vmedtechnology.com/">https://www.vmedtechnology.com/</a> <a href="https://itunes.apple.com/us/app/veterinary-aliveecg/id546535890?mt=8">https://itunes.apple.com/us/app/veterinary-aliveecg/id546535890?mt=8</a>
Veterinarians to clients	<a href="http://petvetapp.com/">http://petvetapp.com/</a> <a href="http://www.vetscene.com/Pages/Default.aspx">http://www.vetscene.com/Pages/Default.aspx</a> <a href="https://epethealth.com/Home/Index">https://epethealth.com/Home/Index</a>
Connects animal owners with their veterinarians	<a href="http://vitusvet.com/">http://vitusvet.com/</a> <a href="http://www.gettelevelvet.com/">http://www.gettelevelvet.com/</a> <a href="https://www.petzam.com/">https://www.petzam.com/</a> <a href="https://www.vettahealth.com/">https://www.vettahealth.com/</a> <a href="http://www.activ4pets.com">www.activ4pets.com</a>
Veterinarians to nonclients	<a href="http://Ask.vet">Ask.vet</a> <a href="http://livevet.co/pet-parents">http://livevet.co/pet-parents</a> <a href="http://vetondemand.com/">http://vetondemand.com/</a> <a href="http://vet-opinion.com/">http://vet-opinion.com/</a> <a href="http://www.animaltelemed.org/">http://www.animaltelemed.org/</a> <a href="http://www.kuddly.co/">http://www.kuddly.co/</a> <a href="http://www.petcoach.co/">http://www.petcoach.co/</a> <a href="http://www.petmd.com/">http://www.petmd.com/</a> <a href="http://www.vetlive.com/">http://www.vetlive.com/</a>
mHealth	<a href="http://www.fitbark.com/">http://www.fitbark.com/</a> <a href="https://itunes.apple.com/us/app/horse-health-tracker/id955896239?mt=8">https://itunes.apple.com/us/app/horse-health-tracker/id955896239?mt=8</a>

**Disclaimer:** This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.

<http://petpace.com/>  
<https://www.siga.net/en-CA/software/sigaruminant/mobile-app>

**Disclaimer:** This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.



**Appendix B: Combined charts for state VCPR and telemedicine regulations**

State	VCPR Last updated June 2015 Source: Staff research, AVMA State Relations			Telemedicine Last updated May 11, 2016 Source: AVMA WG on Regulations and Legal Aspects of Telemedicine		
	Citation	VCPR Definitions	VCPR Provisions	Citation	Telemedicine Definitions	Telemedicine Provisions
AL	<p><i>Veterinary Practice Act:</i> <b>§34-29-61 (19)</b></p> <p><i>Administrative Code (SBVME):</i> <b>Rule 930-X-1-.11</b></p>	<p>A relationship when the veterinarian has assumed responsibility for making medical judgments regarding the health of the animal or animals and the need for medical treatment and is created by actual examination by the veterinarian of the animal or a representative segment of a consignment or herd.</p>	<p>A licensed veterinarian shall not prescribe or dispense, deliver or order delivered:</p> <ul style="list-style-type: none"> <li>Any drug or medicinal agent carrying the legend “Federal (USFDA) law restricts this drug to the use by or on the order of a licensed veterinarian” to be administered to animals with which he or she has not established a patient-veterinarian relationship, or as defined by the United States Food and Drug Administration.</li> <li>Any controlled substance as defined by the U.S. Food and Drug Administration without first having established a patient-veterinarian relationship by having personally examined the</li> </ul>	<p><b>§34-29-61 (15)</b></p> <p><b>§ 34-29-76.</b> License required for practice of veterinary medicine -- Certain acts</p>	<p>None found specific to telemedicine</p>	<p>f. To provide veterinary medical services to a client or patient in this state, through telephonic, electronic, or other means, regardless of the location of the veterinarian, shall constitute the practice of veterinary medicine in this state and shall require licensure within this state and a veterinarian-client-patient relationship must be established.</p> <p>No person shall practice veterinary medicine or</p>

**Disclaimer:** This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.

			individual animal, herd or representative segment or consignment lot thereof and determined that such controlled substance is therapeutically indicated following said examination.	prohibited.		veterinary technology unless the person holds an active license to practice veterinary medicine or veterinary technology in the State of Alabama and in addition: (9) No person shall provide veterinary medical services to a client or patient in this state through telephonic, electronic, or other means, regardless of the location of the veterinarian, without a license to practice in this state and without establishing a veterinarian-client-patient relationship.
AK						

**Disclaimer:** This interim report was prepared by the AVMA Practice Advisory Panel and is provided for informational purposes only regarding the use of telehealth and telemedicine in the veterinary profession. The information in this report has not been approved by the AVMA Board of Directors or the House of Delegates, and it is not to be construed as AVMA policy on this matter. This report is not intended as a definitive statement on the subject but rather is provided as background for the House of Delegates discussion on the issue.

# **Multidisciplinary Advisory Committee Assignments**

*January 2017*

## **EXISTING PRIORITIES – Currently being addressed by MDC**

- 1) Evaluate Structure and Audit Enforcement Case Outcomes**  
*Complaint Process/Audit Taskforce -*
- 2) Develop minimum standards for alternate premises (large animal, equine mobile, public and private shelter medicine, ambulatory, etc.)**
  - a. Shelter Medicine Subcommittee**
- 3) Review CCR Section 2027 Alternate pathway for Junior/Senior Students to obtain the RVT License**
- 4) Pursue "extended duty" for Registered Veterinary Technicians.**
  - a. RVT Subcommittee**
- 5) Define RVT Job Tasks, Emergency Language – Sedation and Pain Management**
- 6) Develop regulations to implement the authorization for Veterinarians and RVTs under direct supervision to compound drugs.**
- 7) Sedation vs Anesthesia – Definitions/Scope of Responsibility**
- 8) Drug Counseling/Risks and Side Effects**

## **FUTURE PRIORITIES**

- 9) Develop Minimum Standards for Spay and Neuter Clinics**
- 10) Minimum Standards for Mobile Specialists - Responsibility for Case Management**





## MEMORANDUM

<b>DATE</b>	December 27, 2016
<b>TO</b>	Veterinary Medical Board
<b>FROM</b>	Ethan Mathes, Operations Manager
<b>SUBJECT</b>	Discuss Implementation Issues Regarding the Veterinary Assistant Controlled Substances Permit Program

### History

Senate Bill (SB) 969 (Chapter 83, Statutes of 2007) clarified that an unregistered assistant (now “veterinary assistant”) may administer a controlled substance under the direct or indirect supervision of a licensed veterinarian.

SB 304 (Chapter 515, Statutes of 2013) further added a veterinary assistant may obtain or administer a controlled substance, under the direct or indirect supervision of a licensed veterinarian if that veterinary assistant holds a valid veterinary assistant controlled substance permit.

Subsequent to SB 304, regulations were created limiting a veterinary assistant to only obtain and administer a controlled substance in an animal hospital setting. These regulations took effect August 2016 and the Veterinary Assistant Controlled Substances Permit (VACSP) program began accepting applications on October 1, 2016.

Both SB 969 and 304 sought to reduce the potential for harm and diversion of controlled substances while fulfilling a need for non-veterinarian staff to obtain and administer controlled substances to animal patients.

To date (as of December 2016), the Board has received approximately 1,600 VACSP applications and issued more than 250 permits.

Staff provided an update to the Board in October 2016 and highlighted several program questions that have been raised since the program was rolled out. The staff requested the matter be placed on a future Board agenda for further policy consideration..

### Background Law

In accordance with Business and Professions Code (BPC) Section 4836.1:

#### **§ 4836.1. Administration of drugs by registered veterinary technician or assistants; Restrictions**

*(a) Notwithstanding any other law, a registered veterinary technician or a veterinary assistant may administer a drug, including, but not limited to, a drug that is a controlled substance, under the direct or indirect supervision of a licensed veterinarian when done pursuant to the order,*

control, and full professional responsibility of a licensed veterinarian. However, no person, other than a licensed veterinarian, may induce anesthesia unless authorized by regulation of the board.

(b) A veterinary assistant may obtain or administer a controlled substance pursuant to the order, control, and full professional responsibility of a licensed veterinarian, only if he or she meets both of the following conditions:

(1) Is designated by a licensed veterinarian to obtain or administer controlled substances.

(2) Holds a valid veterinary assistant controlled substance permit issued pursuant to Section 4836.2...

In accordance with California Code of Regulations (CCR) sections 2034, 2087, and 2087.1:

#### **§ 2034. Animal Health Care Tasks Definitions.**

...(g) "Animal Hospital Setting" means all veterinary premises which are required by Section 4853 of the Code to be registered with the board...

#### **§ 2087. Application.**

...Once a VACSP has been issued, the permit holder will be authorized to obtain or administer controlled substances only under the direct or indirect supervision of a licensed veterinarian...

#### **§ 2087.1. Notification of Licensee Manager.**

(a) Once a permit holder is authorized to obtain or administer controlled substances in an animal hospital setting, the licensee manager shall submit on an application provided by the board...

#### **Issue**

Board staff has encountered several specific scenarios regarding permitting which merit further discussion and guidance by the Board.

- Are veterinary assistants (Euthanasia Technicians as an employee of an animal control shelter or humane society and its agencies) who have taken euthanasia training as prescribed in regulation (CCR section 2039) exempt from a permit or are they required to hold a VACSP?
- Are shelter staff who administer vaccinations and pain control required to hold a VACSP whether the shelter has a premises permit or not)?
- Are boarding facility staff who administer medication to boarded animals required to hold the VACSP?
- Are veterinary support staff (i.e. receptionist), who may come into contact with controlled drugs but not administer, required to hold a VACSP?

#### **Outreach**

As part of the Board's outreach effort prior to implementation, the Board worked with the CVMA and CaRVTA to share important implementation information and Frequently Asked Questions. Board staff also leveraged its ListServe to email updates as the VACSP launch date neared as well as published an extensive list of FAQs on the Board website. Large-format postcards were also sent in mid-September to all registered veterinary premises to notify Licensee Managers of the new permit program.

The Board's Hospital Inspectors continue to remind Licensee Managers of their responsibility to have their Veterinary Assistants permitted if the individual obtains or administers controlled substances. As the Board continues its roll out the program, focus is on educating the

profession regarding the requirements for permitting personnel who perform tasks as outlined in the law.

**Attachment**

Veterinary Assistant Controlled Substances Permit Regulations and Statutes





**TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS**  
**Division 20. Veterinary Medical Board**

**§ 2034. Animal Health Care Tasks Definitions.**

For purposes of the rules and regulations applicable to animal health care tasks for registered veterinary technicians, permit holders and veterinary assistants, contained in the division, the term:

- (a) "Veterinarian" means a California licensed veterinarian.
- (b) "R.V.T." means a registered veterinary technician.
- (c) "Veterinary assistant" means any individual who is not an R.V.T. or a licensed veterinarian.
- (d) "Supervisor" means a California licensed veterinarian or if a job task so provides an R.V.T.
- (e) "Direct Supervision" means: (1) the supervisor is physically present at the location where animal health care job tasks are to be performed and is quickly and easily available; and (2) the animal has been examined by a veterinarian at such time as good veterinary medical practice requires consistent with the particular delegated animal health care job task.
- (f) "Indirect Supervision" means: (1) that the supervisor is not physically present at the location where animal health care job tasks are to be performed, but has given either written or oral instructions ("direct orders") for treatment of the animal patient; and (2) the animal has been examined by a veterinarian at such times as good veterinary medical practice requires, consistent with the particular delegated animal health care task and the animal is not anesthetized as defined in Section 2032.4.
- (g) "Animal Hospital Setting" means all veterinary premises which are required by Section 4853 of the Code to be registered with the board.
- (h) "Administer" means the direct application of a drug or device to the body of an animal by injection, inhalation, ingestion, or other means.
- (i) "Induce" means the initial administration of a drug with the intended purpose of rendering an animal unconscious.
- (j) "Veterinary Assistant Controlled Substances Permit" or the abbreviation "VACSP" means a Veterinary Assistant Controlled Substances Permit issued by the board.
- (k) "Permit holder" means a person who must be at least 18 years of age and is a holder of a VACSP issued pursuant to section 4836.2 of the code.

**§ 2035. Duties of Supervising Veterinarian.**

- (a) The supervising veterinarian shall be responsible for determining the competency of the R.V.T., permit holder or veterinary assistant to perform allowable animal health care tasks.
- (b) The supervising veterinarian of a R.V.T., permit holder or veterinary assistant shall make all decisions relating to the diagnosis, treatment, management and future disposition of the animal patient.
- (c) The supervising veterinarian shall have examined the animal patient prior to the delegation of any animal health care task to an R.V.T., permit holder or veterinary assistant. The examination of the animal patient shall be conducted at such time as good veterinary medical practice requires consistent with the particular delegated animal health care task.

**§ 2036.5. Animal Hospital Health Care Tasks for Permit Holders and Veterinary Assistants.**

- (a) Permit holders and veterinary assistants shall be prohibited from performing any of the functions or activities specified in subsections (a) (b) and (c) of Section 2036 of these

regulations, except that a permit holder under the direct or indirect supervision of a licensed veterinarian may administer a controlled substance.

(b) Subject to the provisions of subsection (a) of this section, permit holders and veterinary assistants in an animal hospital setting may perform auxiliary animal health care tasks under the direct or indirect supervision of a licensed veterinarian or the direct supervision of an R.V.T. The degree of supervision by a licensed veterinarian over a permit holder or veterinary assistant shall be higher than or equal to the degree of supervision required when an R.V.T. performs the same task and shall be consistent with standards of good veterinary medical practices.

### **§ 2087. Application.**

(a) An application for a VACSP shall be submitted on an application form provided by the board (Veterinary Assistant Controlled Substances Permit Application, Form No. 4606-1, rev. 6/2015), hereby incorporated by reference, accompanied by such evidence, statements, or documents as therein required. The board shall review the application and notify the applicant of the final approval status.

Once a VACSP has been issued, the permit holder will be authorized to obtain or administer controlled substances only under the direct or indirect supervision of a licensed veterinarian.

### **§ 2087.1. Notification of Licensee Manager.**

(a) Once a permit holder is authorized to obtain or administer controlled substances in an animal hospital setting, the licensee manager shall submit on an application provided by the board (Veterinary Assistant Controlled Substances Permit Holder / Licensee Manager Agreement, Form No. 4606-2, rev. 6/2015,) hereby incorporated by reference.

(b) The licensee manager shall submit a signed acknowledgment that he or she has read and agrees to comply with the provisions of the laws and regulations relating to the supervision of the permit holder, as defined in section 2035, on a form provided by the board (Licensee Manager Acknowledgement, Form No. 4606-3, rev. 6/2015), hereby incorporated by reference. The permit holder shall not obtain or administer controlled substances until such time the Permit Holder / Licensee Manager Agreement form has been submitted and approved by the board.

(c) A licensee manager who fails to comply with the laws and regulations relating to the supervision of permit holders shall be subject to disciplinary action by the board.

### **§ 2087.2. Change of Licensee Manager.**

(a) The licensee manager shall notify the board, in writing, within ten (10) days of the termination of a supervisory relationship with a permit holder.

(b) Once the supervisory relationship between the licensee manager and the permit holder has been terminated, the permit holder shall not be authorized to obtain or administer a controlled substance for which a VACSP is required until a new licensee manager has submitted and approved by the board, in writing, forms required by the board, as defined in section 2087.1.

### **§ 2087.3. Display of Veterinary Assistant Controlled Substances Permit (VACSP).**

(a) Every California permit holder shall wear a name tag in at least 18 point type. The name tag shall include the name that the permit holder has filed with the board and the term "VACSP Number," followed by the VACSP number issued to the permit holder by the board.

(b) Permit holders need not wear a name tag if their VACSP is prominently displayed in an area of the animal hospital setting that is easily accessible to all members of the public at all times

the premise is open. VACSPs shall not be altered in any manner nor shall any information contained on the VACSP be obscured or obliterated.

(c) No person may utilize the term “veterinary assistant controlled substances permit,” or any other words, letters, or symbols, including, but not limited to, the abbreviation “VACSP,” with the intent to represent that the person is authorized to act as a permit holder, unless that person is a permit holder and meets the requirements of this article.

---

**BUSINESS AND PROFESSIONS CODE**  
**Chapter 11**  
**Veterinary Medicine**

**4836. Regulations defining tasks of technicians and veterinarians**

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

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

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

**§ 4836.1. Administration of drugs by registered veterinary technician or assistants; Restrictions (Second of two; Operative date contingent)**

(a) Notwithstanding any other law, a registered veterinary technician or a veterinary assistant may administer a drug, including, but not limited to, a drug that is a controlled substance, under the direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of a licensed veterinarian. However, no person, other than a licensed veterinarian, may induce anesthesia unless authorized by regulation of the board.

**Section 4836.2.**

(c) Notwithstanding subdivision (b), if the Veterinary Medical Board, in consultation with the Board of Pharmacy, identifies a dangerous drug, as defined in Section 4022, as a drug that has an established pattern of being diverted, the Veterinary Medical Board may restrict access to that drug by veterinary assistants.

(d) For purposes of this section, the following definitions apply:

(1) "Controlled substance" has the same meaning as that term is defined in Section 11007 of the Health and Safety Code.

(2) "Direct supervision" has the same meaning as that term is defined in subdivision (e) of Section 2034 of Title 16 of the California Code of Regulations.

(3) "Drug" has the same meaning as that term is defined in Section 11014 of the Health and Safety Code.

(4) "Indirect supervision" has the same meaning as that term is defined in subdivision (f) of Section 2034 of Title 16 of the California Code of Regulations.

(e) This section shall become operative on the date Section 4836.2 becomes operative.

**§ 4836.2. Veterinary Assistant Controlled Substance permit; Application; Denial, suspension and revocation**

(a) Applications for a veterinary assistant controlled substance permit shall be upon a form furnished by the board.

(b) The fee for filing an application for a veterinary assistant controlled substance permit shall be set by the board in an amount the board determines is reasonably necessary to provide sufficient funds to carry out the purposes of this section, not to exceed one hundred dollars (\$100).

(c) The board may suspend or revoke the controlled substance permit of a veterinary assistant after notice and hearing for any cause provided in this subdivision. The proceedings under this section shall be conducted in accordance with the provisions for administrative adjudication in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein. The board may deny, revoke, or suspend a veterinary assistant controlled substance permit for any of the following reasons:

(1) The employment of fraud, misrepresentation, or deception in obtaining a veterinary assistant controlled substance permit.

(2) Chronic inebriety or habitual use of controlled substances.

(3) The veterinary assistant to whom the permit is issued has been convicted of a state or federal felony controlled substance violation.

(4) Violating or attempts to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, or of the regulations adopted under this chapter.

(d) The board shall not issue a veterinary assistant controlled substance permit to any applicant with a state or federal felony controlled substance conviction.

(e) (1) As part of the application for a veterinary assistant controlled substance permit, the applicant shall submit to the Department of Justice fingerprint images and related information, as required by the Department of Justice for all veterinary assistant applicants, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(2) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information that it receives pursuant to this section. The Department of Justice shall review any information returned to it from the Federal Bureau of Investigation and compile and disseminate a response to the board summarizing that information.

(3) The Department of Justice shall provide a state or federal level response to the board pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The Department of Justice shall charge a reasonable fee sufficient to cover the cost of processing the request described in this subdivision.

- (f) The board shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in paragraph (1) of subdivision (e).
- (g) This section shall become operative on July 1, 2015.

### **§ 4836.3. Veterinary Assistant Controlled Substance permit renewal**

- (a) Each person who has been issued a veterinary assistant controlled substance permit by the board pursuant to Section 4836.2 shall biennially apply for renewal of his or her permit on or before the last day of the applicant's birthday month. The application shall be made on a form provided by the board.
- (b) The application shall contain a statement to the effect that the applicant has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in California or any other state or territory, and has not violated any of the provisions of this chapter. If the applicant is unable to make that statement, the application shall contain a statement of the conviction, professional discipline, or violation.
- (c) The board may, as part of the renewal process, make necessary inquiries of the applicant and conduct an investigation in order to determine if cause for disciplinary action exists.
- (d) The fee for filing an application for a renewal of a veterinary assistant controlled substance permit shall be set by the board in an amount the board determines is reasonably necessary to provide sufficient funds to carry out the purposes of this section, not to exceed fifty dollars (\$50).
- (e) This section shall become operative on the date Section 4836.2 becomes operative.

### **§ 4836.4. Change of address**

- (a) Every person who has been issued a veterinary assistant controlled substance permit by the board pursuant to Section 4836.2 who changes his or her mailing or employer address shall notify the board of his or her new mailing or employer address within 30 days of the change. The board shall not renew the permit of any person who fails to comply with this section unless the person pays the penalty fee prescribed in Section 4842.5. An applicant for the renewal of a permit shall specify in his or her application whether he or she has changed his or her mailing or employer address and the board may accept that statement as evidence of the fact.
- (b) This section shall become operative on the date Section 4836.2 becomes operative.





## MEMORANDUM

<b>DATE</b>	January 4, 2017
<b>TO</b>	Veterinary Medical Board
<b>FROM</b>	Ethan Mathes, Operations Manager
<b>SUBJECT</b>	Review Revenue and Expenditure Reports and Discuss Need for a Fee Increase of Initial License and Renewal Fees; Potential Action

### History

*Increase in Fees and Fee Caps* – Senate Bill 1584 (Chapter 529, Statutes of 2008), effective January 1, 2009 raised the statutory cap on veterinary, veterinary technician, and premises fees in Business and Professions Code (BPC) Section 4842.5 and 4905.

The increase in the statutory cap on fees was a product of the Veterinary Medical Board's (Board) concern going back to 2005 of a projected structural imbalance leading to operational and Contingency Fund deficits. At that time, the Board enacted a minor increase by regulation (effective in 2007) to all veterinary, veterinary technician, and premises fees up to their statutory cap followed by SB 1584 in 2009 increasing the statutory fee caps. Subsequently, the Board enacted a second fee increase in March 2012 to again increase all veterinary, veterinary technician, and premises fees to further strengthen the Boards long term operating and Contingency Fund outlook. Currently, all veterinary, veterinary technician, and premises fees remain below their statutory cap.

*Operational Expenditures and Contingency Fund* – In accordance with BPC Section 4905, the Board's Contingency Fund (i.e. savings account) shall not have less than 3 months or more than 10 months reserve of annual authorized expenditures in the Fund.

Beginning in Fiscal Year (FY) 2014/2015 Board revenue has not kept pace with its authorized expenditures creating a structural imbalance where the Board's Contingency Fund is declining in order to make up for the operating budget deficit. Additionally, the Board is projected to drop below its Contingency Fund requirement of no less than 3 months of reserve as soon as FY 2017/2018.

### Issues

The Board's current structural imbalance is a byproduct of several factors, some within the Board's control and others outside of the Board's control, including, but not limited to:

- Increases to Personnel Services including general salary increases negotiated by the State and mandated health care and retirement contributions
- Interdepartmental fee increases for the Attorney General and Office of Administrative Hearings

- Intradepartmental increases in pro rata including the Division of Investigation, Office of Professional Examination Services, and BreEZe costs
- Legislative mandates to increase veterinary premises inspections to 20% of premises per year and to enact the Veterinary Assistant Controlled Substances Permit (VACSP) program
- Increase in authorized staff positions from 12.8 in FY 2013/2014 to 23.8 in FY 2014/2015 and ongoing for the enforcement, premises inspection and VACSP programs
- Increase in Subject Matter Expert and Hospital Inspector contracted compensation

In order to begin addressing the Board's structural imbalance and potential for a fee increase, staff initiated a Request for Proposal in December 2016 to conduct a comprehensive fee audit that would include a costs analysis of the Board's Administrative, Licensing, Premises and Enforcement programs. Results of the fee audit should be available within the next 3-6 months.

### **Requested Action**

Review attached budget reports and consider the need for a future fee increase in order to bring the Board's operational and Contingency Fund into balance and satisfy statutory requirements.

### **Attachments**

- Fee Statutes and Regulations
- Board Historical Expenditures Graph with Authorized Expenditures
- Board Historical Expenditures Table



**BUSINESS AND PROFESSIONS CODE**  
**Chapter 11**  
**Veterinary Medicine**

**§ 4836.2. Veterinary Assistant Controlled Substances Permit**

...(b) The fee for filing an application for a veterinary assistant controlled substance permit shall be set by the board in an amount the board determines is reasonably necessary to provide sufficient funds to carry out the purposes of this section, not to exceed one hundred dollars (\$100)...

**§ 4836.3. Veterinary Assistant Controlled Substances Permit**

...(d) The fee for filing an application for a renewal of a veterinary assistant controlled substance permit shall be set by the board in an amount the board determines is reasonably necessary to provide sufficient funds to carry out the purposes of this section, not to exceed fifty dollars (\$50)...

**§ 4842.5. Fee schedule**

The amount of fees prescribed by this article is that fixed by the following schedule:

(a) The fee for filing an application for examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purposes of this chapter, not to exceed three hundred fifty dollars (\$350).

(b) The fee for the California registered veterinary technician examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purposes of this chapter, not to exceed three hundred dollars (\$300).

(c) The initial registration fee shall be set by the board at not more than three hundred fifty dollars (\$350), except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be set by the board at not more than one hundred seventy-five dollars (\$175). The board may adopt regulations to provide for the waiver or refund of the initial registration fee where the registration is issued less than 45 days before the date on which it will expire.

(d) The biennial renewal fee shall be set by the board at not more than three hundred fifty dollars (\$350).

(e) The delinquency fee shall be set by the board at not more than fifty dollars (\$50).

(f) Any charge made for duplication or other services shall be set at the cost of rendering the services.

(g) The fee for filing an application for approval of a school or institution offering a curriculum for training registered veterinary technicians pursuant to Section 4843 shall be set by the board at an amount not to exceed three hundred dollars (\$300). The school or institution shall also pay for the actual costs of an onsite inspection conducted by the board pursuant to Section 2065.6 of Title 16 of the California Code of Regulations, including, but not limited to, the travel, food, and lodging expenses incurred by an inspection team sent by the board.

(h) The fee for failure to report a change in the mailing address is twenty-five dollars (\$25).

### **§ 4873. Program registration fees**

The board shall charge each veterinarian and registered veterinary technician who is accepted to participate in the diversion program a diversion program registration fee. The diversion program registration fee shall be set by the board in an amount not to exceed four thousand dollars (\$4,000). In the event that the diversion program registration exceeds five hundred dollars (\$500), the board may provide for quarterly payments.

### **§ 4905. Fee schedule**

The following fees shall be collected by the board and shall be credited to the Veterinary Medical Board Contingent Fund:

(a) The fee for filing an application for examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed three hundred fifty dollars (\$350).

(b) The fee for the California state board examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed three hundred fifty dollars (\$350).

(c) The fee for the Veterinary Medicine Practice Act examination shall be set by the board in an amount it determines reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed one hundred dollars (\$100).

(d) The initial license fee shall be set by the board not to exceed five hundred dollars (\$500) except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be set by the board at not to exceed two hundred fifty dollars (\$250). The board may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(e) The renewal fee shall be set by the board for each biennial renewal period in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed five hundred dollars (\$500).

(f) The temporary license fee shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed two hundred fifty dollars (\$250).

(g) The delinquency fee shall be set by the board, not to exceed fifty dollars (\$50).

(h) The fee for issuance of a duplicate license is twenty-five dollars (\$25).

(i) Any charge made for duplication or other services shall be set at the cost of rendering the service, except as specified in subdivision (h).

(j) The fee for failure to report a change in the mailing address is twenty-five dollars (\$25).

(k) The initial and annual renewal fees for registration of veterinary premises shall be set by the board in an amount not to exceed four hundred dollars (\$400) annually.

(l) If the money transferred from the Veterinary Medical Board Contingent Fund to the General Fund pursuant to the Budget Act of 1991 is redeposited into the Veterinary Medical Board Contingent Fund, the fees assessed by the board shall be reduced correspondingly. However, the reduction shall not be so great as to cause the Veterinary Medical Board Contingent Fund to have a reserve of less than three months of annual authorized board expenditures. The fees set by the board shall not result in a Veterinary Medical Board Contingent Fund reserve of more than 10 months of annual authorized board expenditures.

---

**TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS**  
**Division 20. Veterinary Medical Board**

**§ 2070. Registration and Renewal Fees for Veterinarians.**

Pursuant to the provisions of Section 4905 of the code, the following fees are fixed by the board for licensing periods beginning on or after March 1, 2012:

- (a) The application eligibility review fee for all examinations shall be \$125.00.
- (b) The fee for the California state board examination shall be \$200.00.
- (c) The fee for the veterinary law examination shall be \$100.00.
- (d) The initial license fee for licenses issued for one year or more from the date on which they will expire shall be \$290.00. The initial license fee for licenses issued for less than one year shall be \$145.00.
- (e) The biennial renewal fee shall be \$290.00.
- (f) The fee for a temporary license shall be \$150.00.
- (g) The initial fee for registration of a veterinary premises shall be \$200.00.
- (h) The annual renewal fee for registration of a veterinary premises shall be \$200.00.
- (i) The fee for the Board's Diversion Program shall be \$2,000 per participant.
- (j) The delinquency fee shall be \$25.00.

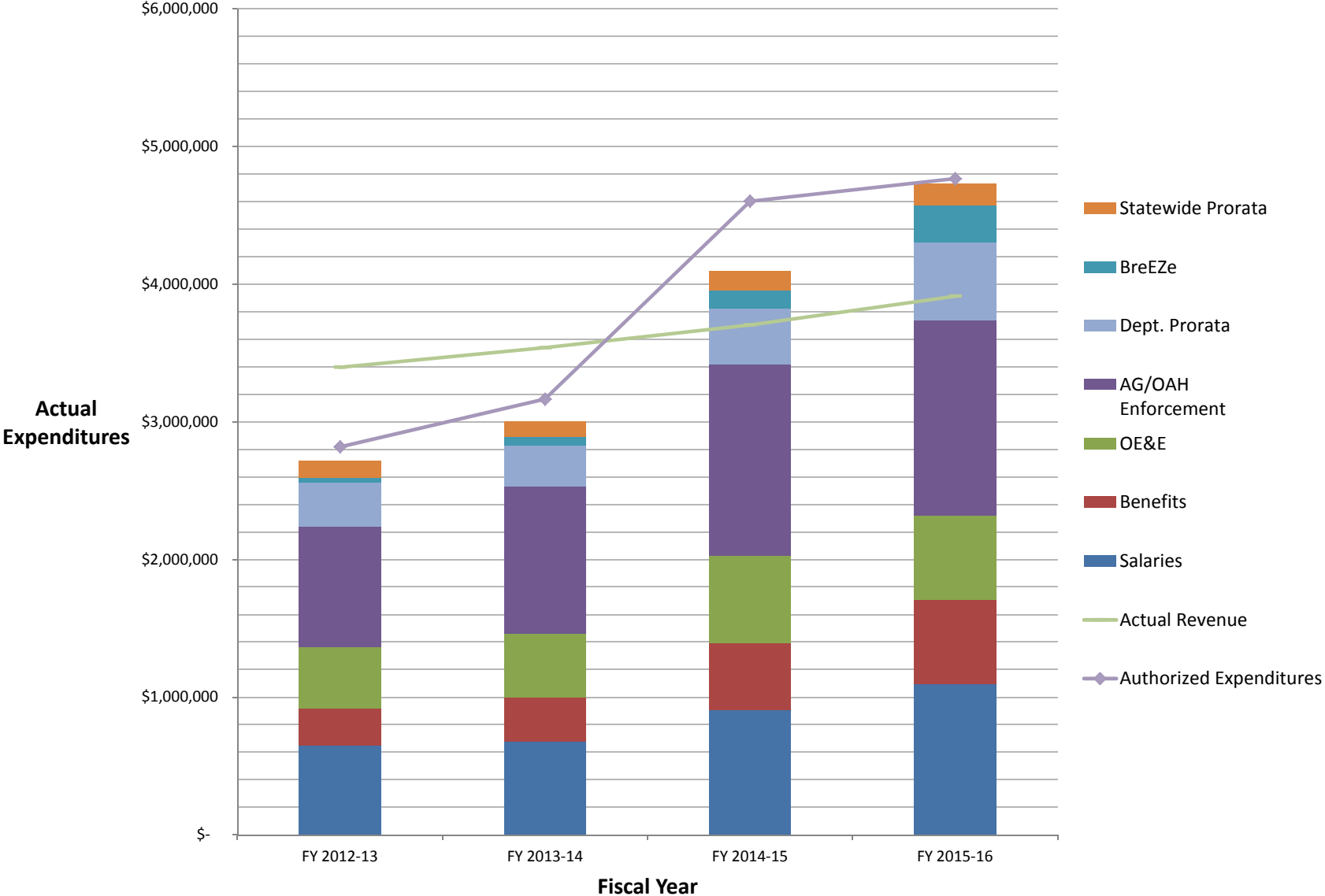
**§ 2071. Application, Registration and Renewal Fees for Registered Veterinary Technicians.**

Pursuant to the provisions of Section 4842.5 of the code, the following fees are fixed by the board for licensing periods beginning on or after March 1, 2012:

- (a) The application eligibility review fee shall be \$125.00.
- (b) The fee for the registered California veterinary technician examination shall be \$175.00.
- (c) The initial registration fee for registrations issued for one year or more from the date on which it will expire shall be \$140.00. The initial registration fee for registrations issued for less than one year shall be \$70.00.
- (d) The biennial renewal fee shall be \$140.00.
- (e) The delinquency fee shall be \$25.00.

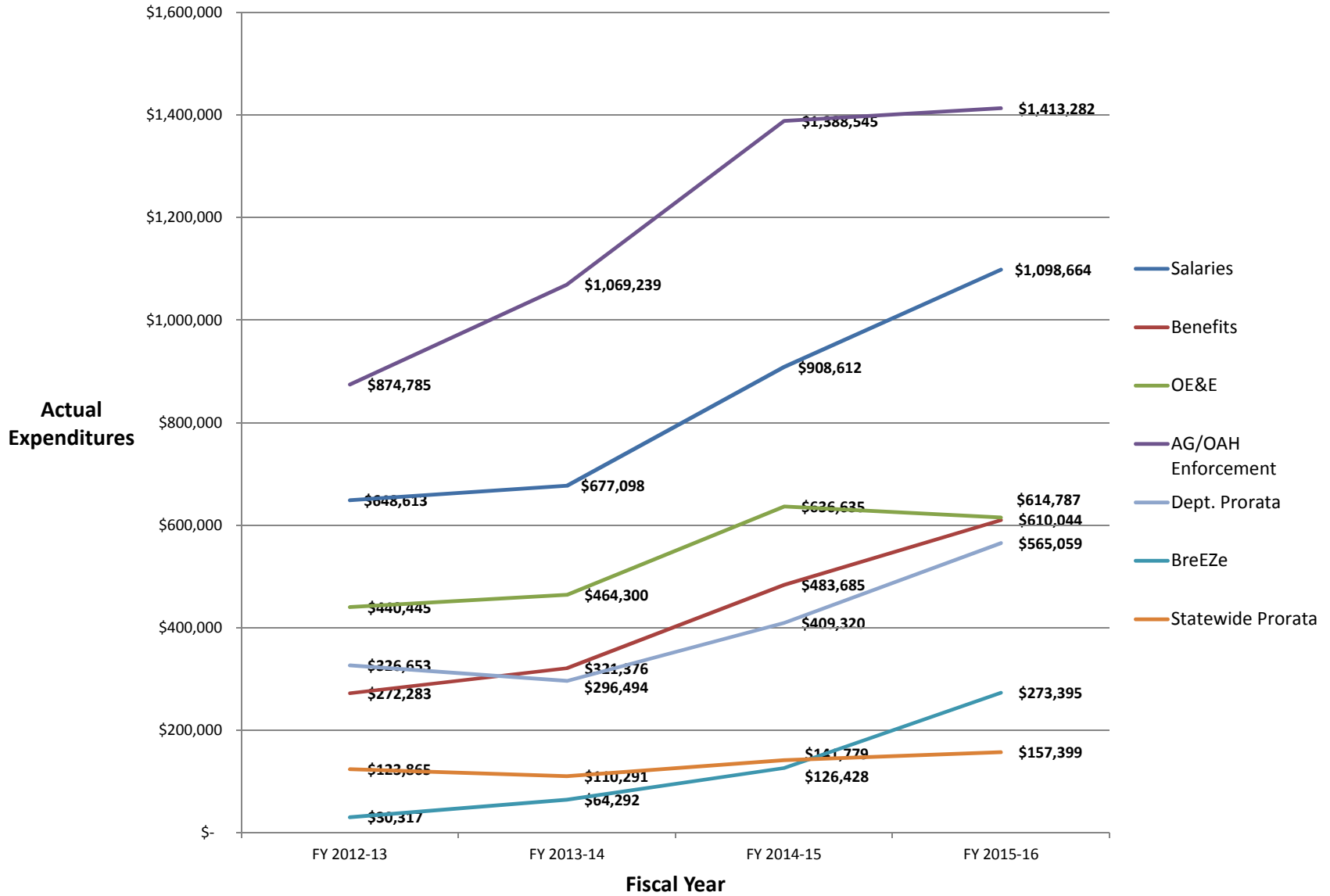


### Veterinary Medical Board Historical Expenditures





## Veterinary Medical Board Historical Expenditures







## The Veterinary Medical Board Contingent Fund

### Fee Analysis Recommendation

**Fee Analysis Recommended:** As the Board considers its short and long-term planning, we believe it would be wise, at this time, for the Board to initiate a comprehensive analysis of its fee structure and fee levels. At the current rate of revenues and expenditures, the Board's Contingent Fund will become insolvent in Fiscal Year (FY) 2019-20.

It takes approximately 18 months to change fees through the regulatory process only, so if the Board starts this process now, fees would change beginning FY 2018-19.

### Fund Condition Statements (FCS) Scenarios – attached

#### 1. 2017-18 Governor's Budget:

- This is the current FCS and indicates that the Board's main operating fund, the Contingent Fund (Fund 0777), shows a structural imbalance ('Structural Imbalance' line items) with expenditures ('Total Disbursements' line items) exceeding revenues ('Totals, Revenues' line items). At the current rate of revenues and expenditures, the Contingent Fund is projected to become insolvent ('Months in Reserve' line items) in FY 2019-20 (shown as '-0.8' months in reserve in FY 2019-20).

**Note:** The Board has been operating with this structural imbalance for several years, but has a fund reserve balance to offset the difference.

- VACSP program and revenues:
  - VACSP is new program, so ongoing workload and revenues are unknown at this time.
  - Projected VACSP revenues are \$510,000 in CY (FY 2016-17), \$680,000 BY and \$256,000 expenditures ongoing. **Note:** VACSP fee revenues are projected to spike in FY 2016-17 and 2017-18 then decrease beginning in FY 2018-19 (due to a decrease in initial licensure fees as the program comes online). Long-term revenues and expenditures are projected to be relatively equal.

**Note:** Veterinary Assistant Controlled Substances Permit (VACSP) revenue and expenditures are reflected in this scenario; however, because the VACSP is a new program with permits just beginning to be issued (program launched on 10/1/2016), we do not have sufficient revenue information at this time to ensure the accuracy of the projections.

#### 2. 2017-18 Governor's Budget – No VACSP Revenue or Expenditures:

- VACSP revenues and expenditures in this scenario have been removed which creates a more reliable and stable scenario based on the Board's established fees.
  - The structural imbalance is exacerbated.

- Revenues are approximately \$3.8 million per year. Expenditures are approximately \$4.8 million per year.
- An increase in fees (at or below statutory cap) would eliminate the structural imbalance.

**3. 2017-18 Governor's Budget – No VACSP Revenue or Expenditures - Fees Set at Maximum Statutory Level (July 1, 2017):**

- This scenario projects a raise in initial licensing, renewal and delinquency fees (beginning in FY 2018-19) to the maximum allowed in Business and Professions Code thereby increasing revenue and eliminating the Board's structural imbalance beginning in FY 2018-19.

**4. 2017-18 Governor's Budget – No VACSP Revenue or Expenditures - Fees Set Below Statutory Cap:**

- This scenario projects a raise in initial licensing, renewal and delinquency fees (beginning in FY 2018-19) to a level that increases revenue and eliminates the Board's structural imbalance to a moderate level beginning in FY 2018-19.

**Other Comments:**

- A cursory review of the Board's fee levels compared to other boards shows current fees below other like boards including the Medical, Pharmacy, and Psychology boards. However, these boards typically have (many) additional licensing fees, so a more direct comparison requires a more thorough analysis.
- Fee analyses typically take a few months and cost approximately \$25,000 to \$50,000.
- While the Board could eliminate the structural imbalance by raising fees through the regulatory process, and would not be required to make statutory changes, a full analysis is recommended to show the following:
  - Fee options: Raise fees through regulations only, statutory changes, or both.
  - Fee structure: Is the fee structure appropriate, comprehensive, and consistent with other DCA entities.
  - Illustrate where the Board's costs are coming from by unit (licensing, enforcement, administration, etc.).

# 0777 - Veterinary Medical Board Analysis of Fund Condition

Prepared 1/10/2017

## 2017-18 Gov. Budget

	PY 2015-16	CY 2016-17	Gov Budget BY 2017-18	BY+1 2018-19	BY+2 2019-20
<b>BEGINNING BALANCE</b>	\$ 3,562	\$ 2,874	\$ 2,043	\$ 1,667	\$ 825
Prior Year Adjustment	\$ 46	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 3,608	\$ 2,874	\$ 2,043	\$ 1,667	\$ 825
<b>REVENUES AND TRANSFERS</b>					
Revenues:					
125600 Other regulatory fees	\$ 86	\$ 94	\$ 94	\$ 94	\$ 94
125700 Other regulatory licenses and permits	\$ 865	\$ 835	\$ 835	\$ 835	\$ 835
VACSP applications and permits	\$ -	\$ 510	\$ 680	\$ 50	\$ 53
125800 Renewal fees	\$ 2,851	\$ 2,764	\$ 2,904	\$ 2,904	\$ 2,564
VACSP renewal applications and permits	\$ -	\$ -	\$ -	\$ 255	\$ 340
125900 Delinquent fees	\$ 13	\$ 16	\$ 19	\$ 19	\$ 19
141200 Sales of documents	\$ 9	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 16	\$ 2	\$ 2	\$ 2	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 3	\$ -	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ 1	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 3,844	\$ 4,221	\$ 4,534	\$ 4,159	\$ 3,905
Totals, Revenues and Transfers	\$ 3,844	\$ 4,221	\$ 4,534	\$ 4,159	\$ 3,905
Totals, Resources	\$ 7,452	\$ 7,095	\$ 6,577	\$ 5,826	\$ 4,730
<b>EXPENDITURES</b>					
Disbursements:					
1110 Program Expenditures (S/O)	\$ 4,570	\$ 4,492	\$ 4,292	\$ 4,383	\$ 4,471
VACSP expenditures	(256)	\$ 256	\$ 256	\$ 256	\$ 256
8880 Financial Information System for California (S/O)	\$ 8	\$ 5	\$ 6	\$ 6	\$ 6
9990 Statewide Pro Rata	\$ -	\$ 299	\$ 356	\$ 356	\$ 356
Total Disbursements	\$ 4,578	\$ 5,052	\$ 4,910	\$ 5,001	\$ 5,089
<b>FUND BALANCE</b>					
Reserve for economic uncertainties	\$ 2,874	\$ 2,043	\$ 1,667	\$ 825	\$ -360
<b>Months in Reserve</b>	6.8	5.0	4.0	1.9	-0.8
<b>Structural Imbalance</b>	\$ (734)	\$ (831)	\$ (376)	\$ (842)	\$ (1,185)

# 0777 - Veterinary Medical Board Analysis of Fund Condition

Prepared 1/10/2017

2017-18 Gov. Budget  
No VACSP Revenue or Expenditures

	PY 2015-16	CY 2016-17	Gov Budget BY 2017-18	BY+1 2018-19	BY+2 2019-20
<b>BEGINNING BALANCE</b>	\$ 3,562	\$ 2,874	\$ 1,789	\$ 989	\$ 98
Prior Year Adjustment	\$ 46	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 3,608	\$ 2,874	\$ 1,789	\$ 989	\$ 98
<b>REVENUES AND TRANSFERS</b>					
Revenues:					
125600 Other regulatory fees	\$ 86	\$ 94	\$ 94	\$ 94	\$ 94
125700 Other regulatory licenses and permits	\$ 865	\$ 835	\$ 835	\$ 835	\$ 835
VACSP applications and permits	\$ -	\$ -	\$ -	\$ -	\$ -
125800 Renewal fees	\$ 2,851	\$ 2,764	\$ 2,904	\$ 2,904	\$ 2,904
VACSP renewal applications and permits	\$ -	\$ -	\$ -	\$ -	\$ -
125900 Delinquent fees	\$ 13	\$ 16	\$ 19	\$ 19	\$ 19
141200 Sales of documents	\$ 9	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 16	\$ 2	\$ 2	\$ 2	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 3	\$ -	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ 1	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 3,844	\$ 3,711	\$ 3,854	\$ 3,854	\$ 3,852
Totals, Revenues and Transfers	\$ 3,844	\$ 3,711	\$ 3,854	\$ 3,854	\$ 3,852
Totals, Resources	\$ 7,452	\$ 6,585	\$ 5,643	\$ 4,843	\$ 3,950
<b>EXPENDITURES</b>					
Disbursements:					
0840 State Controller (S/O)	\$ -	\$ -	\$ -	\$ -	\$ -
8860 FSCU (S/O)	\$ -	\$ -	\$ -	\$ -	\$ -
1110 Program Expenditures (S/O)	\$ 4,570	\$ 4,492	\$ 4,292	\$ 4,383	\$ 4,471
VACSP expenditures	(256)	\$ -	\$ -	\$ -	\$ -
8880 Financial Information System for California (S/O)	\$ 8	\$ 5	\$ 6	\$ 6	\$ 6
9990 Statewide Pro Rata	\$ -	\$ 299	\$ 356	\$ 356	\$ 356
Total Disbursements	\$ 4,578	\$ 4,796	\$ 4,654	\$ 4,745	\$ 4,833
<b>FUND BALANCE</b>					
Reserve for economic uncertainties	\$ 2,874	\$ 1,789	\$ 989	\$ 98	\$ -883
<b>Months in Reserve</b>	7.2	4.6	2.5	0.2	-2.2
<b>Structural Imbalance</b>	\$ (734)	\$ (1,085)	\$ (800)	\$ (891)	\$ (981)

**0777 - Veterinary Medical Board  
Analysis of Fund Condition**

Prepared 1/10/2017

**2017-18 Gov. Budget  
No VACSP revenue or expenditures  
Fees set at maximum statutory level (July 1, 2017)**

	PY 2015-16	CY 2016-17	Gov Budget BY 2017-18	BY+1 2018-19	BY+2 2019-20
<b>BEGINNING BALANCE</b>	\$ 3,562	\$ 2,874	\$ 1,789	\$ 849	\$ 3,734
Prior Year Adjustment	\$ 46	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 3,608	\$ 2,874	\$ 1,789	\$ 849	\$ 3,734
<b>REVENUES AND TRANSFERS</b>					
Revenues:					
125600 Other regulatory fees	\$ 86	\$ 94	\$ 94	\$ 94	\$ 94
125700 Other regulatory licenses and permits	\$ 865	\$ 835	\$ 835	\$ 1,792	\$ 1,792
VACSP applications and permits	\$ -	\$ -	\$ -	\$ -	\$ -
125800 Renewal fees	\$ 2,851	\$ 2,764	\$ 2,764	\$ 5,723	\$ 5,723
VACSP renewal applications and permits	\$ -	\$ -	\$ -	\$ -	\$ -
125900 Delinquent fees	\$ 13	\$ 16	\$ 19	\$ 19	\$ 19
141200 Sales of documents	\$ 9	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 16	\$ 2	\$ 2	\$ 2	\$ 2
161000 Escheat of unclaimed checks and warrants	\$ 3	\$ -	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ 1	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 3,844	\$ 3,711	\$ 3,714	\$ 7,630	\$ 7,630
Totals, Revenues and Transfers	\$ 3,844	\$ 3,711	\$ 3,714	\$ 7,630	\$ 7,630
Totals, Resources	\$ 7,452	\$ 6,585	\$ 5,503	\$ 8,479	\$ 11,364
<b>EXPENDITURES</b>					
Disbursements:					
1110 Program Expenditures (S/O)	\$ 4,570	\$ 4,492	\$ 4,292	\$ 4,383	\$ 4,471
VACSP expenditures	(256)	\$ -	\$ -	\$ -	\$ -
8880 Financial Information System for California (S/O)	\$ 8	\$ 5	\$ 6	\$ 6	\$ 6
9990 Statewide Pro Rata	\$ -	\$ 299	\$ 356	\$ 356	\$ 356
Total Disbursements	\$ 4,578	\$ 4,796	\$ 4,654	\$ 4,745	\$ 4,833
<b>FUND BALANCE</b>					
Reserve for economic uncertainties	\$ 2,874	\$ 1,789	\$ 849	\$ 3,734	\$ 6,531
<b>Months in Reserve</b>	7.2	4.6	2.1	9.3	15.9
<b>Structural Imbalance</b>	\$ (734)	\$ (1,085)	\$ (940)	\$ 2,885	\$ 2,797

**0777 - Veterinary Medical Board  
Analysis of Fund Condition**

Prepared 1/10/2017

**2017-18 Gov. Budget  
No VACSP Revenue or Expenditures  
Fees set below statutory cap**

	PY 2015-16	CY 2016-17	Gov Budget BY 2017-18	BY+1 2018-19	BY+2 2019-20
<b>BEGINNING BALANCE</b>	\$ 3,562	\$ 2,874	\$ 1,789	\$ 849	\$ 1,640
Prior Year Adjustment	\$ 46	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 3,608	\$ 2,874	\$ 1,789	\$ 849	\$ 1,640
<b>REVENUES AND TRANSFERS</b>					
Revenues:					
125600 Other regulatory fees	\$ 86	\$ 94	\$ 94	\$ 94	\$ 94
125700 Other regulatory licenses and permits	\$ 865	\$ 835	\$ 835	\$ 1,208	\$ 1,208
VACSP applications and permits	\$ -	\$ -	\$ -	\$ -	\$ -
125800 Renewal fees	\$ 2,851	\$ 2,764	\$ 2,764	\$ 4,213	\$ 4,213
VACSP renewal applications and permits	\$ -	\$ -	\$ -	\$ -	\$ -
125900 Delinquent fees	\$ 13	\$ 16	\$ 19	\$ 19	\$ 19
141200 Sales of documents	\$ 9	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 16	\$ 2	\$ 2	\$ 2	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 3	\$ -	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ 1	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 3,844	\$ 3,711	\$ 3,714	\$ 5,536	\$ 5,534
Totals, Revenues and Transfers	\$ 3,844	\$ 3,711	\$ 3,714	\$ 5,536	\$ 5,534
Totals, Resources	\$ 7,452	\$ 6,585	\$ 5,503	\$ 6,385	\$ 7,174
<b>EXPENDITURES</b>					
1110 Program Expenditures (S/O)	\$ 4,570	\$ 4,492	\$ 4,292	\$ 4,383	\$ 4,471
VACSP expenditures	(256)	\$ -	\$ -	\$ -	\$ -
8880 Financial Information System for California (S/O)	\$ 8	\$ 5	\$ 6	\$ 6	\$ 6
9990 Statewide Pro Rata	\$ -	\$ 299	\$ 356	\$ 356	\$ 356
Total Disbursements	\$ 4,578	\$ 4,796	\$ 4,654	\$ 4,745	\$ 4,833
<b>FUND BALANCE</b>					
Reserve for economic uncertainties	\$ 2,874	\$ 1,789	\$ 849	\$ 1,640	\$ 2,341
<b>Months in Reserve</b>	7.2	4.6	2.1	4.1	5.7
<b>Structural Imbalance</b>	\$ (734)	\$ (1,085)	\$ (940)	\$ 791	\$ 701

**VETERINARY MEDICAL BOARD - 0777**  
**BUDGET REPORT**  
**FY 2016-17 EXPENDITURE PROJECTION**  
**Nov-2016**

**With Projections (AG, OAH, Inspections, and Experts)**

OBJECT DESCRIPTION	FY 2015-16		FY 2016-17				
	ACTUAL	PRIOR YEAR	BUDGET	CURRENT YEAR	PERCENT	PROJECTIONS	UNENCUMBERED
	EXPENDITURES	EXPENDITURES	Allotment	EXPENDITURES	SPENT	TO YEAR END	BALANCE
	(MONTH 13)	11/30/2015	2016-17	11/30/2016			
<b>PERSONNEL SERVICES</b>							
Salary & Wages (Staff)	993,433	425,827	1,018,000	397,753	39%	954,607	63,393
Statutory Exempt (EO)	90,636	37,765	82,000	38,994	48%	93,586	(11,586)
Temp Help Reg (Seasonals)			33,000	13,326	40%	31,982	1,018
BL 12-03 Blanket							
Temp Help (Exam Proctors)							
Board Member Per Diem	6,900	1,000	14,000			6,900	7,100
Committee Members (DEC)	5,700		11,000			5,700	5,300
Overtime	1,995	33		129		387	(387)
Staff Benefits	610,044	250,219	621,000	275,640	44%	661,536	(40,536)
<b>TOTALS, PERSONNEL SVC</b>	<b>1,708,708</b>	<b>714,844</b>	<b>1,779,000</b>	<b>725,842</b>	<b>41%</b>	<b>1,754,698</b>	<b>24,302</b>
<b>OPERATING EXPENSE AND EQUIPMENT</b>							
General Expense	39,907	16,604	26,000	14,827	57%	35,585	(9,585)
Fingerprint Reports	520	59	6,000	159	3%	382	5,618
Minor Equipment	6,919	6,919	2,000	124			2,000
Printing	19,795	4,881	18,000	9,120	51%	21,888	(3,888)
Communication	5,416	1,136	18,000	441	2%	1,058	16,942
Postage	28,278	11,206	26,000	7,799	30%	18,718	7,282
Insurance							
Travel In State	70,768	28,426	148,000	33,530	23%	80,472	67,528
Travel, Out-of-State							
Training	6,244	4,779	17,000				17,000
Facilities Operations	114,242	111,462	102,000	113,498	111%	113,498	(11,498)
Utilities							
C & P Services - Interdept.	2						
C & P Services - External	227,251	82,424	136,000	153,231	113%	230,000	(94,000)
<b>DEPARTMENTAL SERVICES:</b>							
Departmental Pro Rata	453,708	226,000	503,000	208,750	42%	503,000	0
Admin/Exec	286,698	140,000	257,000	104,165	41%	257,000	0
Interagency Services							
IA w/ OPES	72,166	45,226		75,210		75,210	(75,210)
DOI-ProRata Internal	6,882	3,500	7,000	2,915	42%	7,000	0
Communications	19,000	4,500	41,000	21,250	52%	41,000	0
PPRD Pro Rata		5,000	12,000	835	7%	12,000	0
<b>INTERAGENCY SERVICES:</b>							
Consolidated Data Center	2,230	769	8,000	16	0%	38	7,962
Interagency SVCS			50,000				50,000
Information Technology			57,000				57,000
DP Maintenance & Supply	10,884	4,559					
Central Admin Svc-ProRata	157,399	78,700	0				
<b>EXAM EXPENSES:</b>							
Exam Supplies			1,000				1,000
Exam Freight							
Exam Site Rental			5,000				5,000
C/P Svcs-External Expert Administrative	26,988	23,116		40,686		40,686	(40,686)
C/P Svcs-External Expert Examiners		27,558	31,000		0%	0	31,000
C/P Svcs-External Subject Matter	55,341			31,364		75,274	(75,274)
<b>ENFORCEMENT:</b>							
Attorney General	510,785	171,075	460,000	190,494	41%	620,000	(160,000)
Office Admin. Hearings	105,233	25,103	59,000			134,000	(75,000)
Court Reporters	6,043	1,139		4,536		10,886	(10,886)
Evidence/Witness Fees	173,628	38,219	163,000	44,466	27%	135,000	28,000
DOI - Investigations	617,594	305,000	829,000	340,415	41%	829,000	0
Major Equipment			10,000				10,000
Special Items of Expense							
Other (Vehicle Operations)			3,000				3,000
<b>TOTALS, OE&amp;E</b>	<b>3,023,921</b>	<b>1,367,360</b>	<b>2,995,000</b>	<b>1,397,831</b>	<b>47%</b>	<b>3,241,695</b>	<b>(246,695)</b>
<b>TOTAL EXPENSE</b>	<b>4,732,629</b>	<b>2,082,204</b>	<b>4,774,000</b>	<b>2,123,673</b>	<b>44%</b>	<b>4,996,393</b>	<b>(222,393)</b>
Sched. Reimb. - External/Private							
Sched. Reimb. - Fingerprints		(940)	(11,000)	(1,880)		(11,000)	
Sched. Reimb. - Other	(3,525)		(15,000)			(15,000)	
Unsched. Reimb. - Other	(158,407)	(50,461)		(73,180)			
<b>NET APPROPRIATION</b>	<b>4,570,697</b>	<b>2,030,803</b>	<b>4,748,000</b>	<b>2,048,613</b>	<b>43%</b>	<b>4,970,393</b>	<b>(222,393)</b>
<b>SURPLUS/(DEFICIT):</b>							<b>-4.7%</b>

**VETERINARY MEDICAL BOARD - 0777**  
**BUDGET REPORT**  
**FY 2016-17 EXPENDITURE PROJECTION**  
**Nov-2016**

**With Projections (AG, OAH, Inspections, and Experts) and AG & OAH Augmentation**

OBJECT DESCRIPTION	FY 2015-16		FY 2016-17				
	ACTUAL	PRIOR YEAR	BUDGET	CURRENT YEAR	PERCENT	PROJECTIONS	UNENCUMBERED
	EXPENDITURES	EXPENDITURES	Allotment	EXPENDITURES	SPENT	TO YEAR END	BALANCE
	(MONTH 13)	11/30/2015	2016-17	11/30/2016			
<b>PERSONNEL SERVICES</b>							
Salary & Wages (Staff)	993,433	425,827	1,018,000	397,753	39%	954,607	63,393
Statutory Exempt (EO)	90,636	37,765	82,000	38,994	48%	93,586	(11,586)
Temp Help Reg (Seasonals)			33,000	13,326	40%	31,982	1,018
BL 12-03 Blanket							
Temp Help (Exam Proctors)							
Board Member Per Diem	6,900	1,000	14,000			6,900	7,100
Committee Members (DEC)	5,700		11,000			5,700	5,300
Overtime	1,995	33		129		387	(387)
Staff Benefits	610,044	250,219	621,000	275,640	44%	661,536	(40,536)
<b>TOTALS, PERSONNEL SVC</b>	<b>1,708,708</b>	<b>714,844</b>	<b>1,779,000</b>	<b>725,842</b>	<b>41%</b>	<b>1,754,698</b>	<b>24,302</b>
<b>OPERATING EXPENSE AND EQUIPMENT</b>							
General Expense	39,907	16,604	26,000	14,827	57%	35,585	(9,585)
Fingerprint Reports	520	59	6,000	159	3%	382	5,618
Minor Equipment	6,919	6,919	2,000	124			2,000
Printing	19,795	4,881	18,000	9,120	51%	21,888	(3,888)
Communication	5,416	1,136	18,000	441	2%	1,058	16,942
Postage	28,278	11,206	26,000	7,799	30%	18,718	7,282
Insurance							
Travel In State	70,768	28,426	148,000	33,530	23%	80,472	67,528
Travel, Out-of-State							
Training	6,244	4,779	17,000				17,000
Facilities Operations	114,242	111,462	102,000	113,498	111%	113,498	(11,498)
Utilities							
C & P Services - Interdept.	2						
C & P Services - External	227,251	82,424	136,000	153,231	113%	230,000	(94,000)
<b>DEPARTMENTAL SERVICES:</b>							
Departmental Pro Rata	453,708	226,000	503,000	208,750	42%	503,000	0
Admin/Exec	286,698	140,000	257,000	104,165	41%	257,000	0
Interagency Services							
IA w/ OPES	72,166	45,226		75,210		75,210	(75,210)
DOI-ProRata Internal	6,882	3,500	7,000	2,915	42%	7,000	0
Communications	19,000	4,500	41,000	21,250	52%	41,000	0
PPRD Pro Rata		5,000	12,000	835	7%	12,000	0
<b>INTERAGENCY SERVICES:</b>							
Consolidated Data Center	2,230	769	8,000	16	0%	38	7,962
Interagency SVCS			50,000				50,000
Information Technology			57,000				57,000
DP Maintenance & Supply	10,884	4,559					
Central Admin Svc-ProRata	157,399	78,700	0				
<b>EXAM EXPENSES:</b>							
Exam Supplies			1,000				1,000
Exam Freight							
Exam Site Rental			5,000				5,000
C/P Svcs-External Expert Administrative	26,988	23,116		40,686		40,686	(40,686)
C/P Svcs-External Expert Examiners		27,558	31,000				31,000
C/P Svcs-External Subject Matter	55,341			31,364		75,274	(75,274)
<b>ENFORCEMENT:</b>							
Attorney General	510,785	171,075	620,000	190,494	31%	620,000	0
Office Admin. Hearings	105,233	25,103	134,000			134,000	0
Court Reporters	6,043	1,139		4,536		10,886	(10,886)
Evidence/Witness Fees	173,628	38,219	163,000	44,466	27%	135,000	28,000
DOI - Investigations	617,594	305,000	829,000	340,415	41%	829,000	0
Major Equipment			10,000				10,000
Special Items of Expense							
Other (Vehicle Operations)			3,000				3,000
<b>TOTALS, OE&amp;E</b>	<b>3,023,921</b>	<b>1,367,360</b>	<b>3,230,000</b>	<b>1,397,831</b>	<b>43%</b>	<b>3,241,695</b>	<b>(11,695)</b>
<b>TOTAL EXPENSE</b>	<b>4,732,629</b>	<b>2,082,204</b>	<b>5,009,000</b>	<b>2,123,673</b>	<b>42%</b>	<b>4,996,393</b>	<b>12,607</b>
Sched. Reimb. - External/Private							
Sched. Reimb. - Fingerprints		(940)	(11,000)	(1,880)		(11,000)	
Sched. Reimb. - Other	(3,525)		(15,000)			(15,000)	
Unsched. Reimb. - Other	(158,407)	(50,461)		(73,180)			
<b>NET APPROPRIATION</b>	<b>4,570,697</b>	<b>2,030,803</b>	<b>4,983,000</b>	<b>2,048,613</b>	<b>41%</b>	<b>4,970,393</b>	<b>12,607</b>
<b>SURPLUS/(DEFICIT):</b>							<b>0.3%</b>



**Veterinary Medical Board  
Summary of Expenditures - 2016/2017**

Line Item	Appropriation	Summary of Expenses
<b>Personal Services:</b>		
Salary & Wages (Staff)	1,138,000	Board staff salaries
Statutory Exempt (EO)	82,000	Executive Officer salary
Temp Help Reg (Seasonals)	33,000	Wages for temporary help such as a permanent-intermittent employees, students, seasonal employees, etc.
Temp Help Reg (Exam Proctors)		Examination Proctors
Board Member Per Diem	14,000	Board members' per-diem
Committee Members (DEC)	11,000	Committee members' per-diem
Overtime		Staff Overtime
Staff Benefits	664,000	OASDI, Dental, health, retirement, life, vision, Medicare
<b>Total Personal Services</b>	<b>1,942,000</b>	
<b>Operating Expenses &amp; Equipment:</b>		
General Expense	31,000	Office supplies, freight
Fingerprint Reports	6,000	Fingerprint expenses – reimbursed by candidate
Minor Equipment		Equipment less than \$5K per unit
Printing	20,000	Printed forms, office copier, copying service
Communications	21,000	Phones, cellular phones
Postage	28,000	Stamps, DCA and EDD facility mailed postage
Insurance	0	Insurance coverage for department owned vehicles.
Travel In-State	148,000	Board, Committee, and Staff Air, car, bus, taxi, incidentals, service fees
Travel Out-of-State		Same as above - out-of-State
Training	20,000	Registration fees, subscriptions
Facilities Operations	102,000	Rent, storage, security
Utilities		Electricity, Natural Gas (P.G.& E.), water, sewer, and regular waste removal service.
C&P Services Interdept.		Services provided by other state agencies or Interagency Agreement within the Department of Consumer Affairs.
C&P Services External	106,000	Outside DCA contracts - includes MAXIMUS
<b>Departmental Services</b>		
Departmental Prorata	458,000	DCA Svcs: Info systems, Administrative Svcs (HR, Accounting, Budgets, etc.), Legal, Publications, Public Affairs
Admin/Exec	287,000	Pro-rata assessments to support DCA Administrative Services
Interagency Services	50,000	Services provided to one board by another board within the Department
IA w/OPES		Services provided by OPES to Board
DOI-Pro Rata Internal	7,000	Services provided by Division of Investigation Pro Rata
Public Affairs Office	9,000	Services provided by DCA Public Affairs
CCED	10,000	Pro-rata Consumer and Community Empowerment Division
<b>Interagency Services</b>		
Consolidated Data Centers	10,000	CAS/Teale Data Center
DP Maintenance & Supply	5,000	Data processing supplies and maintenance
Central Admin Svcs-Pro Rata	157,000	State services pro-rata (DGS, DOF, etc)
<b>Exam Expenses</b>		
Exam supplies	1,000	Examination materials, supplies not covered by contract
Exam freight		Freight, shipping and storage of examination material
Exam site rental	5,000	Facility rental charge for vet exams administration
Expert Examiners (SME)		Subject matter experts for item writing, review and Angoff workshops VET and RVT
C/P Svcs-External Expert Administrative		National exam contracts - includes PSI contract
C/P Svcs-External Expert Examiners	31,000	Wages for services provided by expert examiners in the oral/ written examination process
C/P Svcs-External Subject Matter		Services provided by subject matter experts in the oral/written examination process
<b>Enforcement</b>		
Attorney General	460,000	Office of the Attorney General/DAG legal services
Office of Admin Hearings	59,000	Office of Administrative Hearings, Admin. Law Judge and court reporter services
Court Reporters		
Evidence/Witness Fees	163,000	Expert Witness and In-house Consultants enforcement case review
Div of Investigation	628,000	DCA Division of Investigation services
Major Equipment		Equipment more than \$5k per unit
Special Items of Expense		
Vehicle Operations	3,000	Leasing & maintenance of State vehicle (CPEI BCP)
<b>Total OE&amp;E</b>	<b>2,825,000</b>	
<b>Total Personal Services (above)</b>	<b>1,942,000</b>	
<b>Totals, Expenditures</b>	<b>4,767,000</b>	
Sched. Reimb. - External		Reimbursements for OIS Public Sales
Sched. Reimb. - Fingerprints	(11,000)	Reimbursements for assessment of fingerprint processing fees
Sched. Reimb. - Other	(15,000)	Reimbursements from private individuals, firms, institutions or corporations
<b>Net Appropriation</b>	<b>4,741,000</b>	



# ENFORCEMENT REPORT

---

Prepared by Candace Raney, Enforcement Program Manager

January 2017

## **Expert Witness**

On November 3, 2016, we held an Expert Witness Roundtable at the Office of the Attorney General in San Diego. The topic of discussion was the expert's role in the process and preparation of the expert witness report. The purpose of the meeting was to build upon prior trainings and experience with the goal of further strengthening the Expert Witness Program.

The meeting was attended by board staff, seasoned Experts, members of the Complaint Process Audit Taskforce, and the Supervising Deputy Attorney.

The meeting yielded a number of valuable recommendations for procedural revisions, including how the Board uses in-house consultants for case review, and the development of resources to assist the Experts in the preparation of the expert witness reports, e.g., linkage charts of laws and regulations and report format suggestions.

## **Complaint Investigation**

### **Veterinary Assistant Controlled Substance Permit**

In the first three months since the Board began accepting applications for the Veterinary Assistant Controlled Substance Permit, there have been over 50 applications subject to second level review as the result of notification by the Department of Justice of applicant arrests and/or convictions.

### **Criminal Charges Filed**

On December 23, 2016, following a lengthy, multi-agency investigation (including the Division of Investigation on behalf of the Veterinary Medical Board and the Board of Pharmacy), Sean Gerson was taken into custody by Federal authorities. A criminal complaint filed on December 6, 2016 alleges that Mr. Gerson knowingly dispensed two misbranded drugs without a prescription via the internet. Over the years, the Board has received numerous complaints alleging illegal activities by Mr. Gerson. However, because Mr. Gerson is not a licensed individual, the Board's authority is limited. Attached is a copy of a blog post by the Division of Investigation as well as a news release by the United States Department of Justice.

# ENFORCEMENT REPORT

---

Prepared by Candace Raney, Enforcement Program Manager

January 2017

## **Formal Discipline**

The Formal Discipline Unit continues to work closely with the Office of the Attorney General to efficiently resolve disciplinary matters, monitor and mitigate costs, and ensure that appropriate discipline is sought to resolve matters where a licensee's conduct presents a risk to the public.

Following the October Board meeting where the Board approved a legislative change to the staggered terms for petitions, staff submitted a Legislative proposal to the Senate Business Professions and Economic Development Committee for inclusion in a 2017 Committee bill.

## **Probation**

The Probation Monitor continues to monitor nearly 100 probationers. The Probation Program has been enormously successful in assisting probationers through the probationary process to successful completion. Additionally, the Board has sought subsequent discipline in several cases that involved repeated acts non-compliance. The subsequent discipline has resulted in extension of the probationary term, revocation of the license and/or voluntary surrender of the license.

## **Statistical Report**

For a current statistical report, please refer to the Enforcement Statistical Report for Fiscal Year 2016/17 - Quarter 2.

## **Enforcement Forecast (FY 16/17 Q3)**

Board members can anticipate two mail votes between the January and April Board meetings.

## **Staffing Update**

Management is recruiting for a vacancy in the Board's Complaint Unit and will be conducting interviews this month.

# ENFORCEMENT STATISTICS FISCAL YEAR 2016 - 2017

Veterinary Medical Board

## COMPLAINTS AND CONVICTIONS

Complaints and Convictions	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2016 - 2017 TOTAL
Complaints Received	250	226			
Convictions Received	14	6			
Average Days to Intake	2	2			
Closed	2	0			
Pending at intake	0	4			

Average Days to Intake - Average cycle time from complaint received, to the date the complaint was assigned to an investigator.

# ENFORCEMENT STATISTICS FISCAL YEAR 2016 - 2017

Veterinary Medical Board

## DESK INVESTIGATIONS

Desk Investigation	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2016 - 2017 TOTAL
Assigned	261	227			
Closed	183	260			
Average Days to Complete	223	198			
Pending	584	632			

Average Days to Complete Desk Investigations - Average cycle time from complaint receipt to closure of the investigation process.

## ENFORCEMENT STATISTICS FISCAL YEAR 2016 - 2017

Veterinary Medical Board

### SWORN INVESTIGATIONS

Sworn Investigations	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2016 - 2017 TOTAL
Assigned	25	9			
Closed	13	24			
Average Days to Complete	513	273			
Pending	108	95			

*Average Days to Complete Sworn Investigations - Average cycle time from complaint receipt to closure of the investigation process.*

## ENFORCEMENT STATISTICS FISCAL YEAR 2016 - 2017

Veterinary Medical Board

### ALL TYPES OF INVESTIGATIONS

All Types of Investigations	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2016 - 2017 TOTAL
Closed Without Discipline	180	226			
Cycle Time - No Discipline	228	214			
All pending cases	692	727			

### CITATIONS

Citations	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2016 - 2017 TOTAL
Issued	7	5			
Avg Days to Complete Cite	1222	669			
Citations appealed	0	0			

*Average Days to Issue a Citation - Average cycle time from complaint receipt to the effective date of the citation.*

# ENFORCEMENT STATISTICS FISCAL YEAR 2016 - 2017

Veterinary Medical Board

## ATTORNEY GENERAL CASES

Attorney General Cases	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2016 - 2017 TOTAL
Initiated / Referred to the AG	11	23			
Pending at the AG	70	75			
Statement of Issues Filed	2	5			
Accusations Filed	14	1			

AG Case Action	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2016 - 2017 TOTAL
Closed Without Discipline	1	0			
Closed With Discipline	4	13			
Probation	1	5			
Public Letter of Reprimand	0	0			
Surrender of License	2	4			
License Revoked	1	4			
License Denied (SOI)	0	0			
W/D, Dismissed, Declined	1	0			
Average Days to Close	618	935			

*Average Days to Close a Discipline Case - Average cycle time from complaint receipt to the effective date of the disciplinary order.*

AG Case Violation Type	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2016 - 2017 TOTAL
Substance Abuse (A)					
Unsafe/Unsanitary Cond (E)					
Aiding or Abetting					
Incompetence/Gross Negligence (N)	2	3			
Unprofessional Conduct (R)	1	9			
Criminal Conduct/Conv (V)		1			
Discipline by Another State (T)					
Unlicensed Activity (U)					
Drug Related Offenses (D)	1				
Fraud (F)					

# ENFORCEMENT STATISTICS FISCAL YEAR 2016 - 2017

Veterinary Medical Board

## PROBATION

Probation	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	FY 2016 - 2017 TOTAL
New Probation Cases	3	4			
Probation Completed	5	4			
Active Cases	88	88			
Probationary Licenses	0	4			
Applicants pending licensure	9	14			
Tolled	5	5			
Petition to Revoke	6	4			

--	--	--	--



# Administration/Examination/Licensing Report

Prepared by Ethan Mathes

January 2017

## Applications

<b>Applications Received</b>		
<i>as of November 30, 2016</i>		
	Jan. 2015 - Dec. 2015	Jan. 2016 - Dec. 2016*
Veterinarian	598	626
Veterinary Technician	735	865
Veterinary Premises	267	269
Veterinary Asst. Cont. Sub. Permit	-	977
<i>*partial year data</i>		

## Examinations

<b>CALIFORNIA STATE BOARD EXAMINATION</b>			
November 2015 – April 2016		May 2016 – October 2016	
Candidates	Pass Pct.	Candidates	Pass Pct.
259	80%	207	67%

<b>NORTH AMERICAN VETERINARY LICENSING EXAMINATION</b>			
Nov./Dec. 2015		April 2016	
Candidates	Pass Pct.	Candidates	Pass Pct.
311	89%	71	65%

<b>CALIFORNIA VETERINARY TECHNICIAN LAW EXAMINATION</b>					
Jul. – Dec. 2016		Jan. – Jun. 2016		Jul. – Dec. 2016*	
Candidates	Pass Pct.	Candidates	Pass Pct.	Candidates	Pass Pct.
366	94%	300	80%	216	62%

*\*partial year data*

<b>VETERINARY TECHNICIAN NATIONAL EXAMINATION</b>					
Mar./Apr. 2016		Jul./Aug. 2016		Nov./Dec. 2016*	
Candidates	Pass Pct.	Candidates	Pass Pct.	Candidates	Pass Pct.
277	55%	350	63%	90	63%

*\*partial year data*

Examination statistics by school for the California RVT examination (July-December 2016) and Veterinary Technician National Examination (VTNE) (November/December 2016) will be available with the April 2017 Report.

## Licensing

<i>as of November 30, 2016</i>	
Veterinarian Licenses*/**	13,927/12,004
Veterinarian Licenses – California**	9,647
Veterinarian – Internship**	26
Veterinarian – Reciprocity**	15
Registered Veterinary Technician Licenses*/**	8,246/6,312
Registered Veterinary Technician Licenses – California**	5,900
Premise Permits**	3,716
Premise Permits – Exempt**	84
Veterinary Asst. Cont. Sub. Permit	192
<i>*includes delinquent, inactive, and clear licensees; **clear licensees</i>	

<i>as of November 30, 2016</i>		
	<i>Jan. 2015 - Dec. 2015</i>	<i>Jan. 2016 - Dec. 2016*</i>
Veterinarian	595	618
Reciprocity	52	42
Intern	30	27
Registered Veterinary Technician	550	488
Premises	267	281
Veterinary Asst. Cont. Sub. Permit	-	114
<i>*partial year data</i>		

## Examination Development and Workshops

*Examination Development Workshops:* Workshops include Item Writing, Item Review, Examination Construction, and Pass Score Setting. For each yearly series of Workshops the Board acquires two new examination forms for the State veterinary and veterinary technician examinations.

Workshops for 2016 have completed.

May 24-25	Exam Item Writing
June 6-8	VET Law Exam Development
June 21-22	Exam Review
July 11-13	Exam Construction
August 9-10	Exam Passing Score
July 26-27	Exam Item Writing
August 16-17	Exam Item Review
September 26-28	Exam Construction/Passing Score

*Veterinary Technician Occupational Analysis:* The OA survey of the veterinary technician profession closed in September; workshops were held to review the survey results and to identify current practice knowledges, skills and abilities in a final OA document. The OA is due for completion January 2017.

Following the completion of the OA, an audit of the National Registered Veterinary Technician Exam plan will determine the future CA supplemental exam plan. Based on the OA and National exam audit, a new CRVT exam plan will be announced and presented in the VMB CRVT exam preparation guides in approximately January 2018.

*Veterinary Law Examination Analysis:* The California Veterinary Law Examination (VLE) has undergone a review and update in cooperation with DCA's Office of Professional Examination Services (OPES) and examination SMEs. As a part of this review, through a three-day workshop held in June 2016, the Board has acquired two new versions of the VLE including a Report of Findings with recommendations from OPES (attached to this Report).

Staff will roll out the new version of the VLE starting in 2017.

### **Diversion Program**

The next Diversion Evaluation Committee (DEC) meeting is scheduled for January 2017.

The DEC meets every January, June, and October. There are currently four participants in the Diversion Program.

### **BreEZe**

*Update [January 2016]* – Due to provisions in SB 1193, staff has initiated a Work Authorization (WA) with the Department's Change Control Board (CCB) in preparation for the implementation of the University License. At the October CCB meeting, the Board was approved for full Impact Analysis that includes initiating system design for the University License. Staff worked with the BreEZe team in October to design specifications for the new license and continues to provide necessary specifications and information as the new license type undergoes formal system design; staff has requested an early implementation of the license (for July 2017) and has been advised additional costs may be incurred as a result of this early implementation. An implementation date for the University License has not been determined at this time; however, the Board's WA has been given high-priority in relation to all total WAs that have been approved by the CCB.

### **Personnel**

The Board recently filled its vacant Program Technician position with the hiring of Courtney Bolden. Ms. Bolden, along with the entire Licensing Team, has been instrumental in rolling out the new VACSP license.

Staff has also begun the process of recruiting for a Retired Annuitant to assist with the extensive list of pending rulemaking actions. Retired Annuitants are former State employees who are authorized to work an average of 20 hours per week.





## MEMORANDUM

<b>DATE</b>	November 30, 2016
<b>TO</b>	Ethan Mathes, SSM I Veterinary Medical Board
<b>FROM</b>	Kamilah Holloway, M.A., Research Program Specialist II Office of Professional Examination Services
<b>SUBJECT</b>	<b>Overlap Study of the Veterinary Law Examination and the California State Board Veterinary Licensure Examination</b>

The Veterinary Medical Board (VMB) requested that the Department of Consumer Affairs' Office of Professional Examination Services (OPES) conduct a study to determine overlapping content between the Veterinary Law Examination (VLE) and the California State Board (CSB) Veterinarian Licensing Written Examination. The purpose of the study was to explore the possibility of reducing veterinarian licensure examination requirements. Currently, Business and Professions Code 4848 requires that candidates for licensure pass the North American Veterinary Licensing Examination (NAVLE), the CSB examination, and the VLE.

The study was conducted from June 28 to June 30, 2016. A representative group of subject matter experts (SMEs) was convened to review the current CSB examination content outline; specifically, the SMEs reviewed the Professional Responsibilities content area which accounts for 14% of the CSB examination and delineates the knowledge of California and federal laws and regulations pertaining to professional responsibilities of veterinarians. The current CSB examination outline resulted from the 2013 occupational analysis (OA) of California veterinarian practice.

The following steps were taken to determine overlap between the VLE and the CSB examination:

1. The SMEs reviewed the VLE items.
2. The SMEs reviewed the 2016 California Veterinary Medicine Practice Act (VMPA) and established the link between VLE items and VMPA laws and regulations.
3. The SMEs reviewed the Professional Responsibilities content area of the CSB examination content outline.
4. The SMEs determined links between the VMPA laws and regulations that were linked to the VLE items and the specific task and knowledge statements within the Professional Responsibilities content area of the CSB examination content outline.
5. The SMEs were then asked to review a sample of examination items from the CSB examination item bank referenced to the same OA task and knowledge statements and the VMPA codes that the Veterinarian Law Examination VLE items were linked to.
6. In addition to the steps taken to determine overlap between the VLE and the CSB examination, OPES worked with the SMEs to write new VLE items and to create two new VLE forms in accordance with the identified OA and VMPA linkage.

The SMEs agreed unanimously that all of the VLE items were linked to the CSB examination content outline. In addition, the majority of the items from the VLE were linked to related items in the CSB examination item bank and those that were not directly related either by wording or subject matter had established OA linkages and could thus be covered by the CSB.

### **Recommendations to the Veterinary Medical Board (VMB):**

Based on SME input, OPES determined that three options are available to the VMB regarding future VLE administration. The options are as follows:

- Option 1:** Continue to administer the current form of the VLE; this is not recommended because the current form of the VLE is overexposed.
- Option 2:** Continue to administer the VLE using new examination forms yearly to eliminate overexposure of examination materials.
- Option 3:** Initiate statutory (BPC section (a)(2)(C) and regulatory (CCR section 2014 and 2015.2) changes to discontinue administration of the VLE for all candidates for licensure who have completed the national exam, the CSB examination, and a VMB-approved veterinary training program.
  - a) Only successful completion of the national examination and CSB examination would be required to obtain veterinarian licensure.
  - b) The VLE would continue to be administered to candidates applying for licensure through reciprocity
  - c) The VLE will contain new examination items created yearly for administration to reciprocity-based candidates to prevent overexposure of examination materials.

Option 3 reduces the necessary requirements for licensure and is psychometrically sound; the requisites for safe and effective practice including the knowledge of veterinary law will be met by administering the NAVLE and the CSB examination. Option 3 would require that new forms of the VLE be administered as mandated until regulatory changes go into effect.

## Hospital Inspection Program Update – December 2016

We began this fiscal year with 17 Inspectors however, we recently lost one inspector for health reasons. In spite of this, we are slated to complete approximately 700 inspections this fiscal year.

### **Staffing**

Recruitment efforts continue to fill the vacancy on the premises licensing desk. Interviews have taken place and a decision is forthcoming.

### **Ride-alongs**

Annemarie participated in a ride-along recently; we will be scheduling ride-alongs for interested staff members beginning with the Enforcement Unit. We also have a board member scheduled for a ride-along in January.

### **Minimum Standards**

Certain issues regarding minimum standards surfaced during recent discussions with CVMA as well as challenges raised with OAL on the application of minimum standards. As a result, staff will be taking a closer look at the issues raised and will be making updates to the Hospital Standards Self-Evaluation Checklist as appropriate.

### **DEA Issues**

Staff has been in discussions with DEA policy liaison staff regarding Mid-Level practitioners authorized to dispense a controlled substance in the course of professional practice, specifically RVTs. Staff also discussed hospital/clinic registrations or group practice registrations where an entity has authority to dispense controlled substances and each practitioner may be listed by suffix. Many states have not explored the issues surrounding granting a facility DEA registration as this is a newer model for veterinary medicine.

### **Statistics (as of 11/30/16)**

- Routine Inspections Assigned: 381
- Routine Inspection Performed: 195
- Routine Inspections Pending (not yet assigned): 274
- Complaint/Probation Related Inspections Performed: 15
- Complaint/Probation Related Inspections Pending: 35
- Document Review Status: reviewing compliance documents from June 2016 inspections
- Compliance Rate: 40% after initial inspection
- Expenditures: \$80,000 to date