

# BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR DEPARTMENT OF CONSUMER AFFAIRS • VETERINARY MEDICAL BOARD 1747 North Market Blvd., Suite 230, Sacramento, CA 95834-2978 P (916) 515-5220 | Toll-Free (866) 229-0170 | www.vmb.ca.gov



#### MEMORANDUM

DATE	January 30, 2020
то	Veterinary Medical Board
FROM	Jessica Sieferman, Executive Officer
SUBJECT	Agenda Item 10A. Status Update on Pending Regulations

The Veterinary Medical Board (Board) currently has 17 regulatory packages that are pending the regulatory process. Eleven of those packages have been submitted and are in various stages of the initial or final phase, as identified on the attached document. The remaining 6 packages are pending development from the Lead Administrative and Policy Analyst before submission or are pending Board approval.

Changes since the October 2019 Board meeting include the following:

#### • Emergency Fee Increase - Approved

The emergency fee rulemaking package was approved by Office of Administrative Law on January 27, 2020 and filed with the Secretary of State. The emergency fee increase became effective the day of approval. In order for the fee increase to remain permanent, the Board must submit the packet through the regular rulemaking process and file a Certificate of Compliance by July 24, 2020.

- Consumer Protection Enforcement Initiative (CPEI) Revised and Resubmitted The Office of Administrative Law (OAL) requested minor technical revisions. Those revisions were made and the package was resubmitted to OAL on November 20. The Office of Administrative Law (OAL) approved the CPEI rulemaking file on December 30. It will become effective on April 1, 2020.
- AB 2138 (Substantial Relationship and Rehabilitation Criteria) Withdrawn
  Due to multiple substantive concerns with the proposed regulatory text raised by the
  Office of Administrative Law (OAL), I had to officially withdraw our AB 2138 rulemaking
  package on November 19. As you may recall, this proposal was a collaborative effort
  from DCA, OAL, and the Attorney General's office (AG), and we were the first DCA
  board to submit our package to OAL for review. After the package was withdrawn,
  DCA's Legal Affairs Division worked on options to address OAL's concerns. The Board
  will be discussing the proposed solutions during Agenda Item 10D.

#### Telemedicine - Approved

The rulemaking packet was approved by OAL on November 27 and became effective on January 1, 2020.

#### • VCPR Informed Consent – Need to Readopt

Now that the Telemedicine rulemaking is approved by OAL, I recommend revisiting the VCPR Informed Consent proposal. When the Board approved this proposal at the January 2019 meeting, it was aware of the Telemedicine proposal moving through the rulemaking process and had that language in the meeting materials. We believe it is best to bring the Informed Consent proposal back to the Board. Agenda Item 10D further discusses this and requests the Board readopt the revisions to the regulation following enactment of the Telemedicine provisions. This would make it cleaner for OAL review.

#### • Animal Physical Rehabilitation – Submitted to the Director

The Legal Affairs Division approved the APR rulemaking and submitted to the Director on January 10, 2020. After approval, it will go to Agency for review/approval. Then, it will be publicly noticed an the 45-day public comment period will begin.

#### **Rulemaking Calendar**

Government Code section 11017.6 requires every state agency responsible for implementing a statute that requires interpretation pursuant to the Administrative Procedure Act to prepare, by January 30, a rulemaking calendar for that year.

The rulemaking calendar must be (1) prepared in accordance with the format specified by the Office of Administrative Law (OAL), (2) approved by the head of the department or, if the rulemaking agency is an entity other than a department, by the officer, board, commission, or other entity which has been delegated the authority to adopt, amend, or repeal regulations, and (3) published in the California Regulatory Notice Register (Notice Register). (Government Code, section 11017.6.)

Attached is the Board's rulemaking calendar submitted by the Board. The format for the rulemaking calendar has changed in order to be ADA compliant.

#### Attachments:

- 1. January Status of Pending VMB Regulations Updated January 27, 2020
- 2. 2020 Rulemaking Calendar

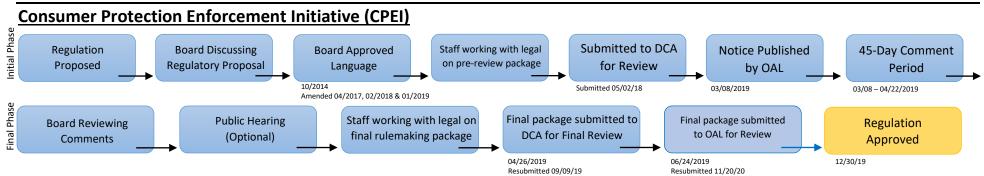
#### **Emergency Fee Increases**



**CCR Section:** 2070, 2071

Notes:

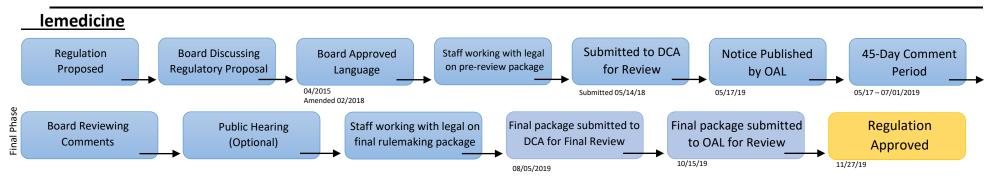
The Board approved emergency and general rulemaking on 10/9/19. The package was submitted for pre-review on 10/17/19. On 10/25/19, the package was submitted to DCA for concurrent Legal Affairs and Budget review; both units approved the package on 11/19/19. Director approved package on 12/30/19, and it was submitted to Agency on 12/31/19 and approved on 1/9/20. The Board published its Notice of Intent to File on January 10, 2020, and OAL initiated the five-day public comment period on January 17, 2020. OAL approved the rulemaking and filed it with the Secretary of State on January 27, 2020, effective immediately.



**CCR Section:** 2003, 2017, 2042

Notes:

The CPEI rulemaking package was originally submitted through DCA for review in 07/2017, but due to recommendations received from Legal Affairs, the package was returned to the Board and amendments were made to the proposed language effective 02/2018. The rulemaking package was re-submitted to DCA for review effective 05/02/2018. Comments and recommendations were received from Agency and the Board amended the proposed language at the 01/2019 meeting. The package was noticed by OAL on 03/08/2019 and the 45-day comment period closed on 04/22/2019. The final rulemaking package was submitted to OAL for review on 06/24/2019. Due to comments received from OAL, this package was withdrawn on 08/02/2019. An addendum to the Initial Statements of Reasons was submitted and a 15-day notice was published on 08/21/2019 and the comment period closed on 09/05/2019. The addendum to the package was resubmitted to DCA on 09/09/19. The package was submitted to Agency on of 09/24/2019 and approved on 11/7/2019. The package was resubmitted to OAL on 11/20/19 and approve/filed with Secretary of State on 12/30/19. The revised regulation is effective April 1, 2020.



CCR Section: 2032.1

Notes:

The Telemedicine proposed language was approved in <u>04/2015</u> and then amended in <u>02/2018</u>. The rulemaking package has been submitted to DCA for review effective 05/14/2018. The package was noticed by OAL on <u>05/17/2019</u> and the 45-day comment period closed on 07/01/2019. The final rulemaking package was submitted to DCA effective 08/05/2019. The package was submitted to Agency on 09/03/2019 and approved on 10/9/19. The Final package was submitted to OAL on 10/15/19 and approved by OAL and filed with Secretary of State on 11/27/19. The effective date is 1/20/20.

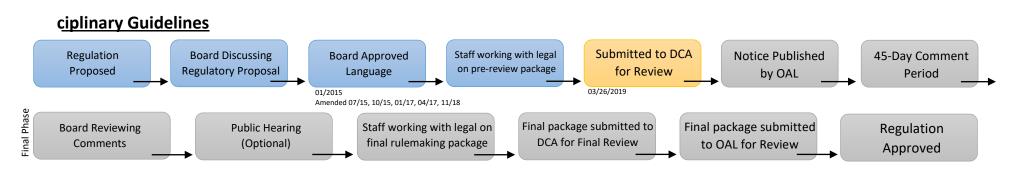
#### stantially Related Criteria Regarding Criminal Convictions



<u>CCR Section:</u> <u>2040</u> and <u>2041</u>

Notes:

This regulation was approved by the Board at the <u>01/2019</u> meeting. This regulatory proposal is mandated by <u>AB 2138</u> (Chiu, Chapter 995, Statutes of 2018) and must be implemented by 07/01/2020. The package was submitted to OAL on 06/17/19 and noticed on <u>06/28/19</u>. The 45-day comment period closed on 08/12/19. The final rulemaking package was submitted to DCA effective 08/15/2019. The package was submitted to Agency on 08/28/2019 and approved 10/2/19. The Final package was submitted to OAL on 10/9/19; on 11/18/2019, OAL raised concerns which ultimately led to EO withdrawing rulemaking on 11/20/19. 1/30/20 possible Board review of revised text.



**CCR Section:** 2006

Notes: The Disciplinary Guidelines rulemaking package proposed language was approved in 01/2015 and then amended 07/2015, 10/2015, 01/2017,

04/2017 and 11/2018. The rulemaking package was submitted to DCA for Legal Affairs and Budgets concurrent review on 03/26/2019. Budgets

approved on 8/16/19. The package is still pending Legal Affairs.

#### erinary Technician Education



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

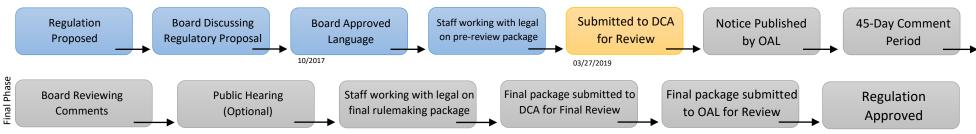
Notes: RVT Alternate Route: In 02/2015 the MDC approved proposed language. In 07/2015 the Board approved proposed language.

RVT Student Exemption: In 07/2015 the MDC approved proposed language. In 10/2015 the Board approved proposed language.

RVT AVMA School Approval: In <u>07/2016</u> the Board approved proposed language.

The RVT Alternate Route, RVT Student Exemption and RVT AVMA School Approval were combined and approved in <u>07/2017</u>. The language was amended at the <u>08/2018</u> Board meeting. The rulemaking package was submitted to DCA for Legal Affairs and Budgets concurrent review on <u>03/26/2019</u>. Budgets approved on <u>9/20/19</u>. The package is still pending Legal Affairs.

#### g Compounding

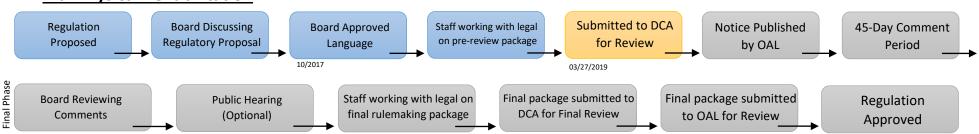


**CCR Section: 2090-2096** 

Notes:

The Drug Compounding rulemaking package proposed language was approved in 10/2017. The rulemaking package was submitted to DCA on 03/27/2019 pulled back on 9/19/20 by staff. The Board adopted revised language on 10/10/19. The Board will be considering revised language to incorporate recent FDA guidance on bulk drug compounding on 1/30/20.

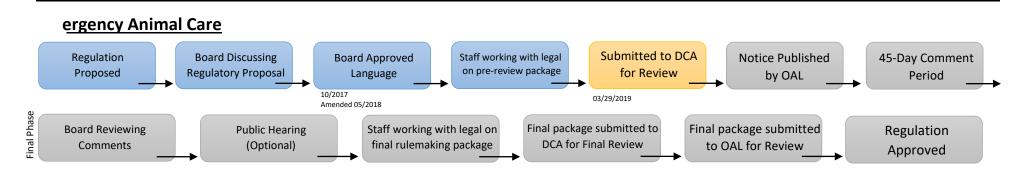
#### imal Physical Rehabilitation



CCR Section: 2038.5

Notes:

The Animal Rehabilitation rulemaking package was previously filed with OAL and withdrawn in 11/2015. Three taskforce meetings were held to discuss this issue (06/2016, 10/2016, 02/2017). In 10/2017 the Board approved proposed language. The rulemaking package was submitted to DCA for Legal Affairs and Budget concurrent review on 03/27/2019; Budgets approved on 9/10/19. Legal Affairs approved the package on January 10, 2020 and submitted it to the Director for review.



**CCR Section:** 2069

Notes:

The Emergency Animal Care rulemaking package proposed language was approved by the Board in <u>10/2017</u> but brought back for further discussion at its <u>02/2018</u> meeting. The Board approved language at the <u>05/2018</u> meeting. The rulemaking package was submitted to DCA for DCA Legal Affairs and Budget concurrent review on 03/28/2019; Budgets approved on 8/16/19. The package is still pending with Legal Affairs.

#### **T Job Tasks Board Discussing** Staff working with legal Submitted to DCA **Notice Published** Regulation 45-Day Comment **Board Approved** on pre-review package Proposed **Regulatory Proposal** for Review Language by OAL Period 05/2018 04/04/2019 Amended 11/2018 Final Phase Final package submitted Staff working with legal on Final package submitted to Regulation **Board Reviewing Public Hearing** (Optional) DCA for Final Review Comments final rulemaking package to OAL for Review Approved

CCR Section: 2036

Notes:

The RVT Job Tasks rulemaking package proposed language was approved by the MDC at their 10/2017 meeting and discussed at the Board's 02/2018 meeting. The Board approved language at the 05/2018 meeting. At the 11/2018 meeting, the Board amended the approved language to include drug compounding. The rulemaking package was submitted to DCA for Legal Affairs and Budget concurrent review on 04/04/2019 and is still pending.

#### ies of Supervising Veterinarian Submitted to DCA **Board Discussing** Staff working with legal Notice Published 45-Day Comment Regulation **Board Approved** on pre-review package **Proposed Regulatory Proposal** Language for Review by OAL Period 05/2018 04/04/2019 Final Phase Final package submitted to **Board Reviewing Public Hearing** Staff working with legal on Final package submitted Regulation final rulemaking package DCA for Final Review Comments (Optional) to OAL for Review **Approved**

CCR Section: 2035

Notes: The Duties of a Supervising Veterinarian proposed regulations were approved by the Board at the <u>05/2018</u> meeting. This regulation was

previously called "Extended Duty" for Registered Veterinary Technicians. The rulemaking package was submitted to DCA for Legal Affairs and

Budget concurrent review on 04/03/2019 and is still pending.

#### **Veterinarian-Client-Patient Relationships (VCPRs)**



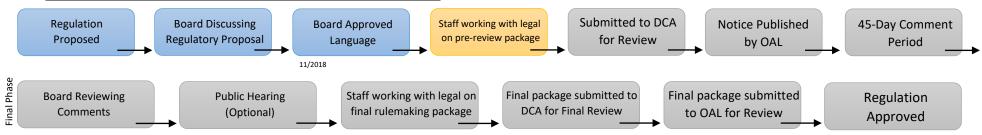
CCR Section: 2032.15, 2032.25

Notes: VCPRs was originally included with Telemedicine and Minimum Standards and approved at the <u>04/2015</u> meeting, but a byproduct of separating the Telemedicine from Minimum Standards cause the VCPRs to be dropped off. The language was re-presented to the Board at the <u>08/2018</u>

meeting where additional changes were approved. The rulemaking package was submitted to DCA for Legal Affairs and Budget concurrent

review on 04/10/2019 and is still pending.

#### inimum Standards for Alternate Veterinary Premises



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

Notes: The Minimum Standards for Alternate Veterinary Premises proposed regulations were approved by the MDC at their <u>02/2018</u> meeting and

forwarded to the Board for discussion. The Board approved language at the  $\frac{11/2018}{2018}$  meeting. Board staff is working with legal to develop the

initial rulemaking package prior to submitting to DCA for review.

#### **Iter Minimum Standards**



**CCR Section:** 2035.5, 2030.6

Notes: The Shelter Minimum Standards concept was approved by the MDC at the <u>01/2019</u> meeting and the Board made minor amendments and

approved the language at the 04/2019 meeting. Board staff is working with legal to develop the initial rulemaking package prior to submitting to

DCA for review.

#### erinary Student Exemption/RVT Exam Eligibility



CCR Section: 2027, 2027.5

Notes: The

The Veterinary Student Exemption proposal was discussed and conceptionally approved 04/2017. This regulation is pending updates required by new Business and Professions Code (BPC) 4841.2 per <u>SB 1480</u> (Hill, Chapter 571, Statutes of 2018). The Board briefly reviewed the proposed language at the <u>04/2019</u> meeting and approved the proposed language at the <u>07/2019</u> meeting.

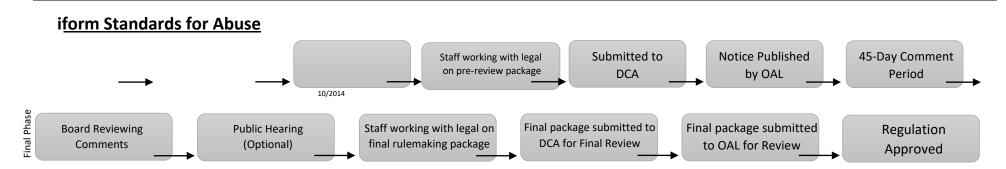
#### **CPR/Informed Client Consent**



CCR Section: 2032.1

Notes:

The VCPR/Informed Client Consent proposed regulations was presented as a question from the MDC regarding the requirements of a veterinarian to advise clients about dental radiographs at the <a href="https://example.com/1/2018">11/2018</a> meeting. The Board reviewed this at the <a href="https://example.com/01/2019">01/2019</a> meeting and decided to proceed with regulatory amendments. This regulatory package was held pending the approval of the Telemedicine regulations. The Board will review/approve the proposal with telemedicine language update during the 1/30/20 meeting.



CCR Section: 2006, 2006.5, 2076

Notes:

The Uniform Standards for Abuse rulemaking proposed language was approved in 10/2014 and was on hold per legal from 04/2015-03/2016. Pending amendments to be re-submitted to the Board for review and approval. As discussed at the 11/2018 meeting, DCA is reviewing the Uniform Standards of other healing arts Boards and it was recommended to hold off on developing the regulatory package until DCA has completed their review and recommendations. At the 01/2019 meeting, the Board created a subcommittee to look at Uniform Standards further. At the 04/2019 meeting the subcommittee provided a brief update on the Uniform Standards and at the 09/12 teleconference the Board voted to proceed with a new trigger. The Board approved revised language on 10/9/19.

## DEPARTMENT OF CONSUMER AFFAIRS Veterinary Medicine Board of California 2020 RULEMAKING CALENDAR

## SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING STATUTES ENACTED PRIOR TO THE YEAR 2019

**Subject: Emergency Fee Increases** 

California Code of Regulations Title and Sections Affected: 16 CCR 2070 and 2071

Statute(s) Being Implemented: Business and Professions Code Section 4808

Responsible Agency Unit: N/A

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

**Submitted to OAL: January 17, 2020** 

Projected OAL approval: January 27, 2020

Projected Filing of Certificate of Compliance Date: July 24, 2020

###

Subject: Substantial Relationship and Rehabilitation Criteria

California Code of Regulations Title and Sections Affected: 16 CCR 2040 and 2041

Statute(s) Being Implemented: Business and Professions Code Sections 141, 475, 480, 481, 482, 490, 492, and 493 (AB 2138, Chiu and Low, Chapter 995, Statutes of 2018)

Responsible Agency Unit: N/A

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

Original Notice Publication Date: June 28, 2019

Adoption by Your Agency Date: January 23, 2019

**Projected Public Hearing Date: None set unless requested** 

Projected Adoption of Modified Text by Your Agency Date: January 30, 2020

**Projected To OAL for Review Date: May 15, 2020** 

###

**Subject: Animal Physical Rehabilitation** 

California Code of Regulations Title and Sections Affected: 16 CCR 2038.5

Statute(s) Being Implemented: Business and Professions Code Sections 4808 and 4836

Responsible Agency Unit: N/A

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

**Projected Notice Publication Date: May 15, 2020** 

**Projected Public Hearing Date: None set unless requested** 

Adoption by Your Agency Date: October 18, 2017

**Projected To OAL for Review Date: October 30, 2020** 

###

**Subject: RVT Emergency Animal Care** 

California Code of Regulations Title and Sections Affected: 16 CCR 2069

Statute(s) Being Implemented: Business and Professions Code Sections 4808, 4836 and 4840.5 (SB 547, Hill, Chapter 429, Statutes of 2017)

Responsible Agency Unit: N/A

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

**Projected Notice Publication Date: May 15, 2020** 

Projected Public Hearing Date: None set unless requested

Adoption by Your Agency Date: May 23, 2018

Projected To OAL for Review Date: October 30, 2020

###

**Subject: Veterinarian-Client-Patient Relationship** 

California Code of Regulations Title and Sections Affected: 16 CCR 2032.15, 2032.25

Statute(s) Being Implemented: Business and Professions Code Section 4808

Responsible Agency Unit: N/A

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

**Projected Notice Publication Date: May 15, 2020** 

**Projected Public Hearing Date: None set unless requested** 

Adoption by Your Agency Date: August 29, 2019

**Projected To OAL for Review Date: October 30, 2020** 

###

**Subject: RVT Job Tasks** 

California Code of Regulations Title and Sections Affected: 16 CCR

2036

Statute(s) Being Implemented: Business and Professions Code

Sections 4808, 4826, and 4836

**Responsible Agency Unit: Enforcement** 

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

**Projected Notice Publication Date: May 15, 2020** 

Projected Public Hearing Date: None set unless requested

Adoption by Your Agency Date: May 23, 2018

Projected To OAL for Review Date: October 30, 2020

###

**Subject: Duties of a Supervising Veterinarian** 

California Code of Regulations Title and Sections Affected: 16 CCR 2035

Statute(s) Being Implemented: Business and Professions Code Sections 4808 and 4836

Responsible Agency Unit: N/A

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

**Projected Notice Publication Date: May 15, 2020** 

Projected Public Hearing Date: None set unless requested

Adoption by Your Agency Date: May 23, 2018

Projected To OAL for Review Date: October 30, 2020

###

**Subject: RVT Education** 

California Code of Regulations Title and Sections Affected: 16 CCR 2036.1, 2064, 2065.1, 2065.6-2065.8, 2066, 2068.5

Statute(s) Being Implemented: Business and Professions Code Section 4808 and 4841.1 (AB 1980, Hayashi, Chapter 538, Statutes of 2010)

Responsible Agency Unit: N/A

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

**Projected Notice Publication Date: May 15, 2020** 

**Projected Public Hearing Date: None set unless requested** 

Adoption by Your Agency Date: August 28, 2018

Projected To OAL for Review Date: October 30, 2020

###

**Subject: Disciplinary Guidelines** 

California Code of Regulations Title and Sections Affected: 16 CCR 2006

Statute(s) Being Implemented: Business and Professions Code Sections 4808 and 4845(d), and Government Code Section 11400.20

**Responsible Agency Unit: Enforcement** 

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

**Projected Notice Publication Date: May 15, 2020** 

**Projected Public Hearing Date: None set unless requested** 

Adoption by Your Agency Date: November 14, 2018

Projected To OAL for Review Date: October 30, 2020

###

**Subject: Drug Compounding** 

California Code of Regulations Title and Sections Affected: 16 CCR 2090-2096

Statute(s) Being Implemented: Business and Professions Code Sections 4808 and 4826.5 (SB 1193, Hill, Chapter 484, Statutes of 2016)

Responsible Agency Unit: N/A

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

**Projected Notice Publication Date: July 3, 2020** 

**Projected Public Hearing Date: None set unless requested** 

Adoption by Your Agency Date: October 10, 2019

Projected To OAL for Review Date: December 31, 2020

###

**Subject: Uniform Standards** 

California Code of Regulations Title and Sections Affected: 16 CCR 2006, 2006.5, 2076

Statute(s) Being Implemented: Business and Professions Code Sections 315, 315.2, 315.4, 4808, and 4845

Responsible Agency Unit: N/A

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

**Projected Notice Publication Date: August 28, 2020** 

**Projected Public Hearing Date: None set unless requested** 

Adoption by Your Agency Date: October 9, 2019

Projected To OAL for Review Date: December 31, 2020

###

**Subject: Vet Grad Student Exemption** 

California Code of Regulations Title and Sections Affected: 16 CCR 2027, 2027.5

Statute(s) Being Implemented: Business and Professions Code Section 4841.2 (SB 1480, Hill and Low, Chapter 571, Statutes of 2018)

**Responsible Agency Unit:** 

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

**Projected Notice Publication Date: August 28, 2020** 

Projected Public Hearing Date: None set unless requested

Adoption by Your Agency Date: July 17, 2019

Projected To OAL for Review Date: December 31, 2020

###

**Subject: Shelter Minimum Standards** 

California Code of Regulations Title and Sections Affected: 16 CCR 2030.6

Statute(s) Being Implemented: Business and Professions Code Section: 4840

Responsible Agency Unit: N/A

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

**Projected Notice Publication Date: August 28, 2020** 

**Projected Public Hearing Date: None set unless requested** 

Adoption by Your Agency Date: April 17, 2019

Projected To OAL for Review Date: December 31, 2020

###

**Subject: Alternate Premises Minimum Standards** 

California Code of Regulations Title and Sections Affected: 16 CCR 2030-2030.5

Statute(s) Being Implemented: Business and Professions Code Sections 4808 and 4854

Responsible Agency Unit: N/A

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

**Projected Notice Publication Date: August 28, 2020** 

**Projected Public Hearing Date: None set unless requested** 

Adoption by Your Agency Date: November 14, 2018

Projected To OAL for Review Date: December 31, 2020

###

Subject: Veterinarian-Client-Patient Relationship (Client Informed Consent)

California Code of Regulations Title and Sections Affected: 16 CCR 2032.1

Statute(s) Being Implemented: Business and Professions Code Section 4808

Responsible Agency Unit: N/A

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

**Projected Notice Publication Date: August 28, 2020** 

**Projected Public Hearing Date: None set unless requested** 

**Adoption by Your Agency Date: January 30, 2020** 

Projected To OAL for Review Date: December 31, 2020

###

**Subject: Civil Penalties for Citation** 

California Code of Regulations Title and Sections Affected: 16 CCR 2043

Statute(s) Being Implemented: Business and Professions Code Section 4808

Responsible Agency Unit: N/A

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

**Projected Notice Publication Date: August 28, 2020** 

**Projected Public Hearing Date: None set unless requested** 

Projected Adoption by Your Agency Date: April 23, 2020

Projected To OAL for Review Date: December 31, 2020

###

**Subject: License Application (Criminal Conviction revision)** 

California Code of Regulations Title and Sections Affected: 16 CCR 2010

Statute(s) Being Implemented: Business and Professions Code Sections 141, 475, 480, 481, 482, 490, 492, and 493 (AB 2138, Chiu and Low, Chapter 995, Statutes of 2018)

Responsible Agency Unit: N/A

Contact Person and Phone Number: Justin Sotelo (916) 515-5238

**Projected Notice Publication Date: August 28, 2020** 

**Projected Public Hearing Date: None set unless requested** 

Projected Adoption by Your Agency Date: April 23, 2020

Projected To OAL for Review Date: December 31, 2020

###

Report on the Status of all Uncompleted Rulemaking Described on Previous Calendars:

Implementation of AB 2138– Will go out for 15-day comment on text changes required by OAL.