



MEMORANDUM

Revised

DATE	January 26, 2021
TO	Veterinary Medical Board
FROM	Tara Welch, Board Counsel, Attorney III Department of Consumer Affairs, Legal Affairs Division
SUBJECT	Agenda Item 11.C. Section 2038.5, Article 4, Division 20, Title 16 of the California Code of Regulations (CCR) Regarding Animal Physical Rehabilitation

Background

Beginning in 2011, the Veterinary Medical Board (Board) and Multidisciplinary Advisory Committee (MDC) began discussing the expanding veterinary specialty of animal rehabilitation (AR). Discussions included: the definition of AR; the regulation of AR; who may perform AR; and the level of supervision required when AR is not performed by a veterinarian. In response to these discussions, proposed regulatory language was considered and approved by the Board in 2013.

At the [January 20](#) and [April 28, 2015](#) Board meetings, revisions to the proposed language were considered and approved by the Board, which resulted in the original proposed regulatory action being published by the Office of Administrative Law (OAL) on July 17, 2015. However, in response to comments received during the 45-day public comment period, testimony provided at the September 10, 2015 public hearing, and several policy and legal issues raised during that time, the Board voted to [withdraw](#) the proposed regulations from OAL at its [October 20, 2015](#) meeting. Additionally, the Board voted to refer the issue back to the MDC in order to: re-address the definition of AR; address minimum education requirements and level of supervision required for individuals performing AR; discuss the premises permit requirement whenever veterinary medicine is being practiced; and address barriers and the issue of physical therapists being exempt from licensure by the Board.

At its [January 19, 2016](#) meeting, the MDC discussed the issue but refrained from further action until recommendations were provided as a result of the Board's Sunset Review process. At its [April 20, 2016](#) meeting, in response to the California State Legislature's recommendation, the Board voted to create the Animal Rehabilitation Task Force (Task Force), which was comprised of a diverse group of stakeholders and representatives. The Task Force's objective was to develop and provide a recommendation to the Board regarding

an approach to regulating individuals who provide AR. The Task Force met on [June 20, 2016](#), [October 4, 2016](#), and [February 2, 2017](#).

At its [April 19, 2017](#) meeting, the Board reviewed and voted on each of the recommendations proposed by the Task Force. At its [July 26, 2017](#) meeting, the Board voted on an additional provision, requiring that a veterinary assistant (VA) be under direct supervision of a veterinarian if they are delegated to provide animal physical rehabilitation (APR). At its [October 18, 2017](#) meeting, the Board voted on final language to again be published by OAL for a 45-day public comment period.

In response to the Board's latest proposed rulemaking, on February 16, 2018, [Assembly Bill \(AB\) 3013](#) (Chu, 2018) Veterinary medicine: animal physical rehabilitation was introduced. This bill, with subsequent amendments on April 2 and April 17, 2018, proposed to codify the Task Force's recommendations and:

- authorize a licensed physical therapist with a Board issued certificate in APR to provide APR to an animal if certain requirements were met, including that the APR is performed in certain settings and under the supervision of a supervising veterinarian;
- authorize an APR assistant working under the direct supervision of a supervised physical therapist to assist with delegated APR tasks if certain conditions were met;
- require the Board to create an application form for APR certification and facilities and determine the application process for the APR certificate;
- require an APR facility to be registered with the Board and pay a registration fee;
- require the Board and the Physical Therapy Board of California, in cooperation, to determine the qualifications necessary for a physical therapist to receive an APR certificate issued by the Board, as provided, and authorize the Board to charge a fee for issuance and renewal of a certificate;
- provide that a supervised physical therapist with an APR certificate or an APR assistant is solely liable for any delegated APR tasks and remove any liability of the supervising veterinarian for APR performed by the supervised physical therapist or APR assistant; and
- authorize the Board to discipline a supervised physical therapist with an APR certificate.

At the Board's [May 23, 2018](#) meeting, it was reported that the Board's Executive Committee had adopted an opposed position on AB 3013 and submitted an opposition letter. Additionally, it was explained that the bill would have created a significant fiscal impact to the Board and mandated that the Board provide accreditation services, inspections, and to register APR premises. In the California State Assembly Committee on Appropriations analysis of AB 3013, the fiscal impacts of AB 3013 to both the Board and the Physical Therapy Board of California were described as follows:

- 1) Costs to the Physical Therapy Board within the Department of Consumer Affairs (DCA) in the range of \$100,000 for two years for licensing, enforcement, and administrative workload (Physical Therapy Fund).

2) Costs to the Veterinary Medical Board as follows, assuming about 250 individuals register (all costs are VMB Contingent Fund):

a) One-time costs in the range of \$600,000 for examination development, information technology, and potential facilities costs to house additional staff.

b) Ongoing costs in the range of \$125,000 annually for registration, enforcement, examinations, and information technology.

c) Fee revenue is uncertain. If 250 individuals registered, the fee would be \$1,000 every two years to support ongoing costs. One-time costs could be covered by a special fund loan if funds area [sic] available, but fees would need to increase even further to pay back the loan. (Assem. Com. on Approps., Analysis of AB 3013 (2017-2018 Reg. Sess.), as amended Apr. 17, 2018, p. 1.)

At the Board's [August 29, 2018](#) meeting, it was reported that AB 3013 had died in committee.

In early 2019, the Board's new rulemaking package was submitted to DCA for the initial phase of review. After approval by the DCA Legal Affairs Division, Budget Office, DCA Director, and Business, Consumer Services, and Housing Agency, the package was submitted to OAL on March 3, 2020, and [published](#) on March 13, 2020. The 45-day public comment period began on March 13, 2020, and ended on April 27, 2020. During the 45-day public comment period (March 13 through April 27, 2020), the Board received:

- 38 comments/letters in **SUPPORT** of the regulatory proposal.
- 146 comments/letters in **OPPOSITION** of the regulatory proposal.
- A [petition](#) by the California Association of Animal Physical Therapists/Animal Physical Therapy Coalition in **OPPOSITION** to the regulatory proposal, signed by 4,117 individuals (at the time of submittal to the Board on April 13, 2020).
- 1 comment/letter regarding a wildlife rehabilitation exemption.

Between April 28, 2020 and August 12, 2020, the Board received additional public comment. During the Board's [August 13, 2020](#) meeting, the Board held a hearing on the APR rulemaking pursuant to a March 12, 2020 public request for hearing. On the day of the Board meeting, the Board received additional public comment on the proposed rulemaking. The Board also received additional public comment after the August 13, 2020 hearing.

At the Board's [October 22, 2020](#) meeting, the Board reviewed proposed responses to objections to the proposal, heard public comments, and approved responses to the objections (October 22, 2020 Responses) (**Attachment 1**). To address concerns raised by stakeholders, the Board approved modifications to the proposal (Modified Text) (**Attachment 2**), which were posted for the required 15-day public comment period that ended on December 4, 2020. During the 15-day public comment period, the Board received public comment on the Modified Text from the Animal Physical Therapy Coalition (APTC) (**Attachment 3**).

Summaries of and Proposed Responses to Objections to the Proposal

In accordance with Government Code section [11346.9](#), subdivision (a)(3), the Board, in its final statement of reasons supporting the rulemaking, must summarize each objection or recommendation made regarding the specific adoption, amendment, or repeal proposed, together with an explanation of how the Modified Text has been changed to accommodate each objection or recommendation, or the reasons for making no change.

Although the Board approved responses to many of the objections to and recommendations on the proposal at its October 22, 2020 meeting (**Attachment 1**), the Board received questions and comments on the Modified Text (**Attachment 2**) from APTC (**Attachment 3**) during the 15-day public comment period. The comments are summarized below, and the Board is asked to review the following proposed responses for inclusion in the Board's final statement of reasons for this rulemaking. The Board's responses approved at the October 22, 2020 meeting will also be included in the final statement of reasons.

- 1. Indirect Supervision in Range Setting.** The APTC letter, dated December 3, 2020, and submitted to the Board on December 4, 2020 (APTC Letter), begins with providing a link to oral testimony of a racetrack veterinarian given at the January 19, 2016 Board MDC meeting and an equine veterinarian given at the October 4, 2016 Task Force meeting and asserts the concerns expressed in that testimony have not been addressed by the Board. The testimony APTC provided requested that the rulemaking should include a solution for rural, large animals and urban, small animals and not create a regulation mandating direct veterinarian supervision of a physical therapist in a range setting.

APTC shares those concerns and asserts that by not specifying or detailing out the matters of the "range setting," the Modified Text does nothing to protect the consumer. APTC asserts that the proposal will restrict equine veterinarians from collaborating with other non-veterinarian professionals of their choice and will make it more difficult for consumers to access qualified non-veterinarian professionals. Should the veterinarian wish to collaborate with a qualified and licensed animal physical therapist, APTC argues this provision would mandate that the veterinarian go out to the barn with the qualified physical therapist to directly supervise their work at every visit. APTC further asserts that the costs for services to the consumer would sharply increase because they would be forced to pay for two licensed professionals when only one is needed. APTC argues that mandating direct supervision (with no indirect supervision range setting allowances or exemptions) will limit consumer access to qualified professionals and take away the veterinarian's choice to collaborate. APTC recommends the regulation have an indirect supervision allowance or exemption for range settings.

Proposed Response: An individual who is not licensed as a veterinarian or registered as a veterinary technician (RVT) is considered a veterinary assistant (VA). (CCR, tit. 16, § 2034, subs. (c).) Although licensed by the Physical Therapy Board of California, a physical therapist can only perform physical therapy on an animal patient as a VA. In accordance with BPC section [4826](#), subdivision (c), which authorizes an RVT or VA

to administer treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals under the direct supervision of a licensed veterinarian, the proposed regulation would require direct veterinarian supervision of a VA to perform APR.

BPC sections [4836](#) and [4840](#) provide the Board with authority to establish health care tasks that may be performed by an RVT or VA and require the Board to set the appropriate level of veterinarian supervision for an RVT or VA to perform those tasks. The Board has established specific animal health care tasks that may be performed by an RVT under direct or indirect supervision. (CCR, tit. 16, § [2036](#).) Separately, the Board established that, subject to the restrictions listed in CCR, title 16, section [2036](#), VAs can perform only auxiliary animal health care tasks under direct or indirect veterinarian supervision or direct RVT supervision in an animal hospital setting. (See CCR, tit. 16, § [2036.5](#).)

Although not specifically defined in regulation, auxiliary animal health care tasks are those tasks that can be performed by a lay person with low risk to the animal patient. The term “auxiliary animal health care tasks” was enacted in 1982, when the old comprehensive task lists for RVTs (previously titled animal health technicians (AHTs)) and VAs (previously titled unregistered assistants) were removed and replaced. (See CCR, tit. 16, §§ 2036, 2036.5, Register 82, No. 43 (Oct. 23, 1982) pp. 166.2.6-.7.) Before 1982, CCR, title 16, section 2036 listed the specific tasks an AHT could perform under immediate, direct, and indirect veterinarian supervision. Those lists were repealed and replaced with a smaller list of tasks that were prohibited from being performed by an AHT or that required direct or indirect veterinarian supervision, and left all other animal health care tasks up to the supervising veterinarian to determine the degree of supervision required, consistent with standards of good veterinary medical practices.

Separately, CCR, title 16, section 2036.5 was repealed and replaced to prohibit an unregistered assistant from performing the specific tasks that required direct or indirect supervision of an AHT as listed in CCR, title 16, section 2036, and authorized an unregistered assistant to perform only auxiliary animal health care tasks under direct or indirect supervision of a licensed veterinarian or direct supervision of an AHT. The 1982 amendments to CCR, title 16, sections 2036 and 2036.5 show the increased abilities for RVTs to perform animal health care tasks but also, the need to pare down the scope of animal health care tasks that could be performed by unregistered assistants for the safety of the animal patients.

Currently, the Board interprets APR to be outside the scope of an auxiliary animal health care task because of the higher risk it presents for the animal patient. VAs are not required to have Board licensure, or any formal education or training required for licensure, prior to performing auxiliary animal health care tasks. Accordingly, with respect to a VA’s ability to perform APR, the level of supervision required to perform APR defaults to the direct supervision requirement for animal health care tasks established in BPC section [4826](#), subdivision (c). Thus, APR can be performed by a VA only under direct supervision.

APTC has contended that APR requires highly trained, qualified, and skilled practitioners to provide this specialized service. The Board agrees with this contention in so far as APR is not an auxiliary animal health care task that can be performed by VAs under indirect veterinarian supervision. Due to the potential confusion regarding whether APR is an auxiliary animal health care task, the regulation is necessary to define APR and clarify who may perform APR treatment and the level of supervision required. Further, consumers will be better informed as to which licensing entity has jurisdiction over the practice of APR on animals. The Board anticipates that the public and potential APR practitioners will benefit from this clarification.

In addition, as discussed in the October 22, 2020 Responses, the Modified Text removed the “range setting” provision in proposed CCR, title 16, section 2038.5, subsection (d). During the August 13, 2020 hearing, Board members discussed the potential need to define rehabilitation on large animals separate from small animals. Board members also discussed why the proposal requires a veterinarian to directly supervise an RVT or VA performing APR on a small animal in a facility, but APR performed on a large animal at an equine facility or in a range setting could be supervised with the veterinarian located further away because the proposed regulation only requires the veterinarian to be “in the general vicinity of the treatment area.”

As one Board member noted, most equine veterinarians do not have a standing practice (fixed veterinary premises) but, instead, travel from farm to farm, and track to track as a mobile veterinary practice. In those instances, veterinary staff work on one animal patient under veterinarian instructions, while the veterinarian goes to another area on the property to observe another animal patient. The farm or track is the location where the veterinarian and their team are working. If the veterinarian is on one end of the property a few acres away, veterinary staff performing APR are able to call the veterinarian.

The APR proposal would require direct veterinarian supervision of VAs performing APR. “Direct supervision” requires the supervisor to be physically present at the location where the animal health care job task is being performed and quickly and easily available. (CCR, tit. 16, § [2034](#), subs. (e).) To accommodate large animals receiving APR on a ranch or other large property, rather than at the veterinary premises, the original APR proposal would have authorized VAs to perform APR in a range setting with the supervising veterinarian in the general vicinity. (Prop. CCR, tit.16, § 2038.5, subs. (d).)

Currently, the only reference in regulation to “in a range setting” is located in CCR, title 16, section [2038](#), which is applicable to musculoskeletal manipulation. The Task Force originally added the range setting provision to this regulatory proposal at their October 4, 2016 meeting to address the scenario where there is no premises or building where the animal receives treatment. The original proposal approved by the Board maintained the range setting provision as applicable to VAs.

Supervision of animal health care tasks performed in an animal hospital setting and in a range setting has evolved over time. Since at least 1977, the Board has recognized the different needs between small and large animal practice, the different locations where treatment must be performed, depending on the size of the animal, and the supervision required in each location.

“Direct supervision” previously was defined to mean “the supervisor is on the premises in an animal hospital setting or in the same general area in a range setting,” but was amended, instead, to mean “the supervisor is physically present at the location where animal health care job tasks are performed.” (CCR, tit. 16, § 2030, Register 79, No. 26 (June 30, 1979) pp. 166.2.1; CCR, tit. 16, § 2035, Register 79, No. 42 (Oct. 20, 1979) p. 166.2.6; CCR, tit. 16, § 2034, Register 2002, No. 23 (July 3, 2002).) The definition of direct supervision affects the supervision requirements for RVTs (previously named animal health technicians or AHTs). Prior to 2002, there were no provisions authorizing an AHT to perform animal health care tasks under direct or indirect supervision in a range setting; rather, AHTs were limited to performing tasks only in an animal hospital setting. “Animal hospital setting” means “all veterinary premises which are required by Section 4853 of the Code to be registered with the board.” Subsequently, CCR, title 16, section 2036 was revised to authorize RVTs to perform specified procedures under direct or indirect supervision, without limitation on where, in an animal hospital or range setting, the task was performed. (CCR, tit. 16, § 2036, Register 82, No. 43 (Oct. 23, 1982) pp. 166.2.6-.7; CCR, tit. 16, § 2036, Register 2002, No. 23 (July 3, 2002).)

Although RVT supervision requirements have changed to no longer restrict RVTs to performing animal health care tasks in an animal hospital setting, the regulations applicable to VAs always have limited the performance of animal health care tasks to animal hospital settings. Current regulation only authorizes a VA in an animal hospital setting to perform auxiliary animal health care tasks under direct or indirect veterinarian supervision or direct RVT supervision. (CCR, tit. 16, § [2036.5](#).) Under BPC section [4826](#), the current statutory default supervision requirement over VAs performing APR is direct supervision.

As demonstrated by the over 40-year regulatory history of the term “direct supervision,” the Board has long recognized the differing needs between small and large animal practice and that treatment of the animal patient may occur at a registered premises, in an animal hospital setting, or at the location where the animal is housed, in a range setting. Under the existing definition of “direct supervision,” the veterinarian must be present at the location and quickly and easily available. That definition does not require the veterinarian personally to view the performance of an animal health care task and no longer differentiates between veterinary premises or the same general area in a range setting. Locations where the supervising veterinarian would be present could include, but not be limited to, a facility, farm, or ranch. As such, as long as the veterinarian is at the location, an identifiable property such as a farm or ranch, and the veterinarian is quickly and easily available to the VA performing APR, the direct supervision requirements can be met without a need for separate regulatory provisions for range settings.

For these reasons, the Board struck the “range setting” provision, which is reflected in the Modified Text. Since the Board has discussed this provision numerous times during the promulgation of this proposal and ultimately determined it should not be included, the Board will not further revise the proposal to include a provision for supervised performance of APR in a range setting.

In addition, the Board’s regulatory proposal does not place additional limitations on existing law or restrict consumer access to legitimate APR services and thus should not increase costs for APR. Rather, as discussed in October 22, 2020 Responses, the APR proposal continues the California State Legislature’s statutory mandate and express policy that a licensed physical therapist may perform APR treatment only under the direct supervision of a licensed veterinarian.

- 2. Veterinarian determination of appropriate supervision over physical therapist and other non-veterinarian providers.** APTC asserts that the Modified Text will not allow equine veterinarians to decide the level of supervision (direct or indirect) for a licensed physical therapist certified in animal rehabilitation or any other trusted and qualified non-veterinarian provider. APTC recommends the proposal allow the veterinarian to decide the level of supervision of a trusted person they choose to collaborate with to increase access to more providers, so more animals get the care they need and the public would be afforded more choice in the care of their animals.

Proposed Response: As discussed above, an individual not licensed as a veterinarian or registered as an RVT is considered a VA and is subject to the statutes and regulations requiring veterinarian supervision for the performance of animal health care tasks, regardless of whether the individual is a physical therapist licensed by the Physical Therapy Board of California and certified in animal rehabilitation or some other trusted and qualified non-veterinarian provider.

BPC section [4826](#) requires direct supervision of an VA performing animal health care tasks. Direct supervision, as defined by CCR, title 16, section [2034](#), subsection (e), requires the supervising veterinarian to be physically present at the location where animal health care job tasks are to be performed and be quickly and easily available. Notably, this definition does not require the supervising veterinarian to be looking over the shoulder of the individual performing the health care job task; however, the supervising veterinarian would be immediately available if a medical issue arose during treatment.

At the Board’s August 13, 2020 APR hearing, supporters of the bill stressed the importance of having a veterinarian on-site when APR is performed on the animal patient. One supporter noted that, while a physical therapist could check an animal patient’s heart rate, under current law, they could not diagnose heart problems. Rather, when the animal patient experiences a medical emergency during physical therapy treatment, such as vomiting, diarrhea, instability, or pain, the veterinarian would be able to diagnose and treat the animal patient immediately. There is ample

support for the Board's rulemaking requiring direct supervision of unlicensed and unregistered individuals performing APR.

For all of these reasons, the Board's APR proposal requires direct veterinarian supervision over physical therapists and other individuals not otherwise licensed or registered with the Board. The APR proposal is consistent with the Practice Act and specifically, BPC section [4826](#), subdivision (c), by requiring direct supervision of the performance of APR by an individual not licensed or registered (i.e., a VA) with the Board. The proposal also is consistent with BPC sections [4836](#) and [4840](#), which authorize or require the Board to adopt regulations establishing animal health care tasks and an appropriate degree of supervision required for those tasks that may be performed by a VA or only by an RVT or licensed veterinarian. Accordingly, the Board is rejecting APTC's recommendation.

- 3. Telecommunication legislation.** APTC recommends the Board consider a statutory remedy to allow for indirect veterinarian supervision through the use of telecommunication.

Proposed Response: Unless statutorily exempted, to perform health care tasks on animal patients, individuals who are not California licensed veterinarians must be supervised by a licensed veterinarian. (BPC § [4826](#), subd. (c).) CCR, title 16, section [2036](#) establishes the animal health care tasks that may be performed by an RVT and the required level of veterinarian supervision, either direct or indirect. CCR, title 16, section [2036.5](#) establishes the animal health care tasks that may be performed by veterinary assistants (VAs) and authorizes VAs to perform auxiliary animal health care tasks under the direct or indirect supervision of a licensed veterinarian or the direct supervision of an RVT. "Indirect supervision," as defined in CCR, title 16, section [2034](#), subsection (f), 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. The Board notes that indirect supervision of an RVT or VA through telecommunication is not prohibited by statute or regulation. As such, the Board will not pursue a statutory remedy to allow for indirect veterinarian supervision through the use of telecommunication.

- 4. APR legislation.** APTC recommends the Board reconsider the current regulatory proposal, abandon the language, and pursue a more appropriate solution through a legislative remedy akin to AB 3013.

Proposed Response: Although the Board may propose legislative recommendations regarding the functionality of licensing and enforcement processes, the Board does not propose scope of practice legislation. Rather, individuals and organizations seeking to expand the scope of practice of a particular profession can submit legislative proposals to the California State Legislature for review and enactment. As such, the Board will not pursue APR legislation.

5. **Items 3, 5, 7, and query on “One Health Initiative” in APTC Letter.** Items 3, 5, 7, and the query regarding a “One Health Initiative” in the APTC Letter do not directly address the proposed regulatory language and are outside the scope of this rulemaking. However, the Board has considered the issues raised in Items 3, 5, and 7, and rejects those comments.

Item 3 in the APTC letter concerns the appropriate level of supervision for a VA on a task, urges changing existing regulations so that veterinarians individually make a determination about appropriate supervision levels on a case-by-case basis for individual VAs, and further inquired about past incidents relating to VA supervision. The Board **responds to this concern by referring APTC to ~~concludes that~~** the Board’s minutes and meeting materials from the meetings held during the last 9 years (since 2011) to conceive, consider, and fine-tune this regulation, **which** are a sufficient record of all that the Board has taken into consideration. The Board does not choose to call out individual violations or enforcement actions relating to the direct supervision of a VA. An individual not licensed or registered with the Board is a VA.

Item 5 in the APTC Letter asks about the Board reducing consumer access to physical therapy services for animals. **In response, the Board notes that** while optometrists have a broad educational background and an experiential understanding of human eyes and eyecare, without licensing or registration from the Board, it is not appropriate or lawful for them to provide, or have a business providing, eye care treatment to animals. While dentists obtain a broad educational background and an experiential understanding of human teeth and diseases of the mouth, without licensing or registration from the Board, it is not appropriate for a dentist to provide, or have a business providing, dental care to animals. An individual with a physical therapy license, without licensing or registration from the Board, stands in the same position as these other licensed and learned professionals. It is presently not, under existing laws and regulations, appropriate for a physical therapist to provide, or have a business that provides, physical therapy treatment to animals without veterinary supervision. Any loss by consumers of illegitimate services or a loss of profits by a business providing such illegitimate services is not an interest the Board should weigh or protect. The issue of increasing physical therapists’ scope of practice to include practicing physical therapy on animals is a matter to be determined by the Legislature. If a legislative change occurs, the Board looks forward to working with all interested parties to protect California consumers and their animals.

Item 7 in the APTC Letter asserts the proposed language of the rulemaking creates a monopoly with anti-trust implications. **In response, the Board states believes** this mischaracterizes existing law and ignores the Board’s consumer protection mandate. In addition, the Board’s responses to public comments approved on October 22, 2020, fully discuss APTC’s anti-trust assertions. As noted above, if there is a legislative change of existing laws, the Board looks forward to working with all interested parties to protect California consumers and their animals.

The APTC Letter also inquires whether the Board supports the One Health Initiative issued by the Center for Disease Control, and if so, how the Board will address the

fact that it is preventing non-veterinarian, qualified, and licensed professionals to practice APR.

In response, the Board notes the goal of the One Health Initiative is to control and prevent infectious diseases by bringing together for collaboration and discussion professionals from human health, animal health, and environment sectors. The One Health Initiative recognizes the link between human, animal, and environmental health; the One Health website provides the following example of the infectious disease issues the One Health Initiative seeks to address: “Cows graze next to a lettuce field. Cows can carry *E. coli* but still look healthy. *E. coli* from cow manure in the nearby farm can contaminate the lettuce field. People eat contaminated lettuce and can become infected with *E. coli*. Serious illness or sometimes death can result.” (Centers for Disease Control Prevention, *One Health Office Fact Sheet* (Feb. 3, 2020) <<https://www.cdc.gov/onehealth/who-we-are/one-health-office-fact-sheet.html>> [as of Jan. 25, 2021].) However, a review of the One Health website does not indicate a goal for human healthcare professionals to perform treatment on animal patients. Accordingly, it is unclear how the One Health Initiative, which seeks to control and prevent infectious diseases in the environment from infecting animals and humans, is relevant to the Board’s proposed rulemaking, which seeks to specify the supervision requirements for unlicensed individuals performing APR on animal patients.

The Board advises that the regulatory proposal operates within the existing statutory and regulatory limitations requiring veterinarian supervision over individuals not licensed by the Board. As stated previously, the Board does not submit legislative proposals to expand the scope of veterinary practice or to expand the scope of practice of healthcare professionals licensed by other boards; as such, the Board will not submit a legislative proposal to expand the scope of practice of healthcare professionals licensed to treat human patients who seek also to treat animal patients.

Action Requested:

The Board is asked to consider and approve proposed responses to written and oral comments received on the Modified Text for inclusion in the Board’s final statement of reasons.

If the Board agrees with the proposed responses to written and oral comments, please entertain a motion to approve the responses to written and oral comments on the Modified Text for inclusion in the Board’s final statement of reasons in support of the APR rulemaking file.

Attachments:

1. Board-Approved Responses to Public Comment, as detailed in October 22, 2020 Memorandum
2. Modified Text
3. APTC Letter ~~from Animal Physical Therapy Coalition~~, dated December 3, 2020
4. APTC Letter, dated January 26, 2021



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TO	Veterinary Medical Board
FROM	Tara Welch, Board Counsel, Attorney III Department of Consumer Affairs, Legal Affairs Division
SUBJECT	Agenda Item 9.E. Section 2038.5, Article 4, Division 20, Title 16 of the California Code of Regulations (CCR) Regarding Animal Physical Rehabilitation

Background

Note: For more detailed background and links to all past meeting materials regarding this issue, see Attachment 1.

Beginning in 2011, the Veterinary Medical Board (Board) and Multidisciplinary Advisory Committee (MDC) began discussing the expanding veterinary specialty of animal rehabilitation (AR). Discussions included: the definition of AR; the regulation of AR; who may perform AR; and the level of supervision required when AR is not performed by a veterinarian. In response to these discussions, proposed regulatory language was considered and approved by the Board in 2013.

At the [January 20](#) and [April 28, 2015](#) Board meetings, revisions to the proposed language were considered and approved by the Board, which resulted in the original proposed regulatory action being published by the Office of Administrative Law (OAL) on July 17, 2015. However, in response to comments received during the 45-day public comment period, testimony provided at the September 10, 2015 public hearing, and several policy and legal issues raised during that time, the Board voted to [withdraw](#) the proposed regulations from OAL at its [October 20, 2015](#) meeting. Additionally, the Board voted to refer the issue back to the MDC in order to: re-address the definition of AR; address minimum education requirements and level of supervision required for individuals performing AR; discuss the premises permit requirement whenever veterinary medicine is being practiced; and address barriers and the issue of physical therapists being exempt from licensure by the Board.

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- provide that a supervised physical therapist with an APR certificate or an APR assistant is solely liable for any delegated APR tasks and remove any liability of the supervising veterinarian for APR performed by the supervised physical therapist or APR assistant; and
- authorize the Board to discipline a supervised physical therapist with an APR certificate.

At the Board's [May 23, 2018](#) meeting, it was reported that the Board's Executive Committee had adopted an opposed position on AB 3013 and submitted an opposition letter. Additionally, it was explained that the bill would have created a significant fiscal impact to the Board and mandated that the Board provide accreditation services, inspections, and to register APR premises. In the California State Assembly Committee on Appropriations analysis of AB 3013, the fiscal impacts of AB 3013 to both the Board and the Physical Therapy Board of California were described as follows:

- 1) Costs to the Physical Therapy Board within the Department of Consumer Affairs (DCA) in the range of \$100,000 for two years for licensing, enforcement, and administrative workload (Physical Therapy Fund).

2) Costs to the Veterinary Medical Board as follows, assuming about 250 individuals register (all costs are VMB Contingent Fund):

- a) One-time costs in the range of \$600,000 for examination development, information technology, and potential facilities costs to house additional staff.
- b) Ongoing costs in the range of \$125,000 annually for registration, enforcement, examinations, and information technology.
- c) Fee revenue is uncertain. If 250 individuals registered, the fee would be \$1,000 every two years to support ongoing costs. One-time costs could be covered by a special fund loan if funds area [sic] available, but fees would need to increase even further to pay back the loan. (Assem. Com. on Approps., Analysis of AB 3013 (2017-2018 Reg. Sess.), as amended Apr. 17, 2018, p. 1.)

At the Board's [August 29, 2018](#) meeting, it was reported that AB 3013 had died in committee.

In early 2019, the Board's new rulemaking package was submitted to DCA for the initial phase of review. After approval by the DCA Legal Affairs Division, Budget Office, DCA Director, and Business, Consumer Services, and Housing Agency, the package was submitted to OAL on March 3, 2020, and [published](#) on March 13, 2020. The 45-day public comment period began on March 13, 2020, and ended on April 27, 2020. During the 45-day public comment period (March 13 through April 27, 2020), the Board received:

- 38 comments/letters in **SUPPORT** of the regulatory proposal (**Attachment 2**).
- 146 comments/letters in **OPPOSITION** of the regulatory proposal (**Attachment 3**).
- A [petition](#) by the California Association of Animal Physical Therapists/Animal Physical Therapy Coalition in **OPPOSITION** to the regulatory proposal, signed by 4,117 individuals (at the time of submittal to the Board on April 13, 2020) (**Attachment 4**).
- 1 comment/letter regarding a wildlife rehabilitation exemption (**Attachment 5**).

Between April 28, 2020 and August 12, 2020, the Board received additional public comment (**Attachment 6**). During the Board's [August 13, 2020](#) meeting, the Board held a hearing on the APR rulemaking pursuant to a March 12, 2020 public request for hearing. On the day of the Board meeting, the Board received additional public comment on the proposed rulemaking (**Attachment 7**). The Board also received additional public comment after the August 13, 2020 hearing (**Attachment 7**).

Summaries of and Proposed Responses to Objections to the Proposal

In accordance with Government Code section [11346.9](#), subdivision (a)(3), the Board, in its final statement of reasons supporting the rulemaking, must summarize each objection or recommendation made regarding the specific adoption, amendment, or repeal proposed, together with an explanation of how the proposed action has been changed to accommodate each objection or recommendation, or the reasons for making no change.

Although the Board approved responses to many of the objections to and recommendations on the proposal, the Board received several comments during and after the hearing that should be included in the responses. The proposed responses to the summaries provided below include the additional public comments received on the rulemaking and revise the prior responses to simplify and clarify the responses. The Board is asked to review the proposed responses below for inclusion in the Board's final statement of reasons for this rulemaking.

1. **Veterinary Medicine Practice Act (Practice Act) does not authorize veterinarians to practice physical therapy.** The California Association of Animal Physical Therapists (CAAPT) and the Animal Physical Therapy Coalition (APTC), in opposition to the rulemaking, argue that BPC section [4826](#) does not authorize licensed veterinarians to practice physical therapy or provide physical therapy modalities. Opponents assert that physical therapy is not defined in the Practice Act; rather, physical therapy is defined only in the Physical Therapy Practice Act (BPC § 2620, subd. (a)). As such, opponents argue that while veterinarians can diagnose a condition and prescribe physical therapy or APR under the Practice Act, they must refer the animal patient to a physical therapist to administer physical therapy or APR pursuant to the Physical Therapy Practice Act.

Proposed Response: Opponents' assert that because "physical therapy" is only defined in the Physical Therapy Practice Act and not under the Practice Act, only physical therapists can administer physical therapy or APR treatment to animals; however, that argument is not supported by statute. Opponents cite to BPC section [2620](#), subdivision (a), which defines physical therapy for purposes of the Physical Therapy Practice Act and licensure of individuals performing physical therapy thereunder. However, BPC section [2620](#), subdivision (b) states that: "Nothing in this section shall be construed to restrict or prohibit other healing arts practitioners licensed or registered under this division from practice within the scope of their license or registration." The division referenced in that statute is Division 2 of the BPC. Veterinary medicine practitioners are healing arts practitioners who are licensed, registered, and permitted under the Practice Act, established in Chapter 11 under Division 2. Accordingly, BPC section 2620 does not apply to healing arts practitioners licensed, registered, or permitted under Division 2, Chapter 11, Veterinary Medicine.

Further, BPC section [4826](#), subdivision (b) authorizes diagnosing and prescribing treatment of whatever nature on an animal, and subdivision (c) authorizes administering treatment of whatever nature to an animal; in both subdivisions, the California State Legislature included physical therapy and APR within the broad scope of the phrase "of whatever nature." Support for this interpretation comes directly from the California State Legislature. The Assembly Committee on Business and Professions of the California State Legislature analyzed Assembly Bill (AB) 3013 (Chu, 2018) and stated:

In California, only licensed veterinarians may provide veterinary medicine to an animal for a wound, fracture, and bodily injury, which includes all treatment, including physical therapy, except that [registered veterinary technicians (RVTs)] and unlicensed veterinary assistants may treat animals under a veterinarian's

supervision. (Assem. Com. on Bus. and Prof., Analysis of AB 3013 (2017-2018 Reg. Sess.), as amended Apr. 2, 2018, p. 5.)

The Assembly Committee analysis clearly states that current law authorizes only licensed veterinarians, or individuals performing under a veterinarian's supervision, to perform physical therapy on animals. AB 3013 would have enacted a certificate program administered by the Board through which physical therapists could provide APR to an animal patient if certain requirements were met, including that the APR was performed at a premises registered with the Board and the physical therapist worked under the supervision (direct or indirect, as determined by the veterinarian) of a licensed veterinarian who had an established veterinarian-client-patient relationship (VCPR) with the animal, among other things. AB 3013 was sponsored by APTC, one of the groups making the opposition argument against this rulemaking that the scope of BPC section [4826](#) does not authorize veterinarians to perform physical therapy. (Assem. Com. on Bus. and Prof., Analysis of AB 3013 (2017-2018 Reg. Sess.) as amended Apr. 2, 2018, p. 8.) Given APTC's sponsorship of and involvement in AB 3013, APTC already knows the Legislature's intended scope of practice of veterinary medicine provided in BPC section [4826](#) includes physical therapy and APR.

More recently, the Background Paper for the Joint Sunset Review Oversight Hearing, March 17, 2020, of the California State Assembly Committee on Business and Professions and California State Senate Committee on Business, Professions and Economic Development reiterated that only California licensed veterinarians, or individuals performing treatment under veterinarian supervision, may provide physical therapy to animals under the Practice Act:

Under current California law, only licensed Veterinarians may provide veterinary medicine to an animal for a wound, fracture, and bodily injury, which includes all treatment, including physical therapy. In some instances, RVTs and VAs may treat animals under a veterinarian's supervision. (Assem. Com. on Bus. and Prof. and Sen. Com. on Bus., Prof. and Econ. Dev., Background Paper for Joint Sunset Review Oversight Hearing, Mar. 17, 2020, p. 23.)

Accordingly, the argument that BPC section [4826](#) does not authorize a veterinarian to practice physical therapy on animals is inconsistent with the California State Legislature's own interpretation of the scope of veterinary medicine in this statute. The Practice Act does authorize veterinarians to perform physical therapy on animal patients.

Further, the Physical Therapy Practice Act only authorizes licensed physical therapists to perform physical therapy treatment on a person, not an animal. (BPC § [2620](#).) The limitation of a physical therapist's ability to treat animal patients was discussed in the Assembly Committee on Business and Professions analysis of AB 3013:

Currently, a licensed PT who wants to perform physical therapy on an animal must pursue additional licensure as a veterinarian, pursue registration as RVT, or work under the direct supervision of a licensed veterinarian as a veterinary assistant.

Direct supervision means the supervising veterinarian is on-site, is readily available, and performs necessary examinations on the animal patient. (Assem. Com. on Bus. and Prof., Analysis of AB 3013 (2017-2018 Reg. Sess.) as amended Apr. 2, 2018, p. 6.)

Similarly, the Background Paper for the Joint Sunset Review Oversight Hearing, March 17, 2020, of the California State Assembly Committee on Business and Professions and California State Senate Committee on Business, Professions and Economic Development reiterated the limitations of a licensed physical therapist to treat animal patients as follows;

Therefore, if a licensed Physical Therapist wants to perform physical therapy on an animal, the PT must pursue additional licensure as a Veterinarian or RVT, or work under the supervision of a Veterinarian. (Assem. Com. on Bus. and Prof. and Sen. Com. on Bus., Prof. and Econ. Dev., Background Paper for Joint Sunset Review Oversight Hearing, Mar. 17, 2020, p. 23.)

As explained by the California State Legislature, the authority to perform physical therapy treatment on an animal patient comes from licensure under the Practice Act, not licensure under the Physical Therapy Practice Act. Accordingly, opponents' assertion that a veterinarian must refer an animal patient to a licensed physical therapist to perform physical therapy is not supported by law or the California State Legislature's interpretation of the Practice Act.

2. **Proposed APR regulation violates the Administrative Procedure Act (APA) and improperly attempts to enlarge scope of Practice Act.** Opponents assert that Government Code section [11349.1](#) requires the Office of Administrative Law (OAL) to review regulatory proposals to determine whether they comply with statutory standards set forth in Government Code section [11349](#), which requires the proposed regulation to be reviewed for consistency (in harmony with and not in conflict) with existing statutes, court decisions, or other provisions of law. Opponents argue that the proposed APR regulation fails to comply with the APA because the proposal enlarges the scope of the Practice Act as specified in BPC section [4826](#) and, therefore, is inconsistent with existing statutes.

Proposed Response: BPC section [4825](#) requires a Board-issued veterinarian license to practice veterinary medicine. BPC section [4826](#) defines the practice of veterinary medicine to include diagnosing, prescribing, or administering treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of an animal. BPC section [4826](#), subdivision (c) authorizes an individual who does not have a Board-issued veterinarian license to perform those acts at the direction of and under the direct supervision of a Board-licensed veterinarian.

As discussed above, the California State Legislature provided a broad scope of treatment under BPC section [4826](#) a veterinarian may provide to animal patients, which includes physical therapy. This broad scope was recently described in the Assembly Committee on Business and Professions analysis of AB 3013 and the

Background Paper for the Joint Sunset Review Oversight Hearing, March 17, 2020, to specifically include physical therapy. As such, the Board's proposed regulation addressing APR falls within the scope of veterinary medicine defined under BPC section [4826](#).

Further, the Assembly Committee on Business and Professions analysis of AB 3013, as quoted above, noted that a licensed physical therapist is required to pursue additional licensure as a veterinarian, pursue registration as an RVT, or work under the direct supervision of a licensed veterinarian as a VA. (Assem. Com. on Bus. and Prof., Analysis of AB 3013 (2017-2018 Reg. Sess.) as amended Apr. 2, 2018, p. 6.) That analysis refers to the Practice Act, which authorizes RVTs and VAs to perform specified animal health care services under the supervision of a veterinarian licensed or authorized to practice in California. (BPC § [4840](#).)

The Board is statutorily required to adopt regulations establishing animal health care tasks and an appropriate degree of supervision required for those tasks that may be performed only by an RVT or licensed veterinarian (BPC § [4836](#), subd. (a).) For animal health care tasks that may be performed by a VA as established by the Board, the appropriate degree of supervision by an RVT or licensed veterinarian over the VA to perform those tasks must be established and set at a degree higher than, or equal to, the degree of supervision required when an RVT performs the task. (BPC § [4836](#), subd. (b).)

The APR proposal clarifies that APR is an animal health care task that may be performed by an RVT or VA and the level of supervision required therefor. Since the California State Legislature has determined that physical therapy treatment on an animal patient falls within the scope of veterinary medicine practice provided in BPC section [4826](#), and because the APR rulemaking involves the practice of veterinary medicine through treatment on an animal patient, the Board's rulemaking is entirely consistent with, and not in conflict with or contradictory to, BPC section [4826](#). The rulemaking also is consistent with BPC sections [4836](#) and [4840](#) because it establishes a health care task (i.e., APR) that may be performed by an RVT or VA and clarifies the appropriate level of veterinarian supervision for an RVT or VA to perform that task.

3. **Direct supervision not necessary when VCPR established.** Opponents assert that once the veterinarian has established a VCPR under CCR, title 16, section [2032.1](#), the veterinarian has sufficient knowledge of the animal to provide relevant information to a physical therapist with advanced certification in APR and then provide indirect supervision of the physical therapist providing services at an APR premises regulated by the Board. Opponents argue that direct supervision over a physical therapist is unnecessary. According to opponents, the veterinarian has sufficient information to communicate to the physical therapist, who would establish a treatment plan and perform physical therapy on the animal patient.

Opponents further contend that the veterinarian and physical therapist have a symbiotic relationship in that each can provide services the other cannot; the veterinarian performs a thorough examination of the animal and determines a

diagnosis, and the physical therapist establishes a treatment plan and performs modalities not included in the Practice Act consistent with advanced training and experience.

Proposed Response: As discussed above, opponents' contention that only a physical therapist, not a veterinarian, can perform physical therapy on an animal patient is not supported by law or legislative history. The California State Legislature crafted the Practice Act broadly enough to include physical therapy within the treatment a licensed veterinarian, or an individual supervised by the veterinarian, can provide to an animal patient, and recent legislative history supports this interpretation. Thus, the symbiotic relationship opponents describe is statutorily prohibited. Rather, the licensed veterinarian is responsible for diagnosis, prescription, and treatment of animal patients receiving physical therapy treatment.

Further, a physical therapist cannot establish a treatment plan for performance of APR on an animal patient. Although physical therapists licensed by the Physical Therapy Board of California are authorized to prepare a plan of care for a human patient (BPC § [2620.1](#), subd. (a)(4)), physical therapists are not statutorily authorized to practice veterinary medicine, including preparing a treatment plan and performing physical therapy treatment. For animal patients, the veterinarian must establish a VCPR to diagnose and treat the animal patient.

To establish the VCPR, CCR, title 16, section [2032.1](#), subsection (b)(3) requires the veterinarian to communicate with the client a course of treatment appropriate to the circumstance. As such, the veterinarian is required to advise the client the specific physical therapy treatment appropriate for the animal patient's medical condition, before the animal patient could be evaluated by a physical therapist to perform the course of treatment. In addition, CCR, title 16, section [2035](#) requires the supervising veterinarian of an RVT, permit holder, or VA to make all decisions relating to the diagnosis, treatment, management, and future disposition of the animal patient. This requirement reiterates that the supervising veterinarian must prepare the treatment plan for the animal patient. Opponents' proposal to allow the physical therapist to establish the treatment plan conflicts with existing regulation.

In addition, opponents assert that indirect supervision is the appropriate level of supervision to apply to physical therapists performing APR. Yet, these opponents also recommend using the last Task Force recommendation (discussed further below). However, the last Task Force recommendation did not recommend indirect supervision; rather, the recommendation would have left the level of required supervision, direct or indirect, up to the supervising veterinarian. Thus, opponents' assertion that indirect supervision is the correct level of supervision does not comport with their recommendation to implement the Task Force recommendation.

It also is important to note that existing law, BPC section [4826](#), requires direct supervision of an unlicensed person performing animal health care tasks. Direct supervision, as defined by CCR, title 16, section [2034](#), subsection (e), requires the supervising veterinarian to be physically present at the location where animal health

care job tasks are to be performed and be quickly and easily available. Notably, this definition does not require the supervising veterinarian to be looking over the shoulder of the individual performing the health care job task as opponents asserted during the August 13, 2020 hearing; however, the supervising veterinarian would be immediately available if a medical issue arose during treatment.

At the Board's August 13, 2020 APR hearing, supporters of the ~~bill proposal~~ stressed the importance of having a veterinarian on-site when APR is performed on the animal patient. One supporter noted that, while a physical therapist could check an animal patient's heart rate, under current law, they could not diagnose heart problems. Rather, when the animal patient experiences a medical emergency during physical therapy treatment, such as vomiting, diarrhea, instability, or pain, the veterinarian would be able to diagnose and treat the animal patient immediately. There is ample support for the Board's rulemaking requiring direct supervision of unlicensed and unregistered individuals performing APR.

Commented [SJ1]: Revised and approved by Board on October 22, 2020

For all of these reasons, the Board's APR proposal requires direct veterinarian supervision over physical therapists not otherwise licensed or registered with the Board. The APR proposal is consistent with the Practice Act and specifically, BPC section [4826](#), subdivision (c), by requiring direct supervision of the performance of APR by an individual not licensed or registered (i.e., a VA) with the Board. The proposal also is consistent with BPC sections [4836](#) and [4840](#), which authorize or require the Board to adopt regulations establishing animal health care tasks and an appropriate degree of supervision required for those tasks that may be performed by a VA or only by an RVT or licensed veterinarian.

- 4. Proposed regulation will force physical therapist practices to close and result in significant adverse impact on physical therapists; APR is being monopolized by the veterinary profession; proposed regulation is a restraint of trade and violates anti-trust laws.** Opponents allege that if this proposed regulation is enacted, several established APR practices will no longer be allowed to exist and will be forced to close. Opponents assert that the regulation will have a severe adverse impact on physical therapists, as job opportunities and the ability to earn a living will be dramatically reduced.

Opponents further assert that the proposal is an attempt by the veterinary profession to monopolize APR services, when some veterinarians do not even have time or the ability to provide APR services, and would mandate that qualified physical therapists work under direct supervision and only on a veterinary premises. Opponents argue that this limits the practices of physical therapists, prevents talent from entering the profession, and subjects those individuals to lower pay. Opponents assert that the rulemaking will result in appropriately certified/licensed physical therapists not being recognized as legitimate providers of APR services. Opponents allege that veterinary practices are unable to sustain employment of a physical therapist due to the expense, and not all animals require such care by a physical therapist. Opponents further assert that the proposal is an unlawful attempt to restrain trade in violation of anti-trust laws.

Proposed Response: Opponents' contention that there are APR practices that currently operate without a supervising veterinarian does not recognize that physical therapists currently are not statutorily authorized, under either the Practice Act or the Physical Therapy Practice Act, to practice veterinary medicine, including physical therapy, on animal patients unless they are a licensed veterinarian or directly supervised by a licensed veterinarian.

The California State Legislature has clearly articulated in the Practice Act that the practice of veterinary medicine on animals requires licensure as a veterinarian and includes, among other things, diagnosing, prescribing treatment of whatever nature, and administering treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals. (BPC § 4826, subds. (b), (c).) Further, the Physical Therapy Practice Act only authorizes a licensed physical therapist to perform treatment on a person, not an animal. (BPC § 2620.) Accordingly, a physical therapist, who is not a licensed veterinarian or RVT, may administer APR treatment to an animal as a VA and only at the direction of and under the direct supervision of a licensed veterinarian. (BPC § 4826, subd. (c).)

Opponents argue the APR proposal is an attempt by the veterinary profession to monopolize APR services and is an unlawful attempt to restrain trade in violation of anti-trust laws. However, as discussed above, the Physical Therapy Practice Act only authorizes a physical therapist to perform physical therapy on humans, and the Practice Act requires veterinarian licensure or supervision of a licensed veterinarian to perform physical therapy on animals. (BPC §§ 2620, 4825, 4826, subds. (b), (c).) Thus, both the Practice Act and Physical Therapy Practice Act inherently, logically, and ordinarily result in the displacement of licensed physical therapists from competing with licensed veterinarians in the practice of veterinary medicine and provision of APR treatment on animals. The State's policy is to place limitations on the treatment of animal patients. Examination of the Practice Act and Physical Therapy Practice Act makes clear that the State's policy expressed in those statutes, not the APR proposal, displace competition.

In addition, the California State Legislature has affirmatively expressed that performing physical therapy on an animal patient is included in the practice of veterinary medicine, and that a physical therapist who wants to perform physical therapy on an animal patient is subject to the limitations in the Practice Act. As previously noted, the California State Assembly Committee on Business and Professions analysis of AB 3013 stated that:

Currently, a licensed PT who wants to perform physical therapy on an animal must pursue additional licensure as a veterinarian, pursue registration as RVT, or work under the direct supervision of a licensed veterinarian as a veterinary assistant. Direct supervision means the supervising veterinarian is on-site, is readily available, and performs necessary examinations on the animal patient. (Assem. Com. on Bus. and Prof., Analysis of AB 3013 (2017-2018 Reg. Sess.), as amended Apr. 2, 2018, p. 6.)

The APR proposal continues the California State Legislature's statutory mandate and express policy that a licensed physical therapist, as an individual not licensed or registered by the Board, must work under the direct supervision of a licensed veterinarian. Thus, the APR proposal does not establish a new veterinarian monopoly on performing APR treatment or restrain trade. Rather, the Practice Act and Physical Therapy Practice Act, as enacted by the California State Legislature, already have established the limitations on the performance of APR by a licensed physical therapist.

Consequently, if an APR practice does not employ a licensed veterinarian to directly supervise the performance of APR by physical therapists, that APR practice is operating in violation of existing law. Further, opponents' argument that currently there are physical therapists operating a practice and/or performing physical therapy on animals without veterinarian supervision justifies the need to provide clarity in the regulations that physical therapy on animals or APR must be performed in accordance with the Practice Act enforced by this Board, not the Physical Therapy Board of California, which is only authorized to regulate physical therapy on persons.

- 5. Public not protected and public interest not served by proposed regulation; proposal limits access to quality animal care; proposal increases animal physical therapy costs to consumers.** Opponents assert that the public will not be protected because the proposed regulation does not require veterinarians, RVTs, or VAs to receive advanced certification in APR, or any training or certification at all. In addition, opponents assert the public interest is not served by the proposed regulation as consumer access to qualified/licensed animal care providers will be reduced and/or limited, rural areas will continue to be underserved, and consumers will seek unregulated services. Opponents contend that consumers and veterinarians need to have choices available for treatment of animal patients.

Proposed Response: The proposed regulation responds to the increased use of physical therapy on animals over the past 20 years. Since 2003, the Board has received five consumer complaints referred from the Physical Therapy Board of California involving the practice of physical therapy on animals. As more physical therapists are offering veterinary medical services they are not licensed to perform, the Board determined it necessary to provide specific regulation over the practice of APR to inform both consumers and practitioners of what practices under the Practice Act are allowed to be performed and by whom. Further, it is necessary to clarify that the practice of APR falls under the Board's jurisdiction, not the jurisdiction of the Physical Therapy Board of California.

The Board has been discussing the issues of performing physical therapy on animal patients for nine years, and it has become clear that physical therapists and consumers are unaware that physical therapists may only perform physical therapy or APR on animal patients under direct supervision of a licensed veterinarian. The need to clarify which professionals are authorized by law to perform APR and provide appropriate consumer protection in regulation was demonstrated during the August 13, 2020 hearing. One consumer expressed gratitude at having a veterinarian on-site, which saved the lives of three of their five animals that were experiencing additional

medical problems during physical therapy that the physical therapist could not diagnose, but the veterinarian was able to diagnose and treat quickly.

One supporter of the proposal noted the following situations that demonstrate the need for direct veterinarian supervision during physical therapy treatment as follows:

We've had patient seizures as they walk in the therapy room, we've had dogs collapse in the underwater treadmill, we've had dogs with congestive heart failure that the family thought were just having an off day, we've had a diabetic crisis and the family thought the dog had just played too hard the day before. If a vet had not been on-site with these pets and families, they would have suffered. [Physical therapists (PTs)] may be able to take a temperature, but they can't diagnose an irregular heartbeat or heart murmur, or check the blood pressure or a blood glucose on the patient.

...

Many pets who come to rehab are older and have multiple diseases and are on multiple medications, none of which a PT should have to manage. It's not fair to the pet, or the family, or the PT to not have a vet on-site to assist these patients that are panting, have blood in their urine, increased appetite, decreased water intake, have vomiting or diarrhea. We all address these on-site as they happen, so the pet does not have to suffer from delay in care, and the family does not have to suffer the frustration of trying to find a vet appointment in days, or as our current situation, sometimes weeks.

The Board's regulatory proposal does not place additional limitations on existing law or restrict consumer access to legitimate APR services and should not increase costs for APR. Rather, the APR proposal continues the California State Legislature's statutory mandate and express policy that a licensed physical therapist may perform APR treatment only under the direct supervision of a licensed veterinarian.

It is important to note that BPC sections [4836](#) and [4840](#) provide the Board with authority to establish health care tasks that may be performed by an RVT or VA and require the Board to set the appropriate level of veterinarian supervision for an RVT or VA to perform those tasks. The Board has established specific animal health care tasks that may be performed by an RVT under direct or indirect supervision. (CCR, tit. 16, § [2036](#).) Separately, the Board established that, subject to the restrictions listed in CCR, title 16, section [2036](#), VAs can perform only auxiliary animal health care tasks under direct or indirect veterinarian supervision or direct RVT supervision. (See CCR, tit. 16, § [2036.5](#).)

Although not specifically defined in regulation, auxiliary animal health care tasks are those tasks that can be performed by a lay person with low risk to the animal patient. The term "auxiliary animal health care tasks" was enacted in 1982, when the old comprehensive task lists for RVTs (previously titled animal health technicians (AHTs)) and VAs (previously titled unregistered assistants) were removed and replaced. (See

CCR, tit. 16, §§ 2036, 2036.5, Register 82, No. 43 (Oct. 23, 1982) pp. 166.2.6-7.) Before 1982, CCR, title 16, section 2036 listed the specific tasks an AHT could perform under immediate, direct, and indirect veterinarian supervision. Those lists were repealed and replaced with a smaller list of tasks that were prohibited from being performed by an AHT or that required direct or indirect veterinarian supervision, and left all other animal health care tasks up to the supervising veterinarian to determine the degree of supervision required, consistent with standards of good veterinary medical practices.

Separately, CCR, title 16, section 2036.5 was repealed and replaced to prohibit an unregistered assistant from performing the specific tasks that required direct or indirect supervision of an AHT as listed in CCR, title 16, section 2036, and authorized an unregistered assistant to perform only auxiliary animal health care tasks under direct or indirect supervision of a licensed veterinarian or direct supervision of an AHT. The 1982 amendments to CCR, title 16, sections 2036 and 2036.5 show the increased abilities for RVTs to perform animal health care tasks but also, the need to pare down the scope of animal health care tasks that could be performed by unregistered assistants for the safety of the animal patients.

Currently, the Board interprets APR to be outside the scope of an auxiliary animal health care task because of the higher risk it presents for the animal patient. VAs are not required to have Board licensure, or any formal education or training required for licensure, prior to performing auxiliary animal health care tasks. Accordingly, with respect to a VA's ability to perform APR, the level of supervision required to perform APR defaults to the direct supervision requirement for animal health care tasks established in BPC section [4826](#), subdivision (c). Thus, APR can be performed by a VA only under direct supervision.

As discussed further below, opponents, themselves, contend that APR requires highly trained, qualified, and skilled practitioners to provide this specialized service. The Board agrees with this contention in so far as APR is not an auxiliary animal health care task that can be performed by VAs under indirect veterinarian supervision. Due to the potential confusion regarding whether APR is an auxiliary animal health care task, the regulation is necessary to define APR and clarify who may perform APR treatment and the level of supervision required. In addition, consumers will be better informed as to which licensing entity has jurisdiction over the practice of APR on animals. The Board anticipates that the public and potential APR practitioners will benefit from this clarification.

- 6. APR Competency.** Opponents assert the regulatory proposal does not ensure educational competency of practitioners and that a true provision of consumer protection would include mandatory educational standards for all who practice APR, which opponents contend is a specialty not currently taught and tested for in veterinary or veterinary technician schools. Opponents argue that the proposed regulation asserts that a veterinarian is more knowledgeable and experienced in rehabilitation than an appropriately certified and licensed physical therapist. Opponents allege most veterinarians do not have the knowledge or skillset to provide physical rehabilitation

services and that veterinarians are no more qualified than human physicians to perform rehabilitation on their patients. Opponents contend that APR requires highly trained, qualified, and skilled physical therapists, who are the best possible providers of this specialized service.

Proposed Response: Opponents' argument that veterinarians are not educated or trained to perform APR does not take into account the breadth of the veterinary medicine that licensed veterinarians are authorized to practice. Unlike other health care professionals licensed under the BPC, such as dentists, chiropractors, physical therapists, ophthalmologists, and podiatrists, veterinarians are educated and trained, and subsequently licensed and authorized under the Practice Act, to perform all health care services on animal patients. While some veterinarians may not specialize in APR, the Practice Act authorizes only licensed veterinarians, or individuals supervised by licensed veterinarians, to perform APR treatment. (BPC §§ [4825](#), [4826](#), subd. (b); Assem. Com. on Bus. and Prof., Analysis of AB 3013 (2017-2018 Reg. Sess.), as amended Apr. 2, 2018, p. 5; Assem. Com. on Bus. and Prof. and Sen. Com. on Bus., Prof. and Econ. Dev., Background Paper for Joint Sunset Review Oversight Hearing, Mar. 17, 2020, p. 23.)

Opponents' assertion that highly trained, qualified, and skilled physical therapists are the best possible providers of a specialized service does not acknowledge the fact that the Practice Act does not authorize physical therapists to perform APR. Notably, opponents do not assert that every other veterinary medical specialty should be performed on animals only by individuals licensed to provide those specialized services to humans. Under the opponents' assertions, the entire Practice Act would need to be rewritten to accommodate all veterinary medicine specialties similar to how the BPC provides for human medicine. Until such time as the California State Legislature either authorizes human medicine practitioners to perform services on animals without veterinarian supervision or authorizes the Board to promulgate regulations to address these specialties, the Board is limited to promulgating regulations that specify the animal health care tasks that may be performed by non-veterinarians and the level of supervision necessary for those tasks. (See BPC § [4836](#).) The Board's proposed regulation does not go beyond what is already prohibited or authorized by statute.

Supporters and opponents alike acknowledge that APR needs to be addressed by law. Opponents' own argument that proper performance of APR requires education and training reiterates the need for direct veterinarian supervision of VAs performing APR. Again, the Board does not have statutory authority to promulgate regulations that would resolve opponents' desire to establish education and experience requirements for physical therapists who want to perform APR unsupervised. Authorizing physical therapists to perform APR would require a new license or certification, which would have to be created by the California State Legislature. To protect the health, safety, and welfare of consumers, the Physical Therapy Practice Act establishes licensing requirements, with experience, education, and accreditation requirements, to perform physical therapy on human patients. Similarly, statutory licensing requirements must be established for non-veterinarians to perform APR. The

Board does not have authority to create a new licensing scheme for the performance of APR by non-veterinarians, such as physical therapists, without appropriate veterinarian supervision.

Proposed Alternatives to the Regulation

In accordance with Government Code section [11346.9](#), subdivision (a)(4), the Board, in its final statement of reasons supporting the rulemaking, must make a determination with supporting information that no alternative considered by the Board would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Board also must explain the reasons for rejecting any proposed alternatives that would lessen the adverse economic impact on small businesses. (Gov. Code § [11346.9](#), subdivision (a)(5).)

Below are the alternatives proposed in the public comments received by the Board after submission of its Initial Statement of Reasons and the proposed Board determinations and explanations regarding those alternatives.

- 1. Task Force Recommendation.** Opponents assert that legitimate alternatives to the proposed regulation have not been considered and that the alternative recommended by the Task Force was not listed in the Notice of Proposed Regulatory Action. Opponents argue the Task Force had recommended an “indirect supervision” model that would have allowed licensed physical therapists with certification in APR to practice on their own premises under veterinarian direction and referral of the animal patient for APR, but not require that a veterinarian be on-site or be their direct employer.

Opponents contend the Board’s Task Force recommendation should be implemented instead of the proposed APR regulation. Opponents CAAPT and APTC assert:

At the February 2, 2017 Animal Task Force meeting, the Task Force approved the following language:

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

This common-sense language does not conflict with the [Practice] Act. A [VCPR] must be established, which is vital and allows the veterinarian to manage the care provided to the animal. The veterinarian and physical therapist work together.

This language protects the public because in addition to the veterinarian establishing a VCPR, the physical therapist must obtain *advanced* certification in [APR]. The advanced training/certification would include courses that are approved by the Registry for Approved Continuing Education (RACE). The public is further protected by the Board's oversight of an APR premises license, for which the requirements are to be determined and defined by the Board working cooperatively with the Physical Therapy Board. The Board will ensure protection of the public by developing appropriate minimum standards for an APR premises. (Steven L. Simas, Esq., Simas & Associates, Ltd., letter to Board, Aug. 12, 2020, italics in original.)

Proposed Response: First, the Board does not have statutory authority to create education and experience requirements for physical therapists who want to perform APR. Rather, the Board has regulatory authority to specify animal health care tasks and the level of supervision required for RVTs and VAs to perform APR. (See BPC § [4836](#).) As such, all individuals who want to perform APR but who are not licensed or registered with the Board would be performing APR as VAs under the proposal. As argued by opponents, APR requires education and training, which supports the Board's proposal to require direct, not indirect, supervision over VAs performing APR.

Second, at the Board's July 26, 2017 meeting, the Board discussed the Task Force provision to authorize physical therapists with advanced certification in APR to perform APR on animals under supervision as determined by the veterinarian. The Board only has authority to enforce education and experience qualifications on individuals the Board licenses or registers, and the Board has no statutory authority to license or enforce such qualifications against physical therapists, who are licensed by the Physical Therapy Board of California. Thus, the Task Force provision to authorize physical therapists with advanced certification in APR was not included in the Board's proposed APR regulation, because it exceeded the Board's authority.

A statutory amendment to the Practice Act would be necessary to require qualifications compliance by physical therapists. Unless licensed as a veterinarian or registered as an RVT pursuant to the Practice Act, a physical therapist can only perform auxiliary animal health care tasks as a VA. In accordance with BPC section [4826](#), subdivision (c), which authorizes an RVT or VA to administer treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals under the direct supervision of a licensed veterinarian, the proposed regulation would require direct veterinarian supervision of a VA to perform APR.

Third, opponents assert the public would be protected under the Task Force recommendation by the Board's oversight of an APR premises license. As with the physical therapist certification recommendation, the Board does not have statutory authority to license an APR premises as envisioned by opponents. BPC section [4853](#), subdivision (a) requires all premises where veterinary medicine is being practiced to be registered with the Board. To obtain a premises registration, a licensed veterinarian (the managing licensee) must be identified as the person who will be responsible for

maintaining the premises and ensuring the veterinary practice performed at the premises complies with all laws. (BPC §§ [4853](#), subdivision (c), [4853.5](#); CCR, tit. 16, § [2030.05](#).) To ensure compliance with the law for the safe provision of veterinary medical care at a veterinary premises, a managing licensee's veterinarian license is subject to discipline for failure to maintain the premises according to law. (BPC § [4883](#).)

However, the enforcement mechanisms for an APR premises with no managing licensee, operated by a physical therapist who is not licensed by this Board, would be insufficient to protect the public. Without a managing licensee, no premises registration could be issued or disciplined. The physical therapist operating the APR premises could only be cited, not formally disciplined, for the unlicensed practice of veterinary medicine. This result likely is not what opponents want and would not protect the public or animal patients. For all of these reasons, opponents' request to include the certification provisions of the Task Force recommendation falls outside the scope of the Board's statutory authority and would not ensure full compliance with the Practice Act and statutory premises registration requirements. Accordingly, opponents' request to include these Task force provisions in the proposal is rejected.

2. **Other States and AB 3013.** Opponents argue that other states (i.e., Nevada, Utah, Colorado, and Oregon) have established APR in statute and created successful models for indirect supervision, providing for collaboration between license groups to the benefit of the pet-owning public. Opponents assert the Board should follow in the footsteps of these states. Opponents also stated that AB 3013 was a logical legislative solution in California that would have properly included physical therapists; but the bill had an inflated cost estimate.

Proposed Response: As mentioned above, the Board is authorized to promulgate regulations. However, the Board is unable to create a new APR certification because it does not have the authority to enact new statutes. Although the Board may propose legislative recommendations regarding the functionality of licensing and enforcement processes, the Board does not propose scope of practice legislation. Rather, individuals seeking to expand their scope of practice can submit legislative proposals to the California State Legislature for review and enactment.

It is important to note the current issue before the Board is whether physical therapists should be able to perform APR and under what level of supervision. Yet, opponents' arguments on this issue fail to recognize the other health care practitioners who are licensed to practice on humans but want to perform their respective speciality's treatments on animals. Submitting a legislative proposal to provide financial and professional benefits to one health care profession to the exclusion of all other health care professions is outside the scope of the Board's legislative mandate of protection of the public and animal patients. For these reasons, opponents' recommendation falls outside the scope of the Board's statutory authority and does **not** fall under the Board's mandate to ensure full compliance with the Practice Act. Accordingly, the Board is rejecting the request to pursue a legislative recommendation to create a new physical therapist certification.

- 3. Human Medical/Physical Therapy Model.** Opponents assert that the human medical model works well and does not require a primary care physician to be on location with a physical therapist. Opponents recommend the APR proposal utilize a similar model that would provide for indirect supervision of a physical therapist performing APR. Opponents contend that once a VCPR is established, direct supervision or having a veterinarian on premise is an unnecessary barrier. Opponents assert that a veterinarian can refer the animal patient to a physical therapist, who would prepare a treatment plan and perform APR under indirect supervision.

Proposed Response: The human medical model does not apply easily to the treatment of animals. Animals are unable to converse about their treatment plan or effectively communicate pain or discomfort from or during treatment. Providing APR under indirect supervision and without the presence of a licensed veterinarian places the animal patient in potential danger if the physical therapist is not well-versed in the potential complications and side-effects of APR ~~for other underlying medical conditions of~~ the specific animal patient.

Commented [SJ2]: Revised and approved by Board on October 22, 2020

Further, at the August 13, 2020 hearing, opponents requesting indirect supervision of physical therapists performing APR described a scenario where the veterinarian refers the animal patient to the physical therapist, who would prepare the treatment plan and performs APR at a location separate from the veterinarian. A treatment referral is a document that recommends a particular treatment, such as a physician providing a physical therapy referral to a human patient; the referral merely states the patient needs physical therapy but may not describe the specific methods to perform the physical therapy.

The Physical Therapy Practice Act allows a human patient to initiate physical therapy treatment directly from a licensed physical therapist without initial evaluation by a physician. (BPC § [2620.1](#), subds.(a), (c)(1).) Physical therapists are required within 45 calendar days or 12 visits, whichever occurs first, to receive from a California licensed physician a dated signature on the physical therapist's plan of care indicating approval of the physical therapist's plan of care. (BPC § [2620.1](#), subd. (a)(4).) Approval of the physical therapist's plan of care requires the physician to make an in-person patient examination and evaluation of the patient's condition and, if indicated, testing by the physician. (*Ibid.*) Thus, the human physical therapy model allows a patient to directly refer themselves to the physical therapist and follow up with a physician at a later time. Alternatively, the patient can be examined first by the physician, who then refers the patient to a physical therapist for treatment.

However, those referral and treatment statutes do not apply to treatment on animal patients. To treat animal patients, a licensed veterinarian first must establish a VCPR. (CCR, tit. 16, [2032.1](#).) Under CCR, title 16, section [2032.1](#), subsection (b)(3), the veterinarian is required to communicate with the client a course of treatment appropriate to the circumstance. This means before the client can be "referred" for physical therapy treatment of the animal patient, the veterinarian must provide the

treatment plan to the client. As such, a physical therapist who is not a licensed veterinarian cannot create a treatment plan to perform APR on an animal patient.

Further, a physical therapist who is not a licensed veterinarian or RVT cannot treat an animal patient on the basis of a referral from a veterinarian under indirect veterinarian supervision. First, the Practice Act provides for employment of an RVT or VA by a licensed veterinarian or governmental agency which employs veterinarians. (BPC § [4940.9](#).) Yet, under opponents' referral model, the physical therapist would appear to not be employed by the referring veterinarian and, thus, could not be supervised, directly or indirectly, by the veterinarian.

Second, CCR, title 16, section [2034](#), subsection (f) defines "indirect supervision" to include when the supervising veterinarian 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. Notably, a referral is not considered "direct orders" in the veterinary profession; rather, veterinary referrals are used when an originating veterinarian advises the client to take the animal patient to another veterinarian for diagnosis and/or treatment of the animal patient.

On the other hand, direct orders, as required for indirect supervision, describe the specific actions to be performed to complete the animal health care task. Direct orders may be given to RVTs or VAs depending on the nature of the requests and the licensure and ability of the staff. Examples of direct orders are:

- Perform a CBC, blood chemistries, and Spec cPL.
- Take a right lateral and V/D Xray view of the abdomen.
- Give 100 mg of cefazolin intravenously TID.
- Place an IV catheter and administer LRS at a rate of 5ml/kg/ hour.
- Perform underwater treadmill exercise for 20min twice weekly, at 0% incline.
- Dispense 250 mg metronidazole, #20, one po BID.

Depending upon the competency of the individual, the veterinarian may determine whether direct or indirect supervision of the individual is required to perform these tasks. In order for a physical therapist to perform physical therapy or APR on an animal under indirect supervision as opponents have proposed, the physical therapist would have to receive direct orders for the specific APR treatments to be performed from the supervising veterinarian, who established the treatment plan for the animal patient. There is no law that authorizes a physical therapist to establish a treatment plan for animal patients. Thus, the concept of a physical therapist performing APR on the basis of a referral and indirect veterinarian supervision cannot be accomplished; the VCPR and indirect supervision regulations require the veterinarian to create the APR treatment plan with direct, specific orders for the performance of the APR treatment by the physical therapist.

In addition, subject to the restrictions listed in CCR, title 16, section [2036](#), VAs can perform only auxiliary animal health care tasks under direct or indirect veterinarian supervision or direct RVT supervision. (See CCR, tit. 16, § [2036.5](#).) Those tasks must be performed in an animal hospital setting, defined to mean a premises registered with the Board. (CCR, tit. 16, §§ [2034](#), subs. (g), [2036.5](#).) Although not specifically defined in regulation, auxiliary animal health care tasks are those tasks that can be performed by a lay person with low risk to the animal patient. Currently, the Board interprets APR to be outside the scope of an auxiliary animal health care task because of the higher risk to the animal patient. VAs are not required to have Board licensure, or any formal education or training required for licensure, prior to performing auxiliary animal health care tasks. Supporters of the proposal noted that improper exercises or placement of a medical appliance can cause significant or permanent harm to the animal patient. Accordingly, with respect to a VA's ability to perform APR, the level of supervision required to perform APR defaults to the direct supervision requirement for animal health care tasks established in BPC section [4826](#), subdivision (c). Thus, APR can be performed by a VA only under direct supervision. As discussed above, the rulemaking is necessary to clarify that APR cannot be performed by a VA under indirect veterinarian supervision.

The proposal to adapt the human model of physical therapy referrals for APR does not ensure compliance with the Practice Act and supporting regulations and, therefore, is not effective in achieving the purpose of the APR proposal. The Practice Act and supporting regulations require direct orders, not referrals, to meet the indirect supervision requirement. Further, the BPC establishes licensing requirements and an enforcement scheme for health care professionals to protect consumer health, welfare, and safety. Although physical therapists are licensed by the Physical Therapy Board of California to perform physical therapy treatment on persons, physical therapists are not licensed by the Board to provide APR. As such, unless the physical therapist is licensed as a veterinarian or is an RVT, the physical therapist must be considered a VA under the Practice Act. The Board's proposal clarifies existing law and the California State Legislature's interpretation of that law, which requires a VA to be directly supervised by a veterinarian to perform animal health care tasks. For these reasons, the Board rejects the recommendation to use the human model for physical therapy referrals with indirect veterinarian supervision for the performance of APR by a physical therapist.

4. **Wildlife Rehabilitation Exemption.** One individual submitted correspondence (**Attachment 5**) to the Board that wildlife rehabilitation remains a point of confusion – it is a very active field in this state and nearly 100,000 animals go through the hands of wildlife rehabilitators each year under permits from California Department of Fish and Wildlife (CDFW) and U.S. Fish and Wildlife Service (USFWS). The individual noted that there is nothing in the Board's rules that exempts these animals from falling under the proposed "physical rehabilitation" rules. The individual asked that the following text be considered for inclusion in the proposed rulemaking language: "This regulation does not apply to wild animals being rehabilitated under permits from CDFW and USFWS." The commenter further explained that wildlife in rehabilitation

frequently need physical therapy prior to release, and neither domestic animal veterinarians nor RVTs are trained to do it.

Discussion: At the April 19-20 and July 26-27, 2017 meetings, the Board deliberated on the APR proposal, and at the October 18-19, 2017 meeting, the Board adopted the proposed language and directed Board staff to proceed with developing the regulatory package. To determine the most appropriate phrase to advise the public and practitioners of what activities the term encompassed, the Board considered using the term “animal rehabilitation.” Public comment noted the existing statutory term “wildlife rehabilitation” and the potential need to differentiate the term “animal rehabilitation” from “wildlife rehabilitation.” Government Code section [8670.61.5](#) defines “wildlife rehabilitation” to mean those actions necessary to fully mitigate for the damage from a spill caused to wildlife, fisheries, wildlife habitat, and fisheries habitat and is overseen by the CDFW. As the Board does not oversee wildlife rehabilitation, the proposal was revised from “animal rehabilitation” to “animal physical rehabilitation” to better differentiate the activities regulated by this proposal from “wildlife rehabilitation” activities regulated by CDFW.

In addition, the proposal requires a valid VCPR to be established prior to performing or authorizing APR. (Prop. CCR, tit. 16, § 2038.5, subs. (b).) A VCPR is not required for treatment of a wild animal. (CCR, tit. 16, § [2032.1](#), subs. (a).) Although the Board has attempted to limit the application of the APR proposal to non-wild animals by inserting the term “physical” into the term “Animal Physical Rehabilitation,” and the VCPR regulation does not apply to wild animals, the Board should consider whether the APR regulation should be clarified further to specifically exclude wild animals.

Potential additional subsection (f) to proposed CCR, title 16, section 2038.5:

(f) This section shall not apply to wildlife rehabilitation regulated by the United States Fish and Wildlife Service or the California Department of Fish and Wildlife.

5. **APR on Large Animals.** During the August 13, 2020 hearing, the Board received oral public comment that the APR proposal should provide different guidelines for small and large animals. Unlike rehabilitation for small animals that may be accomplished at a veterinary premises with the animal housed at home, large animal rehabilitation requires housing and treatment of the animals at large facilities. Typically, veterinarians are unable to treat large animals at a veterinary premises due to the size and number of large animal patients. Equine centers that receive large animals, such as Kentucky Derby race horses and Olympic jumpers, for rehabilitation are sent to those centers by veterinarians. Equine centers report they provide rehabilitation pursuant to veterinarian orders; however, the rehabilitation is not directly supervised daily by the referring veterinarian.

Discussion: During the August 13, 2020 hearing, Board members discussed the potential need to define rehabilitation on large animals separate from small animals. Board members also discussed why the proposal requires a veterinarian to directly

supervise an RVT or VA performing APR on a small animal in a facility, but APR performed on a large animal at an equine facility or in a range setting could be supervised with the veterinarian located further away because the proposed regulation only requires the veterinarian to be “in the general vicinity of the treatment area.”

As one Board member noted, most equine veterinarians do not have a standing practice (fixed veterinary premises) but, instead, travel from farm to farm, and track to track as a mobile veterinary practice. In those instances, veterinary staff work on one animal patient under veterinarian instructions, while the veterinarian goes to another area on the property to observe another animal patient. The farm or track is the location where the veterinarian and their team are working. If the veterinarian is on one end of the property a few acres away, veterinary staff performing APR are able to call the veterinarian.

The APR proposal would require direct veterinarian supervision of VAs performing APR. “Direct supervision” requires the supervisor to be physically present at the location where the animal health care job task is being performed and quickly and easily available. (CCR, tit. 16, § 2034, subs. (e).) To accommodate large animals receiving APR on a ranch or other large property, rather than at the veterinary premises, the current APR proposal would authorize VAs to perform APR in a range setting with the supervising veterinarian in the general vicinity. (Prop. CCR, tit.16, § 2038.5, subs. (d).)

Currently, the only reference in regulation to “in a range setting” is located in CCR, title 16, section 2038, which is applicable to musculoskeletal manipulation. The Task Force originally added the range setting provision at their October 4, 2016 meeting to address the scenario where there is no premises or building where the animal receives treatment. The proposal ultimately approved by the Board maintained the range setting provision as applicable to VAs.

Supervision of animal health care tasks performed in an animal hospital setting and in a range setting has evolved over time. Since at least 1977, the Board has recognized the different needs between small and large animal practice, the different locations where treatment must be performed, depending on the size of the animal, and the supervision required in each location.

“Direct supervision” previously was defined to mean “the supervisor is on the premises in an animal hospital setting or in the same general area in a range setting,” but was amended, instead, to mean “the supervisor is physically present at the location where animal health care job tasks are performed.” (CCR, tit. 16, § 2030, Register 79, No. 26 (June 30, 1979) pp. 166.2.1; CCR, tit. 16, § 2035, Register 79, No. 42 (Oct. 20, 1979) p. 166.2.6; CCR, tit. 16, § 2034, Register 2002, No. 23 (July 3, 2002).) The definition of direct supervision affects the supervision requirements for RVTs (previously named animal health technicians or AHTs). Prior to 2002, there were no provisions authorizing an AHT to perform animal health care tasks under direct or indirect supervision in a range setting; rather, AHTs were limited to performing tasks only in an animal hospital setting. “Animal hospital setting” means “all veterinary

premises which are required by Section 4853 of the Code to be registered with the board." Subsequently, CCR, title 16, section 2036 was revised to authorize RVTs to perform specified procedures under direct, indirect, or direct or indirect supervision, without limitation on where, in an animal hospital or range setting, the task was performed. (CCR, tit. 16, § 2036, Register 82, No. 43 (Oct. 23, 1982) pp. 166.2.6-.7; CCR, tit. 16, § 2036, Register 2002, No. 23 (July 3, 2002).)

Although RVT supervision requirements have changed to no longer restrict RVTs to performing animal health care tasks in an animal hospital setting, the regulations applicable to VAs always have limited the performance of animal health care tasks to animal hospital settings. Current regulation only authorizes a VA in an animal hospital setting to perform auxiliary animal health care tasks under direct or indirect veterinarian supervision or direct RVT supervision. (CCR, tit. 16, § [2036.5](#).) Under BPC section [4826](#), the current statutory default supervision requirement over VAs performing APR is direct supervision.

As demonstrated by the over 40-year regulatory history of the term "direct supervision," the Board has long recognized the differing needs between small and large animal practice and that treatment of the animal patient may occur at a registered premises, in an animal hospital setting, or at the location where the animal is housed, in a range setting. Under the existing definition of "direct supervision," the veterinarian must be present at the location and quickly and easily available. That definition does not require the veterinarian personally to view the performance of an animal health care task and no longer differentiates between veterinary premises or the same general area in a range setting. Locations where the supervising veterinarian would be present could include, but not be limited to, a facility, farm, or ranch. As such, as long as the veterinarian is at the location, an identifiable property such as a farm or ranch, and the veterinarian is quickly and easily available to the VA performing APR, the direct supervision requirements can be met without separately providing for range settings.

Accordingly, the Board should consider whether the APR proposal needs to maintain the special provision for a "range setting." A possible revision to address the issues raised is to remove the provision specific to a range setting, as follows:

Potential revision to Proposed CCR, title 16, section 2038.5:

(d) Veterinary assistants may perform APR under the direct supervision of a veterinarian. ~~If at the time the veterinary assistant is performing APR on an animal patient in a range setting, the supervising veterinarian shall be in the general vicinity of the treatment area.~~

Equine facility stakeholders also asserted that a veterinarian should be able to provide APR instructions to the individuals working at the equine facility, who would perform APR on the animal in accordance with those instructions but without the presence of the veterinarian. It is unclear in what capacity the individuals (as employees of an entity under contract with the animal's owner or as agents of the animal's owner) at

the equine facility would be performing the treatment. However, public testimony made clear that equine facility staff receive the animal after it has been discharged from the veterinarian; as such, the equine facility staff are not treating animals as VAs associated with the supervising veterinarian. Therefore, a regulation to authorize indirect supervision of a VA treating large animals would not apply to equine facility staff performing APR. Rather, the veterinarian must supervise the RVT or VA associated with the veterinarian and/or veterinary premises for the performance of APR. Thus, the Board must reject the recommendation to authorize indirect supervision over an individual performing APR who is not directly associated as an RVT or VA with the supervising veterinarian and/or veterinary premises.

Action Requested: The Board is asked to consider and approve proposed responses to written and oral comments received on the APR proposal for inclusion in the Board's final statement of reasons. The Board also is requested to discuss proposed revisions to address wildlife rehabilitation and APR performed on large animals.

If the Board agrees with the proposed responses to written and oral comments, please entertain a motion to approve the responses to written and oral comments for inclusion in the Board's Final Statement of Reasons in support of the APR rulemaking file.

If the Board determines modifications to the rulemaking text are necessary, please entertain a motion to approve the proposed modified text for a 15-day comment period, and if there are no adverse comments received during that 15-day public comment period, delegate to the Executive Officer the authority to adopt the proposed regulatory changes as modified, and delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.

Attachments:

1. Past Meeting Dates when AR/APR was Discussed & Links to Meeting Materials and Minutes
2. 38 comments/letters in SUPPORT of the regulatory proposal
3. 146 comments/letters in OPPOSITION of the regulatory proposal
4. [Petition](#) by California Association of Animal Physical Therapists/Animal Physical Therapy Coalition in OPPOSITION to the regulatory proposal
5. One comment regarding wildlife rehabilitation exemption
6. Additional comments received after the close of the 45-day public comment period through August 12, 2020
7. Additional comments received on and after August 13, 2020, the day of the APR hearing
8. [Notice of Proposed Changes](#)
9. [Proposed Regulatory Language](#)
10. [Initial Statement of Reasons](#)
11. [Notice of Public Hearing](#)

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

MODIFIED TEXT

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

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

Adopt Section 2038.5 to Article 4 of Division 20 of Title 16 of the California Code of Regulations to read as follows:

2038.5. Animal Physical Rehabilitation.

(a) Animal Physical Rehabilitation (APR):

(1) is defined as the treatment of injury or illness to address pain and improve function by means of physical corrective treatment.

(2) does not include relaxation, recreational or wellness modalities, including but not limited to, massage, athletic training, or exercise.

(b) Prior to performing or authorizing APR, a veterinarian shall establish a valid veterinarian-client-patient relationship as defined in Sections 2032.1 or 2032.15.

(c) R.V.T.s may perform APR under the degree of supervision to be determined by the veterinarian who has established the veterinarian-client-patient relationship.

(d) Veterinary assistants may perform APR under the direct supervision of a veterinarian. ~~If at the time the veterinary assistant is performing APR on an animal patient in a range setting, the supervising veterinarian shall be in the general vicinity of the treatment area.~~

(e) Nothing in this section shall be construed to restrict or amend Section 2038 regarding the performance of MSM.

(f) This section shall not apply to wildlife rehabilitation regulated by the United States Fish and Wildlife Service or the California Department of Fish and Wildlife.

Note: Authority cited: Sections 4808 and 4836, Business and Professions Code.
Reference: Sections 4825, 4826, 4836, and 4883, Business and Professions Code.



December 3, 2020

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**RE: SUBSTANTIVE QUESTIONS AND CONCERNS RELATING TO PROPOSED
 MODIFIED ANIMAL REHABILITATION REGULATIONS**

Dear California Veterinary Medical Board members and staff,

The purpose of this letter is to seek further clarification and answers that we feel have been inadequately addressed during the August 13, 2020 public hearing or the October 22, 2020 California Veterinary Medical Board (“Board”) meeting relating to the concerns of the proposed animal rehabilitation regulations.

Please refer to the below link (approx. 1 min. long) for concerns brought up by Dr. Diane Isbel (Racetrack veterinarian for over 30 years), and Dr. Carrie Schlachter (equine veterinarian who served on the Board’s Animal Rehabilitation Stakeholder’s Task Force). Over the years, they have both brought up important concerns that have yet to be addressed by this Board. We share their concerns and the most recent proposed modifications relating to the range setting gives our Coalition even greater apprehension. It is our hope that in the spirit of transparency and clarity, that our questions will be addressed.

[Equine Veterinarians speak out. Their concerns have yet to be addressed.](#)

The proposed language will not allow equine veterinarians to decide the level of supervision (whether that be direct or indirect supervision) for a licensed physical therapist certified in animal rehabilitation (or any other trusted and qualified non-DVM provider). There have been letters and verbal testimony both in past VMB meetings as well as special considerations that were made during the careful crafting of the Animal Rehabilitation Stakeholder’s Task Force language that are now being ignored with the proposed, modified regulation language.

We wish to bring up a number of issues and we look forward to the Board's response. For clarity, each question is posed in red below:

1. By not specifying or detailing out the matters of the 'range setting', this proposal does nothing to protect the consumer. Instead, it restricts equine veterinarians from collaborating with other non-DVM professionals of their choice, and it will in turn, make it more difficult for consumers to access those qualified non-DVM professionals as well. Should the veterinarian wish to collaborate with a qualified and licensed animal physical therapist, this provision would mandate that the veterinarian go out to the barn with the qualified PT to 'directly supervise' their work at every visit. The costs for services to the consumer would therefore sharply increase because they would be forced to pay for 2 licensed professionals when only one is needed. Mandating direct supervision (with no indirect supervision range setting allowances or exemptions) will limit consumer access to qualified professionals and take away the veterinarian's choice to collaborate.
 - What specifically will the Board do to address the barrier to access that this proposal will cause to both veterinarians and consumers alike?
 - How will the Board address the consumers' concerns who have spoken out against this proposal who do not want to be burdened by the high cost for their veterinarian to come to their barn for every non-DVM physical rehabilitation visit?
 - How will this proposed modification serve the consumers if they will no longer be able to afford the services?
 - Is the Board concerned that horses may not get the care they need, where they need it since physical rehabilitation services will not be easily accessible or affordable because of this regulation modification?

2. Why restrict equine veterinarians from rightfully deciding for themselves the level of supervision for another qualified provider to render rehab services to a horse?

Allowing the veterinarian to decide the level of supervision of a trusted person they choose to collaborate with would increase access to more providers so more animals can get the care they need and the public would be afforded more choice in the care of their animals.

 - Is the Board concerned about the equine veterinarians in current practice who have asked for the flexibility to decide on their own whom they wish to collaborate with to provide the best options for animal owners?
 - How will the Board specifically address Dr. Diane Isbel's concern that she does not want to be 'considered even more than an outlaw than she already is' by creating a regulation that mandates direct supervision in a range setting?

3. Are there past incidences that would lead this Board to believe that a veterinarian is not capable of deciding the appropriate level of supervision of a trusted non-DVM qualified provider?

4. With the advancement of telecommunication, it is very reasonable to allow for indirect supervision. This alternative has not been adequately considered by the Board. There is a solution, but it would require a statutory remedy. **Will the Board consider a statutory solution so this important issue can be properly addressed in the best interest of the consumers and animals of California?**
5. **How does the Board believe that the regulatory proposal INCREASES consumer access to APR by PTs? (as indicated in the Board materials and Initial Statement of Reason. This has been asked before, and not answered.)**
6. Regulation language is put into place to protect the consumers. **How does this modified regulation language protect the consumers from unqualified veterinarians who have not been trained in animal rehabilitation, yet are legally allowed to provide animal rehabilitation?**
7. **Does the Board understand that a direct supervision mandate without allowing for reasonable exemptions for other qualified providers could be construed as monopolization/anti-trust?**

While we understand that the Board is not “required” to answer questions or concerns about anything other than the proposed regulations, our Coalition remains concerned about the Board’s lack of collaborative efforts between other licensed and qualified non-DVM practitioners. The decisions that have been made to date on the issue of animal rehabilitation does not at all support the Center for Disease Control’s One Health Initiative. We wonder if this Board will ever answer our question about their position re: the One Health Initiative.

Question to the Board: Does the Board support the Center for Disease Control (CDC)’s “One Health Initiative?”

The federal CDC’s One Health Initiative is a collaborative, multisectoral, and transdisciplinary approach which works at the local, regional, national, and global levels with the goal of achieving optimal health outcomes recognizing the interconnection between people, animals, plants and their shared environment.

Question to the Board: If the Board supports this initiative, how will the Board address the fact that they are preventing non-veterinarian, qualified and licensed professionals to practice animal rehabilitation when they have been shown to be qualified and safe practitioners?

https://www.cdc.gov/onehealth/index.html?fbclid=IwAR2q_k7bhc8Tmq5qX0wzBHiU4SctFZgfaYgpg4ZDUDVSNcAiUmskIjFXH5g

The proposed regulation modification fails to recognize the real ability of a licensed physical therapist with advanced education and training in animal physical therapy to safely perform animal rehabilitation in the range setting.

The Board has not to date answered all the substantive issues raised by the questions from the Animal Physical Therapy Coalition in the Board's summary of proposed responses. We would ask when or if they will be answered?

The actions of the Veterinary Medical Board in pursuing the current regulation illustrates the proverb: If all you have is a hammer, then everything looks like a nail. The Board is only considering its hammer – the existing Veterinary Medicine Practice Act – and is using it to pound on the issue of animal physical therapy. The Board is not considering the needed tool of legislation to address this issue in the Act.

The Board has failed to engage in any meaningful efforts to amend the law, which Board Members, Board Counsel, consumers, and other licensed professionals have said is needed in order to adequately address the issue of animal physical rehabilitation.

The issues are not insurmountable; they can be reasonably, adequately, and safely addressed in legislation.

Again, it is the Animal Physical Therapy Coalition's hope that the Board will reconsider the current regulatory proposal, abandon the language and pursue the more appropriate solution through a legislative remedy akin to AB 3013 (The Animal Physical Rehabilitation Act of 2018).

Sincerely,

Karen Atlas, PT, MPT, CCRT

Karen Atlas, PT, MPT, CCRT

President: Animal Physical Therapy Coalition

President: California Association of Animal Physical Therapists

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

cc: Kimberly Kirchmeyer, Director, Department of Consumer Affairs
 Assemblymember Evan Low, Chair, Assembly Committee on Business and Professions
 Senator Steven Glazer, Chair, Senate Committee on Business, Professions, and Economic Development
 Vincent Chee, Consultant, Assembly Committee on Business and Professions
 Elissa Silva, Consultant, Senate Committee on Business, Professions, and Economic Development



January 26, 2021

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**RE: SUBSTANTIVE QUESTIONS AND CONCERNS RELATING TO PROPOSED
 MODIFIED ANIMAL REHABILITATION REGULATIONS**

Dear California Veterinary Medical Board members and staff,

The purpose of this letter is to seek further clarification and answers that we feel have been inadequately addressed during the August 13, 2020 public hearing, the October 22, 2020 Board meeting, or in the recent Memorandum by Board Counsel, Tara Welch, dated December 29, 2020, relating to the concerns of the proposed animal rehabilitation regulations. We hope they can be addressed at the upcoming CVMB meeting on January 28, 2021.

While we appreciate the efforts made to answer our questions and concerns about the proposed animal rehabilitation regulations, we wish to have further clarity about two points in particular.

1. We have asked in prior letters to the Board as well as in email correspondence with Ms. Sieferman for the evidence to support that the California Veterinary Medical Board has discussed, interpreted, and made the determination by vote that “APR is outside the scope of an auxiliary animal health care task because of the higher risk it presents for the animal patient.” It has only been stated that this determination has been made in the past, yet we have not seen any documented support of this determination despite our request. **Please provide the meeting date/s, transcripts, and minutes that reflect this specific Board action/decision.**

This is a very important detail, as there are practices in California that have been operating under the previous determination made in the Board materials (as recently as August 7, 2020), which states that “Accordingly, animal rehabilitation physical therapists that are not licensed veterinarians or RVTs are considered veterinary assistants and may perform auxiliary animal health care tasks under the direct or indirect supervision of a licensed veterinarian or the direct supervision of an RVT (CCR, tit. 16, Sec. 2036.5)”

(The following ‘correction’ by the Board staff was offered to the APTC. Screen shot taken from Board materials from August 7, 2020):

“Highly trained, certified, and qualified animal rehabilitation physical therapists (PTs) would be required to work in a veterinarian’s office, only under direct supervision from an on-site veterinarian who may or may not be qualified to render physical rehab services themselves.”

- **Correction:**
RVTs may perform specified animal health care tasks under the indirect/direct supervision of a licensed veterinarian. (CCR, tit. 16, § [2036](#).) The Board considers any individual who is not an RVT or a licensed veterinarian a veterinary assistant. (CCR, tit.16, § [2034](#), subs. (c).)

Accordingly, animal rehabilitation physical therapists that are not licensed veterinarians or RVTs are considered veterinary assistants and may perform auxiliary animal health care tasks under the direct or indirect supervision of a licensed veterinarian or the direct supervision of an RVT. (CCR, tit. 16, § [2036.5](#).)

This is a notable contradiction from what the Board is now proposing which, as a consequence, businesses would either be forced to close or forced to raise prices so high to accommodate the direct supervision mandate that many dog owners may no longer be able to afford services. The impact to businesses and the consumers of California is profound with this change in regulation. This regulation appears to be more than just ‘clarification’, as the intent seems to target and limit the qualified physical therapist from practicing under reasonable guidelines.

2. We remain concerned that this Board has relied on misinformation to make decisions.

Here is a recent example made by past President Dr. Cheryl Waterhouse which asserts inaccurate information and appears to be using this misinformation to justify rejecting the VMB’s Stakeholder’s Task Force language as it relates to physical therapists practicing on animals.

Dr. Cheryl Waterhouse just prior to the vote when the CVMB went on to reject their own Stakeholder’s Task Force as it relates to physical therapists practicing on animals (April 19, 2017):

[President Dr. Cheryl Waterhouse misinformed.mp4](#)

Despite being corrected with more factual information, Dr. Waterhouse’s narrative has not appeared to change (August 13, 2020):

[Past President Cheryl Waterhouse continues with misinformed narrative about education of PTs and Vets](#)

Notably, just because UC Davis has a ‘whole rehab department’, does not mean they train their veterinary students in rehab. She appears to be misleading the public member of the Board (Alana Yanez) that veterinarians are competently trained in rehabilitation in

veterinary school when they are, in fact, not. Further, her assertions made about the teaching institute (Canine Rehabilitation Institute) are patently false.

Does the Board recognize the use of misinformation to influence discussions and decisions?

The proposed regulation modification fails to recognize the real ability of a licensed physical therapist with advanced education and training in animal physical therapy to safely perform animal rehabilitation in the range setting.

The actions of the Veterinary Medical Board in pursuing the current regulation illustrates the proverb: If all you have is a hammer, then everything looks like a nail. The Board is only considering its hammer – the existing Veterinary Medicine Practice Act – and is using it to pound on the issue of animal physical therapy. The Board is not considering the needed tool of legislation to address this issue in the Act.

The Board has failed to engage in any meaningful efforts to amend the law, which Board Members, former Board Counsel, consumers, and other licensed professionals have said is needed in order to adequately address the issue of animal physical rehabilitation. We remain puzzled why this Board blocked the very resolution that AB 3013 offered in 2018 since this issue is specifically included in the current Legislative Sunset Review of the CVMB. AB 3013 would have been the statutory fix needed to begin to solve this conundrum that has plagued our state for well over a decade, but it appears to have been opposed by this Board also based on misinformation.

The issues are not insurmountable; they can be reasonably, adequately, and safely addressed in legislation.

Again, it is the Animal Physical Therapy Coalition's hope that the Board will reconsider the current regulatory proposal, abandon the language and pursue the more appropriate solution through a legislative remedy akin to AB 3013 (The Animal Physical Rehabilitation Act of 2018) which was intended to codify the CVMB's Animal Rehabilitation Stakeholder's Task Force and would have addressed the ongoing Sunset Review issue outlined by the legislature.

Sincerely,

Karen Atlas, PT, MPT, CCRT

Karen Atlas, PT, MPT, CCRT

President: Animal Physical Therapy Coalition

President: California Association of Animal Physical Therapists

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cc: Kimberly Kirchmeyer, Director, Department of Consumer Affairs
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 Patrick Le, Consultant, Assembly Committee on Business and Professions
 Elissa Silva, Consultant, Senate Committee on Business, Professions, and Economic Development