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DEPARTMENT OF CONSUMER AFFAIRS • VETERINARY MEDICAL BOARD
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VETERINARY MEDICAL BOARD
MULTIDISCIPLINARY ADVISORY COMMITTEE
MEETING MINUTES
OCTOBER 17, 2023

The Multidisciplinary Advisory Committee (Committee) of the Veterinary Medical Board (Board) met via a teleconference/WebEx Event on **Tuesday, October 17, 2023**, with the following location available for Committee and public member participation:

Department of Consumer Affairs
1747 N. Market Blvd., Hearing Room
Sacramento, CA 95834

Webcast Link: https://youtu.be/7fkgfa60h9A

10:00 a.m., Tuesday, October 17, 2023

1. Call to Order / Roll Call / Establishment of a Quorum

Committee Chair, Leah Shufelt, RVT, called the meeting to order at 10:04 a.m. Executive Officer (EO), Jessica Sieferman, called roll, and all nine members of the Committee were present; a quorum was established.

Ms. Shufelt welcomed new Committee members Kathy Bowler, Kristi Pawlowski, RVT, and Cheryl Waterhouse, DVM. Ms. Shufelt reported that after this meeting, Christina Bradbury, DVM, would be stepping down as the Board Liaison to the Committee, and that Barrie Grant, DVM, would be replacing Dr. Bradbury.

Dr. Bradbury recognized the National Veterinary Technician Week and thanked all registered veterinary technicians (RVTs) for the incredible tasks they perform for the profession.

Members Present

Leah Shufelt, RVT, Chair
Richard Sullivan, DVM, Vice Chair
Kathy Bowler
Christina Bradbury, DVM, Board Liaison (departed the meeting at 1:00 p.m.)
Kevin Lazarcheff, DVM
Kristi Pawlowski, RVT, Board Liaison
Dianne Sequoia, DVM
Marie Ussery, RVT
Cheryl Waterhouse, DVM

Staff Present

Jessica Sieferman, EO

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Matt McKinney, Deputy EO
Merlene Francis, Enforcement Manager
Kim Phillips-Francis, Administration/Licensing Manager
Patty Rodriguez, Hospital Inspection Program Manager
Rob Stephanopoulos, Enforcement Manager
Amber Kruse, Senior Enforcement Analyst (Hospital Inspection)
Jeff Olguin, Lead Administrative and Policy Analyst
Kristy Schieldge, Regulatory Counsel, Attorney IV, Department of Consumer Affairs (DCA), Legal Affairs Division
Tara Welch, Board Counsel, Attorney IV, DCA, Legal Affairs Division

Guests Present

Dani Alvarez, RVT
Dan Baxter, Executive Director, California Veterinary Medical Association (CVMA)
Nancy Ehrlich, RVT, California Registered Veterinary Technicians Association (CaRVTA)
Melissa Gear, Deputy Director, Board and Bureau Relations, DCA
Darlene Geekie, RVT
Anita Levy Hudson, RVT, CaRVTA
Bonnie Lutz, Esq., Klinedinst
Grant Miller, DVM, Director of Regulatory Affairs, CVMA
Becky N.
Bryce Penney, Television Specialist, DCA, Office of Public Affairs
Trisha St. Clair, Facilitator, DCA, Strategic Organizational Leadership and Individual Development (SOLID)
Barbara Schmitz, Esq., San Francisco Society for the Prevention of Cruelty to Animals (SF SPCA)

2. Public Comment on Items Not on the Agenda

Ms. Shufelt requested public comment on this item. There were no public comments made on this item.

3. Review and Approval of April 18, 2023, Committee Meeting Minutes

The Board had no changes to the April 18, 2023, Committee meeting minutes.

Ms. Shufelt requested a motion and the following motion was made:

- Motion: Richard Sullivan, DVM, moved and Christina Bradbury, DVM, seconded a motion to approve the minutes.

Ms. Shufelt requested public comment on the motion. There were no public comments made on the motion.

Ms. Shufelt called for the vote on the motion. Ms. Sieferman took a roll call vote on the motion.

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- Vote: The motion carried 6-0-3 with Kathy Bowler, Kristi Pawlowski, RVT, and Cheryl Waterhouse, DVM, abstaining.

4. Consideration of Previously Approved Text to Adopt California Code of Regulations (CCR), Title 16, Sections 2030.6 and 2035.5 (Shelter Minimum Standards) and Update, Discussion, and Potential Recommendation to Combine Newly Proposed Text to Adopt CCR, Title 16, Section 2030.4 (Minimum Standards for Animal Shelter Premises) with Rulemaking to Amend CCR, Title 16, Sections 2030, 2030.05, 2030.2, and 2030.3, and Adopt 2030.15 (Minimum Standards for Alternative Veterinary Premises)—Richard Sullivan, DVM

Richard Sullivan, DVM, thanked Maria Preciosa S. Solacito, DVM, who put together several various stakeholders to address this topic, and the stakeholders who attended the September 11, 2023, stakeholder meeting.

Background

Dr. Sullivan presented the Committee with background information from the meeting materials and read the memorandum from the meeting materials into the record. He highlighted the Shelter Subcommittee's recommendations to address issues in shelter medicine, which include:

- Different sizes and services that shelters provided both to the community and the public.
- Check balances that shelters were facing in getting veterinarians and veterinary staff to provide those services.
- Inability of some shelters, in particular small and rural, to comply with certain proposed regulations.
- Issues related to the terms "limited medical care" and "impound."

Dr. Sullivan requested public comment on the background of this item. There were no public comments made on this item.

Proposed Adoption of CCR, Title 16, Section 2030.4, Subsections (a) and (b)

Dr. Sullivan presented this item, which included a proposal to adopt:

- A definition of "animal shelter premises" to assist in defining the buildings that are subject to the Board's purview, including inspection requirements, while also providing an exemption for smaller, rural shelters.
- Language requiring the animal shelter premises providing veterinary services to privately owned animals to comply with the minimum standards under section 2030, unless there was an exemption within section 2030.3, to ensure shelters are complying with the same standards as a non-shelter veterinary premises.

Dr. Sullivan requested public comment on this item. There were no public comments made on this item.

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Proposed Adoption of CCR, Title 16, Section 2030.4, Subsections (c) and (d)

Dr. Sullivan presented this item, which included a proposal to adopt:

- Exemptions from the following minimum standards required under section 2030 for impounded animals:
  - (a)(3)—A reception room and office, or a combination of the two.
  - (a)(4)—An examination room separate from other areas of the veterinary premises and of sufficient size to accommodate the doctor, assistant, patient, and client.
  - (a)(5)(C)—If there are to be no personnel on the veterinary premises during any time an animal is left at the veterinary premises, prior notice of this fact shall be given to the client. For purposes of this paragraph, prior notice may be accomplished by posting a sign in a place and manner conspicuous to the clients at the entrance of the veterinary premises, stating that there may be times when there are no personnel on the veterinary premises.
- Language requiring the animal shelter premises to meet the requirements of section 2030.4, subsection (c), for shelter premises providing only post-adoption services to animals adopted from the same premises within 30 days of adoption.

For subsection (c), Dr. Sullivan noted that the rationale is that the shelters providing veterinary services are providing services to only impounded animals; there is no need to have a separate section, room, or office or a combination of the two as the shelter is not receiving privately owned patients. There is no client for these types of animals. As a result, large separation rooms providing client consultation is not needed. In addition, since the sign posting is intended to provide status and information to consumers with privately owned animals, and since there is no client involved, this requirement was not necessary.

For subsection (d), Dr. Sullivan noted that shelters providing post-adoption services did not have to comply with the higher standard when services were provided within the first 30 days, which may include removal of stiches or to check the animal's health status.

Dr. Sullivan requested public comment on this item. There were no public comments made on this item.

Update on Proposed Amendments to CCR, Title 16, Sections 2030, 2030.05, 2030.1, 2030.15, 2030.2, and 2030.3—Alternate Veterinary Premises

Dr. Sullivan provided the Committee an update that the Alternate Veterinary Premises rulemaking package was on hold due to conflicts with Building Code regulations.

Ms. Sieferman added that if the Shelter Veterinary Premises regulatory proposal (section 2030.4) was combined with the Alternate Veterinary Premises rulemaking

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package (sections 2030, 2030.05, 2030.1, 2030.15, 2030.2, and 2030.3), it would continue to be placed on hold until the Building Code regulatory issues were resolved.

Dr. Sullivan requested a motion and the following motion was made:

- Motion: Kathy Bowler moved and Christina Bradbury, DVM, seconded a motion to recommend to the Board approval of the proposed regulatory text and recommend all of the following actions be taken: (1) rescind the prior 2019 motion approving proposed CCR sections 2030.6 and 2035.5 and approve the proposed regulatory text in Attachment 3; (2) direct staff to submit the text in Attachments 2 and 3 as one proposal to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested; and (3) if no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations as noticed for California Code of Regulations, title 16, sections 2030, 2030.05, 2030.1, 2030.15, 2030.2, and 2030.3 and 2030.4.

Dr. Sullivan requested public comment on the motion. There were no public comments made on the motion.

Ms. Shufelt called for the vote on the motion. Ms. Sieferman took a roll call vote on the motion.

- Vote: The motion carried 9-0.

5. Update, Discussion, and Potential Recommendation to Initiate a Rulemaking to Amend CCR, Title 16, Section 2032.3 Regarding Medical Records—*Richard Sullivan, DVM, and Marie Ussery, RVT*

Ms. Ussery provided the Committee with background information from the meeting materials and the Medical Records Subcommittee's recommendations to address three issues, which include:

- The logical order of the required information that makes up a medical record should be changed to follow a SOAP (Subjective, Objective, Assessment, and Plan) format of writing medical records.
- Record keeping requirements must consider both: (a) individual medical records for diagnosing and treating an individual animal whether it is a companion animal, equine patient, or a production animal; and (b) a group medical record where several animals can be treated for the same condition, at the same location, and at the same time whether they are cattle, horses, sheep, dogs, cats, etc.
- Requirements should be less prescriptive.

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Ms. Ussery noted the following recommendations from the Subcommittee:

Proposed Amendments to CCR, Title 16, Section 2032.3, Subsection (a)

Ms. Ussery presented this item, which included a Subcommittee recommendation to amend subsection (a) to:

- Add the term "medical record" to explain more clearly what records the section covers.
- Striking the word "following" due to the prescriptive nature of the current regulation.
- Adding "at a minimum" language for information contained in paragraphs (1) (single patient medical records) or (2) (group medical records) of subsection (b), as applicable.

Proposed Amendments to CCR, Title 16, Section 2032.3, Subsections (b), (b)(1), and (b)(1)(A) through (b)(1)(G)

Ms. Ussery presented this item, which included a Subcommittee recommendation to amend subsections (b) through (b)(1)(G) to:

- Include a new subsection (b) requirement that records be generated, as applicable.
- Add subsection (b)(1) to clarify the requirements for single patient medical records and include reorganizing the subparagraphs.

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Dr. Sullivan also noted that the requirements of single patient medical records would also impact large animals undergoing individual treatment or surgery. Dr. Sullivan and Dr. Bradbury suggested the following changes to subsection (b)(1)(D) (proposed additions are in double underline blue text; proposed deletions are in ~~double red strikethrough text~~):

[…]

(b)(1)(4D) ~~Except for herds or flocks,~~ Patient identifying information including name, age, sex, breed, species, ~~and~~ color ~~of the animal~~, and, if applicable, animal number.

[…]

Ms. Pawlowski inquired under subsection (b)(1)(A), why "ending" was included in regard to the custody of the animal.

Dr. Sullivan responded the rationale had to do with hospitalized animals. The requirement is a physical examination and daily progress reports, so if there is no notation of the last day, he was not sure if it was enforceable.

Ms. Pawlowski stated she was reading it differently, but she understood Dr. Sullivan's explanation. She stated that under subsection (b)(1)(C), clients may not

have this information, and she inquired if there was other terminology that could be used. Not all clients have this information. She wanted to remind the Board that they need to be socially aware.

Dr. Sullivan responded that the Subcommittee was thinking in regard to emergency situations, there could be trouble that would require contacting the client. He noted that when information was not provided by the client, a notation in the animal patient's medical record should state "not applicable" or "not obtained."

Ms. Pawlowski responded she has had those situations, including individuals giving their relative's information, including phone numbers, and the individual did not tell her that is what they did. She added it is not always possible to get a client's information.

Ms. Schieldge responded that the provision of the relative's contact information is the client's information, so she believes it complies with the proposed regulation.

Ms. Sieferman added in the situation that Ms. Pawlowski provided that the client has to provide some information even though it may not be their information, and since it is current regulation and the Board has not had an issue with it, she recommended keeping the language.

Dr. Bradbury noted that her understanding of subsection (b)(1)(B) is that anyone touching the animal patient would need to be documented in the single patient medical record.

Ms. Ussery requested public comment on this item. The following public comments were made on this item:

- Bonnie Lutz, Esq., Klinedinst, stated she reviews a fair number of medical records for her clients. She stated in subsection (b)(1)(A), she does not have trouble with the custody issue because when a patient comes in just for one day, a couple of times she has been asked what were the dates of the custody where the date is clearly on the medical record of when the services were provided. She stated she has a little problem with that custody term. She understood what Dr. Sullivan was getting at, in that the Board wants to know the last day the patient was there. She stated usually in a record, it is pretty clear the last day the patient was there because there should be dates of every day the patient was there. She stated the term "custody" is a little weird because she did not really think the [veterinarian] is taking the patient into their custody just because they come in for vaccines or something like that. She stated she has always had a problem with the word "custody," and requested some other way to indicate that information, because obviously the date is important. In subsection (b)(1)(B), she had the same question that Dr. Bradbury had, which is was every single person who puts their hands on that pet supposed to be in the medical record. She stated it seemed a little excessive to her. She stated a lot of the records now are computerized, and it is pretty easy to see who put their hands on the pet, but there is not every single, solitary

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person. She asked if that was the intent of this section to list every single person who did anything to the pet. She stated she always looked at it as providing care, meaning veterinarians, RVTs, and VACSP [holders] who did the inoculation.

Dr. Sullivan responded the intent is there was a procedure being done or a treatment being done, that whoever did that, had their name or initials. He added the medical records that he has reviewed today, computerized ones, that is usually where the individual is logged in and documents the treatment that is being done.

- Ms. Lutz responded she understood that but questioned whether the requirement was supposed to be every single person who put their hands on the pet, or just the people that provided a service, because providing care is sort of vague and really is not clear. She understood what Dr. Sullivan was stating, but she thought there needed to be more clarification there, so there is no confusion. She stated under subsection (b)(1)(D), she raised this issue before, she did not understand the reason for putting the breed in there. She added there is a large interest in getting away from purebred dogs and identifying the breed of a dog, so, it seemed a little bit that it was something that was required in the medical record. Also the age, she stated she was dealing with a case right now where she has a series of animals that were from an animal shelter and were being questioned about why the age is not listed and they do not know the age when they are dealing with a large number of animals from a rescue or an animal shelter, so she understood that it was important to put the right age. She recommended that it could be described as "age, if known" because in a lot of cases, if there are animals coming in from a rescue or a shelter, they do not know the age.

- Grant Miller, DVM, representing CVMA, stated regarding Ms. Pawlowski's comments about the client contact information, he had the same problem in practice. He stated it was very difficult to sometimes get an address from somebody, and [the Subcommittee] had thought about just changing it, the contact information, but that was vague, and this is existing [regulation], so [the Subcommittee] decided that it would be easier to leave it this way. He also pointed out that with the passage of AB 1399 (Friedman, Chapter 475, Statutes of 2023), telemedicine may only be provided on animals that reside in the state, so the medical record is going to need to have a physical address to verify the animals are indeed located here, unless there was some other requirement of the veterinarians or regulation to declare, or to find out from the client, where the animal was located, so the address would most likely be the way that would be done, as far as he knew. Dr. Miller requested that under subsection (b)(1)(D), instead of stating "animal number," could the language state "identification number."

Ms. Schieldge responded that in regard to the comments on the "name(s) of the individuals providing patient care" (section (b)(1)(B)), and ambiguity, she did not think the term "patient care" was ambiguous as the terms are commonly understood. She noted whenever a term is not defined in regulation, the Board

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needs to use the most commonly used definition, so “custody” includes the dictionary definition of patient care, which can be short-term or long-term care that is commonly recorded in the medical record. She stated how the animal was cared for is documented in the medical record. As far as patient care, the persons providing patient care are the ones that are documented.

Dr. Bradbury stated her concern with section (b)(1)(B) is not in a general practice, where a small animal comes in and there is an RVT or veterinary assistant that is helping provide veterinary services, but when it is a larger 24-hour facility where veterinary assistants are taking the animal out for a walk and there are so many people who are involved. She stated it is possible they are documenting those activities, so maybe it is not that big of an issue; however, it is a lot of individuals placing their hands on the animal patient. She stated, but if it is just for administration of medication, it may be difficult for the lay person to interpret. She noted if the intention is for only persons providing patient care, then it is doable.

Dr. Waterhouse provided a situation where one of her veterinary assistants moves an animal patient from one cage to another cage. She did not believe that change would need to be documented.

Ms. Ussery stated she did not believe that was how it was intended.

Dr. Bradbury stated if Dr. Waterhouse’s veterinary assistants were cleaning up the cage because the animal patient soiled the cage, then there would have to be documentation of the individual and that cleanup would have been documented anyway. Dr. Bradbury also inquired how it would impact patients in a large animal setting.

Ms. Bowler suggested that the word “care” could be replaced with “treatment,” since it was the intent of subsection (b)(1)(B) and not other services, such as eating or moving the animal patient. She recommended that based on public comment around the issue of age, the wording could be stated “age (if known).” In addition, she noted for exotic animals, some determinations for the gender of the animal patient require more invasive testing, so she recommend the “if known” notation be added as well.

Dr. Bradbury stated in response to the breed question comments made during public comment, it is very helpful to know the breed when a veterinarian is assessing an animal patient, which may include breed-specific genetic disorders, the size of the patient, etc., which different breeds have different issues.

Ms. Sieferman noted that the “age (if known)” comes into play frequently in enforcement cases, so she recommended adding “approximate age” in lieu of “age (if known).”

Ms. Welch suggested that under section 2032.3(b)(1) rephrasing the sentence to state “veterinary medical services” to make it clearer the tasks that would require documentation. She also recommended replacing “patient care” with “veterinary medical services to the animal patient” in section 2032.3(b)(1)(B).

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After public comment and discussion, changes were suggested to subsections (b)(1) through (b)(1)(D) (proposed additions are in double underline blue text; proposed deletions are in ~~double red strikethrough text~~):

[…]

(b)(1)(B) Name of the individual(s) providing ~~patient care~~ veterinary medical services to the animal patient.

[…]

(b)(1)(4D) ~~Except for herds or flocks,~~ Patient identifying information including name, approximate age, sex, breed, species, ~~and~~ color ~~of the animal~~, and, if applicable, identification number.

[…]

Proposed Amendments to CCR, Title 16, Section 2032.3, Subsections (b)(1)(H) through (b)(1)(N)

Ms. Ussery presented this item, which included a Subcommittee recommendation to amend subsections (b)(1)(H) through (b)(1)(N) as set forth in the meeting materials.

Ms. Pawlowski inquired if there was a reason that the proposed language does not use the terminology "concentration" instead of "strength." She stated it is a more accurate term. She questioned why it was used throughout the language and if it could be changed.

Dr. Bradbury responded that it was due to pharmacy law.

Dr. Sullivan stated it is current terminology used in the [Veterinary Medicine] Practice Act, and any changes to the wording would require justification.

Ms. Schieldge responded it is proper terminology used in the Pharmacy Law, and the Board is attempting to stay consistent with the Pharmacy Law.

Ms. Welch noted that in her last suggestion under section 2032.3 (b)(1)(B) to clarify who has to be identified in the animal patient's record, there may have consistency issues with "veterinary services" under (b)(1)(M). She suggested either removing her previous recommendation of the word "medical" from section (b)(1)(B) or use "veterinary medical services" in (b)(1)(M) and various other sections of the proposed regulatory package that states, "veterinary services." She noted that the language needed to maintain consistency, so that the term "veterinary medical services" is not in one part that could potentially be misconstrued.

Ms. Schieldge noted that the term "veterinary services" is used in the Board's Practice Act and regulations and recommended using that term for consistency.

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Dr. Bradbury responded she thought taking out “medical” would solve that problem.

After discussion, changes were suggested to subsection (b)(1)(B) (proposed additions are in double underline blue text; proposed deletions are in ~~double red strikethrough text~~):

[…]

(b)(1)(B) Name of the individual(s) providing ~~patient care~~ veterinary services to the animal patient.

[…]

Ms. Ussery requested public comment on this item. The following public comments were made on this item:

- Bonnie Lutz, Esq., Klinedinst, inquired if under “breed,” if the decision was to add “if known.” She asked if it could be added. She stated she understood Dr. Bradbury’s comments about wanting to know the breed, especially if there was a breed that was critical to know. She stated she gets the question all the time from her clients, who do a lot of rescue work or a lot of work with animal shelter dogs, and in private practice. She said they state they do not know what the breed is and do they have to put the breed. She said it would be great if it could state “if known,” that way if it is known and it is important, it is obviously important, but if it is not known, she hates to tell her clients “make something up” based on what the dog looks like, but that really is not the information the Committee wants because that is based on what the veterinarian thinks the dog looks like. She thought it would not be helpful from the Committee’s perspective. She stated it would help them if it could be “if known.” She stated she loved section 2032.3 (b)(1)(M), except she had a problem with “or recommendations” because when veterinarians are talking with the client, frequently they might state the dog needs more exercise, suggest placing the dog on vitamins, or do “XYZ,” and those are sort of recommendations. She thought it was a terrible burden for a veterinarian to have to put down every single solitary recommendation they might make. She thought it was more important and critical to put down any veterinary services or veterinary medical services that are recommended and declined. She thought it would be great to add to this, but she had a problem with “any recommendations” because she could see a client coming back and stating “well, you recommend that I have the dog on vitamins” or not even on something that even borders on medical care, and it is not written in the record and having her client get in trouble because they did not write down some recommendation that they might have made on their way out of the room.

- Grant Miller, DVM, CVMA, stated as the language is read over and over, and then hearing commends from other people, there are items that were not thought of, so it is like a beautiful work of art, then here we are. In reference to section 2032.3, subsection (b)(1)(D), Dr. Miller stated he would like to reiterate

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what Ms. Lutz said regarding breed. He said as a horse veterinarian, he finds himself many times trying to guess. He provided an example, such as the first half of the horse looks more like it is a Morgan, and the back half looks like it is a Quarter Horse. However, he is not totally sure. He stated there is a professor at Western University [of Health Sciences], who conducts studies of veterinarians by showing them photographs of dogs, asks them to predict each breed, and then DNA tests the dogs. Dr. Miller states the results indicate veterinarians are wrong roughly 80% of the time. He requested for "sex" and "breed" if the words "if known" could be added. He added the species and color should be able to be figured out by the veterinarian. He inquired if the Committee could, for the "sex" and "breed" portion, create an "if known" for those items, and if so, how that would flow. In regard to section 2032.3, subsection (b)(1)(M), he thought regarding "declined by the client or their authorized representative," if the Committee needed to go back to subsection (b)(1)(C) to state "Name, address and phone number of the client or the client's authorized representative, if applicable." In reference to section 2032.3, subsection (b)(1)(I)(ii), since medications and dosages were pluralized, he suggested pluralizing "strength" and "route." Under subsection (b)(1)(L), since pre-anesthetic and anesthetic agents were pluralized, he suggested pluralizing "dosage," "route," and "strength."

Ms. Bowler stated she agreed with Dr. Bradbury. She stated the way that pet insurance works is the insurance company allows all the various normal breeds, cats and dogs, but they have mixed breed. She inquired if "mixed breed" could be put down to satisfy the requirement if the breed is not known.

Dr. Waterhouse stated mixed breed is a huge territory. However, what she does is attempt to identify the breed and write "[dog breed] cross," so there is some idea of what the dog looks like.

Ms. Bowler inquired if that was acceptable under current law.

Dr. Sullivan stated under subsection (b)(1)(M), removing "or recommendations" is a good idea.

Dr. Bradbury agreed with Dr. Sullivan's suggestion in subsection (b)(1)(M), and Dr. Miller's suggestion to pluralizing dosages, routes, and strengths, but also adding parenthesis around the "s." She noted the problem with "if known" for sex and breed could mean that the fields could be left blank, even if those items are known. She noted if people do not know those items now, they will write "not known." She believed having it in the record was right.

Ms. Pawlowski stated the medical software used by her veterinary premises does not allow the user to leave those fields blank.

Dr. Sequoia noted that for breed, insurance companies and municipalities are looking at breed, and there have been certain breeds that if a veterinarian writes down the breed in the record, the consumer could have their insurance canceled or

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not renewed if the medical record lists their dog as being a banned or high-risk breed. She stated given Western University's new research indicating the veterinarians guess the dog breeds incorrectly 80% of the time, this seems like a disservice to the consumers.

Ms. Bowler stated Dr. Sequoia's point is well taken, and it may already be a problem now. She inquired if there were any better ideas other than leaving the language as it is currently in regulation.

Dr. Sullivan thought the Committee may be overthinking it. He stated in his many years of practice, he always filled it out, and if there was a question, it was written as a mixed breed. If the dog had a predominate breed, the predominate breed would be listed first along with the word "mixed." He added, the Board does not have any control over what insurance companies do.

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After public comment and discussion, the following revised language includes all changes suggested to subsection (b)(1) (proposed additions are in double underline blue text; proposed deletions are in ~~double red strikethrough text~~):

[…]

(b)(1)(B) Name of the individual(s) providing ~~patient care~~ veterinary services to the animal patient.

(b)(1)(~~2~~C) Name, address and phone number of the client and, if applicable, the client's authorized representative.

(b)(1)(~~4~~D) ~~Except for herds or flocks,~~ Patient identifying information including name, approximate age, sex, breed, species, ~~and~~ color ~~of the animal~~, and, if applicable, identification number.

[…]

(b)(1)(~~8~~I)(ii) ~~m~~Medications administered, including strength(s), dosage(s), route(s) of administration, and frequency of use.

[…]

(b)(1)(~~9~~L) ~~Records f~~For surgical procedures~~, shall include~~ a description of the procedure, the name of the surgeon, the type of ~~sedative/~~pre-anesthetic and anesthetic agents used, dosage(s)~~, their~~ route(s) of administration, and ~~their~~ strength(s) (if available in more than one strength).

(b)(1)(M) Any veterinary service ~~or recommendations~~ declined by the client or their authorized representative.

[…]

Proposed Amendments to CCR, Title 16, Section 2032.3, Subsections (b)(2) through (b)(2)(J)

Ms. Ussery presented this item and read the recommendations from the meeting materials into the record, which included a Subcommittee recommendation to amend subsections (b)(2) through (b)(2)(J).

Ms. Bowler inquired if "fish production" should be added under (b)(2)(H)(iv) or if fish are considered meat under California regulations.

Ms. Ussery responded anything that she has done, it has always been, meat, milk, or egg withdrawal times.

Ms. Sieferman suggested the changes "(s)" to individuals under the group medical records subsection.

Ms. Schieldge responded that in subsection (b)(2)(D), the only difference from the items for an individual patient record would be the animal patient identifying information is different for a group, and there would not be any of those conforming changes made here unless there was a change to the individual patient record requirements.

Dr. Bradbury responded there would be on subsection (b)(2)(I) for 'any veterinary services or recommendations, and she suggested removing "or recommendations" from that subsection.

Ms. Ussery requested public comment on this item. The following public comment was made on this item:

- Grant Miller, DVM, CVMA, asked for the Committee to apply the plural changes he suggested under (b)(1) to apply to (b)(2)(H)(ii) and (b)(2)(H)(iii).

Based on discussion and public comment, the following revised language includes all changes suggested to subsection (b)(2) (proposed additions are in double underline blue text; proposed deletions are in ~~double red strikethrough text~~):

[…]

(b)(2)(B) Name(s) of the individual(s) providing ~~animal patient care~~ veterinary services to the animal patients.

(b)(2)(C) Name, address, and phone number of the client and, if applicable, the client's authorized representative.

[…]

(b)(2)(H)(ii) Medications administered, including, strength(s), dosage(s), and route(s) of administration.

(b)(2)(H)(iii) Medications prescribed and dispensed, including strength(s), dosage(s), route(s) of administration, quantity, and frequency of use.

[…]

(b)(2)(I) Any veterinary services ~~or recommendations~~ declined by the client or the client's authorized representative.

[…]

Proposed Amendments to CCR, Title 16, Section 2032.3, Subsection (c)

Ms. Ussery presented this item and read the recommendations from the meeting materials into the record, which included a Subcommittee recommendation to amend subsection (c) to:

- Renumber existing subsection (b) to (c) and remove the current requirement for maintaining medical records for three years "after the animal's last visit" to "from the date of the last entry into the medical record." In addition, the requirement for the provision of a summary of the medical record be provided to the client is struck and replaced with a requirement that a "copy" of the medical record be provided upon request*. The current requirements for a summary to be provided "sooner" and "depending" would be replaced with a requirement for providing the medical record "immediately" if the animal patient is in critical condition. The revision is also necessary to eliminate the option of the licensee being required to write a summary of the medical records and requires them to make a copy of the medical records available to the client upon request. This change is meant to avoid fraud in the recordkeeping process and clarify that the medical records are recorded at the time of the examination and development of the treatment plan and cannot be editorialized later by a summary of the medical records.
- Repeal subsections (b)(1) through (b)(7) as they relate to the contents of a summary proposed to be repealed in favor of setting copy requirements as referenced above in this memo.

Dr. Bradbury stated she had a problem with the "immediately" verbiage. She stated it is not doable in many situations. She provided an example in an emergency setting, she received a case transferred to her on Monday morning, and the animal had an acute kidney injury; she assessed it and believed it needed to be transferred to UC, Davis for dialysis. She noted there were a lot of medical records she needed to go through and summarize when she is writing her final SOAP, which required her to work until midnight. She did this to ensure the SOAP contained a complete record. However, the SOAP for this animal patient occurred after she had addressed the issues of other animal patients that needed to be cared for. She also noted the final SOAP took her an hour and half. She also noted that in order for the animal patient to be transferred with immediate complete records, she would write a summary, her office would copy the rest of the records, and then later she would finish her records. Based on the proposed language, it would be considered fraud

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because her records may have other items in them aside from what was in the summary. She thought a summary is adequate in those situations. She has reviewed cases where she saw changes that were made later and editorialized, so she understood the intent, but she thought this language is not necessarily going to protect the consumer. She inquired how would a mobile equine practitioner, who has most of the animal patient's records at their home or clinic, be able to provide the animal patient's records immediately if the practitioner is in a truck. She added in an academic setting, if there was a resident seeing a case, and the student is working on it, those records are often revised to a complete and thorough form later. By adding the "immediate" requirement, she felt there would be a problem, so she asked to remove that terminology.

Ms. Schieldge responded the problem is the word "sooner" is vague, so the Subcommittee was attempting to figure out the standard, so her request to the Subcommittee was what is the standard, in which the Subcommittee informed her it was "immediately." She stated if "immediately" was not the standard, it could be changed because there needs to be clarification as to what "sooner" means in the regulation.

Dr. Bradbury stated she was reading that the removal of summary and adding immediate was the problem.

Ms. Welch was concerned about changing summary to copy.

Ms. Schieldge responded that in the memo, on page 8, there was a note (Regulations Counsel Advice on removal of the "summary" requirement) on her advice, which under Business and Professions Code (BPC) section 4855, the Board can only require a summary. She noted this regulation would be inconsistent because the language strikes summary and states a copy needs to be provided. She stated currently under law, the Board could not require the veterinarian to provide a copy. She noted the law was enacted in 1978, and maybe in 1978 it was easier to do a summary than to provide a copy. She advised the Subcommittee that this proposal as written could not move forward to strike the summary requirement because it would be probably found to be inconsistent with the statute in [BPC section] 4855. She asked the Committee if it wanted to recommend removal of the copy at this time, leave the summary, or create another option.

Dr. Bradbury responded she may have misstated her previous comment, but she agreed with not a full copy and providing a summary but her concern was the use of the word "immediate" in the proposal.

Ms. Sieferman stated she understood Dr. Bradbury's concern and inquired if the language were to revert back to the current regulatory language of "sooner," if she had the same problems with removing summary verses copy.

Dr. Bradbury responded her concern is changing it from a summary to a copy of the record because it is implying that the record is complete. Whereas a summary allows the person in the critical condition to write a summary of the case and send it

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verses a complete copy of the record. She thought keeping things as summary would be okay. She said it could state “an immediate summary,” but an immediate copy of the entire record is what she is concerned about.

Ms. Ussery stated the reason copy was used instead of summary was for consumer protection because a lot of the time with electronic medical records, a lot of the information is completed fairly quickly and it is emailed directly to client or the referral hospital. She stated the Subcommittee looked at summary and determined the term was possibly outdated and could be detrimental to the consumer for the reasons stated in the memo.

Ms. Sieferman stated the thought was the consumers would have better access to get their copy. The language does not state “complete.” She noted whatever the veterinarian has documented at the time—that is what the proposed regulation would want provided to the client. She noted, if the concern was that the records could not be provided immediately, then she suggested looking at reverting back to the current regulatory language.

Dr. Sequoia asked for a definition of days and whether it meant five business days or calendar days.

Ms. Schieldge responded that according to the Office of Administrative Law, it is presumed to mean calendar days, unless the word “business” is placed in front of the word “days.”

Dr. Waterhouse stated she has had this issue with summary for about a decade. She stated she receives a summary of the records that state “Fido received a [Distemper, Infectious Hepatitis, and Parvovirus] DHP and rabies [vaccinations]. On ‘x’ day it had diarrhea. On that day it has vomiting” and that is it. She stated that the other individuals tell her they only have to provide a summary, and that is not enough information to do anything with, but legally, the individual is covered. She said summary needs to be worked because it does not cut it.

Dr. Sullivan stated he agreed with Dr. Waterhouse. He suggested, if it is an emergency, an immediate summary, but a complete copy of the record in five days.

Ms. Schieldge asked for clarification regarding the term “immediate summary” and what it includes.

Dr. Sullivan responded an immediate summary of the case to get it to the doctor or the referral and maybe a copy of the record that is available up until that point.

Ms. Schieldge asked if it would include all the topics that are covered in the group medical records, or would it only be a portion of what is in the requirement for the complete record.

Ms. Sieferman asked that since summary is existing law, why would the Board have to define summary if it is not changing the existing regulatory language.

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Ms. Schieldge responded that currently, the language states a summary requirement and what the summary must contain. She stated subsection (b) has been changed to state the medical record shall be prepared in accordance with the requirements of the section and according to whether veterinary services are being provided to a single animal patient or a group animal patient. She informed the Committee, the current regulation is not set up like that, so both the summary for a group medical record and single patient medical record would need to be defined and spelled out. She said the current regulation cherry picks the topics; it does not cover everything that is in the medical record, and it is a summary of certain salient items. She asked the Committee if it wanted to cherry pick what needs to absolutely be in the summary for immediate purposes or did it want to summarize all the items as applicable that are in the group or the single animal patient medical record.

Dr. Sullivan stated the intent would be Ms. Schieldge's last statement and as a summary of the critical issues of the emergency case to be able to be transferred to another facility.

Ms. Schieldge asked how it would be determined what are the critical issues.

Dr. Sullivan responded the critical issues would be the presenting symptoms.

Ms. Schieldge responded the regulations, as currently written, state what has to be summarized, such as the treatment, examination, and date. She added, right now it treats all records the same, and the proposal is to separate records into group verses individual patient records and to have different criteria for each type of record. She stated the summaries are going to have to track whether it is an individual record or a group record to remain consistent with the direction in subsection (b) of the proposal.

Dr. Bradbury inquired if it could be written in either case, in both group and single medical records, "a summary shall include..."

Ms. Schieldge recommended that the regulation specifically list each item.

Dr. Bradbury stated it could be listed out what is here.

Ms. Schieldge asked if the Committee wanted to cross reference back to the sections that it thought needed to be in the summary or did it want to state everything in specific sections. She stated, right now the summary includes a different subject matter than what was proposed. She said the changes discussed will need to be reflected in the summaries, and should those summaries contain everything, such as subsection (b)(1) and (b)(2), at a minimum for immediate care.

Ms. Ussery stated if you make them contain everything that is in subsection (b)(1) and (b)(2), that is a copy of the record and not a summary.

Ms. Schieldge responded that is her point, but she did not know what the Committee wanted to see.

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Ms. Sieferman stated if the Committee wanted to keep summary, and under subsection (c), it could state “The summary shall include for both single and group records:”

Ms. Schieldge responded, but the topics have been amended, so would it show just these topics as the summary for immediate care.

Dr. Bradbury provided an example and suggested the language redefine the items in the way they were defined previously.

Ms. Sieferman responded it would make it clear that it applies to both single and group and make the corresponding changes in subsection (c)(1) through (c)(7).

Ms. Schieldge recommended documenting the proposed revisions exactly how it has to be written in the record for this meeting.

Ms. Bowler stated when Dr. Bradbury discussed the summary in relation to critical care, that needs to be a summary that can be provided quickly and transferred to get the animal treated, and then allow the veterinarian the opportunity to do the finished SOAP, and the report. She stated the Committee is discussing two things, the client should be able to request the full records and not just get a summary and immediate urgent critical condition.

Ms. Schieldge responded right now, legally the regulation cannot make the copy a mandatory requirement; the regulatory language would need to wait until legislative amendments are approved.

Ms. Bowler responded that there has been evidence where summaries have been incorrect, and it has happened in disciplinary actions, so there is a lot of evidence to show that the record should be complete.

Ms. Welch asked for clarification that the Committee is going back to existing regulation text on summary.

Ms. Schieldge responded only for immediate urgent patient care and not for normal, everyday, requests.

Ms. Welch stated to the extent there is going to be a mandate on the types of records that have to be provided, it needs to be consistent with BPC section 4855, which right now only requires a summary. She recommended, if moving forward with mandating, either a summary immediately or a copy within five days. She also recommended having the statute amended.

Ms. Sieferman stated the recommendation from the Committee would be to pursue a legislative proposal to amend BPC section 4855 and then move this regulatory proposal forward.

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Ms. Schieldge inquired with the Committee if it understood the entire regulatory package would have to wait until legislation corrected that issue and that it would probably have to wait two years.

The Committee responded they understood.

Ms. Schieldge stated it could get its other policy objectives changed if it agreed with the other changes that it would like to get made in terms of group verses individual. Then the summary part could be done at a later date.

Dr. Sullivan responded it would be very confusing to the licensees, and the Committee wants to get an end product that is done.

She noted one other issue, which includes Senate Bill (SB) 669 (Cortese, Chapter 882, Statutes of 2023), which supersedes part of the proposal, and the Committee would have to address that or make conforming changes to the proposed language to recognize that RVT vaccine administration recordkeeping will be different than what is proposed in the regulatory language.

Ms. Ussery requested public comment on this item. The following public comments were made on this item:

- Bonnie Lutz, Esq., Klinedinst, stated she was glad the Committee came back full circle to the summary because requiring veterinarians to immediately provide a copy of the record would be a disaster. She stated first of all, veterinarians do not have time to immediately have the records complete and then somebody said a more complete copy could be sent later—that is where there is an issue of fraud because she gets into that all the time where her clients will state once they knew the client was going to complain to the Board, her clients added things they had forgotten. Then the records come to the Board, and the Board has two sets of records—one from the client and one the veterinarian sent the Board and now the Board is stating fraud because her client changed the record. She said the wording needs to be very careful about thinking in terms of sending a set of the records immediately with an understanding that the records are not complete, and then sending another set later because that is when her clients are going to be accused of fraud even though they did not intent it to be that way. She cautioned the Committee. She stated the summaries are good. She claimed they do a lot of summaries for their clients, and the summaries can be done pretty quickly. She stated they comply with the list of what is supposed to be included. It appeared to her that if the summaries are done completely, the summaries are enough for the next veterinarian to be able to use. She added, she does a lot of regulatory work for a large pet store that has vaccine clinics. She reviews all the practice acts in all of the states in the United States, and there is not another state that requires a summary and other state's regulations are really vague about medical records. She understood that is a big problem in those other states because it is so vague that nobody understands what they are supposed to send. She thought it was great what the Committee is doing.

- Dan Baxter, Executive Director, CVMA, stated that based on his personal experience, he wholeheartedly agreed with Ms. Lutz's comments.

Ms. Ussery inquired if the regulatory proposal needed to be placed on hold due to SB 669.

Ms. Sieferman responded no; the Board's regulatory counsel provided some language the day prior to the Committee meeting. She added, when displayed on the screen, she would put those changes in there as well.

Proposed Amendments to CCR, Title 16, Section 2032.3, Subsections (d) through (f)

Ms. Ussery stated based on discussion, it is going to be the recommendation of the Subcommittee to table the rest of the material until the January 2024 Committee meeting to allow stakeholders more time to review the language and everything that is new—substantive changes.

Proposed Amendments to CCR, Title 16, Section 2032.3, Subsections (a), (b), (c), and (g) due to the Passage of Senate Bill (SB) 669

Ms. Sieferman presented additional proposed changes to subsections (b), (c), and (g) to address the discussion regarding single animal and group animal medical record requirements, and new records requirements to implement SB 669. The changes Ms. Sieferman to subsections (b), (c), and (g) (proposed additions are in **bold** double underline blue text; proposed deletions are in ~~double red strikethrough text~~):

[…]

(b) **Except as provided in subsection (g),** medical records shall be prepared in accordance with the requirements of this section as applicable and according to whether veterinary services are being provided to a single animal patient or a group of animal patients as authorized orally or in writing by the client responsible for the animal patient receiving services or their authorized representative.

[…]

(g) The medical records requirements of this section shall not apply when a registered veterinary technician acts as an agent of the veterinarian for the purposes of establishing the veterinarian-client-patient relationship to administer preventative or prophylactic vaccines or medications for the control or eradication of apparent or anticipated internal or external parasites. In those cases, medical records shall be prepared in accordance with the requirements of Section 4826.7 of the code.

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Note: Authority cited: Section 4808, Business and Professions Code. Reference: Sections 4826.7, 4855, and 4856, Business and Professions Code.

Ms. Schieldge stated the "reference" section under "note" would need to be updated to include BPC section 4826.7.

Ms. Sieferman reiterated Ms. Ussery's statement to table the topic until January to allow the Committee, stakeholders, and the public an opportunity to review the language.

Ms. Schieldge inquired if the Committee wanted to keep the copy requirement and then have the summary for immediate urgent care.

Ms. Sieferman confirmed Ms. Schieldge's understanding.

Ms. Schieldge asked Dr. Sullivan if it is when the animal is in critical condition, then the summary should be made available to the client immediately upon request, and then a copy is available for all other purposes.

Dr. Sullivan stated he liked the wording a little better because not all referrals are emergencies, and it may be a fracture that needs repair by a specialist that the clinical veterinarian cannot perform, so the veterinarian needs to get at least a summary of the medical records to the specialist right away so that they can get it set up. He noted the complete records should be available within five days. He stated the proposed language is a littler broader, and the language is fine.

Ms. Schieldge asked if it should state "upon their request" in the first sentence.

Dr. Waterhouse stated that in her large animal experience, in an instance where there is going to be an emergency where an entire group is referred, but the only caveat might be a reportable disease, when the State Veterinarian is going to come out and view the entire herd or flock. She stated, otherwise, there is not going to be an emergency situation where a summary is going to be necessary for an entire group of animals—at least on the large animals side.

Dr. Bradbury thought it would be good to have the verbiage added.

Ms. Sieferman asked if the recommendation is that instead of having the summary apply to group medical records that is specific to a single medical record. She suggested changing subsection (c), second sentence, to state "A summary of the single medical records…" and in the last sentence to state "The summary for single medical records shall include." She also noted the information would be added in the legislative proposal prior to the January 2024 meeting.

Dr. Bradbury thought the language that included group medical records should remain. She thought leaving it in there in case there was a situation would be more complete.

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Dr. Waterhouse agreed with Dr. Bradbury. She stated while it may be highly unusual, that did not mean there could not be something happening in the future, such as some poisoning or toxicity of some kind that happened to a herd of cattle. She noted the possibilities are out there; they are just rare. She recommended leaving the language in.

Dr. Sullivan thought in those cases, usually a representative example of that disease, problem, or poisoning would be referred to the lab as opposed to the whole herd being referred, so that would be an individual.

Ms. Sieferman responded the Subcommittee can work on it and bring it back in January 2024.

Ms. Ussery requested public comment on this item. The following public comments were made on this item:

- Grant Miller, DVM, CVMA, asked if the language is going to have a summary requirement for single animal patient and a summary requirement for herd or animal patients.

Ms. Ussery responded the idea was using the summary for emergency situations where they needed the information right away, so the Committee was discussing whether or not that was necessary for a group; if it is going to be a group or representative samples from an individual animal.

- Grant Miller, DVM, CVMA, stated it could be for a group, if there was a potential zoonotic disease and the State Veterinarian needs information right away. He noted, if the language is going to state "single," it should state a "single animal patient's medical record" because a single record just means a record. He added, depending on what is required in the summary, it could be potentially impossible if the data out at the lab is being processed at the time the animal is transferred; currently, data is required to be in the summary. If the language states immediate, he could not have data and his interpretation of the data in the summary. He stated that is going to have to be addressed. He hoped the Committee would move away from the "immediate" because the existing requirement of five days or sooner has been institutionalized for over 35 years, and veterinarians understand very well that if the animal is in critical condition, the veterinarian needs to get the record, or summary of the record, as soon as possible. He stated the veterinarian knows the summary has the abbreviated (1) through (7) section. He thought that the (1) through (7) section works for both herd and for a single animal, so he suggested that un-striking out subsection (b).

Ms. Sieferman responded that the Subcommittee's recommendation was to reinstitute current law for the summary but make the reflected changes that were made today for that current law.

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- Grant Miller, DVM, CVMA, stated that current law is that way then that immediately is going to be very difficult for at least some of the components of the summary.

Ms. Sieferman responded "immediate" is still in there for summary, but she thought because there were a lot of comments about it, it could be discussed prior to the January 2024 meeting.

- Bonnie Lutz, Esq., Klinedinst, stated she was a little confused. She stated that in her experience, when a veterinarian sends a client to another veterinarian in an emergency situation, the records are sent to the other veterinarian, and there is a provision in the Practice Act for that. She stated the records that would be available at the time are sent, and the veterinarian understands that they are getting the records that were available at the time because the pet needed emergency care. She did not quite understand the need for providing an immediate summary to the actual client, since that sounds like that is going to be a problem anyway when it is easy to send them to the veterinarian to whom the animal is being referred.

Dr. Bradbury responded that although the item is getting tabled, she gets patients referred to her and that does not always happen (often due to staffing shortages and the like). She stated she often receives patients without any information and the client's ask for it, and it has been denied. She said it would be great if it did happen across the board, but it does not. She stated it is a problem. She said the veterinarians are starting over, and it costs the clients a lot of money to repeat tests that were done. She said the receiving veterinarian could have had a written summary the was provided by the original veterinarian.

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Although the item below was tabled for discussion at the January 2024 meeting, based on discussion, the following revised language includes all changes shown above as well as proposed revisions presented by Ms. Sieferman to subsections (b), (c), and (g) (proposed additions are in single underline blue text; proposed deletions are in ~~single red strikethrough text~~):

[…]

(a)

(b) Except as provided in subsection (g), medical records shall be prepared in accordance with the requirements of this section as applicable and according to whether veterinary services are being provided to a single animal patient or a group of animal patients as authorized orally or in writing by the client responsible for the animal patient receiving services or their authorized representative.

[…]

(~~b~~c) Single and Group medical ~~R~~records shall be maintained for a minimum of three (3) years ~~after the animal's last visit~~ from the date of the last entry into

the medical record. A summary of~~ an~~ the single~~ animal's~~ patient's medical records shall be made available to the client immediately, upon their request. A copy of the patient's medical records shall be made available to the client within five (5) days or sooner,~~ depending if the animal is in critical condition,~~ upon~~ his or her~~ their request. The summary for single or group medical records shall include:

(1) Name,~~ and~~ address, and phone number of the client~~ and animal~~ and, if applicable, the client's authorized representative.

(2) Patient identifying information, including approximate ~~A~~age, sex, breed, species,~~ and~~ color,~~ of the animal~~ and, if applicable, identification number.

(3) The reason the patient is presenting for veterinary services and ~~A~~a history or pertinent information as it pertains to each animal's, herd's, or flock's medical status relative to the reason for the visit.

(4) ~~Data~~Physical examination findings, including that obtained by instrumentation,~~ from the physical examination~~ laboratory testing, diagnostic imaging, and necropsy.

(5) Treatment and intended treatment plan, including medications, their dosage(s) and frequency of use.

(6) All medications and treatments prescribed and dispensed, including strength(s), dosage(s), route(s) of administration, quantity, and frequency of use.

(7) Daily progress, if relevant, and disposition of the case.

[…]

(g) The medical records requirements of this section shall not apply when a registered veterinary technician acts as an agent of the veterinarian for the purposes of establishing the veterinarian-client-patient relationship to administer preventative or prophylactic vaccines or medications for the control or eradication of apparent or anticipated internal or external parasites. In those cases, medical records shall be prepared in accordance with the requirements of Section 4826.7 of the code.

Note: Authority cited: Section 4808, Business and Professions Code. Reference: Sections 4826.7, 4855, and 4856, Business and Professions Code.

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6. Update, Discussion, and Potential Recommendation on Legislative Proposal to Amend Business and Professions Code (BPC) Section 4875.1 Regarding Complaint Prioritization—Christina Bradbury, DVM, and Dianne Sequoia, DVM

Dr. Bradbury presented this item from the Complaint Process Audit Subcommittee and informed the Committee of the following updates:

- **Quarterly Expert Round Table**: She noted the roundtable discussion is well received. The roundtable discussions seem to be improving the dialogue between staff and subject matter experts, and she anticipates improvement in the quality of the reports submitted by subject matter experts.

- **Complaint Prioritization Review**:

  - **Effectiveness of Current Complaint Prioritization**: Dr. Bradbury noted Strategic Plan Objective 1.4 requires the analysis of the effectiveness of current complaint prioritization defined in BPC section 4875.1. She stated it was broken down into two subsections, which included (1) creating a data report over the last few fiscal years of where complaints fall within the complain prioritization and (2) to draft a memo to present potential recommendations to the Board.

  - **Negligence or Incompetence Complaints**:
    - She stated that a large percentage of what violations were alleging were based on negligence or incompetence, which included:
      - 37% in fiscal year 2022/2023
      - 38% in fiscal year 2021/2022
      - 54% in fiscal year 2020/2021
      - 50% in fiscal year 2019/2020
    - The Subcommittee's reviewed whether consumers were protected when complaints received were classified as negligence or incompetence and lumped in the top priority.

  - **Other DCA Healing Arts Boards**: The Subcommittee reviewed other DCA healing arts boards' complaints prioritization to determine if there was a better process. Excluding the Medical Board of California and Podiatric Medical Board of California, she noted that the other DCA healing arts boards follow *DCA's Complaint Prioritization and Referral Guidelines*. She noted those DCA boards are required to follow the guidelines, and anything placed in the top two categories require referral to DCA's Division of Investigation (DOI). She noted the Board has an exemption from the DOI requirement and must follow the requirements under BPC section 4875.1.

  - **Other Veterinary Member Boards**: Dr. Bradbury noted Ms. Sieferman worked with the American Association of Veterinary State Boards (AAVSB) to get a poll of the member boards to determine how other states prioritized their complaints. All states that responded to the poll indicated they do not have a statute or regulation outlining complaint prioritization.

  - **Options to Address the Problem**: The Subcommittee concluded that lumping everything into negligence or incompetence into the top priority was not necessarily helping the enforcement unit or the public. She explained the Subcommittee was attempting to address this issue, which included two options. The first option would be adopting *DCA's Complaint Prioritization and Referral Guidelines*, which would require a repeal of

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BPC section 4875.1. The second option would be to amend BPC section 4875.1. She informed the Committee if the first option was chosen, then DOI would handle most complaints. She noted over the last few years, the Board has been able to streamline its enforcement process and remove DOI from unnecessary investigations, and much of what the Board does is handled by the subject matter experts and analysts. In addition, there are not that many cases that require DOI to go out and investigate. She stated it has helped the Board's efficiency and costs associated with all of the investigations.

- **Subcommittee's Recommendation**: The Subcommittee recommended amending BPC section 4875.1 to improve the prioritization in the negligence and incompetence category. The recommendations included:
  - Amending subdivision (a)(1) to clarify negligence or incompetence that involves the death or serious bodily injury to an animal patient, that the veterinarian or RVT represents an immediate danger to an animal patient or the public and animal health and safety.
  - Adopt new subdivision (d) to a previous legal definition for "serious bodily injury."
  - Unlicensed practice as a top priority.

In reference to death or serious bodily injury to an animal patient in subdivision (a)(1), Ms. Bowler asked if the language was redundant.

Dr. Bradbury responded that the Subcommittee went back and forth on the language. She said there is a lot of times that an animal patient dies, and the death was not related to the treatment. She noted the way it had been interpreted currently "represents a danger" was very vague, and to be safe, everything was categized as a danger.

Ms. Bowler noted that the negligence or incompetence complaints were going down and she inquired if it was due to complaints being categized differently when submitted through BreEZe.

Mr. Stephanopoulos responded he believed when COVID-19 started showing up, negligence and incompetence complaints started to shift. He stated the Board was receiving complaints that would fall under the general unprofessional conduct category because it was not necessarily a negligence or incompetence complaint. He added there was a concern, but it was not something that could be directly linked. He believed there were a lot of things that were changed with COVID considering consumers could not go back to the veterinary premises. He noted consumers will attempt to inform the Board how an individual is killing animal patients in order to have their complaint raised to a higher priority. He added that a vast majority of complaints that the Board receives do not end in enforcement action. He believed as society gets back to normal, the percentages for each category will shift again.

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Dr. Sullivan stated that in Category 3, he was assuming that the Board was addressing licensees through cite and fine. He added that unlicensed activity goes to the top category. He inquired if it fit in the priority list. He was unsure where it fit since the individual did not have a license and the case has to go through a District Attorney (DA).

Ms. Sieferman responded that it was true. However, it was not necessarily the DA because the Board can issue citations through the administrative route. She noted the prioritization list is how the Board is prioritizing cases it receives, and it is an aid to maximize consumer protection based on the Board's resources. She said it is regardless of what the complaint ends up getting categorized, the chart is for how the complaint is initially received. She noted currently unlicensed practice does not fall under this category, and it is not in there. She said the Subcommittee is recommending it be added in, but they need the assistance of the Committee of where it thought it should be categorized.

Dr. Bradbury requested public comment on this item. The following public comment were made on this item:

- Bonnie Lutz, Esq., Klinedinst, stated that the determination as to whether it is negligence or incompetence is made when the Board receives the initial complaint. She was concerned about that because she agreed with Mr. Stephanopoulos. She gets to see what the Board sends her in the initial letters that give her the exact wording of the complaint. She did not know if her clients had gotten smarter or if there was something on the Internet that her client had read, but the complaints that they are receiving seem to be different to her. The complaints seem to be more in detail. She added a lot of them she does manage to defend. She said in a lot of cases, she thought because the client is making the complaint sound so bad, and the consumer is calling it negligence and incompetence, those cases are being put into the negligence and incompetence category without subject matter expert review. She added then that would lead to a lot of the complaints being put in that category that might not need to be based on the new definition. She understood that there had to be categories, and she liked beefing up the definition.

- Grant Miller, DVM, CVMA, cautioned the Board about BPC section 4875.1 and stated that about 13 years ago, there was an attempt to amend the section to specifically include unlicensed activity as a priority, and that venture was not successful. He added he would share more with the members if they chose. He cautioned the Board on opening up the BPC section 4875.1 statute. He offered another possibility, which included having the Board look at a category such as incompetence in determining whether or not somebody is truly incompetent. He provided an example, if in a single case, they demonstrated incompetence in performing a physical exam, yet in a plethora of their other patients, they were not, then perhaps incompetence is not the right term to use. He added he did not know because he is not involved at that level, but he thought the Board has a whole lot of power in its enforcement discretion, how it is choosing to look at these cases, and who it is looking at these cases in early critical stages. He

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stated it could circumvent a lot of these statutory messes that the Board may get itself into.

Dr. Bradbury stated that Dr. Miller's suggestion was something the Subcommittee had considered in its first meeting, which was to give better guidance to the enforcement analyst receiving the case, so that it was clearer or at least help them to prioritize differently. She thought there was some concern it was too prescriptive for them, and it was going against the statute. She added there was another consideration to have the consultants decide whether it needed to go to a subject matter expert or not based on the priority categorization.

Ms. Sieferman stated that in BPC section 4875.1, subdivision (a), it is specific about the allegations that are submitted to the Board and how complaints are received, which are done by the Board's office technicians (OTs), who are reviewing them to decide the priority. She added the complaints are assigned at the time, which the OTs look at the list and it is not categorized based on the allegation of negligence or incompetence unless the allegation involves death or serious bodily injury to an animal patient such that it represents a danger to the public. She thought the part the Subcommittee was struggling with is the serious bodily injury part. She said including the word "immediate" before danger would help Board staff determine that it is a Category 1 priority. She added "serious bodily injury is subjective," and she agreed with Ms. Lutz's comments that the complainants are putting a lot of things where they are alleging that it is a danger to the public. She thought putting in these clarifications would be helpful. She added that since the current statute states allegations, it is the allegations from the consumer. She said based on the statistics, more often than not, it is not the case, but it is based on the allegations.

Ms. Welch asked the Committee to consider inserting "unlicensed practice" as a new subdivision (a)(3). She noted that both paragraphs (1) and (2) of subdivision (a) involve direct practice on animals and represent public dangers, and current subdivision (a)(3), while serious, was more about the practitioner and less about the practice on the animal. She also suggested moving the rest of the list down one number.

Dr. Bradbury stated she liked Ms. Welch's suggestion.

Dr. Sequoia stated that given the rationale of putting unlicensed practice as subdivision (a)(3), she suggested moving current subdivision (a)(3) to the bottom of the list because the other items are talking about the practitioner performing veterinary services on the animal, whereas current subdivision (a)(3) is not directly involved with providing animals with veterinary services. She thought it was serious but needed to go to the end of the list.

Ms. Bowler thought unlicensed practice should be lower on the list.

Dr. Waterhouse asked Ms. Welch if there was a reason she recommended putting unlicensed practice in as new subdivision (a)(3).

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Ms. Welch stated she was reviewing current subdivision (a)(3) and there was no mention of the practice on the animal. The conviction is a personal conviction related to the practice of veterinary medicine, but it is not specifically causing direct harm to animals, such as current subdivision (a)(4) and (5). She stated the items could be reorganized so that allegations involving practice on the animals should be higher up the list. Potentially paragraph (3) could be moved down, as well as paragraph (6), which is self-prescribing not involving practice. She proposed "unlicensed practice" could be moved after current paragraph (5), and current paragraph (6) could be moved toward the bottom of the list.

Dr. Sullivan stated he liked Ms. Welch's original recommendation to have "unlicensed practice" as subdivision (a)(3). He provided an example where he had a case where an animal patient was receiving an anesthetic-free teeth cleaning and came in with a dislocated hip. In another example, where the client consistently was going in for this care over a period of six or seven months, the animal patient's carnassial tooth was scaled down to the root. He thought unlicensed activity is a high priority because clients are very hesitant to report it because they are receiving a favor. He stated the cases he has seen are atrocious, and the only reason the client complained was that it ended up being so bad. He reiterated his thought that unlicensed activity should have a high priority.

Dr. Bradbury thought that since the Committee was still deciding the order, this item should be tabled, hashed out, and brought back to the Committee in January.

Dr. Sullivan stated he liked when "unlicensed practice" was (a)(3).

Based on discussion, the following revised language includes all changes suggested to subdivision (a)(3) through (9) (proposed additions are in single underline blue text; proposed deletions are in ~~single red strikethrough text~~):

[…]

(3) Unlicensed practice.~~A conviction or convictions for a criminal charge or charges or being subject to a felony criminal proceeding without consideration of the outcome of the proceeding.~~

(4) Practicing veterinary medicine while under the influence of drugs or alcohol.

(5) Drug or alcohol abuse by a veterinarian or registered veterinary technician involving death or serious bodily injury to an animal patient or to the public.

~~(6) Self-prescribing of any dangerous drug, as defined in Section 4022, or any controlled substance, as defined in Section 4021.~~

(~~7~~6) Repeated acts of excessive prescribing, furnishing, or administering of controlled substances, as defined in Section 4021, or repeated acts of prescribing, dispensing, or furnishing of controlled substances, as defined in Section 4021, without having first established a veterinarian-client-patient

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relationship pursuant to Section 2032.1 of Title 16 of the California Code of Regulations.

(~~8~~7)Extreme departures from minimum sanitary conditions such that there is a threat to an animal patient or the public and animal health and safety, only if the case has already been subject to Section 494 and board action.

(8) Self-prescribing of any dangerous drug, as defined in Section 4022, or any controlled substance, as defined in Section 4021.

(9) A conviction or convictions for a criminal charge or charges or being subject to a felony criminal proceeding without consideration of the outcome of the proceeding.

[…]

Dr. Bradbury requested a motion and the following motion was made:

- Motion: Kristi Pawlowski, RVT, moved and Dianne Sequoia, DVM, seconded a motion to recommend to the Board submission of a legislative proposal to amend BPC section 4875.1 regarding complaint prioritization, as revised at this meeting to insert "unlicensed practice" as new paragraph (3) of subdivision (a), move current paragraph (3) down to new paragraph (9), maintain existing paragraphs (4) and (5), move current paragraph (6) to new paragraph (8), and maintain and renumber existing paragraphs (7) and (8) as (6) and (7).

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Dr. Bradbury requested public comment on the motion. The following public comment was made on the motion:

- Grant Miller, DVM, CVMA, inquired that looking at the Board's Complaints Received pie charts, if the charts were meant to represent the categories that are listed in BPC section 4875.1 to fulfill the requirement in subdivision (c) that the Board annually report and make publicly available the number of disciplinary actions taken. He said the statute requires the Board to tell the public how many violations in each category did it have this year. He asked if that was what the pie charts were.

Ms. Sieferman responded no; the pie charts are the allegations that come into the Board. The part Dr. Miller read are the disciplinary outcomes; they are not the same.

- Grant Miller, DVM, CVMA, said "great." He commented on the modified language that stated, "and animal health and safety," and he noted that when there is an "and" added, it is inclusive, so not only did there have to be an immediate danger to the animal, but it also had to be a threat to animal health and safety. He said it is hard to figure out without the proper punctuation. The "or" and the "and" can be read multiple different ways. He inquired, so there is an immediate danger to an animal patient or the public, but then would there be an immediate danger to the public and to animal health and safety or to the

patient and to animal health and safety. He asked if "animal health and safety" was needed.

Ms. Sieferman responded it was written to mirror language under current subdivision (a)(8). She recommended the Committee make a change to subdivision (a)(1) and current (8).

- Grant Miller, DVM, CVMA, pointed out in subdivision (b), the Board may prioritize cases involving an allegation of conduct that is not in subdivision (a). He said the Board has discretion to go after unlicensed activity. He said what subdivision (b) is stating from his understanding of this conversation years ago, the Board has a budget to use to investigate and to enforce what the Board does, and the highest of that priority has to be Category 1, then Category 2, etc. He said if there is money left over or there is something else it can do outside of the budget, it can encompass that in subdivision (b). He said CVMA is against unlicensed activity; it has an entire stop illegal practice campaign, and he has made personal sacrifices to stop illegal practice. He noted the Board has statutory authority in subdivision (b) to be able to pursue unlicensed activity to the degree that the Board is able, and if it would like this legislation to move successfully and smoothly, keeping unlicensed practice out of a line item might improve the Board's chances.

Ms. Sieferman responded the Board absolutely enforces against unlicensed practice. It just cannot be in a higher priority than (a)(1) through (a)(8). She added, anyone can view the Board's website to see it does take action against unlicensed practice.

Ms. Welch stated in effect, the Board could prioritize unlicensed practice as imaginary (a)(9). She asked the Committee if unlicensed practice needs to be in the (a)(1) through (a)(8) high priority list or could it remain as imaginary (a)(9).

Dr. Bradbury stated that when the Committee talked about it, the Committee felt it should be a high priority.

Ms. Sieferman stated that in the *Consumer Protection Enforcement Initiative (CPEI) Guidelines* for things that are high priority, it does have unlicensed practice in Category 2, so DCA views it as a high priority. She said depending on the case, it could rank higher than imaginary (a)(9). She said it is up to the Committee to recommend it as a high priority in subdivision (a)(1) through (a)(8) or is it good with prioritizing it after that.

Dr. Bradbury requested public comment on the motion. The following public comment was made on the motion:

- Anita Levy Hudson, RVT, CaRVTA, stated that in listening to the discussion about the complaint process, it is so involved. She thought she understood, but now she was uncertain. She inquired, when discussing unlicensed activity, the Committee has been talking a lot in the world of veterinarians, but does it also

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encompass veterinary technicians. She asked if someone who wanted to report a title violation, whether it would fall under subdivision (b), since it was not specifically in there. She wanted clarification for herself.

Ms. Bowler responded she understood and respected Dr. Miller's remarks on the unlicensed activity, but she thought it was the Board's job to try and put this in and advocate for it.

Dr. Bradbury called for the vote on the motion. Ms. Sieferman took a roll call vote on the motion.

- Vote: The motion died 2-7 with Christina Bradbury, DVM, Kevin Lazarcheff, DVM, Kristi Pawlowski, RVT, Dianne Sequoia, DVM, Richard Sullivan, DVM, Marie Ussery, RVT, and Cheryl Waterhouse, DVM, voting no.

Dr. Bradbury stated the item will be revisited and brought back to the January 2024 Committee meeting.

7. Update and Discussion Regarding Animal Blood Bank Frequently Asked Questions—Christina Bradbury, DVM, and Cheryl Waterhouse, DVM

Ms. Sieferman noted the proposed Frequently Asked Questions (FAQs) were compiled in conjunction with the California Department of Food and Agriculture (CDFA) to provide common questions and responses related to animal blood banking.

Dr. Sullivan stated he thought the difficult part to answer were situations where there were multiple practices under one ownership, and he thought the FAQs were explained very clearly.

Ms. Bowler agreed with Dr. Sullivan and inquired that since this was a living document, and as things come up, the document will be amended.

Ms. Sieferman confirmed Ms. Bowler's understanding and noted that CDFA had added another question to add to the FAQs since the posting of the agenda item. She added, it will continue to grow, and that if anyone had any input, they should feel free to provide their input to keep improving it.

Ms. Bowler thought it was good that it posted with the requirements, some resources, and was well done.

Ms. Shufelt requested public comment on this item. There were no public comments made on this item.

8. Election of 2024 Committee Officers

Dr. Waterhouse nominated Dr. Sullivan as the Committee's 2024 Chair. Dr. Sullivan accepted the nomination.

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- Motion: Cheryl Waterhouse, DVM, moved and Kristi Pawlowski, RVT, seconded a motion to appoint Richard Sullivan, DVM, as the 2024 Committee Chair.

Ms. Sieferman requested public comment on the motion. There were no public comments made on the motion.

Ms. Sieferman called for the vote on the motion, and she took a roll call vote on the motion.

- Vote: The motion carried 7-0-1 with Richard Sullivan, DVM, abstaining and Christina Bradbury, DVM, absent from voting.

Ms. Bowler nominated Ms. Ussery as the Committee's 2024 Vice Chair. Ms. Ussery accepted the nomination.

- Motion: Kathy Bowler moved and Kristi Pawlowski, RVT, seconded a motion to appoint Marie Ussery, RVT, as the 2024 Committee Vice Chair.

Ms. Sieferman requested public comment on the motion. There were no public comments made on the motion.

Ms. Sieferman took a roll call vote on the motion.

- Vote: The motion carried 7-0-1 with Marie Ussery, RVT, abstaining and Christina Bradbury, DVM, absent from voting.

9. Future Agenda Items and Meeting Dates

Ms. Sieferman presented this item, included in the following proposed future meeting dates as follows:

- January 16, 2024
- April 16, 2024
- July 23, 2024
- October 15, 2024

Ms. Sieferman noted the items that are tabled for January 2024, including the medical records and complaint prioritization will come back into Committee, and also updates on the inspection mobile app. She noted that after the Strategic Planning Session, which would be held by the Board on October 20, 2023, the Committee would likely have another list of items that would need to be tackled.

Ms. Shufelt requested public comment on this item. There were no public comments made on this item.

10. Adjournment

Ms. Shufelt adjourned the meeting at 2:01 p.m.

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