

**Veterinary Medical Board**

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April 4, 2012

Assemblymember Hayashi, Chair  
Assembly Business, Professions and Consumer  
Protection Committee  
State Capitol  
Room #3013  
Sacramento CA 95814

Re: AB 2304 (Garrick) - Opposed

Dear Assemblymember:

The Veterinary Medical Board has serious concerns regarding the impact of AB 2304 on the Business and Professions Code, Section 4826. Based on existing law and the Board's position on proposed regulatory changes to California Code of Regulations, Section 2037, currently in process, the Board President has authorized an opposed position on this bill since the first hearing is scheduled prior to the Board's April 25, 2012, meeting. AB 2304 is on the agenda for the Board meeting to be discussed by the full Board.

Veterinary dentistry and all of its subdivisions is, and always has been, the practice of veterinary medicine. The legislature chose not to define "dental operation" (Bus. & Prof. Code § 4826(c)) or "veterinary dentistry" (§4826(a)). This is not unusual in a legislative regulatory scheme as leaving these types of words undefined permits the regulatory agency, together with the input of the regulated licensees, to set the parameters of permitted and unpermitted conduct. The inclusion of the terms "dental operation" and "veterinary dentistry" set the "scope of practice" of a licensed veterinarian and exclude all others from performing these functions. (Bus. & Prof. Code § 4825)

In human dentistry, the legislature also did not specifically define what constitutes a dental "operation" (Bus. & Prof. Code. § 1625(b).) However, in the human dentistry act, the legislature made clear that "scaling," both subgingival (below the gum line) and supragingival (above the gum line) is precluded to all but licensed dentists, registered dental hygienists, and registered dental hygienists in extended practice. (Bus. & Prof. Code § 1915 "No person other than a registered dental hygienist, registered dental hygienist in alternative functions, or registered dental hygienist in extended functions or a licensed dentist may engage in the practice of dental hygiene or perform dental hygiene procedures on patients, including, but not limited to, supragingival and subgingival scaling, dental hygiene assessment, and treatment planning...")

This bill is the equivalent of exempting from licensure persons who perform "cosmetic" scaling on humans without defining what "cosmetic" means. It removes all consumer protections and leaves consumers with no recourse for bad outcomes except the already overburdened courts. Furthermore, there is nothing to stop those who would perform this "cosmetic" procedure and fail to obtain proper consent, nor any way to properly notify consumers that this procedure is of no benefit to their beloved pet.

The Veterinary Medical Board strongly objects to this bill for the following reasons:

First, teeth scaling in animals is not as simple as teeth scaling in humans, a practice that no one would begin to argue should be deregulated. Mostly, humans volunteer to have their teeth cleaned, however, in those instances when combative children or scared adults are concerned, the legislature has provided for the use of anesthesia and sedation by licensed dentists. Animals, on the other hand, do not volunteer for teeth

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cleaning. Many will fight and bite to avoid having a person's hands and instruments placed into their mouths risking injury to the person and the animal. Clearly, it is imperative that the practice of veterinary dentistry be done by a licensed veterinarian or a person under the supervision of a licensed veterinarian.

Second, scalers and likely many of the other unknown "non-motorized" tools that would be exempted from all oversight (a hammer and screwdriver would not be illegal under this exemption), have to be very sharp to remove plaque and tartar buildup. Together with animal aversion to having hands and tools in their mouths, the presence of very sharp objects can, and will, lead to serious injury of the animal and the person performing the procedures.

The sponsor of this bill will tell you that there is "no evidence" that any animal has ever been harmed by an unlicensed person performing a "cosmetic" teeth cleaning. However, the fact that consumers may be afraid to come forward, don't know they can report animal injuries to the Board because the person is unlicensed, or otherwise do not make reports does not equate to no animal ever having been injured.

The sponsor's statements also fail to take into consideration all of the consumers who have been misled into believing that the services offered are enough to address all of their pets oral health needs and then later come to find that their companion animals may have been needlessly suffering pain and may now need very costly veterinary care.

There have been contentions that the Board is trying to force all consumers to have their pets anesthetized and that the Board's regulations require this. This is not true. The Board has not, is not now, and has no plans for the future, to adopt any regulation to require specific utilization of anesthesia when cleaning an animal's teeth. The Board's regulations related to anesthesia only require that animals under care be treated humanely and that pain control is provided to injured animals and animals recovering from surgery. When to use anesthesia is generally a matter of professional judgment and subject to the community standard of practice. Only should a veterinarian act negligently regarding the use or non-use of anesthesia would the Board become involved and then the matter is handled on a case-by-case basis.

Additionally, the Board has not taken a position that unlicensed persons may never perform teeth cleaning services. When performed under appropriate supervision of a licensed veterinarian or under some circumstances a registered veterinary technician, an unlicensed individual may legally perform teeth cleaning services.

The proposed exemption is very broad and would allow anyone, anytime using any instruments to open a business scaling tartar off the teeth of animals. The Board is very concerned that this would result in much harm to animals statewide.

The Board is respectfully requesting a no vote on this bill. Please let me know if you have any other questions.

Sincerely,

Susan M. Geranen  
Executive Officer

Cc: Assemblymember Garrick, Author  
Stephanie Ferguson, DVM, Board President  
Assembly Business, Professions and Consumer Protection Committee Members