

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

**Amended Initial Statement of Reasons**

Hearing Date: 10 a.m. on Tuesday, June 12, 2012

Subject Matter of Proposed Regulations: Disciplinary Guidelines

Sections Affected: Title 16, Division 20, California Code of Regulations (CCR) sections 2006

**Specific Purpose of each adoption, amendment, or repeal:**

1. Problem being addressed:

Business and Professions Code (BPC) sections 4830.5, 4830.7, 4836.5, 4837, 4839.5, 4855, 4856, 4857, and 4883 establish provisions of violations for which the Veterinary Medical Board (Board) may take action against licensees and registrants. The Disciplinary Guidelines are incorporated by reference in CCR section 2006 in order to clearly and concisely provide guidance to the Board, Administrative Law Judge, and the public in interpreting the various sections of the applicable Business and Professions Code when initiating discipline for violations to the Veterinary Medicine Practice Act.

Since the last update to the Disciplinary Guidelines in 2002, the Board has been through numerous administrative hearings and has seen many proposed decisions come before them. It is based on this experience with actual cases the Board has sought to further clarify to Administrative Law Judges the Board's recommended discipline for each type of violation to the Veterinary Medicine Practice Act.

Additionally, the Department of Consumer Affairs (DCA) continues to encourage licensing boards to strengthen their enforcement standards based on provisions in Senate Bills 1111 and 1441 allowing for uniform enforcement standards across DCA and ultimately increased protection for consumers.

2. Anticipated benefits from this regulatory action:

The Board anticipates the updated Disciplinary Guidelines will be a useful tool for the Board, Administrative Law Judges, and the public to provide an overview of the Board's processes in disciplinary decisions and clarify the Board's specific recommendations for each type of violation to the Veterinary Medicine Practice Act.

The updated Guidelines would also serve as an educational and guidance tool for the Administrative Law Judges who administer hearings for numerous licensing boards and who cannot possibly develop expertise specific to the various nuances of each board's enforcement provisions. This improves the consistency of penalties and their direct correlation to violations of the Veterinary Medicine Practice Act.

**Factual Basis/Rationale**

The Disciplinary Guidelines were last updated in May 2002. In order to update the Guidelines it is necessary for the Board to amend the existing CCR section 2006 to reflect the most current version of the Guidelines.

Additionally, the Disciplinary Guidelines are incorporated by reference to clearly and concisely provide guidance to the Board, Administrative Law Judges, and the public in interpreting the various sections of the applicable Business and Professions Code when initiating discipline for violations to the Veterinary Medicine Practice Act. Specifically, this proposal would:

#### Amend Introduction

The Introduction was updated to include additional language on the purpose of the Guidelines and introduce new provisions related to drug and alcohol abuse. The amendment also includes the Board's summary recommendations for disciplinary cases involving drug and alcohol abuse and other clarifying language.

#### Amend Penalties by Section Number

Penalties by Section Number were amended to include BPC section 4837 - Disciplinary proceedings against technicians, 4839.5 - "Registered veterinary technician", Use of title, and 4830.7 - Duty to report animal abuse or cruelty; Immunity from civil liability. Statute descriptions are more specific to language in the statute; minimum recommended penalties include additional specific recommendations of the Board, and violation descriptions include narrative guidance on the applicability of minimum and maximum penalties where appropriate.

BPC sections 4837, 4839.5, and 4830.7 were added in order to give guidance to the appropriate parties in administering formal discipline. Minimum recommended penalties were also expanded for each violation so that certain minimum penalties, in the Board's judgment, would be considered more strongly from other minimum penalties. Statutory narratives were provided with more detail and clear language so that the Board, Administrative Law Judges, and the public may better interpret what specific actions would constitute the specific statutory violation.

#### Amend Standard Terms and Conditions of Probation

Standard Terms and Conditions of Probation were amended to include additional descriptions to standard terms and move a standard term to optional term. The additional descriptions will provide improved direction and guidance as well as provide more detail and clear language so that the Board, Administrative Law Judges, and the public may better interpret the terms and conditions for related disciplinary actions. The standard term relating to posted notice of suspension was moved to Optional Terms and Conditions to better reflect that this standard term may not be appropriate for all disciplinary actions and should be an optional term.

#### Amend Optional Terms and Conditions of Probation

Optional Terms and Conditions of Probation were amended to include additional descriptions to optional terms and include an additional optional term. The additional descriptions will provide improved direction and guidance as well as provide more detail and clear language so that the Board, Administrative Law Judges, and the public may better interpret the terms and conditions for related disciplinary actions. The optional term relating to posted notice of suspension was moved from Standard Terms and Conditions to Optional Terms and Conditions to better reflect that this term is more appropriate for some, but not all, disciplinary actions.

### Adopt Overview Guide for Disciplinary Decisions

An Overview Guide for Disciplinary Decisions was added to the Guidelines. The overview provides a detailed description of the disciplinary action process and all possible outcomes in addition to specific definitions of negligence, incompetence, fraud, and deception. The overview will provide improved instruction relating to the Board's disciplinary process so that the Administrative Law Judge, public, and respondent may better understand all aspects of the disciplinary process. Additionally, respondents will be able to have a full overview of the Board processes that occur in its disciplinary actions.

### Adopt Terms and Conditions Relative to Discipline for Drug and Alcohol Abuse

Terms and Conditions Relative to Discipline for Drug and Alcohol Abuse were added to the Guidelines as part of DCA's strengthen enforcement standards based on provisions in Senate Bills 1111 and 1441 allowing for uniform enforcement standards across DCA and ultimately increased protection for consumers. Mandatory terms as well as optional terms are included. Mandatory terms are disciplinary terms that would always be included in disciplinary actions relative to drug and alcohol abuse whereas optional terms would be included in disciplinary terms as appropriate to the violation incurred.

### Underlying Data

- Veterinary Medical Board Disciplinary Guidelines, May 2002 Edition
- Economic Impact Analysis

### Business Impact

This regulation will not have a significant adverse economic impact on businesses. By amending CCR section 2006 the Board is able to update its Disciplinary Guidelines which provide guidance to the Board, Administrative Law Judge and public of the Boards specific recommendations for each type of violation to the Veterinary Medicine Practice Act.

### Economic Impact Assessment

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the proposal allows for the Board to update its Disciplinary Guidelines that provide guidance to the Board, Administrative Law Judge and public of the Boards specific recommendations for each type of violation to the Veterinary Medicine Practice Act.
- It will not create new business or eliminate existing businesses within the State of California because the proposal allows for the Board to update its Disciplinary Guidelines that provide guidance to the Board, Administrative Law Judge and public of the Boards specific recommendations for each type of violation to the Veterinary Medicine Practice Act.

- It will not affect the expansion of businesses currently doing business within the State of California because the proposal allows for the Board to update its Disciplinary Guidelines that provide guidance to the Board, Administrative Law Judge and public of the Boards specific recommendations for each type of violation to the Veterinary Medicine Practice Act.
- This regulatory proposal benefits the health and welfare of California residents because the proposal allows for the Board to update its Disciplinary Guidelines that provide guidance to the Board, Administrative Law Judge and public of the Boards specific recommendations for each type of violation to the Veterinary Medicine Practice Act. This, in turn, provides increases protection to the health and welfare to the public by ensuring the Board’s recommendations for discipline are consistent.
- This regulatory proposal is specific to providing guidance to the Board members, Administrative Law Judges and public of the Boards specific recommendations for each type of violation to the Veterinary Medicine Practice Act and has no impact on worker safety.
- This regulatory proposal is specific to providing guidance to the Board members, Administrative Law Judges and public of the Boards specific recommendations for each type of violation to the Veterinary Medicine Practice Act and does not affect the state’s environment

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

Pursuant to authority vested by BPC sections 4808 and 4883 and to implement, interpret or make specific sections 4830.5, 4830.7, 4836.5, 4837, 4839.5, 4855, 4856, 4857, and 4883 the Board considered changes to CCR section 2006.

No reasonable alternative to the regulatory proposal is available to the Board in administering its authority to implement, interpret or make specific the BPC. No reasonable alternative would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.