



MEMORANDUM

DATE January 22, 2013

TO Veterinary Medical Board

FROM Sue Geranen Executive Officer
DCA/Veterinary Medical Board

SUBJECT **Sunset Review Report/Proposed Recommendation**

Background:

As Executive Officer to the Veterinary Medical Board, I proposing that the Board consider an amendment to Business and Professions Code, Section 4830 (a) (2) and (3), the exemption for Out of State Consultants coming into California.

The current language in both subsections is somewhat vague and ambiguous and recently an unlicensed activity case was turned down by a local District Attorney who believed that these sections allow licensees from other states to come in on a consulting basis without a California license even they are not called in by a California licensee.

The recommendation is to combine the two subsections and to specifically limit the consultation services to be under the authority of a California licensed veterinarian in good standing. The Board's policy statement as printed in its Newsletter in 1995 is attached.

The California Veterinary Medical Association has submitted its recommendations to the Sunset Committee and to the Board and the letter is enclosed in the meeting packet for discussion by the Board.

Action Requested:

- 1) Decide whether amendments are necessary and whether the Board wants to recommend a change as a part of its Sunset Review legislation.

**BUSINESS AND PROFESSIONS CODE
DIVISION 2. HEALING ARTS
CHAPTER 11. Veterinary Medicine
ARTICLE 2. Practice Provisions**

Existing Language

4830. (a) This chapter does not apply to:

(1) Veterinarians while serving in any armed branch of the military service of the United States or the United States Department of Agriculture while actually engaged and employed in their official capacity.

(2) Regularly licensed veterinarians in actual consultation from other states.

(3) Regularly licensed veterinarians actually called from other states to attend cases in this state, but who do not open an office or appoint a place to do business within this state.

(4) Veterinarians employed by the University of California while engaged in the performance of duties in connection with the College of Agriculture, the Agricultural Experiment Station, the School of Veterinary Medicine, or the agricultural extension work of the university or employed by the Western University of Health Sciences while engaged in the performance of duties in connection with the College of Veterinary Medicine or the agricultural extension work of the university.

(5) Students in the School of Veterinary Medicine of the University of California or the College of Veterinary Medicine of the Western University of Health Sciences who participate in diagnosis and treatment as part of their educational experience, including those in off-campus educational programs under the direct supervision of a licensed veterinarian in good standing, as defined in paragraph (1) of subdivision (b) of Section 4848, appointed by the University of California, Davis, or the Western University of Health Sciences.

(6) A veterinarian who is employed by the Meat and Poultry Inspection Branch of the California Department of Food and Agriculture while actually engaged and employed in his or her official capacity. A person exempt under this paragraph shall not otherwise engage in the practice of veterinary medicine unless he or she is issued a license by the board.

(7) Unlicensed personnel employed by the Department of Food and Agriculture or the United States Department of Agriculture when in the course of their duties they are directed by a veterinarian supervisor to conduct an examination, obtain biological specimens, apply biological tests, or administer medications or biological products as part of government disease or condition monitoring, investigation, control, or eradication activities.

(b) This section shall become operative on January 1, 2011.

OUT-OF-STATE CONSULTANTS

Section 4830, California Practice Act, Business and Professions Code, provides specific exemptions for the practice of veterinary medicine in California by persons not licensed in California. These exemptions allow some flexibility for specific cases such as military veterinarians, veterinarians employed by a university, veterinary students, and out-of-state veterinarians acting as consultants.

The exemption governing out-of-state veterinarians acting as consultants in California, but who are not licensed in California, is designed to allow California licensed veterinarians the flexibility to utilize the expertise of an out-of-state veterinarian with a particular skill. The section's intent is to enhance the practice of veterinary medicine in California, while limiting unlicensed practice.

At its May 1994 meeting, the board defined the criteria for "consultant" status in California and emphasized that:

Veterinarians licensed in other states, but not in California, can act as consultants in California. However, the request for consulting services can only be made by California licensed veterinarians, not by individual consumers.

Any one or more of the following criteria would constitute a violation of this exemption:

1. Printing letterhead with a Califor-

nia address.

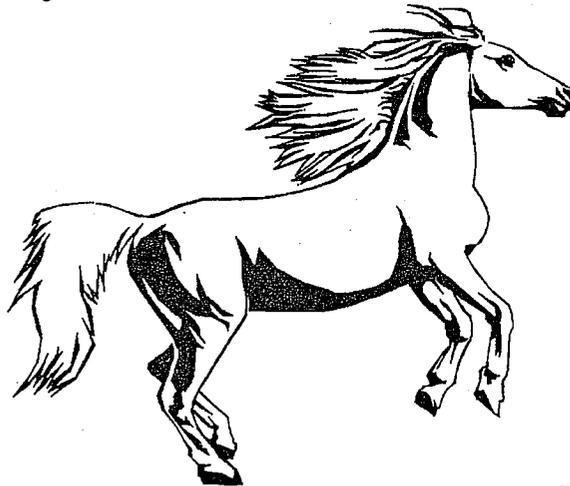
2. Printing business cards that reflect a California address.

3. Separate billing.

4. Setting up an answering service in California.

5. Advertising a practice or address in California.

6. Regularly scheduling visits to a common location. †††



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**Business and
Professions Code
Section 4852
requires veteri-
narians to inform
the Veterinary
Medical Board of
any address
change.**

CVMA MOCK-UP – SECTION 4830

4830. Exemptions

(a) This chapter does not apply to:

(1) Veterinarians while serving in any armed branch of the military service or the United States or the United States Department of Agriculture while actually engaged and employed in their official capacity.

(2) ~~A licensed veterinary in actual consultation from other states.~~ **Veterinarians, licensed to practice in another state and in good standing, who work in direct consultation with a California licensed veterinarian. The California licensed veterinarian receiving the consultation shall maintain a valid veterinarian-client-patient relationship.**

~~(3) Regularly licensed veterinarians actually called from other states to attend cases in this state, but who do not open an office or appoint a place to do business within this state.~~

~~(4)~~ **(3)** Veterinarians employed by the University of California.....

MOCK-UP – SECTION 4825.1

4825.1 Definitions

These definitions shall govern the construction of this chapter as it applies to veterinary medicine.

(a) “Diagnosis” means the act or process....

Add new: **(e) “Consultation” means when a licensed veterinarian receives advice in person, telephonically, electronically, or by any other method of communication from a veterinarian licensed in this or any other state, or other person, whose expertise, in the opinion of the licensed veterinarian, would benefit a patient. The California licensed veterinarian receiving the consultation shall maintain the valid veterinarian-client-patient relationship.”**