



## MEMORANDUM

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**DATE** July 11, 2013

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**TO** Veterinary Medical Board

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**FROM** Sue Geranen Executive Officer  
DCA/Veterinary Medical Board

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**SUBJECT** **Consider Adoption of Pet Lovers License Plate Proposed Regulations**

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**Background:**

At its January 2013 meeting the Board approved proposed pet lovers license plate regulations and delegated to staff to initiate the rulemaking process. Subsequently, Judie Mancuso along with Board staff and legal counsel reviewed and suggested amendments to the proposed language that strengthens assurances that the grant funds are properly distributed and accounted for.

Staff has provided the Initial Statement of Reasons (ISR) along with the amended proposed language. The ISR is part of required rulemaking documentation that, among other things, explains to interested parties the necessity for the proposed rulemaking action (as documented under 'Factual Basis/Rationale').

**Action Requested:**

Review and consider adopting the ISR and proposed language and direct staff to schedule a public hearing on or about October 2, 2013

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

**Initial Statement of Reasons**

**Hearing Date:** 10 a.m. on **TBD**

**Subject Matter of Proposed Regulations:** Spay and Neuter Specialty License Plate

**Sections Affected:** Title 16, Division 20, California Code of Regulations (CCR) sections 2090, 2090.1, 2091, 2091.1, 2092, 2092.1, 2093, 2094, 2095, 2095.1, 2095.2, and 2095.3.

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

1. Problem being addressed:

Vehicle Code (BPC) sections TBD establishes the Veterinary Medical Board (Board) may...sponsor a specialty license plate program...

The Board has established there is currently a problem with pet overpopulation. Part of the pet overpopulation problem can be attributed to the high cost of spay and neuter of pets and its inaccessibility to low income pet owners.

DMV license plate program established to assist social causes...Board sponsorship of spay-neuter license plate...etc.

Specifically the proposed language would:

Adopt CCR section 2090

The proposed language establishes the Board as the sponsoring agency of the California Spay and Neuter License Plate Fund Inc. (Fund) who will administer and manage the California Pet Lovers License Plate Program (Program). The Fund will use revenue from the issuance and renewal of Program specialty license plates to fund low-cost spay and neuter services.

Adopt CCR section 2090.1

The proposed language establishes the Program is owned by the Fund and provides termination terms of the Fund's relationship with the Board if the Fund terminates its relationship with the Program.

Adopt CCR section 2091

The proposed language establishes specific provisions the Board may utilize for withdrawing recognition of the Fund. Provisions include fraud, misrepresentation, or deception in administering funds, failure to qualify for non-profit status, failure to provide documentation to the Board, or failure to comply with laws specific to the regulation of the Fund.

Adopt CCR section 2091.1

The proposed language establishes that the Board shall notify the Fund prior to withdrawal of recognition and provide the Fund the opportunity to be heard.

Adopt CCR section 2092

The proposed language requires the Fund provide an annual accounting report to the Board and that the report meets certain criteria. Criteria include a list of approved grantees, amount of funds distributed, total revenue collected, amount of overhead expenses, number of spay and neuters performed, and feedback from grantees.

Adopt CCR section 2092.1

The proposed language requires the Fund to notify the Board if there is a departure or appointment of a Fund board member, a change to the bylaws, or change to the Fund's non-profit status.

Adopt CCR section 2093

The proposed language establishes eligibility criteria for grant consideration. Criteria include compliance with certain laws related to veterinary medicine, tax exemptions and public health. Grantees must also be city, county, city and county owned, or non-profit who are able to provide animal sterilization services or a voucher program for sterilization services.

Adopt CCR section 2094

The proposed language requires grantees, prior to receipt of funding, provide records of sterilization procedures and ensure their operations open for inspection.

Adopt CCR section 2095

The proposed language establishes grantees use funds for no or low-cost sterilization of dogs, cats and rabbits. Grantees are not allowed to use funds for supplanting existing procedures offered, funding overhead or operational costs, or offset budget reductions.

Adopt CCR section 2095.1

The proposed language establishes specific requirements and restrictions for the handling and accounting of funds received from the fund to the grantee and that those funds may not be diverted or commingled with any entity's general fund.

Adopt CCR section 2095.2

The proposed language establishes the DMV shall provide a report to the Board that includes specific information such as license plates sold, revenue received, revenue set aside to the Fund, and DMV costs.

Adopt CCR section 2095.3

The proposed language requires the transfer of funds in specified increments throughout the year and limits the amount of expenditures that a Fund utilizes on administrative costs.

2. Anticipated benefits from this regulatory action:

Establish a funding mechanism between the Board and DMV to regulate the specialty license plate program...

Allow Fund to provide for low-cost spay and neuters...ensure funds are spent in accordance with the needs of pet owners and the health of the California pet population...

**Factual Basis/Rationale**

Adopt CCR section 2090

The proposed language establishes the relationships between the Board, Fund and Program in order to define each party's responsibilities in relation to one another for the purpose of oversight and the administration of funds received from the specialty license plate program.

Adopt CCR section 2090.1

The proposed language establishes Fund ownership of the Program and provides for general termination terms of the Fund's relationship with the Board in order to protect the Fund, provide notice to the public and give the Fund its authority over the Program.

Adopt CCR section 2091

The proposed language defines specific Board terms for withdrawal of Fund recognition in order to establish the Board's authority over the Fund and provide clear notice to the Fund of specific terms that would be grounds for termination of its relationship with the Board.

Adopt CCR section 2091.1

The proposed language establishes a notice process for Board withdrawal of Fund recognition in order to provide the Fund the opportunity to contest that withdrawal of recognition.

Adopt CCR section 2092

The proposed language defines specific Fund accounting and reporting requirements in order to provide for Fund accountability to the Board and transparency in the distribution of funds to grantees.

Adopt CCR section 2092.1

The proposed language specifies Fund notification provisions in order to establish the Board's authority over the Fund and provide clear notice to the Fund of specific terms required to be reported to the Board.

Adopt CCR section 2093

The proposed language established criteria for grant consideration in order to clearly provide terms and guidance to the grantee for purposes of determining eligibility. The eligibility terms ensure funds are in compliance with specific control agencies, that the funds are distributed to specific entities on a consistent basis and that a simplified accounting process is maintained.

#### Adopt CCR section 2094

The proposed language establishes specific grantee requirements prior to funding in order to set clear expectations of the grantee who is applying for funds as well as establish the Fund's authority over the grantee for purposes of accountability to funds received.

#### Adopt CCR section 2095

The proposed language establishes the grantee provide specific services and defines ineligible use of funds in order to ensure funds are only spent on no- or low-cost sterilization of cats, dogs, and rabbits, in that order, which are the highest number of animals entering California shelters and being euthanized.

#### Adopt CCR section 2095.1

The proposed language establishes accounting requirements for the funds in order to ensure funds cannot be diverted or commingled with other revenue for purposes of funding anything other than what the funds were intended.

#### Adopt CCR section 2095.2

The proposed language establishes Department of Motor Vehicles (DMV) reporting requirements in order to insure accurate and transparent accounting of the funds being transferred from the DMV to the Fund.

#### Adopt CCR section 2095.3

The proposed language establishes the frequency of transfer of funds from the Fund and expenditure limits in order to ensure funds are consistently distributed, to protect the integrity of the program, and maximize the number of surgeries that can be performed.

### **Underlying Data**

- Correspondence between Board-DMV-Non-profit...
- Board minutes from Riverside 2010...

### **Business Impact**

### **Economic Impact Assessment**

**Specific Technologies or Equipment**

**Consideration of Alternatives**

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

*Changes to the modified language are shown in  
strikeout for deleted text and underline for new text.*

### **2090. Program Overview**

The Veterinary Medical Board of California (the "Board"), as the sponsoring organization, recognizes the California Spay and Neuter License Plate Fund Inc. ("the Fund"), a non-profit California corporation, as the organization that will administer and manage the California Pet Lovers License Plate Program ("Program"), which uses revenues from the original issuance, renewal, retention, replacement, or transfer of the license plates to provide funding to low-cost animal sterilization services from approved providers of those services ("Grantees").

### **2090.1. Ownership of Program Title**

The title "California Pet Lovers License Plate Program" is wholly owned by the Fund. If at any time the Fund's role for administration and management of the Program terminates, the Board shall immediately cease use of this title.

### **2091. Withdrawal of Recognition by Board**

The Board may withdraw its recognition of the Fund in the following circumstances:

(a) If the Fund employs fraud, misrepresentation, or deception in administering or managing the Program or its funds.

(b) If the Fund fails to provide any documents or records that are requested by the Board.

(c) If the Fund fails to qualify for non-profit status under Section 501(c)(3) of the Internal Revenue Code and Section 23701(d) of the Revenue and Taxation Code.

(d) If the Fund fails to comply with this Article, or any state or federal tax requirements, and it fails to correct the lack of compliance within 120 days of its discovery.

### **2091.1. Notice and Opportunity to be Heard**

Prior to taking any action to withdraw recognition of the Fund, the Board shall provide the Fund due notice and an opportunity to be heard.

### **2092. Reporting Requirements**

The Fund shall prepare and submit an accounting report to the Board by May 31 of each year. The report shall be made available for presentation at the public meeting of the board, and the report shall include all of the following:

(a) A list of the Fund's board members.

(b) A copy of the Fund's bylaws.

(b) A list of all Grantees approved by the Fund.

(c) The amount of funds given to Grantees.

(d) The total amount of revenue collected by the Fund.

(e) The amounts of expenditures for administrative costs, marketing, or other promotional activities associated with encouraging application for, or renewal of, the specialized plates.

(f) The number of animal sterilization procedures performed by Grantees with Program funds, per geographic region.

(g) All comments, complaints, or feedback, received by the Fund about the Program or any Grantee.

### **2092.1. Notifications**

The Fund shall notify the Board in writing within 15 working days of any of the following:

(a) The departure of any board member,

(b) The appointment of any board member,

(c) Any change to the Fund's current bylaws, or

(d) Any change in the Fund's non-profit 501(c)(3) status.

### **2093. Grantee Eligibility**

An entity is eligible to be a Grantee of the Program if it meets one or more of the following criteria:

(a) The entity and/or service provider shall be in compliance with all of the following as applicable:

(1) The Veterinary Medicine Practice Act,

(2) The U.S. Internal Revenue Service,

(3) The California Franchise Tax Board,

(4) And the California Veterinary Public Health Section, including mandated rabies control activities and reporting for the Local Rabies Control Activities Annual Report.

(b) The entity is one or more of the following:

(1) A California city, county, or city and county that:

(A) Currently contracts with or has the ability to contract with providers of animal sterilization services, and/or

(B) Operates, or has the ability to establish, a voucher program for animal sterilization service providers.

(2) A California city, county, or city and county animal care and control facilities that:

(A) Currently provides animal sterilization services, and/or

(B) Currently contracts with or the ability to contract with animal sterilization service providers, and/or

(C) Operates, or has the ability to establish, a voucher program for animal sterilization service providers;

(3) A California non-profit 501(c)(3) organization that either employs a California licensed veterinarian in good standing or has an agreement or contract with a registered provider of veterinary services in California.

### **2093.1 Grantee Application**

The Fund reserves the right, on an annual basis, to approve applications on a “first come/first served” basis depending on availability of funds and other criteria that promotes the official work of this program.

### **2094. Grantee Requirements**

Every Grantee shall agree to the following Program requirements prior to receipt of funding:

(a) Grantee shall provide information and records as requested by the Fund, including but not limited to receipts and records of sterilization procedures.

(b) Grantee shall maintain its operations and records as open for inspection or audit by the Fund.

### **2095. Funding Purposes**

(a) Grantees receive funding to provide specific services in addition to the existing services already funded and provided by that Grantee.

(b) Grantees shall use Program funds for no- or low-cost sterilization of only dogs, cats, and rabbits.

(c) Grantees shall not use Program funds for any of the following:

(1) To replace or supplant existing sterilization procedures, including any sterilization already required by Food and Agriculture Code § 30503 i.e., impounded animals.

(2) To fund overhead and/or operational costs.

(3) To offset any other budget reductions or shortcomings in the Grantee’s general fund.

### **2095.1. Separation of Funds**

Grantees, including governmental entities, shall keep and maintain all Program funds segregated from all other revenue, such that there shall be no commingling of Program funds with other revenue. Grantees, including governmental entities, may segregate these funds by use of "special" funds, trust funds, or other methods to prevent these funds from being commingled with general fund revenue. In no event shall the monies from the Fund be diverted to any government entity's general fund.

Authority cited: Sections 5060, 5151 et. seq., Vehicle Code; Section 4808, Business and Professions Code. Reference:

### **2095.2. DMV Reports**

The Board shall request, on a quarterly basis, a report from DMV that outlines the following for each month of the quarter and overall for the quarter:

- (a) Number of license plates, sold, renewed or canceled
- (b) Total revenue received from the sale and renewal of the license plates
- (c) Total revenue designated for the Fund
- (d) Total revenue deposited into the Environmental License Plate Fund
- (e) Total revenue for administrative services and the detail of services required.

### **2095.3. Fund Transfers**

The Board shall request transfer of funds on no less than an annual basis and may request quarterly or biannual fund transfers. The Board may request funds be transferred directly to the Fund.

Authority cited: Sections 5060, 5151, 5156, 5157, 5159, and 5160 Vehicle Code; Section 4808, Business and Professions Code. Reference: 5060, 5151, 5156, 5157, 5159, and 5160 Vehicle Code