

Veterinary Medical Board Final Statement of Reasons

No hearing was held regarding the proposed regulations.

Subject matter of proposed regulations: civil penalties for citation.

Section affected: Section 2043 of Article 5.5 of Division 20 of Title 16 of the California Code of Regulations.

Updated Information:

The Initial Statement of Reasons is included in this file. The information contained therein is updated as follows:

Underlying Data:

The Veterinary Medical Board did not rely on any documents, reports, or other material in developing the proposed regulations.

Local Mandate:

A mandate is not imposed on local agencies or school districts.

Small Business Impact:

The Board has determined that the proposed regulations may affect small businesses. A veterinary practitioner who is also the managing licensee of a veterinary hospital may see his or her business affected by the issuance of a citation and fine. However, the regulatory proposal affects small businesses only if they are found to be in violation of any statutes or regulations enforced by the Board, which may result in the Board assessing an administrative fine of no more than \$5,000 for each violation. The Board has determined that the effects of the proposed regulations on small business do not rise to the level of a significant adverse economic impact.

The anticipated benefits of this regulatory proposal are:

- Provides clarity regarding who issues and receives citations.
- Increased penalties for citations will act as a greater deterrent to undesirable behavior than did the former penalties.
- The Board may receive greater income from the collection of fines.
- The term "harm" replaces "bodily injury" in sections 2043(a), (b) and (c), allowing citations for types of harm other than bodily injury.
- The Board may assess the existence of harm pursuant to section 2043(a) whether or not it is "significant and substantial in nature".
- The extension of the "lookback" period for prior citations to 5 years in sections 2043(b) and (c) will allow regulators to better assess whether the practitioner involved

has previously offended and may therefore be more likely to reoffend in the future.

--The new language in section 2043(c) expands the categories of harm that can give rise to a "class C" violation, as compared to "class A" violations in the old language.

--Eliminating "The good or bad faith exhibited by the cited person" from section 2043(d) will rid the regulator of the task of trying to determine something which by its nature is amorphous and hard to quantify.

--The relatively high penalty for unlicensed activity set forth in section 2043(e) will deter unlicensed persons from practicing veterinary medicine.

--Persons subject to citations will have a clear idea about how citations affect their public records because of the new language of section 2043(f), in that the record of a citation remains a matter of public record for five years.

--The new language in section 2043(g) provides affected persons with a better idea of what is involved in "abatement", gives the regulator suggested tools for enforcing an abatement, sets expectations for affected persons, and will lead to more educated and proficient practitioners.

Consideration of Alternatives:

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Objections or Recommendations/Responses:

There were no objections or recommendations regarding the proposed action.