

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

Initial Statement of Reasons

Hearing Date: Wednesday, April 21, 2010

Subject Matter of Proposed Regulations: Retroactive fingerprinting and disclosure requirements

Sections Affected: Title 16, Division 20, California Code of Regulations sections 2007, 2010.05, and 2085.1

Specific Purpose of each adoption, amendment, or repeal:

The purpose of the proposed language is to establish requirements for veterinarian and veterinary technician licensees to furnish a full set of fingerprints to the Department of Justice (DOJ) as a condition of license renewal with the Veterinary Medical Board (Board). Specifically, this proposal would:

Adopt Section 2007

The proposed regulation provides that veterinarian and veterinary technician licensees are required to respond to all Board requests for information within 30 days, that they are required to provide the Board with all records requested related to criminal history information, provide accurate responses and make available documents and other records requested.

Adopt Section 2010.05

The Board is proposing a requirement that, as a condition for license renewal, all licensed veterinarians and veterinary technicians must provide the DOJ a full set of fingerprints for the purpose of conducting a criminal history records check and must pay for all costs and maintain records of the submission for three years. This proposal applies if the veterinarian was initially licensed prior to 1960, the veterinary technician was licensed prior to 2004 or if an electronic record of the fingerprint submission no longer exists.

Also as a condition of renewal, a veterinary and veterinary technician licensee must disclose to the Board whether, in the prior renewal cycle, he or she has been convicted of any violation of the law, omitting minor infractions not involving alcohol, dangerous drugs or controlled substances. The Board is also proposing penalties for failure to disclose such convictions.

Amend Section 2085.1

The proposed regulation mandates that all veterinary and veterinary technician licensees applying for license renewal or reactivating an inactive license submit a full set of fingerprints as required by section 2010.05 prior to seeking a license reinstatement.

Factual Basis/Rationale

The Board currently maintains and tracks approximately 11,000 active and delinquent veterinarians and 4,000 registered veterinary technicians. The Board began to fingerprint its initial applicants for veterinarian license in 1960, but did not require dual reporting of state and federal background checks until January 1, 1998. For veterinary technicians, the Board fingerprinted its initial applicants from January 1, 1976 when the program was implemented until 1980 when fingerprinting was discontinued for reasons that are unknown. The Board

reestablished its fingerprinting requirements for veterinary technicians on January 1, 2004 and requires both state and federal background checks.

When an applicant for initial licensure is fingerprinted, the Board receives a criminal history report informing the Board of the applicant's criminal history. For a licensee who has been fingerprinted, the Board receives subsequent arrest notifications from the DOJ that allows the Board to track any pending criminal actions against a licensee. The Board has no fingerprints on record for approximately 1,000 veterinarians and 3,000 veterinary technicians. This means that the Board did not receive information on these licensees' criminal histories during their application process for licensure and as such is not able to receive reports of current criminal activity. Without this information, the Board is unable to take action unless information about possible criminal activity is received from another complaint source.

While the Board has been aware that there were licensees who had never been fingerprinted, the degree of the problem and the potential risk to the public from a licensee with a criminal history has been highlighted recently through media articles and also through other complaint sources.

Veterinarians and veterinary technicians care for animals who are at risk patients who cannot speak for themselves and who require protection as they cannot defend themselves against licensees who are negligent, incompetent or physically abusive.

Underlying Data

1. Memorandum from DCA Director Carrie Lopez, regarding retroactive fingerprinting dated November 5, 2008.
2. Memorandum from DCA Deputy Director of Legal Affairs, Doreathea Johnson, regarding retroactive fingerprinting dated January 16, 2009.
3. Board Meeting Minutes dated January and April 2009

Business Impact

The regulations will not have a significant adverse economic impact on businesses. There are approximately 750 fingerprinting service vendors statewide, including small businesses that provide fingerprinting services. There should not be any cost impact on fingerprinting service vendors because they are already equipped to provide the service. This regulation will generate revenue for fingerprinting service vendors.

Specific Technologies or Equipment

The regulatory proposal indirectly requires the use of Live Scan because the DOJ requires it for those submitting prints living in California. Live Scan is a well-established and readily available technology for the submission of fingerprints.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.