

VETERINARY MEDICAL BOARD

ORDER OF ADOPTION

AMEND SECTION 2043 OF ARTICLE 5.5 OF DIVISION 20 OF TITLE 16 OF THE CALIFORNIA CODE OF REGULATIONS TO READ AS FOLLOWS:

§2043. Civil Penalties for Citation.

~~Where citations issued pursuant to Section 4875.2~~ When the executive officer determines that a violation has occurred and 125.9 of the Code issues a citation to a licensee or an unlicensed person, that citation shall include its classification and may include an assessment of a civil penalty, they. ~~The classification of the citation shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:~~

(a) ~~Class "A" violations are violations which the executive officer of the board has determined involve a person who has committed a violation which meets the criteria for a class "B" violation and has been issued two or more prior citations for a class "B" violation within the 24 month period immediately preceding the act serving as the basis for the citation, without regard to whether the actions to enforce the previous citations have become final. However, the increase in the civil penalty required by this paragraph shall not be due and payable unless and until the previous actions have been terminated in favor of the board. A class "A" violation is subject to a civil penalty in an amount not less than one thousand one dollars (\$1,001) and not exceeding one thousand five hundred dollars (\$1,500) for each citation.~~

(b) ~~Class "B" violations are violations which the executive officer has determined involve either (1) a person who, while engaged in the practice of veterinary medicine, has violated a statute or regulation relating to the practice of veterinary medicine and either (1) but has not caused bodily injury either death or harm to an animal which is not significant and substantial in nature or (2) presents patient and has not presented a substantial probability that death or serious harm would to an animal patient could result therefrom from the violation. A class "A" violation is subject to a civil penalty in an amount not less than two hundred and fifty dollars (\$250) and not exceeding three thousand dollars (\$3,000) for each citation.~~

(b) Class "B" violations involve a person who, while engaged in the practice of veterinary medicine, has violated a statute or regulation relating to the practice of veterinary medicine and either (1) has caused harm to an animal patient or (2) has presented a substantial probability that death or serious harm to an animal patient could result from the violation or (3) has committed a violation which meets the criteria for a class "CA" violation and has two or more prior citations for a class "CA" violation within the 24-month 5-year period immediately preceding the act serving as the basis for the citation, without regard to whether the actions to enforce the previous citations have become final. However, the increase in the civil penalty required by this paragraph subsection shall not be due and payable unless and until the previous actions to enforce the previous citations have been terminated in favor of the board. A class "B" violation is subject to a civil penalty in an amount not less than five hundred one

dollars (~~\$501~~) and not exceeding one thousand dollars (\$1,000) and not exceeding four thousand dollars (\$4,000) for each citation.

(c) ~~Class "C" violations are violations which the executive officer has determined~~ involve a person who, while engaged in the practice of veterinary medicine, ~~has violated a statute or regulation relating to the practice of veterinary medicine and which has not:~~ (1) has caused either death or bodily injury to a patient and which does not present a substantial probability that death or serious harm to an animal patient would result therefrom, or (2) has committed a violation that has endangered the health or safety of another person or animal, or (3) has committed multiple violations that show a willful disregard of the law, or (4) has committed a violation that meets the criteria for a class "B" violation within the 5-year period immediately preceding the act serving as the basis for the citation. However, the increase in the civil penalty required in this subsection shall not be due and payable unless and until the actions to enforce the previous citations have been terminated in favor of the board. A class "C" violation is subject to a civil penalty in an amount not less than ~~forty two thousand~~ forty two thousand dollars (~~\$42,000~~) and not exceeding five hundred ~~thousand~~ thousand dollars (~~\$500,000~~) for each citation.

(d) In assessing the amount of a civil penalty, the executive officer shall consider the following criteria:

- ~~(1) The good or bad faith exhibited by the cited person.~~
- (2) (1) The nature and severity of the violation.
- (3) (2) Evidence that the violation was willful.
- (4) (3) History of violations of the same or similar nature.
- (5) (4) The extent to which the cited person has cooperated with the board's investigations.
- (6) (5) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation.
- (7) (6) Such other matters as justice may require.

(e) Notwithstanding the foregoing, in all situations involving unlicensed persons practicing veterinary medicine, the citation shall be a class "C" violation, and the civil penalty shall be no less than two thousand dollars (\$2,000) and no more than five thousand dollars (\$5,000) as defined in subsection (c) above.

(f) Every citation that is issued pursuant to this article shall be considered a public document. Citations that have been resolved, by payment of the civil penalty or compliance with the order of abatement, shall be purged five (5) years from the date of resolution, unless the licensee is subject to formal discipline within five (5) years immediately following the citation order, at which time the citation may become part of the permanent enforcement record. A citation that has been withdrawn or dismissed shall be purged immediately upon withdrawal or dismissal.

(g) An order of abatement issued pursuant to section 4875.2 of the Code shall fix a reasonable time for abatement of the violation. An order of abatement may require any or all of the following:

(1) That the individual to whom the citation was issued demonstrate how future compliance with the laws and regulations related to the violation for which the citation was issued will be accomplished. The demonstration may include, but is not limited to, submission of a written corrective action plan.

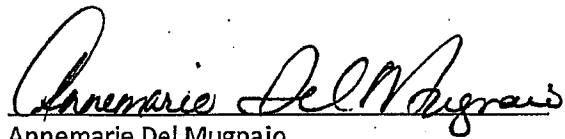
(2) That the individual to whom the citation was issued take a course offered by a Board-approved provider, related to the violation for which the citation was issued. Any courses taken to satisfy the order of abatement shall be individually approved by the Board and in addition to those required as continuing education for license renewal.

Note: Authority cited: Sections 125.9, 4808 and 4875.4, Business and Professions Code.

Reference: Sections 12.5, 125.9, 148, 4826, 4846.5, 4875.2 and 4875.4, Business and Professions Code.

Date:

August 15, 2016



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