

**Veterinary Medical Board
Department of Consumer Affairs**

Initial Statement of Reasons

Hearing Date: The Veterinary Medical Board (Board) has not scheduled a hearing on the proposed changes. However, a hearing will be scheduled upon request by any interested party if the request is received no later than 15 days prior to the close of the written comment period.

Subject Matter of Proposed Regulations: Disciplinary Guidelines

Sections Affected: Section 2006, Article 1, Division 20, Title 16, California Code of Regulations (CCR)¹

Background:

The highest priority of the Board is protection of California consumers and their animals. Business and Professions Code (BPC) section 4800.1 mandates that the protection of the public shall be the highest priority of the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. The Board enforces the Veterinary Medicine Practice Act (Practice Act) and oversees veterinarian licensees, registered veterinary technicians (RVTs), registered veterinary premises, and veterinary assistant controlled substance permit (VACSP) holders.

In accordance with CCR section 2006, the Board uses the Veterinary Medical Board Disciplinary Guidelines (Disciplinary Guidelines) as a means for determining the appropriate discipline of licensees, registrants, and permit holders who violate the Practice Act. The Disciplinary Guidelines were last modified in 2012, and this rulemaking would update the Disciplinary Guidelines to better protect California consumers and their animals. The current Disciplinary Guidelines are outdated and require revisions to provide clarity to probation and discipline terminology and consistency and transparency for probationers in how the disciplinary terms are enforced. The Disciplinary Guidelines are used by Administrative Law Judges (ALJs) when crafting proposed decisions, Deputy Attorneys General (DAGs) of the Attorney General's Office (AG) when crafting stipulated settlements, and the Board when issuing Decisions and Orders.

¹ All CCR references are to title 16 unless otherwise noted.

At the January 20, 2015 Board meeting, the Board discussed a need to modify the existing Disciplinary Guidelines due to concern over the lack of specificity regarding the existing probationary terms of supervised practice. The Board discussed proposed changes to the Disciplinary Guidelines that included the rationale for minimum and maximum penalties and supervision language to provide specificity and direction to Board probation staff when monitoring the supervision terms of a probationer. The proposal reflects amendments that clarify and describe the conditions to better identify what would constitute the minimum and maximum penalties for a disciplinary decision and clearly defines the terms of supervision for a respondent on probation. The proposed language for supervision requirements is based on supervisory language contained in the Disciplinary Guidelines of other healing arts boards (see Tab D.1), "Sample Supervision Language," but is modified to fit the Board's probationary needs. For this purpose, the Board established parameters and defined direct and indirect supervision. The Board also discussed replacing ambiguous terms in the Disciplinary Guidelines with language already defined in the Practice Act. The Board also clarified additional sections of the language and made technical changes for grammatical reasons. The Board unanimously voted to adopt the proposed language.

The discussion regarding the Disciplinary Guidelines was revisited at the April 28, 2015 Board meeting. Board staff presented recommended changes to the Disciplinary Guidelines to the Board, based on current issues with the existing Disciplinary Guidelines (see tab D.2). The Board made further amendments to the proposed language, based on staff recommendations, and made other technical changes for further clarity. The Board identified that further research regarding the Disciplinary Guidelines needed to be conducted before further additional amendments could be made. A subcommittee was appointed to conduct additional research and determine if further amendments to the Disciplinary Guidelines were needed.

At the July 21, 2015 Board meeting, the Disciplinary Guidelines subcommittee presented disciplinary guidelines from other boards as a reference on which to base the Board's Disciplinary Guidelines. The Board made changes to the language that included replacing ambiguous terminology to provide greater clarity (Tab D.3). The Board also discussed the requirements of a respondent to notify other veterinary hospital personnel about the terms of their probation. The Board determined that the respondent should be responsible for notifying licensed, registered, or permitted staff within the veterinary practice about the terms of their probation. Additionally, the Board clarified questions regarding the status of continuing education (CE) credits for respondents whose probation was tolled. The Board identified that the automatic revocation statement for Standard Term 15, Cost Recovery and Payment of Fines, could be views as a due process violation, so the statement was removed. The Board held a discussion

regarding Optional Term 8, as this is a term that Board staff had some difficulty enforcing due to the term being vague. The Board provided their input as to what the term “administration” meant and ultimately struck this language from the term. In addition, the Board also made minor grammatical and technical changes for clarity. The Board voted to approve the proposed language as amended.

In October 2015, the Board reviewed for accuracy another draft of the Disciplinary Guidelines that incorporated all prior approved changes to make certain the Disciplinary Guidelines properly reflected the intention of the Board’s recommendations. At that meeting, the Board discussed five specific probationary terms and conditions and made recommendations (see Tab D.4). The Board also made minor grammatical and technical changes to provide additional clarity. The Board voted to approve the proposed language as amended and directed staff to proceed with the regulatory file.

When Board staff began preparing the Disciplinary Guidelines for submission of the regulatory package to the Office of Administrative Law (OAL), it was determined that further changes were needed. At the January 18, 2017 meeting, the Disciplinary Guidelines were brought back before the Board for further review and consideration (see Tab D.5). The Board’s experienced probation monitors identified problems with the proposed language and provided recommendations for probation terms that were not clear to both respondents and Board staff to help make the probationary processes easier to navigate. The recommendations include removing terms that were inconsistent with other areas of the Practice Act and further clarifying existing terms. The Board voted to approve the proposed language as amended.

At the April 2017 Board meeting, Board staff presented to the Board additional revisions to the Disciplinary Guidelines that included correcting inconsistencies within the Disciplinary Guidelines and resolving due process concerns (see Tab D.6). Board staff also recommended removing the “Overview Guide for Disciplinary Decisions” section, which was originally intended for Board member use and is already contained within the Board and Committee Administrator Procedure Manual. Board staff also recommended other minor and grammatical changes to provide clarification. The Board voted to approve the proposed language as amended.

At the October 2017 Board meeting, the Disciplinary Guidelines were returned to the Board for further consideration (see Tab D.7) of substantive revisions from legal counsel. Some of the prior proposed language was unclear, and the recommended changes to the proposed language included clarifying ambiguous terms and providing better direction to respondents. Additionally, it was determined through the various versions of the approved language, that some changes previously made by the Board

had been left out and were then re-added to the proposed language. Board staff asked the Board to consider defining direct supervision and the practicality of requiring a supervisor to have physical presence and supervision over a respondent 100% of the time. Additionally, concern was raised that the qualifications to be a supervisor were too stringent because of the difficulty for a respondent to find a supervisor that met the qualifications. The Board agreed that the current requirements for a supervisor were not practical and expressed concern that an ALJ would not be motivated to require supervision as a probationary term, given the strict qualifications. The Board voted to make changes to the supervisory requirements to make it more practical. Minor grammatical and technical changes were also made to the proposed language for clarity purposes. The Board voted to approve the proposed language as amended and directed staff to proceed with the regulatory file.

The Disciplinary Guidelines were returned to the Board at the November 2018 meeting to resolve issues identified by legal counsel and Board staff in preparing the rulemaking file. Specifically, the language adopted at the October 2017 Board meeting was missing previous language the Board approved at the April 2017 meeting. Further, additional substantive revisions were presented to the Board that added language for eight new Standard Orders to provide clarity and guidance to ALJs drafting proposed decisions and the AG's office drafting stipulated settlements (see D.8). These revisions also incorporated recent statutory changes going into effect on January 1, 2019 (see D.9), and clarified for respondents that following issuance of the final disciplinary order, respondents could continue to be represented by private counsel, but respondents would have to communicate directly with Board staff. Minor grammatical changes and recommendations were also made to the proposal, and the Board voted to approve the revisions for submission in the rulemaking file.

Problem Statement:

The current Disciplinary Guidelines, last revised in July 2012, contain many outdated terms and conditions of probation and, in many instances, do not reflect recent updates to statutory law and changes that have occurred in the probationary environment since the last update. In addition, recent administrative and superior court cases have revealed a lack of clarity in the supervised practice term in the Disciplinary Guidelines. Further, the Board has determined that a number of terms and conditions in the Disciplinary Guidelines are difficult to enforce in a consistent and efficient manner. If the Disciplinary Guidelines are amended, the corresponding regulation, CCR section 2006, must also be amended to incorporate by reference the revised Disciplinary Guidelines as amended November 2018. The Disciplinary Guidelines are incorporated by reference because of the length of the document.

The specific changes to the Disciplinary Guidelines and the reasons therefor are provided in detail below.

Specific Purpose, Anticipated Benefits, and Rationale

1. *Amend Section 2006 of Article 1 of Division 20 of Title 16 of the CCR*

Purpose: The purpose of this regulatory proposal is to make the Board's Disciplinary Guidelines consistent with current law. Currently, section 2006 incorporates by reference the Board's Disciplinary Guidelines, July 2012 Edition, which are out of date, inconsistent with recent changes to statutory law and the probationary environment, and require clarification. In the last six years, there have been statutory and probationary changes that must be reflected in the Disciplinary Guidelines. The proposal would incorporate by reference the revised Disciplinary Guidelines as amended in November 2018. Additionally, the Board has identified areas in need of clarification in the conditions of probation and changes necessary to improve consumer protection. Finally, the Board is proposing some additional non-substantive changes to the Disciplinary Guidelines.

Anticipated Benefits: The anticipated benefits of revising CCR section 2006 are to improve the ease of use and clarity of the most recent and operative version of the Board's Disciplinary Guidelines for all users.

Rationale: This regulatory proposal would amend the regulation to reflect the most recent revision of the Disciplinary Guidelines, November 2018. Amendments to the regulation include adding BPC section 4845, subdivision (d), and Government Code (GC) section 11400.20 to indicate the Board's authority to promulgate standard terms and conditions relative to RVT probationary registrations. In addition, the proposal would add BPC sections 141, 480, 490, 4836.2, 4842, 4845, 4845.5, and 4886, and GC section 11400.20 to the reference section of CCR section 2006 because the regulation, and incorporated Disciplinary Guidelines, implements, interprets, and makes specific these BPC and GC sections. The proposal is necessary to maintain consistency in the revision date of the most recent Board-approved Disciplinary Guidelines language and clarify the codes and statutes that the Disciplinary Guidelines are implementing, interpreting, and making specific.

DISCIPLINARY GUIDELINES

2. *Amend Disciplinary Guidelines, General*

Purpose: The Disciplinary Guidelines, as they are currently written, are not effective in guiding ALJs in making disciplinary decisions and are difficult for the AG, Board staff, respondents, and the public to interpret. By modifying the Disciplinary

Guidelines as proposed, the Board seeks to make the Disciplinary Guidelines a more accurate, consistent, and clearer document for DAGs and ALJs to utilize when making disciplinary decisions.

Anticipated Benefits: The Board anticipates the updated Disciplinary Guidelines will be a useful tool for ALJs, licensees, applicants, legal counsel, and the public and will provide greater transparency into the Board's processes in disciplinary decisions. The updated Disciplinary Guidelines would also serve as an educational and guidance tool for the ALJs who administer hearings and render proposed decisions for the Board. The Board believes that the ALJs will benefit from clear elucidation of the nuances of the Board's enforcement provisions. Additionally, revisions to the Disciplinary Guidelines are necessary to improve the consistency of penalties for violations of the Practice Act.

Rationale: The current Disciplinary Guidelines contain grammatical and consistency issues and are ambiguous, making it a difficult document to utilize. The revised Disciplinary Guidelines are intended to aid ALJs and DAGs in making disciplinary decisions and helping respondents understand the conditions of their probation. The proposed Disciplinary Guidelines are necessary to provide clarity regarding the Board's specific recommendations for each type of violation of the Practice Act and clearly set forth the Board's terms and conditions of probation.

3. *Amend Disciplinary Guidelines, Cover Pages (1-2)*

Purpose: The purpose of the revisions is to update the Board's information on page 1 of the Disciplinary Guidelines and delete page 2.

Anticipated Benefits: By updating the Board's pertinent information, the public and licensees are better informed as to the Board's location, website address, social media accounts, and relevant management contact.

Rationale: Since the last revision of the Disciplinary Guidelines in July 2012, the Board has moved locations, new members have been appointed, the Board has begun utilizing social media, and the Board has a new Executive Officer and Enforcement Program Manager. The changes to the Board's general information provided on page 1 of the Disciplinary Guidelines are necessary to provide transparency and inform the public and licensees of changes to the Board's general information. As the Board members change frequently before subsequent revisions to the Disciplinary Guidelines can be enacted and the proposed Disciplinary Guidelines revised by this rulemaking would already be outdated due to the expiration of Board member terms and appointment of new members since the

Board approved the rulemaking text, the Executive Officer is deleting this page in accordance with her designated authority to make technical and minor changes to the text.

4. Amend Disciplinary Guidelines, Table of Contents

Purpose: The Table of Contents is outdated and does not include the latest additions and modifications to the BPC disciplinary sections. The Practice Act was recently amended to include Board oversight of VACSP holders. The purpose of the revisions to the Table of Contents is to incorporate the new VACSP holder statutes into the Disciplinary Guidelines, as well as update references to the general disciplinary BPC sections applicable to Board licensees. The revisions to the Table of Contents also make minor and technical changes for ease of use of the Disciplinary Guidelines.

Anticipated Benefits: The updates to the Table of Contents will benefit all users of the Disciplinary Guidelines who will be able to better identify the relevant penalties by BPC section number. The updates will make the Disciplinary Guidelines more user-friendly and will provide transparency and clarity to the disciplinary authority of the Board and potential disciplinary outcomes for license applicants and licensees.

Rationale: The proposal is necessary to incorporate recent additions and revisions to the BPC. The Table of Contents would include references to BPC sections 4836.2, 4836.5, 4837, and 4842 as those statutes provide disciplinary information applicable to registered veterinary technicians and VACSP holders. In addition, the Table of Contents would include references to BPC sections 141, 480, and 490, which provide disciplinary information that is applicable to all licensees. Updating the Table of Contents with the appropriate references to BPC sections applicable to VACSP applicants and holders, as well as with general disciplinary statutes applicable to all Board applicants and licensees, is necessary to make the penalties associated with those statutes easy to find in the Disciplinary Guidelines. The proposal would also make minor and technical revisions for clarity in the Table of Contents

5. Amend Disciplinary Guidelines, Business and Professions Code Sections by deleting page 3

Purpose: The Disciplinary Guidelines contain a list of CCR and BPC sections on page 3. However, the list is incomplete and does not make any reference to where those regulations and statutes are discussed in the Disciplinary Guidelines. The purpose of this proposal is to delete page 3 of the Disciplinary Guidelines that lists the CCR and BPC sections mentioned in the Disciplinary Guidelines.

Anticipated Benefits: By deleting page 3 and its list of CCR and BPC sections, users of the Disciplinary Guidelines will be able to move quickly and easily through the Disciplinary Guidelines, rather than be distracted or confused by the list of CCR and BPC sections provided on page 3.

Rationale: As this page does not provide any information as to the location of each referenced section and does not otherwise appear to serve any purpose, it is necessary for clarity to delete this page and its contents.

6. Amend Disciplinary Guidelines, Introduction

Purpose: The purpose of revisions to this section are to clarify the section by making minor, technical, and grammatical changes. Additional changes include the following: modifying the term “penalty” to “level of discipline,” as this is a more accurate term and is less ambiguous; modifying the language to clarify the Board requests that the ALJ provide their reasoning for assessing less than the minimum penalty provided in the Disciplinary Guidelines, as there is no statutory provision for the Board to require an ALJ’s reasoning; and adding in provisions for VACSPs as this is a new license type added by Senate Bill (SB) 304 (Lieu, Chapter 515, Statutes of 2013) that was not included in the prior version of the Disciplinary Guidelines. SB 304 was recently amended by SB 1480 (Hill, Chapter 571, Statutes of 2018), which authorized the Board to issue probationary VACSPs; the proposal would incorporate these statutory amendments.

Anticipated Benefits: All users of the Disciplinary Guidelines will benefit from minor, technical, and grammatical changes to the Introduction of the Disciplinary Guidelines, as the changes provide clarity and conformity with the disciplinary statutes and regulations applicable to Board applicants and licensees.

Rationale: The changes to this section are necessary so that the Disciplinary Guidelines better align with the Practice Act and to clarify ambiguous terms. The proposed language corrects errors in the Disciplinary Guidelines where the Board had no statutory authority to require information be provided from the ALJ and adds in missing license types to ensure they are included within the Disciplinary Guidelines as well.

7. Amend Disciplinary Guidelines, Introduction – Board Communication Following Entry of Final Disciplinary Order

Purpose: The purpose of this proposal is to clarify for represented parties the Board’s communication with respondents and legal counsel following final entry of

the Board's decision. Through the length of probation, which may be several years, Board staff can become uncertain whether probationers are still employing the same attorneys and whether the Board can lawfully release personal information to attorneys who represented probationers in the underlying disciplinary case. This creates unnecessary workload, delays, and Board expense when Board staff send probation documents to the probationer, who wants or assumes their attorney has also received those documents and will respond on their behalf.

Anticipated Benefits: By stating in the Disciplinary Guidelines the Board's communication policy with probationers following entry of the Board's final decision, probationers and their attorneys will know that only the probationer will receive Board documents, and the probationer is expected to respond to Board staff directly. The proposal will benefit the Board as it will be able to streamline the probation process by sending written communication only to the probationer. The proposal will eliminate unnecessary Board staff workload, delays, and expense. The proposal will benefit probationers by requiring them to participate in their probation and, with written communication sent directly to the probationer, better inform them of their probation status. The proposal will also benefit probationer attorneys who will now know that the Board will only send written communications to the probationer following entry of the Board's final decision.

Rationale: The Board is limited by the Information Practices Act (IPA) (Civil Code sections 1798 et seq.) from disclosing probationers' personal information unless authorized by probationers. Following the entry of the Board's final decision, the Board's duty to provide notice to attorneys representing respondents ends. The common-law rule of when the attorney is no longer considered representing the respondent is that in the absence of special circumstances showing or requiring a continuation, and unless authority is shown to be extended by special agreement or statute, the relation of attorney and client and the authority and powers of the attorney cease or terminate on the rendition and entry of final judgment or decree, where the purpose or object of the employment of the attorney is thereby accomplished and nothing further remains to be done. (*Maxwell v. Cooltech, Inc.* (1997) 57 Cal.App.4th 629, 632.) This rule does not prevent the attorney-client relationship from continuing during the period after the judgment is rendered but before it becomes final or no longer subject to vacation on motion for any causes provided by statute or upon which a court has inherent power to act. (*Id.*)

With respect to determining final judgment and the end of the attorney-client relationship in disciplinary cases, reconsideration of the Board's decision expires 30 days after delivery or mailing of the decision to a respondent or on the date set by

the Board itself. (Gov. Code sec. 11521(a).) The decision is then subject to judicial review by petition for writ of mandate that must be filed within 30 days after the last day on which reconsideration can be ordered. (Gov. Code sec. 11523.) As such, the decision becomes final 60 days after the effective date, at which time the attorney-client relationship is presumed to have ceased.

Following the end of the attorney-client relationship, the Board's disclosure abilities are limited by the IPA, which provides that the Board shall not disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains, unless the information is disclosed to the individual to whom the information pertains, or with the prior written voluntary consent of the individual to whom the record pertains, but only if that consent has been obtained not more than 30 days before the disclosure, or in the time limit agreed to by the individual in the written consent. (Civ. Code sec. 1798.24.) Although the IPA permits disclosure of information following receipt of the petitioner's consent to disclose information to an attorney, the process is time-consuming for Board staff to research whether a disclosure consent was submitted or is still in effect.

The proposal is necessary to clarify for probationers and their counsel when the Board will begin written communication solely with the probationer. The proposal is also necessary to provide clear guidance to Board staff as to when the disclosure of confidential information to probationer's attorney will cease. During the Board's November 2018 meeting, Board members and stakeholders deliberated on the appropriate phrasing of this language to ensure that probationers may include and receive legal counsel from their attorneys in probation meetings with Board staff, while clarifying the Board's disclosure duties to probationers. The Board and stakeholders reached agreement on the final language included in this proposal.

PENALTIES BY BUSINESS AND PROFESSIONS CODE SECTION NUMBER

8. *Amend Penalties by BPC Section Numbers 4883(a); 4836.2(c)(5); 4837(b); 4842(d); 480(a)(1); 490; Conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, surgery, or dentistry*

Purpose: The purpose of the proposal is to update the Disciplinary Guidelines with the relevant BPC section references. The changes to this section include minor, technical, and grammatical changes to provide additional clarity to the section, and adding BPC sections 4836.2(c)(5), 4842(d), 480(a)(1), and 490, all of which are BPC sections that provide the basis for discipline for an applicant's or licensee's conviction of a crime. The proposal also makes minor revisions to the terms of

minimum penalties by deleting “when appropriate,” changing “completions” to “completion,” and changing “criminal act” to “crime”, which improves the clarity of the terms.

Anticipated Benefits: The proposal would benefit all users of the Disciplinary Guidelines by incorporating relevant BPC section references.

Rationale: The revisions described in item 8 are necessary to provide clarity for the Board, ALJs, and the DAGs when making disciplinary determinations.

9. Amend Penalties by BPC Section Numbers 4883(c); 4836.2(c)(4); 4836.5; 4837(e); Violation or attempt to violate, directly or indirectly, any of the provisions of the chapter

Purpose: The purpose of the proposal is to update the Disciplinary Guidelines with the relevant BPC section references. The changes to this section add BPC sections 4836.2(c)(4) and 4836.5, which provide the basis for discipline for violations or attempted violations of the Practice Act. The amendments also strike reference to BPC section 4839.5, which is not relevant to these violations and is omitted to avoid confusion.

Anticipated Benefits: The proposed revisions would benefit all users of the Disciplinary Guidelines by clarifying and updating the references to relevant BPC statutes.

Rationale: The revisions described in item 9 are necessary to provide clarity for the Board, ALJs, and the DAGs when making disciplinary determinations.

10. Amend Penalties by BPC Section Number 4883(d), (e); Fraud or dishonesty in applying, treating, or reporting on tuberculin or other biological tests.

Purpose: The changes to this section include minor, technical, and grammatical changes made by placing a comma and a space between the two subdivisions listed and changing “permit” to “registration.”

Anticipated Benefits: The proposed revisions will clarify the penalties in this section, which benefits all users of the Disciplinary Guidelines.

Rationale: The revisions described in item 10 are necessary to provide clarity to the section.

11. Amend Penalties by BPC Section Number 4883(f); False or misleading advertising

Purpose: The changes to this section include minor, technical, and grammatical changes by re-arranging sentence structure. The Board also reduced the minimum suspension term from sixty (60) days to thirty (30) days for consistency with other terms.

Anticipated Benefits: Probationers will benefit from reduced minimum suspension terms without any harm to the public, and clarifying the maximum penalty section, for the benefit of all users of the Disciplinary Guidelines.

Rationale: The Board revisions described in item 11 are necessary to provide clarity and consistency to the section. Additionally, the Board was concerned that a larger minimum term would mislead the public to believe that the Board felt this violation was more egregious than the rest.

12. Amend Penalties by BPC Section Numbers 4883(g); 4836.2(c)(2), (3); 4837(c); Unprofessional conduct relating to dangerous drugs or controlled substances

Purpose: The purpose of the proposal is to update the Disciplinary Guidelines with the relevant BPC section references. The changes to this section add BPC section 4836.2(c)(2) and (3), which are VACSP specific statutes to conform to new additions of the Disciplinary Guidelines. The Board added “Ethics Training” to the minimum penalty optional terms, added additional language for recommendations for maximum penalties if there are re-occurring violations of the same type of offense, and mandates a minimum probationary term for violations related to drug and alcohol abuse. Additional changes include adding a reference to BPC section 4836.2(d) to clarify that no VACSP can be issued if the applicant has a felony controlled-substance conviction. There are also minor, technical, and grammatical changes made for clarity purposes.

Anticipated Benefits: All users of the Disciplinary Guidelines would benefit from the revisions to this section, which clarify and update the penalties for unprofessional conduct, including by VACSP holders.

Rationale: The revisions described in item 12 are necessary to provide clarity to the section and also provide better guidance to the Board, ALJs, and DAGs for setting probationary terms, which protects California consumers and their animals. Veterinarians, RVTs, and VACSP holders all have access to controlled substances, so it is crucial to provide strict probationary terms to individuals with a

history of drug or alcohol related offenses because of the danger they pose to the public. It is also imperative that individuals with criminal convictions related to drug or alcohol offenses not be granted permits increasing their ability to obtain drugs. To better address violations involving conduct injurious to the public, animal patients, or other practitioners and to increase the respondent's understanding of moral principles and values in their personal and professional decision-making, the proposal would add an optional probationary term for Ethics training.

13. *Amend Penalties by BPC Section Number 4883(g); General unprofessional conduct*

Purpose: The purpose of this proposal is to specify a minimum amount of time for a suspension, in lieu of simply stating "Suspension" to provide a recommended minimum amount of time, 30 days, that a respondent can be suspended for violating this section, and make minor grammatical and technical changes for additional clarity.

Anticipated Benefits: The proposed revisions to this section will benefit California consumers and their animals and better protect them by clarifying the minimum suspension and maximum penalty terms for probationers.

Rationale: The revisions described in item 13 are necessary to provide clarity to the section and also provide better guidance to the Board, ALJs, and DAGs for setting minimum suspension terms for respondents, which will further protect California consumers and their animals.

14. *Amend Penalties by BPC Section Number 4883(h); Failure to keep the licensee's or registrant's premises and all equipment therein in clean and sanitary condition*

Purpose: The purpose of this proposal is to conform the terms of probation to other terms, clarify the term, and remove unnecessary provisions.

Anticipated Benefits: The Board anticipates that with these revisions, the Disciplinary Guidelines will better guide the Board, ALJs, and DAGs when setting minimum and maximum probationary terms for respondents, which will better protect consumers and their animals.

Rationale: The revisions described in item 14 are necessary to provide clarity and consistency. The changes to this section include striking "a ten to thirty" and replacing it with "30" in order to be consistent with suspensions for other violations and to provide better guidance to the Board, ALJs, and DAGs for setting minimum

suspension times for respondents. Other changes include recommendations for maximum penalties if there are prior violations of a similar nature in order to provide further guidance on the appropriate use of maximum penalties. The term “and there is remorse for the existing unsanitary conditions” has been stricken, because the Board did not feel this was appropriate for this section. Remorse is not quantifiable, so it is difficult to determine, and the respondent would have to be remorseful about unsanitary conditions. There are also minor technical and grammatical changes that will provide further clarity to the section.

15. *Amend Penalties by BPC Section Number 4883(i); Negligence in the practice of veterinary medicine*

Purpose: The purpose of this proposal is to conform the terms of probation to other terms, by striking “A ten to thirty” and replacing it with a “30” to be consistent with the length of other suspensions, and adding ethics training and continuing education to the optional terms and conditions for a minimum penalty.

Anticipated Benefits: The Board anticipates that with these revisions, the Disciplinary Guidelines will better guide the ALJs for setting minimum probationary terms for respondents.

Rationale: The revisions described in item 15 are necessary to provide clarity and consistency in the Board’s enforcement of the Practice Act. The changes provide better guidelines to the Board, ALJs, and DAGs when setting minimum suspension times for respondents, and provide additional optional terms and conditions that may be imposed. To better address violations involving conduct injurious to the public, animal patients, or other practitioners and to increase the respondent’s understanding of moral principles and values in their personal and professional decision-making, the proposal would add optional probationary terms for Ethics training and continuing education.

16. *Amend Penalties by BPC Section Number 4883(i); Incompetence in the practice of veterinary medicine*

Purpose: The purpose of this amendment is to lower the minimum number of days of suspension from 90 to 30, to provide consistency with other probation terms, change “mitigation” to “mitigating,” and provide better guidance to the Board, ALJs, and DAGs when setting minimum suspension terms.

Anticipated Benefits: The proposed revisions will provide guidance to the Board, ALJs, and DAGs when setting minimum probationary terms for respondents.

Rationale: The revisions described in item 16 are necessary to provide clarity and consistency in disciplinary actions. By changing the minimum term from 90 days to 30, the proposal would provide more flexibility to the Board, ALJs, and DAGs to set the suspension terms. The Board was also concerned that retaining the 90-day minimum suspension would discourage the ALJs from using this as a term and it would appear to the Board as if this offense was more egregious than other violations. Changing “mitigation” to mitigating” clarifies the discussion of minimum penalties. These changes are necessary to provide consistency, clarity, and flexibility to this section.

17. *Amend Penalties by BPC Section Numbers 4883(i); 480(a)(2); Fraud and/or deception in the practice of veterinary medicine*

Purpose: The purpose of this proposal is to update the Disciplinary Guidelines with relevant BPC section references, maintain consistency with the other sections of the Disciplinary Guidelines, and provide better guidance to the Board, ALJs, and DAGs when setting minimum suspension times for respondents.

Anticipated Benefits: The Board anticipates that these revisions will better guide the Board, ALJs, and DAGs when setting minimum probationary terms for respondents.

Rationale: The revisions described in item 17 are necessary to provide clarity and consistency in disciplinary actions. By changing the minimum term from 90 days to 30, the proposal would provide more flexibility to the ALJs and DAGs when setting suspension terms. The Board was also concerned that retaining the 90-day minimum suspension would discourage the ALJs from using this as a term because it may appear as if this offense was more egregious than other violations. The Board also anticipates that the revisions to the above section will provide clarity by making minor technical changes, and the addition of the BPC section will further reflect the authority of the Board and provide reference to the disciplinary decisions made. Other changes include adding BPC section 480(a)(2), which also provides the basis for discipline for fraud and deception in the practice of medicine.

18. *Amend Penalties by BPC Section Numbers 4883(j); 4836.2(c)(4); 4836.5, and 4842(b); Aiding or abetting in acts which are in violation of any of the provisions of this chapter*

Purpose: The purpose of the proposal is to update the Disciplinary Guidelines with the relevant BPC section references concerning aiding or abetting in acts which are a violation of any of the provisions of this chapter.

Anticipated Benefits: The proposal would benefit all users of the Disciplinary Guidelines by incorporating relevant BPC section references within the appropriate penalty for aiding or abetting in acts that violate the Practice Act.

Rationale: The changes to this section add BPC sections 4836.2(c)(4), 4836.5, and 4842(b), which also provide the basis for discipline for aiding or abetting in acts that violate the Practice Act. The revisions described in item 18 are necessary to reflect the authority of the Board and provide reference to the disciplinary decisions made, as well as further clarifying the section.

19. *Amend Penalties by BPC Section Numbers 4883(k); 4836.2(c)(1); 4837(a); 4842(c); Fraud, misrepresentation, or deception in obtaining a license, registration, or permit*

Purpose: The purpose of the proposal is to update the Disciplinary Guidelines with the relevant BPC section references regarding fraud, misrepresentation, or deception on obtaining a license, registration, or permit.

Anticipated Benefits: The proposal would benefit all users of the Disciplinary Guidelines by incorporating relevant BPC section references within the appropriate penalty for acts of fraud, misrepresentation, or deception in obtaining a license, registration, or permit, which will better protect California consumers and their animals.

Rationale: The revisions described in item 19 are necessary to update the Disciplinary Guidelines to recent statutory changes. The changes to this section include adding BPC sections 4842(c) and 4836.2(c)(1), which also provide the basis for discipline for fraud, misrepresentation, or deception in obtaining a license, registration, or permit. Additional changes include adding in the term “or permit” to make conforming changes for VACSP holders to be included in the Disciplinary Guidelines.

20. *Amend Penalties by BPC Section Numbers 4883(l); 4842(e); The revocation, suspension, or other discipline by another state or territory of a license, certificate, or registration to practice veterinary medicine or as a veterinary technician in that state or territory*

Purpose: The purpose of the proposal is to update the Disciplinary Guidelines with the relevant BPC section reference regarding the revocation, suspension, or other discipline by another state or territory of a license, certificate, or registration to practice veterinary medicine or as a veterinary technician in that state or territory.

Anticipated Benefits: The Board anticipates that these revisions will better guide the Board, ALJs, and DAGs when setting minimum probationary terms for respondents.

Rationale: The revisions described in item 20 are necessary to provide clarity and consistency with the BPC. The changes to this section include adding BPC section 4842, which also provides the basis for discipline for revocation, suspension, or other discipline by another state or territory.

21. *Amend Penalties by BPC Section Number 4883(m); Cruelty to animals or conviction on a charge of cruelty to animals, or both*

Purpose: The purpose of this proposal is to provide an additional reference to a relevant BPC section, to change the minimum suspension term from 30 days to 60 days, and to add the statement “of a significant nature” to clarify the penalties and minimum terms for cruelty to animals and the egregious nature of those offenses.

Anticipated Benefits: By making these amendments, the Board anticipates better protection for California consumers and their animals by setting stricter minimum suspension terms and further defining when a lesser penalty is appropriate.

Rationale: The revisions described in item 21 are necessary to provide guidance to the Board, ALJs, and DAGs in making disciplinary decisions and to reflect to licensees and members of the public the seriousness of the crime of animal abuse and act to deter these types of violations. The Board deviated from the other minimum suspensions for this section because the Board considered cruelty to animals an egregious violation and one that deserved a longer minimum suspension of 60 days instead of just 30 days. In addition, by adding the term “of a significant nature,” the proposal provides guidance to the ALJ that revocation should be considered for this section, but if there are significant mitigating circumstances, probation is something to consider.

22. *Amend Penalties by BPC Section Numbers 4883(n); 141; Disciplinary actions taken by any federal, state, or territory public agency or by another country for any act substantially related to the practice of veterinary medicine or the practice of a veterinary technician*

Purpose: The purpose of the proposal is to update the Disciplinary Guidelines with the relevant BPC section references. The changes to this section include adding BPC section 141 and revising the violation to include “federal, state, or territory public agency or by another country.” Other changes include minor technical and grammatical changes to provide clarity.

Anticipated Benefits: The proposal would benefit all users of the Disciplinary Guidelines by incorporating a relevant BPC section reference and clarifying that penalties are appropriate for disciplinary actions taken by other jurisdictions.

Rationale: The revisions described in item 22 are necessary to provide clarity for the Board, ALJs, and DAGs when making a disciplinary decision. The proposal also makes minor revisions to the terms of minimum penalties by deleting “when appropriate,” changing “completions” to “completion,” and changing “criminal act” to “crime,” which provides clarity of the terms. As it currently stands, this section applies only to state and territory disciplinary actions. By adding BPC section 141, the Board makes clear the general ability of the Board to consider federal and foreign country disciplinary actions when making a disciplinary decision.

23. *Amend Penalties by BPC Section Numbers 4883(o); 4837(e); Violation, or the assisting or abetting violation, of any regulations adopted by the Board pursuant to this chapter*

Purpose: The purpose of the proposal is to update the Disciplinary Guidelines with the relevant BPC section references regarding violation, or the assisting or abetting violation, or any regulations adopted by the Board pursuant to this chapter.

Anticipated Benefits: The Board anticipates that these revisions will better guide the Board, ALJs, and DAGs when setting minimum probationary terms for respondents.

Rationale: The revisions described in item 23 are necessary to maintain consistency with corresponding statutes and provide clarity to the section. The changes to this section include minor technical and grammatical changes to provide clarity to the section. In addition, the proposal incorporates violations, or the assisting or abetting violation, by an RVT, to incorporate recent changes in the corresponding statutes.

24. *Amend Penalties by BPC Section Number Section 4855; Written Records*

Purpose: The purpose of this proposal is to add a new optional term of supervised practice for written records violations.

Anticipated Benefits: By adding supervised practice to this section, it will ensure that respondents are complying with written records requirements and better protect California consumers and their animals by avoiding repeat violations of this nature. In addition, the Board anticipates that the grammatical changes will provide better clarity to the section.

Rationale: The revisions described in item 24 are necessary to better guide the ALJs in making disciplinary decisions. Changes to this section include striking the term “Title” and replacing it with “Violation” to provide consistency with the other sections in the Disciplinary Guidelines and adding “Supervised practice” to the minimum penalty. In addition, there are minor technical and grammatical changes to the section. To resolve the violation of written records, respondents should, at a minimum, have their records reviewed by a supervising veterinarian.

25. *Amend Penalties by BPC Section Number Section 4856; Failure to permit the inspection of records or premises by the Board*

Purpose: The purpose of this proposal is to make the Disciplinary Guidelines more accessible to users by clarifying the term of probation regarding the failure to permit the inspection of records or premises by the Board.

Anticipated Benefits: The proposal would benefit all users of the Disciplinary Guidelines by clarifying the terms of minimum penalties that should be considered when there are no prior violations of a similar nature.

Rationale: The revisions described in item 25 are necessary to provide clarity to the section.

26. *Amend Penalties by BPC Section Number 4857; Impermissible disclosure of information about animals and/or about clients*

Purpose: The purpose of this proposal is to add a relevant term to the probation condition and to provide clarity to the section.

Anticipated Benefits: The Board anticipates increased consumer and animal protection by removing the unnecessary qualifications of requiring proof that the animal or client was placed in jeopardy.

Rationale: The revisions described in item 26 are necessary to provide clarity to the section and provide guidance to the ALJs when assigning maximum penalties to respondents. The Board also decided to strike the term “puts the animals or clients in jeopardy” as redundant; a breach in confidentiality always puts clients and/or animals in jeopardy. The proposal also adds the optional term of ethics training, which is an appropriate term for breaches of consumer confidentiality.

27. *Amend Penalties by BPC Section Numbers 4836.5; 4837; Disciplinary proceedings against veterinarians and registered veterinary technicians*

Purpose: The purpose of the proposal is to make conforming revisions to an optional term and remove unnecessary language.

Anticipated Benefits: The Board anticipates that these changes will make the Disciplinary Guidelines clearer and easier to follow for all users.

Rationale: The revisions described in item 27 are necessary to provide consistency throughout the Disciplinary Guidelines and remove confusing and ambiguous language. The changes to this section include minor technical and grammatical changes, including removing the capitalization of “education” for consistency with the use of this term throughout the Disciplinary Guidelines. Additional changes would remove the “Note - The Practice Act is very specific on the authorized duties for RVTs that cannot be performed by unregistered assistants; therefore, these violations are more serious due to their blatant nature,” as the Board determined this provision to be unnecessary.

STANDARD ORDERS

28. *Adopt Standard Orders*

Purpose: The purpose of adding standard orders to the Disciplinary Guidelines is to address confusion on the part of ALJs, DAGs, and licensees or applicants and their legal counsel, provide the appropriate order depending upon the type of license (veterinarian, RVT, VACSP holder, premises) and license status (temporary, probationary), provide an introductory paragraph to the disciplinary order, and to explain what the specific terms mean.

Anticipated Benefit: The Board anticipates that providing specific standard order language applicable to different terms of discipline by license type will make the terms of the discipline easier for respondents and the public to understand and easier for Board staff to enforce.

Rationale: Terms one (1) through eight (8) are defined to provide guidance and clarity to the ALJs, DAGs, licensees, and the public. Described below are the proposed Standard Orders and the rationale for each order:

1. License Revoked. This standard order is necessary to instruct the ALJs and DAGs of the clear and concise language to be included in the disciplinary order for the Board’s approval. This standard order reflects the action to be taken by

the Board if the discipline to be imposed on a license, registration, or permit is revocation. The Board anticipates that ALJs, the DAGs, and respondents will benefit by having standard language that could be included in a proposed decision or stipulated settlement.

2. Revocation, Stayed, Probation. This standard order, which would state “However, the revocation is stayed, and Respondent is placed on probation for ____ years upon the following terms and conditions” may be added to standard order number one, above, if the disciplinary action is to be the revocation of the license with probationary terms. This language is necessary to provide to ALJs and DAGs clear and concise language to reflect the action to be taken by the Board if the discipline to be imposed on a license, registration, or permit is revoked, stayed, and placed on probation. The Board anticipates that ALJs, DAGs, and respondents will benefit by having standard language that could be included in a proposed decision or stipulated settlement. The Board will also benefit from the proposal as it will not have to reject proposed decisions and stipulated settlements because the standard order is improperly worded.
3. License Suspension. This standard order, which would state “Respondent’s license shall be suspended for [insert specific number of days, months]. [See specific violation for recommended time of suspension,]” may be necessary to add to a disciplinary order in the event that discipline requires the license to be suspended for a period of time. This language is necessary to provide to ALJs and DAGs clear and concise language to reflect the action to be taken by the Board if the discipline to be imposed on a license, registration, or permit is required to be suspended for any length of time. The Board anticipates that ALJs, DAGs, and respondents will benefit by having standard language that could be included in a proposed decision or stipulated settlement.
4. Application denied. This standard order, which would state “Respondent’s license [registration or permit] application is denied,” is appropriate when an applicant is being denied licensure. This language is necessary to provide to ALJs and DAGs clear and concise language to reflect the action to be taken by the Board if the application is denied, and no license is issued. The Board anticipates that ALJs, DAGs, and respondents will benefit by having standard language that could be included in a proposed decision or stipulated settlement. The Board will also benefit from the proposal as it will not have to reject proposed decisions and stipulated settlements because the standard order is improperly worded.
5. Application approved, license issued. This standard order would state that “Respondent’s license [registration or permit] application is approved, and upon completion of all prerequisites for licensure, the license [registration or permit] shall be issued to Respondent.” This language is necessary to provide to ALJs and DAGs clear and concise language to reflect the correct action that would be

taken by the Board when an applicant is approved for licensure. This language is also necessary to notify the applicant that there may be additional steps for licensure applicable to all applicants that must be completed before the license is issued. The Board anticipates that ALJs, DAGs, and respondents will benefit by having standard language that could be included in a proposed decision or stipulated settlement. The Board will also benefit from the proposal as it will not have to reject proposed decisions and stipulated settlements because the standard order is improperly worded.

6. Application granted, license issued, revoked, stayed, probation. This standard order would state that “Respondent’s license [registration or permit] application is approved, and upon completion of all prerequisites for licensure, the license [permit or registration] shall be issued to Respondent, and immediately revoked. However, the revocation is stayed, and Respondent shall be placed on probation for ____ years upon the following conditions.” This language is necessary to provide to ALJs and DAGs clear and concise language to reflect the action to be taken by the Board when the application for licensure is approved, but the Board requires probation to monitor the new licensee as part of discipline. This language clarifies that the application is granted and a permanent license is issued rather than the application is denied or a probationary license is issued. This language is also necessary to notify respondents that there may be additional steps for licensure applicable to all applicants that must be completed before the license is issued. The Board anticipates that ALJs, DAGs, and respondents will benefit by having standard language that could be included in a proposed decision or stipulated settlement. The Board will also benefit from the proposal as it will not have to reject proposed decisions and stipulated settlements because the standard order is improperly worded.
7. Application denied, probationary registration [or VACSP] issued [RVT or VACSP holders only]. This standard order would state that “Respondent’s registration [or VACSP] application is denied; however, the denial is stayed, and a probationary registration [or VACSP] is issued to Respondent for a term of ____ years [for RVT only, no more than 3 years per BPC section 4845] on the following conditions. Upon completion of all terms and conditions of probation, and upon completion of all prerequisites for licensure, Respondent may be issued a permanent registration [or VACSP].” This proposed addition is necessary to address many recent proposed decisions the Board has received from ALJs where the action taken on the application does not properly resolve the application in order to issue the intended probationary registration. This proposal would provide clear and concise language to resolve the application and issue the probationary registration. This proposal would also provide notice to the applicant that there may be additional steps for licensure applicable to all applicants that must be

completed before the probationary registration or VACSP is issued. In addition, this proposal would reflect the recent ability of the Board to issue a probationary VACSP pursuant to SB 1480. The Board anticipates that ALJs, DAGs, and respondents will benefit by having standard language that could be included in a proposed decision or stipulated settlement. The Board will also benefit from the proposal as it will not have to reject proposed decisions and stipulated settlements because the standard order is improperly worded.

8. Application for temporary veterinarian license granted, license issued, revoked, stayed, probation (veterinarians only). This standard order would state that “Respondent’s application for a temporary license is approved, and upon completion of all statutory and regulatory requirements for licensure, and all conditions precedent to licensure, a temporary veterinarian license shall be issued to Respondent. Failure to successfully complete all statutory and regulatory requirements within two (2) years from the effective date shall void this decision and it will have no effect. Upon issuance of a temporary veterinarian license, said license will be immediately revoked. The revocation will be stayed, and Respondent placed on ____ [insert number of years] years’ probation (Probationary Term) on the following terms and conditions. Any and all additional licenses or permits subsequently issued to Respondent during the Probationary Term shall be subject to any and all statutory and regulatory prerequisites and the specific terms and conditions specified below. The Probationary Term is cumulative and does not restart with the issuance of any additional license or permit.” This proposal is necessary to advise the ALJ or DAG the correct language to properly resolve an application for temporary veterinarian licensure provided under BPC section 4848.3 and discipline thereon. That section authorizes the Board to issue a temporary license valid for one year to an applicant accepted into a qualifying internship or resident program if the applicant satisfies certain requirements. In the event a temporary license will be issued under disciplinary terms and conditions, this proposal would provide the correct language to properly resolve the application and is necessary to notify the applicant that there may be additional steps for licensure applicable to all temporary licensure applicants that must be completed before the license is issued. In addition, the proposal would specify the process for subsequent permanent licensure and clarify that the probationary period would be cumulative and not start over if a permanent license was issued to the temporary licensure applicant. The Board anticipates that ALJs, DAGs, and respondents will benefit by having standard language that could be included in a proposed decision or stipulated settlement. The Board will also benefit from the proposal as it will not have to reject proposed decisions and stipulated settlements because the standard order is improperly worded.

STANDARD TERMS AND CONDITIONS OF PROBATION (1-15)

The Board revised the “Standard Terms and Conditions of Probation” section’s numbering from one (1) through (11) to one (1) through fifteen (15) due to the addition of several new standard probationary terms. The Board also struck the statement in the first box of the section that reads: “All standard terms and conditions are included in every order of probation applied to the licensee or registrant subject to discipline (Respondent)” because not every disciplinary decision from the Board includes every standard order, as the standard orders that will apply to each probationer are determined on a case-by-case basis.

29. ***Amend Standard Terms and Conditions 1: Obey all Laws***

Purpose: The purpose of this proposal is to clarify the existing requirement of the respondent to notify the Board within thirty (30) days of an arrest and, if convicted, the proposal clarifies that the respondent must report to the Board within thirty (30) days of the conviction and provide proof of compliance with court orders.

Anticipated Benefits: The Board anticipates that the proposal will make Board processes more efficient in that Board staff will not have to clarify by phone, mail, or email a respondent’s question regarding when he or she has to submit arrest documentation to the Board; the proposal would make clear for respondents their obligation to report and submit documentation only in the event of a conviction.

Rationale: This proposal is necessary to provide clarity for respondents that while an arrest must be reported to the Board, arrest documentation does not have to be submitted. The proposal clarifies documentation is required to be submitted only in the event of a conviction. The proposal is necessary to clarify that respondents must submit documentation to the Board with proof of compliance with any court-ordered terms and convictions related to a conviction.

30. ***Amend Standard Terms and Conditions 2: Quarterly Reports***

Purpose: The purpose of this proposal is to clarify the Quarterly Report term requirements for probationers.

Anticipated Benefits: The Board anticipates that these modifications will provide more flexibility to the probation monitor, enable the Board to provide better oversight and, in turn, will better protect California consumers and their animals.

Rationale: The revisions described in item 30 are necessary to provide better guidance to respondents as to the expectations concerning their quarterly reports and the consequences that will ensue if they falsify their reports or fail to submit their reports per their disciplinary decisions. The proposed changes are necessary to provide further clarity and consistency to the Disciplinary Guidelines by striking irrelevant statements or moving them to the correct Standard Term and Condition. The changes to Standard Terms and Conditions 2: Quarterly Reports include striking the term “and Interviews” as the requirement for Board Interviews was moved from this Standard Term and Condition to a new standalone Standard term and Condition number 3. This removal is necessary and appropriate to separate and emphasize the importance of each term as a distinct requirement. Additional changes include the addition of the phrase “Omission or falsification in any manner of any information on these reports shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against respondent’s license, registration or permit,” which was added to give authority to the Board to take disciplinary action against a probationer who violates the terms of their probation by falsifying reports. The Board also deleted the phrases: “In addition, the Board at its discretion may request additional in-person reports of the probationary terms and conditions,” as it was moved to the subsequent section relating to Interview with the Board, and “Respondent shall make available all patient records, hospital records, books, logs, and other documents,” as it was moved to the Standard Term and Condition of Cooperation with Board Staff and is more relevant in that Term and Condition. The Board also added the sentence “Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation,” which would be a new condition, to specify the consequence when a respondent does not submit the required reports in a timely manner.

31. *Amend Standard Terms and Conditions 3: Interview with the Board*

Purpose: The purpose of the proposal is to clarify the Terms and Conditions of probation for better understanding and compliance of probationers regarding interviews with the Board.

Anticipated Benefits: The proposal benefits respondents by helping them to successfully complete probation and better protect California consumers and their pets and provide clarity to the Disciplinary Guidelines.

Rationale: The proposal is necessary to improve clarity in the Disciplinary Guidelines by defining the expectations of a respondent’s probationary term. The former term “Cooperation with Probation Surveillance” has been divided into four

new terms: “Interview with the Board” (new Term and Condition 3); “Cooperation with Board Staff” (new Term and Condition 4); “Probation Monitoring Costs” (new Term and Condition 5); and “Changes of Employment or Address” (new Term and Condition 6). The existing language regarding Standard Term and Condition 3: Interview with the Board has been stricken and replaced with the following language: “Within 30 days of the effective date of the Decision, Respondent shall appear in person for an interview with the Board or its designee to review the terms and conditions of probation. Thereafter, Respondent shall, upon reasonable request, report or appear in person as directed.” The proposed language to be added is a new Standard Term and Condition, which aims to add a timeframe to the existing verbiage and provides the respondent with an opportunity to meet with Board staff and ask questions or address any concerns about probation. By meeting within the first 30 days of the effective date of the decision, areas needing further clarification would be addressed while still in the beginning stages, promoting a higher success rate with more respondents completing probation. By requiring that a respondent appear before the Board for an initial interview, and upon request subsequent interviews, the proposal will ensure that the probationer understands the terms of their probation and should improve compliance with the terms of the probation. The name of the title is being changed to capture and emphasize only the interview portion of probation.

32. *Adopt Standard Terms and Conditions 4: Cooperation with Board Staff*

Purpose: The purpose of the proposal is to clarify the Terms and Conditions of probation for better understanding and compliance of probationers.

Anticipated Benefits: By clarifying that the Board and respondent will communicate directly, rather than through third parties, the proposal would improve Board efficiency and timely delivery to respondents of communications affecting respondent’s probation. The Board anticipates that the adoption of this section will help resolve some ongoing issues the Board probationary staff faces regarding compliance with probationary terms. By defining the parameters of the probation, and the requirement of respondents to cooperate with Board staff, the Board will be ensuring that the Board/Respondent communications will be direct and not via third-parties or respondent’s agents.

Rationale: The former term “Cooperation with Probation Surveillance” is being divided into four new terms: “Interview with the Board” (new Term and Condition 3); “Cooperation with Board Staff” (new Term and Condition 4); “Probation Monitoring Costs” (new Term and Condition 5); and “Changes of Employment or Address” (new Term and Condition 6). The proposed change revises the language of former

Term and Condition 3 that notifies the Respondent that they must cooperate with the Board's probationary program, including inspections and investigations. The adoption of this standard term is necessary to provide clarity and consistency to the Disciplinary Guidelines and help resolve existing issues the Board staff is facing regarding communicating with respondents. The proposal would clarify the Board's direct communication requirement and specify that respondents will also have to cooperate with Board staff by making all patient records, hospital records, etc., available to the Board upon request. The proposal requires respondents to claim certified mail issued by the Board, respond to Board requests, and submit reports as requested and directed by the Board. The proposal also encourages respondents to contact the Board's probation monitor whenever he or she has a question or concern about the terms and conditions of their probation. The proposal would require timely inspections and investigations, which are necessary to enable the Board to actively and effectively monitor a Respondent's satisfactory compliance with the imposed terms and conditions. In addition to this, it enforces that respondents are required to claim certified mail and maintain contact with the Board, as a part of adhering to the Terms and Conditions of their probation.

33. *Adopt Standard Terms and Conditions 5: Probation Monitoring Costs*

Purpose: The purpose of the proposal is to clarify the Terms and Conditions of probation for better understanding and compliance of probationers.

Anticipated Benefits: The Board anticipates that respondents will benefit from clarification of the existing probation monitoring costs imposed upon them.

Rationale: This proposal is necessary to clarify the cost requirement and make it easier for respondents to find the costs for probation monitoring in their disciplinary order. Currently, the probation monitoring costs are contained in another section titled "Cooperation with Probation Surveillance," which makes it difficult for respondents to find and identify. Standard Terms and Conditions 4: Cooperation with Board Staff is a new term which reads, "Probation monitoring costs are set at a rate of \$100 per month for the duration of the probation. These costs shall be payable to the Board on a schedule as directed by the Board or its designee." The proposed change creates a new Term and Condition and moves the probation monitoring costs from the previous "Cooperation with Probation Surveillance" Standard Term and Condition to the new Term and Condition 5. No new fee is being created, as this obligation already exists.

34. *Adopt Standard Terms and Conditions 6: Changes of Employment or Address*

Purpose: The purpose of this term and condition is to ensure that the Board probation monitor has current information as to the employment and address of the respondent so they can maintain communication as needed.

Anticipated Benefits: The Board anticipates benefits to Board probation staff who will be able to ensure accurate and consistent communication. The Board anticipates that this proposal will provide better protection to California consumers and their animals, as well as provide clarity to respondents as to what is expected of them while on probation.

Rationale: This proposal is necessary to highlight the existing requirement that a respondent notify the Board of name and address changes. Standard Terms and Conditions 6: Changes of Employment or Address is a new term that reads, "Respondent shall notify the Board, and appointed probation monitor in writing, of any and all changes of employment, location, and address within fourteen (14) calendar days of such change. This includes, but is not limited to, termination or resignation from employment, change in employment status, and change in supervisors, administrators, or directors. Respondent shall also notify his or her probation monitor AND the Board IN WRITING of any changes of residence or mailing address within fourteen (14) calendar days. P.O. Boxes are accepted for mailing purposes; however, Respondent must also provide his or her physical residence address as well." Under current term 1, Obey all laws, respondents are required to notify the Board of any change of address within thirty (30) days of the change. The proposal creates a new term and condition directed at respondents who move or change employment location to notify the Board within fourteen (14) days of the move. This time frame will provide probationers two full weeks to notify the Board of a change of employment or address, which the Board determined would be a sufficient amount of time for the probationer to submit the changes while providing the Board information quickly enough to monitor the probationers and protect the public. This will ensure that Board staff has updated information in case a problem were to arise and they need to locate and contact a respondent.

35. *Amend Standard Terms and Conditions 7: No Supervision of Students, Interns, or Residents*

Purpose: The purpose of this proposal is to update the term and condition to conform to the current terms for student interns and residents and ensure that licensees who are being disciplined do not negatively affect or misinform individuals learning the practice of veterinary medicine.

Anticipated Benefits: By amending this section, the Board anticipates a benefit to respondents who will better understand how to adhere to the terms and conditions of their probation.

Rationale: This proposal is necessary to provide clarity, because this term was confusing to respondents and the public due to the term “preceptorship”, and to what it referred. This existing Term and Condition number 4 is proposed to be re-numbered to Term and Condition number 7 to account for additional standard terms and conditions being added. The amendments made to the section clarify that the respondent shall not supervise students, interns, or residents while on probation. Standard Terms and Conditions 7: No Supervision of Students, Interns, or Residents previously read “No Preceptorships or Supervision of Interns.” The term “preceptorship” is removed due to the Board receiving comments regarding confusion over its meaning. The title is being changed to include “students” and “residents” to provide clarity. For consistency, the language proposed to be added within the term and condition incorporates the same changes made to the title.

36. *Amend Standard Terms and Conditions 8: Notice to Employers*

Purpose: The purpose of this proposal is to clarify how probationers must notify their employers of their discipline status, and ensure their employers timely notify the Board.

Anticipated Benefits: The Board anticipates that respondents will benefit from this clarification so that they will be aware of their responsibilities and remove confusion regarding this requirement.

Rationale: This proposal is necessary to provide clarity within the Disciplinary Guidelines by maintaining consistent and pre-defined language used throughout the Practice Act. This existing Term and Condition number 5 is being re-numbered to Term number 8 to account for additional standard terms and conditions being added. The proposed changes include replacing the term “employer” with “supervisor and/or managing licensee (licensing manager)” to clarify that the respondent’s direct supervisor or licensee manager, which terms are consistent with the Practice Act, rather than the general employer, must timely acknowledge the restrictions imposed on the respondent. For Board staff efficiency, the proposal would clarify that the respondent is responsible for ensuring that timely acknowledgement is submitted to the Board. The remainder of the proposed changes to this term are minor changes proposed for clarity and consistency.

37. *Amend Standard Terms and Conditions 9: Notice to Employees*

Purpose: The purpose of this proposal is to ensure that employees working with the respondent are properly notified of the respondent's disciplinary status.

Anticipate Benefits: The proposal would benefit respondents by clarifying the notice requirements. The proposal would also benefit respondent's employees by relieving them of the current duty to report to the Board acknowledging that they read respondent's disciplinary documents and, instead, require respondent to provide to the employees the Board-approved notice of respondent's discipline.

Rationale: The Board anticipates amendments to this section will incorporate all veterinary employees (licensed, registered, and permitted) and are necessary to provide clarity to the term by making minor, grammatical, and technical changes. This existing Term and Condition number 6 is proposed to be re-numbered to Term and Condition number 9 to account for additional standard terms and conditions being added. The proposed changes include clarifying changes to identify that a respondent shall post the decision by the Board throughout the probational period in a visible manner. Additional changes include minor, technical changes to incorporate licensed, registered and permitted veterinary employees and provide consistency and clarity throughout the Disciplinary Guidelines. The proposal would also remove the requirement for respondent's employees, who themselves are not subject to Board discipline, to report to the Board acknowledging they have read the disciplinary documents.

38. *Strike Former Standard Terms and Conditions 7: Owners and Officers (Corporations or Partnerships): Knowledge of the Law*

Purpose: The purpose of this proposal is to remove unnecessary and confusing terms of probation.

Anticipated Benefits: The Board anticipates that striking this term will benefit all respondents, especially those to whom this condition does not apply.

Rationale: Since this term and condition is not relevant to all types of respondents, this proposal is necessary to clarify the Disciplinary Guidelines by removing from the Standard Terms and Conditions this provision that affects only a few respondents. This term and condition is proposed to be stricken from the Disciplinary Guidelines because while it may be applied in certain corporate practice scenarios, it does not have general relevance to all types of respondents.

39. *Amend Standard Terms and Conditions 10: Tolling of Probation*

Purpose: The purpose of this proposal is to clarify how and when a probationer is placed in tolled status.

Anticipated Benefits: By modifying this term and condition, the Board will be better protecting California consumers and their animals by clearly identifying the conditions of this term and condition, ensuring that respondents are complying with this standard term and condition. The Board anticipates that the amendments to this term and condition will better clarify when a respondent's probation is considered tolled.

Rationale: The proposal is necessary to clarify the provisions and definition of non-practice that will result in the respondent's probation being tolled. Board staff have recently started new probationers in the "tolled status," which is in the best interest of the probationer since it requires an interview to be conducted with the Board to discuss all requirements and restrictions imposed by the disciplinary order. The interview with the Board opens the lines of communication between the probationer and the Board staff. Currently, this term is ambiguous and is causing confusion, so amendments are being made to provide consistency and clarity to the term. The proposal also identifies the requirements while a probationer is tolled to ensure that they are still complying with the terms and conditions of their probation.

This existing Term and Condition number 8 is proposed to be re-numbered to Term and Condition number 10 to account for additional standard terms and conditions being added. The proposed changes in the first paragraph are intended to emphasize that any period over 30 days, which was determined by the Board to be a reasonable break in practice to be subject to tolling, of "non-practice" will result in the respondent's probation being tolled. The proposal also establishes a new requirement that the respondent notify the Board within 15 calendar days of either non-practice or a return to practice. The proposed revisions in the second paragraph clearly define "non-practice" and emphasize the requirements while the respondent is being "tolled" for "non-practice." The proposed changes in the third paragraph continue to define "non-practice" and provide clarification regarding the minimum number of hours per week that a Respondent must engage in the practice of veterinary medicine, along with examples of situational exceptions. The proposed changes in the fourth and last paragraph are intended to clarify how the period of tolling will affect the respondent's overall probationary term.

40. *Adopt Standard Terms and Conditions 11: Maintain a Valid License*

Purpose: The purpose of this proposal is to clarify the existing requirement that a probationer must maintain a valid Board-issued license.

Anticipated Benefits: This term and condition will help protect California consumers and their animals by ensuring the Board has authority over the individuals on probation, regardless of the disciplinary status, in case a complaint is received and further disciplinary decisions need to be rendered.

Rationale: The proposal is necessary to clarify for respondents and ensure that the Board has oversight of those individuals after a disciplinary decision has been rendered. The proposal is also necessary to reinforce that if a respondent fails to maintain a valid license, they are still expected to adhere to the terms of their probation. The new term and condition reads, "At all times while on probation, Respondent shall maintain a current and active license with the Board, including any period during which suspension or probation is tolled. If Respondent's license, by operation of law or otherwise, expires, upon renewal, Respondent's license shall be subject to any and all terms of this probation not previously satisfied." The proposed change clarifies that the respondent must hold a current and active license with the Board while on probation. The new term also clarifies that if the respondent does not hold a current and active license with the Board, the respondent is still subject to any and all terms of probation.

41. *Amend Standard Terms and Conditions 12: Violation of Probation*

Purpose: The purpose of this proposal is to provide the Board sufficient time to adjudicate a pending disciplinary action to determine whether the probationer is compliant with existing terms and conditions, or otherwise poses a threat if returned to practice without monitoring or other imposed restrictions.

Anticipated Benefits: By amending this term and condition, the Board will be providing clarity to the Disciplinary Guidelines and better protecting California consumers and their animals. The Board anticipates that by amending this term and condition, the Board will be able to make informed decisions regarding petitions for modification or termination of probation, because they will not be considering petitions if there is an accusation or petition currently pending against the respondent.

Rationale: This proposal is necessary to ensure that respondents who continue to violate the Practice Act and are dangerous to the public will not be allowed to continue practicing without Board monitoring. This existing Term and Condition

number 9 is being re-numbered to Term and Condition number 12 to account for additional standard terms and conditions being added. A new sentence has been added to clarify for probationers that the Board will not consider a petition for termination or modification of probation while an accusation or petition to revoke probation is pending against the probationer. A petition for modification or termination of probation is granted only when the petitioner has shown they have been rehabilitated. A pending accusation or petition to revoke probation is brought when the probationer is being alleged to have violated the Practice Act or the terms and conditions of the existing probation. Until the accusation or petition to revoke probation is resolved through due process, the probationer should not be considered for a modification or termination of probation to protect the health, safety, and welfare of the public and their animals.

42. *Adopt Standard Terms and Conditions 13: License Surrender While on Probation/Suspension*

Purpose: The purpose of this proposal is to make the process of surrendering a license to the Board easier for probationers.

Anticipated Benefits: This term and condition will provide a means for respondents who cannot comply with the terms of their probation an opportunity to surrender. By allowing probationers to relinquish their license, the Board anticipates better protection for California consumers and their animals by ensuring those licensees are not allowed to hold a license and continue practicing.

Rationale: The proposal is necessary to allow for the surrender of a license while on probation or suspension, as well as mandating a time requirement to the respondent upon notifying the Board that they wish to surrender. If a respondent knows that they are unable to comply with the terms of their probation, then they are a danger to California consumers and their animals. Standard Terms and Conditions 13: License Surrender While on Probation/Suspension is a new term and condition which reads, "Following the effective date of this Decision, should Respondent cease to practice veterinary medicine due to retirement or health issues, or be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender his or her license to practice veterinary medicine to the Board for surrender. The Board or its designee has the discretion to grant the request for surrender or to take any other action it deems appropriate and reasonable; this discretion allows the Board to review the probationer's file for probation violations and complaints against the probationer. In the event the probationer is under investigation or prosecution for violations of the Practice Act or probation, the Board may deny the license surrender pending further disciplinary

proceedings. Upon formal acceptance of the license surrender, Respondent will no longer be subject to the terms and conditions of probation. The surrender constitutes a record of discipline and shall become a part of the Respondent's license history with the Board. Respondent must relinquish his or her license to the Board within ten (10) days of receiving notification from the Board that the surrender has been accepted." The proposed changes in the first paragraph provide the respondent with the opportunity to surrender his or her veterinary license in the event of retirement, health issues, or other circumstances that do not allow the respondent to satisfy the terms of probation. The proposed changes in the second paragraph aim to provide clarity regarding the responsibilities of the respondent upon receipt of the notification of acceptance of the surrendered license. The surrender will also be documented on the respondent's record, which will serve as a notice to the public and is necessary to provide transparency and further protection to consumers.

43. *Amend Standard Terms and Conditions 14: Completion of Probation*

Purpose: The purpose of this proposal is to notify respondents of the penalty for failing to pay costs due to the Board.

Anticipated Benefits: The Board anticipates this proposal will increase the likelihood of a respondent's successful completion of probation.

Rationale: The proposal is necessary to provide clarity for respondents that failure to complete all terms of probation, including payment of costs, may result in revocation of probation. This existing Term and Condition number 10 is being re-numbered to Term and Condition number 14 to account for additional standard terms and conditions being added. Additional changes to this term and condition clarify that failure to complete probation may result in the filing of a petition to revoke probation.

44. *Amend Standard Terms and Conditions 15: Cost Recovery*

Purpose: The purpose of this proposal is to make clarifying and consistency changes that adhere with the Practice Act and other statutory authority.

Anticipated Benefits: The Board anticipates that the proposed changes will provide a means for respondents facing financial hardships to apply for a payment plan that will assist with cost recovery amounts, which will ensure that the respondent complies with the terms of their probation, but that the Board is also able to recoup funds from the disciplinary proceedings.

Rationale: The proposal is necessary to clarify the existing statutory requirements of cost recovery and remove an outdated provision from the term. This existing Term and Condition number 11 is being re-numbered to Term and Condition number 15 to account for additional standard terms and conditions being added. Additionally, the name of this term and condition is being modified from “Cost Recovery and Payment of Fines” to “Cost Recovery” because the term and condition does not include payment of fines, and there is a separate, optional term titled “Fine.” Additionally, the proposed changes within the language remove the term “hearing” in order to align with the current statutory language used in BPC section 125.3, which provides the Board authority to require cost recovery from respondents. Costs owed by the respondent do not include the hearing, only the investigative and enforcement costs incurred leading up to hearing. The term and condition “probationary monitoring” is being moved to Term and Condition number 5, Probation Monitoring Costs. The term and condition “prosecution” is also being added in order to align with BPC section 125.3. The proposed language in all caps is being proposed for removal as it does not provide for proper due process for the respondent. Stipulations are discussed ahead of time and the Respondent has a chance to agree or disagree to the terms and conditions. The statement “in [accordance with](#) a Board-approved payment plan, within six (6) months before the end of the probation term. Cost recovery will not be tolled” has been added to allow for respondents to apply for a payment plan, should they have a financial need, and also clarify that cost recovery amounts will not be tolled. Cost recovery amounts are awarded to the Board so that the Board can recoup its costs of investigation and prosecution; the Board must continue to collect on the outstanding cost amounts to satisfy the statutory and general state policy requirements to recover full costs attributable directly and a fair share costs attributable indirectly of services rendered. (Gov. Code §§ 11010, 11270; State Admin. Manual § 8752.)

OPTIONAL TERMS AND CONDITIONS OF PROBATION

45. *Amend Optional Terms and Conditions of Probation: Introduction*

Purpose: The purpose of this proposal is to update the number of Optional Terms and Conditions included in this rulemaking.

Anticipated Benefits: The Board anticipates that all users of the Disciplinary Guidelines will benefit from the clarifying revisions to the Introduction of the Optional Terms and Conditions of Probation.

Rationale: The proposal is necessary to provide clarity to the Disciplinary Guidelines, and the Board anticipates resolution of issues that Board staff is facing

with current respondents regarding alcohol or drug abuse. The number of Optional Terms and Conditions is being changed from 1-21 to 1-23, reflecting the new number of Optional Terms and Conditions in the revised Disciplinary Guidelines. The former Term and Condition 4 “Limitation on Practice/Inspections” will be split into the separate terms of “Limitation on Practice”, Term and Condition 4, and “Inspections”, new Term and Condition 5. In addition, the new Optional Term and Condition 16 “Continuing Prevention and Support Groups” will be added. The proposal also corrects mis-numbering in the current Disciplinary Guidelines, which assign Term and Condition number 8 to both Continuing education and Clinical Training. These two terms will be renumbered in this proposal as Terms and Conditions 9 and 10.

46. *Amend Optional Terms and Conditions 1: Suspension – Individual License*

Purpose: The purpose of this proposal is to provide for a suspended respondent seeking veterinary medical treatment for his or her own animal from a veterinary hospital.

Anticipated Benefits: The Board anticipates that by amending this section, it will resolve any confusion of a respondent on suspension and needing to obtain treatment for his or her own animal by clarifying instances where a respondent may or may not enter a veterinary premise.

Rationale: The proposal is necessary to provide clarity for instances when a respondent on suspension may enter a hospital to obtain treatment for his or her own animal. The changes to Optional Terms and Conditions 1: Suspension – Individual License, include the addition of an exception from a respondent’s term of suspension banning them from entering a veterinary hospital when they are seeking treatment for their own animal, as there was confusion as to how a respondent could assist their pet if they needed veterinary care, but were banned from any veterinary premises. Further changes include minor technical and grammatical changes which will provide clarity and consistency to the Optional Term and Condition.

47. *Amend Optional Terms and Conditions 2: Suspension – Premises*

Purpose: The purpose of this proposal is to make minor, technical, and grammatical changes for clarity and consistency purposes.

Anticipated Benefits and Rationale: The proposal is necessary to provide clarity and consistency to the Disciplinary Guidelines, which would benefit all users of the Disciplinary Guidelines.

48. *Amend Optional Terms and Conditions 4: Limitation on Practice*

Purpose: The purpose of the proposal is to split up one term and condition into two terms and conditions for clarity, and make other minor and technical changes.

Anticipated Benefits: The Board anticipates the proposal would provide clarity and consistency in the Disciplinary Guidelines and benefit all users.

Rationale: The proposal is necessary to provide clarity and consistency to the Disciplinary Guidelines, as well as better delineate the differences between limitations on practice and inspections. Optional Terms and Conditions 4: Limitation on Practice was formerly titled “Limitation on Practice/Inspections”. The proposed changes would split this term into two separate terms: Optional Term and Condition 4: Limitation on Practice, and Optional Term and Condition 5: Inspections. The proposed change to split the requirements into two separate terms is necessary because the two subject matters are disparate and separate enough to warrant their separation into two different terms. Additional changes made include minor, technical, and grammatical changes for clarity and consistency purposes.

49. *Amend Optional Terms and Conditions 5: Inspections*

Purpose: The purpose of the proposal is to split up one term and condition into two terms for clarity, make other minor and technical changes, and remove unnecessary language.

Anticipated Benefits: The Board anticipates that all users of the Disciplinary Guidelines will benefit from these clarifications.

Rationale: The proposal is necessary to provide clarity and consistency to the Disciplinary Guidelines, as well as better delineate the differences between limitations on practice and inspections and correct due process issues. Optional Terms and Conditions 5: Inspections was formerly incorporated into Optional Terms and Conditions 4, but due to confusion surrounding this, and the fact that these terms and conditions are two separate and distinct terms and conditions, the Board opted to separate them into their own terms and conditions for clarity purposes. By moving Inspections to its own term and condition, the Board is better able to properly capture and clarify all requirements that are related to only inspections. The sentence “If the veterinary practice has two consecutive non-compliant inspections, Respondent shall surrender the Premises Permit within ninety (90) days from the date of the second consecutive non-compliant

inspection” is proposed to be removed because it does not provide appropriate due process rights to respondents. Additional changes made include minor, technical, and grammatical changes for clarity and consistency purposes.

50. *Amend Optional Terms and Conditions 6: Supervised Practice – Direct or Indirect*

Purpose: The purpose of the proposal is to clarify the requirements and terms of supervised practice and make minor and technical changes.

Anticipated Benefits: The Board anticipates that ALJs, probationers, their counsel, and DAGs will benefit from clear definitions of direct and indirect supervision terms. By better defining the specific terms of a respondent’s probation, California consumers and their animals will be better protected.

Rationale: This proposal is necessary to address confusion of respondents and Board staff regarding direct and indirect supervision requirements. The proposed changes in this term and condition emphasize the requirement of respondents to obtain the Board’s prior approval of the respondent’s supervisor, before the respondent can return to practice. The proposal also clarifies that if the supervisor terminates or is otherwise no longer available, the respondent cannot practice until a new supervisor has been approved by the Board. The Board recognizes that especially in rural communities, the ability of a respondent to find a local, independent, unknown supervisor in the area may be significantly difficult; accordingly, the proposal removes the requirements that the supervisor be independent, have no prior business or personal relationship with the respondent, and not be in a familiar relationship with or be an employee, partner, or associate of respondent. The proposal also clarifies the supervisor’s five-year California license requirement.

Instead of providing that “[t]he supervision directed may be continuous supervision, substantial supervision, partial supervision, or supervision by daily review, as deemed necessary by the Board,” the proposal would strike that sentence from this term and create a new paragraph for application to licensed veterinarians only, wherein the supervision required by the Board would be either direct, defined as the physical presence of a supervisor 100% of the time respondent provides treatment or consultation to the animal patient, or indirect, defined as the review and evaluation of patient records for those patients whom respondent provides treatment or consultation during the period of supervised practice. The proposal would establish the following levels of indirect supervision that may be ordered by the Board depending upon the severity of respondent’s violations: substantial –

75%; moderate – 50%; and partial – 25%. The proposal would also provide that the level of supervised practice may be modified as determined necessary by the Board or its designee, allowing the Board's probation monitor to decrease or increase the level of supervised practice in accordance with the monthly reports submitted by respondent's supervisor. Notably, the requirements for the supervisor reports in the fourth paragraph of the term has been moved up from its current placement as the last paragraph in this term and condition in order to place all of the supervisor reporting requirements together in the term and condition.

Additional changes include providing specificity regarding the submission requirements to receive Board approval of the Respondent's proposed supervisors. Further changes provide clarity to the term, including the timeline in which a respondent is required to have a supervisor submit a report to the Board, indicating that Board approval must be obtained first. Additional changes include changing terminology in the section, such as striking the term "community" and replacing it with "minimum," as minimum standards is a pre-defined term already contained in the Practice Act. By changing the verbiage in this term, the Board is providing consistency and clarity to the Disciplinary Guidelines.

51. *Amend Optional Terms and Conditions 7: No New Ownership*

Purpose: This proposal is necessary to clarify this term and condition of probation and remove unnecessary language.

Anticipated Benefits: The Board anticipates that respondents, as well as consumers who rely on the access to veterinary care provided by respondents, will benefit from this clarification.

Rationale: This proposal is necessary to clarify this term and condition in that only new ownership of veterinary businesses is prohibited. Optional Terms and Conditions 7: No New Ownership will be re-numbered to accommodate the re-numbering of prior terms and the name will be changed to clarify that, while on probation, respondents may not obtain new ownership of a veterinary business, but can maintain existing ownership. Additional changes include minor, technical, and grammatical changes for consistency and clarity purposes. The clarification that only new ownership is prohibited was clarified by the Board because if respondents are required to give up existing ownership while on probation, then businesses that are sole-proprietorships will face difficulties. However, the respondent would be able to maintain existing ownership. This provision also is necessary to maintain the common law proposition that the purpose of an administrative hearing is to protect the public, not punish the licensee.

52. *Amend Optional Terms and Conditions 8: No Management*

Purpose: The purpose of this proposal is to clarify this term and condition of probation and remove confusing language.

Anticipated Benefits: By clarifying this section, this proposal would benefit respondents and Board staff in enforcing the terms of probation, which will further protect California consumers and their animals.

Rationale: This proposal is necessary to provide clarity as to the expectations of respondents subject to this term. Board staff advised that the terminology “administration” was confusing, and requested clarification from the Board so they could better guide respondents and properly enforce this term. The Board determined the terminology “administration” implied being a financial manager (i.e. paying bills, overseeing the day to day operations, establish protocols, etc.). The terms of probation should not affect a respondent’s ability to provide administrative duties within the hospital. The Board established that the purpose of this term was to prohibit the respondent from establishing protocols or overseeing the tone of the hospital, which is what management is responsible for, but administration duties were acceptable. The Board recommended to strike “administration” from the term and condition because it is unnecessary and unrelated to what the Board is attempting to accomplish. This proposal renumbers this term and condition to accommodate the addition of other terms and conditions and revises the title of this term and condition to correspond with the removal of “administration” in the proposal.

53. *Amend Optional Terms and Conditions 9: Continuing Education*

Purpose: The purpose of this proposal is to make minor, technical revisions to the term and condition.

Anticipated Benefits: The Board anticipates that the minor and technical revisions made by the proposal will benefit all users of the Disciplinary Guidelines.

Rationale: The revisions to this term and condition are necessary to provide clarity and consistency to the Disciplinary Guidelines. Optional Terms and Conditions 9: Continuing Education will be re-numbered to accommodate the re-numbering of prior terms and conditions. Additional changes are minor, technical, or grammatical changes made for clarifying and consistency purposes.

54. *Amend Optional Terms and Conditions 10: Clinical Training*

Purpose: The purpose of this proposal is to make minor, technical revisions to the term and condition.

Anticipated Benefits: The Board anticipates that the minor and technical revisions made by the proposal will benefit all users of the Disciplinary Guidelines.

Rationale: The proposal is necessary to provide consistency and clarity in the Disciplinary Guidelines. Optional Terms and Conditions 10: Clinical Training will be re-numbered to accommodate the re-numbering of prior terms and conditions. Additional changes are minor, technical, or grammatical changes made for clarifying and consistency purposes.

55. *Amend Optional Terms and Conditions 11: Clinical or Written Examination*

Purpose: The purpose of this proposal is to make minor, technical changes and remove unnecessary language.

Anticipated Benefits: The Board anticipates that the proposal will benefit all users of the Disciplinary Guidelines.

Rationale: The proposal is necessary to provide clarity and consistency to the Disciplinary Guidelines. Optional Terms and Conditions 11: Clinical or Written Examination will be re-numbered to accommodate the re-numbering of prior terms and conditions. Additional changes are minor, technical, or grammatical changes made for clarifying and consistency purposes, including deleting the phrase “or upon completion of the education course required above,” which is currently unclear if the Decision does not include the separate continuing education term, Optional Term and Condition 9: Continuing Education.

56. *Amend Optional Terms and Conditions 12: Psychological Evaluation*

Purpose: The purpose of this proposal is to establish a deadline for completing a psychological evaluation and make other minor, technical changes.

Anticipated Benefits: Establishing a 60-day deadline for respondents to obtain the psychological evaluation will benefit respondents, who will be able to determine when the evaluation is due, and benefit consumers and their animals by establishing an appropriate timeframe for the respondent to complete the evaluation and for the Board to properly monitor the respondent’s ability to practice veterinary medicine.

Rationale: This proposal is necessary to provide clarity to the respondent as to how to adhere to the terms and conditions of their probation and provide clarity and consistency to the Disciplinary Guidelines. Optional Terms and Conditions 12: Psychological Evaluation will be re-numbered to accommodate the re-numbering of prior terms and conditions. Additional changes include the addition of a sentence directing respondents to submit to the Board the name and qualifications of a psychotherapist for Board approval and mandating that 60 days after approval of the psychotherapist, the respondent shall complete a psychiatric evaluation. The 60-day timeframe to obtain the psychological evaluation is necessary to provide respondents sufficient time to comply with the requirement and a deadline on which the Board can rely to ensure the respondent is safe to practice veterinary medicine. To ensure that the psychotherapist of the respondent's choice has a valid license in good standing, the proposed change specifies that the respondent must submit the names of their choices to the Board for prior approval. The term "appointed" was replaced with "approved" and considered by the Board to be the more appropriate term, since the Board does not have the jurisdiction to "appoint" psychotherapists. Additional changes are minor, technical, or grammatical changes made for clarifying and consistency purposes.

57. *Amend Optional Terms and Conditions 13: Psychotherapy*

Purpose: The purpose of this proposal is to clarify the importance of communication between the treating psychotherapist and the Board when the respondent is found to be mentally unfit to practice. Additional changes are minor, technical, or grammatical changes made for clarifying and consistency purposes.

Anticipated Benefits: The Board anticipates that the revisions to this term and condition will benefit the psychotherapist, the respondent, and the ALJs to better understand the terms of the probation. The Board also anticipates that these additions will better protect California consumers and their pets.

Rationale: This proposal is necessary to establish psychotherapy and reposting requirements for when the respondent must cease practice. Optional Terms and Conditions 13: Psychotherapy will be re-numbered to accommodate the re-numbering of prior terms and conditions. Changes to the language include the following, "If the treating psychotherapist finds that Respondent cannot practice safely or independently, the psychotherapist shall notify the Board within three (3) working days. Upon notification by the Board, Respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee that Respondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the Board is required until the Board or its designee

has notified Respondent that he/she may resume practice. Respondent shall document compliance with this condition in the manner required by the Board.” In the event that a probationer is a threat to the safety of the public, immediate action is required; thus, a psychotherapist must notify the Board immediately. Three working days for psychotherapist notification to the Board is appropriate because there could be some period of assessment of the probationer as determined by the psychotherapist, and the Board understands that stopping a probationer from the ability to practice is not a light decision at which to arrive. In a balancing of the possible deprivation of income for a probationer versus the potential threat to safety, it is appropriate to have a probationer cease practice immediately. Documentation of compliance is necessary to assure the Board that the public safety is being protected.

58. *Amend Optional Terms and Conditions 14: Medical Evaluation*

Purpose: The purpose of this proposal is to ensure that the physician of the respondent’s choice has a valid license in good standing and specifies that the respondent must submit the names of their choices to the Board for prior approval.

Anticipated Benefits: The Board anticipates the proposal will better protect California consumers and their animals.

Rationale: The revisions to this term and condition are necessary to better guide members of the public, the evaluating physician, the respondent, and the ALJs to properly understand and/or adhere to the terms and conditions of the probation. Optional Terms and Conditions 14: Medical Evaluation will be re-numbered to accommodate the re-numbering of prior terms and conditions. Further changes to the language include the addition of the following, “Respondent shall submit to the Board, for its prior approval, the name and qualifications of one or more physicians of Respondent’s choice. Upon approval...” These amendments will mandate the requirements of a respondent needing medical evaluation and the reporting requirements of this term. The proposed language was modeled after existing language used by other Healing Arts Boards within the DCA. The intent was to clarify the importance of communication between the treating physician and the Board when the respondent is found to be medically unfit to practice. The term “appointed” will be replaced with “approved” to be the more appropriate term, since the Board does not have the jurisdiction to “appoint” physicians. Additional language proposed to be added is: “If at any time an approved evaluating physician or Respondent’s approved treating physician determines that Respondent is unable to practice safely or independently as a veterinarian, the evaluating or treating physician shall notify the Board immediately by telephone and follow up by written

letter within three (3) working days. Upon notification from the Board or its designee of this determination, Respondent shall cease all practice and shall not resume practice until notified by the Board that practice may be resumed.”.

These requirements provide consumer protection when a respondent may be a potential danger to himself or herself, as well as a danger to animal patients. In addition, the proposed language specifies the requirement that the physician shall notify the Board within three (3) working days. Requiring prompt notification from the physician to the Board and an immediate cease of practice upon notification to the respondent promotes public safety while the respondent is being evaluated. Additional changes are minor, technical, or grammatical changes made for clarifying and consistency purposes.

59. *Amend Optional Terms and Conditions 15: Rehabilitation Program – Alcohol or Drug*

Purpose: The purpose of this proposal is to clarify that the terms of rehabilitation treatment and the components of that treatment must be tailored to address the respondent’s needs.

Anticipated Benefits: These additions will better protect California consumers and their animals and respondents by tailoring the rehabilitation treatment to the respondent’s needs to effectuate a better outcome for respondent and better treatment for animals.

Rationale: Revisions to this term are necessary to better guide members of the public, the psychotherapist, the respondent, and the ALJ to properly understand and/or adhere to the terms and conditions of the probation. Optional Terms and Conditions 15: Rehabilitation Program – Alcohol or Drug was re-numbered to accommodate the re-numbering of prior terms and conditions. Further changes to the language include adding the following, “Components of the treatment contract shall be relevant to the violation and to the Respondent’s current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random biological fluid testing, abstention from drugs and alcohol, use of worksite monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluation, and other appropriate rehabilitation or monitoring programs. All costs of participating in the program(s) shall be borne by the Respondent.” Rehabilitation Program terms and conditions have been an area of confusion amongst respondents, and the proposed language aims to explain the process in writing and provide clarity. The proposed language was modeled after existing language used

by other Healing Arts Boards within DCA. The language was included to provide a full spectrum of rehabilitation and to clarify which components may be required. These amendments will also mandate the requirements of a respondent needing drug and alcohol rehabilitation and the reporting requirements of this term and condition. Additional changes are minor, technical, or grammatical changes made for clarifying and consistency purposes.

60. *Adopt Optional Terms and Conditions 16: Continuing Prevention and Support Groups*

Purpose: The purpose of this proposal is to provide an additional option for respondents being disciplined for substance abuse.

Anticipated Benefits: The Board anticipates that the new term and condition will provide options and flexibility for respondents while continuing the protection of California consumers and their animals.

Rationale: The adoption of this term and condition is necessary to provide needed clarity to the Disciplinary Guidelines and provide additional options for respondents who have continued success with sobriety. Optional Terms and Conditions 16: Continuing Prevention and Support Groups is a new term which reads, "Within thirty (30) days of the effective date of this Decision, Respondent shall begin regular attendance at a recognized and established substance abuse recovery support group in California (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) that has been approved by the Board or its designee. Respondent must attend at least one group meeting per week unless otherwise directed by the Board or its designee. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation. Failure to attend or submit documentation thereof shall be considered a violation of probation." The Board recognizes the conditions relating to continuing prevention and support groups as stand-alone content; thus, a new optional term and condition is intended to capture the requirements separately. Attending support groups is considered an optional term and condition of probation to provide a comprehensive option to individuals who have been sober for a significant amount of time. Support groups are intended to assist the Respondent in their continued success with sobriety. This new optional term and condition is not intended for the newly convicted.

61. *Amend Optional Terms and Conditions 17: Submit to Drug Testing*

Purpose: The purpose of this proposal is to clarify the existing drug testing requirement and strengthen the requirement for better rehabilitation of respondents.

Anticipated Benefits: The Board anticipates the proposal will provide better protection for California consumers and their animals by providing accountability so that individuals being disciplined for substance abuse problems stay sober.

Rationale: The amendments to this term and condition are necessary to clarify the requirement for respondents to make daily contact with the Board's drug testing provider and the consequences for a positive alcohol or drug test. Optional Terms and Conditions 17: Submit to Drug Testing will be re-numbered to accommodate the re-numbering of prior terms and conditions. Further changes to the language including the addition of the following, "Respondent shall make daily contact as directed by the Board or its designee to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required. Any confirmed positive test for alcohol or any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall result in a cease practice order resulting in a period of nonpractice/suspension from work by Respondent and may be a cause for revocation of probation. Respondent may not resume the practice of veterinary medicine in any form until notified by the Board in writing." The proposed language aims to clarify the requirement regarding the respondent's daily contact with the Board's drug testing provider. The drug testing term is not a new requirement, but the Board identified the need to put it in writing for greater clarity. Daily contact is necessary to ensure that there is no lapse in sobriety by holding the Respondent accountable every day. The addition of the abstention from drugs and alcohol to this term and condition will require a Respondent to use restraint, self-control, and be determined to show a positive change in behavior and decision making. Testing positive for alcohol and/or drugs would indicate that the respondent was unable to abstain from use, which is a term and condition of probation. Respondents are tested to serve as evidentiary proof of compliance; thus, promoting consumer protection and public safety. By outlining these requirements, the Board is providing better direction to Board probation monitors and respondents, as well as to the ALJ when making disciplinary decisions.

62. *Amend Optional Terms and Conditions 18: Abstain from Controlled Substances*

Purpose: The purpose of this proposal is to provide clarity of authorized controlled substance taken by respondents.

Anticipated Benefits: The Board anticipates the proposal will provide guidance and clarity to respondents and the Board will be protecting California consumers and

their animals by keeping individuals abusing drug and alcohol from continued practice, while still allowing respondents to take needed medication.

Rationale: The amendments to this term and condition are necessary to clarify this term and condition by removing inapplicable references and by directing respondents about the allowable controlled substances while on probation. Optional Terms and Conditions 18: Abstain from Controlled Substances was re-numbered to accommodate the re-numbering of prior terms. Further changes to the language include the removal of BPC section 4211 because that statute was repealed and is no longer applicable, and the addition of other language for clarity. Specifically, the language added would allow respondents to maintain the right to treat their own medical condition with prescription medication if it is part of their prescribed treatment plan; however, while under probation, the respondent may be required to provide documentation from a licensed practitioner who authorized the prescription drug use. Additional changes are minor, technical, or grammatical changes made for clarifying and consistency purposes.

63. *Amend Optional Terms and Conditions 19: Abstention from Alcohol Use*

Purpose: The purpose of the proposal is to clarify the probation term and condition.

Anticipated Benefits: The Board anticipates the proposal will better direct respondents as to the terms and conditions of their probation.

Rationale: The adoption of this term and condition is necessary to provide needed clarity to the Disciplinary Guidelines. Optional Terms and Conditions 19: Abstention from Alcohol Use will be re-numbered to accommodate the re-numbering of prior terms and conditions. Additionally, minor changes will be made to this term and condition to clarify to respondents that they must abstain from all products or beverages that contain alcohol. The Board made these changes to address a recent trend where probationers have been ingesting products otherwise believed to be healthy but, in fact, do contain alcohol as an ingredient (e.g., kombucha). Probationers ingesting products containing alcohol have a higher likelihood of testing positive for alcohol, which makes it difficult for the Board to determine whether the probationer has a continuing alcohol dependency problem. To clarify for probationers that they should not assume that the alcohol abstinence provision only applies to products sold as alcoholic products (e.g., beer and wine), but also to other products that contain alcohol (kombucha), the proposal would require probationers to abstain from all products and beverages containing alcohol.

64. *Amend Optional Terms and Conditions 20: Community Service*

Purpose: The purpose of this proposal is to make minor clarifying changes to the term and condition.

Anticipated Benefits: The Board anticipates all users of the Disciplinary Guidelines will benefit from the proposal.

Rationale: The revisions to this term and condition are necessary to provide clarity and consistency to the Disciplinary Guidelines, which benefits all users of the Disciplinary Guidelines. Optional Terms and Conditions 20: Community Service will be re-numbered to accommodate the re-numbering of prior terms and conditions. Additional changes are minor, technical, or grammatical changes made for clarity and consistency.

65. *Amend Optional Terms and Conditions 21: Fine*

Purpose: The purpose of this proposal is to clarify the term and condition and remove unnecessary and confusing language.

Anticipated Benefits: The Board anticipates the changes will benefit all users of the Disciplinary Guidelines.

Rationale: The revisions to this term and condition are necessary to provide clarity and consistency to the Disciplinary Guidelines, as well as correct errors within this term and condition including language that should not have been originally included. Optional Terms and Conditions 21: Fine will be re-numbered to accommodate the re-numbering of prior terms and conditions. In addition, the reference to BPC section 125.3 is being removed because it relates to cost recovery, which is already included under Standard Term number 15, not fines. Additional changes are minor, technical, or grammatical changes made for clarifying and consistency purposes.

66. *Amend Optional Terms and Conditions 22: Restitution*

Purpose: The purpose of this proposal is to protect consumer privacy.

Anticipated Benefits: The Board anticipates that consumers will be better protected from any additional harm by making their name confidential.

Rationale: The revisions to this term and condition are necessary to provide clarity and consistency to the Disciplinary Guidelines, as well as protecting the identity of complainants. The Board anticipates that consumers will be better protected from

any additional harm by making their name confidential. Optional Terms and Conditions 21: Restitution will be re-numbered to accommodate the re-numbering of prior terms and conditions. The term and condition to include the name and address of the injured party is being removed to protect the identity of the client by leaving out the option to provide personal information. Additional changes are minor, technical, or grammatical changes made for clarity and consistency.

67. Amend Optional Terms and Conditions 23: Ethics Training

Purpose: The purpose of this proposal is to clarify the term and condition.

Anticipated Benefits: The Board anticipates the changes will benefit all users of the Disciplinary Guidelines.

Rationale: The revisions to this term and condition are necessary to provide clarity and consistency to the Disciplinary Guidelines. Optional Terms and Conditions 23: Ethics Training will be re-numbered to accommodate the re-numbering of prior terms and conditions. Additional changes are minor, technical, or grammatical changes made for clarity and consistency.

DEFINITIONS

68. Adopt Definitions

Purpose: The purpose is to revise the definitions within the Disciplinary Guidelines, which provide guidance to the public, respondents, and the ALJ when proceeding through disciplinary decisions.

Anticipated Benefits: The Board anticipates the proposal will better protect California consumers and their animals by providing clarity and benefit all users of the Disciplinary Guidelines.

Rationale: The revisions to the definition section of the Disciplinary Guidelines are necessary to provide guidance to the public, respondents, and the ALJ for a better understanding of disciplinary decisions. The Definitions were originally included in the Overview Guide within the Disciplinary Guidelines, but this proposal will strike the Overview Guide and move Definitions to a new section. The Board is making changes to the original definitions, including to not adopt “Fraud and Deception”, because the two terms should be defined separately and not as one term.

69. *Strike Overview Guide for Disciplinary Decisions*

Purpose: The purpose of striking the Overview Guide is to remove redundant and unnecessary provisions from the Disciplinary Guidelines.

Anticipated Benefits: The Board anticipates all users of the Disciplinary Guidelines will benefit from the removal of this unnecessary section.

Rationale: The removal of this section is necessary to provide clarity and consistency to the Disciplinary Guidelines by removing redundant and unnecessary information. The proposal would strike the language contained in the Overview Guide for Disciplinary Decisions because the guide was meant for the Board's use as an overview for the formal discipline process and did not belong in the Disciplinary Guidelines. The Overview Guide will be relocated to the Board and Committee Administrator Procedure Manual because it provides an overview of the Administrative Procedure Act process for the Board and outlines the Board member's responsibilities in adjudication of disciplinary cases. Additionally, most of the information contained within the Overview Guide was already contained in the Board member administrative manual.

Underlying Data

1. January 20-21, 2015 Board Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
2. April 28-29, 2015 Board Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
3. July 21-22, 2015 Board Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
4. October 20-21, 2015 Board Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
5. January 18-19, 2017 Board Meeting Agenda (inadvertently dated January 18-19, 2016); Relevant Meeting Materials (memo inadvertently dates January 16, 2016); and Meeting Minutes
6. April 19-20, 2017 Board Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
7. October 18-19, 2017 Board Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
8. November 14-16, 2018 Board Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes

Business Impact

The Board has made an initial determination that the proposed regulatory action would have no significant adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the fact that the proposed amendments to the Disciplinary Guidelines and their corresponding regulation, CCR section 2006, would only impact a small number of licensed veterinarians, RVTs, VACSP holders, applicants for licensure, and veterinary premises that are subject to discipline, and this proposal updates the existing Disciplinary Guidelines that already apply to all licenses, registrations, and permits issued by the Board.

Economic Impact Assessment

The Board has made the initial determination that this regulatory proposal will have the following effects:

- It is not likely to create or eliminate jobs or businesses within the State of California. This initial determination is based on the fact that the proposed amendments to the Disciplinary Guidelines and their corresponding regulation, CCR section 2006, would only impact a small number of licensed veterinarians, RVTs, VACSP holders, applicants for licensure, and registered veterinary premises that are subject to discipline, and this proposal updates the existing Disciplinary Guidelines that already apply to all licenses, registrations, and permits issued by the Board.
- It would not likely affect the expansion of businesses currently doing business within the State of California. This initial determination is based on the fact that the proposed amendments to the Disciplinary Guidelines and their corresponding regulation, CCR section 2006, would only impact a small number of licensed veterinarians, RVTs, VACSP holders, applicants for licensure, and registered veterinary premises that are subject to discipline, and this proposal updates the existing Disciplinary Guidelines that already apply to all licenses, registrations, and permits issued by the Board.
- It would benefit the health and welfare of California residents and their animals because the proposal updates and clarifies the terms and conditions of probation for veterinarians, registered veterinary technicians, VACSP holders, and registered veterinary premises subject to discipline, and makes the Disciplinary Guidelines consistent with current law. This, in turn, provides increased protection to the health and welfare of the public and their animals by ensuring the Board's recommendations for discipline are consistent and relevant to the current state of the practice of veterinary medicine.
- It would not have a significant impact on worker safety because the proposal would simply make the Disciplinary Guidelines consistent with current law,

amend the Disciplinary Guidelines to reflect the changes that have occurred in the probationary environment since the last update, clarify terms and conditions of probation, and improve consumer protection.

- It would not have an impact on the state's environment because the proposed amendments to the Disciplinary Guidelines would simply make them consistent with current law, amend the Disciplinary Guidelines to reflect the changes that have occurred in the probationary environment since the last update, clarify terms and conditions of probation, and improve consumer protection.

Overview

The Board currently licenses approximately 3,500 veterinary hospitals, 12,400 veterinarians, 7,200 registered veterinary technicians (RVTs), and 4,398 VACSP holders in California. The proposal will impact all licensed, registered, or permitted individuals providing veterinary animal care, and registered veterinary premises where veterinary animal care is provided.

Businesses and individuals licensed by or applying for licensure from the Board would be impacted by the proposed regulation only if they are subject to discipline under the Practice Act and supporting regulations. The Board is unable to predict whether and in what or how many ways that licensed individuals or businesses may violate the Practice Act. Accordingly, the Board is unable to estimate the total statewide dollar costs that businesses and individuals may incur if they are subject to discipline under the proposed regulation. The types of businesses that own veterinary hospitals range from small private businesses to corporations. The Board estimates approximately 80 to 90 percent (or 2,800 to 3,150) of these premises are small businesses.

The Board does not anticipate the creation or elimination of businesses as a result of the proposal. The proposal makes the Disciplinary Guidelines consistent with current law by amending the Disciplinary Guidelines to reflect the changes that have occurred in the probationary environment since the last update and clarifying terms and conditions of probation. The proposal adds eight new standard orders that are necessary to inform and benefit Administrative Law Judges and the Office of the Attorney General of the disciplinary order language to be used with each license type issued by the Board, including probationary registrations and permits, which are separate from a permanent registration or permit issued, revoked, and placed on probation. The proposed regulation updating and clarifying the Disciplinary Guidelines and adding eight new standard orders would not have a significant impact on worker safety or the state's environment.

Economic Impact Assessment of Benefits

The Board has determined the proposal would benefit the health, safety, and welfare of California consumers and their animals because it updates and clarifies the terms and conditions of probation for veterinarians, RVTs, VACSP holders, and premises registration holders who are subject to discipline. Updating and clarifying the Disciplinary Guidelines in accord with recent statutory changes would strengthen

consumer protection. By making the Disciplinary Guidelines consistent with current law, the proposed regulation would also benefit licensees, license applicants, the Board, Board staff, the Office of Administrative Hearings, the Office of the Attorney General, the public and their animals.

Requirements for Specific Technologies or Equipment

This regulatory proposal does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulatory proposal that was considered or has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the regulation has been proposed. No reasonable alternative that was considered would be as effective or less burdensome to affected private persons than the proposed regulation, more cost-effective to affected private persons, or equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific. The public is invited to submit such alternatives during the public comment period.

Fiscal Impact Assessment

This proposal does not change the fines for violations but provides a more accurate overview of the Board's processes in formal disciplinary actions, which will provide greater clarity to licensees, consumers, the Board, DAGs, and ALJs by outlining relevant and transparent standards directly related to violations outlined in law.

Any additional workload and costs are anticipated to be minor and absorbable within existing resources.