

**Veterinary Medical Board  
Department of Consumer Affairs**

**Initial Statement of Reasons**

**Hearing Date:** No hearing has been scheduled for the proposed action.

**Subject Matter of Proposed Regulations:** Duties of a Supervising Veterinarian

**Sections Affected:** California Code of Regulations (CCR), Title 16, Division 20, Article 4, Section 2035<sup>1</sup>

**Background and Statement of the Problem:**

The Veterinary Medical Board's (Board) highest priority is protection of California consumers. 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 (Act) and oversees veterinarian licensees, veterinary technician registrants (RVTs), veterinary assistant controlled substance permit holders (permit holders), and veterinary assistants (VAs).

BPC section 4836 requires the Board to adopt regulations establishing animal health care tasks and an appropriate degree of supervision required for those tasks that may be performed only by an RVT or licensed veterinarian. BPC section 4836.1 authorizes an RVT to administer a drug, including but not limited to, a drug that is a controlled substance, under the direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of a licensed veterinarian. BPC section 4840 authorizes RVTs and VAs to perform animal health care services under the supervision of a California licensed or authorized veterinarian. BCP section 4840.9 allows licensed and authorized veterinarians to employ RVTs and VAs.

CCR section 2035, subsection (a), makes the supervising veterinarian responsible for determining the competency of the RVT, permit holder, or VA to perform allowable animal health care tasks. CCR section 2035, subsection (b), makes the supervising veterinarian responsible for making all decisions relating to the diagnosis, treatment, management, and future disposition of the animal patient. CCR section 2035, subsection (c), requires the supervising veterinarian to examine the animal patient before delegating any animal health care task to an RVT, permit holder, or VA, and requires the examination to be conducted at such time as good veterinary medical practice requires consistent with the particular delegated animal health care task.

The Board's 2012-2014 Strategic Plan included an action item directing the Board to research "extended duties" for RVTs. The work of researching and recommending possible "extended duties" was delegated by the Board to the Multidisciplinary Advisory Committee (MDC). At the MDC meeting on April 16, 2016, it considered whether the Board's regulations needed to provide for extended animal health care duties that could be performed by RVTs or to restrict some animal health care duties to only be delegated to RVTs, and not to permit holders or VAs. The MDC discussed whether the regulations should provide a list of duties (e.g., only an RVT could perform

---

<sup>1</sup> All CCR references are to title 16 unless otherwise noted.

a procedure involving placement of a needle or appliance in a blood vessel, body cavity, or epidural space, induce anesthesia, or perform casting and splinting) that a supervising veterinarian could only delegate to an RVT based on the degree of risk. The idea to create a list the specific duties that could only be delegated to an RVT was rejected because generating a list of all restricted duties would be difficult and impractical and imply that any task omitted from the list may be interpreted as a task delegable to an RVT. Instead, the MDC determined that assessment of risk is necessarily based on the specific set of circumstances of the individual animal patient, and it was more prudent to focus on the supervising veterinarian's judgment and the competence of the individual to whom the task is delegated, as this proposal provides.

**SPECIFIC PURPOSE, ANTICIPATED BENEFIT, AND RATIONALE:**

**Amend Subsection (b) of Section 2035 of Article 4 of Division 20 of Title 16 of the CCR:**

Purpose: This regulatory amendment makes a minor, grammatical change to the regulation for clarity purposes.

Anticipated Benefit: The Board anticipates that veterinarians, RVTs, permit holders, and VAs will benefit from the clarifying proposal.

Rationale: When the MDC reviewed the existing regulation, it identified a grammatical error in the reference to "a RVT." The proposal is necessary to correct the grammatical error for clarity and consistency in the regulations.

**Amend to Add Subsection (d) of Section 2035 of Article 4 of Division 20 of Title 16 of the CCR:**

Purpose: The purpose of adopting CCR section 2035, subsection (d) is to allow supervising veterinarians to delegate animal health care tasks to RVTs, permit holders, and VAs to increase consumer access to veterinary services.

Anticipated Benefit: The Board anticipates that the health, safety, and welfare of consumers and their animals would benefit from increased access to skillful, trained, and competent individuals. The Board also anticipates that veterinarians will benefit from clarified terms to consider when delegating animal health care tasks to RVTs, permit holders, and VAs.

Rationale: This proposal is necessary to authorize supervising veterinarians to delegate additional animal health care tasks to RVTs, permit holders, and VAs, who have the necessary extensive clinical skill, requisite training, and demonstrated competency to perform the task on the animal. Currently, under CCR section 2035, subsection (a), supervising veterinarians are responsible for determining the competency of the RVT, permit holder, or VA to perform allowable health care tasks. Allowable health care tasks may differ depending upon whether the person delegated is an RVT, permit holder, or VA. CCR section 2036, subsections (b) and (c) provide a list of tasks that only RVTs can perform under either direct or indirect veterinarian supervision, and animal health care tasks that are not listed can be delegated to the RVT under direct or indirect supervision that is consistent with standards of good veterinary medical practices. CCR section 2036.5 prohibits permit holders and VAs from performing RVT specific tasks listed under section 2036, subsections (b) and (c), except that a permit holder, under direct or indirect veterinarian supervision, may administer a controlled substance. CCR section 2036.5 allows permit holders and VAs to perform auxiliary animal health care tasks under direct or indirect veterinarian or RVT supervision. Section 2036.5 also requires the degree of veterinarian supervision over a permit

holder or VA to be equal to or higher than the degree of supervision required when an RVT performs the same task.

After researching and deliberating on the issue of increasing consumer access to veterinary medical care, the MDC considered expanding the lists of animal health care tasks that could be performed. However, the MDC determined that expanding the existing lists would be problematic as there are a number of animal health care tasks that may be performed, and each animal patient requires differing levels of skill, training, and demonstrated competency. In addition, if the lists did not include a particular animal health care task requiring a specific level of competency, practitioners may interpret the omission as authorization for individuals with less skill, education, training, and competency to perform the task.

In order to expand the number of animal health care tasks that may be performed by an RVT, permit holder, or VA, the MDC and Board determined that the supervising veterinarian is most able to determine the needs of each animal patient and the necessary skill, training, and demonstrated competency of individuals who may assist the veterinarian in treating the animal patient. As such, the MDC and Board determined that CCR section 2035, duties of a veterinarian, should be amended to authorize the supervising veterinarian to delegate animal health care tasks to RVTs, permit holders, and VAs, as allowed under CCR sections 2036 and 2036.5, and in accordance with the skill, training, and demonstrated competency of the RVT, permit holder, or VA. The MDC and Board employ the more fluid term “necessary” in this regulation instead of the static term “required” to convey that what is needed is determined by the situation, not solely by prerequisites listed in regulation. The term “necessary” also indicates the three criteria are absolutely required, but do not predetermine the outcome. The supervising veterinarian must be satisfied that the individual has sufficient skill within each criteria domain for the task under the circumstances in which the task is contemplated before delegating an animal health care task.

#### Subsection (d), paragraphs (1) through (3)

The proposal would specify the three criteria the supervising veterinarian must use in deciding to delegate the particular animal health care task. Subsection (d) would contain the three criteria as numbered paragraphs to emphasize the importance of each criteria. The proposal would provide that the supervising veterinarian could not delegate the animal health care task unless the RVT, permit holder, or veterinary assistant has the necessary (1) extensive clinical skill, (2) requisite training, and (3) demonstrated competency. By specifying these criteria upon which the supervising veterinarian must use prior to delegation, the supervising veterinarian will be accountable to ensure that only qualified individuals are providing services to California consumers and their animals.

#### Paragraph (1)

The MDC and Board determined that animal health care tasks should only be delegated to individuals with extensive clinical skills for the task so that the task is performed safely and effectively on the animal patient. In this context, extensive clinical skills are the abilities of the individual to perform the procedure. If an individual has clinical experience with either the type of animal being treated, or the particular task being completed, even if the task has been performed on different types of animals, that experience may count in an assessment of the individual's clinical skills. The extent of skill required to safely perform the animal health care task would be determined by the supervising veterinarian as a part of the decision to delegate the task.

### Paragraph (2)

The MDC and Board determined that animal health care tasks should only be delegated to individuals with the requisite training to perform the task so that the task is performed safely and effectively on the animal patient. Here, training means how much education the individual has received regarding the health care task to be performed. Such training could be offered in courses taken through educational institutions or in courses or training manuals offered at the veterinary premises. The level of training required to safely perform the health care task would be determined by the supervising veterinarian as a part of the decision to delegate the task.

### Paragraph (3)

The MDC and Board determined that animal health care tasks should only be delegated to individuals with demonstrated competency to perform the task so that the task is performed safely and effectively on the animal patient. In this context, competency means how well the individual can perform the task. Working effectively with animals requires not only clinical skills and training, but also a certain demeanor and approach well-tolerated by animals. Individuals who move too quickly, are easily excitable, or become flustered when encountering setbacks lack the competency needed to perform some animal health care tasks. A supervising veterinarian who has observed how an individual works with similar animals, or has worked on similar tasks with other animals, has valuable information about an individual's overall competency to work with animals that differs from, but is as important as, the more easily quantified clinical skills and training. The level of competency required to safely perform the task would be determined by the supervising veterinarian as a part of the decision to delegate the task.

### Underlying Data

- April 19, 2016 MDC Meeting Agenda and Meeting Minutes
- April 20-21, 2016 Board Meeting Agenda and Meeting Minutes
- July 19, 2016 MDC Meeting Agenda and Meeting Minutes
- October 18, 2016 MDC Meeting Agenda and Meeting Minutes
- January 17, 2017 MDC Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
- April 18, 2017 MDC Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
- July 25, 2017 MDC Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
- October 17, 2017 MDC Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
- February 20, 2018 MDC Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes
- May 23-24, 2018 Board Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes

### Business Impact

The Board has made an initial determination that the proposed regulations will not have a significant adverse economic impact directly affecting businesses. The proposal would clarify how supervising veterinarians delegate tasks to RVTs, permit holders, and VAs based on their skill, training, and demonstrated competency.

### Economic Impact Analysis

This regulatory proposal would have the following effects:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California. This regulatory proposal clarifies how a supervising veterinarian delegates tasks to RVTs, permit holders, and VAs based on their skill, training, and demonstrated competency.

This regulatory proposal focuses on identifying the health care tasks a supervising veterinarian can delegate and may benefit worker safety as some animal health care tasks can be dangerous and involve a risk of injury. Careful consideration by supervising veterinarians of an individual's skill, training, and competency before delegating animal health care tasks may result in fewer dangerous tasks being delegated to workers who are not competent to handle those tasks. This proposal does not affect the state's environment.

### **Overview**

There are approximately 3,500 veterinary premises, 12,400 veterinarians, 7,200 RVTs, and 4,398 permit holders in California. The proposal will impact all licensed, registered, permitted, or unlicensed individuals providing veterinary animal care. This proposal requires supervising veterinarians to consider the skill, training, and demonstrated competency of an individual before delegating an animal health care task to the individual. The proposal will impact employees in veterinary premises. Veterinary premises can range from small private businesses to corporations that own veterinary hospitals. The Board estimates approximately 80 to 90 percent (or 2,800 to 3,150) of the approximately 3,500 veterinary practices are small businesses. The Board does not anticipate the creation or elimination of jobs or businesses as a result of the proposal.

### **Economic Impact Assessment of Benefits**

The Board has determined the proposal would benefit the health, safety, and welfare of California consumers and their animals by requiring supervising veterinarians to consider the skill, training, and demonstrated competency of an individual before delegating an animal health care task to that individual. This proposal may benefit worker safety as some animal health care tasks can be dangerous and involve a risk of injury. Careful consideration by supervising veterinarians of an individual's skill, training, and competency before delegating animal health care tasks may result in fewer dangerous tasks being delegated to workers who are not competent to handle those tasks. This proposal does not affect the state's environment. While difficult to quantify, this proposal also improves the quality of life in California for both California consumers and their animals by ensuring animals receive high quality veterinary medical care. The Board anticipates that consumers and their animals would benefit from increased access to skillful, trained, and competent individuals. The Board also anticipates that veterinarians will benefit from clarification as to what to consider when delegating animal health care tasks to RVTs, permit holders, and VAs.

### **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 would be either more effective in carrying out the purpose for which the regulation has been proposed or be as effective and less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reason the alternative was rejected:

1. The initial question brought to the MDC was whether the Board's regulations needed to provide for extended animal health care duties that could be performed by RVTs or to restrict some animal health care duties to only be delegated to RVTs, and not to permit holders or VAs. The MDC discussed whether regulation should provide a list of duties (e.g., only an RVT could perform a procedure involving placement of a needle or appliance in a blood vessel, body cavity, or epidural space, induce anesthesia, or perform casting and splinting) that a supervising veterinarian could only delegate to an RVT based on the degree of risk. The idea to create a list of the specific duties that could only be delegated to an RVT was rejected because generating a list of all restricted duties would be difficult and impractical and imply that any task omitted from the list may be interpreted as a task delegable to an RVT. Instead, the MDC determined that assessment of risk is necessarily based on the specific set of circumstances of the individual animal patient, and it was more prudent to focus on the supervising veterinarian's judgment and the competence of the individual to whom the task is delegated, as this proposal provides.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1747 North Market Blvd., Suite 230, Sacramento, California 95834.