

**TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 20. VETERINARY MEDICAL BOARD**

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:

Veterinarian-Client-Patient Relationship, § 2032.1

NOTICE IS HEREBY GIVEN that the Veterinary Medical Board (“Board”) is proposing to take the action described in the Informative Digest.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request, addressed to the individuals listed under “Contact Person” in this notice, for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be **received by the Board at its office no later than July 1, 2019**, or must be received by the Board at the hearing, should one be scheduled.

AVAILABILITY OF MODIFICATIONS

The Board, upon its own motion or at the insistence of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 686 and 4808 of the Business and Professions Code (BPC), and to implement, interpret, or make specific sections 686, 2290.5, 4021, 4022, and 4883 of the BPC, the Board is considering changes to section 2032.1 of Article 4 of Division 20 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST

A. Informative Digest

BPC section 4808 authorizes the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Veterinary Medicine Practice Act.

This regulatory proposal would amend CCR section 2032.1.

Specifically, the Board is proposing the following:

- Amend subdivision (d) of section 2032.1 of Article 4 of Division 20 of Title 16 of the CCR to make conforming technical corrections to the “drug” and “dangerous drug” cross-references to the BPC.
- Add subdivision (e) to section 2032.1 of Article 4 of Division 20 of Title 16 of the CCR to clarify that a person may not practice veterinary medicine in this state except within the context of a veterinarian-client-patient relationship (VCPR), which cannot be established solely by telephonic or electronic means.
- Add subdivision (f) to section 2032.1 of Article 4 of Division 20 of Title 16 of the CCR to clarify BPC sections 686 and 2290.5 that telemedicine, as provided by animal health care practitioners, shall be conducted within an existing VCPR, with the exception for advice given in an “emergency,” as defined in BCP section 4840.5, until the patient(s) can be seen or transported to a veterinarian.
- In new subdivision (f) of section 2032.1, define “telemedicine” to mean the mode of delivering animal health care services via communication technologies to facilitate consultation, treatment, and care management of the patient.

B. Policy Statement Overview/Anticipated Benefits of Proposal

Policy Statement Overview

The primary mission of the Board is to protect consumers and animals through the development and maintenance of professional standards.

The proposed regulations regarding telemedicine were developed to address the increasing use of telemedicine in veterinary practices. This proposal was developed by considering the American Veterinarian Medical Association (AVMA) and the American Association of Veterinary State Boards (AAVSB) policies regarding telemedicine.

Telemedicine is currently authorized under BPC section 686 for all health care practitioners licensed under Division 2 of the BPC, which includes veterinarians. However, that section makes practitioners subject to certain requirements under the Medical Practice Act, which does not generally apply to veterinary services. This proposal defines telemedicine for veterinary purposes and states that it can be used as a delivery of health care services only after a VCPR has been established in person. Without the prior establishment of this relationship, a veterinarian is unable to provide the appropriate level of care and diagnosis needed to assist the animal patient effectively.

Anticipated Benefits of Proposed Regulatory Action

The proposal will provide appropriate restrictions on the provision of telemedicine by clarifying the requirements to establish a VCPR before providing telemedicine. By requiring a veterinarian to have personally examined the animal patient and documented the animal's medical history as part of establishing the VCPR before providing telemedicine services, the animal patient will receive better care if the consumer needs to communicate with the veterinarian via electronic or telephonic communication following in-person examination. Accordingly, this regulatory proposal promotes the safety of animals and the public by regulating telemedicine treatment. The proposal will also provide appropriate guidelines for providing telemedicine, which will benefit veterinarians who implement telemedicine services into their practice.

C. Consistency and Compatibility with Existing State Regulations

While there are multiple CCRs and federal regulations that deal with human telemedicine, the Board has determined this proposal would be the only state regulation that deals with the subject area of animal telemedicine. The Board has evaluated this regulatory proposal and found that it is neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact:

The Board has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. As noted in the public comment at the Board's July 19-20, 2011 meeting by Larry Cowgill, DVM, and Frank La Borte of the University of California, Davis, School of Veterinary Medicine, an interested party of this proposal, the VCPR regulation currently prohibits veterinarians from providing consultative services, rendering any treatment, or ordering/administering any drug or appliance directly via telemedicine due to the in-person examination requirement (See Tab D.2. Underlying Data, submitted herewith). This proposal would authorize the provision of telemedicine and provide guidelines for veterinarians to follow when offering telemedicine services. As such, the Board expects the proposed regulation to increase the delivery of telemedicine. In the event an individual is already providing telemedicine services prior to establishing a VCPR, the individual would be in violation of existing regulation. Accordingly, the Board does not anticipate an adverse economic impact on businesses and individuals that are currently complying with the law.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations may affect small businesses. The proposed regulations would authorize and regulate telemedicine and allow veterinary practices to implement this service into their business. The Board anticipates that telemedicine will provide a positive impact on small business overall. After the VCPR has been established, the proposal would allow veterinarians to provide additional services, which may lead to an increase in business.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, or the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

Benefits of Regulation:

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety, and the state's environment:

- The regulatory proposal benefits the health and welfare of California residents because the proposed regulation will provide clarification regarding the use of telemedicine services in veterinary practice, as well as further defining how a VCPR is established. By implementing these regulations, the Board seeks to ensure that consumers and their animals are provided with safe and effective veterinary care.
- This regulatory proposal focuses on identifying the parameters of the veterinarian-client-patient relationship and does not affect worker safety.
- This regulatory proposal focuses on identifying the parameters of the VCPR and does not affect the state's environment.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered or has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 1747 North Market Blvd., Suite 230, Sacramento, California 95834.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Amanda Drummond, Administrative Program Coordinator
Address:	Veterinary Medical Board 1747 North Market Blvd., Suite 230 Sacramento, CA 95834
Telephone No.:	916-515-5238
Fax No.:	916-928-6849
E-Mail Address:	Amanda.Drummond@dca.ca.gov

The backup contact person is:

Name: Jessica Sieferman, Executive Officer
Address: Veterinary Medical Board
1747 North Market Blvd., Suite 230
Sacramento, CA 95834
Telephone No.: 916-515-5220
Fax No.: 916-928-6849
E-Mail Address: Jessica.Sieferman@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.vmb.ca.gov.