

DEPARTMENT OF CONSUMER AFFAIRS  
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS  
**DIVISION 20. VETERINARY MEDICAL BOARD**

**NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:**

Uniform Standards for Substance-Abusing Licensees

**NOTICE IS HEREBY GIVEN** that the Veterinary Medical Board (Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

**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 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. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" in this notice.

**WRITTEN COMMENT PERIOD**

Written comments relevant to the action proposed, 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 Tuesday, December 12, 2023, by 5:00 p.m.**, or must be received by the Board at the hearing, should one be scheduled.

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by section(s) 315.4 and 4808 of the Business and Professions Code (BPC), section 11400.20 of the Government Code (GOV) and to implement, interpret, or make specific BPC sections 315.2, 315.4, 4837, 4845, 4871, 4876, 4883, 4886 and GOV sections 11400.20 and 11425.50(e), the Board is considering amending section 2006 of, and adding sections 2006.5, 2006.51, 2006.52, 2006.53, 2006.54, 2006.55, and 2006.56 to, article 1 of division 20 of title 16 of the California Code of Regulations (CCR)<sup>1</sup>.

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

## INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

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. BPC section 4808 authorizes the Board, in accordance with the Administrative Procedure Act (Government Code section 11400 et seq.), 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 (Practice Act) (BPC section 4800, et seq.).

This regulatory proposal will allow the Board to address the substance-abuse issue within the veterinary profession by implementing the “Uniform Standards Regarding Substance-Abusing Healing Arts Licensees” (DCA Uniform Standards) drafted by the Department of Consumer Affairs (DCA) Substance Abuse Coordination Committee and revised in March of 2019. In this regulatory proposal the Board will adopt seven new regulation sections (16 CCR sections 2006.5, 2006.51, 2006.52, 2006.53, 2006.54, 2006.55, and 2006.56) and amend 16 CCR 2006 to update the Disciplinary Guidelines and incorporate by reference the “Veterinary Medical Board’s Uniform Standards for Substance-Abusing Licensees, January 2022,” (*Vet Med Standards*). In addition, the process will allow the Board to utilize the methods and standards adopted by other healing arts boards under DCA and this will enable DCA to track the overall effectiveness of the monitoring programs of all DCA licensees and registrants.

## ANTICIPATED BENEFITS OF PROPOSAL

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents:

This proposal will enhance consumer protection by implementing the DCA Uniform Standards. This will enable the Board to provide substance-abusing licensees and registrants with continued monitoring and testing to encourage sobriety with the hope that a high proportion of licensees and registrants successfully stop utilizing prohibited substances. This proposal also provides licensees confidentiality as they progress through and complete the program without the worry of their personal information being shared with the public. This proposal establishes consistent standards to apply when dealing with substance-abusing licensees, and notifies applicants, licensees, registrants, evaluators, laboratories, specimen collectors, wellness program vendors, and the public how the Board will implement the DCA Uniform Standards. The *Vet Med Standards* set out required and optional terms and conditions of probation to be applied for substance-abusing individuals. These terms and conditions of probation make clear to ALJs, DAGs, applicants, licensees, and the public how the Board will implement the DCA Uniform Standards. This proposal will allow the Board to utilize methods and standards that have been adopted by other healing arts boards under DCA to track the overall effectiveness of its monitoring programs.

This regulatory proposal does not affect worker safety or the state's environment.

## **EVALUATION OF CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS**

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on these topics and has concluded that these regulations are 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:** Based on current licensee probation data, the Board estimates twenty (20) veterinarian licensees and six (6) registered veterinary technicians (RVTs) will be in the wellness program per year for the duration of their five-year probation period. As a result, wellness program participation is anticipated to remain unchanged. The Board currently does not anticipate an increase in citations or fines being assessed, but it does anticipate minor additional workload costs associated with probation monitoring.

Board staff spend approximately a third of its probation monitoring time on cases involving prohibited substances, which includes roughly 1,175 hours of staff time per year.

The Board has identified the following processes and costs as follows:

- **Initial Documentation Received:** The Board receives a complaint or conviction information about licensees or registrants and initiates the investigation phase, which results in an estimated total cost of \$19,996 per year and up to \$229,236 over a ten-year period.
- **Review Subsequent Documentation:** The Board will review the documentation to determine if an enforcement action is required, which results in an estimated total cost of \$5,318 per year and up to \$60,965 over a ten-year period.
- **Case Review by the Attorney General's (AG's) Office:** After the Board's review of the documentation, the item is reviewed by the AG's Office, which results in an estimated total cost of \$8,387 per year and up to \$96,142 over a ten-year period.
- **Probation Monitoring:** Licensees subject to probation monitoring, which includes reviewing reports, informing the licensees of the terms of probation, overseeing the monitoring process, and investigating technical probation violations, results in an estimated total cost of \$62,141 per year and up to \$712,380 over a ten-year period.

- **Review Disciplinary Action Items while on Probation:** Licensees who violate the terms of probation and have an incident while on probation result in an estimated total cost of \$4,606 per year and up to \$52,803 over a ten-year period.
- **Close Probation Case:** Licensees who have completed the terms of their probation and their case should be closed result in an estimated total cost of \$972 per year and up to \$11,143 over a ten-year period.

The Board estimates total probation monitoring costs ranging from \$101,420 to \$132,330 and up to \$1.2 million over a ten-year period.

Additionally, the Board will charge probation monitoring fees during an individual’s five-year probation period, which results in revenues of \$3,200 in year-one and \$1,200 per year thereafter.

The Board estimates total monitoring revenues for 26 probationers and 6 in the wellness program of \$43,200 per year and up to \$432,000 over a ten-year period.

The regulations do not result in costs or savings in federal funding to the state.

**Nondiscretionary Costs/Savings to Local Agencies:** None

**Cost to any Local Agency or School District for which Government Code Sections 17500–17630 Require Reimbursement:** None

**Mandate Imposed on Local Agencies or School Districts:** None

**Significant Effect on Housing Costs:** None

**BUSINESS IMPACT ESTIMATES**

**Cost Impact on Representative Private Person or Business:** The Board has made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the inability of California businesses to compete with businesses in other states.

**RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS**

The Board has determined that this regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because it does not impose requirements for businesses to hire or eliminate licensees.
- It will not create new business or eliminate existing businesses within the State of California because this regulation will only impact licensees who have been placed on probation and are only ordered to cease practice due to testing positive for a prohibited substance.

- It will not affect the expansion of businesses currently doing business within the State of California because it does not impose additional hiring requirements for owners or a managing licensee (veterinarian) over a veterinary premises.

This regulatory proposal has the following benefits:

- It affects the health and welfare of California residents because it requires the licensee to be completely compliant with the conditions in their recovery program and/or probation or the Board can issue a cease practice order.
- It does not affect worker safety because it does not involve worker safety.
- It does not affect the state's environment because it does not involve the environment.

**Impact on Jobs / Businesses:** The Board has made the initial determination that there will be cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action. These costs will apply to licensees subject to discipline by the Board as a substance abusing licensee, or who self-refer into the wellness program.

### **Income Loss Over One Month**

Licensees and registrants referred to in-patient treatment will be required to cease practicing veterinary care for a 30-day period. The following estimates are for each license type:

- RVTs are estimated to lose \$3,933 of income (each individual) during this time with an average yearly estimated cost of \$23,597 with a total cost of \$235,971 over a ten-year period.
- Veterinarians are estimated to lose \$10,493 of income (each individual) during this time with an average yearly estimated cost of \$209,868 with a total cost of \$2.10 million over a ten-year period.

### **Wellness Program Costs per Licensee**

An individual licensee participating in the Wellness Program for the duration of their five-year probation period will incur costs of \$33,008 in year one and \$31,499 in years two through five and up to \$159,004 over a five-year period. Those individuals requiring in-patient treatment will incur an additional \$40,000 in costs, plus wage loss of \$3,933 (RVT) or \$10,493 (veterinarian), in year one.

## Wellness Program Costs Over the Long-Term

Of these twenty-six (26) probationers each year, five (5) participants will be required undergo a 30-day in-treatment program and be subject to lost wages during this time estimated at \$43,933 (RVT) or \$50,493 (veterinarian) per participant.

The Board has identified wellness program activities and costs as follows:

- **Wellness Program Costs and Monthly Monitoring:** Licensees participating in the program will have to pay a \$2,000 one-time fee and a \$100 monthly probation monitoring fee, which results in total costs of \$3,200 in year one and \$1,200 in each subsequent year per participant and up to \$146,000 over a ten-year period.
- **Clinical Diagnosis:** Licensees participating in the program will likely have to undergo an initial clinical diagnostic evaluation and pay approximately \$5,000 one-time, which results total costs of \$130,000 per year and up to \$1.30 million over a ten-year period.
- **Biological Fluid Testing:** Participants will be required to be tested between 52 to 104 times and pay \$6,948 during the first year and be tested between 36 to 104 times per year thereafter and pay \$5,439 in years two through five, which results in costs ranging from \$180,648 to \$746,304 per year and up to approximately \$6.05 million over a ten-year period.
- **Group Support Meetings:** Participants may be required to attend monthly support group meetings and pay estimated fees of \$5,460 per year, which results in costs ranging from \$141,960 to \$709,800 per year and up to approximately \$5.68 million over a ten-year period.
- **Worksite Monitoring:** Licensees may be required to have a worksite monitor and pay estimated costs of \$15,600 per year, which results in costs ranging from \$405,600 to \$2.03 million per year and up to approximately \$16.22 million over a ten-year period.
- **In-Patient Treatment:** Licensees may be subject to a 30-day in-patient treatment program with estimated one-time costs of \$40,000, plus wage loss of \$3,933 (RVT) or \$10,493 (veterinarian), which results in costs of \$43,933 (one RVT) or \$201,974 (four veterinarians) per year and up to approximately \$2.46 million over a ten-year period.
- **Other Future Costs:** Participants will have to pay a fee to participate in the Wellness Program in the future, but the Board does not have an estimate for the fee at this time. The fee will be set through the rulemaking process once the vendor is selected.

**Business Reporting Requirements:** The regulatory action does not require businesses to file a report with the Board.

**Effect on Small Business:** The Board has determined that the proposed regulations may affect small businesses. The proposed regulations are expected to require a small number of veterinarians and RVTs to take off time from work in order to meet the requirements of testing and probation monitoring.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that 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 N. Market Blvd., Ste. 230, Sacramento, California 95834 during the written comment period, or at the hearing if one is scheduled or requested.

## **AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE**

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

## **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 N. Market Blvd., Ste. 230, Sacramento, California 95834.

## **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments, the Board, upon its own motion or at the request 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, with the modifications clearly indicated, will be available for review and written comment 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.

### **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 Persons named below or by accessing the website listed below.

### **CONTACT PERSONS**

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



Name: Jeffrey Olguin  
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1747 N. Market Blvd., Ste. 230  
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Telephone No.: (916) 282-6893  
Fax No.: (916) 928-6849  
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The backup contact person is:

Name: Kim Phillips-Francis  
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E-Mail Address: kim.phillips-francis@dca.ca.gov

#### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board website at [https://www.vmb.ca.gov/laws\\_regs/proposed\\_regs.shtml](https://www.vmb.ca.gov/laws_regs/proposed_regs.shtml).