

VETERINARY MEDICAL BOARD
FINAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Veterinarian-Client-Patient-Relationships (VCPR)

Section(s) Affected: Title 16, Division 20, Article 4, of the California Code of Regulations (CCR)¹ sections 2032.15 and 2032.25.

Updated Information:

The Initial Statement of Reasons is included in the file. The information contained therein is updated as follows:

The 45-day public comment period began on June 5, 2020 and ended on July 20, 2020. The Veterinary Medical Board (Board) did not hold a hearing. The Board received three written comments; two letters of support and one letter that expressed concerns from the California Association of Animal Physical Therapists (CAAPT) and the Animal Physical Therapy Coalition (APTC). The Administrative Procedure Act (APA) does not require the Board to review or respond to letters of support during the final rulemaking process, however the CAAPT/APTC joint letter with concerns discussed statements made in the Initial Statement of Reasons (ISOR), not language within the text of the proposed regulation. During the October 22, 2020 Board meeting, the Board considered the concerns raised in the CAAPT/APTC joint letter, as discussed below. Because the concerns pertained to how the proposal may affect future legislation or regulations, and not with the current text itself, the Board rejected those concerns and determined that no modifications to the proposed regulatory text were necessary.

Local Mandate:

A local mandate is not imposed on local agencies or school districts.

Small Business Impact:

While the Board estimates that 80 to 90 percent (2,800 to 3,150) of the approximately 3,500 veterinary premises are small business, the Board has determined that this rulemaking proposal would have no significant adverse economic impact on business. The proposed regulations authorize designated veterinarians to provide services to clients who have animals in need in the absence of the original veterinarian.

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

Fiscal Impact:

The proposed regulations do not result in a fiscal impact to the state. The Board will ensure compliance through its current inspection programs and regimen. As a result, the Board does not anticipate additional workload or costs from the proposed regulations.

Economic Impact:

The Board has determined that this regulatory proposal will not have any significant statewide adverse economic impact directly effecting businesses. This regulatory proposal authorizes designated veterinarians in the absence of a VCPR and the original veterinarian to provide services to California consumers and their animals in emergency situations if a specific set of criteria has been met.

This regulatory proposal focuses on identifying the exemptions to the VCPR in the absence of client communication and the originating veterinarian. The Board has determined that any requirements for veterinarians to comply with this regulatory proposal would likely be incorporated into the routine operations of the veterinary premises and are not anticipated to result in additional costs.

Anticipated Benefits of this Proposal:

This regulatory proposal improves the quality of life for both California consumers and their animals by ensuring animals receive quality veterinary medical care by providing safeguards when the animal's originating veterinarian is not available. This regulatory proposal focuses on providing additional services to California consumers and their animals to help animals who may be ill/injured and/or need necessary prescriptions in order to maintain a healthy quality of life. By adopting this regulatory proposal, the Board authorizes veterinarians other than the original diagnosing veterinarian to continue treatment under the established VCPR and refill prescriptions as needed in order to maintain the health of the animal patient.

BPC section 4883 authorizes the Board to deny, revoke, or suspend a license or registration or assess a fine for, among other things, unprofessional conduct. The proposal clarifies BPC section 4883, by clarifying unprofessional conduct in terms of VCPRs.

Consideration of Alternatives:

No reasonable alternative to the regulatory proposal that was considered or that 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 is proposed, would be as effective or less burdensome to affected private persons than the proposed regulation, or would be more cost-effective 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. No textual alternatives based upon this proposal were offered or considered. Concerns raised to the Board during this rulemaking (discussed below) were not with the text but were outside the scope of this particular rulemaking.

Summary of Comments received during the 45-day comment period:

Two comment letters (one from the California Veterinary Medical Association and one from the California Registered Veterinary Technicians) were received in support, and a joint comment letter was received from CAAPT/APTC that expressed a non-text concern which the Board rejected.

During the initial 45-day comment period the Board received a July 20, 2020, joint letter with concerns from CAAPT/APTC. In their joint support letter, CAAPT/APTC raised the concern of the potential for the proposed regulations to “serve as a barrier to future regulation/legislation as it relates to a veterinarian making a referral/provide medical clearance to allow another qualified non-vet professional to provide rehabilitative services for animals under veterinary indirect supervision at another location.” CAAPT/APTC asserted that statements in the ISOR regarding transfer of the animal patient from one clinic for veterinary care at a different location and the limited extension of the VCPR to only a designated veterinarian at the same location where the medical records are kept may affect the veterinarian’s ability to provide medical clearance and use the VCPR at one location to allow for veterinary indirect supervision of animal rehabilitation services performed at another location by a qualified physical therapist.

CAAPT/APTC highlight this issue because of the Board’s past discussions of the VCPR and premises registration requirements that may be used to disallow the transfer of rehabilitation care and services to a qualified physical therapist at another location. CAAPT/APTC express their hope that the regulatory proposal will not be used in the future as a barrier to new regulatory changes as they relate to constructing a framework to allow animal rehabilitation to be performed under indirect veterinary supervision by a physical therapist at another location. CAAPT/APTC assert that exemption language may be necessary in the future to allow for the safe access of a wider array of services so more animals can get the care they need, where they need it. CAAPT/APTC contend that an onsite VCPR and/or veterinary premises registration should not serve as the barrier for common sense change in the future as it relates to animal rehabilitation services.

Board Response to Comments:

CAAPT/APTC did not submit objections to or recommendations on the regulatory proposal. Rather, CAAPT/APTC raised concerns with how the proposal may affect future legislation or Board regulation that may authorize a California licensed veterinarian to refer an animal patient to a qualified physical therapist to perform animal rehabilitation services under indirect supervision. CAAPT/APTC expressed concern with statements made in the ISOR. In response, the Board noted that to diagnose, prescribe, dispense, or furnish a drug, medicine, appliance, or treatment for an animal patient, a California licensed veterinarian must establish and maintain a VCPR. (BPC sections 4826, 4830, subd. (a)(2); CCR section 2032.1.) No person may diagnose, administer a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of an animal unless they are a California licensed veterinarian or supervised by a California licensed veterinarian. (BPC section 4826.)

If a veterinarian refers an animal patient to a secondary veterinarian, the secondary veterinarian must establish a new VCPR with the animal patient. This requirement is established in CCR section 2032.1, which requires the client to authorize the veterinarian to assume responsibility for making medical judgments regarding the health of the animal, including the need for medical treatment, the veterinarian has sufficient knowledge of the animal to initiate a general or preliminary diagnosis of the medical condition of the animal, and the veterinarian has assumed responsibility for making medical judgments regarding the health of the animal and has communicated with the client a course of treatment appropriate to the circumstance. However, the VCPR may continue to exist under CCR section 2032.15 when the original veterinarian is absent and designates another veterinarian to serve the animal patient, as specified.

There is no statutory provision authorizing a California licensed veterinarian to refer an animal patient for rehabilitation treatment to be performed by a physical therapist, and a physical therapist who is not a licensed veterinarian cannot establish a VCPR.

This regulatory proposal clarifies situations where the client seeks medical treatment for the animal patient, but the original veterinarian is unavailable. As described in greater detail in the ISOR, the proposal would clarify the ability of a designated veterinarian to prescribe, dispense, and furnish medications on the basis of the VCPR established by the original veterinarian, restructure the existing regulation to address circumstances when the client and animal patient are traveling and in need of emergency medication, and circumstances when the original prescribing veterinarian is unavailable to authorize a refill.

If legislation is enacted by the California State Legislature that may conflict with this proposal, the statutory provisions would override the regulatory provision in conflict with

the statute. At that time, the Board could review and amend the conflicting regulations. However, the Board currently does not have the ability to authorize a physical therapist to perform animal rehabilitation services under indirect supervision at a location separate from the supervising veterinarian who established the VCPR.