



MEMORANDUM

DATE	January 23, 2019
TO	Veterinary Medical Board
FROM	Jessica Siefertman, Executive Officer
SUBJECT	Agenda Item 9. Discussion and Possible Board Action on 2019 Legislative Proposals

A. Update on the 2019 Omnibus Provisions Approved by the Board

During the November 2018 meeting, the Board approved legislative proposals related to Premises Registrations, Managing Licensees, and the Corporate Practice of Veterinary Medicine. The approved language (Attachment 1) has been forwarded to the Senate Business, Professions and Economic Development Committee (Committee); staff will provide any available updates during the January meeting.

B. Potential Legislation Related to Regulating Pet Cremation Service

A legislative proposal regulating pet cremation services has been brought to the Committee for consideration (Attachment 2). The Committee is seeking feedback from the Board to understand if pet cremation services is an issue, and what action, if any, would be appropriate. Currently in California, the Department of Consumer Affairs, Cemetery and Funeral Bureau (CFB) regulates human cremation services by licensing cremated remains disposers, crematories, and crematory managers. However, there appears to be a lack of oversight related to animal cremations.

On March 2, 2018, NBC4 News (Los Angeles) reported that a “Woman Believes She Received Wrong Ashes After Dogs Cremation.” In the story, pet owner, Ms. Hillarie Levy, claimed she received the wrong ashes because her 26-pound Cocker Spaniel’s ashes weighed 6.5 oz, yet her 12-pound Miniature Pinscher’s ashes weighed 8 oz. Ms. Levy further claimed both dogs were cremated in groups, even though Ms. Levy requested and paid for individual cremation of both dogs. The NBC4 News segment can be viewed [here: https://www.nbclosangeles.com/on-air/as-seen-on/Woman-Believes-She-Received-Wrong-Ashes-After-Dogs-Cremation_Los-Angeles-475713293.html](https://www.nbclosangeles.com/on-air/as-seen-on/Woman-Believes-She-Received-Wrong-Ashes-After-Dogs-Cremation_Los-Angeles-475713293.html).

The legislative proposal being reviewed by the Committee aims to make the Board responsible for oversight and random inspection of pet cremation facilities, and require veterinarians and premises to pay increased licensing and registration fees to offset the Board’s costs of enforcing the proposal. In addition, the proposal would require the cremation facilities to install cameras to document and maintain records of the cremation process for each animal and impose fines on facilities that do not comply with the proposal.

Action Requested: The Committee's Chief Consultant requests the Board discuss this issue and help determine the best course of action.

Attachments:

1. Board Approved Legislative Proposals Submitted to Committee
2. Pet Cremation Services Proposal

Veterinary Medical Board

Recommendation on Premises Registration Fee Exemption for Non-Profit or Not-For-Profit Entities Providing Low-Cost Vaccination and/or Immunization Services at Scheduled Vaccination Events

Purpose: To keep costs down for vaccination events provided to low-income communities.

Intent: Although a non-profit or not-for-profit entity that provides vaccines, immunizations, and preventative procedures for parasite control must be registered with the Veterinary Medical Board (Board) pursuant to Business and Professions Code section 4853, the Board determined at its November 15, 2018 board meeting that such entities should be entitled to an exemption from premises registration fees. Such exemption will help these entities keep costs down for the vaccination services provided to low income communities, which will benefit the health, safety, and welfare of consumers and their pets.

Recommended legislation

Amend Section 4905 of the Business and Professions Code as follows:

4905.

The following fees shall be collected by the board and shall be credited to the Veterinary Medical Board Contingent Fund:

- (a) The fee for filing an application for examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed three hundred fifty dollars (\$350).
- (b) The fee for the California state board examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed three hundred fifty dollars (\$350).
- (c) The fee for the Veterinary Medicine Practice Act examination shall be set by the board in an amount it determines reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed one hundred dollars (\$100).
- (d) The initial license fee shall be set by the board not to exceed five hundred dollars (\$500) except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be set by the board not to exceed two hundred fifty dollars (\$250). The board may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.
- (e) The renewal fee shall be set by the board for each biennial renewal period in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed five hundred dollars (\$500).
- (f) The temporary license fee shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, not to exceed two hundred fifty dollars (\$250).

(g) The fee for filing an application for a university license shall be one hundred twenty-five dollars (\$125), which may be revised by the board in regulation but shall not exceed three hundred fifty dollars (\$350).

(h) The initial license fee for a university license shall be two hundred ninety dollars (\$290), which may be revised by the board in regulation but shall not exceed five hundred dollars (\$500).

(i) The biennial renewal fee for a university license shall be two hundred ninety dollars (\$290), which may be revised by the board in regulation but shall not exceed five hundred dollars (\$500).

(j) The delinquency fee shall be set by the board, not to exceed fifty dollars (\$50).

(k) The fee for issuance of a duplicate license is twenty-five dollars (\$25).

(l) Any charge made for duplication or other services shall be set at the cost of rendering the service, except as specified in subdivision (k).

(m) The fee for failure to report a change in the mailing address is twenty-five dollars (\$25).

(n) The initial and annual renewal fees for registration of veterinary premises shall be set by the board in an amount not to exceed four hundred dollars (\$400) annually. A non-profit or not-for-profit entity that only provides low-cost or no-cost vaccination and/or immunization services at scheduled vaccination events shall be exempt from initial and annual renewal fees for registration of veterinary premises.

(o) If the money transferred from the Veterinary Medical Board Contingent Fund to the General Fund pursuant to the Budget Act of 1991 is redeposited into the Veterinary Medical Board Contingent Fund, the fees assessed by the board shall be reduced correspondingly. However, the reduction shall not be so great as to cause the Veterinary Medical Board Contingent Fund to have a reserve of less than three months of annual authorized board expenditures. The fees set by the board shall not result in a Veterinary Medical Board Contingent Fund reserve of more than 10 months of annual authorized board expenditures.

VETERINARY MEDICAL BOARD

Corporate Practice of Veterinary Medicine

Proposed revisions are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Statutory Proposals:

Business and Professions Code, Division 2, Chapter 11

Article 3. Issuance of Licenses.

4853.

(a) All premises where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof is being practiced shall be registered with the board. The certificate of registration shall be on a form prescribed in accordance with Section 164.

(b) "Premises" for the purpose of this chapter shall include a building, kennel, mobile unit, or vehicle. Mobile units and vehicles shall be exempted from independent registration with the board when they are operated from a building or facility which is the licensee manager's principal place of business and the building is registered with the board, and the registration identifies and declares the use of the mobile unit or vehicle.

(c) Every application for registration of veterinary premises shall set forth in the application the name of the responsible licensee manager who is to act for and on behalf of the licensed premises. Substitution of the responsible licensee manager may be accomplished by application to the board if the following conditions are met:

(1) The person substituted qualifies by presenting satisfactory evidence that he or she possesses a valid, unexpired, and unrevoked license as provided by this chapter and that the license is not currently under suspension.

(2) No circumvention of the law is contemplated by the substitution.

(d) This section does not authorize any person, corporation, or artificial legal entity, other than a licensed practitioner of veterinary medicine or a veterinary corporation practicing pursuant to Article 6 (commencing with Section 4910) of this Chapter and the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), to furnish to any person or animal patient any advice, services, or treatment within the scope of veterinarian licensure under this chapter. This section does not authorize any person, other than a licensed veterinarian within the scope of his or her license, to engage directly or indirectly in the practice of veterinary medicine, surgery, and dentistry. This section does not regulate, govern, or affect in any manner the practice of veterinary medicine, surgery, or dentistry by any person duly licensed to engage in such practice.

Commented [WT1]: Tracks HSC § 1209 ban on clinic practice of medicine.

Article 6. Veterinary Corporations

4910.1. (a) Corporations and other artificial legal entities shall have no professional rights, privileges, or powers.

Commented [WT2]: Tracks BPC § 2400 prohibition on corporate practice under Med Pract Act.

(b) The provisions of subdivision (a) do not apply to a veterinary corporation practicing pursuant to the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code) and this article, when such corporation is in compliance with the requirements of these statutes and all other statutes and regulations now or hereafter enacted or adopted pertaining to such corporations and the conduct of their affairs.

4910.2. (a) A professional corporation, foreign professional corporation, or other legal entity not owned exclusively by one or more licensed veterinarians shall not engage in the practice of veterinary medicine.

4918. (a) Except as provided in Section 13403 of the Corporations Code, a veterinary clinic or hospital that is owned by a general corporation, foreign corporation, or other legal entity but is not exclusively owned by one or more licensed persons shall be registered with the board pursuant to Section 4853 and may employ, or enter into contracts or other arrangements with, any person or persons licensed under this chapter, but no such employment, contract, or arrangement shall provide for the rendering, supervision, or control of professional judgment or services other than as authorized by law.

Commented [WT4]: Similar to BPC § 2401(b) and 2411.

Commented [WT5]: Cross-reference to existing premises permit statute for which any owner, including a corporation, already has to apply; this is not a new registration requirement.

(b) The veterinary clinic or hospital shall not interfere with, control, or otherwise direct the professional judgment of any licensed veterinarian, registered veterinary technician, or veterinary assistant.

(c) The board may require any information the board deems is reasonably necessary for the enforcement of this section.

Commented [WT6]: Similar to Pharmacies requirement in BPC § 4111(c).

4919. (a) A veterinarian or group of veterinarians, whether or not incorporated, may employ, or enter into a contract or other arrangements with a management services organization to provide management services to the veterinarian or the veterinary practice, but no such employment, contract, or arrangement shall provide for the management services organization to render control, supervision, or intervention in a veterinarian's practice of veterinary medicine, or violate Section 650.

(b) For purposes of this section, "management services organization" means a person or entity that provides management or administrative services.

Commented [WT7]: Added "administrative" to encompass processing of time sheets, ordering supplies, advertising, etc., that a corp would attempt to argue were not included in the general definition of "management."

(c) The board may require any information the board deems is reasonably necessary for the enforcement of this section.

**Veterinary Medical Board
Premises Permit Registration Holder and Licensee Manager Statutes**

Amend Business and Professions Code Sections 4853.1 and 4853.6 as follows:

4853.

(a) All premises where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof is being practiced shall be registered with the board. The certificate of registration shall be on a form prescribed in accordance with Section 164.

(b) "Premises" for the purpose of this chapter shall include a building, kennel, mobile unit, or vehicle. Mobile units and vehicles shall be exempted from independent registration with the board when they are operated from a building or facility which is the licensee manager's principal place of business and the building is registered with the board, and the registration identifies and declares the use of the mobile unit or vehicle.

(c) Every application for registration of veterinary premises shall set forth in the application the name of the premises owner, who will be the holder of the premises permit registration, and the name of the responsible licensee manager, who is to act for and on behalf of the ~~licensed~~ registered premises. Substitution of the responsible licensee manager may be accomplished by application to the board if the following conditions are met:

(1) The person substituted qualifies by presenting satisfactory evidence that he or she possesses a valid, unexpired, and unrevoked license as provided by this chapter and that the license is not currently under suspension.

(2) No circumvention of the law is contemplated by the substitution.

~~(d)~~ The premises permit registration is non-transferrable. In the event of change of ownership of the premises, the premises permit registration holder shall notify the Board of the change of ownership within thirty (30) days after any such change.

Commented [WT1]: The Board needs to know who owns the building and who is the premises registration holder.

[Redacted comment box]

4853.1.

(a) Each application to register a premises pursuant to Section 4853 shall be made on a form provided by the board. An application for renewal of that registration shall be made annually.

(b) The application shall contain a statement to the effect that the applicant premises owner and licensee manager have ~~has~~ not been convicted of a

statement, the application shall contain a statement of the conviction, professional discipline, or violation.

(c) In reviewing an application to register a premises, the board may consider acts

[Redacted comment box]

[Redacted comment box]

[Redacted comment box]

stockholders of the premises owner, and responsible licensee manager which shall constitute grounds for the denial of a premises registration under Division 1.5 (commencing with Section 475).

(d) Upon receipt of an application for a premises registration, the board may cause an inspection to be made of the proposed veterinary premises to ensure compliance with the minimum standards as established by the board.

(e) The board may, as part of the renewal or application for substitution of the licensee manager process, make necessary inquiries of the applicant premises owner and current or proposed licensee manager and conduct an inspection in order to determine if cause for disciplinary action exists.

4853.6.

The board shall withhold, suspend or revoke registration of veterinary premises:
 (a) When the licensee manager set forth in the application in accordance with Section 4853 ceases to become responsible for management of the registered premises and no substitution of the responsible licensee manager has been made by application as provided for in Section 4853.

(b) When the premises registration holder or licensee manager, has, under proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the license to practice veterinary medicine, surgery, and dentistry revoked or suspended.

(c) The board shall not renew the premises registration if it is in violation of subdivision (a).

4875.2.

If, upon completion of an investigation, the executive officer has probable cause to believe that a veterinarian, a registered veterinary technician, a veterinary assistant controlled substance permit holder, a premises registration holder, or an unlicensed person acting as a veterinarian, ~~or a registered veterinary technician, a veterinary assistant controlled substance permit holder, or a premises registration holder~~ has violated provisions of this chapter, he or she may issue a citation to the veterinarian, registered veterinary technician, veterinary assistant controlled substance permit holder, premises registration holder, or unlicensed person, as provided in this section. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this chapter alleged to have been violated. In addition, each citation may contain an order of abatement fixing a reasonable time for abatement of the violation, and may contain an assessment of a civil penalty. The citation shall be served upon the veterinarian, registered veterinary technician, veterinary assistant controlled substance permit holder, premises registration holder, or unlicensed individual personally or by any type of mailing requiring a return receipt. Before any citation may be issued, the executive officer shall submit the alleged violation for review

Commented [WT6]: Proposed revisions to clarify discipline when licensee manager is found to have violated the Act, even though that licensee manager is subsequently removed and replaced by a new licensee manager.

Commented [WT7]: To address situations where the revoked licensee still owns the premises and is operating the business though removed as the MGL.

Commented [WT8]: Adds Board citation authority against VACSP holders and premises registration holders for unlawful conduct instead of forcing the Board to file an accusation for violations.

and investigation to at least one designee of the board who is a veterinarian licensed in or employed by the state. The review shall include attempts to contact the veterinarian, registered veterinary technician, veterinary assistant controlled substance permit holder, premises registration holder, or unlicensed person to discuss and resolve the alleged violation. Upon conclusion of the board designee's review, the designee shall prepare a finding of fact and a recommendation. If the board designee concludes that probable cause exists that the veterinarian, registered veterinary technician, veterinary assistant controlled substance permit holder, premises registration holder, or unlicensed person has violated any provisions of this chapter, a civil citation shall be issued to the veterinarian, registered veterinary technician, veterinary assistant controlled substance permit holder, premises registration holder, or unlicensed person.

Legislative Proposal
Hillary Levy

Currently no oversight or regulations exist over animal cremations. Legislation is necessary to mandate oversight over this billion-dollar plus industry. To prevent thousands of grieving unsuspecting CA pet owners from being continually scammed by pet cremation companies, a legislative idea would be to have all cremation companies install cameras where pets can be easily viewed when they are rolled into the oven. This information must be stored on a computer for a year, for random inspections of the information by inspectors provided by the Veterinary Board. If portions of the film are missing or if more than one pet is viewed being rolled into the oven, fines are administered. This proposed legislation would not cost the state any additional funds. The Veterinary Board would charge additional yearly fees to maintain Veterinary licenses and other services to pay for the inspectors. Veterinarians would also be assured the pet cremation business they contract with, would perform the service for which they are being paid.