

# Veterinary Medical Board

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## MEMORANDUM

<b>DATE</b>	November 15, 2018
<b>TO</b>	Veterinary Medical Board
<b>FROM</b>	Ethan Mathes, Operations Manager
<b>SUBJECT</b>	<b>Agenda Item 16. Discussion and Possible Action on Amendments to the Board and Committee Member Administrative Procedure Manual</b>

### **Background**

The Veterinary Medical Board (Board) last reviewed its Administrative Procedure Manual at the October 2017 meeting. Subsequently, Board staff, legal counsel, and Board members have noted additional areas in the Manual that should be considered for discussion and possible amendments including Multidisciplinary Advisory Committee member recruitment, quorum requirements, formal discipline clarification, and various technical cleanup.

### **Staff Recommendation**

Review recommendations and approve updated Administrative Procedure Manual.

### **Attachment**

Amended Administrative Procedure Manual – October 2018

# Veterinary Medical Board

## State of California



### Board and Committee Member

## Administrative Procedure Manual

(Rev [2017:October 2018](#))

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Commented [WT1]: Consider deleting – see comments on p 19.

CHAPTER 1

Introduction

Mission

The mission of the Veterinary Medical Board (VMB) is to protect consumers and animals by regulating licensees, promoting professional standards, and diligent enforcement of the California Veterinary Medicine Practice Act (Practice Act).

Vision

The vision of the VMB is to create an environment in which Californians have access to high-quality veterinary care for all animals.

Overview

The VMB was created in 1893 as a licensing program. Licensing is used to regulate veterinarians and protect the public in all fifty states, territories, and Canada.

The VMB is one of a number of boards, bureaus, commissions, and committees within the Department of Consumer Affairs (DCA), part of the State and Consumer Services Business, Consumer Services, and Housing Agency under the auspices of the Governor. The Department DCA is responsible for consumer protection and representation through the regulation of licensed professions and the provision of consumer services. While the DCA provides administrative oversight and support services, the VMB sets its own policies, procedures, and regulations.

The VMB is comprised of eight members. Four licensed veterinarians, three public members and one registered veterinary technician (RVT). The Governor appoints four veterinarian members, one RVT and one public member. The Senate Rules Committee and the Speaker of the Assembly each appoint one public member. Board members may serve up to two full four-year terms. In addition to the two full four-year terms, Board members may serve the partial term of the vacant position to which they are appointed and up to a one-year grace period after a term expires. Board members fill non-salaried positions but are paid per diem for each Board meeting, committee meeting and other meetings approved by the President of the Board. Travel expenses are also reimbursed.

This procedure manual is updated as necessary and provided to VMB board and committee members as a ready reference of important laws, regulations, DCA policies and VMB policies. It is designed to help guide the actions of the Board and committee members and ensure effectiveness and efficiency.

**CHAPTER 2****Board Meeting Procedures**

Business and Professions (B&P)  
Code section 4808  
Board policy - The requirement to  
meet is in ~~the~~ B&P Code. The  
frequency of the meetings is  
determined by the Board.

**Frequency and Location of Meetings**

The Board meets at least four times annually to make policy decisions and review committee recommendations. Special meetings may be called at any time by the Board President or by any four members of the Board, upon notice of such time and in such manner as the Board may provide.

The Board endeavors to hold meetings in different geographic locations throughout the state when possible as a convenience to the public and licensees.

In accordance with B&P Code section 101.7 boards shall meet at least [ ] each calendar year and at least once in northern California and once in southern California.

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**Commented [ME2]:** This will take effect on Jan 1, 2019

Board Policy

**Board Member Attendance at Board Meetings**

Board members must attend each meeting of the Board. If a member is unable to attend, he/she is asked to contact the Board President or the Executive Officer and ask to be excused from the meeting for a specific reason.

Board Policy

**Board Member Participation**

The Board President may contact members who have missed three consecutive meetings to determine the reason they have been absent and whether or not the member is able to continue serving as an active member of the Board. In some cases, the President may suggest that the member consider resigning.

The Board, by resolution, may request in writing to the appointing authority that a member be replaced. The member shall be notified in writing of such proposed action and be given the opportunity to present to the Board his/her written or oral arguments against such action prior to the Board adopting the resolution.

Government (Gov.) Code  
section 11120 et. seq.

**Public Notice/Information at Board Meetings**

Meetings are subject to all provisions of the Bagley-Keene Open Meeting Act. This act governs meetings of the State regulatory boards and meetings of committees of those boards where the committee consists of more than two members. It specifies meeting notice and agenda requirements and prohibits discussing or taking action on matters not included in the agenda. Any general discussion of exams or disciplinary procedures shall be held in public.

The Board may meet in closed session to discuss examinations, deliberate on enforcement cases, ~~and~~ review ~~personnel examination~~ issues where a public discussion would compromise the integrity of the examination, a

disciplinary case, or a personnel issue. If the agenda contains matters that, on advice of legal counsel, are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

#### Quorum

B-&amp;P Code section 4807

Five members of the Board constitute a quorum for transaction of business at any meeting of the board. At a meeting duly held at which a quorum of five members is present, a concurrence of three members of the Board present shall be necessary to constitute an act or decision of the Board. When six or more members of the Board are present at a meeting duly held, the concurrence of five members is necessary to constitute an act or decision of the Board.

**Commented [DA3]:** Question at Oct 2017 Meeting for Board review.

**Commented [WT4R3]:** This provision is not in statute and is an otherwise unsupported requirement.

#### Agenda Items

Board Policy

Agenda items are generally discussed and agreed upon at a full board meeting. Additional agenda items for a Board meeting from any source, including Board members, must be submitted to the Executive Officer at least 21 days prior to the meeting. The Executive Officer may confer with the Board President prior to adding items to the meeting agenda.

#### Notice of Meetings

Gov. Code section 11120 et. seq.

According to the Open Meeting Act, meeting notices (including agendas for Board meetings) must be sent to persons on the Board's mailing list and posted on the Board's Web site at least ten (10) calendar days in advance. The notice must include a staff person's name, work address, and work telephone number to provide further information prior to the meeting.

#### Record of Board Meetings

Board Policy

The minutes are a detailed summary of each Board meeting, not a transcript. Board minutes must be approved at the next scheduled meeting of the Board. Once approved, the minutes serve as the official record of the meeting.

#### Webcast

Gov. Code section 11124.1 et. seq.

Whenever feasible, the Board shall webcast its meetings. An archive of the meeting shall be available for review on the DCA Web site. If webcast is not feasible at a particular meeting site, the Board will ~~post minutes have written transcript~~ of the meeting on its Web site once the minutes are approved by the Board.

[Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the Board shall be subject to inspection pursuant to the California Public Records Act \(Chapter 3.5 \(commencing with Section 6250\) of Division 7 of Title 1\), but may be erased or destroyed 30 days after the recording.](#)

**Commented [WT5]:** This section cites to GC sec. 11124.1, but that section does not require webcast. Recommend adding public disclosure of the recordings pursuant to GC sec. 11124.1.



**Meetings Rules**

Board Policy

The Board will use Robert's Rules of Order to the extent that it does not conflict with State law (e.g., Bagley-Keene Open Meeting Act), as a guide when conducting the meetings.

The Vice President of the Board may serve as meeting parliamentarian.

**CHAPTER 3****Travel & Salary Policies/Procedures**

DCA Memorandum 91-26

**Travel Approval**

Board members must have Board President approval for all travel, including out-of-state travel, except for regularly scheduled Board and Committee meetings to which the Board member is assigned.

The Board President and the Executive Officer must use the Board's annual budget and DCA Travel Guidelines when considering travel requests.

Board Policy

**Travel Arrangements**

Board members should attempt to make their own travel arrangements, including airfare, lodging, and rental cars. Board members should use the State contract airline, Southwest, whenever possible. Once appointed and all paperwork is completed by DCA, Board Members will be assigned a ~~CalAters~~ CalATERS login. ~~The~~ Board Administrative Staff will assist in setting up a profile for each member through the Statewide Travel Program "Travel Store".

SAM section 700 et seq.

**Out-of-State Travel**

All out-of-state travel for all persons representing the State of California must be approved by the Board President and is ultimately controlled and approved by the Governor. Once approved for out-of-state travel, Board members will be reimbursed actual lodging expenses, supported by vouchers, and will be reimbursed for meal and supplemental expenses. Travel prior to approval by the Governor is at the individual Board or Committee member's own risk and reimbursement may be denied.

B&P Code section 103  
Board Policy**Salary Per Diem and Travel Reimbursement**

Board members attending meetings or events to perform a substantial Board-related service are paid salary per diem and reimbursed for travel-related expenses. Attendance at gatherings, events, hearings, conferences or meetings other than official Board or Committee meetings shall be approved in advance by the Board President and the Executive Officer.

~~The term "day actually spent in the discharge of official duties" means Board members are paid~~ such time as is expended from the commencement of a Board ~~meeting~~ or Committee meeting to the conclusion of that meeting. Where it is necessary for a Board member to leave early from a meeting, the Board President shall determine if the member has provided a substantial service during the meeting and, if so, shall authorize payment of salary per diem and reimbursement for travel-related expenses.

Unless it is an unanticipated emergency, Board members must get prior approval from the Board President to leave a meeting early. Because the Board only meets four times a year, Board members are expected to make every effort to stay for the duration of the meeting and make their travel arrangements accordingly.

For Board--specified work, Board members are compensated for actual time spent performing work authorized by the Board President. That work includes, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences, or policy and case review activities. Compensation for preparatory time is paid when eight hours are accrued.

Members must submit time sheet summary forms for actual work performed outside a Board meeting in order to be compensated.

## CHAPTER 4

### Other Policies/Procedures

#### Board Policy

#### Board Member Disciplinary Actions

A member may be censured by the Board if, after a hearing before the Board, the Board determines that the member has acted in an inappropriate manner.

The Board President shall sit as chair of the hearing unless the censure involves the President's own actions, in which case the Board Vice President shall sit as chair. In accordance with the Public Meeting Act, the censure hearing shall be conducted in open session.

#### B&P Code sections 106 and 106.5

#### Removal of Board Members

The Governor has the power to remove from office at any time any member of any board appointed by him/her for continued neglect of duties required by law or for incompetence or unprofessional or dishonorable conduct.

The Governor may also remove from office a board member who directly or indirectly discloses examination questions to an applicant for examination for licensure.

Gov. Code section 1750	<b>Resignation of Board Members</b> In the event that it becomes necessary for a Board member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. Written notification is required by state law. A copy of this letter shall also be sent to the director of the Department, the Board President, and the Executive Officer.
B-&P Code section 4804	<b>Officers of the Board</b> The Board shall elect from its members a President, and a Vice President, to hold office for one or two years, or until their successors are duly elected and qualified.
Board Policy	<b>Election of Officers</b> The Board may elect the officers at its <del>fall</del> <u>Fall</u> meeting to serve a term of one year, beginning on January 1. In the normal course of events, Board officers should be prepared to serve first as Vice President and then as President, for the length of term decided by the Board. Officers may be re-elected for one consecutive term. All officers may be elected on one motion or ballot as a slate of officers unless objected to by a Board member. Elections are usually scheduled for the <del>October</del> <u>Fall</u> <del>Board</del> meeting with <del>the</del> new officers assuming office in <del>January</del> at the next regularly scheduled board meeting, <u>but not in the same calendar year</u> .
Board Policy	<b>Officer Vacancies</b> If the Office of the President becomes vacant, the Vice President assumes the office of the President and the Board holds an election for Vice President <u>at the next regularly scheduled Board meeting</u> .
Board Policy	<b>Access to Board Files and Records</b> No Board member may access a licensee, applicant, or complaint file without the Executive Officer's knowledge and approval of the conditions of access. Records or copies of records must not be removed from the Board's office.
Board Policy	<b>Communications with Other Organizations/Individuals</b> The Executive Officer, his or her designee, or the Board President serve as spokesperson to the media on Board actions, policies, or any communications that is deemed sensitive or controversial, to any individual or organization. Any Board member who is contacted by any of the above should terminate the contact and inform the Executive Officer or the Board President.
Board Policy	<b>Legal Opinions – Requests from Outside Parties</b> The Board does not provide legal services for persons or entities outside the Board staff. Requests for legal opinions from outside entities are to be discussed with the Board

President and Legal Counsel to determine whether it is an issue over which the Board has jurisdiction and the opinion, if prepared, could be posted on the Board's Web site and benefit the general public rather than one individual. Persons making such requests would be notified that the Board will not be responding directly to their request, but will post the opinion on the Internet when it is final.

#### **Board Staff**

DCA Reference Manual

Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by a myriad of civil service laws and regulations and often by collective bargaining labor agreements. Because of this complexity, it is most appropriate that the Board delegate all authority and responsibility for management of the civil service staff to the Executive Officer.

#### **Board Administration**

DCA Reference Manual

Board members should be concerned primarily with formulating decisions on Board policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for Board members to become involved in the details of program delivery. Strategies for the day-to-day management of programs and staff shall be the responsibility of the Executive Officer under the supervision of the Board President.

#### **Examination Preparation**

Each person having access to examination content shall sign a security agreement.

#### **Correspondence**

B-&amp;P Code section 110

Originals of all correspondence received must be maintained in the Board's office files. Copies of such correspondence must be given to the Executive Officer and/or Board members as required.

#### **Ethics Training**

~~Gov. Code section 11146 et seq.~~  
Board Policy

~~Ethics~~—All required training for continuing and new Board members will be accomplished in accordance with ~~the state~~ employment law and DCA ~~procedures~~policies.

#### **Contact with Licensees**

Board Policy

Board members must not intervene on behalf of a licensee for any reason. They should forward all contacts or inquiries to the Executive Officer.

#### **Contact with Complainant/Respondent**

DCA Reference Manual

Board members should not directly participate in complaint handling and resolution or investigations. To do so would subject the Board member to disqualification in any future disciplinary action against the licensee. If a Board member is

contacted by a complainant/respondent or his/her attorney, they should refer the individual to the Executive Officer or Board staff.

**Gifts from Candidates**

Board Policy

Gifts of any kind to Board or Committee members or the staff from candidates for licensure with the Board are not permitted.

**Conflict of Interest**

Gov. Code section 87100

No Board member may make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest. Any Board member who has a financial interest shall disqualify himself/herself from making or attempting to use his/her official position to influence the decision. Any Board member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Officer or Board President.

**CHAPTER 5****Board President**

The duties of the Board President include, but are not limited to:

**Supervision of Executive Officer**

The Board may appoint a person exempt from civil service who shall be designated as an Executive Officer and who shall exercise the powers and perform the duties delegated by the Board and vested in him or her.

The incoming Board President assumes all delegated duties at the next quarterly meeting, including supervision of the Executive Officer.

The Board President is the immediate supervisor of the Executive Officer. Specific instructions for work on Board policy matters by the Executive Officer from Board members shall be coordinated through the Board President.

It is critical that individual Board members not intervene or become involved in specific the day-to-day board office operations. However, it is also critical that the board hold the Executive Officer accountable for supervising these operations, including workload issues, staff vacation and sick leave balances, labor/personnel disputes, ~~personal-personnel~~ actions, etc.

Tracking the Executive Officer's performance and accountability throughout the year is accomplished by direct and frequent oral, written, and in person communications between the Executive Officer and the Board President. In addition, the Executive Officer is responsible for keeping the full Board informed throughout the year (when appropriate) as to occurrences and information that come to the office in between meetings.

**Performance Appraisal of Executive Officer**

The Board evaluates its Executive Officer on an annual basis. At the ~~April-Spring~~ Board meeting, the Board President, or his/her designee, requests that each Board member complete and submit an "Executive Management Appraisal" document as input to the Executive Officer's annual performance appraisal. The completed forms shall be mailed directly back to the Board President or his/her designee. The input from individual members shall be used to prepare a draft appraisal for review at the first meeting of the fiscal year.

The written summary performance appraisal is presented to the Board and the Executive Officer at its ~~July-Summer~~ Board meeting. Following review and discussion by the full Board, the appraisal shall be discussed with the Executive Officer. Actions requiring corrective measures shall include specific remedies and reporting timeframes.

B&amp;P Code section 4804.5

Board Policy

Gov. Code section 11126(a)(4)

Board Policy

Matters relating to the performance of the Executive Officer are discussed by the Board in closed session unless the Executive Officer requests that it be discussed in open session.

**CHAPTER 6****Executive Officer****Appointment**

B&amp;P Code section 4804.5

The Board appoints an Executive Officer who is exempt from civil service and serves at the pleasure of the Board.

**Role**

California Code of Regulations (CCR) section 2003

The Executive Officer ~~is the Board's chief executive officer. He or she~~ implements the policies developed by the Board and carries out the tasks delegated by the Board.

**Recruitment**

Board Policy

The Board may institute an open recruitment plan to obtain a pool of qualified Executive Officer candidates. It may also utilize proven equal employment opportunity and personnel recruitment procedures.

**Selection**

Gov. Code section 11125

Board Policy

A qualified candidate for Executive Officer must demonstrate the ability to supervise employees, handle conflict resolution and complaint mediation, and conduct public speaking. The Executive Officer must also demonstrate effective written and verbal communication skills and knowledge and expertise in the areas of legislation, regulations, administration, examination, licensing, enforcement, legislation and budgets. The selection of a new Executive Officer is included as an item of business, which must be included in a written agenda and transacted at a public meeting.

**CHAPTER 7****Board Committees****Standing Committees**

Board Policy

The committee meetings are held as needed at the direction of the full Board and are fully within the scope of the Open Meeting Act. In light of the Board's limited resources, these meetings are a cost-efficient and legal means of gathering information for discussion by the full Board, which enhances the process of the Board's public meetings and addresses the needs of the profession and consumers in California.

**Committee Appointments**

Board Policy

The Board President establishes committees, whether ad hoc or special, as he or she deems necessary. The Board President determines committee composition and member appointments, including, but not limited to, liaison appointments. When necessary, committee members may make recommendations for new members.

Ad hoc committees may include the appointment of non-Board members. When appointing non-Board members, all impacted parties should be represented.

#### **Attendance at Public Committee Meetings**

Gov. Code section 11122.5(c)(6)

Non-committee Board members may sit in the audience and participate in meeting discussions, unless there is a quorum of Board members in the room. If there is a quorum present of five (5) members, non-committee Board members may sit in the audience, but may not participate in the meeting discussions.

#### **Meeting Rules**

Board Policy

Committee meetings are conducted under Robert's Rules of Order to the extent that it does not conflict with the Bagley-Keene Open Meeting Act.

Gov. Code section 11122(c)

Committees with two members can meet as necessary without a public notice and can hold teleconference ~~call~~ meetings with the designated staff person participating ~~on the call~~ in the teleconference as necessary.

Committee meetings involving three or more members are subject the Open Meeting Act Requirement and must be noticed as a public meeting.

#### **Committee Meeting Agendas/Public Notice (3 members)**

Board Policy

Agendas should focus on the specific tasks assigned by the Board and include:

- Public comment
- Time for committee members to recommend new areas of study to be brought to the Board's attention for possible assignment.
- Only those information items dealing with subjects assigned to the respective committee.

If more than two Board members attend a Committee meeting, the agenda shall contain the statement:

"Notice of a Board meeting indicates that three or more members of the Board are present. While the law requires the Board to notice this meeting as a Board meeting, it is not the intent to take action as a Board at this meeting."

#### **Record of Committee Meetings**

Board Policy

As with the Board meetings, the minutes are a summary, not a transcript, of each committee meeting. Committee minutes may be approved at the next scheduled Board meeting and serve as the official record of the meeting.

Approved minutes of the open session are available for distribution to the public and shall be posted on the Board's Web site.



**Recruitment**

Board Policy

The Board members may assist in recruiting interested persons to serve on committees, e.g., examination item writing, item reviewing, and Angoff workshops.

**Staff Participation**

Board Policy

The Executive Officer and Staff Service Managers (SSM) will provide advice, consultation and support to Committees.

**Video Recording**

Board Policy

~~Public committee meetings are Video recorded.~~

Commented [ME6]: Addressed below under MDC

**Executive Committee**

Board Policy

The Executive Committee shall consist of the President and the Vice President. The Executive Committee handles time-sensitive policy issues related to budgets, legislation, and regulatory issues that may surface necessitating immediate Board input. The Executive Committee shall report any action it takes on a particular matter to the full Board at the next Board meeting.

**Advisory and Ad Hoc Board Committees**

Board Policy

Board committees are advisory in nature, recommend actions to the Board, and are established by the Board as needed. Committee recommendations and reports shall be submitted to the Board for consideration and possible action.

**Multidisciplinary Advisory Committee (MDC)**

B&P Code section 4809.8

The [Veterinary Medicine](#) Multidisciplinary Advisory Committee (MDC) is a statutory committee that was created to ~~advise the Board on issues relating to enforcement, hospital inspections, citations and other issues relating to the profession as a whole~~ [assist, advise, and make recommendations for the implementation of rules and regulations necessary to ensure proper administration and enforcement of the Practice Act and to assist the Board in its examination, licensure, and registration programs.](#)

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Commented [WT7]: Moved up from pg. 17.

The MDC consists of nine (9) members: four licensed veterinarians, two registered veterinary technicians, one public member, and two liaisons of the Board, a veterinarian and the registered veterinary technician. The public member shall not be a licentiate of the Board or of any other board under this division or of any board referred to in Sections 1000 and 3600.

The members of the MDC hold office for a term of three years ~~and shall be staggered~~. Committee members may serve up to two full three-year terms. In addition to the two full three-year terms, Committee members may serve the partial term of the vacant position to which they are

Commented [ME8]: Per Dr. Sullivan, wanted to revisit how terms are currently staggered.

appointed and up to a one-year grace period after a term expires. Committee members fill non-salaried positions but are paid per diem and travel expenses for each committee meeting and other meetings approved by the President of the Board.

The Committee meets at least three times per year unless otherwise approved by the Board.

**Commented [ME9]:** Specify MDC meets four times per year and/or scheduled for the day prior to the Board meeting?

Vacancies ~~occurring to non-liaison members of the MDC~~ are filled by appointment by the Board. The veterinarian liaison member is appointed by the Board President and the registered veterinary technician liaison is appointed by default (as the sole registered veterinary technician Board member). The Board will remove from office at any time any member of the MDC for continued neglect of any duty, conflict of interest, incompetence, or unprofessional conduct.

Recruitment efforts for upcoming vacancies on the MDC shall begin at least 12 months prior to the expiration of the said term. The Board shall advertise vacancies on its website and shall work with professional associations and other consumer groups to notify the public of the recruitment process. All new applicants seeking a position on the MDC shall submit a letter of interest, along with a resume, curriculum vitae (CV), or both, to the Board. Upon receipt of a letter of interest, Board staff will perform a prospective committee member compliance evaluation to ensure that potential appointees adhere to California's various statutory and regulatory requirements. Interviews may be conducted by telephonic means at the Board's discretion, provided the telephonic participation is duly noticed on the meeting agenda. Upon a majority vote of the Board, the Board may establish an Elections Committee comprised of the Board President and Vice President, to hold interviews for the purpose of making recommendations to the full Board. The selection of an MDC member shall be made at a Board meeting. MDC members seeking reappointment are not required to be interviewed, unless requested by the Board. ~~The MDC's role is to assist, advise and make recommendations for the implementation of rules and regulations necessary to ensure proper administration and enforcement of the California Veterinary Medicine Practice Act and to assist the Board in its examination, licensure and registration programs (a quote from Section 4809.8).~~

#### **Webcast**

Whenever feasible, the MDC shall webcast its meetings. An archive of the meeting shall be available for review on the DCA Web site. If webcast is not feasible at a particular meeting site, the MDC will post minutes of the meeting on its Web site once the minutes are approved by the Board.

Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the Board

shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but may be erased or destroyed 30 days after the recording.

**Commented [WT10]:** This section cites to GC sec. 11124.1, but that section does not require webcast. Recommend adding public disclosure of the recordings pursuant to GC sec. 11124.1.

### **Diversion Evaluation Committee**

B&P Code section 4860 et. seq

The Veterinary Medicine Diversion Evaluation Committee (DEC) is a statutory committee that was created to identify and rehabilitate veterinarians and registered veterinary technicians with impairment due to abuse of dangerous drugs or alcohol, affecting competency so that veterinarians and registered veterinary technicians so afflicted may be treated and returned to the practice of veterinary medicine in a manner that will not endanger the public health and safety.

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The DEC consists of five (5) members: three licensed veterinarians and two public members. Each person appointed to the DEC shall have experience or knowledge in the evaluation or management of persons who are impaired due to alcohol or drug abuse.

The members of the DEC hold office for a term of four years. There is no limit to the number of terms each Committee member may serve. Committee members may serve the partial term of the vacant position to which they are appointed and up to a one-year grace period after a term expires. Committee members fill non-salaried positions but are paid per diem and travel expenses for each committee meeting and other meetings approved by the President of the Board. In addition, a Board staff manager serves as the Diversion Program Manager to administer the program and serve as a liaison between the Board and the DEC.

The DEC meets three times per year unless otherwise approved by the Board.

Vacancies occurring are filled by appointment by the Board. The Board will remove from office at any time any member of the DEC for continued neglect of any duty, conflict of interest, incompetence, or unprofessional conduct.

Recruitment efforts for upcoming vacancies on the DEC shall begin at least 12 months prior to the expiration of the said term. The Board shall advertise vacancies on its website and shall work with professional associations and other consumer groups to notify the public of the recruitment process. All new applicants seeking a position on the DEC shall submit a letter of interest, along with a resume, curriculum vitae (CV), or both, to the Board. Upon receipt of a letter of interest, Board staff will perform a prospective committee member compliance evaluation to ensure that potential appointees adhere to California's various statutory and regulatory requirements.

Interviews may be conducted by telephonic means at the Board's discretion, provided the telephonic participation is duly noticed on the meeting agenda. Upon a majority vote of the Board, the Board may establish an Elections Committee comprised of the Board President and Vice President, to hold interviews for the purpose of making recommendations to the full Board. The selection of an DEC member shall be made at a Board meeting. DEC members seeking reappointment are not required to be interviewed, unless requested by the Board.

**CHAPTER 8**

**Association Membership**

**AAVSB**

Board policy

The Board maintains membership in the American Association of Veterinary State Boards (AAVSB). The Board also strives to maintain representation on the Executive Board of the AAVSB by supporting members interested in participating as an AAVSB board member.

**Commented [ME11]:** Do we want to speak to our goal to attend the annual AAVSB meeting and represent the interests of California?

Board policy

**ICVA**

The Board strives to maintain representation on the International Council for Veterinary Assessment. Membership on this board is critical to California since it provides representation in the development and administration of the North American Veterinary Licensing Examination (NAVLE).

**CHAPTER 9**

**Enforcement and Information**

**Complaint Disclosure**

Board Policy

CCR section 2043(f)

Complaints are not subject to disclosure. In a citation and fine action, the Board shall provide the public, upon request, with a copy of a final Citation and Fine document. Citations are public information for five (5) years from the ~~issue~~ date of resolution and are then ~~destroyed/purged~~, unless the citation is part of a formal disciplinary matter within five (5) years immediately following the citation order, and the record of the action expunged as per the Board's Records Retention Schedule.

**Commented [DA12]:** Need to review

The Board only provides citation and fine information in response to specific, individual written requests. The Board does not publish individual names of licensees or registrants who have been cited and/or fined and does not report such actions to the National Disciplinary Database.

**Commented [ME13]:** These are published on the web license lookup for five years.

Board policy

**Disciplinary Actions**

The Board provides information regarding formal discipline/accusations only after the case has been transferred to the Office of the Attorney General. Board staff makes the following disclosure statement: "An investigation has been conducted and the case has been forwarded to the Attorney

General's Office for consideration of possible action. At this time, there has been no determination of wrong-doing."

An "accusation" is the first public document in any case. The accusation is prepared and filed by the Deputy Attorney General (DAG). Once the accusation is filed, it is a public document and available on written request. If the accusation results in a final order/decision, once the decision is final, it is also available to the public upon written request.

All final decisions by the Board following formal disciplinary proceedings of alleged violations of the [Practice Act](#) shall be published on the Board's [Web site](#) and in its newsletter after the effective date of the decision. Final decisions shall be reported to the National Disciplinary Database within 30 days of the effective date.

#### **Directory of Licensees**

A directory of all licensees containing, name, address, type of license, license number, and expiration date shall be published on the Board's Web site.

DCA/Board Policy —~~Adopted~~

#### **Licensee Disciplined in Other States**

The Board considers enforcement action against California licensees who have been disciplined in other states in accordance with B&P Code section 4883-(n).

Board Policy

The Board's enforcement staff determines if there are grounds for disciplinary action in California and take appropriate action.

#### **Holding or Rejecting a Stipulated Settlement or Proposed Decision**

As a general rule, most stipulated settlements and proposed decisions are well reasoned, consistent with the board's disciplinary guidelines, and may be adopted consistent with sound public policy. If they are not, consider rejecting (or "nonadopting") such decisions. If it is difficult to make that determination, however, stipulated settlements and proposed decisions should be held for closed session discussion.

Board Policy

#### Consider rejecting a Stipulated Settlement or an ALJ's Proposed Decision in these circumstances:

1. The stipulated settlement or ~~P~~roposed ~~D~~ecision does not provide sufficient public protection given the nature of the violations. For example, important terms of probation are missing, the probationary period is too short, probation is not appropriate, or other significant unexplained deviations from your board's disciplinary guidelines.
2. The ALJ made an error in the Proposed Decision in applying the relevant standard of practice for the

issues in controversy at the hearing. ~~(Proposed Decision)~~

3. The ALJ made an error in interpreting law and/or regulations ~~in the~~ (Proposed Decision).

Consider holding a case for closed session discussion when:

1. You are unsure whether the stipulated settlement or discuss the merits with other board members.
2. You are unsure about the ALJ's reasoning and description. (Proposed Decision)
3. If you believe a discussion of the practice issues with licensee members may make it easier for you to make a decision.
4. If you are unsure whether the ALJ's decision is consistent with the law. (Proposed Decision)
5. After discussion with the assigned board attorney, you still have questions about the case.

**Commented [WT14]:** Technical change to fix numbering font size.

Gov. Code section 11521  
Board Policy

Typically, a vote to hold any Proposed Decision for closed session discussion requires a hold vote by two (2) or more Board members.

**Petition for Reconsideration**

Eligibility to Petition for Reconsideration is limited to Proposed Decisions. A Petition for Reconsideration is the first step available to a party in contesting a final order. ~~This process is governed by Government Code Section 11521.~~ The Board may order Reconsideration of all or part of the case on its own motion or on Petition of any party.

The process, generally, is as follows:

- Petition for Reconsideration is submitted to the Board by Respondent.
  - If additional time is needed to evaluate the Petition filed prior to the expiration of the applicable periods provided under Government Code section 11521(a), the Executive Officer will issue a 10-day Stay of Decision (Attachment 1).
  - The Board reviews the Petition to determine if
- it will issue an Order Granting Reconsideration or Order Denying Reconsideration.

**Commented [WT15]:** Consider deleting attachments since only two of the many documents issued by the Board in formal discipline procedures are not included herewith.

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Denial of a Petition for Reconsideration

- If the Board takes no action on the Ppetition, votes to DENY the Petition ~~for Reconsideration~~, or if there are insufficient votes to reach a quorum in favor of the petition, the Decision and Order will remain as issued and will become effective as originally ordered.

Grant of a Petition for Reconsideration

- If the Board votes to GRANT the Petition for Reconsideration, the Decision and Order will NOT become effective.
  - When granting the Petition, the Board determines whether to receive oral or written argument or additional evidence. The Board may reconsider the case or remand it to an ALJ.
  - The Order Granting Reconsideration will be sent to ~~Respondent~~the parties, and the order will stay the effective date of the Decision indefinitely, and advise the parties whether written or oral argument or additional evidence may be submitted by the parties. (sample attached).
  - Board staff will order transcripts from the hearing.
  - Upon receipt of the transcripts, tThe Board President will issue an Order Fixing Time for Submission of Written/Oral Argument (Attachment 2).
    - Only the Board President has the authority to extend the deadline for submission of Written/Oral Argument.
  - Board staff will order transcripts from the hearing
  - Upon close of the Fixed Time for Submission of Written/Oral Argument and receipt of hearing transcripts, the Petition is sent to the Board for review.
    - Written/Oral Argument (Board may choose to accept either or both)
    - Argument/New Evidence (Board may choose to accept either or both)
  - The matter will be discussed in closed session at the next regularly scheduled Board meeting during which the Board can decide to:
    - uphold the original decision
      - Order prepared by DCA Legal Counsel
    - reduce the penalty
      - Order prepared by DCA Legal Counsel

**Commented [WT16]:** An Order Granting Reconsideration is not attached. As there are several orders that may be issued to Respondents, I recommend deleting this Attached order from the Admin Manual.

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**Commented [WT17]:** Moved up the list of steps.

**Commented [WT18]:** Consider changing this provision to allow Board staff to issue/serve a Notice of Deadline for Submission of Written/Oral Argument or additional evidence.

**Commented [WT19]:** If the Board voted to receive oral argument and/or additional evidence, the case must be set for a hearing with the ALJ to receive the oral argument and hear objections by the opposing party to the admission of additional evidence. Thus, this statement is only half true.

**Commented [WT20]:** Only if the case was not remanded to the ALJ and no oral argument or additional evidence is received.

B&P Code section 4887  
and Gov. Code section 11522

- remand the matter back to the ALJ for taking and evaluation of further evidence
- Other options according to Government Code Section 11517

**Commented [WT21]:** GC sec 11521 says either the Board reconsiders the case or it is remanded to the ALJ. The Board does not receive oral argument/additional evidence, then deliberate whether to remand.

**Commented [WT22]:** All options have already been discussed, so this provision is unnecessary; consider deleting.

### Petition for Modification of Penalty or Reinstatement

In petitioning for Modification of Penalty or Reinstatement under B&P Code [sSection 4887](#) and under Government Code [sSection 11522](#), the petitioner has the burden of demonstrating that he or she is fit to safely engage in the practice of veterinary medicine within the scope of current law and accepted standards of practice.

A Petition for Modification of Penalty or Reinstatement may be filed [4one](#) year or more from the effective date of the disciplinary decision. However, in accordance with B&P Code section 4887, the Board may deny without a hearing or argument any petition filed within a period of two years from the effective date of the prior decision following a hearing.

The process for filing of a Petition for Modification of Penalty or Reinstatement is as follows:

- Petitioner files the Petition accompanied by all supporting documentation.
- The matter is referred to the Division of Investigation for investigation (Petition for Reinstatement).
- The Petition and investigation report are referred to the Office of the Attorney General for assignment to a Deputy Attorney General.
- The matter is set for hearing before the Board in open session at the next regularly scheduled
- Board meeting.
- The hearing takes place in open session before the Board and an Administrative Law Judge.
- The Board considers and decides the matter in closed session.
- The Decision and Order is prepared by the Administrative Law Judge.
- The Decision and Order is forwarded to DCA Legal Counsel [for review](#).
- DCA Legal Counsel forwards the Decision and Order to the Board for review and confirmation that the document accurately represents the Board's Decision.
- The Decision and Order is served on Respondent via regular and certified mail.

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When ~~the~~ Board considers reinstating the license or registration or modifying a penalty, it may impose terms and conditions as it determines necessary. To reinstate a revoked license or registration or to otherwise reduce a penalty or

**Commented [WT23]:** This 5-member vote requirement is in BPC 4887(c) and should be noted in the Admin Manual so it's clear this is a statutory requirement.



[modify probation shall require a vote of five \(5\) of the Board members.](#)

**CHAPTER 10****Continuing Education (CE)**

Board policy

**CE Course Evaluation/Waiver Requests**

Board and/or committee members may assist staff in evaluating the information provided for CE courses and for a waiver request for purposes of possible denial of license or disciplinary action.

Board members who assist staff in reviewing CE information may need to recuse from voting on any case they reviewed that results in discipline. The information in waiver requests is confidential and care must be taken to return all documentation to the Board office.

**CHAPTER 11****Abbreviations and Acronyms****Agencies**

VMB	Veterinary Medical Board
MDC	Veterinary Medicine Multidisciplinary Advisory Committee
DCA	Department of Consumer Affairs
OAH	Office of Administrative Hearings
OAL	Office of Administrative Law
OPES	DCA Office of Professional Examination Resources

**Codes**

B&P Code	Business and Professions Code
CAC	California Administrative Code
CCR	California Code of Regulations
Gov. Code	Government Code

**Organizations**

AAVSB	American Association of Veterinary State Boards
AVMA	American Veterinary Medical Association
CVMA	California Veterinary Medical Association
CPIL	Center for Public Interest Law
ICVA	International Council for Veterinary Assessment
RACE	Registry of Accredited Continuing Education
VIVA	Veterinary Information Verifying Agency

**CHAPTER 12****Conclusion**

The Board and Committee Member Administrative Procedure Manual serves as a reference for important laws, regulations, DCA policies and Board policies. Its function is to guide the actions of the Board members and ensure Board effectiveness, efficiency, and consistency. Although reviewed by legal counsel, it is not a legal opinion.

**CHAPTER 13****References**

Many of the procedures in this manual are specific to the Board. Others are generic for all boards and bureaus within DCA consistent with State law. References for additional information are:

Board Member Orientation and Reference Manual, DCA

Veterinary Medicine Practice Act, B&P Code sections 4800-4917, and CCR sections 2000-2082. Gov. Code sections 1750, 11120 et seq., 11340 et seq., and 11146 et seq.

**Attachments**

1. Order Granting 10-day Stay of Execution
2. Order Fixing Date for Submission of Written Argument

**Commented [WT24]:** Consider deleting.

Attachment 1

**BEFORE THE  
VETERINARY MEDICAL BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation against:

Case No. AV 1234 56

JOE VETERINARIAN, D.V.M.  
1234 Main Street  
Anytown, CA 12345

OAH No. 0123456789

Veterinary License No. VET 1234

Respondent.

**ORDER GRANTING 10-DAY STAY OF EXECUTION**

On November 1, 2017, the Veterinary Medical Board (Board) issued its Decision and Order in the above entitled matter. On November 27, 2017, Respondent filed a petition for reconsideration. The effective date of the Decision and Order is December 1, 2017.

Pursuant to 11521(a) of the Government Code, the Board hereby GRANTS a stay of execution of the effective date of the Decision and Order in the above-stated case for ten (10) days, solely for the purpose of considering the motion.

IT IS SO ORDERED this 28th day of November, 2017.

\_\_\_\_\_  
NAME, Executive Officer  
Veterinary Medical Board  
Department of Consumer Affairs

Attachment 2

**BEFORE THE  
VETERINARY MEDICAL BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation against:

Case No. AV 1234 56

JOE VETERINARIAN, D.V.M.  
1234 Main Street  
Anytown, CA 12345

OAH No. 0123456789

Veterinary License No. VET 1234

Respondent.

**ORDER FIXING DATE FOR SUBMISSION OF WRITTEN ARGUMENT**

The transcript of the hearing in the above-entitled matter having now become available, the parties are hereby notified, in accordance with the Order Granting Reconsideration in this matter and Section 11521 of the Government Code, that any written argument they may wish to submit pursuant to this Order shall be filed with the Veterinary Medical Board, 1747 N. Market Blvd., Suite 230, Sacramento, CA 95834, and shall be served upon all parties on or before November 1, 2014 at 5:00 p.m.

The Board will decide the case upon the administrative record, including the transcript of the hearing held on May 12-16, 2014, and upon such written argument as the parties may wish to submit. No evidence outside of the administrative record will be permitted.

A copy of the transcript is available upon request and upon payment of fees covering direct copying costs.

IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
FOR THE VETERINARY MEDICAL BOARD  
Department of Consumer Affairs