



MEMORANDUM

REVISED

DATE	May 14, 2020
TO	Veterinary Medical Board (Board)
FROM	Jeff Pollard, DVM, Chair, Multidisciplinary Advisory Committee (MDC) Kristi Pawlowski, RVT, Vice Chair, MDC, and Member, MDC Corporate Practice Subcommittee (Subcommittee)
SUBJECT	Agenda Item 6. Review, Discussion, and Possible Action on Multidisciplinary Advisory Committee Recommendation to Adopt Legislative Proposal Regarding Premises Registration and Corporate Practice of Veterinary Medicine

Background

At its February 2018 meeting, the Board was introduced to discussion of the corporate practice of veterinary medicine and whether a general corporation could own or operate a veterinary medical practice or influence the standards of veterinary medicine practice. The Board’s legal counsel submitted a [legal opinion](#) for the Board’s consideration with legislative and regulatory proposals attached. Due to time constraints at that meeting, the Board was unable to take up the matter for deliberation. An announcement was made stating public comment would be accepted at an upcoming meeting, regarding the matter when the issue would be addressed next.

At its November 15, 2018 meeting, the Board was briefed by legal counsel on the corporate practice issues, the Board deliberated the concerns raised in the legal opinion and the legislative and regulatory solutions presented, and adopted a motion to submit to the Legislature the proposed language drafted by legal counsel. Corporate stakeholders were invited to participate at the November 2018 meeting but failed to do so.

At the January 23, 2019 meeting, during discussion of Board-related legislative items to be included in the Senate Business, Professions and Economic Development Committee’s omnibus bill, a representative for the Animal Policy Group (APG), appealed to the Board to pull the corporate practice legislation back for additional task force review and discussion. The Board adopted a motion to pull back the corporate practice recommendation and refer the matter to the MDC for guidance, instruction, research, and stakeholder meetings. APG’s representative guaranteed full participation from his representatives, citing the reason for not participating in earlier meetings as the corporations did not feel they should have to volunteer information.

On March 21, 2019, APG, whose clients include MARS and Zoetis, provided a letter stating the proposed administrative rules to clarify and restrict corporate practices in California were unnecessary based upon current protections in the Veterinary Medicine Practice Act (Practice Act). In summary, the letter asserted the concerns raised in the February 2018 legal opinion as being speculative with no evidence.

At the MDC's April 16, 2019 meeting, the Subcommittee presented [survey results](#) from over 500 individuals regarding their experience with corporate practice. The survey results indicated that corporate practice of veterinary medicine is a concern warranting further investigation. After hearing concerns raised by the public regarding the survey's validity, the MDC decided to leave the survey open and reach out to licensees for additional responses. During the April 16, 2019 meeting, the MDC clearly defined the distinction between private practice ownership and corporate ownership models and discussed the goal of the proposed legislation and regulations to draw a clear line to stop the corporate owner from interfering with the practice of veterinary medicine.

On June 13, 2019, APG provided a [letter](#) regarding their concerns with the Board's previously approved legislative and regulatory proposals. In short, APG believed the proposals "are unnecessary, duplicative and will result in confusion in the practice of veterinary medicine."

The Subcommittee spent several months researching this complex issue. This included researching other state laws, reaching out to college faculty and students, reading several [articles](#), repeatedly reviewing meetings and stakeholder concerns, and discussing the corporate structure with individuals who are currently working or have worked in a corporate setting.

In addition, the Board's Executive Officer, on behalf of the Subcommittee, emailed several individuals who previously indicated they were interested in sharing additional information with the Subcommittee. Many did not respond, and some responded expressing concerns about coming forward and inquired about "protections" the Board could provide. To encourage individuals to share their experiences without fear of retaliation, the Subcommittee arranged for individuals to telephonically participate in the October 8, 2019 MDC discussion. Concerns raised at the October 8, 2019 meeting are discussed further below.

At the MDC's January 29, 2020 meeting, the Subcommittee presented a revised proposal taking into account stakeholder comments. The MDC heard additional stakeholder comments on the revised proposal and made additional revisions. Having reached consensus with stakeholders, the MDC approved the revised proposal, described further below, for recommendation to the Board.

Comments Discussed Regarding Corporate Practice Proposal

During the October 8, 2019 meeting, the MDC continued its consideration of issues surrounding the corporate practice of veterinary medicine, with a focus on the issue of whether there is a need to promulgate legislation and regulations to address corporate practice problems. The MDC received public comment from four veterinary medicine practitioners and two veterinary students, who expressed the following concerns with corporate practice of veterinary medicine:

1. Corporations that own or operate animal shelters may be asserting control over the provision of veterinary medicine services where the managing licensee (MGL) may lack the ability to control the practice.

2. One corporation restricted the practitioner's ability to use some laboratory services. The corporate owner unfairly and unnecessarily dictated what veterinarians do on annual basis. One practitioner was forbidden and reprimanded when she sent lab samples to other, more qualified companies.
3. Many individuals would not participate in the MDC meeting in fear of retaliation.
4. Corporations are telling veterinarians how to do things, such as vehemently pushing care club products and requiring standard annual radiographs not otherwise indicated as necessary.
5. Corporate owners are incentivizing untrained secretarial staff to push the corporations' animal care products.
6. Corporations have prepaid pain management programs that provide insufficient pain management to spay/neuter patients; either the veterinarian has to give inadequate pain meds or charge more for additional pain medications that infuriates the clients. In some of these instances, the patient records are not reflecting the actual pain medications dispensed so the client is not charged for the medications.
7. Corporate owners are preventing drug and equipment purchases from better vendors.
8. In some regions, corporations own 50% of the hospitals, are influencing the practice of veterinary medicine, and are pervasive enough to make it difficult for veterinarians to find other jobs. Others are terminated for refusing to comply with corporate policy which goes against their medical judgment.
9. Veterinarians have reported being concerned about having to practice within standards required by the non-veterinarian owner that do not meet the minimum standards set by the Practice Act.
10. MGLs are responsible for ensuring the practice complies with the minimum standards of the Practice Act. When a non-veterinarian owns a practice and influences the practice and premises standards, the named MGL may be disciplined if the owner's standards do not comply with the Practice Act.
11. Large corporate practices are rapidly changing the practice and creating a different practice culture. Because of the large market share held by the corporations, students have to go into these practices to meet the required training.
12. Corporations are setting metrics and benchmarks that veterinarians have to meet; consumers should be concerned about these benchmarks and corporate care that may undermine the value of veterinary care and the veterinarian-client-patient relationship.
13. Veterinary students are worried about their professional autonomy in a corporate veterinary setting and being able to make good decisions for animal patients.
14. There is no problem with corporations owning veterinary premises, but there is a concern with the corporate influence on veterinary practice.
15. There is a disproportionate misuse of students who are supposed to be receiving education training but, instead, the corporate premises owners are manipulating how these students will practice in the future.
16. There is a misperception that students do not want to engage in running their own veterinary practice; students want options in the marketplace and do not want to go into veterinary medicine with limited options with only corporate owners.
17. Veterinary students fear veterinary medicine becoming like human medicine with the loss of autonomy and confusing and compartmentalized health care system. These students want to be able to provide the best medical care and decisions for animal care. They want to be able to control what they practice and within their best medical judgment.

18. Veterinary students expressed an interest in outcomes of extremely strict regulations prohibiting dictation of veterinary practice whether in private or corporation settings.

The Subcommittee presented arguments in support of moving the legislative proposal forward, the need to address management service organizations that are already being used in other states, and invited suggestions to improve the proposal or find alternatives to address the concerns raised and prevent commercial motives being asserted over individual licensees and their professional judgment.

CVMA provided public comment requesting clarification of ownership of veterinary hospitals in California. As currently written, the Practice Act is silent, often causing confusion. CVMA asked for guidance for, and clarification of this law providing for non-veterinarian ownership without removing this provision. The Subcommittee agrees with this recommendation.

Bonnie Lutz provided public comment and clarified she does not represent any corporate practice with her statements. Ms. Lutz discussed several concerns with the legislative and regulatory language, and provided the following suggestions to tighten up the language to promote clear and effective enforcement:

1. Proposed Business and Professions Code (BPC) section 4853(d) should instead be added to BPC section 4826, which defines the practice of veterinary medicine, and include that the list of activities provided in section 4826 cannot be rendered or provided by a corporation.
2. Clarify BPC section 4910 et seq. that California is not a professional corporation state.
3. BPC section 4910.1 add "other than veterinary corporations" after "legal entities".
4. BPC section 4910.2 change "licensed veterinarians" to use exact language authorized in Corporations Code section 13401.
5. BPC section 4918(b) should be revised to change "veterinary clinic or hospital" to be nonprofessional corporation.
6. Consider clarifying the information sought in BPC section 4918(c).
7. Consider clarifying the definition of management services organizations (MSOs) in BPC section 4919(b) in case the Board does not want to include a non-licensed office manager or Certified Veterinary Practice Manager who manages several locations in this definition.
8. Clarify proposed California Code of Regulations (CCR), section 2090, subsection (b) to define "altering" and individuals included under MSOs in subsection (d).
9. CCR section 2091(a)(9) should be made more specific in terms of what standards a corporation is prohibited from mandating compliance.
10. CCR section 2091(b), use same language as in BPC section 4912 and consider applying the provision to all corporations, not just non-veterinarian entities.

Ms. Lutz noted that only Texas regulates MSOs, asserted that states are moving away from regulating MSOs, and if the Board moves forward with these regulations, they should be tightened up. Ms. Lutz applauded the MDC for tackling corporate practice issues.

The MDC members requested revisions to the legislative proposal to apply it to solo practitioners and shelters to prohibit influence of a licensee over other licensees, as well as tightening up the premises registration statutes to tie unlicensed practice to the premises registrant.

Opposition to Corporate Practice Proposal

At the October 8, 2019 meeting, the APG representative was once again the only opposition present before the MDC or the Board. APG advised the MDC that it has not learned much from their process and has not produced the quality and quantity of real world evidence necessary to support the legislative proposal. APG argued that if the MDC approved the corporate practice proposal as drafted and the Board submitted that proposal to the Legislature, that proposal would launch a legislative committee hearing process the Board would greatly regret a year from now. APG warned the MDC will look back at the firestorm and the nature of the legislative proposal and wish it had done a better job crafting it.

APG asserted addressing corporate practice can be done so much cleaner, efficiently, and less argumentatively without creating the amount of trapdoors that are in the proposal that will lead to the type of legislative testimony and issues that they believe will not reflect well on the profession or advance the public cause. Later during the hearing, APG argued the existing Practice Act authorizes the Board to oversee corporate practice interference, so no changes are needed.

APG argued the proposal is an ideological driven initiative to correct fears about possible corporate misconduct in the veterinary profession. APG also alleged the students presented an ideological view of the profession. APG alleged the licensee fear expressed in the public comment of never being hired again happens in all industries and is usually overstated. If the current proposal is submitted to the Legislature, APG warned there will be a “free for all” in front of the legislative committees “once we get rolling,” which APG asserted would be unnecessary under current provisions of the Practice Act.

APG acknowledged that two members of the public testified about their negative experience with VCA.

Other than the letter penned by Ms. Lutz on APG’s behalf, APG has not provided any specific requests to resolve APG’s concerns with the proposal or the corporate practice concerns raised in the survey results and practitioner testimony received at the last MDC meeting. When pressed for solutions and recommendations, APG’s representative stated his first recommendation would be to do nothing, understanding this was not a possibility. Secondly, he would accept restrictions across the board, including shelters, private practices, and corporations, without discrimination. Another acceptable solution would be to make the regulations crystal clear by stating no corporation of any sort may practice veterinary medicine in the state of California as it can only be done by individuals (referencing the statute).

January 29, 2020 Subcommittee Recommendation

At the MDC’s January 29, 2020 meeting, the Subcommittee presented a revised proposal to address stakeholder and MDC member concerns as follows:

- Incorporate the Board’s Sunset proposals to clarify premises owner and MGL premises registration application requirements (see BPC §§ 4853(a)-(d); 4853.6; 4883(s)).
- Clarify the type of business entity that owns the premises to determine compliance with statutory requirements (e.g., professional corporation statutes) (see BPC § 4853(c)).
- Prohibit a premises registration holder not otherwise licensed as a veterinarian from practicing or influencing or exerting control over the provision of veterinary services (see BPC § 4853.6(a)(3)).

- Add a new section to prohibit a premises registration holder from interfering with, controlling, or directing the professional judgment of a licensee, registrant, permit holder, or veterinary assistant and authorizing the Board to request information, including employment contracts, to enforce this provision. (see new BPC § 4854.1). This provision previously was included in proposed BPC section 4919 (deleted).
- Prohibit a veterinarian from exercising control over, interfering with, or attempting to influence the professional judgment of another licensee, registrant, permit holder, or veterinary assistant through coercion, extortion, inducement, collusion, intimidation, or compensation (see BPC § 4883(t)).
- Clarify corporation and other artificial legal entities other than professional corporations have no professional rights, privileges, or powers (see BPC § 4910.1).
- Strike confusing and/or redundant corporate practice provisions from proposal (deleted §§ 4910.2-4919).
- Strike MSO regulatory proposal pending new legislation to address corporate practice. If the Board determines after enactment of legislative solutions that additional regulation of corporate practice and MSOs are needed, the Board could review the MSO proposal at that time.

Some of the requested stakeholder revisions would not work well in the context of the statutory framework (e.g., moving proposed subdivision (d) of BPC section 4853 (premises registration requirements) to BPC section 4826 (the definition of the practice of veterinary medicine, surgery, and dentistry, etc.) and were not included in the revised proposal.

Following discussion and at the request of stakeholders, the MDC revised the proposal to:

- Clarify the information to be provided in the premises registration application by veterinary corporations and non-veterinary corporations.
- Make conforming revisions to references of a “California licensed veterinarian” for consistency throughout the proposal.
- Clarify the scope of practice of veterinary medicine to conform the provisions to those used under BPC section 4826.

With these revisions, the MDC reached a consensus with all stakeholders present at the meeting, including APG, and approved the legislative proposal for submission to the Board.

Additional Revisions

Since the MDC’s approval of the legislative proposal, the Board’s legal counsel has requested the following additional revisions:

- In BPC section 4853, subdivision (e), provide for all legal entities (e.g., partnerships, limited liability companies), other than a professional corporation, that may own or operate a veterinary premises by adding “or other artificial legal entity” in the first line and striking “corporate” before “officers” who must be identified in the premises registration application and reported to the Board.
- Add the following to BPC section 4853.6:

- In subdivision (a), remove and replace “withhold” with “deny” to clarify the Board’s ability to deny a premises registration in accordance with the use of that term under the Practice Act.
- In subdivision (b), clarify the Board shall not renew the premises registration if there is no licensee manager associated with the premises; this provision is intended to replace the existing term “withhold” under subdivision (a).
- Create new subdivision (c) to authorize the Board to deny, suspend, or revoke a veterinary premises registration for unlicensed practice of veterinary medicine by the premises registration holder. The legislative proposal clarifies the roles of the premises registration holder, the premises registration applicant, and the licensee manager. Accordingly, the Practice Act should provide for premises registration denial, revocation, or suspension when the premises registration holder, who may be an unlicensed individual or a former licensee whose license has been revoked, is practicing veterinary medicine at the premises without a Board license.

Action Requested:

The MDC requests the Board approve and recommend to the Legislature for enactment the attached Proposed Legislation Regarding Premises Registration and Corporate Practice of Veterinary Medicine. As the proposed statutory amendments and additions will greatly assist the Board staff in processing complaints against veterinary premises and to better protect consumers, the MDC recommends the inclusion of this proposal in the Board’s Sunset legislation.

Attachments:

1. Final Legislative Proposal
2. Redline of Revisions Made to Legislative and Regulatory Proposal

Veterinary Medical Board
Proposed Legislation Regarding
Premises Registration and Corporate Practice of Veterinary Medicine

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

Amend Sections 4853 and 4853.6 of Article 3, Section 4883 of Article 4, and add Section 4854.1 of Article 3 of Chapter 11 of Division 2 of the Business and Professions Code as follows:

Article 3. Issuance of Licenses.

4853. (a) All veterinary 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 mean the location of operation where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof is being practiced and 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) The owner(s) or operator(s) of a veterinary premises shall submit a premises registration application to the board. The ~~Every~~ application for registration of veterinary premises shall set forth in the application the name of each owner or operator of the premises, including the type of corporate entity, if applicable, the name of the premises, 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) If the owner or operator is a veterinary corporation pursuant to Article 6 (commencing with Section 4910) of this chapter, the application shall set forth the names and titles of each officer, director, or shareholder. Any changes in the officers, directors, or shareholders shall be reported to the Board within 30 days.

(e) If the owner or operator is a corporation or other artificial legal entity other than a veterinary corporation as provided under subdivision (d), the application shall set forth

the names and titles of all owners, officers, general partners, if any, and the agent for service of process. Any changes in the owners, officers, general partners, or agent for service of process shall be reported to the Board within 30 days.

(f) The premises registration is non-transferrable. In the event of change of an owner or operator of the premises, the premises registration holder shall notify the Board of the change of ownership or operator within thirty (30) days after any such change.

(g) This section does not authorize any person, corporation, or artificial legal entity, other than a California licensed veterinarian 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 veterinary services, diagnosis, or treatment within the scope of California veterinarian licensure under this chapter. This section does not authorize any person, other than a California licensed veterinarian within the scope of his or her license, to engage directly or indirectly in the practice of veterinary medicine, veterinary surgery, veterinary dentistry, and the various branches thereof in accordance with Section 4826. This section does not regulate, govern, or affect in any manner the practice of veterinary medicine, veterinary surgery, or veterinary dentistry by any person duly licensed to engage in such practice.

4853.6. (a) The board shall ~~withhold~~ deny, suspend or revoke registration of the veterinary premises when:

(1a) ~~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.

(2b) ~~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.

(3) Unless licensed pursuant to Section 4825, the premises registration holder has practiced or influenced or exerted control over the provision of veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof.

(b) The board shall not renew the premises registration if there is no licensee manager associated with the premises.

(c) The board may deny, suspend or revoke registration of the veterinary premises for unlicensed practice of veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof by the premises registration holder.

4854.1. A premises registration holder who is not a California licensed veterinarian pursuant to Section 4825 shall not interfere with, control, or otherwise direct the

professional judgment of any California licensed veterinarian or registered veterinary technician. The board may require any information, including, but not limited to, employment contracts between the premises registration holder and a California licensed veterinarian or registered veterinary technician, the board deems is reasonably necessary for the enforcement of this section.

Article 4. Revocation and Suspension

4883. The board may deny, revoke, or suspend a license or registration or assess a fine as provided in Section 4875 for any of the following:

(a) Conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, surgery, or dentistry, in which case the record of the conviction shall be conclusive evidence.

(b) For having professional connection with, or lending the licensee's or registrant's name to, any illegal practitioner of veterinary medicine and the various branches thereof.

(c) Violation or attempting to violate, directly or indirectly, any of the provisions of this chapter.

(d) Fraud or dishonesty in applying, treating, or reporting on tuberculin or other biological tests.

(e) Employment of anyone but a veterinarian licensed in the state to demonstrate the use of biologics in the treatment of animals.

(f) False or misleading advertising.

(g) Unprofessional conduct, that includes, but is not limited to, the following:

(1) Conviction of a charge of violating any federal statutes or rules or any statute or rule of this state regulating dangerous drugs or controlled substances. The record of the conviction is conclusive evidence thereof. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order the license or registration to be suspended or revoked, or assess a fine, or decline to issue a license or registration, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4, 1210.1, or 3063.1 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(2)(A) The use of or prescribing for or administering to himself or herself, any controlled substance.

(B) The use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages to the extent, or in any manner as to be dangerous or injurious to a person licensed or registered under this chapter, or to any other person or to the public, or to

the extent that the use impairs the ability of the person so licensed or registered to conduct with safety the practice authorized by the license or registration.

(C) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section or any combination thereof, and the record of the conviction is conclusive evidence.

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order the license or registration to be suspended or revoked or assess a fine, or may decline to issue a license or registration, when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under Section 1203.4, 1210.1, or 3063.1 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(3) A violation of any federal statute, rule, or regulation or any of the statutes, rules, or regulations of this state regulating dangerous drugs or controlled substances.

(h) Failure to keep the licensee's or registrant's premises and all equipment therein in a clean and sanitary condition.

(i) Fraud, deception, negligence, or incompetence in the practice of veterinary medicine.

(j) Aiding or abetting in any acts that are in violation of any of the provisions of this chapter.

(k) The employment of fraud, misrepresentation, or deception in obtaining the license or registration.

(l) The revocation, suspension, or other discipline by another state or territory of a license, certificate, or registration to practice veterinary medicine or as a veterinary technician in that state or territory.

(m) Cruelty to animals, conviction on a charge of cruelty to animals, or both.

(n) Disciplinary action taken by any public agency in any state or territory for any act substantially related to the practice of veterinary medicine or the practice of a veterinary technician.

(o) Violation, or the assisting or abetting violation, of any regulations adopted by the board pursuant to this chapter.

(p) Accepting, soliciting, or offering any form of remuneration from or to a cannabis licensee if the veterinarian or his or her immediate family have a financial interest with the cannabis licensee. For purposes of this subdivision, the following definitions shall apply:

(1) "Cannabis licensee" shall have the same meaning as "licensee" in Section 26001.

(2) "Financial interest" shall have the same meaning as in Section 650.01.

(q) Discussing medicinal cannabis with a client while the veterinarian is employed by, or has an agreement with, a cannabis licensee. For purposes of this subdivision, “cannabis licensee” shall have the same meaning as “licensee” in Section 26001.

(r) Distributing any form of advertising for cannabis in California.

(s) Making any statement, claim, or advertisement that the licensee or registrant is a veterinary specialist or “board-certified” unless the licensee or registrant is certified by an American Veterinary Medical Association Recognized Veterinary Specialty Organization.

(t) Exercising control over, interfering with, or attempting to influence the professional judgment of another California licensed veterinarian or registered veterinary technician through coercion, extortion, inducement, collusion, intimidation through any means, including, but not limited to, compensation.

Veterinary Medical Board
Proposed Legislation and Regulation Regarding
Corporate Practice of Veterinary Medicine

REDLINE

Text in black single underline and ~~single strikethrough~~ are revisions made by the Board in the 2019 Sunset Review Report

Text in red single underline and ~~single strikethrough~~ are revisions proposed with the February 2, 2018 Memorandum to the Board

Text in blue single underline and ~~single strikethrough~~ are revisions to address MDC requests at the October 8, 2019 meeting

Text in purple single underline and ~~single strikethrough~~ are revisions made at the MDC's January 29, 2020 meeting

Text in orange single underline and ~~single strikethrough~~ are revisions made after the MDC's January 29, 2020 meeting

Statutory Proposals:

Amend Sections 4853, and 4853.6 and 4854.1 of Article 3, Section 4883 of Article 4, and add Section 4854.1 of Article 3 ~~add Sections 4910.1, 4910.2, 4918, 4919 to Article 6~~ of Chapter 11 of Division 2 of the Business and Professions Code as follows:

Article 3. Issuance of Licenses.

4853. (a) All veterinary 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 mean the location of operation where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof is being practiced and 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) The owner(s) or operator(s) of a veterinary premises shall submit a premises registration application to the board. TheEvery application for registration of veterinary premises shall set forth in the application the name of each owner or operator of the premises, including, if applicable, the type of corporate entity, if applicable, the names of

~~all officers, partners, directors, shareholders, or members,~~ the name of the premises, 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) If the owner or operator is a veterinary corporation pursuant to Article 6 (commencing with Section 4910) of this Chapter, the application shall set forth the names and titles of each officer, director, or shareholder. Any changes in the officers, directors, or shareholders shall be reported to the Board within 30 days.~~

~~(e) If the owner or operator is a corporation or other artificial legal entity other than a veterinary corporation as provided under subdivision (d), the application shall set forth the names and titles of all owners, corporate officers, general partners, if any, and the agent for service of process. Any changes in the owners, corporate officers, general partners, or agent for service of process shall be reported to the Board within 30 days.~~

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

~~(g)(e) This section does not authorize any person, corporation, or artificial legal entity, other than a licensed practitioner of veterinary medicine—California licensed veterinarian 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, veterinary services, diagnosis, or treatment within the scope of California veterinarian licensure under this chapter. This section does not authorize any person, other than a California licensed veterinarian within the scope of his or her license, to engage directly or indirectly in the practice of veterinary medicine, veterinary surgery, and veterinary dentistry, and the various branches thereof in accordance with Section 4826. This section does not regulate, govern, or affect in any manner the practice of veterinary medicine, veterinary surgery, or veterinary dentistry by any person duly licensed to engage in such practice.~~

4853.6. (a) The board shall ~~withhold~~deny, suspend or revoke registration of ~~the~~ veterinary premises ~~when~~:

~~(1a) 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.

~~(2b) 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.

(3) Unless licensed pursuant to Section 4825, the premises registration holder has practiced or influenced or exerted control over the provision of veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof.

(b) The board shall not renew the premises registration if ~~it is in violation of subdivision (a) there is no licensee manager associated with the premises.~~

(c) The board may deny, suspend or revoke registration of the veterinary premises for unlicensed practice of veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof by the premises registration holder.

~~4854.1. Unless licensed pursuant to Section 4825 or a veterinary corporation pursuant to Section 4910, a~~ premises registration holder who is not a California licensed veterinarian pursuant to Section 4825 shall not interfere with, control, or otherwise direct the professional judgment of any California licensed veterinarian, ~~or registered veterinary technician, veterinary assistant controlled substance permit holder, or veterinary assistant.~~ The board may require any information, including, but not limited to, employment contracts between the premises registration holder and a California licensed veterinarian, ~~or registered veterinary technician, veterinary assistant controlled substance permit holder, or veterinary assistant,~~ the board deems is reasonably necessary for the enforcement of this section.

Article 4. Revocation and Suspension

4883. The board may deny, revoke, or suspend a license or registration or assess a fine as provided in Section 4875 for any of the following:

(a) Conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, surgery, or dentistry, in which case the record of the conviction shall be conclusive evidence.

(b) For having professional connection with, or lending the licensee's or registrant's name to, any illegal practitioner of veterinary medicine and the various branches thereof.

(c) Violation or attempting to violate, directly or indirectly, any of the provisions of this chapter.

(d) Fraud or dishonesty in applying, treating, or reporting on tuberculin or other biological tests.

(e) Employment of anyone but a veterinarian licensed in the state to demonstrate the use of biologics in the treatment of animals.

(f) False or misleading advertising.

(g) Unprofessional conduct, that includes, but is not limited to, the following:

(1) Conviction of a charge of violating any federal statutes or rules or any statute or rule of this state regulating dangerous drugs or controlled substances. The record of the conviction is conclusive evidence thereof. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order the license or registration to be suspended or revoked, or assess a fine, or decline to issue a license or registration, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4, 1210.1, or 3063.1 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(2) (A) The use of or prescribing for or administering to himself or herself, any controlled substance.

(B) The use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages to the extent, or in any manner as to be dangerous or injurious to a person licensed or registered under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person so licensed or registered to conduct with safety the practice authorized by the license or registration.

(C) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section or any combination thereof, and the record of the conviction is conclusive evidence.

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order the license or registration to be suspended or revoked or assess a fine, or may decline to issue a license or registration, when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under Section 1203.4, 1210.1, or 3063.1 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(3) A violation of any federal statute, rule, or regulation or any of the statutes, rules, or regulations of this state regulating dangerous drugs or controlled substances.

(h) Failure to keep the licensee's or registrant's premises and all equipment therein in a clean and sanitary condition.

(i) Fraud, deception, negligence, or incompetence in the practice of veterinary medicine.

(j) Aiding or abetting in any acts that are in violation of any of the provisions of this chapter.

(k) The employment of fraud, misrepresentation, or deception in obtaining the license or registration.

- (l) The revocation, suspension, or other discipline by another state or territory of a license, certificate, or registration to practice veterinary medicine or as a veterinary technician in that state or territory.
- (m) Cruelty to animals, conviction on a charge of cruelty to animals, or both.
- (n) Disciplinary action taken by any public agency in any state or territory for any act substantially related to the practice of veterinary medicine or the practice of a veterinary technician.
- (o) Violation, or the assisting or abetting violation, of any regulations adopted by the board pursuant to this chapter.
- (p) Accepting, soliciting, or offering any form of remuneration from or to a cannabis licensee if the veterinarian or his or her immediate family have a financial interest with the cannabis licensee. For purposes of this subdivision, the following definitions shall apply:
 - (1) "Cannabis licensee" shall have the same meaning as "licensee" in Section 26001.
 - (2) "Financial interest" shall have the same meaning as in Section 650.01.
- (q) Discussing medicinal cannabis with a client while the veterinarian is employed by, or has an agreement with, a cannabis licensee. For purposes of this subdivision, "cannabis licensee" shall have the same meaning as "licensee" in Section 26001.
- (r) Distributing any form of advertising for cannabis in California.
- (s) Making any statement, claim, or advertisement that the licensee or registrant is a veterinary specialist or "board-certified" unless the licensee or registrant is certified by an American Veterinary Medical Association Recognized Veterinary Specialty Organization.
- (t) Exercising control over, interfering with, or attempting to influence the professional judgment of another licensee, registrant, or permit holder California licensed veterinarian or registered veterinary technician through coercion, extortion, inducement, collusion, intimidation, or through any means, including, but not limited to, compensation.

Article 6. Veterinary Corporations

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

(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.

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.

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

Proposed Regulations:

California Code of Regulations, Title 16, Division 20

Article 12. Management Services Organizations in Veterinary Practice

2090. Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(a) "Control" means the ability to order or dictate the delivery or the manner of delivery of any services or tasks. Consulting with another person regarding a service or task, or assisting in the performance of a service or task, does not constitute control.

(b) "Intervene" means directly altering the practice of veterinary medicine. Recommending or providing a service or supply or performing management services under this section does not constitute intervention.

(c) "Management services" means those services and activities relating to the operation of a veterinary practice exclusive of the practice of veterinary medicine.

(d) "Management services organization" means a person or entity that provides management services.

(e) "Veterinary medical personnel" means persons under the direct or indirect supervision of a veterinarian who perform duties directly related to the practice of veterinary medicine.

Note: Authority cited: Sections 4808, Business and Professions Code. Reference: Section 4919, Business and Professions Code;

2091. Prohibited Practices:

(a) A management services organization shall not control or intervene in a veterinarian's practice of veterinary medicine. Prohibited activities by a management services organization, whether or not authorized by contract, include but are not limited to:

(1) employing a veterinarian to practice veterinary medicine;

(2) determining the compensation of a veterinarian for the practice of veterinary medicine;

(3) controlling or intervening in a veterinarian's diagnosis, treatment, correction, change, manipulation, relief, or prevention of animal disease, deformity, defect, injury or other physical condition, including the prescription or administration of a drug, biologic, anesthetic, apparatus, or other therapeutic or diagnostic substance or technique;

(4) controlling or intervening in a veterinarian's selection or use of type or quality of medical supplies and pharmaceuticals to be used in the practice of veterinary medicine;

(5) determining the amount of time a veterinarian may spend with a patient;

(6) owning drugs, unless the drugs are owned in compliance with applicable state or federal law;

(7) owning and controlling the records of patients of the veterinarian;

(8) determining the fees to be charged by the veterinarian for the veterinarian's practice of veterinary medicine;

~~(9) mandating compliance with specific professional standards, protocols, or practice guidelines relating to the practice of veterinary medicine;~~

~~(10) placing limitations or conditions upon communications that are clinical in nature with the veterinarian's clients;~~

~~(11) requiring a veterinarian to make referrals in violation of section 650 of the code; or~~

~~(12) penalizing a veterinarian for reporting violations of a law regulating the practice of veterinary medicine.~~

~~(b) Veterinarians, and entities in which veterinarians are the sole owner, shareholders, or partners, are not prohibited from performing the activities set out in subsections (a)(1)-(10) of this section.~~

~~Note: Authority cited: Sections 4808, Business and Professions Code. Reference: Section 4919, Business and Professions Code.~~

~~2092. Permitted Management Services. Permitted activities by a management services organization include, but are not limited, to:~~

~~(a) providing by lease, ownership, or other arrangement:~~

~~(1) the facility used by the veterinarian in the practice of veterinary medicine;~~

~~(2) the medical equipment, instruments, and supplies used by the veterinarian in the practice of veterinary medicine; and~~

~~(3) the business, office, and similar non-medical equipment used by the veterinarian.~~

~~(b) providing for the repair, maintenance, renovation, replacement or otherwise of any facility or equipment used by the veterinarian in the practice of veterinary medicine;~~

~~(c) providing accounting, financial, payroll, bookkeeping, budget, investment, tax compliance, and similar financial services to the veterinarian;~~

~~(d) providing information and information systems and services for the veterinarian so long as any patient records in these systems are clearly owned and freely accessed by the veterinarian;~~

~~(e) providing the services of billing and collection of the veterinarian's fees and charges;~~

~~(f) arranging for the collection or sale of the veterinarian's accounts receivable;~~

~~(g) providing advertising, marketing and public relations services that comply with Section 651 of the code pertaining to the practice of veterinary medicine;~~

~~(h) providing contract negotiation, drafting, and similar services for the veterinarian;~~

~~(i) providing receptionist, scheduling, messaging, and similar coordination services for the veterinarian;~~

~~(j) obtaining all licenses and permits necessary to operate a practice of veterinary medicine that may be obtained by a non-veterinarian, and assisting veterinarians in obtaining licenses and permits necessary to operate a practice of veterinary medicine that may be obtained only by a veterinarian, provided that the executive officer of the board approves the method of payment for veterinary license renewals paid by the management services organization;~~

(k) assisting in the recruiting, continuing education, training, and legal and logistical peer review services for the veterinarian;

(l) providing insurance, purchasing and claims services for the veterinarian, and including the veterinarian and veterinary medical personnel on the same insurance policies and benefit plans as the management services organization;

(m) providing consulting, business and financial planning, and business practice and other advice;

(n) establishing the price to be charged to the veterinary client for the goods and supplies provided or managed by the management services organizations;

(o) employing and controlling persons who:

(1) perform management services;

(2) are veterinarians employed by a management services organization to perform management services but not the practice of veterinary medicine; or

(3) perform management, administrative, clerical, receptionist, secretarial, bookkeeping, accounting, payroll, billing, collection, boarding, cleaning and other functions; or

(p) employing veterinary medical and other personnel, if a veterinarian present at the practice location in charge of veterinary medicine for that practice location at which the veterinary medical and other personnel work has the right to:

(1) control the medically related procedures, duties, and performance of the veterinary medical and other personnel; and

(2) suspend for medically related reasons the veterinary medical and other personnel unless the suspension is contrary to law, regulation or other legal requirements.

Note: Authority cited: Sections 4808, Business and Professions Code. Reference: Section 4919, Business and Professions Code.

2093. Disclosure of Contracts.

(a) A veterinarian or a group of veterinarians that contract with a management services organization shall:

(1) make available for inspection by the board at the main office of the veterinarian or group of veterinarians copies of the contracts with the management services organizations; and

(2) if the board opens an investigation against a veterinarian or a group of veterinarians, make available to the board copies of the contracts with the management services organizations.

(b) Verbal contracts will not be considered evidence of compliance with this section.

(c) Copies of contracts provided to the board pursuant to this section are confidential and not subject to disclosure pursuant to section 6250 et seq. of the Government Code.

Note: Authority cited: Section 4808, Business and Professions Code. Reference: Section 4919, Business and Professions Code.

Article 13. Requirements for Corporations

2095. Disclosure of Corporate Records

(a) Upon request by the board, a veterinary corporation, foreign veterinary corporation, general corporation, foreign corporation, or other legal entity shall make available for inspection or provide copies of the following:

(1) copies of all documents filed with the Secretary of State.

(2) all corporate records, including, but not limited to, ownership agreements between any director, officer, owner, or shareholder.

(3) any employment contract between the corporation or legal entity and a licensee.

(4) all written policies or procedures.

(b) Copies of corporate records provided to the board pursuant to subsection (a)(2) shall be considered corporate financial records and/or corporate proprietary information including trade secrets and are confidential and not subject to disclosure pursuant to section 6250 et seq. of the Government Code.

Note: Authority cited: Sections 4808 and 4916, Business and Professions Code. Reference: Sections 4910, 4912, 4918, and 4919, Business and Professions Code; Section 13401.5, Corporations Code; and Section 6254.15, Government Code.