



# MEMORANDUM

<b>DATE</b>	January 20, 2023
<b>TO</b>	Veterinary Medical Board (Board)
<b>FROM</b>	Jessica Sieferman
<b>SUBJECT</b>	<b>Agenda Item 8. Update, Discussion, and Possible Action on Potential Legislation Regarding Cat Declaw Procedures</b>

## **Background**

During the July 2022 Board meeting, the Board approved a motion to grant the Executive Committee the authority to oppose any potential legislation last legislative session that prohibits veterinarians from performing any cat declawing procedures.

While no legislation has been introduced this legislative session yet, the Board’s Executive Officer has been asked by various legislative staff where the Board currently stands on the issue regarding cat declaw procedures and what, if anything, the Board would be amenable to.

One question frequently asked is what the Board’s position is on the proposed amendments in the April 19, 2019, Assembly Business and Professions’ analysis (Attached). The proposed amendments struck the prohibition of cat declaw procedures and replaced it with an informed consent requirement, as described in more detail on page six of the analysis.

Since the analysis was published after the Board’s April 2022 meeting and the bill died before the Board’s July 2022 meeting, the Board never discussed the proposed amendments.

## **Action Requested**

Please review and discuss the proposed amendments on April 19, 2019, Assembly Business and Professions’ analysis. Any feedback provided during the Board meeting will be shared with any interested stakeholders and/or members of the Legislature.

## **Attachments**

1. April 19, 2019, Assembly Business and Professions’ Analysis

Date of Hearing: April 23, 2019

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 1230 (Quirk) – As Amended April 1, 2019

**SUBJECT:** Veterinary medicine: declawing animals.

**SUMMARY:** Prohibits a veterinarian from performing a declawing on any cat or any other animal except for a therapeutic purpose.

**EXISTING LAW:**

- 1) Establishes the Veterinary Medicine Practice Act for the regulation and oversight of licensed veterinarians by the California Veterinary Medical Board (Board). (Business and Professions Code (BPC) §§ 4800 *et seq.*)
- 2) States that a person practices veterinary medicine whenever they perform a surgical or dental operation upon an animal. (BPC § 4826)
- 3) Prohibits a local government from prohibiting a licensed healing arts professional from engaging in any act or performing any procedure that falls within the professionally recognized scope of practice of that licensee. (BPC § 460)
- 4) Prohibits property managers from refusing to rent real property to an individual who refuses to declaw or devocalize an animal. (Civil Code § 1942.7)
- 5) Prohibits an individual from performing, or arranging for the performance of, surgical claw removal, declawing, onychectomy, or tendonectomy on any cat that is a member of an exotic or native wild cat species, with the exception of procedures performed solely for a therapeutic purpose. (Penal Code § 597.6)

**THIS BILL:**

- 1) Makes various findings and declarations regarding the negative effects of declawing and tendonectomies and recommendations made by various organizations that animals not be declawed except for when there is a therapeutic purpose.
- 2) States that it is the intent of the Legislature to prohibit a person from performing nontherapeutic declawing or related procedures that do not treat a physical medical condition affecting the animal.
- 3) Prohibits any person from performing a declawing on a cat or any other animal unless the person is a licensed veterinarian and is performing the declawing for a therapeutic purpose.
- 4) Requires a veterinarian who performs a declawing as authorized under the bill to record the therapeutic purpose in the animal's medical record.
- 5) Subjects a veterinarian who fails to comply with the bill's provisions to discipline by the Board, which shall make a determination as to whether to revoke the veterinarian's license.

- 6) Defines “declawing” as including an onychectomy, dactylectomy, phalangectomy, partial digital amputation, or any other surgical procedure in which a portion of an animal’s paw is amputated to remove the animal’s claw; a tendonectomy, or surgical procedure in which the tendons of an animal’s limbs, paws, or toes are cut or modified so that the claws cannot be extended; or any other procedure that prevents the normal functioning of an animal’s claws.
- 7) Defines “therapeutic purpose” as the purpose of necessity to address a physical medical condition of the animal such as an existing or recurring illness, infection, disease, injury, or abnormal condition in the animal’s claw that compromises the animal’s health; states that “therapeutic purpose” does not mean cosmetic or aesthetic reasons or reasons of convenience in keeping or handling the animal.

**FISCAL EFFECT:** Unknown; this bill is keyed fiscal by the Legislative Counsel.

**COMMENTS:**

**Purpose.** This bill is sponsored by **the Paw Project**. According to the author:

AB 1230 will end the unnecessary and inhumane surgery, commonly known as declawing, except when medically necessary for an animal. Declawing is the removal of the last toe bones in cat’s paws from which the claw grows. The surgery is well-recognized to have no benefit to the animal but may be performed to stop unwanted scratching. There are many safe and effective alternatives to declawing such as providing scratching posts and trimming a cats nails or applying soft synthetic caps over a cat’s nails. Scratching is a natural cat behavior and studies have shown that declawed cats are more likely to bite, avoid the litterbox, and experience pain.

**Background.**

Speaking generally, “declawing” refers to a procedure intended to prevent an animal from using its claws, through removal of either the claws or the animal’s ability to use them. Onychectomy involves removing an animal’s claws through a surgery that may include the amputation of bone through nail trimmers, scalpels, or lasers. Tendonectomy is a procedure performed for a similar purpose in which a cat’s tendons are severed to prevent a cat from extend its claws.

Declawing is performed on domesticated cats to prevent the animal from scratching humans or other animals, as well as furniture and other possessions within a home. Studies indicate that many individuals who declaw their cats would likely give up their pets if the scratching were allowed to continue, and surveys have demonstrated that pet owners believe their relationships with their cats improve following declawing. According to data provided by the author, an estimated 20-25% of cats in the United States have been declawed.

Notwithstanding the asserted benefits of declawing domesticated cats, there have long been criticisms that declawing is inherently inhumane toward cats when done purely for the convenience of an owner. There is an assumption that declawing is a painful or uncomfortable procedure for cats, though the extent to which this is true remains to be a matter of medical consensus. Complications can also arise as a result of the procedure, as with any other invasive surgery performed on an animal.

The American Veterinary Medical Association (AVMA) has issued a formal policy that “strongly encourages client education prior to consideration of onychectomy (declawing).” The AVMA states that “declawing of domestic cats should be considered only after attempts have been made to prevent the cat from using its claws destructively or when its clawing presents an above normal health risk for its owner.” The AVMA acknowledges, however, that while declawing is “not a medically necessary procedure for the cat in most cases,” there is “no scientific evidence that declawing leads to behavioral abnormalities when the behavior of declawed cats is compared with that of cats in control groups.” The AVMA also states that “scientific data do indicate that cats that have destructive scratching behavior are more likely to be euthanatized, or more readily relinquished, released, or abandoned, thereby contributing to the homeless cat population.”

The overall lack of scientific consensus as to what constitutes an appropriate clinical context for claw removal, as well as a lack of moral consensus about whether the procedure should be generally prohibited on a humanitarian basis, has led to active debates in various local jurisdictions, as well as within foreign governments. Australia, Austria, Brazil, Croatia, Germany, Ireland, New Zealand, Norway, Sweden, Switzerland, and the United Kingdom have all banned declawing in some way. Meanwhile, Los Angeles, San Francisco, Berkeley, Burbank, Culver City, West Hollywood, Santa Monica, and Beverly Hills have all banned declawing.

However, in 2008, legislation was introduced in California in response to concerns about local governments enacting their own local ordinances to carve away portions of licensed scope of practice authorized at the state level. Following litigation by the California Veterinary Medical Association (CVMA) against the City of West Hollywood over its local ban on declawing, the CVMA sponsored AB 2427 (Eng) of 2008 to expressly state that it is unlawful for a locality to prevent a healing arts licensee from engaging within the licensed scope of their practice. Supported by a broad range of healing arts professional associations beyond veterinary medicine, this bill effectively stopped the trend of local governments banning declawing within their jurisdictions.

The measure before this committee would prohibit any person, whether or not they are a licensed veterinarian, from performing an onychectomy, tendonectomy, or similarly disruptive procedures on any animal. Violations would be subject to discipline by the Board. Only a “therapeutic purpose,” as defined, would allow a licensed veterinarian to perform the procedures, and only an animal’s physical medical condition would provide that justification.

**Current Related Legislation.** AB 1565 (Quirk) would authorize a kitten under 8 weeks of age that is reasonably believed to be unowned to be available immediately for adoption beginning on the day on which the kitten is seized, taken up, or impounded, through the entire holding period. *Pending in the Business and Professions Committee.*

**Prior Related Legislation.** SB 1441 (Stern) of 2018 would have prohibited a person from performing the surgical declawing of a domestic cat. *Failed passage in the Senate Public Safety Committee.*

SB 1229 (Pavley, Chapter 596, Statutes of 2012) prohibits a landlord, that allows a tenant to have an animal on the premises, from advertising or establishing rental policies in a manner that requires a tenant or a potential tenant with an animal to have that animal declawed or devocalized as a condition of occupancy.

**ARGUMENTS IN SUPPORT:**

**The Paw Project** is sponsor of this bill. According to the Paw Project, “declawing removes an integral part of an animal’s anatomy and subjects animals to the risks of pain, infection, behavioral changes, and lifelong lameness. Safe and effective alternatives to declawing include simple training and other established deterrent methods.” The Paw Project cites guidance from the American Association of Feline Practitioners that states that “there is no current peer-reviewed data definitively proving that cats with destructive behavior are more likely to be euthanized, abandoned or relinquished. The decision (by veterinarians) of whether or not to declaw should not be impacted by these considerations.”

**ARGUMENTS IN OPPOSITION:**

The **California Veterinary Medical Association (CVMA)** opposes the bill. The CVMA states that it has “several significant concerns with the measure. The gravest concern is the precedent the bill will set. AB 1230 would ban a lawful surgical procedure and memorialize into the Veterinary Medicine Practice Act that it is ‘cruel’. We know of no other California healing arts practice act wherein a particular surgery is banned because it is perceived to be cruel.” The CVMA further states concerns that the bill is problematic because it only allows “surgeries performed solely for the ‘therapeutic’ need of the animal.” The CVMA proposes a series of instances in which declawing may be appropriate out of consideration for the cat’s owner, such as with “elderly patients on coumadin, immunosuppressed individuals, and autistic children.”

The **Veterinary Medical Board (VMB)** voted to take a formal oppose position on this bill. According to the VMB, “in general, the Board members agree that declawing should not be a procedure performed without consideration of the best interest of the animal patient. However, that determination is best left to the veterinarian and the animal owner. In addition, concerns were raised that prohibiting declaw procedures would negatively affect the ability of cats to either stay in existing homes or be adopted into a new home. Concern was also raised regarding back alley procedures where animal owners will attempt to declaw the animals themselves.

**POLICY ISSUE(S) FOR CONSIDERATION:**

*Broad Applicability.* A prohibition on declawing is already in place for exotic or native wild cat species. This bill would not simply extend that prohibition to all cats; the bill’s text states that the procedure could not be performed on “any cat *or other animal*” (emphasis added). The vast majority of the author’s arguments, including those contained in the bill’s findings and declarations, center around declawing procedures for domestic cats. While pet cats are likely to be the most common animal undergoing declaw procedures, the bill’s text remains very broad and the author may not be aware of unintended consequences if *any* animal may no longer be declawed absent a therapeutic purpose. Unless the author has compelling reason to support an open ban applicable to any animal, the bill should potentially be narrowed.

The definition of “declawing” is also very broad as contained within the bill. The definition being added to statute does enumerate the specific surgical procedures of onychectomy, dactylectomy, phalangectomy, partial digital amputation, and tendonectomy. However, the definition also includes a broad catch-all for “any other procedure that prevents the normal functioning of an animal’s claws.” Technically, placing an animal’s paw into a mitten or placing rubber caps on the edge of a claw could be interpreted as such a procedure. While it is expected

that the author wants to avoid too narrowly banning practices achieving a particularized surgical purpose, the language of the bill is likely overbroad.

*Additional Purposes for Declawing.* Opponents to this bill cite several situations where the condition of an animal's human owners or those within the animal's home may justify performing a declaw procedure, in addition to therapeutic purposes addressing the condition of the animal itself. These include situations where becoming scratched may be of particular detriment to the pet's human family. The author has received anecdotal opinions from various groups stating that this is not a valid concern and cites guidance from the Centers for Disease Control and Prevention stating that declawing is not recommended for cats owned by individuals with impaired immune systems. However, the author may nevertheless consider including some language allowing the veterinarian to give some consideration to the condition of an animal's owners when deciding whether to engage in a declawing procedure.

*Disciplinary Consequences.* The bill states that "a veterinarian who fails to comply with this section shall be subject to discipline by the board, which shall make a determination as to whether or not to revoke the veterinarian's license." While this provision clarifies that violations of the bill do not constitute a misdemeanor, it would appear to prevent the Board from considering any remedy for violations other than a revocation of a license. Based on the circumstances of the violation, there may be numerous other remedies that are appropriate for the Board to consider when reviewing a potential case for discipline. This bill may be overly restrictive in limiting the Board to only consider what is arguably the most severe form of administrative action against a licensee.

*Interference with Professional Judgement.* This bill's opposition points out that legislation specifically prohibiting a healing arts licensee from engaging in a procedure that the licensee is trained to perform is exceptionally rare. While many procedures are frequently discouraged or reserved for only certain situations, statute generally provides licensees with the discretion to determine whether the procedure is appropriate based on the specifics of the situation. This tendency to avoid "legislating the practice of medicine" is rooted in the common denominator for most healing arts regulation, in which practitioners are not expected to follow step-by-step directions outlined in statute when engaged in clinical practice, but are instead entrusted with freedom to exercise their judgement, as guided by extensive education and training. While there are some rare situations where overwhelming scientific or moral consensus may supersede this principle, it is uncertain whether animal declawing as yet reached that point.

Instead of specifically prohibiting the practice of declawing, the author may want to consider whether pet owners are receiving adequate information from their veterinarians about the procedure before electing to have the surgery performed. The AVMA states that "the decision to declaw a cat should be made by the owners in consultation with their veterinarian," with numerous disclosures recommended to ensure an informed decision by the pet owner. This may be a much more suitable alternative to preempting a veterinarian's judgement through prescriptive statute.

#### **AMENDMENTS:**

- 1) To allow for a trained and licensed veterinarian to determine whether performing a declawing is appropriate, within the veterinarian's clinical judgment, for a particular animal in the context of that animal's home setting, while ensuring animals are not declawed unnecessarily or without the veterinarian providing an appropriate amount of information to the owner:

Strike subdivision (b) in Section 1 of the bill; strike Section 2 of the bill and replace it with an informed consent requirement, as follows:

**4832.** (a) A veterinarian shall discuss all of the following information with the owner before performing a declawing on a cat or other animal:

(1) Surgical declawing is not a medically necessary procedure for an animal in most cases.

(2) Scratching is a normal feline behavior, is a means for cats to mark their territory both visually and with scent, and is used for claw conditioning and stretching activity.

(3) Owners should preferably provide suitable implements for normal scratching behavior. Appropriate claw care should be provided to prevent injury or damage to household items.

(4) There are inherent risks and complications with any surgical procedure including, but not limited to, anesthetic complications, hemorrhage, infection and pain.

(5) If surgical onychectomy is performed, appropriate use of safe and effective anesthetics and perioperative analgesics for an appropriate length of time are imperative.

(6) Pain management is necessary and required for the declawing procedure. Multimodal pain management is recommended.

(7) The surgical alternative of tendonectomy is not recommended.

(8) Temporary synthetic nail caps are available as an alternative to onychectomy to prevent human injury or damage to property.

(9) Declawed cats should be housed indoors and allowed outside only under direct supervision.

(10) Where scratching behavior is an issue as to whether or not a particular cat can remain as an acceptable household pet in a particular home, surgical onychectomy may be considered. There is no scientific evidence that declawing leads to behavioral abnormalities when the behavior of declawed cats is compared with that of cats in control groups.

(b) After discussing the information required by subdivision (a), the veterinarian shall obtain informed written consent from the animal's owner, which shall be placed in the animal's medical record and shall contain a statement certifying that the veterinarian discussed with the animal's owner the information required by subdivision (a), and a space for the signature of the owner.

**REGISTERED SUPPORT:**

- The Paw Project (Sponsor)
- Alley Cat Allies
- Cats in Need of Human Care
- City of West Hollywood
- City the Kitty Nonprofit
- Food Empowerment Project
- Heaven on Earth Animal Clinic

Heaven on Earth Society for Animals  
Humane Society of the United States  
Humane Society Veterinary Medical Association  
In Defense of Animals  
Los Angeles Animal Services Department  
The Nature of Wildworks  
The Patricia H. Landew Foundation, Inc.  
Social Compassion in Legislation  
PawPAC  
Physicians Committee for Responsible Medicine  
RedRover  
Tuxedo Party of Canada Cat Welfare Society  
Volunteers of the Burbank Animal Shelter  
Several licensed physicians and various individuals.

**REGISTERED OPPOSITION:**

California Veterinary Medical Association

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