

MEMORANDUM

DATE	April 7, 2025
TO	Multidisciplinary Advisory Committee (MDC)
FROM	<u>Complaint Process Audit Subcommittee (Subcommittee)</u> Jeni Goedken, DVM Cheryl Waterhouse, DVM
SUBJECT	Agenda Item 7. Update, Discussion, and Potential Action on Recommendations from the Complaint Audit Subcommittee A. Proposed Legislation to Amend BPC Section 4875.1 Regarding Complaint Prioritization

Consultant Round Table on February 26, 2025

Background: The California Veterinary Medical Board (Board) utilizes Consultant Veterinarians (Consultants) to perform an initial evaluation of a case file to determine whether there exists a potential departure from the standard of care; if this is the case, it is then forwarded to a Subject Matter Expert Veterinarian (Expert) to perform a full written review. Consultant Round Table meetings are held to give Consultants an opportunity to address any questions/issues discovered during the Consultant review process. There are currently five Consultants.

During the February 26, 2025 Consultant Round Table, a variety of topics were covered, including:

- Consultants should not write up why a case needs to be reviewed by an Expert, they should simply be placed into the Expert queue.
- A discussion about the standard of care in anesthesia monitoring (due to specific wording in a reviewed Expert report).
- Spectrum of care and how it affects opining on standard of care.
- Initial patient triage at veterinary clinics.

Consultant Case Reviews

As indicated in Attachment 1, from November 2024 through January 2025, Consultants reviewed 101 cases, of which 65 were closed by staff as no violation; nine were closed with an educational letter; five had to be closed due to insufficient evidence; and 22 of those case reviews were determined to need a full Expert review. Since the prior Consultant Round Table, the number of cases pending Consultant review increased from the previous quarter, with 920 cases pending review (comprised of 624 respondents).

Quarterly Expert Round Table on February 27, 2025

Background: All Experts are invited to quarterly virtual gatherings to give them a venue to ask questions about the review process as well as field any case-specific scenarios with other Experts. All Experts must possess an unrestricted California Veterinarian License that has never had any past disciplinary or enforcement actions taken against it. Experts are also required to have practiced in five of the last seven years in the area in which they are opining. Experts review complaints and write reports to determine if any departures from standard of care established by the veterinary community occurred. There are currently 45 Experts contracted with the Board (13 of which are specialists). There are currently 25 Experts who actively review cases.

A total of 11 Experts were present during the February 27, 2025 Quarterly Round Table. The Board's Deputy Attorney General (DAG) Liaison, Neva Tassan, as well as several Board staff, were also present.

During this Round Table, a variety of topics were covered, including:

- Updates to the Board's website for Expert recruitment.
- A reminder that all written reviews should follow the sample format and be dated to match the submission date of the Expert opinion.
- A reminder that specific regulation codes should not be used in a written review, and that Experts should use "departure" or "extreme departure" from the standard of care for care-related violations.
- Record keeping violations should not be listed as "standard of care" departures (since they are not "care").
- Expert opinions should not contain words that could be viewed as biased and should be written in a "just the facts" manner.
- The difference between something not being done (departure from standard of care) vs. not being documented (record keeping violation) when reviewing a case.
- Subsequent veterinarians' violations should not be included in the same Expert opinion as the subject veterinarian. Analysts can open a new case against additional veterinarians if a case review for the main case reveals a potentially egregious violation.
- Continued discussion of standard of care related to anesthesia monitoring.

A recap email was sent by Board staff to all Experts after the Round Table, which relayed some of the topics covered to inform those who could not attend. In addition to the recap, the DAG Liaison provided guidance to assist Experts with their written opinions when they suspect records may have been falsified, as well as how to approach restitution.

An additional email from Board staff was sent to all Experts asking them to reply with confirmation they meet the Board's requirements for being an Expert (which will be performed prior to case assignments and contract signing).

Expert Case Reviews

As indicated in Attachment 1, from November through February, Experts reviewed 126 cases, of which 30 were closed as “no violation,” 26 were closed with an educational letter, 21 were cited or prepped for citation (against 13 respondents), and 52 were transmitted to the Attorney General’s Office for disciplinary action (against 7 respondents). There are 671 cases (made up of 458 respondents) waiting for a written Expert review.

Subcommittee Case Report Reviews

The Subcommittee reviewed six finalized cases (involving two respondents) to identify praise and opportunities to relay to the Experts who opined on the related case Expert opinions.

The Subcommittee identified many topics to discuss with the two Experts in detail, including, but not limited, to:

- Identifying all standard of care departures
- Using proper terminology
- Refraining from using legal terms such as “negligence” in their analysis
- Knowing who will be reading the report
- Keeping the analysis brief for no departure opinions
- Reminder of the relationship between the veterinarian-client-patient relationship and the physical examination
- Using precise wording.

Quarterly case reviews will continue, provided there are finalized cases from active Experts for the Subcommittee to review.

Complaint Audit Subcommittee Meeting March 7, 2025

The Subcommittee met on March 7, 2025, to discuss the following:

- **Strategic Plan Objective 3.3.** - aimed at tracking the types of complaints submitted to the Board. As mentioned during the prior meeting, “telehealth” has been added as a type of visit on the online complaint form; however, as directed by the Board, “Type of animal” will also be a drop-down question for consumers to answer when submitting a complaint (the options will be “small animal”, “equine”, “livestock”, or “other”). This change has been requested and is now in the hands of the BreZE staff.
- **Strategic Plan Objective 4.6** – tasks the Subcommittee to review and update the complaint prioritization statute, Business and Professions Code (BPC) section 4875.1 to increase enforcement effectiveness. As the language of the statute stands now, priorities are categorized involving veterinarians and registered veterinary technicians who represent the greatest threat to the public.

Therefore, veterinary medicine practiced by unlicensed individuals does not fall under any listed categories.

The Subcommittee believes the unlicensed practice of veterinary medicine is one of the greatest threats to the public and should be included in BPC section 4875.1. Replacing the statutory language which identifies “veterinarians and registered veterinary technicians” with “individuals,” will allow the Board to take action against both licensed and unlicensed practitioners of veterinary medicine.

As such, the Subcommittee proposes the following amendments to BPC section 4875.1 (additions in underlined text, deletions in strikethrough text):

§ 4875.1. (a) In order to ensure that its resources are maximized for the protection of the public, the board shall prioritize its investigative and prosecutorial resources to ensure that ~~veterinarians and registered veterinary technicians~~ individuals representing the greatest threat of harm are identified and disciplined expeditiously. Cases involving any of the following allegations shall be handled on a priority basis, as follows, with the highest priority being given to cases in paragraph (1):

(1) Negligence or incompetence that involves death or serious bodily injury to an animal patient, such that the ~~veterinarian or registered veterinary technician~~ individual represents a danger to the public.

[...]

Action Requested by Subcommittee:

If the MDC agrees with the Subcommittee’s legislative proposal recommendation, please entertain a motion to recommend to the Board submission to the California State Legislature the legislative proposal to amend BPC section 4875.1 regarding prioritization of cases.

Reviews Performed

Consultant Reviews 2023-2025						
Round Table Interval	Aug.–Oct. 2023	Nov. 2023–Feb. 2024	Mar.–Apr. 2024	June–July 2024	Aug.–Oct. 2024	Nov. 2024–Jan. 2025
Reviews	191	270	124	138	180	101
No Violation	157	168	87	83	98	65
Insufficient Evidence	0	0	3	3	7	5
Educational Letter	3	11	6	3	4	9
Referred to Expert	31	91	28	49	71	22
Pending*	~500	770	813	710	813	920

*May represent multiple cases pending against single respondents.

Expert Reviews 2023-2025						
Round Table Interval	Aug.–Oct. 2023	Nov. 2023–Feb. 2024	Mar.–Apr. 2024	June–July 2024	Aug.–Oct. 2024	Nov. 2024–Jan. 2025
Reviews	54	96	48	61	92	126
No Violation	5	9	18	14	32	30
Insufficient Evidence	0	0	2	0	0	0
Educational Letter	23	30	12	5	18	26
Citation*	6	4	0	3	19	21
Discipline*	20	53	16	39	23	52
Active Experts	29	31	35	29	25	24
Pending*	1020	895	1021	1007	759	671

*May represent multiple cases against single respondents.