

VETERINARY MEDICAL BOARD

Executive Officer: Annemarie Del Mugnaio ♦ (916) 515-5220 ♦ Internet: www.vmb.ca.gov

Protection of the public shall be the highest priority for the Veterinary Medical Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

— Business and Professions Code § 4800.1

The Veterinary Medical Board (VMB) is a consumer protection agency within the state Department of Consumer Affairs (DCA). Pursuant to the Veterinary Medicine Practice Act (VMPA), Business and Professions Code section 4800 *et seq.*, VMB licenses doctors of veterinary medicine (DVMs) and registered veterinary technicians (RVTs); establishes the scope and standards of practice of veterinary medicine; and investigates complaints and takes disciplinary action against licensees, as appropriate. VMB's regulations are codified in Division 20, Title 16 of the California Code of Regulations (CCR).

VMB also registers veterinary medical, surgical, and dental hospitals and health facilities. All such facilities must be registered with VMB and must comply with minimum standards. A facility may be inspected at any time, and its registration is subject to revocation or suspension if, following a hearing, it is deemed to have fallen short of these standards.

VMB is comprised of eight members—four veterinarians, one registered veterinary technician, and three public members. The Governor appoints all of the Board's DVM members, the RVT member, and one of the public members; the Senate Rules Committee

and the Assembly Speaker each appoint one public member. Board members serve four-year terms, and are limited to two consecutive terms.

Pursuant to Business and Professions Code section 4809.8, VMB maintains the nine-member Veterinary Medicine Multidisciplinary Committee (MDC) whose purpose is to “assist, advise, and make recommendations for the implementation of rules and regulations necessary to ensure proper administration and enforcement” of the VMPA. Recent legislation has clarified that the MDC “shall serve only in an advisory capacity” to the Board, and the objectives, duties, and actions of the MDC “shall not be a substitute for or conflict with any of the powers, duties, and responsibilities” of the Board; the legislature also expressed its intent that the MDC “give appropriate consideration to issues pertaining to the practice of registered veterinary technicians.”

MAJOR PROJECTS

Animal Control and Humane Officer Tranquilizer Administration Training

On June 19, 2017, VMB finalized the language of proposed new section 2039.5, Title 16 of the CCR, to establish requirements for licensed veterinarians who provide training to animal control and humane officers on the administration of tranquilizers containing controlled substances as required by Penal Code section 597.1(a)(2)(A). VMB released the [modified text](#) of the proposed rule, which were technical and nonsubstantive, for a 15-day comment period on March 17, 2017. Executive Officer Annemarie Del Mugnaio reported that VMB did not receive any adverse comments during the comment period. VMB authorized the Executive Officer to make any additional technical and

nonsubstantive changes, and directed staff to complete the rulemaking file. At this writing, the proposed regulation is pending DCA review.

Hospital Standards Self-Evaluation Checklist

At VMB's July 26, 2017 meeting, Executive Director Del Mugnaio reported that legal counsel had approved the publication and distribution of VMB's recent updates to its [Hospital Standards Self-Evaluation Checklist](#). VMB, with help from the public, fellow veterinary professionals, and its Multidisciplinary Advisory Committee, developed this checklist to assist veterinary hospitals with complying with the legally-required inspection standards. Ms. Del Mugnaio reported that the checklist will be distributed to inspected premises and Board members. The report is also available on VMB's website.

Board Explores Fee Increase

At VMB's July 2017 meeting, Board staff presented the results of an audit of the Board's fee structure, performed by third-party contractor Capitol Accounting Partners (CAP). CAP recommended that VMB increase its application, renewal, and premises inspection fees due to the facts that (1) VMB has not increased its fees since 2012; (2) all of its fees remain below their statutory maximums; (3) the costs of running the Board have increased due to negotiated salary increases for Board staff and interdepartmental fee increases for the Attorney General, Office of Administrative Hearings, Division of Investigation, Office of Professional Examination Services, and for BreEZe; (4) the number of staff positions at VMB has almost doubled since 2013–14; and (5) the legislature has required VMB to inspect 20% of veterinary premises each year, and has enacted the Veterinary Assistant Controlled Substances Permit program. Additionally, Business and

Professions Code section 4905 requires VMB to maintain between three and ten months of operating expenses in its contingency fund, and that fund will drop below the three-month minimum in 2018–19.

Upon review of the audit, VMB agreed to accept staff’s recommendation, and to pursue the rulemaking process to increase license application and renewal fees, as well as veterinary premises fees, to the maximum fees set forth in Business and Professions Code section 4905. At this writing, the proposed amendments to VMB’s regulations have not yet been noticed for a 45-day public comment period.

Board Considers Animal Physical Rehabilitation Regulations

At its April 19, 2017 meeting, the Board held a lengthy and somewhat heated discussion regarding the Animal Physical Rehabilitation (APR) Task Force’s recommendations for regulating the practice of APR. The Board unanimously approved the Task Force’s recommendations with respect to (1) the definition of APR as “the treatment of injury or illness to address pain and improve function by means of physical corrective treatment”; (2) the fact that APR “does not include relaxation, recreational or wellness modalities, including, but not limited to, massage, athletic training or exercise”; (3) a general understanding that any proposed changes to existing law and regulations are not intended to impact section 2038, Title 16 of the CCR regarding the provision of “musculoskeletal manipulation”; (4) that prior to performing or authorizing APR, a veterinarian shall establish a valid veterinarian-client-patient relationship; and (5) that veterinarians must have sufficient education and training to provide APR.

However, the discussion became more controversial as VMB considered whether RVTs and/or veterinary assistants “must” perform APR under the “direct” supervision of a veterinarian. Eventually, VMB agreed—by a 6–2 vote—that RVTs “may provide” APR “under the degree of supervision to be determined by the veterinarian who has established the veterinarian-client-patient relationship.” After considerable discussion and several failed votes, VMB could not agree on whether veterinary assistants may provide APR and/or under what level of supervision.

VMB also discussed at length whether physical therapists (PTs) could appropriately perform APR, and heard a number of public comments on the matter. Ultimately, VMB agreed on the following language:

California licensed physical therapists with advanced certification in animal physical rehabilitation (with such certification to be defined by the Veterinary Medical Board and the Physical Therapy Board working cooperatively) may provide animal physical rehabilitation under direct supervision by the veterinarian who has established a veterinarian-client-patient relationship on a licensed veterinary premises or for large animal practice, the appropriate degree of supervision shall be determined by the veterinarian who established the veterinarian-client-patient relationship in a range setting.

VMB directed legal counsel and Board staff to take the recommendations that had been voted on by the Board and to provide direction to the Board regarding the appropriate route for implementation (that is, via legislation or rule making) at the next Board meeting.

At its July 2017 meeting, VMB again discussed whether veterinary assistants should be permitted to perform APR. After discussion, the Board agreed that veterinary assistants must be under the direct supervision of the veterinarian if they are delegated to provide APR. VMB then directed staff to draft regulations to implement its policy decisions. However, because the Board has jurisdiction only over DVMs/RVTs and not

PTs, legislation may be necessary to authorize either VMB or the Physical Therapy Board to adopt regulations concerning the authority of PTs to engage in APR.

At this writing, VMB has not yet published any proposed APR regulations.

Board Rejects OPES Recommendation to Eliminate Veterinary Law Examination

At its July 26, 2017 meeting, the Board discussed the recommendation of DCA's Office of Professional Examination Services (OPES) that VMB consider eliminating its administration of the Veterinary Law Examination (VLE) under certain circumstances. After comparing the VLE (a written examination which VMB administers by mail to test applicant's on the Board's statutes and regulations) with the California State Board (CSB) examination (also controlled and administered by VMB), OPES recommended that the VLE could be discontinued due to similar and/or matching test items on the CSB. OPES originally presented its recommendations to the Board at its January 2017 meeting, and discussion was tabled at that time.

During its July 2017 presentation to the Board, VMB staff pointed out that only one of the seven Veterinary License Pathways requires applicants to take both the CSB and VLE exam. Furthermore, according to staff, the VLE is not technically an "examination," but is rather a "teaching tool" to educate out-of-state veterinary applicants on specific laws and regulatory nuances unique to California. Because applicants who graduate from California veterinary schools are required to take a course on veterinary law and ethics, they are already exempt from taking the VLE.

After discussion, the Board agreed to keep the VLE as a teaching tool. Ms. Del Mugnaio pointed out that perhaps the Board should pursue a legislative terminology change to reflect the fact that the VLE is not technically an “examination.” She also advised the Board that staff is exploring other means to administer the VLE, such as secure online administration, that would cut down on staff time devoted to administering the examination by paper.

LEGISLATION

[AB 485 \(O’Donnell\)](#), as amended September 7, 2017, adds section 122354.5 to the Health and Safety Code which—effective January 1, 2019— prohibits a pet store operator from selling a live cat, dog, or rabbit in a retail pet store unless the animal was obtained from a public animal control agency or shelter or rescue group. According to the author,

California taxpayers spend a quarter of a billion dollars annually to house and kill animals in local shelters while puppy mills throughout the country continue to mass breed animals for profit. [This bill] attempts to curtail these operations by supporting access to pet rescue and adoption in California retail pet stores. By offering puppies, kittens and rabbits for adoption from nearby shelters, pet stores can save the lives of animals in search for a home, save the breeding animals trapped in puppy mills, and relieve pressure on county budgets and local tax payers.

Governor Brown signed AB 485 on October 13, 2017 (Chapter 740, Statutes of 2017).

[SB 673 \(Newman\)](#), as amended September 7, 2017, amends section 5168 of the Vehicle Code to transfer the administration of the “Pet Lover’s” license plate program from VMB to the California Department of Food and Agriculture (CDFA), and requires CDFA to establish a grant program in order to provide funding to eligible veterinary facilities that offer animal sterilization services. According to the author, “over \$800,000 in revenues raised from the sale of the Pet Lover’s license plate has not been spent on its intended

purpose, which is to provide no- or low-cost animal sterilization services.” Governor Brown signed SB 673 on October 14, 2017 (Chapter 813, Statutes of 2017).

[SB 547 \(Hill\)](#), as amended on September 11, 2017, as it pertains to the VMB, amends section 4840.5 of the Business and Professions Code to allow RVTs, in the absence of a licensed veterinarian, to render lifesaving aid if an animal’s condition is life-threatening and immediate treatment is necessary. The bill also amends section 4887 to extend the time frame within which a VMB licensee whose license or registration has been revoked or who has been placed on probation may petition the Board for reinstatement or modification. SB 547 also amends section 27 to add VMB to the list of DCA agencies require to post specified information—including disciplinary information—on its licensees on its Internet website.

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Finally, the bill amends section 12500 to clarify the meaning of the term “commercial purpose” in California’s weights and measures law. The amendment comes in response to CDFA’s recent assertion that veterinarians’ use of scales to weigh animals is a “commercial purpose” such that the scales need to be approved by CDFA. Veterinarians argued that the purpose of weighing an animal is to determine the appropriate dosage of medication for the animal. In order to resolve this issue and ensure the legislative intent was being carried out accurately, section 12500 now clarifies that a “commercial purpose” does not include a veterinarian or his/her staff who uses a scale to determine a

treatment or medication dosage for an animal. Governor Brown signed SB 547 on October 2, 2017 (Chapter 429, Statutes of 2017).