

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 a 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.”

On February 27, 2018, Governor Brown [reappointed](#) Dr. Mark Nuñez, of Burbank, California, as a licensee member of the Board. Dr. Nuñez has served on the Board since 2013, and is the medical director at the Veterinary Center of America Miller Robinson Animal Hospital.

MAJOR PROJECTS

OAL Approves Animal Control and Humane Officer Tranquilizer Administration Training Requirements

On December 20, 2017, OAL [approved](#) VMBs proposed adoption of section 2039.5, Title 16 of the CCR, to establish requirements for licensed veterinarians who provide Board approved training to animal control and humane officers on the administration of tranquilizers containing a controlled substance. VMB finalized proposed regulations in June 2017 [[23:1 CRLR 97–98](#)]. The regulations became effective immediately.

OAL Approves Increase to Licensing Fees

At its December 11, 2017 teleconference meeting, the Board unanimously voted to propose emergency regulations amending sections 2070 and 2071, Title 16 of the CCR, to increase initial application and licensing fees. In January 2018, the Board submitted its [emergency rulemaking finding](#), stating that emergency rulemaking was necessary “to avoid the imminent shutdown of the Veterinary Medical Board’s (Board) enforcement activity, the impending insolvency of the Board, and the resulting serious harm to the public and their animals.” The Board’s emergency rulemaking finding further stated that:

[t]he Board is experiencing significantly increased expenditures, a structural imbalance (between revenues and expenditures), and a rapidly declining Contingent Fund (i.e., “savings account”) that will immediately impact the Board’s ability to continue its enforcement efforts and severely limit the performance of its core licensing, examination, and inspection functions.

Of note, the Board reported that it saw a 100% increase in consumer complaints submitted annually against Board licensees from 450 complaints in 2012–2013 to over 1,000 in fiscal year 2016–2017. This led to increased expenditures for investigations and formal discipline with the Attorney General. Additionally, the Board cited over \$1.4 million in expenditures to implement DCA’s BreZE program and new staff positions as additional reasons justifying increased expenses.

The proposed fee schedule includes a \$25 increase for new applicants, \$20 increase in vet tech registration, \$60 increase for veterinary licensing fees, and a \$200 increase in premises fees to \$400.

On March 5, 2018, OAL [approved](#) the Board’s emergency regulatory action, which became effective on March 5, 2018 and will expire on September 5, 2018.

Board Discusses Expanding the Duties of a RVT During Certain Emergency Situations

At its February 21, 2018 meeting, the Board reviewed and discussed [proposed regulatory language](#) to amend section 2069, Title 16 of the CCR, which would allow a RVT, in the event direct communication cannot be established with a licensed veterinarian, to independently administer pharmacological agents to prevent or control shock, and administer pain management or sedation drugs to prevent further injury in accordance with a supervising veterinarian's written instructions. Even though the Board previously approved the proposed regulatory language at its October 2017 meeting, staff pointed out that the Board had yet to discuss whether a RVT should be allowed to administer controlled substances necessary to euthanize an animal injured at a rodeo or other sporting event. After discussion, and despite the Board's unanimous concurrence on this issue, the Board determined that it must first confer with legal counsel before it votes on whether to approve the proposed regulatory language.

Board Votes to Pursue Statutory Amendments to Veterinary Practice Act

Mandatory Hospital Inspections

At its October 18, 2018 meeting, the Board discussed and approved staff's [recommended proposal](#) to seek legislation to amend section 4809.7 of the Business and Profession Code to require VMB to inspect at least 20% of registered veterinary premises annually. This proposal was originally included in [SB 546 \(Hill\)](#) introduced in 2017, but died, according to Board staff, because Senate Appropriations Committee staff was concerned with the fiscal impact on the Board.

Under existing law, the Board is encouraged, rather than mandated, to inspect 20% of all registered premises annually. In the past two fiscal years, the Board had to discontinue its inspection program due to a lack of funding. Executive Officer Del Mugnaio advised the Board that changing the statutory language of section 4809.7 to mandate hospital inspections is critical to the Board's ability to secure funding for the inspection program from the Department of Finance and ensure appropriate resources.

On February 7, 2018, Board staff submitted a legislative proposal to the Senate Business, Professions and Economic Development Committee to be included in the omnibus committee bill. On February 21, 2018, Executive Officer Del Mugnaio reported that the Committee has agreed to include this proposal in the Committee bill, however, at this writing, it is not yet included in SB 1491, the committee's omnibus bill.

Probationary Permits to Veterinary Assistant Controlled Substance Permit Applicants

At its October 18, 2017 [meeting](#), the Board voted to seek legislation to amend section 4836.2 of the Business and Profession Code to authorize VMB to issue a probationary permit to Veterinary Assistant Controlled Substances Permit (VACSP) applicants who may otherwise be denied a permit for convictions of criminal acts or acts substantially related to qualifications, deeds, or functions of veterinary medicine. Under existing law, the Board has the authority to issue a probationary license to a RVT for offenses that do not pose a substantial risk to the public; however, no such authority exists for VACSP applicants.

Executive Officer Del Mugnaio advised the Board that this proposal is necessary because the Board has accrued additional expenses due to an increasing number of VACSP applicants

being denied based on prior criminal convictions or violations related to the practice of veterinary medicine. Denied applicants have the right to appeal, which is a time consuming and expensive process for the Board and the applicant. Further, as stated in the Board's legislative proposal summary, the benefits of authorizing the Board to issue probationary permits to a VACSP would (1) reduce the amount of appeals that are submitted to the Attorney General's Office; (2) eliminate unnecessary delays when in some cases the most appropriate course of action is to issue a probationary permit; and (3) save both the Board and the applicant time and money preparing for and participating in legal proceedings.

On February 7, 2018, Board staff submitted a [legislative proposal](#) to the Senate Business, Professions and Economic Development Committee to be included in the omnibus committee bill. On February 21, 2018, Executive Officer Del Mugnaio reported that the Committee has agreed to include this proposal in the Committee bill. At this writing, it is not yet included in any pending legislation.

Electronic Administration of the Veterinary Law Examination

At its February 21, 2018 meeting, the Board held a very brief discussion about amending section 4848(a)(2)(C) of the Business and Professions Code to allow the Veterinary Law Exam (VLE) to be administered electronically. The Board unanimously approved staff's proposed language that would allow the VLE to be "administered by regular mail, email, or by electronic means." Executive Officer Del Mugnaio informed the Board that this proposal will be included in the Senate Business, Professions and Economic Development Committee bill. [See Legislation]

LEGISLATION

[SB 1441 \(Stern\)](#), as amended April 2, 2018, would amend section 597.6 of the Penal Code to extend the current prohibition of declawing exotic or wild cat species to domestic cats. The bill would make a violation of these prohibitions with a domestic cat an infraction punishable by a fine not to exceed \$250 for a first offense, and as a misdemeanor for a second or subsequent offense. By creating a new crime, the bill would impose a state-mandated local program. [*S. PubSafe*]

[SB 1491 \(S. BP&ED\)](#), as amended April 2, 2018, as it pertains to VMB, would amend section 4848 of the Business and Professions Code to permit the Board to administer the VLE via email in addition to regular mail. [*S. BP&ED*]

[AB 1776 \(Steinorth\)](#), as amended April 12, 2018, would add and repeal section 1797.10 of the Health and Safety Code to authorize the county of San Bernardino to conduct a pilot project, commencing January 1, 2019, that would authorize an emergency medical technician (EMT) to transport police dogs that are injured in the line of duty to a veterinary medical facility. According to the author:

[M]ost K-9 handlers currently just “scoop and run” an injured canine and drive it themselves in the back of their car to whatever veterinarian facility is closest. . . . [P]rivate tactical K-9 medical classes are teaching handlers to load their dogs up in their police vehicles, assign another officer to drive, and the handler will climb into the kennel with their partner and administer first aid. . . . [T]his does not leave much room for a handler to perform the necessary duties to preserve the life of his/her dog during a traumatic injury.

At its February 21, 2018 meeting, the Board voted to watch this bill as several members expressed concern that future amendments would expand the scope of the bill to allow certain EMTs to provide basic lifesaving techniques on police dogs who are injured in the line of duty. [*A. Jud*].

[AB 3013 \(Chu\)](#), as amended April 2, 2018, would add section 4828.5 of the Business and Professions Code to authorize a licensed physical therapist (PT), with a certificate in animal physical rehabilitation (APR), to provide APR on an animal patient if (1) the PT is operating under the indirect supervision of a licensed veterinarian who has an established veterinary-client-patient relationship with the animal; (2) the APR is performed on a premises that is registered with VMB; and (3) the PT is VMB-certified in APR. AB 3013 would also amend section 4905 to require the Board to set the fees for the APR certificate.

The bill would also require VMB to cooperate with the Physical Therapy Board of California to determine the necessary qualifications for a PT to receive the APR certificate issued by the Board, taking into account the Animal Physical Rehabilitation Task Force’s [recommendations](#). [See also [23:1 CRLR 99-101](#)] According to the author, “[a]s demand for animal physical rehabilitation increases, we must continue to expand healthcare choices and protect animals and consumers from unqualified practitioners. . . . This bill codifies the Animal Physical Rehabilitation Taskforce [sic] recommendation, both safeguarding animals and their owners and removing barriers for qualified professionals to serve animals.”

Although the Board has not taken an official position on this bill, and did not discuss it or vote upon it during the February or March meetings, the Executive Committee apparently drafted a letter to the author opposing the bill, stating that “[d]irect supervision of APR is the best medical approach for the animal patient. . . . The fundamental basis of [this bill] is flawed as it undermines the need for licensure, regulation, and consumer protection.” [A. B&P]

[AB 3040 \(Nazarian\)](#), as amended April 10, 2018, as it pertains to VMB, would amend section 4830.7 of the Business and Professions Code to require a veterinarian to promptly make a

report to the appropriate law enforcement authorities if the licensee reasonably believes an animal under his or her care is a victim of sexual abuse. Current law already requires veterinarians to report suspected animal abuse to law enforcement. The bill would further require that any animal seized based on a report of sexual abuse shall be promptly taken to an animal shelter facility or veterinary clinic for direct examination. *[A. PubSafe]*

[AB 2300 \(Maienschein\)](#), as amended April 2, 2018, would amend section 4846.5 of the Business and Professions Code to authorize veterinarians applying for license renewal to earn up to six hours of continuing education credits for completing certain self-study courses, or for providing up to four hours *pro bono* spaying or neutering services to residents located in low-income communities. *[A. Consent Calendar]*

[AB 2215 \(Kalra\)](#), as amended on March 23, 2018, as it pertains to VMB, would add section 4884 of the Business and Professions Code to permit a veterinarian the freedom to discuss the use of cannabis with a client. Under existing law, veterinarians are prohibited from prescribing, dispensing, administering, or recommending cannabis for a patient under their care; however, it is unclear whether a veterinarian may discuss the use of cannabis. This bill would not only authorize a veterinarian to discuss the use of cannabis with a client, but it would also prohibit VMB from disciplining a veterinarian for discussing the use of cannabis on animal patients. Further, under this bill, the Board would have until July 1, 2019 to establish guidelines for veterinarians to follow when they are discussing the use of cannabis with a client. According to the author, “Today Californians have unprecedented access to cannabis. . . . It is critical for the protection of our beloved pets that veterinarians be allowed to discuss the safe-use and medicinal value of cannabis products already available to California consumers.”

At its February 21, 2018 meeting, the Board held a lengthy discussion regarding whether the Board should support AB 2215. Throughout the discussion, the Board heard from many members of the public; some expressing their opposition to the bill, and others advocating in support of the bill. After considerable discussion and several failed votes, the Board was not able to agree on whether a veterinarian should be allowed to discuss the use of cannabis. Specifically, the Executive Officer expressed three main concerns, which contributed to the lack of Board support for the bill: (1) the bill’s language, specifically the word “recommendation”; (2) lack of disciplinary oversight if someone is abusing the use of cannabis with a pet; and (3) the Board’s ability to create guidelines when there is a lack of scientific research regarding the effect that cannabis has on animals.

Ultimately, the Board voted to work with the author to address the Executive Officer’s concerns, and seek further information regarding the guidelines that the Board would be required to develop if the bill was enacted in its current form. *[A. B&P]*

[AB 2138 \(Chiu and Low\)](#), as amended April 2, 2018, would amend various sections of the Business and Professions Code relating to professional licensure applicants with criminal records. Of note, the bill would limit the circumstances under which DCA boards may deny professional licensure to individuals who have previously been convicted of crimes; require DCA boards to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession a board regulates; develop procedures when requesting or taking disciplinary action based on an applicant’s criminal history; and require boards to annually report specified de-identified information relating to Board action pertaining to applicants with criminal convictions, including the number of licensees who were

affected, whether they provided evidence of rehabilitation or mitigation; whether they appealed; the final disposition; and the voluntarily provided information on race or gender of any applicant.

The bill is sponsored by a coalition of criminal justice advocacy groups who note that California has among the highest recidivism rates in the nation, and one of the root causes of the high recidivism is the inability of prior offenders to secure gainful employment upon reentry. According to the authors, “[a]ll too often, qualified people are denied occupational licenses or have licenses revoked or suspended on the basis of prior arrests or convictions, many of which are old, unrelated to the job, or have been judicially dismissed. Alleviating barriers to occupational licensing is just one way California can reduce recidivism and provide economic opportunity to all its residents.” *[A. B&P]*

RECENT MEETINGS

On February 21, 2018, the Board unanimously elected Dr. Cheryl Waterhouse as Board President and Dr. Richard Sullivan as Board Vice President. Both members will be entering their second consecutive term in their respective positions.

On March 8, 2018, the Board held a teleconference meeting to discuss and take possible action on its Executive Officer (EO) recruitment and selection process. Specifically, the Board focused on: (1) the recruitment and selection process of an EO; (2) implementing an EO selection committee; and (3) reviewing the revised EO duty statement and recruitment announcement. Representatives from DCA’s Office of Human Resources were on hand to explain the EO recruitment and selection process. At this writing it is unclear when Ms. Del Mugnaio will be departing or the reason for the departure.