

VETERINARY MEDICAL BOARD

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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 VMPPA. Committee members serve three-year terms and are limited to two consecutive terms.

MAJOR PROJECTS

OAL Approves Fee Increase for VMB; Board Votes to Move Forward with Still Further Increases

On April 17, 2019, the Office of Administrative Law (OAL) [approved](#) VMB’s certificate of compliance, making permanent the Board’s emergency rulemaking to amend sections 2070 and 2071, Title 16 of the CCR, to increase licensing fees for DVMs and RVTs. [[24:2 CRLR 85–86](#)] Of note, initial license and renewal fees for Veterinarians increased from \$290 to \$350, premises license and renewal fees increased from \$200 to \$400, and RVT initial license and renewal fees increased from \$140 to \$160 annually. All these fees were below the statutory maximums set forth in sections 4842.5 and 4905 of the Business and Professions Code. These increased fees have been in effect since March of 2018 when OAL approved the Board’s initial emergency rulemaking petition for a fee increase.

At VMB’s October 9, 2019 [meeting](#) [Agenda item 9], the Board’s Executive Director, Jessica Sierferman, presented a [memo](#) to the Board requesting that VMB vote to approve moving forward with the rulemaking process to raise fees to their statutory maximums. Specifically, the memo explains that given recent events, including a 30% rate increase for the Attorney General, announced in the summer of 2019, and the lack of revenue

due to the Board's decision to discontinue the Registered Veterinary Technician Examination, the Board is unable to maintain its healthy reserves of three to ten months in order to remain structurally solvent. After discussion, the Board voted to again amend sections 2070 and 2071, Title 16 of the CCR to raise fees to the statutory maximums and initiate an emergency rulemaking and general rulemaking process in order to implement the fee increases. At this writing, the Board has not yet initiated the emergency rulemaking process.

VMB Continues Rulemaking Process for DCA's Consumer Protection Enforcement Initiative (CPEI)

At its April [meeting](#), VMB staff [reported](#) on the Board's proposal to amend section 2003, and adopt new sections 2017 and 2042, Title 16 of the CCR, to improve the Board's enforcement process, reduce delays in investigations and disciplinary actions, and improve consumer protection in line with the Department of Consumer Affairs' Consumer Protection Enforcement Initiative (CPEI). The Board originally, [noticed](#) its intent to amend and adopt these regulations on March 8, 2019. [[24:2 CRLR 107](#)]

The public comment period ended on April 22, 2019. According to staff, the Board received one public comment, which raised concerns about the lack of resources for veterinarians who need mental health support. The Board took this comment into consideration, but ultimately decided they were not equipped to provide mental health services to licensees and directed staff to respond to the comment accordingly. At this writing, the proposed changes are under review with OAL.

VMB Votes to Unapprove the California Veterinary Technician Exam, only Veterinary Technician National Exam is now Required

At its April [meeting](#), [Agenda item 12] Executive Officer Sieferman [reported](#) to the Board her research regarding the California Veterinary Technician Exam (CVTE), and whether the costs to RVTs, as well as the content of the exam, were necessary in light of the Veterinary Technician National Exam (VTNE). Ms. Sieferman advised the Board that after conducting a thorough review of the [Occupational Analysis, Review, and Linkage Study](#) provided by the Department of Consumer Affairs, Office of Professional Examination Services, reports outlining examination content, and the CVTE test questions, answers, and reference sheet, she reached the following conclusions: (1) the CVTE is an examination specific to California statutes and regulations, and is not an examination specific to animal health care tasks limited to California RVTs; (2) there does not appear to be any animal health care task limited to California RVTs; (3) the CVTE is otherwise duplicative of the VTNE; and (4) the CVTE is costly to applicants to the Board.

Citing the Little Hoover Commission's [October 2016 report](#) regarding barriers to occupational licensing, Ms. Sieferman recommended that the Board consider eliminating the current administration of the CVTE as it no longer meets the legislative requirement and appears to be a costly, unnecessary barrier to licensure. After discussion, and public comment from stakeholders encouraging the Board to do away with the exam and citing the financial barrier it presents, the Board unanimously voted to unapprove the CVTE, and remove it from RVT licensure requirements.

VMB Initiates Rulemaking Process to Address Telemedicine

On May 17, 2019, VMB published [notice](#) of its intent to amend section 2032.1, Title 16 of the CCR to regulate telemedicine. Specifically, the Board [proposes](#) to add subdivision (e) to this section to state that “[a] veterinarian-client-patient relationship cannot be established solely by telephonic or electronic means,” and subdivision (f) to define telemedicine and require that it be conducted within the veterinarian-client patient relationship except in cases of emergency. According to the [initial statement of reasons](#),

[a]s most medical conditions can only be diagnosed through physical examination by a veterinarian, the addition of subsection (e) is necessary to protect consumers and their pets by only allowing veterinarians to establish [Veterinary Client Patient Relationships] VCPR, in person. The addition of subsection (e) also protects the consumer and their pets by only allowing veterinarians with pre-established VCPR and sufficient knowledge of the animal’s medical conditions to provide telemedicine services to their animal patients. Further, by authorizing the provision of telemedicine, the proposal would provide timely access to care for the animal patients.

The Board originally approved a proposal to make technical changes to the definition of “telemedicine” at its February 2018 [meeting](#) [Agenda item 8]. The public comment period on the newly proposed regulation ended on July 1, 2019. At this writing, the final regulatory package is pending review with the Business, Consumer Services and Housing Agency.

VMB Initiates Rulemaking Process Regarding Criminal Conviction Substantial Relationship Criteria (AB 2138)

On June 28, 2019, VMB published [notice](#) of its intent to amend sections 2040 and 2041, Title 16 of the CCR to establish criteria for determining whether a crime is “substantially related to the qualifications, functions, or duties” of the veterinary practice of medicine if the Board is considering the denial, suspension, or revocation of a license. According to the [Initial Statement of Reasons](#), the Board proposes to amend these regulations in order to meet its obligations under [AB 2138 \(Chiu and Low\) \(Chapter 995, Statutes of 2018\)](#), which requires the Board to establish these criteria on or before July 1, 2020.

At its January 2019 [meeting](#) [Agenda item 8E], the Board reviewed and approved the [proposed language](#) of the regulation, choosing [staff’s proposed “option 1,”](#) and authorized the executive officer to make non-substantive changes. The public comment period ended August 12, 2019. At the Board’s October [meeting](#) [Agenda item 15], staff reported that the proposed regulation is pending review with OAL.

VMB Discusses and Drafts 2020 Sunset Review Report

VMB’s Sunset Review Report is due to the legislature on December 1, 2019. At its September [meeting](#) [Agenda item 4], the Board discussed possible updates to the draft of the report, and agreed to include 11 new issues for the legislature to consider, many of which required legislative action. Among the new issues VMB agreed to raise in the report

were premises registration and managing licensee; unlicensed practice; reciprocity licensure; funding for animal cannabis research; and drug compounding. The Sunset Review Report drafting process is ongoing.

LEGISLATION

[SB 202 \(Wilk\)](#), as amended August 12, 2019, would have amended, added and repealed various sections of the Food and Agricultural Code, relating to commercial blood banks for animals. Specifically, the bill would have permitted animal blood to be collected and sold from community-sourced animals and established more humane and ethical treatment of animal blood donors housed in commercial animal blood banks, including veterinary care. According to the author, “[c]urrently, all animal blood is sourced from ‘captive closed colonies.’ Animals are kept in these blood banks just to give blood, and are often caged up 23 out of 24 hours of a day. SB 202 will simply open up the opportunity for community-sourced blood banks, allowing privately owned animals to donate blood and then go back into the community.”

Governor Newsom [vetoed](#) SB 202 on October 13, 2019, claiming that the bill did not go far enough, and asking for the legislature to send him a bill that “effectively leads to the phasing-out of ‘closed colonies,’ where dogs are kept in cages for months and years to harvest their blood for sale. The legislation should provide for the safe and humane treatment of donor animals, the welfare of the recipients, and adequate oversight and enforcement of this program.”

[AB 1553 \(Fong\)](#), as introduced February 22, 2019, as it applies to VMB, amends section 4827 of the Business and Professions Code, and makes various technical changes to provisions in the Civil, Corporations, Food and Agricultural, Government, Health and

Safety, and Penal Codes to update outdated terminology in provisions of law governing the seizure, rescue, adoption, and euthanasia of abandoned or surrendered animals by animal shelters and rescue organizations. Specifically, the bill replaces the term “pound” with “animal shelter,” and “destroy,” “dispose of,” or “kill” with “humanely euthanize” when referring to animals. It also changes “unwanted” to “surrendered” when referring to animals within the Business and Professions Code. At its April [meeting](#), VMB unanimously voted to support this bill.

Governor Newsom signed the bill on June 12, 2019 (Chapter 7, Statutes of 2019).

[AB 528 \(Low\)](#), as amended on September 6, 2019, amends section 209 of the Business and Professions Code, and amends, repeals, and adds sections 11164.1, 11165, 11165.1, and 11165.4 of the Health and Safety Code, to change the required timeframe in which pharmacists are required to report dispensed prescriptions to the state’s prescription drug monitoring program, the Controlled Substance Utilization Review and Evaluation System (CURES), from seven days to the following working day. According to the author, “[r]educing the amount of time provided to dispensers to report prescriptions to CURES from up to 7 days down to within the next business day will significantly improve the database’s reliability for practitioners seeking to identify multi-prescriber seeking behavior among their patients.”

Governor Newsom signed AB 528 on October 9, 2019 (Chapter 677, Statutes of 2019).

Legislative Bills That Died

The following bills, reported on in Volume 24 issue 2 either died in committee, were not passed in 2019, or were otherwise amended so that they were inapplicable to

VMB: [AB 611 \(Nazarian\)](#) (regarding sexual abuse of animals); [AB 1230 \(Quirk\)](#) (regarding declawing animals); [SB 627 \(Galgiani\)](#) (regarding standards for recommending cannabis to animals).

RECENT MEETINGS

At its October [meeting](#) [Agenda item 20], the Board elected Dr. Jayme Noland, DVM, to continue serving as its president and Kathy Bowler, public member, as its Vice President.

Also at its October [meeting](#) [Agenda item 6], the Board discussed potential changes to its [guidelines](#) for discussion of cannabis use for animals. VMB recommended changes to the wording of phrases such as adding “Veterinary-Client-Patient Relationship” to the title of the guidelines. VMB will continue discussion of this topic at future meetings.

At its July [meeting](#), the Executive Officer advised VMB on a collaboration with the California Horse Racing Board (CHRB). Staff visited multiple racetracks during the off season and decided to visit again during racing season.