

# 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

**T**he 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. Committee members serve three-year terms and are limited to two consecutive terms.

On January 23, 2020, Governor Newsom [re-appointed](#) Jaymi Jo Noland, DVM of San Luis Obispo as a licensee member of the Board. Dr. Noland is the department head at California Polytechnic State University, San Luis Obispo. At this writing, there are no vacancies on the Board.

## **HIGHLIGHTS**

### **Board Releases Sunset Review Report**

On December 2, 2019, VMB published its [Sunset Review Report](#) in preparation for VMB’s Sunset Review Oversight hearing before the Assembly Business and Professions Committee and the Senate Business, Professions and Economic Development Committee. VMB’s enabling act, section 4800, *et seq.* of the Business and Professions Code is scheduled to “sunset,” or be repealed, on January 1, 2021, if it is not extended during sunset review.

VMB’s report includes a summary of the Board’s activities over the past four years, updates the legislature regarding issues raised during its previous sunset review, and identifies 11 new issues the Board would like the legislature to consider during this sunset review period.

Of note, VMB seeks an amendment to section 4873 of the Business and Professions Code to require that participants of the Board’s [Diversion Program](#) pay for the administrative costs of the program rather than a flat fee, which the statute currently caps at \$4,000. The Board’s Diversion Program seeks to rehabilitate veterinarians and RVTs with dangerous drug or alcohol use that affects their competency. According to the Board, the Diversion Program costs a total of

approximately \$16,000 per participant for a three-year program (the minimum). Currently, participants pay a flat fee of \$2,000, while the Board pays the remaining \$14,000. While VMB recognizes that it may increase the participant's portion of the fee to its statutory maximum, it requests that the statute be amended to require participants pay administrative costs for the Diversion Program instead of a flat fee.

Also of note, VMB seeks a legislative change to section 4883 of the Business and Professions Code to clarify that making any statement, claim, or advertisement that a veterinarian or RVT is a specialist or is board certified, unless they are actually certified by an American Veterinary Medical Association recognized Veterinary Specialty Organization, would constitute a violation of the Veterinary Medical Practice Act. According to the report, this change is important to ensure that the public will not be misled by "specialty" claims by veterinarians who are not actually certified specialists. For a complete list of new issues, see section 12 of the Report.

In preparation for VMB's Joint Sunset Review Oversight hearing, committee staff issued a [background paper](#) for members of the respective Business and Professions committees, which provides background about the Board, updates the committees on the changes and improvements VMB made regarding the 12 issues from the previous sunset review and identifies 28 new issues to raise with VMB during the sunset review process.

Of note, the legislature asks whether the caps for licensing fee increases should be raised again, as the Board is now charging licensees the statutory maximums. The legislature raises the concern of some stakeholders, that the fees are now burdensome, particularly to RVTs, and requests that VMB provide projections for the next anticipated fee increase and its impact on licensees.

Also, of note, the legislature seeks a report from VMB with respect to its short term and long-term strategies to mitigate the issue of the large enforcement backlogs. VMB has the power to investigate complaints in order to enforce the Veterinary Medicine Practice Act. The Board currently has 1,900 pending cases with only four analysts. With this backlog, formal discipline can take up to three years. The legislature requests that VMB detail how additional resources, if granted, would be used to reduce the backlog, as well as to fill any vacancies in the current Enforcement Unit.

Among other issues, the background paper also asks the Board to address its efforts to regulate the RVT profession, including its opinion as to whether RVTs are adequately represented on the Board; severe delays in licensing timelines; the Veterinary Assistant Controlled Substances Permit program; standards of care for animal shelters; animal physical rehabilitation standards and scope of practice; and possible legislative action regarding animal cannabis issues. For a complete list of new issues, see page 12 of the Paper.

The Joint Sunset Review Oversight Hearing was scheduled for March 17, 2020, but was postponed due to COVID-19. The hearing will be rescheduled when the legislature reopens. At this writing, the hearing has not yet been rescheduled.

## **SB 1115 (Wilk), Regulating Veterinary Care and Animal Welfare at Animal Blood Banks, Referred to Committee**

On February 19, 2020, Senator Wilk introduced [SB 1115 \(Wilk\)](#) which would amend, add, and repeal various sections of the Food and Agricultural Code, relating to commercial blood banks for animals. Senator Wilk introduced a similar bill in 2019, [SB 202 \(Wilk\)](#), which was [vetoed](#) by Governor Newsom because it did not go far enough to protect animal blood donors. Senator Wilk's

new bill, SB 1115, would make additional changes to the Food and Agricultural Code that further regulate veterinary care of animal blood donors, as well as additional requirements for animal blood bank licensing.

Of note, this bill would impose three detailed requirements, which the Secretary of the California Department of Food and Agriculture (CDFA) must verify before issuing a license to a commercial blood bank for animals. The establishment must: 1) operate under conditions that are consistent with the standards of care and practice for the field of veterinary transfusion medicine to ensure that the animal blood and blood component products will not be contaminated, dangerous or harmful; 2) produce animal blood under the indirect supervision of either a California licensed veterinarian or a qualified person in the field for a commercial blood bank for animals licensed before January 1, 2019; and 3) maintain onsite records documenting how the animal was acquired and any history of blood draws or use of anesthesia on the animal.

According to the author's [press release](#), the bill is intended to address ambiguity in existing law that has led to a relatively limited regulatory scheme for animal blood banks. Currently, CDFA only approves commercial licensure for "closed-colony banks," which house dogs and cats for the specific purpose of taking their blood. 49 other states already allow for the more humane community-based blood banks, and this bill will bring California in line with the rest of the nation. The release quotes Senator Wilk, stating, "SB 1115 will allow for a community based blood donations which means healthy animals, under the supervision of a veterinarian, can donate blood and then, like their human blood donor counterparts, go home to their families when done."

SB 1115 is currently pending before the Senate Agriculture Committee and has also been referred to the Committee on Judiciary, and the Committee on Business, Professions, and Economic Development for further review.

## Office of Administrative Law Approves VMB's Emergency Fee Increase

On January 17, 2020, the Office of Administrative Law (OAL) [approved](#) VMB's proposed emergency rulemaking to amend sections 2070 and 2071, Title 16 of the CCR to increase licensing fees for DVMs and RVTs. The Board published [notice](#) of its intent to file the emergency regulations on January 10, 2020.

According to VMB's [Finding of Emergency](#), this emergency rulemaking procedure is necessary to “avoid the imminent shutdown” of the Board's licensing and enforcement activity, which may result in “serious harm to the public and their animals.” The Board further asserts that states it is facing extreme financial difficulties due to a decrease in monthly revenue because it is no longer gaining monthly income from California RVT examination fees. This decrease, combined with an increase in consumer complaints, Attorney General fee increases, and increased Office of Administration Hearing costs have contributed to the existing financial hardship. VMB states that the denial of this emergency fee increase would “restrict its core operations, including slowing its ability to process applications, reducing the inspection of veterinary premises, curtailing investigations, and limiting the Board's ability to adjudicate violations of the Act in an expedient manner. Notably, OAL [approved](#) the Board's last fee increase less than a year ago, on April 17, 2019. [[24:2 CRLR 86](#); [25 CRLR 92–93](#)]

The [text](#) of the emergency regulations increases fees for DVMs to their statutory maximums as set forth in section 4905 of the Business and Professions Code, and all but one of the fees for RVTs to their statutory maximums set forth in section 4842.5 of the Business and Professions Code. Of note, the emergency regulations increase DVM's application fees from \$150 to \$350, initial licensing fees from \$350 to \$500, and biennial renewal fees from \$350 to \$500. With respect

to RVTs, application fees also increased from \$150 to \$350, initial registration increased from \$160 to \$350, and biennial renewal fees increased from \$150 to \$350. Only the examination fees for RVTs remained the same at \$200.

The emergency regulations will be in effect for 180 days and will expire on July 15, 2020 unless otherwise extended by OAL. The Board will need to go through the formal rulemaking process to make these regulations permanent, and the public will have an opportunity to comment on the new rates at that time.

## MAJOR PUBLICATIONS

The following reports/studies have been conducted by or about VMB during this reporting period:

- [Veterinary Medical Board Sunset Review Report 2019](#), December 2, 2019, VMB (Mandated by VMB’s enabling act, section 4800, *et seq.* of the Business and Professions Code. This section is scheduled to “sunset” on January 1, 2021 if it is not extended during Sunset Review (see HIGHLIGHTS)).
- [Guidelines for Veterinarian Discussion of Cannabis Within the Veterinarian-Client-Patient Relationship](#), Veterinary Medical Board, January 1, 2020 (VMB’s published guidelines, effective January 1, 200, which set forth the parameters under which veterinarians may discuss cannabis with animal-owner clients, and the patient evaluation and record keeping requirements for doing so.)

## RULEMAKING

- **Consumer Protection Enforcement Initiative (CPEI):** (On December 30, 2019, OAL approved, and the Board finally [adopted](#), VMB’s proposed amendments to section 2003, and

addition of sections 2017 and 2042, Title 16 of the CCR to update its regulations pertaining to CPEI. The Board initially noticed its intent to amend and add these regulations on March 8, 2019. [see [24:2 CRLR 84–85](#); [25:1 CRLR 93](#)] The new regulations became effective on April 1, 2020.)

- **Telemedicine:** (On November 27, 2019, OAL approved, and the Board finally [adopted](#), VMB’s proposed [amendment](#) to section 2032.1, Title 16 of the CCR pertaining to telemedicine. The Board initially noticed its intent to amend this provision on May 17, 2019. [[25:1 CRLR 95](#)] The new regulation became effective on January 1, 2020.)

- **Animal Physical Rehabilitation (APR):** (On March 13, 2020, VMB [noticed](#) its intent to [adopt](#) section 2038.5, Title 16 of the CCR pertaining to APR. According to the [Initial Statement of Reasons](#), APR has become a rapidly expanding veterinary specialty in recent years, with some individuals, who are only licensed to practice physical therapy on humans, expanding their practice to animals. The Board asserts that this regulation would clearly define the practice of APR, and clarify who may practice APR, and under what circumstances. The public comment period expires on April 27, 2020. At this writing, the Board has not scheduled a public hearing but will do so if requested.)

- **Substantial Relationship and Rehabilitation Criteria:** (On February 10, 2020, released [modified text](#) to its proposed amendment to sections 2040 and 2041, Title 16 of the CCR, for a 15-day comment period ending February 25, 2020. These regulations are the Board’s efforts to comply with [AB 2138 \(Chiu\) \(Chapter 995, Statutes of 2018\)](#). [[25:1 CRLR 96](#)] At this writing, the Board has not taken further action on this bill.)

- **Fee schedule:** (On January 17, 2020, OAL approved VMB’s proposed emergency rulemaking to amend sections 2070 and 2071, Title 16 of the CCR, to increase licensing fees for DVMs and RVTs (see HIGHLIGHTS)).



# LEGISLATION

- [AB 2855 \(Low\)](#), as introduced February 21, 2020, would make various non-substantive changes to the VMPA, including its sunset provision. It would also amend section 4841.4 to remove the requirement that RVTs take a California-specific licensing exam; under the bill only a national licensing exam is required. *[A. B&P]*
- [AB 1953 \(Bloom\)](#), as introduced January 17, 2020, would amend section 4826 of the Business and Professions Code to expand the scope of practice of veterinary medicine to include the act of collecting blood from a dog for the purpose of transferring or selling that blood, to a licensed veterinarian for use at a registered premise as a practice of veterinary medicine. *[A. B&P]*
- [SB 1347 \(Galgiani\)](#), as introduced February 21, 2020, would amend section 4827 of the Business and Professions Code to allow non-veterinarian employees or officers of animal control or humane society to perform vaccinations, and would require a record of these vaccinations. *[S. BP&ED]*
- [AB 3201 \(Santiago\)](#), as introduced February 21, 2020, would add section 4853.8 to the Business and Professions Code to require for-profit corporations that own more than 60 veterinary premises in the state to publish rates for veterinary services. It would also prohibit these corporations from buying additional without Board approval. *[A. B&P]*