

# VETERINARY MEDICAL BOARD

---

*Executive Officer: Jessica Sieferman ♦ (916) 515-5520 ♦ Toll-Free (866) 229-0170 ♦  
Internet: [www.vmb.ca.gov](http://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 section 4800.1*

**T**he California Veterinary Medical Board (VMB) is a consumer protection agency within the 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 August 26, 2020, Governor Newsom [appointed](#) Maria Preciosa S. Solacito, DVM of Palmdale as a licensee member of the Board. Dr. Solacito has been the Senior Veterinarian at the County of Los Angeles Department of Animal Care and Control since 2013. On September 21, 2020, Christina Bradbury, DVM was appointed to the Multidisciplinary Advisory Committee.

At this writing there is one public member vacancy on the MDC.

At its October 23, 2020 [meeting](#), the Board elected licensee member, Dr. Mark Nunez, DVM, as its President, and public member Kathy Bowler as its Vice President.

## **HIGHLIGHTS**

### **Board Proposes Regulation Defining Animal Physical Rehabilitation**

At its August 13, 2020 [meeting](#) [[Agenda item 4](#)], the Board held a [public hearing](#) on the proposed adoption of section 2038.5, Title 16 of the CCR. According to the [initial statement of reasons](#), the proposed rulemaking reflects the Board’s efforts to establish a clear definition of animal physical rehabilitation, clarify who may perform animal physical rehabilitation, and under what circumstances a person may perform animal physical rehabilitation.

The Board originally [noticed](#) its proposed regulatory action concerning animal physical rehabilitation on March 13, 2020. The changes are an effort to comply with Business and

Professions Code section 4800.1, which mandates that the protection of the public shall be the highest priority of VMB in exercising its licensing, regulatory, and disciplinary functions. The proposal comes after growing concern about unlicensed individuals and licensed physical therapists practicing on animals. [[25:2 CRLR 66](#)]

During the 45-day public comment period, the Board received: 39 comments and letters in support of the regulation, 146 comments and letters in opposition to the regulation, one petition, and one comment or letter about the provision of a wildlife rehabilitation exemption. Individuals in support of the regulatory proposal stated that the field of animal physical rehabilitation needs regulation and oversight to protect pets and consumers. Supporters also argued that animal physical rehabilitation falls under the practice of veterinary medicine and, thus, should remain under the supervision of veterinarians. Opponents commented that the animal rehabilitation rulemaking monopolizes the veterinary profession and limits access to quality animal care. Opponents also argue that the proposal would not ensure educational competency because the specialty of animal physical rehabilitation is not taught in veterinary schools.

At the Board's October 22, 2020 [meeting \[Item 9E\]](#), Board staff [presented](#) a summary of public comments that the Board received up to, during, and after the August public hearing, and recommended responses to the Board. The Board also considered various proposals it received during the public comment period, and also proposed modified text to the proposed regulations to address some of the comments received regarding wildlife and large animal physical rehabilitation. The Board voted to approve the staff's proposed responses to the public comments with a few minor updates, and voted to release modified text for a 15 day comment period as proposed by staff. The Board received no public comments during the meeting. At this writing, the Board has not yet released the modified text for public comment.

## **Board Proposes Regulations to Clarify the Veterinarian-Client-Patient Relationship**

On June 5, 2020, the Board published [notice](#) of its intent to amend sections 2032.15 and 2032.25, Title 16 of the CCR to clarify the meaning of veterinarian-client-patient relationships (VCPRs), which are set forth in the [proposed language](#). According to the notice, by amending and adopting the proposed regulations, the Board seeks to ensure that California consumers and their animals are protected by being provided with veterinary services when in need, and by ensuring proper prescribing, treating, and documentation protocols.

According to the [Initial Statement of Reasons](#), current regulations provide that it is unprofessional conduct for a veterinarian to prescribe or furnish a drug or treatment for the prevention, cure, or relief of an animal's injury or disease without first establishing a VCPR. After the current regulations were in place in 2014, VMB started discussions about whether a designated veterinarian could establish a VCPR and safely diagnose and treat animals through telemedicine. Under current law, a veterinarian must examine an animal patient in person to determine the appropriate diagnosis and treatment. This is because animal patients are unable to communicate to the veterinarian their symptoms, thus diagnosing and treating solely on the basis of the client's observations of the animal is insufficient to properly diagnose and treat the animal. Additionally, questions were raised regarding the circumstances under which a designated veterinarian could refill a prescription based on the originating veterinarian's diagnosis and treatment plan.

In the proposed language, the Board has struck a balance so that telemedicine can be utilized within an existing VCPR. VMB proposes to amend section 2032.14(a) to establish that, in the absence of the original veterinarian, the VCPR may continue to exist in the absence of client communication when the designated veterinarian works at the same location where the medical

files are kept. In amending section 2032.25(b)(1), the Board seeks to clarify that a veterinarian may serve in the absence of the treating veterinarian and prescribe, dispense, or furnish drugs on an emergency basis for a traveling patient only as necessary to maintain the health of the animal until they can return to the originally treating veterinarian. However, the veterinarian must make a reasonable effort to contact the original prescribing veterinarian and document in the medical record the communication or attempt to contact the prescribing veterinarian. Further, the Board seeks to amend section 2032.25(b) to authorize the veterinarian to prescribe, dispense, or furnish a drug to an animal patient when the original prescribing veterinarian is absent and the veterinarian authorizing the refill is in the same practice as the original prescribing veterinarian and has reviewed the patient records.

On July 20, 2020, the 45-day public comment period ended. At the Board's October 22, 2020 [meeting \[Item 9-D\]](#), staff [presented](#) Board members with a summary of public comments received, including two letters in support and one letter in support with conditions. The letter of support with conditions raised concerns with statements made in the initial statement of reasons, specifically that the proposal may affect future legislation or Board regulation that may authorize a California licensed veterinarian to refer an animal patient to a qualified physical therapist to perform animal rehabilitation services under indirect supervision at another location. The Board voted to adopt staff's proposed responses to the comments to incorporate into the Final Statement of Reasons. On October 23, the Board considered additional minor modifications to the regulatory text but ultimately voted not to move forward with the modifications and directed staff to prepare the final rulemaking file.

## **Board Proposes Fee Increases for Registration and Renewal Fees for Veterinarians and Registered Veterinary Technicians**

On September 25, 2020, the Board published [notice](#) of its intent to amend sections 2070 and 2071 of Title 16 of the CCR, to increase certain fees associated with veterinarian and university licensure and veterinary technician registration, and add a new fee associated with the approval of schools and institutions offering a curriculum for training registered veterinary technicians, which are set forth in the [proposed language](#). According to the notice, by amending and adopting the proposed regulations, the Board will generate sufficient revenue from fees associated with licensing and registration to perform its regulatory, licensing, inspection, and disciplinary functions.

According to the [initial statement of reasons](#), the Board is a self-supporting, special fund agency that generates its revenues from fees charged for licensing and registration in order to perform its core functions and protect the public. Further, the Board is required to maintain a fund reserve of no less than three months and no more than 10 months of annual authorized expenditures. Notwithstanding its 2018 fee increase rulemaking package, the Board dropped below its statutorily mandated floor of not less than three months of annual authorized expenditures in fiscal year 2017–2018. Further, despite the emergency rulemaking rates proposed in January 2020, the Board continues to run a budget deficit. The Board seeks to increase certain fees to their statutory maximum and add one fee at its statutory maximum to address the deficiency.

According to the initial statement of reasons, revised section 2070 fees will increase for the veterinarian sector in the following categories: application eligibility review, initial license, biennial renewal, temporary license, and delinquent renewal. For the university sector, fees will

increase in the following categories: application review, initial license, and biennial renewal. Finally, there will be fee increases under section 2070 for the California State Board Exam and delinquent renewal for veterinary premises.

Proposed section 2071 fees will increase for the registered veterinary technician sector in the following categories: application eligibility review, initial registration, biennial renewal, and delinquent renewal. Further, there will be a new fee for the approval of veterinary technician schools or institutions.

The written public comment period ended on November 9, 2020. On November 10, 2020, the Board held a [public hearing](#) on the proposed regulatory action, during which several comments were received. Board staff expects the Board to consider these comments at its January meeting. Additionally, because the Board's emergency regulations approving the fee increase will expire before the formal rulemaking process is complete, the Board [noticed](#) its intent to re-adopt the fee schedule emergency regulations on November 12, 2020. [*see 25:2 CRLR 64–65*] That petition is currently pending OAL review.

## MAJOR PUBLICATIONS

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

- [\*Review of the International Council for Veterinary Assessment North American Veterinary Licensing Examination\*](#), Department of Consumer Affairs, July 2020 (DCA's Office of Professional Examination services' (OPES) comprehensive review of the International Council for Veterinary Assessment (ICVA) North American Veterinary Licensing Examination (NAVLE) for continued use in California licensure of veterinarians. Finds that the NAVLE generally meets

the guidelines outlined the Standards for Education and Psychological Testing (2014) and in California Business and Professions Code section 139; recommends that 1) NAVLE phase out the use of faculty members and educators in the examination development and passing score setting processes; 2) the California State Board Veterinary Examination (CSB) be revised from a practice-based examination to a supplemental examination that measures California law, rules, and regulations only.)

- [\*Occupational Analysis of the Veterinarian Profession\*](#), Department of Consumer Affairs, July 2020 (OPES’s occupational analysis (OA) of veterinary medical practice in California to define practice for veterinarians in terms of actual tasks that new licensees must be able to perform safely and completely at the time of licensure. Utilizes results from questionnaires issued to licensees to prepare an examination outline that provides a description of practice for veterinarians, identifies the tasks and knowledge critical to safe and effective practice of veterinary medicine in California, and provides a basis for evaluating the degree to which the content of any examination under consideration measures content critical to veterinary practice in California. Concludes that the California State Board Examination (CSBE) is redundant and a potential barrier to licensure.)

## **RULEMAKING**

The following is a status update on recent rulemaking proceedings that VMB has initiated:

- **Disciplinary Guidelines:** On July 17, 2020, VMB published [notice](#) of its proposal to [amend](#) section 2006, Title 16 of the CCR to make the Board’s Disciplinary Guidelines consistent with current law. According to the [initial statement of reasons](#), the current Disciplinary Guidelines, last revised in July 2012, contain many outdated terms and conditions that do not reflect recent



updates to statutory law and changes that have occurred in the probationary environment since the last update. The public comment period on the proposed amendment expired on August 31, 2020. No comments were received. At this writing, the Board has not taken further action.

- **Drug Compounding:** On July 17, 2020, VMB published [notice](#) of its proposal to [amend](#) sections 2090, 2091, 2092, 2093, 2094, and 2095, Title 16 of the CCR to provide guidance and an enforcement mechanism for inspectors to determine whether veterinarians and RVTs are compounding drugs in accordance with their scope of practice, experience, and premises. According to the [initial statement of reasons](#), the Board noticed these regulations to implement [SB 1193 \(Hill\) \(Chapter 484, Statutes of 2016\)](#), which added section 4826.5 to the Business and Professions Code to authorize drug compounding by veterinarians and supervised RVTs. The public comment period expired on August 31, 2020. At its October 22, 2020 meeting, the Board voted to release modified text for a 15 day comment period. At this writing, the modified text has not yet been released.

- **Duties of a Supervising Veterinarian:** On June 19, 2020, VMB published [notice](#) its proposal to [amend](#) section 2035, Title 16 of the CCR to authorize supervising veterinarians to delegate additional animal health care tasks to RVTs, permit holders, and VAs, who have the necessary extensive clinical skill, requisite training, and demonstrated competency to perform the task on the animal. According to the [initial statement of reasons](#), the proposed amendment is intended to increase consumer access to veterinary services. The public comment period expired on August 3, 2020. At this writing, the Board has not taken further action on this proposed regulation.

- **RVT Emergency Animal Care:** On June 5, 2020, VMB [noticed](#) its proposal to [amend](#) section 2069, Title 16 of the CCR to clarify an RVTs authority to administer drugs or

controlled substances in emergency situations. According to the [initial statement of reasons](#), the proposal arises out of an issue the legislature raised with the Board during its 2015 sunset review regarding the availability of professionals to treat animals injured in rodeos, and also seeks to implement recent statutory changes to section 4840.5 of the Business and Professions Code made by [SB 547 \(Hill\) \(Chapter 429, Statutes of 2017\)](#), which deleted the restriction of RVTs to render emergency aid to only circumstances where immediate treatment was necessary to sustain life, and address RVT health care tasks performed at sanctioned rodeos or other sporting events. clarify. The public comment period expired on July 20, 2020. At this writing, the Board has not taken further action on this proposed regulation.

- **RVT Job Tasks:** On June 5, 2020, VMB [noticed](#) its proposal to amend section 2036, Title 16 of the CCR, and released [modified text](#) on August 12, 2020. According to the [initial statement of reasons](#), this proposal would resolve the action item in the Board’s 2012–2014 Strategic Plan and would authorize an RVT to apply casts and splints and perform drug compounding under the indirect supervision of a licensed veterinarian. Public comment on the modified text expired on August 27, 2020. At this writing, Board staff is preparing the final rulemaking package for approval and submission to OAL.

- **Fee Schedule:** On September 25, 2020, the Board published notice of its intent to amend sections 2070 and 2071, Title 16 of the CCR, to increase fees for veterinarians and registered veterinary technicians (see HIGHLIGHTS).

- **Veterinarian-Client-Patient Relationship:** On June 5, 2020, the Board published notice of its intent to amend sections 2032.15 and 2032.25, Title 16 of the CCR, to clarify the meaning of veterinarian-client-patient relationships (see HIGHLIGHTS).

- **Animal Physical Rehabilitation:** At its August 13, 2020 meeting, the Board held a public hearing on the proposed adoption of section 2038.5, Title 16 of the CCR, to provide a clear definition of animal physical rehabilitation (APR), clarify who may perform APR, and under what circumstances a person perform APR (see HIGHLIGHTS).

## LEGISLATION

- [SB 1474 \(Committee on Business, Professions and Economic Development\)](#), as amended August 26, 2020, and as it applies to VMB, amends sections 4800 and 4804.5 of the Business and Professions Code to extend the Board’s sunset date from January 1, 2021 to January 1, 2022 in light of the COVID-19 pandemic. Additionally, the bill makes conforming changes to section 4804.5 relating to the appointment of an executive officer. Governor Newsom signed SB 1474 on September 29, 2020 (Chapter 312, Statutes of 2020).

- [SB 800 \(Dodd\)](#), as amended July 27, 2020, and as it applies to VMB, amends section 4857 of the Business and Professions Code to authorize veterinarians to make available the entire medical records of racehorses to specified parties involved in horse racing. According to the author, this bill implements a series of recommendations made by the California Horseracing Board—including transparency of veterinary medical records—in order to increase animal safety in horse racing. The bill adds an exemption to the general prohibition imposed upon veterinarians from sharing the medical records of animal patients without written consent of the client responsible for the animal. Governor Newsom signed SB 800 on September 29, 2020 (Chapter 252, Statutes of 2020).

The following bills, reported in Volume 25, No. 2 (Spring 2020), died in committee or otherwise failed to be enacted during the 2019–2020 legislative session: [SB 1115 \(Wilk\)](#), relating

to commercial blood banks for animals; [AB 2855 \(Committee on Business and Professions\)](#), relating to VMB's sunset review; [AB 3201 \(Santiago\)](#), relating to the regulation of veterinary premises; [AB 1953 \(Bloom\)](#), relating to blood banks for animals; [AB 2028 \(Aguiar-Curry\)](#), relating to public meetings; [SB 1347 \(Galgiani\)](#), relating to limited veterinary premises; and [SB 627 \(Galgiani\)](#), relating to medicinal cannabis use on an animal.

## LITIGATION

- *Moore v. Mars Petcare US, Inc.*, 966 F.3d 1007 (9th Cir. 2020). On July 19, 2020, the Ninth Circuit Court of Appeals [reversed](#) the district court's dismissal of a putative class action on behalf of consumers who purchased so-called prescription pet food alleging violations of California's False Advertising Law, Unfair Competition Law, Consumer Legal Remedies Act, and federal antitrust law. The lawsuit seeks injunctive relief and damages against four pet food manufacturers, two veterinary clinic chains, and a pet goods retailer. The court found that the plaintiffs had adequately alleged their claims and remanded the matter to the district court for further proceedings.