

Date of Hearing: April 27, 2021

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 1535 (Committee on Business and Professions) – As Amended April 20, 2021

SUBJECT: Veterinary Medical Board: application and examination: discipline and citation.

SUMMARY: Eliminates the requirement that a veterinarian complete a California state board examination for licensure. Specifies changes to the Veterinary Medical Board's (Board) veterinary premises registration application, and the Board's enforcement authority over veterinary premises. Establishes safeguards related to the corporate practice of medicine. Implements changes to the Board's drug and alcohol diversion program. Clarifies the process to contest Board-issued citations. Clarifies the appropriate use of the title "veterinary specialist" or "board-certified." Authorizes the Board to abandon applications for licensure or registration left incomplete.

EXISTING LAW:

- 1) Creates the Veterinary Medicine Practice Act (Act), outlining the licensure requirements, scope of practice, and responsibilities of individuals practicing veterinary medicine and animal health care tasks in California. (Business and Professions Code (BPC) Section 4811 et seq.)
- 2) Establishes the Veterinary Medical Board (Board) under the jurisdiction of the Department of Consumer Affairs, responsible for enforcing the provisions of the Act, and regulating veterinarians, registered veterinary technicians, veterinary assistant substance controlled permit holders, and veterinary premises. (BPC Section 4800 et seq.)
- 3) Declares that it is unlawful to practice veterinary medicine in California unless a person holds a valid, unexpired, and unrevoked license as provided in this chapter. (BPC Section 4825)
- 4) Outlines the requirements for obtaining a license to practice veterinary medicine, which includes passing three examinations: a licensing examination that is administered on a national basis; a California state board examination; and an examination on California statutes and regulations of the Veterinary Medicine Practice Act. (BPC Section 4848(a))
- 5) Requires all premises where veterinary medicine, dentistry and surgery is practiced to be registered with the Board. Defines "premises" to include a building, kennel, mobile unit, or vehicle. Specifies that every application for registration of veterinary premises must include the name of the responsible licensee manager acting for and on behalf of the licensed premises. (BPC Section 4853)
- 6) Requires every application for registration of veterinary premises to set forth the name of the responsible licensee manager who is to act and on behalf of the licensed premises. (BPC Section 4853)

- 7) Authorizes the Board to withhold, suspend or revoke the registration of veterinary premises when the licensee manager listed on the application ceases to become responsible for management of the registered premises and no substitution of the responsible licensee manager has been made through a subsequent application, or the licensee manager has had their license revoked or suspended. (BPC Section 4853.6)
- 8) Specifies a list of prohibited activities for individuals licensed under the Board, such as fraud, misleading advertising, cruelty to animals, and more. Provides that the Board may deny, revoke, or suspend a license or registration or assess a fine if any a person under its jurisdiction is found to have engaged in prohibited activities. (BPC Section 4883 et seq.)
- 9) Declares that it is the intent of the Legislature that the Board seeks ways to identify and rehabilitate veterinarians and registered veterinary technicians with impairment due to abuse of dangerous drugs or alcohol, affecting competency so that veterinarians and registered veterinary technicians so afflicted may be treated and returned to the practice of veterinary medicine in a manner that will not endanger the public health and safety. (BPC Section 4860)
- 10) Establishes diversion evaluation committees under the Board, composed of individuals appointed by the Board, whose duties and responsibilities include, among other activities, the evaluation of veterinarians and registered veterinary technicians requesting participation into the Board's drug diversion program; reviewing and designating treatment facilities for referrals; and considering the case for each participant in determining if they may safely continue the practice of veterinary medicine or assisting in the practice of veterinary medicine. (BPC Section 4860)
- 11) Requires the Board to charge each veterinarian and registered veterinary technician who is accepted to participate in the diversion program a diversion program registration fee. The diversion program registration fee shall be set by the board in an amount not to exceed four thousand dollars (\$4,000). In the event that the diversion program registration exceeds five hundred dollars (\$500), the board may provide for quarterly payments. (BPC Section 4873)
- 12) Outlines the process for the Board to issue a citation for violations of the Act, and specifies the process for an individual to administratively contest a civil citation or the proposed assessment of a civil penalty. (BPC Section 125.9 and Section 4875.6)

THIS BILL:

- 1) Eliminates the requirement that a veterinarian complete a California state board examination, and makes conforming changes to provisions related to out-of-state, temporary, and university licenses.
- 2) Specifies that if an applicant for licensure or registration fails to complete their application within one year after it has been filed, the application shall be considered abandoned and the application fee forfeited. Provides that an application submitted subsequent to the abandonment of the former application shall be treated as a new application.
- 3) Requires an applicant for licensure ore registration to notify the board of any changes in mailing or employment address that occur after filing the application.

- 4) Amends the definition of a “premise” for the purposes of the Act to mean the location of operation where the various branches of veterinary medicine, dentistry or surgery is being practiced.
- 5) Requires the owners or operators of a veterinary premise to submit a premises registration application to the board, and requires the application to set forth the name of each owner or operator, including the type of corporate entity that is owning or operating the premise, if applicable.
- 6) Specifies that if the owner or operator submitting a premises registration application is a veterinary corporation, the application must set forth the titles of each officer director, or shareholder.
- 7) Specifies that if the owner or operator is a corporation or other artificial legal entity other than a veterinary corporation, the application shall set forth the names and titles of all owners, officers, general partners, if any, and the agent for service of process.
- 8) States that premises registration is non-transferrable, and that any changes in owners, operators, officers, directors, shareholders, general partners, agent for service of process to be reported to the Board within 30 days after any such change.
- 9) Authorizes the Board to:
 - a) Deny, suspend, or revoke veterinary premises registration based on prior criminal and disciplinary history of the premises registration holder or licensee manager.
 - b) Deny, suspend or revoke registration of veterinary premises in the event that a premises registration holder that is not licensed under the Board has practiced, influenced or exerted control over provision of veterinary medicine, dentistry and surgery.
 - c) Deny renewal of premises registration if there is no licensee manager associated with the premises.
- 10) Prohibits a premises registration holder who is not a California-licensed veterinarian from interfering with, controlling, or otherwise directing the professional judgment of any California licensed veterinarian or registered veterinary technician. Authorizes the board to require any information, including employment contracts, necessary for enforcement of this provision.
- 11) Authorizes the Board President to have the authority to suspend any diversion evaluation committee member pending an investigation into allegations of existing alcohol or drug addiction. Specifies that, if after investigation, there is evidence of an alcohol or drug addiction relapse, the Board President shall have authorized discretion to remove the member without input from the Board.
- 12) Eliminates the requirement that the Board set a diversion program registration fee and offer a quarterly payment plan for diversion participants.
- 13) Clarifies the process and timeline for contesting citations issued by the Board. Specifically:

- a) Allows a cited person to request an administrative hearing, and request an informal conference to review the citation. Specifies that the cited person must make the request for an informal conference in writing, within 30 days of the date of issuance of the citation.
 - b) Requires the Board's executive officer or designee, within 60 days from receipt of the request, to hold an informal conference with the cited person.
 - c) Specifies that following the informal conference, the Board's executive officer or designee may affirm, modify, or dismiss the citation, including any fine that is levied, order of abatement, or order of correction issued. The executive officer or their designee shall state in writing the reasons for the action and transmit a copy of those findings to the cited person within 30 days after the informal conference.
 - d) Provides that if the citation is affirmed or modified following the informal conference, the respondent may make a request in writing to the executive officer within 30 days of the affirmed or modified citation, for a formal hearing. A cited person cannot request an informal conference for a citation that has been affirmed or modified following an informal conference.
- 14) Prohibits a licensee or registrant under the Board from making any statement, claim, or advertisement that they are a veterinary specialist or that they are "board-certified" unless that licensee or registrant is certified by an American Veterinary Medical Association Recognized Veterinary Specialty Organization.
- 15) Prohibits a licensee or registrant from exercising control over, interfering with, or attempting to influence the professional judgment of another California licensed veterinarian or registered veterinary technician through coercion, extortion, inducement, collusion, intimidation through any means, such as using compensation to require the other California licensed veterinarian or registered veterinary technician to perform veterinary services in a manner inconsistent with current veterinary medical practice.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by Legislative Counsel.

COMMENTS:

Purpose. This bill is one of several "sunset review bills" authored by the Assembly Committee on Business and Professions and the Senate Business, Professions, and Economic Development Committee (Committees). Each year, the Committees hold joint sunset review oversight hearings in order to review the boards and bureaus under the Department of Consumer Affairs (DCA). As these boards and bureaus are responsible for protecting consumers and the public and regulating the professionals they license, the sunset review process provides an opportunity for the DCA, the Legislature, the boards, and interested parties and stakeholders to discuss the performance of the boards, and make recommendations for improvements.

The joint Committees held a sunset review oversight hearing for the Veterinary Medical Board on March 3, 2021. Several of the issues examined during the hearing related to the Board are also reviewed in a committee background paper "Identified Issues, Background, and

Recommendations Regarding the Veterinary Medical Board,” which is published and available on the Assembly Committee on Business and Professions’ website. AB 1535 is the sunset review bill that will implement changes to the Board and its operations, as identified on the committee background paper, the sunset review oversight hearing, and stakeholder input.

Background.

The Veterinary Medical Board. The Veterinary Medical Board (Board) traces its origins back to 1893, originally established as the State Board of Veterinary Examiners. Over the next century, the Board has regulated the veterinary medical profession through many of its changes and evolution: from opening the first California veterinary college in 1894, to helping eradicate the Hog cholera in 1972, to the creation of the animal health technician profession (now titled Registered Veterinary Technician) in 1975. Today, the Board licenses and regulates Veterinarians, Registered Veterinary Technicians (RVTs), Veterinary Assistant Controlled Substances Permit (VACSP) holders, veterinary schools, and veterinary premises. The Board derives its authority through the enforcement of the Veterinary Medicine Practice Act. The Board protects the California public from the incompetent, unprofessional, and unlicensed practice of veterinary medicine. The Board requires adherence to strict licensure requirements for California Veterinarians, RVTs, and VACSP holders, and ensures that each licensee possesses the level of competence required to perform animal health care services. The Board further protects the public by investigating complaints – and if violations are found, take disciplinary actions against licensees.

Major provisions of AB 1535, as amended April 20, 2021. As currently amended, AB 1535 contains non-controversial statutory changes identified by the Board, the Committees, and stakeholders involved with or impacted by veterinary medicine. As the bill moves through the legislative process and as additional stakeholder discussions are conducted, further legislative changes may be proposed as part of the sunset review bill.

AB 1535 proposes seven changes to the Veterinary Medical Board. Specifically, the bill (1) eliminates the requirement that a veterinarian complete a California state board examination for licensure; (2) specifies changes to the Board’s veterinary premises registration application, and the Board’s enforcement authority over veterinary premises; (3) creates safeguards related to the corporate practice of medicine; (4) implements changes to the Board’s drug and alcohol diversion program; (5) clarifies the process to contest citations; (6) clarifies the use of the title “veterinary specialist” or “board-certified” and (7) authorizes the Board to abandon applications for licensure or registration. Each of these changes are discussed in detail below.

Elimination of the California state board examination. The BPC requires the Department to have a process for developing and/or validating examinations required for licensure. To that end, the DCA’s Office of Professional Examination Services (OPES) periodically conducts an occupational analysis to validate that examinations adequately test applicants and are effective at preventing unqualified individuals from obtaining professional licensure. To obtain licensure as a veterinarian, an individual must pass three examinations to determine competency: (1) a national examination, known as the the North American Veterinary Licensing Examination (NAVLE); (2) a California state board examination (CSBE) and (3) a veterinary law examination of California rules, statutes, and regulations (CVLE).

In coordination with the Board, OPES conducted a comprehensive review and linkage study of the NAVLE national examination and the CSBE to evaluate their continued use for veterinary licensure in California. OPES concluded that the NAVLE met the professional and technical standards to adequately test applicants. Furthermore, it was determined that the NAVLE also covered the practice areas tested by the CSBE, except for California law, rules and regulations – making the CSBE a largely redundant examination. As a result, OPES recommended that the CSBE be revised from a practice-based examination to a supplemental examination that measures California law, rules, and regulations only. OPES further recommended that this revised CSBE replaces the current CVLE. In October 2020, based on the OPES recommendations, the Board voted to pursue the elimination of the CSBE given its redundancy with the NAVLE. The Board subsequently established a workgroup comprised of board members and stakeholders to consider the impacts of eliminating the state examination, and draft statutory changes that would properly implement the elimination of the CSBE.

AB 1535 implements these recommended changes and eliminates the requirement that a candidate for licensure as a veterinarian pass a California state board examination. As a result, a candidate would only need to pass a national examination, and a veterinary law examination administered by the board concerning the Veterinary Medicine Practice Act statutes and regulations.

BPC Section 4848 currently specifies a process for out-of-state licensees to have their state examination requirements waived. Because of the proposed elimination of the CSBE, AB 1535 enacts changes for out-of-state veterinarians seeking licensure in California. Specifically, in addition to passing the veterinary law and examination administered by the Board, an applicant who has passed the national examination over five years from the date of application will need to satisfy one of three requirements: either (1) retake and pass the national licensing examination; (2) submit proof of having practiced clinical veterinary medicine for a minimum of two years and completed a minimum of 2,500 hours of clinical practice in another state, Canadian province, or United States territory within the three years immediately preceding filing an application for licensure in this state; or (3) complete the minimum continuing education requirements for the current and preceding year.

AB 1535 also makes some changes to university licenses. Created in 2016, university licenses were created specifically for faculty practicing veterinary medicine at the University of California, Davis, and Western University. University licenses provide the Board with enforcement authority in the event that a consumer or animal patient was harmed from the veterinary services provided by faculty. University license applicants, among other items, are required to take a specified educational curriculum on regionally specific and important diseases and conditions. However the Board and stakeholders note that there is a significant decrease in the demand for such educational curriculum, and that these classes are likely to no longer be offered in the future. According to the Board, California consumers are already adequately protected, since the Board has authority to discipline a licensee with a University license. As such, this bill includes the Board's CSBE workgroup recommendation to eliminate the California curriculum requirement from the university license requirement.

Changes to Veterinary Premises Registration. The BPC requires all premises where veterinary medicine, dentistry, and surgery to be registered with the Board. An application for premises

registration is required to contain the name of the responsible licensee manager (MGL) who is to act for and on behalf of the licensed premises. All license applicants are required to submit to a criminal background check. Based on the person's record, the Board has authority to deny license and registration applications for convictions and discipline by public agencies.

However, existing law does not require the owner or operator of the veterinary premises to be the premises registration applicant or be identified on the application. Therefore, according to the Board, it is unclear who needs to be fingerprinted and under what circumstances the Board can deny premises registrations. In addition, the buildings where veterinary medicine is practiced may be leased from a third party not involved in the practice. The Board notes that the statute is unclear whether the premises means the real estate, the brick and mortar building, or the location of the practice.

Furthermore, it is unclear if the Board has authority to deny a premises registration or MGL substitution application when a Veterinarian who had their license revoked or suspended is the owner or operator of the premises. Currently, a Veterinarian, who was named as the premises MGL but whose license was subsequently revoked or suspended, may submit to the Board an application naming a new MGL associated with the premises, while the revoked veterinarian attempts to operate the premises without the Board's knowledge. The Board reports instances of such abuse, in which MGLs who have been disciplined for various violations were able to continue controlling the veterinary premises and the veterinary practice therein. This can also lead to bad actors owning or operating the premises without maintaining minimum facility standards and keep rotating MGLs. New MGLs assume responsibility, realize the premises owner will not provide necessary resources to properly maintain the premises, decide to go elsewhere, and the premises owner/operator hires a new MGL. This endless loop leads to veterinary services being provided on an ongoing basis without the unlicensed premises owner/operator ever being held responsible for the premises conditions.

Although the Board does have authority to withhold, suspend, or revoke the premises registration when an MGL leaves, there is no specified timeframe for how long the owner has to designate a new MGL. Without a specified timeframe or explicit authority to cancel the registration, the Board explains that its only options are to either hold a renewal, which could take an entire year, or go through the disciplinary process in order to suspend or revoke the registration. The Board argues that the ability to enforce a clear timeframe incentivizes compliance and enables the Board to adequately enforce the consumer protection statute.

AB 1535 implements three broad categories of changes related to veterinary premises registration to address these issues. The bill (1) clarifies that veterinary premises refers to the location of operation where veterinary medicine, dentistry and surgery is being practiced rather than the real estate; (2) requires that any owner, operator, officers, directors, shareholders, general partners or agent for service of process be clearly identified on a premises application, and requires any changes in these positions to be reported to the Board within 30 days; and (3) grants the Board with specified enforcement authority, including the ability to deny, suspend, or revoke premises registration on the basis of a premises registration holder criminal and disciplinary history.

Safeguards related to corporate practice of medicine. In 2017, the Board received information from Veterinarians that general corporations that own or operate veterinary premises are using

employment contracts to control the provision of veterinary medical care to animal patients. Examples include forcing the veterinarians to use, sell, or recommend to clients particular products that are owned by the corporation. Current statutory and regulatory law does not explicitly prohibit general corporate ownership or operation of a veterinary medical practice or influence over the standards of veterinary medicine practice. The Board explains that without statutory language, it cannot protect consumers from commercial motives of the corporation being asserted over a licensee's professional judgment. To address these concerns, AB 1535 includes provisions for veterinary corporations to be identified on a premises permit application, and prohibits a premise registration holder that is not a California-licensed veterinarian to interfere with, control, or otherwise direct the professional judgment of any California licensed veterinarian or registered veterinary technician. To enforce this provision, this bill authorizes the Board to require any information, including, but not limited to, employment contracts between the premises registration holder and a California-licensed veterinarian or registered veterinary technician as deemed necessary.

Changes to the Board's drug and alcohol diversion program. The Board's Diversion Program was established to identify and rehabilitate Veterinarians and RVTs who suffer from alcohol or drug abuse addiction. This voluntary program aims treat these licensees with the goal of eventually returning them to the practice of veterinary medicine in a manner that will not endanger public health and safety. Participants in the program are enrolled for a minimum of three years – but the length of treatment can extend based on individual needs and level of rehabilitation. Under current regulations, participant in the diversion program pay a flat fee of \$2,000, which can be raised to a statutory maximum of \$4,000. Any expenses beyond the initial \$2,000 registration fee is covered by the Board. According to the Board, the minimum cost for a three-year diversion program is roughly \$16,000 – thus the Board covers on average \$14,000, or 88% of diversion costs. According to the Board, program participation has historically been low. Since 2003, there have been 24 total participants, and as of this Sunset Review, only one individual is currently participating in Diversion. The Board believes that the low participation rate may be due to the lack of knowledge about this program. As a result, the Board would like to develop an outreach campaign that would educate licensees about the rehabilitative and healing benefits of the Diversion program. However, there is significant concern that the Board's fund condition would not be able to sustain the program if more participants enrolled. AB 1535 aims to sustain the Board's fund condition in the event that more participants enroll in Diversion. To that end, the bill eliminates the registration flat fee, and instead requires participants pay the administrative costs for the program.

AB 1535 also makes changes to the Board's Diversion Evaluation Committee (DEC), which assists in the administration of the Diversion program. Among other responsibilities, the DEC evaluates licensees who request participation in the program; designates the treatment facilities which licensees may be referred to; and considers whether licensees may safely continue or resume the practice of veterinary medicine. Existing law requires a majority vote of the Board to appoint members of the DEC. However, according to the Board, there is no provision for suspending or dismissing DEC members without the full Board conducting a meeting. The Board is requesting legislative authority to dismiss a DEC member who relapses or is suspected of drug or alcohol abuse, as that member's integrity with the DEC may be compromised. AB 1535 includes a provision authorizing the Board's president to suspend any diversion evaluation committee member pending an investigation into allegations of existing alcohol or drug

addiction. If, after investigation, there is evidence of an alcohol or drug addiction relapse, the board president would be authorized to remove the member without input from the full Board.

Process to contest citations. Existing statutes allows the Board's to issue citations to Veterinarians, RVTs, or unlicensed persons for Act violations. The Board reports conflicting statutes regarding the timelines for contesting a citation: BPC section 125.9 allows a cited individual 30 days to contest a citation and request an informal conference or hearing. On the other hand, BPC section 4875.6 requires notification in 10 business days from receipt of the citation if the individual contests the citation and wants an informal conference. The Board explains that this inconsistency leads to confusion amongst Board staff and cited individuals wishing to appeal the citation. AB 1535 provides clarification on the process and timelines for citations: a cited person may request an informal conference to review the acts shared in the citation. The cited person shall make the request for an informal conference in writing, within 30 days of the date of issuance of the citation, to the Board's executive officer. Upon receiving the request, the Board or its representative must hold an informal conference with the cited person within 60 days. Following the informal conference, the Board may affirm, modify, or dismiss the citation. The Board or its representative must state in writing the reasons for the action and transmit a copy of those findings to the cited person within 30 days after the informal conference. If the citation is affirmed or modified following the informal conference, the respondent may make a request in writing to the executive officer within 30 days of the affirmed or modified citation, for a formal hearing.

Use of the title "Veterinary Specialist" or "Board-Certified." The American Board of Veterinary Specialties (ABVS) is an organization within the American Veterinary Medical Association (AVMA). The ABVS establishes criteria for recognition of veterinary specialty organizations, ensuring well-defined levels of competency in specific areas of study or practice categories within veterinary medicine. Currently, there are 22 AVMA-Recognized Veterinary Specialty Organizations comprising 40 distinct AVMA-Recognized Veterinary Specialties. According to the AVMA, there are more than 13,500 veterinarians have been awarded diplomate status in one or more of these specialty organizations after completing postgraduate training, education, and examination requirements. Unlike some other healing arts licensees who are statutorily required to be certified by a recognized entity to advertise the licensee's specialized practice, the Veterinary Medicine Practice Act does not provide any distinction between veterinarians who are general practitioners and veterinarians who are specialists. The Board argues that this puts consumers at risk, as they may not be able to distinguish a veterinarian who has specialist training and certification from a veterinarian who claims an interest in a particular field but has no specialist training or certification. According to the Board, it is important to protect the public from misleading claims of specialized veterinary practice and ensure that consumers have full understanding of a veterinarian's qualifications. To accomplish this goal, AB 1535 contains a provision prohibiting a Board licensee or registrant from making any statement, claim, or advertisement that they are a veterinary specialist or that they are "board-certified" unless they are actually certified by an American Veterinary Medical Association-Recognized Veterinary Specialty Organization.

Ability to abandon application. According to the Board, it currently does not have authority to abandon applications if the applicants pay the fee but fail or are unable to correct any deficiencies on a submitted application. As a result, applications can stay on the Board's system

for several years never to be completed, causing problems such as skewing Board-produced statistical reports. To ensure the Board's limited resources are spent more efficiently, AB 1535 provides that if applicant fails to complete their application within one year after it has been filed, the application shall be considered abandoned and the application fee forfeited. Any application submitted subsequent to the abandonment of the former application shall be treated as a new application. Additionally, AB 1535 requires an applicant to notify the board of any changes in mailing or employment address that occur after filing the application.

POLICY ISSUE(S) FOR CONSIDERATION:

As noted previously, this current version of the sunset review bill contains non-controversial statutory changes as identified by the Board, the Committees, and stakeholders involved with or impacted by veterinary medicine. Additional policy changes will be considered by the Legislature pending additional input from stakeholders. Several organizations have noted their interest in the following policy issues to be considered for inclusion in the sunset review bill:

Telemedicine. A veterinarian is required to establish a veterinarian-client-patient-relationship (VCPR) before providing care to an animal patient. Among other requirements, VCPR is established when the client has authorized the veterinarian to make medical judgements, and when the veterinarian has gained sufficient knowledge of the animal to make a diagnosis, generally through an in-person examination. Existing laws and regulations provide that a VCPR must be established before care can be provided remotely via telehealth. It is also generally understood that VCPR must be re-established for any subsequent diagnosis and treatment of a new medical condition. In practice, this means a veterinarian will request to examine an animal in-person again if diagnosing or treating a new condition, even if the animal was receiving care via telemedicine on a prior medical condition.

On June 4, 2020, in response to the ongoing COVID-19 pandemic, DCA issued a VCPR waiver authorizing a veterinarian to use telemedicine to diagnose and treat an animal patient for a new or different medical condition, if a veterinarian-client-patient relationship was previously established. At the request of various stakeholders, the Board directed its research committee, the Multidisciplinary Advisory Committee (MDC) to evaluate the telemedicine waiver and determine if it should be made permanent. In its preliminary discussions, the MDC acknowledged the need for clarity in statutes and regulations around the definitions of telehealth and telemedicine. At the time of writing, the MDC is conducting research and convening stakeholder discussions, and will meet to provide recommendations to the Board.

The San Francisco SPCA writes in support of overriding existing regulation in the Practice Act to allow VCPR to be established by telephonic or electronic means and have the Board update its guidance to expressly authorize veterinarians to establish VCPR via telemedicine: "It is beyond dispute that, via telemedicine, significant advice could be given by veterinarians simply talking to new clients, and then by being able to prescribe palliative and therapeutic treatments and medications for some conditions and problems. As professionals licensed by the state, these veterinarians would use their medical judgment, extensive training, and discretion to differentiate between patients who they need to see in person, and patients they can assist through telemedicine. However, the current regulations expressly prohibit veterinarians from establishing the requisite veterinarian-client-patient relationship ("VCPR") by telemedicine. See 16 Cal. Code Regs. 2032.1(e). This regulation harms consumers and their animals by depriving them of

veterinary care they might otherwise obtain if the VCPR could be established by telemedicine. [...] California can trust its licensed veterinarians to engage in careful, safe telemedicine where appropriate, and when indicated, to tell clients to bring their pets to clinics for in-person examinations. California consumers and their animals are suffering every day, because of the current regime requiring an in-person examination to establish a VCPR. The SF SPCA urges relaxation of the current regulation through direction from the legislature in AB 1535 to allow the VCPR to be established by telemedicine in appropriate situations, with those situations to be determined by licensed California veterinarians.”

The ASPCA writes in support of making the VCPR temporary waiver permanent: “According to a report from the Access to Veterinary Care Coalition (AVCC), one in four pet owners experience barriers in accessing veterinary care. There are a variety of challenging circumstances that lead families to forgo veterinary care. The AVCC study emphasizes that finances, ie. disposable income and affordability of care, are a primary obstacle for all pet owners seeking veterinary care. [...] We believe that the rigorous education and Board-sanctioned licensing requirements that California veterinarians undertake to become licensed in the state prepare them to utilize professional judgement in determining whether the use of telemedicine is appropriate in the care of a particular animal or a particular condition. Furthermore, California veterinarians are required to practice the standard of care required by their license and the law. One part of this obligation is that a veterinarian establish a veterinarian-client-patient-relationship (VCPR) before providing care to an animal patient. Professional discretion and full transparency must routinely be utilized in furtherance of this requirement, including a determination of whether an animal could/should be treated via telemedicine. As trained professionals, veterinarians must employ sound professional judgment to determine whether the use of telemedicine is suitable in each and every case in which veterinary services are provided and only furnish medical advice or treatment via telemedicine when it is medically appropriate. In sum, telemedicine should be viewed as another tool in a veterinarian’s toolbox rather than a liability to the profession. For these reasons, the ASPCA supports the broadest responsible use of telemedicine by both private practitioners and shelter veterinarians and urges a deference to professional competency and discretion in determining the application of this essential tool in California.”

The Humane Society of the United States writes in support of making the temporary waiver permanent and to allow VCPR to be established by telemedicine or through other electronic means: “Veterinary telemedicine can provide numerous benefits to pet owners—especially for people without access to a private vehicle or who are unable to easily leave their home with their companion animal including the elderly and disabled pet owners. Although telemedicine has been an available tool to veterinarians for years, it is widely underutilized. Yet it is one of the most effective methods in providing animal wellness services equitably. Telemedicine can also be useful in managing chronic conditions such as diabetes, in facilitating progress checks during post-operative recovery, and in weight loss, physical conditioning and rehabilitation programs. It is well-suited to nutritional counseling, behavior consultation and the supervision of in-home hospice care. Additionally, telemedicine may be used for quickly triaging emergency vs. non-emergency cases, promptly addressing 'quick questions' from clients, discussing the appropriateness of prescription refills, and troubleshooting low-risk conditions such as external parasites, minor wounds and motion sickness.”

Shelter Medicine. In 2015, the Orange County Animal Shelter contacted the Board requesting guidance on the shelter's existing protocols for directing RVTs to provide animal care on in-take, in the absence of the supervising Veterinarian. At that time, the Orange County Animal Shelter had been audited by the County Auditor, who inquired whether established shelter protocols complied with the Practice Act.

Following this request, the Board began an effort to review existing and needed regulations related to the practice of animal medicine in a shelter setting. After interviewing several shelters throughout the state and examining their facility protocols, the Board determined that shelters that performed certain animal health care tasks – such as administering medication or rendering basic first aid – were required to register with the Board. However, it appeared at the time that some shelters in California were either unaware of the registration requirements, or were not able to comply with them due to the unique nature of providing animal care in a shelter environment. For example, under a premises registration, one of the more difficult requirements for shelters to meet is having a veterinarian maintaining a physical presence within the facility at all times. Some shelters in California, particularly those in rural areas, report that there are no Veterinarians available in their jurisdiction, and thus cannot meet the premises registration requirements.

Between 2015 and 2018, in response to concerns from animal shelters, the Board engaged in stakeholder discussions with the California Veterinary Medical Association (CVMA), the State Humane Association of California (SHAC) and the California Animal Control Director's Association (CACDA) to identify the unique challenges of providing animal care in shelters. (Note: SHAC and CACDA merged in 2018 to become the California Animal Welfare Association, or CalAnimals.) The Board aimed to use this feedback to draft regulations that would enact minimum standards of care specifically designed for animal shelters.

In April of 2018, after multiple rounds of stakeholder negotiation, the Board voted to approve a regulatory package that would establish minimum standards of care in animal shelters. These regulations are undergoing the review process and are not yet implemented.

The draft regulations approved by the Board, among other items, would allow shelter staff to provide limited medical care to animals, but still require a degree of involvement and physical presence from a Veterinarian. For example, RVTs, VACSP holders and Veterinary Assistants at the shelter would be able to provide care for the purpose of controlling infectious and zoonotic disease, controlling acute pain, and preventing environmental contamination, but only if a supervising Veterinarian has direct knowledge of the shelter's animal population and has established written care protocols for shelter staff to follow.

CalAnimals and several county organizations representing rural areas have since expressed significant concerns over the Board's proposed regulations. These stakeholders posit that many shelters are struggling to obtain veterinary support, and that shelters cannot meet the proposed Board requirements due to a chronic shortage of veterinarians specializing in shelter medicine. Shelters propose that in order to safeguard the lives of animals, shelter staff must have the ability to perform low-risk animal care without veterinary oversight, such as vaccinations and prophylactic control of internal and external parasites. Stakeholders have also expressed concerns that some of the building and equipment requirements proposed by the Board's regulations are too vague and necessitate additional clarifications.

In response to the Board's regulations, stakeholder groups representing animal shelters pursued legislation to allow shelter staff and employees to perform certain animal health care tasks without the supervision of a veterinarian. This legislation, SB 1347 (Galgiani, 2019) did not pass and was held in the Assembly.

The California Animal Welfare Association (CalAnimals) writes in regards of shelter medicine: "This issue is critically important to California's animal shelters and we are requesting support to either instruct the VMB to pull the proposed Shelter Medicine Regulations back for more stakeholder input, or include language in AB 1535 to allow shelters to provide basic care without a veterinary premises permit. [...] The health and safety of shelter pets must be protected by ensuring that shelters are allowed to provide vaccinations and parasite control, administer first aid, and carry out veterinary instructions without the presence of a veterinarian or the requirement to obtain a veterinary premise permit for their facility; the same activities permitted of the average pet owner. Existing law allows shelters to euthanize pets without veterinary oversight but does not allow shelters to provide vaccinations or even over-the-counter flea treatments to protect the health of animals in their care. [...] To protect their health, dogs and cats need vaccinations, prophylactic control of parasites, basic first aid, and necessary follow-up care prescribed by a veterinarian. It is paramount these needs are met regardless of the shelter's ability to obtain veterinary staffing for their facility."

REGISTERED SUPPORT:

None.

REGISTERED OPPOSITION:

None.

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