

CONCURRENCE IN SENATE AMENDMENTS
AB 1535 (Committee on Business and Professions)
As Amended August 26, 2021
Majority vote

SUMMARY

Enacts various changes to the regulation of Veterinarians, Registered Veterinary Technicians (RVTs), Veterinary Assistant Controlled Substances Permit (VACSP) holders, veterinary schools, and veterinary premises, stemming from the joint sunset review oversight of the Veterinary Medical Board (Board) by the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions, and Economic Development.

Senate Amendments

- 1) Revise and recast the various fees levied by the Board. Increase the \$400 initial and renewal fee for veterinary premises to \$500 and \$525, respectively. Lower the RVT application, initial, and renewal fee from \$350 to \$225. Set the initial and renewal VACSP fee to \$100.
- 2) Require, beginning January 1, 2023, RVTs, veterinary assistants, and VACSPs to wear a name tag identification in any area of a veterinary premises that is accessible to members of the public.
- 3) Authorize persons providing care to animals lawfully deposited with or impounded by a shelter to administer nonprescription vaccinations, nonprescription medication, and medications pursuant to a written treatment plan without the presence of a veterinarian under specified conditions.
- 4) Extend the regulatory authority of the Board until January 1, 2026.
- 5) Make other conforming, technical, and nonsubstantive changes.

COMMENTS

Sunset Review of the Veterinary Medical Board. 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. This bill 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.

This bill proposes several changes to the operations of the Veterinary Medical Board. Specifically, the bill 1) eliminates the requirement that a veterinarian complete a California state board examination for licensure, as this examination was deemed redundant with the national examination currently administered; 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, such as prohibiting an entity from interfering with, controlling, or otherwise directing the professional judgment of any California licensed veterinarian or registered veterinary technician.; 4) implements changes to the Board's drug and alcohol diversion program; 5) clarifies the process and timeline to contest Board-issued citations; 6) clarifies the use of the title "veterinary specialist" or "board-certified"; 7) authorizes the Board to abandon applications for licensure or registration that have been left incomplete; 8) revises the Board's fee structure; 9) authorizes animal shelters to provide specified care without the presence of a veterinarian under certain conditions and 10) requires RVTs, veterinary assistants, and VACSPs to wear name a tag identification when interacting with the public.

Please see the policy committee analysis and the committee background paper for a comprehensive list and description of the issues addressed in this 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, to evaluate the telemedicine waiver and determine if it should be made permanent.

On May 3, 2021, the San Francisco SPCA filed a federal lawsuit against the Veterinary Medical Board, contending that the state should not end waivers allowed during the pandemic for remote visits. The case is ongoing as of this writing.

According to the Author

Arguments in Support

The Veterinary Medical Board writes in support: "AB 1535 provides necessary changes to the Act that, if enacted, will improve processes for applicants, licensees, consumers, and overall Board operations. The Board has spent the last two years evaluating its statutes and regulations to eliminate unnecessary barriers to licensure, streamline the licensing process, and improve consumer protection mechanisms. This bill is the product of that in-depth review."

The California Animal Welfare Association writes in support, noting that "recent amendments that codify the ability of shelter staff to administer non-prescription vaccinations and medications to ensure animals entering shelters receive proper care. This is a critically important move for our state. We are also sincerely appreciative of the additional amendments that provide greater clarity around the application of these laws.

The Animal Physical Therapy Coalition writes as support if amended: "The APTC urges the bill to be amended to: (1) Establish a framework to legislatively resolve the ongoing issue of animal physical therapy by licensed physical therapists (PTs) with advanced training, and (2) Extend the VMB's Sunset to January 1, 2024 so that the board will be reviewed again in two years, not the four years currently in the bill."

The Humane Society of the United States and the *American Society for the Prevention of Cruelty to Animals* provides the following comment regarding veterinary telemedicine: "We ask for the Committee's support in compelling the VMB to make the temporary waivers permanent and request the VMB to immediately begin collecting data to discern whether consumer complaints filed with the Board are associated in any way to the practice of veterinary medicine via telemedicine."

The San Francisco SPCA writes to request an amendment to "override the existing regulation in the California Veterinary Medicine Practice Act that states, 'A veterinarian-client-patient relationship cannot be established solely by telephonic or electronic means', and direct the California Veterinary Medical Board to update its guidance to expressly authorize California veterinarians to establish a veterinarian-client-patient relationship by telemedicine."

Arguments in Opposition

None on file.

FISCAL COMMENTS

The Senate Committee on Appropriations notes ongoing annual costs of approximately \$6.91 million (Veterinary Medical Board Contingent Fund) and 30.8 positions to support the continued operation of the Veterinary Medical Board's licensing and enforcement activities.

The Veterinary Medical Board notes:

- 1) Unknown decrease in revenue as a result of the elimination of the examination and discontinuation of the temporary license applications. The Board estimates revenue loss from the elimination of the examination would be approximately \$192,000. The Board anticipates revenue loss from the discontinuation of temporary licenses to be offset by individuals applying for a full reciprocity license.
- 2) Unknown increase in revenue from additional permit and renewal fees. The Board estimates a revenue increase of approximately \$205,000 from the new initial permit fee and increased renewal fee.
- 3) Savings of approximately \$63,000 due to the elimination of specified Board contracts, which may be redirected to other areas as needed.

- 4) The Office of Information Services (OIS) anticipates information technology costs of approximately \$22,500 to create a new initial transaction, update existing transactions to allow manual override, remove the California state board examination, add new enforcement codes, and retire temporary license types. OIS costs may be absorbed by redirection of existing maintenance resources.

VOTES:

ASM BUSINESS AND PROFESSIONS: 19-0-0

YES: Low, Flora, Arambula, Berman, Bloom, Chen, Chiu, Cunningham, Megan Dahle, Fong, Gipson, Grayson, Holden, Irwin, McCarty, Medina, Mullin, Salas, Ting

ASM APPROPRIATIONS: 16-0-0

YES: Lorena Gonzalez, Bigelow, Calderon, Carrillo, Chau, Megan Dahle, Davies, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

ASSEMBLY FLOOR: 78-0-0

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

SENATE FLOOR: 37-0-3

YES: Archuleta, Atkins, Bates, Becker, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk

ABS, ABST OR NV: Allen, Borgeas, Stern

UPDATED

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