
THIRD READING

Bill No: AB 2215
Author: Kalra (D), et al.
Amended: 8/23/18 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 6/25/18
AYES: Hill, Fuller, Allen, Dodd, Galgiani, Glazer, Hernandez, Pan, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 60-10, 5/29/18 - See last page for vote

SUBJECT: Veterinarians: cannabis: animals

SOURCE: Author

DIGEST: This bill prohibits a licensed veterinarian from dispensing or administering cannabis or cannabis products; specifies that absent negligence or incompetence a veterinarian shall not be disciplined or have his or her license denied, revoked or suspended by the Veterinary Medical Board (VMB) solely for discussing the use of cannabis on an animal for medicinal purposes; provides that the VMB would have until January 1, 2020, to promulgate guidelines for veterinarians to follow when discussing the use of cannabis; and prohibits a veterinarian from having any financial or pecuniary interest with a Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) licensee or to distribute any form of advertising for cannabis in California.

Senate Floor Amendments of 8/23/18 delete provisions related to cannabis products for medicinal use on an animal and clarify the ability of the VMB to take disciplinary action against veterinarian for conflicts of interest and in discussing the use of cannabis on an animal for medicinal purposes.

ANALYSIS:

Existing law:

- 1) Provides for the licensing and regulation of veterinarians and registered veterinary technicians by the VMB within the Department of Consumer Affairs, whose highest priority is to protect the public in exercising licensing, regulatory, and disciplinary functions. (Business and Professions Code (BPC) §§ 4800, *et seq.*)
- 2) Establishes the Veterinary Medicine Practice Act (Act), and prohibits any person from practicing veterinary medicine unless the person holds a valid, unexpired, and unrevoked license as a veterinarian, or is the bona fide owner of the animal. (BPC §§ 4811 and 4825)
- 3) Defines the practice of veterinary medicine as including, among other things, administering a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals. (BPC § 4826)
- 4) Provides that the VMB may deny, revoke, or suspend a license or registration or assess a fine for specified purposes including, among others: conviction of a crime; violation or attempting to violate, directly or indirectly, any provisions of the Veterinary Medicine Practice Act; false or misleading advertising; unprofessional conduct; fraud, deception, negligence, or incompetence in the practice of veterinary medicine; conviction on a charge or cruelty to animals; violation of any regulations of the VMB. (BPC § 4883)
- 5) Requires the Medical Board of California to prioritize cases for repeated acts of clearly excessive recommending of cannabis to patients without a good faith prior examination of the patient and medical reason therefor, and specifies that it is unprofessional conduct to recommend medical cannabis to a patient without an appropriate prior examination and medical indication. (BPC §§ 2220.05(a)(4), 2241.5(c)(3) and 2525.3)
- 6) States that it is unlawful for a physician and surgeon who recommends cannabis to a patient for a medical purpose to accept, solicit, or offer any form of remuneration from or to a facility issued a state license under MAUCRSA if the physician and surgeon or his or her immediate family have a financial interest in that facility. (BPC § 2525)

- 7) Provides that a person shall not distribute any form of advertising for physician recommendations for medical cannabis in California unless the advertisement bears a notice to consumers as specified. (BPC § 2525.5)
- 8) States that it is unprofessional conduct for any attending physician recommending medical cannabis to be employed by, or enter into any other agreement with any person or entity dispensing medical cannabis. (BPC § 2525.4)
- 9) Specifies that the advertising for attending physicians recommendations for medical cannabis shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discounts, premiums, gifts, or statements or a similar nature. (BPC § 2525.5)
- 10) Establishes the Bureau of Cannabis Control (Bureau) under the Department of Consumer Affairs to regulate the medical and adult-use cannabis industry. (BPC § 26010)
- 11) Establishes MAUCRSA as a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both medicinal and adult-use cannabis. (BPC § 26000)
- 12) Defines the following: (BPC § 26001)
 - a) “Cannabis” means all the parts of the plant as specified, but does not mean “industrial hemp” as defined.
 - b) “Medicinal cannabis” means cannabis or a cannabis product intended to be sold for use pursuant to the Compassionate Use Act of 1996 (CUA) by a medicinal cannabis patient in California who possesses a physician’s recommendation.
 - c) “Licensee” means any person holding a license under the MAUCRSA, regardless of whether the license held is a A-license or an M-license, and includes the holder of a testing laboratory license.
 - d) “A-license” means a state license issued under the MAUCRSA that are intended for adults 21 years of age or over and who do not possess physician’s recommendations.

- e) “M-license” means a state license issued under the MAUCRSA for commercial cannabis activity involving medicinal cannabis
- 13) Defines “financial interest” as any type of ownership interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between a licensee and a person or entity to whom the licensee refers a person for a good or service as specified. (BPC § 650.1(b) (2))
- 14) Defines “cannabis products” as cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. (Health and Safety Code (HSC) § 11018.1)
- 15) Defines “industrial hemp” as a fiber or oilseed crop, or both, that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom. (HSC § 11018.5)
- 16) Encourages the University of California Regents to create the California Cannabis Research Program to develop and conduct studies intended to ascertain the general medical safety and efficacy of cannabis and, if found valuable, develop medical guidelines for the appropriate administration and use of cannabis. The studies may include studies to ascertain the effect of cannabis on motor skills. (HSC § 11362.9 (a))

This bill:

- 1) Provides that the VMB may deny, revoke, or suspend a license or registration or assess a fine for accepting, soliciting, or offering any form of remuneration from or to a cannabis licensee, as defined, if the veterinarian or his or her immediate family have a financial interest, as defined, with the cannabis licensee; discussing medicinal cannabis with a client while the veterinarian is employed by, or has an agreement with, a cannabis licensee; or distributing any form of advertising for cannabis in California.

- 2) Prohibits a licensed veterinarian from dispensing or administering cannabis or cannabis products.
- 3) Specifies that absent negligence or incompetence, a veterinarian shall not be disciplined or have his or her license denied, revoked or suspended by the VMB solely for discussing the use of cannabis on an animal for medicinal purposes
- 4) Requires the VMB on or before January 1, 2020, to adopt guidelines for veterinarians to follow when discussing cannabis within the veterinarian-client-patient relationship and to post the guidelines on the VMB's Internet Web site.

Background

History of Legal Cannabis and Regulation in California. In 1996, California voters passed Proposition 215, legalizing the use of medical cannabis in the state. In October 2015, nearly 20 years after the authorization of the use of medical cannabis, Governor Jerry Brown signed into law a trio of bills [AB 243 (Wood, Chapter 688, Statutes of 2015), AB 266 (Bonta, Cooley, Jones-Sawyer, Lackey, and Wood, Chapter 689, Statutes of 2015), and SB 643 (McGuire, Chapter 719, Statutes of 2015)] collectively known as the Medical Cannabis Regulation and Safety Act (MCRSA). MCRSA established, for the first time, a comprehensive statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis to be administered by the newly established Bureau within Department of Consumer Affairs, the Department of Public Health, and the Department of Food and Agriculture, with implementation relying on each agency's area of expertise.

Shortly following the passage of MCRSA, in November 2016 California voters passed Proposition 64, the "Control, Regulate and Tax Adult Use of Marijuana Act" (AUMA, or Prop 64), to legalize the recreational use of cannabis in the state by 2018. Less than a year later in June 2017, the California State Legislature passed a budget trailer bill, SB 94 (Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017), that integrated MCRSA with Prop 64 to create MAUCRSA. On May 18, 2018, the Administration readopted emergency regulations implementing MAUCRSA that initially went into effect in December 2017.

Licensure under the MAUCRSA. Current law prescribes 11 steps for licensure for cannabis-related businesses. Current law also permits the Bureau to issue temporary licenses for the purpose of retailing at temporary cannabis events.

These licensing requirements include transmission of fingerprints, submission to a background check, and submission of fees, as well as a requirement that applicants with more than 20 employees seeking licensure engage in cannabis related business must submit to the licensing authority a statement that the applicant will enter into or demonstrate that it has already entered into a labor peace agreement. Under current manufacturing regulations, licensees may only manufacture cannabis products for human use.

Consequences for Veterinarians. Veterinarians do not have the authority to prescribe a Schedule I drug and doing so on a prescription pad tracked by the Federal Food and Drug Administration would constitute a federal crime. This distinction has led to the rise of medical practices in the human market oriented around “recommendations” rather than prescription. Recent law for physicians allows them to recommend medical cannabis to a patient only after an appropriate prior examination reveals there is a medical indication for the use of cannabis. Though this bill will not allow a veterinarian to recommend cannabis to a client, it will allow them to discuss cases in which an animal may have ingested cannabis unintentionally or if it may be an option for medical use which the client is considering.

Cannabis Efficacy for Pets. While there is substantial anecdotal evidence related to the medicinal benefits of cannabis for pets, there is very little clinical research available on the topic. As a Schedule I drug on both the federal and state levels, cannabis is highly controlled in research settings with very small populations of researchers being granted access to a limited supply of government grown cannabis for research. Dosing of cannabis is an inexact science, impacted by height, weight, and other biological and environmental factors. As such, the University of California, Davis School of Veterinary Medicine launched a survey in November 2017 to learn more about cannabis use for pets in an effort to begin research at the most basic level.

There are a number of companies offering cannabis products oriented around the pet market, including those that may not be legal under current regulations. Many of these contain Cannabidiol (CBD) oil, a cannabis extract generally thought to provide muscle relaxation and relief from body aches without the psychoactive effects of cannabis products containing THC. While extraction from cannabis plants for anything other than human consumption is illegal under existing law, products oriented for pets often cite that they are derived from Hemp, a legal agricultural product with very low THC content and not regulated by the MAUCRSA.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 8/24/18)

American Association for Laboratory Accreditation
California Cannabis Industry Association
California NORML
California Veterinary Medical Association
California Veterinary Medical Board
CMG/Caliva
Social Compassion in Legislation
The Green Cross
VetCBD

OPPOSITION: (Verified 8/24/18)

None received

ARGUMENTS IN SUPPORT: The California Veterinary Medical Association (CVMA) is in support of this bill and writes that, “CVMA has been extensively researching the cannabis issue, in light of past and recent changes to state law, and its impact on the veterinary profession. As per federal law, a healing arts practitioner is prohibited from prescribing, dispensing, or administering cannabis to a patient under their care. Consequently, veterinarians are prohibited from incorporating cannabis into the treatment of animal patients and may not even discuss or recommend the use of cannabis products. This factor was confirmed by the Veterinary’s Medical Board’s attorney, who opined in an October 5, 2017 memorandum to the Board that *‘it is unclear whether veterinarians have any protection from DEA discipline or prosecution for having discussions with clients regarding cannabis treatment of animal patients. Due to the increasing exposure of animals to cannabis products and the need for veterinarians to properly treat animal patients suffering from cannabis toxicity or medical maladies for which animal owners are treating with cannabis products, the Board may wish to recommend legislative proposals to address these issues.’*”

The CVMA further states that: “Currently consumers are receiving recommendations on the use of cannabis products for their pets from the internet, marijuana dispensary clerks, family and friends. This exchange of information occurs while licensed veterinarians are prohibited from providing clinical information and guidance to their clients under current law. Clearly, this structure is not in the best interest or health of the animal patient.” The CVMA believes that

changes to current law are necessary and are pleased that this bill will prohibit the VMB from disciplining, or denying, revoking, or suspending the license of veterinarian for discussing the use of cannabis on an animal for medicinal purposes.

The California Cannabis Industry Association is in support of this measure and writes that veterinarians have no protections for discussing the use of cannabis with pet owners, putting their licenses and animal lives at risk and that this bill would protect the ability of veterinarians to discuss cannabis with pet owners and direct the VMB to establish guidelines for those discussions.

ASSEMBLY FLOOR: 60-10, 5/29/18

AYES: Acosta, Aguiar-Curry, Arambula, Baker, Berman, Bloom, Bonta, Brough, Burke, Caballero, Calderon, Carrillo, Cervantes, Chau, Chávez, Chen, Chiu, Chu, Cooley, Cooper, Cunningham, Dahle, Daly, Eggman, Friedman, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez Fletcher, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Kiley, Lackey, Levine, Limón, Low, McCarty, Medina, Mullin, Nazarian, O'Donnell, Quirk, Quirk-Silva, Reyes, Rodriguez, Rubio, Santiago, Steinorth, Mark Stone, Thurmond, Ting, Waldron, Weber, Wood, Rendon

NOES: Travis Allen, Choi, Gallagher, Gray, Harper, Maienschein, Melendez, Obernolte, Salas, Voepel

NO VOTE RECORDED: Bigelow, Flora, Fong, Frazier, Mathis, Mayes, Muratsuchi, Patterson

Prepared by: Bill Gage / B., P. & E.D. /
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