

**STATE BOARD OF GUIDE DOGS FOR THE BLIND**  
**INITIAL STATEMENT OF REASONS**

Hearing Date: **May 23, 2011**

Subject Matter of Proposed Regulations: Definitions, Sterilization of Dogs, When License Required, Issuance of Citations and Fines, Criteria to Be Considered, Contested Citations, Citations for Unlicensed Practice

Sections Affected: 2252, 2275, 2284, 2295, 2295.1, 2295.2, 2295.3

**Introduction**

On September 26, 2008, Board President Jeff Neidich established a Practice Task Force. Since 2008, the Task Force (comprised of three (3) senior guide dog instructors from the three (3) licensed guide dog schools) has initiated recommendations to the Board to make statutory and regulatory changes to focus on defining training competencies, update terminology to meet international training standards, and to clarify language where it is unclear. The Task Force was convened as a way to review all statutes and regulations pertaining to the practice of guide dog instruction. The Task Force is in lieu of licensee members on the Board. There are no current licensees on the Board. Additionally, the Board reviewed their current enforcement authority and identified areas of weakness including the absence of citation and fine authority, and the inability to cite unlicensed practitioners.

**Specific Purpose of each adoption, amendment, or repeal:**

1. Amend Section 2252

The proposed amendment would clearly define Board terminology.

**Factual Basis/Rationale**

Section 2252 provides an opportunity for the Board to provide definitions for commonly used terminology. For example, while the industry understands what a guide dog or instructor is, it is not codified in statute. The amendments would provide more clarification for the remaining sections of the "Code" as well as assist in any enforcement actions.

2. Amend Section 2275

The proposed amendment would add a requirement that female dogs be spayed.

### Factual Basis/Rationale

Currently, 2275 requires that all dogs be neutered, however, it is unclear whether the requirement is gender specific or not. Veterinarians, guide dog instructors, and guide dog schools use spay and neuter respective to each dog by gender. Additionally, there is a grammatical change from “of” to “from” in reference to the guide dog certificate “from a veterinarian.”

#### 3. Amend 2284

The proposed amendment would delete the requirement that supervision of a licensed instructor for an apprentice be direct and immediate.

### Factual Basis/Rationale

Section 2284 currently requires that licensed instructors provide direct and immediate supervision of a licensed instructor. Apprentices experience a level of supervision that is commensurate with their level of competence. It is important for an apprentice to progressively move toward independence once a basic level of competency is achieved. Each apprentice would continue to work with appropriate supervision and support throughout their three years. Additionally, this requirement is impractical, especially for smaller guide dog schools with less staffing to fulfill other training requirements as set forth in the Code.

#### 4. Adopt 2295

The proposed regulation would give the Board the authority to issue citations and fines.

### Factual Basis/Rationale

The Board’s citation program is based on two statutes (Business and Professions Code Sections 125.9 and 148) that permit boards and bureaus in the Department of Consumer Affairs to implement such a program through regulations. Those statutes were originally created with a maximum fine of \$2,500 per investigation. However, that amount was recently increased to \$5,000 via legislation, in order to preserve the deterrent effect of the fine.

As a general matter, citations are issued for violations of sufficient severity to warrant an enforcement action by the Board, but which are not severe enough to warrant disciplinary action by the Board or in the case of unlicensed practice where the Board does not have the authority to pursue disciplinary action.

#### 5. Adopt 2295.1

The proposed regulation would give the Board the criteria to be considered when issuing a citation or a fine.

#### Factual Basis/Rationale

In order to issue a citation or fine, the Board must have parameters to consider the severity, timeliness, consumer harm, historical behavior, willful negligence of the law and gravity of the licensee's actions. These parameters will guide the Board in making a fair decision.

#### 6. Adopt 2295.2

The proposed regulation would provide for an avenue for licensees to contest alleged violations via citations or fines. This due process enables the licensee to communicate disagreement with an alleged violation by requesting for both a formal hearing and informal conference with the Executive Officer.

#### Factual Basis/Rationale

This section is necessary to provide the licensee with due process to contest a violation.

#### 6. Adopt 2295.3

The proposed regulation would give the Board the authority to cite an individual for unlicensed practice.

#### Factual Basis/Rationale

This section is necessary for the Board to have the authority to cite an individual for providing unlicensed practice in the State. Currently, if an individual practices without a license, the only remedy is to seek a misdemeanor charge through the local authorities. This section would provide an administrative remedy for such a violation of law.

#### Underlying Data

Technical, theoretical or empirical studies or reports relied upon (if any):

- None

### Business Impact

This proposed regulation will have an insignificant adverse financial effect on business, i.e. the three (3) licensed guide dog schools. While a violation of law could result in a \$5,000 fine, such violations of law from licensed guide dog instructors and schools is rare, therefore, the additional expected costs to licensees would be minor.

### Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

### Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

If the Board maintained the status quo, terminology would continue to be unclear (especially for purposes of investigating violations of law), female dogs may not be spayed as the law does not currently specify, supervision would continue to require additional staff resources for the schools, and administrative remedies and processes would continue to allude the Board as an enforcement tool.