

PRESIDENT'S MESSAGE

I wanted to start this letter by sending a big thank you to all of you who attended CSM 2022, both the incredible presentation given by Lisa Bedenbaugh as well as our virtual business meeting. Of course, since I did not get to attend it in person, I missed the networking component and getting to meet hundreds of physical therapists and students interested in the field of animal physical therapy, but it helped to host a virtual Q&A on February 26th when Jenny and I got to connect with quite a few physical therapists and students interested in becoming an animal physical therapist.

For this quarter, Karen Atlas has written for us a very succinct summary on the legislative “battle” we have had in California, and with that in mind I would like to focus my message on the importance of getting involved. Although the resistance from a few, but unfortunately very loud, veterinarians and veterinary technicians and their trade associations who appear to be putting special interests above else have thus far prevented us from achieving common language in California, please understand that we have successfully changed either the Physical Therapist or Veterinary Practice Acts in many states since the inception of animal physical therapy in the late 90s/early 2000s. However, there was one significant thing in common in every single one of those instances: a physical therapist (or group of physical therapists) interested and engaged in making a change.

Legislative issues are one of the, if not the, most important issues we face in our field. It not only affects our ability to treat animals as physical therapists, but it also trickles down into other potential issues such as liability and malpractice insurance, client reimbursement from pet insurance companies for services provided by physical therapists, continuing education credits with courses in animal physical therapy, and potential inclusion of animal physical therapy as a topic in physical therapy schools’ core curriculum, to name a few. More and more physical therapists are getting certified to work with animals, and over the next few years this number will only continue to climb as animal physical therapy has become the fastest growing niche in physical therapy. This is great because we need numbers to make our voices heard! We need individuals who are willing to step-up and drive change, and we need the support in numbers from all physical therapists - not just those who are certified to work with animals.

If that is you, then let’s connect! The Animal PT SIG is here to support you through this process. We know that it can be scary and complex, and we have the resources to help guide you. If I may be honest, we are facing a pivotal moment in the field of animal physical therapy. A moment that will help shape up this field for generations to come, and we need you to help drive that change. As Mother Teresa eloquently said, “I alone cannot change the world, but I can cast a stone across the water to create many ripples.”

*Thank you,
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How Politics and Self-Interest Thwarted Positive Regulatory Change for California Consumers and their Animals...a Call to Action!

Karen Atlas, PT, MPT, CCRT

The struggle is real for California animal healthcare advocates. As is often the case, understanding how we arrived where we are is critically important to finding common ground and resolution.

The California Veterinary Medical Board (“CVMB”) has been trying to resolve the issue of regulating animal physical therapy (animal rehabilitation, or “AR”) since 2004. The challenge stems from the fact that effective care for animals spans two professions whose interests, as well as those of consumers and their animals, unfortunately conflict.



Animal rehabilitation falls squarely between two licensing Boards: the CVMB and the Physical Therapy Board of California (“PTBC”). The provisions of the California Physical Therapy Practice Act are clearly limited to care for humans, while the Veterinary Medicine Practice Act does not define or otherwise directly address AR. Despite this gap in regulation, the CVMB contended that AR was an inherent part of veterinary medicine (even though there is no formal training in veterinary school to establish competency in this specialty area of practice). Based on this contention, the CVMB concluded that any veterinarian, who may or may not be qualified, could practice AR, while qualified physical therapists could not, unless they operated under “direct or indirect supervision” of a vet.¹ Since no regulatory language existed to specifically name qualified physical therapists as a legitimate provider of rehab services, they were legally lumped into the category of “unlicensed vet assistant (VA).” This defined the status quo.

The issue became a hot topic in 2015 when the first regulatory attempt by the CVMB was made. After years of debate within their own committee, the CVMB adopted language that mandated that the supervising veterinarian be onsite and be the primary veterinarian on record. This would have required clients to either change

vets if their preferred AR practitioner did not happen to work for their vet or pay twice to have both their vet and their preferred AR practitioner's supervising vet involved.

CVMB fails regulation attempt in 2015

In September 2015, the CVMB held a public hearing that garnered almost universal opposition (with the exception of 2 veterinarians who owned their own rehabilitation practices, and 1 registered veterinary technician [RVT]). Roughly 50 people spoke (and thousands of petition signatures were submitted) in opposition to the regulatory proposal during a multi-hour testimony. The Board then relied on a "staff summary," which proved to be an inaccurate representation of the extent of public discord.

Fortunately, due to strong public opposition and a timely decision by the U.S. Supreme Court on a related matter involving the Federal Trade Commission vs. North Carolina Dental Examiners,² the CVMB withdrew their proposed regulations in October 2015.

CVMB overrides AR Stakeholder's Task Force recommendation in 2017

The contentious conversations in Sacramento continued after the CVMB's first regulatory attempt in 2015 failed, sparking the interest of the California State Legislature during its Sunset Review process. The Sunset Review process in California requires that the Legislature formally review each professional regulatory board (typically every four years) to ensure they are upholding their duties to serve as a consumer protection agency. It is only the Legislature that can renew professional regulatory boards through statute, so these periodic reviews represent an important protection for consumers. Fortunately, the Legislature took notice that AR regulation had remained an unresolved issue for far too long, and formally tasked the CVMB to address it.

In response, the CVMB created a Stakeholder's Task Force comprised of 18 people (10 CA vets/RVTs/vet trade association members, and 8 others: 2 PTs, 1 non-CA vet, 1 Senate staff representative, 1 Assembly staff representative, 2 consumers, and 1 public member of the VMB). This Task Force formulated and approved very reasonable language as it related to the regulation of qualified physical therapists to practice on animals, and its recommendation was presented to the CVMB in April 2017.

To the great surprise and disappointment of those closely following this issue, the CVMB voted to reject their own Stakeholder's Task Force language based largely on misinformation provided by their own licensees and vet/vet tech trade associations. They re-worked the language to even more seriously limit consumer access to trained AR practitioners than the regulation that had been withdrawn in 2015: namely, that qualified physical therapists could work only under direct supervision of a vet and only after they had received advanced certification. (Notably, they voted just prior to this to allow any unlicensed assistant to practice under the same direct supervision provision, without requiring any training.)

Animal Physical Therapy Coalition and AB3013

In the wake of this disappointing development, and recognizing that the majority of vets, physical therapists, RVTs and consumers had a like-minded desire for common sense regulation and legislation, I founded the Animal Physical Therapy Coalition (APTC) to work collaboratively toward a solution that more effectively meets the needs of all stakeholders. The reality is that the various stakeholder interests with respect to AR are generally more



aligned than at odds. In the 'real world' of practice, many vets enjoy the option to refer (provide medical clearance) to a qualified physical therapist, understanding that it is often the best option for their animal patients. Physical therapists are accustomed to working collaboratively within a multidisciplinary model of healthcare, with the expectation of a reasonable amount of autonomy after completing advanced training specific to animals. Consumers certainly want increased access to more qualified professionals who can give their animals the care they need, where they need it. (It has been well documented that California has an access to care crisis with respect to AR [worsened now by the COVID-19 pandemic]. The most notable gaps in service are for equines and small animals in rural areas that have been grossly underserved.³)

In response to the unnecessarily restrictive regulation proposed by the CVMB in 2017, the Coalition introduced the Animal Physical Rehabilitation Bill (AB 3013) in 2018, intending to codify the original Stakeholder's Task Force recommendations. Unfortunately, vet and vet tech trade associations once again came out in full force with misleading campaigns to successfully kill the bill, effectively preserving the veterinary monopoly in animal healthcare in the state of California. (While the bill did pass through the first policy committee with zero 'no' votes after the author and sponsor accepted all amendments, it was held on suspense by the Committee on Appropriations, likely based on the CVMB's artificially inflated cost estimate for the state to implement the proposed law.)

CVMB succeeds in passing onerous AR regulations in 2018

Shortly after the fall of AB 3013, in June 2018, the CVMB pushed forward with their regulatory agenda. Due to the lengthy regulatory processes, another public hearing was not held until 2020

(this time virtually due to the COVID-19 pandemic) where again, thousands of petition signatures, letters, and verbal testimony in opposition were offered for consideration. The hearing was clearly not objective, with the Board relying on pre-written responses to opposition, seemingly indifferent to the concerns raised in public testimony. Further, the Board President repeatedly used inaccurate information (including egregiously false statements about one of the canine rehabilitation certification programs) to support the direct supervision mandate. The President arguably should have recused herself from the process due to conflict of interest, as she is a veterinarian who owns a practice offering animal rehab services.

Nevertheless, the CVMB voted on final language to move their highly controversial regulatory language forward and it was enacted on January 1, 2022. This language now defines AR as a practice of veterinary medicine and mandates all non-vet licensees to work under the direct supervision of a veterinarian. This was a major change to the status quo; whereby non-vet licensees were allowed to work under the direct or indirect supervision of a veterinarian. As a result, practices that were operating lawfully fell out of compliance as of January 1 and are now facing clinic closures, worsening the access to care crisis for consumers and their pets.

Notably, in the eyes of the CVMB (and PTBC), physical therapists working on animals in California are still considered “unlicensed VAs” since they are not licensed by the CVMB. The only way to elevate qualified physical therapists out of the category of “unlicensed VAs” is to pass a legislative bill to allow the CVMB to have legal authority over the physical therapists (one regulatory board cannot have purview over another licensed professional from a different discipline). So, while the CVMB does have the authority to create new regulations into their own practice act, they are unable to legally include licensed and qualified physical therapists as legitimate providers of physical therapy services for animals unless legislative approval is granted.

What’s next for California?

It is clear a legislative remedy is needed to increase safe access to qualified animal physical therapists. On January 28, 2022, the consultants for the Senate and Assembly) Committees on Business and Professions hosted a meeting of stakeholders (including the CVMB President, CVMB legal counsel, California Veterinary Medical Association (CVMA) Executive Director, CVMA lobbyist, APTC President, APTC lobbyist, California Physical Therapy Association (CPTA), DVM representative of a PT animal rehabilitation training program, and the CVMB and PTBC Executive Officers). This meeting was held specifically to provide fact-based presentations to ensure each side would be operating from the same set of facts to prevent any future undermining of a legislative remedy.

We are hopeful that now that stakeholders will presumably be operating from the same set of facts, true progress can be made to increase consumer access to qualified animal physical therapists.

Successful regulation in other states should pave the way for California

There are a number of states (Colorado, Nevada, Nebraska, to name a few) that have successfully changed their practice acts to allow animal-loving consumers access to qualified physical therapists while simultaneously protecting them from unqualified individuals. Some states achieved this through changes to both the Veterinary and Physical Therapy Practice Acts, and some made

their changes only to their Veterinary Practice Acts. Several states completed their changes in a matter of a few years without the contentious issues that California has endured.

Proponents of the direct supervision model in California cite risk of animal harm as their key argument, despite that an indirect model requires completion of additional physical therapy training specific to animals, as well as veterinarian diagnosis and referral to practice. However, with other states forging ahead of California with common sense legislation and regulations, there is now a wide body of evidence that increasing access to consumers through an indirect model is indeed safe for animals. There have been no complaints of harm or negligence against a qualified physical therapist in any of the other states who practice animal physical therapy by referral/medical clearance. If this model was not safe, the board authorities would have cited the harm. Instead, boards in these states have reported that they have had no issues with implementation or enforcement, and that their regulations have served their state constituents well.

How can you help?

First, if you are not already a member of the APTSIG, sign up today. It is free to join if you are already a member of the Academy of Orthopaedic Physical Therapy. Just go to the website to sign up: <https://www.orthopt.org/content/special-interest-groups/animal-physical-therapy>

Second, understand that numbers matter. We need you. The more individuals who step up and use their voice for good is how we, together, can create the change we are all seeking. If your state does not have legislation and regulation in place for animal physical therapists to practice under reasonable controls, now is the time to get involved. Reach out to your state Physical Therapy Association (PTA) and find out how you can help to move the ball forward. If your state association is not taking notice (as many are occupied with fighting larger battles within the profession), then consider forming an association or coalition dedicated to this important issue, and work collaboratively with your state PTA.

If you practice in California, please follow the California Association of Animal Physical Therapists Facebook page (which is now the APTC page) or our website: www.caapt.org so you can respond to any and all ‘calls to action’. We will provide specific instructions on how you can use your voice to make a difference. We all need to get involved, so those in power realize this issue matters and change is necessary. It has taken nearly 18 years to get to this point in California...the time is now to achieve change for the benefit of the animals, the people who love them, and our incredible profession. Join the movement!

¹ “Direct Supervision” means: (a) the supervisor is physically present at the location where animal health care job tasks are to be performed and is quickly and easily available; and (b) the animal has been examined by a veterinarian at such time as good veterinary medical practice requires consistent with the particular delegated animal health care job task. “Indirect Supervision” means: (a) that the supervisor is not physically present at the location where animal health care job tasks are to be performed, but has given either written or oral instructions (“direct orders”) for treatment of the animal patient; and (b) the animal has been examined by a veterinarian at such times as good veterinary medical practice requires, consistent with the particular delegated animal health care task, and the animal is not anesthetized as defined in Section 2032.4.

- ² The North Carolina Dental Examiners vs. Federal Trade Commission U.S. Supreme Court case set an important precedent for Boards who may not have proper governance oversight, and who therefore may act in the best interest of their profession rather than the consumer by creating unnecessary barriers to access (ie, prevent a competitive marketplace, in conflict with anti-trust protections for the consumer).
- ³ Multiple CVMB meetings, testimonies provided during public and sunset hearings, letter submissions by consumers and DVMs, and most recently during the January 28, 2022, stakeholder's meeting hosted by Joint (Senate and Assembly) Business and Professions Committee consultants.



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