



VETERINARY MEDICAL BOARD MEETING MINUTES OCTOBER 19–20, 2022

The Veterinary Medical Board (Board) met via teleconference/WebEx Events on **Wednesday, October 19**, and **Thursday, October 20, 2022**, with the following location available for Board and public member participation:

Department of Consumer Affairs
1625 N. Market Blvd., Hearing Room
Sacramento, CA 95834

10:00 a.m., Wednesday, October 19, 2022

Webcast Links:

Agenda Items 1.–6. (<https://youtu.be/ZV5SX6KcBic>)
Agenda Items 7.–12. (<https://youtu.be/qnHbJWFyb-Q>)
Agenda Items 13.–27. (https://youtu.be/WKCaOUI_uZE)

1. Call to Order / Roll Call / Establishment of a Quorum

Webcast: [00:00:17](#)

Board President, Kathy Bowler, called the meeting to order at 10:00 a.m. Executive Officer, Jessica Siefertman, called roll; five members of the Board were present, and a quorum was established. Maria Preciosa S. Solacito, DVM, was absent. Dianne Prado arrived at 10:09 a.m.

Members Present

Kathy Bowler, President
Christina Bradbury, DVM, Vice President
Jennifer Loreda, RVT
Jaymie Noland, DVM
Dianne Prado
Maria Salazar Sperber, JD (departed at 12:15 p.m. after Agenda Item 6)

Student Liaisons Present

Amanda Ayers, University of California, Davis (UC, Davis)
Alexandra Ponkey, Western University of Health Sciences

Staff Present

Jessica Siefertman, Executive Officer
Matt McKinney, Enforcement Manager

Timothy Rodda, Administration/Licensing Manager
Patty Rodriguez, Hospital Inspection Program Manager
Rob Stephanopoulos, Enforcement Manager
Rachel Adversalo, Enforcement Analyst
Dillon Christensen, Enforcement Analyst
Kellie Fairless, Lead Examinations & Licensing Analyst
Jeffrey Olguin, Lead Administrative & Policy Analyst
Tara Reasoner, Lead Enforcement Analyst
Bryce Salasky, Senior Enforcement Analyst (Hospital Inspection)
Jeffrey Weiler, Senior Enforcement Analyst (Probation Monitoring)
Karen Halbo, Regulatory Counsel, Attorney III,
Department of Consumer Affairs (DCA), Legal Affairs Division
Tara Welch, Board Counsel, Attorney IV, DCA, Legal Affairs Division

Guests Present

Lori Aldrete
Karen Atlas, President, Animal Physical Therapy Coalition (APTC)
Rick M. Arthur, DVM
Dan Baxter, Executive Director, California Veterinary Medical Association (CVMA)
Jeff Blea, DVM
Rachel Cole, American Veterinary Medical Association (AVMA)
Alex Cristescu, Information Officer, DCA, Office of Public Affairs
Nicole Dickerson, DVM, CVMA
Nancy Ehrlich, RVT, California Registered Veterinary Technicians Association
(CaRVTA)
Melissa Gear, Deputy Director, DCA, Board and Bureau Relations
Jennifer Hawkins, DVM, Southern California Veterinary Medical Association
(SCVMA)
Christine Howson, Esq., Klinedinst
Nick Huggons, DVM, San Luis Rey Equine Hospital
Richard Johnson, DVM, Vet Tech Nursing Academy (VTNA)
Crystal Kieley, RVT, VTNA
Bonnie Lutz, Esq., Klinedinst
Michael Manno, DVM
Grant Miller, DVM, CVMA
Anne Moellering
John Pascoe, DVM, UC, Davis
Kristi Pawlowski, RVT
Jeff Pollard, DVM
Dan Ross
Barbara Schmitz, Esq., San Francisco Society for the Prevention of Cruelty to
Animals (SPCA)
Leah Shufelt, RVT
Richard Sullivan, DVM
Trisha St. Clair, Moderator, DCA, SOLID
Marie Ussery, RVT

2. Public Comment on Items Not on the Agenda

Webcast: [00:02:38](#)

Ms. Bowler requested public comment. The following public comment was made on this item:

[Rick M. Arthur, DVM](#) stated he has been licensed by the California Veterinary Medical Board since 1976 and has practiced 30 years in the Southern California thoroughbred racing circuit. He stated that for 15 years, he served as the Equine Medical Director at UC, Davis School of Veterinary Medicine, where he was assigned to advise the California Horse Racing Board (CHRB). Dr. Arthur stated that by law, the Equine Medical Director is appointed by the dean and is the primary advisor to CHRB on drug testing, horse welfare and safety, and the practice of veterinary medicine within their enclosures. He said throughout his veterinary career and up to this date, he was and still is active in numerous veterinary professional organizations, including serving as president of the American Association of Equine Practitioners. Dr. Arthur stated he was still actively advising governmental and non-governmental entities regulating and advancing horse health veterinary care in California, nationally and internationally. He stated he had spoken before to this Board about what he asserted were clearly politically motivated attacks on equine veterinarians, including some of the leading, most highly respected veterinarians in the country. He asserted some are veterinarians who have advanced high quality veterinary care, much more than anyone associated with the Board would ever hope to accomplish. He asserted the Board's actions were nothing short of regulatory extortion. He stated the irony in all this was that racetrack veterinarians know their patients better than most any other veterinary practitioner. He stated from his extensive experience in organizations, there are two types of boards: those where the board controls the organization and staff, and those where the staff controls the organization and board. He asserted this board was clearly the latter. He added that there would come a time when each of the Board members, particularly the veterinarian professionals on the Board, would need to face their failure to lead. Dr. Arthur asserted, in the end, this was Governor Newsom's failure, [California Business, Consumer Services and Housing Agency (BCSH)] Secretary Castro Ramirez's failure, and DCA Director Kirchmeyer's failure, because the Board's attacks on equine veterinarians was nothing short of regulatory abuse by an ambitious and misguided staff. He stated that if the Governor, BCSH, and DCA do not investigate the Board, then the California Legislature needed to get involved. He stated he was working to have that happen. He stated he was aware that, culturally, state government was loathe to admit it screwed up, but this transgression by the Board should have been resolved a long time ago. He ended with stating "shame on all of you."

3. Review and Approval of July 20–21, 2022 Board Meeting Minutes

[Meeting Materials](#)

Webcast: [00:08:02](#)

Ms. Bowler provided an overview of the July 2022 meeting minutes and requested comment from Board members. Ms. Bowler, Dr. Christina Bradbury, and Jennifer Loreda requested the following revisions to the Board meeting minutes:

- On page 7, in the Anita Levy Hudson comment, in the middle of the paragraph, change the sentence “She claimed she did not know the last time...” to “She stated she did not know the last time...”. In addition, the spelling of the word "Clavimox" should be corrected to "Clavamox".
- On page 21, in the Ken Pawlowski comment, in the third line, change “...half of the practice. He claims what they do is CYA...” to “half of the practice they do is CYA.”
- On page 21, in the Grant Miller comment, in the first line, change “dd not know” to “did not know”.

Ms. Bowler requested a motion and the following motion was made:

- [Motion](#): Dr. Bradbury moved and Dianne Prado seconded a motion to adopt the minutes as revised.

Ms. Bowler requested public comment on this item. There were no public comments made on this item.

Ms. Bowler called for the vote on the proposed motion. Ms. Siefertman took a roll call vote on the proposed motion.

- [Vote](#): The motion carried 6-0.

4. Report and Update from Department of Consumer Affairs (DCA)

Webcast: [00:13:29](#)

Melissa Gear provided the report and update from DCA, which included the following items:

- The DCA Diversity, Equity, and Inclusion (DEI) Steering Committee was established by Director Kirchmeyer to guide the Department in its equity strategy initiatives and action plan. The DEI Steering Committee would hold its first official meeting on November 9, 2022.
- In accordance with Governor Newsom’s Executive Order, Strategic Plans in effect July 2023 and beyond must be developed or updated to more effectively advance equity and drive outcomes that increase opportunity for all. In response, DCA is revising its strategic planning processes to incorporate more inclusive public engagement, data analysis, and embedding diversity, equity, and inclusion into the strategic planning process. In the coming months, the DEI Steering Committee would begin implementing the revised processes and

working with the boards in updating existing Strategic Plans or developing new Strategic Plans.

- Our Promise campaign started October 1, 2022, and allows California state employees to donate to nonprofits and give back to the community. The campaign runs through December 31, 2022.
- In-person meeting guidelines and COVID-19 safety measures, including:
 - Allowing remote meetings until June 30, 2023.
 - Following state and local public health guidelines for Board members and staff.
 - Face coverings for all Board members and staff are strongly recommended at meetings in accordance with the California Department of Public Health's recommendations.
 - Posting face covering guidance signage at check-in or entrance.
- Travel requirements, including use of CalTravel Store or Concur, traveler responsibilities, and California travel restrictions to certain states.
- Unclaimed property program of the State Controller's Office (SCO) and educating licensees about their responsibility to report unclaimed property to SCO.

[Ms. Bowler](#) requested public comment on this item. There were no public comments made on this item.

5. Review, Discussion, and Possible Action on Multidisciplinary Advisory Committee (MDC) Report – *Richard Sullivan, DVM, Chair, MDC*

A. Recommendation on Legislative Proposal to Amend Business and Professions Code (BPC) Section 4826.5 Regarding Veterinary Drug Compounding

[Meeting Materials](#)

Webcast: [00:24:10](#)

Dr. Sullivan provided background information related to BPC section 4826.5, including the Board's amendments to California Code of Regulations (CCR), title 16, section 2036 to authorize veterinary technicians to perform drug compounding from bulk substances under the direct supervision of a licensed veterinarian and drug compounding from non-bulk substances under indirect supervision. Dr. Sullivan provided background on the Board's desire for educational material to assist licensees in complying with the regulations. He added that during the MDC's

development of the educational material, the MDC and stakeholders found problems in the efficiency of the recordkeeping requirements, which included:

- A large bottleneck getting the preparations compounded;
- Identifying the concentrations of the ingredients;
- Methods of determining the expiration dates;
- Tracking office stock; and
- Cumbersome recordkeeping requirements for compounding intravenous (IV) fluids for immediate use.

Dr. Sullivan presented the Board with the MDC's legislative proposal to amend BPC section 4826.5 to allow Veterinary Assistant Controlled Substance Permit (VACSP) holders to be able to compound drug preparations under the direct supervision of a veterinarian. He added that this would address the workforce issue at veterinary hospitals.

Dr. Sullivan noted concern from CaRVTA that VACSP holders should not be able to compound drug preparations, because VACSP holders have no qualifications other than having passed a criminal background check. The MDC clarified that the ultimate responsibility of the compounding procedure lies with the veterinarian to teach both the RVT and the VACSP holder to do the compounding procedure properly. He stated the veterinarian determines the competency of both the RVT and the VACSP holder to do the task correctly.

Dr. Sullivan informed the Board that the MDC unanimously approved of the motion on the legislative proposal presented to the Board for their consideration.

Ms. Bowler requested a motion, and the following motion was made:

- [Motion](#): Ms. Prado moved and Dr. Bradbury seconded a motion to approve the legislative proposal to amend [BPC] section 4826.5 to authorize a Veterinary Assistant Controlled Substance Permit holder to perform drug compounding.

Ms. Bowler requested public comment on this item. There were no public comments made on this item.

Ms. Bowler called for the vote on the proposed motion. Ms. Sieferman took a roll call vote on the proposed motion.

- [Vote](#): The motion carried 6-0.

B. Recommendation to Remove Proposed Amendments to California Code of Regulations (CCR), Title 16, Sections 2064, 2065, 2065.1, 2065.2, 2065.6, 2065.7, 2065.8, and 2066 from Pending Regulatory Proposal and Only Move Forward with Proposed Amendments to CCR, Title 16, Sections

2036.1 and 2068.5 Regarding RVT Student Tasks & Equivalent Experience and Education

[Meeting Materials](#)

Webcast: [00:30:55](#)

Dr. Sullivan presented the Board with a brief history of this item, including the information related to the alternate route pathway versus how it compared to the American Veterinary Medical Association (AVMA) accredited program pathway for RVTs. He noted that the various regulatory packages were approved by the Board and BSCH to go through the regular rulemaking process with the Office of Administrative Law (OAL). However, in July 2020, the Board's Executive Officer noted that some of the regulations were a significant barrier to licensure without offering any additional consumer protection, and she recommended removing those restrictions; the Board approved those amendments.

Since then, the MDC reviewed the entire package and determined that the package required further review, as there were issues with duplication of oversight by AVMA-accredited programs and costs related to the rest of the package. However, the MDC recommended that two of the proposed regulations should continue, which include the following:

- Proposed Amendment to CCR, Title 16, Article 4, Section 2036.1
The proposed amendment to section 2036.1 would allow for RVT students to be exempt from registration by the Board while performing animal health care tasks, pursuant to CCR, title 16, section 2036, as part of the clinical portion of their studies.
- Proposed Amendment to CCR, Title 16, Article 6, Section 2068.5
The proposed amendment to section 2068.5 would remove the restrictions on time for students to complete their educational requirements and the "on the job work experiences," both of which are barriers for students without adding any additional consumer protection.

Dr. Sullivan requested from the Board to consider removing CCR, title 16, sections 2064, 2065, 2065.1, 2065.2, 2065.6, 2065.7, 2065.8, and 2066 from the pending regulatory proposal and moving forward with sections 2036.1 and 2068.5 regarding student tasks and equivalent experience and education.

[Karen Halbo](#) informed the Board that a number of issues had occurred since the language was approved. She noted OAL was now closely scrutinizing potentially vague language. She requested the Board consider the following general and specific concerns, which were highlighted in yellow in the meeting materials:

- General concerns with both sections regarding the inclusion of section 2065.1 as the regulation does not exist. She recommended temporarily removing the references to section 2065.1 from this package and adding the references back to the larger RVT education once this package is approved by OAL.

- Specific concerns with section 2036.1 related to the following:
 - Clarifying the opinion of instructors as the term "instructors" was not defined, whether the instructors were in the student's program, the number of instructors, how the opinion is documented, and when and how the student is informed of the documentation.
 - When and how the supervising veterinarian of the RVT student is informed that the student is sufficiently educated. If the RVT student appeals a decision, who tells the results of the appeal to the supervising veterinarian or RVT student.
 - If the student is determined to not be ready, who decides the appeal and how is the determination documented.
 - OAL scrutiny issues over the vagueness of the word "sufficient," as it has no set criteria.

[Ms. Halbo](#) noted the following proposed changes in section 2036.1, subsection (b), to address the specific concerns raised above:

- Changing the opinion of "instructors" to "a program instructor or the program director" and adding "to be able to safely perform RVT animal health care tasks" as a criterion.
- In paragraph (1), clarifying where the documentation is to be placed and deadline of when the student is informed of an opinion. This would allow an instructor or program director to review students on academic probation or a student who has a disciplinary action.
- In paragraph (2), the student would inform a supervising veterinarian that their instructor has made the determination that they are safe to perform any animal healthcare tasks. This way there is protection of the animals without adding paperwork, but also placing the burden on the student to inform the veterinarian.
- In paragraph (3), provide the program director with the opportunity to step in and evaluate and make a determination within 60 days so that the student has sufficient notice, and the student can earn the number of hours required in their final year.
- In paragraph (4), protect the supervising veterinarian as the program instructor or director has the ability to determine if the student is safe to provide animal health care tasks.

Ms. Halbo noted the general concerns in the meeting memo that BPC section 4841.1 allows RVT students to perform these tasks under the supervision of a licensed veterinarian in good standing. Ms. Halbo presumed this was because the RVT was also being supervised, the veterinarian is doing indirect supervision. She

wanted to make sure whether this was under the Board's authority to do and if the goal of the language originally was to add a layer of consumer protection.

[Tara Welch](#) responded that BPC section 4841.1, subdivision (b), authorizes the Board to promulgate regulations to assign the level of supervision necessary. She stated it was unclear under subdivision (a) whether that was indirect or direct veterinarian supervision. Ms. Welch believed that the proposed regulation could satisfy the veterinarian supervision in terms of the two levels that the regulation sets out. Ms. Welch was uncertain if OAL would find it sufficient if the RVT provided immediate supervision, while the veterinarian directly supervises the RVT. She suggested it may be worth trying to submit to OAL or specifying that the veterinarian is indirectly supervising the student, which would satisfy BPC section 4841.1, subdivision (a), and the RVT is performing the immediate supervision and the RVT is directly supervised by the veterinarian.

She also recommended a few minor changes for the Board's consideration, which included replacing global references of "RVT" with "R.V.T." and revising the title of proposed CCR section 2036.1 to replace "Registered Veterinary Technician (RVT)" with "R.V.T." to match the defined term under CCR, title 16, section 2034, subsection (b), and the following changes to CCR section 2036.1:

- On [page 18](#), in subsection (a), in the third line, between the words "performing animal" insert the letters "R.V.T." to better clarify that these are the animal healthcare tasks pursuant to section 2036 so the other references of the health care tasks are clearer.
- Under subsection (b)(1), she questioned the starting point for the 10 days and whether it was upon making the determination or if it was upon noting the opinion in the student's academic file. She noted that date may be the same in some cases, but in others it may not be the same, and she recommended adding a few words to clarify.
- On [page 19](#), under subsection (b)(2), replacing "...animal RVT health care tasks..." with "...RVT animal health care tasks...", which would be consistent with the other uses of that term.
- Under (b)(4), replacing "...animal RVT health care tasks..." with "...RVT animal health care tasks..." for consistency.

Ms. Halbo agreed with those amendments and noted the additional proposed amendments on page 21 of the meeting materials to delete subdivision (h) in CCR section 2068.5.

[Ms. Bowler](#) inquired if the MDC had reviewed the changes in yellow highlight or discussed, at the October 18, 2022 meeting, the proposed changes and issues brought up by Ms. Halbo.

Dr. Sullivan responded that the proposed changes were not presented to the MDC, but that the MDC was moving forward with the package for the Board's consideration to adopt.

Ms. Bowler was concerned about whether the proposed amendments were appropriate since the MDC had not reviewed or deliberated on the changes. She added that she was more comfortable seeing all the edits that Ms. Welch proposed and there would be sufficient time for the public input. She stated it seemed the changes were provided without a lot of deliberation.

[Ms. Welch](#) raised an additional concern with CCR section 2036.1, subsection (b)(3), in relation to the student's appeals right. She stated it was unclear how long the student had to appeal. Under the proposed regulation, there would be a determination, the instructor or director would have to inform the student within 10 days of something, and the student can appeal, but does the student have 30 days or six months. She stated that appeal deadline would need to be defined or further discussed.

Ms. Siefertman raised concerns that the proposed changes may go beyond the scope of the statute, because the statute defines the parameters of supervision. She stated the appeal rights would be for the school to decide and would go beyond the scope of the statute.

[Dr. Bradbury](#) agreed with Ms. Siefertman's assessment. Under CCR section 2036.1, subsection (b)(2), Dr. Bradbury raised concerns over an untruthful student or if the student does not inform the supervising veterinary that they are safe to perform RVT animal health care tasks. She also asked, under CCR section 2068.5, on [page 20](#), new proposed subsection (f), whether the language should be changed from "under the direct supervision of a California-licensed veterinarian" to "under the direct supervision of a veterinarian or veterinarians licensed in California" to make the language clearer.

[Ms. Welch](#) noted that on page 20, current CCR section 2068.5, subsection (g), authorizes direct supervision of a California license veterinarian. She noted that it does not state one California-license veterinarian, so the student could use multiple California veterinarians. She also pointed out in CCR section 2036.1, subsection (b), the new appeal rights and notification is Ms. Halbo's attempt to better define what is the sufficient portion of classroom and clinical instructions completed by the student in their final year to make them safe to practice. Ms. Welch stated that if there was a better way to define what is a sufficient portion of classroom and clinical instruction, perhaps, the determination of their ability to safely perform animal health care tasks would be unnecessary.

[Dr. Sullivan](#) noted that the MDC had a long discussion over that part to define it and this is what the MDC ended up with. He did not know how to define it other than it being a person's responsibility to make that decision.

Ms. Welch stated that under any other circumstance for an unregistered/unlicensed individual who is effectively a veterinarian assistant, they cannot perform RVT health care tasks, but only perform animal health care tasks that the veterinarian has determined are appropriate for that individual to do. She noted that if the student walked in off the street, they would not be able to perform RVT tasks without RVT registration, which is the whole purpose of the section, but typically, the supervising veterinarian makes the decision as to their ability.

[Ms. Loredo](#) stated she was aware that OAL was going to be stricter with the language. She stated she was not expecting so many edits. She stated the language in proposed CCR section 2036.1 where students are allowed to perform RVT job tasks under the immediate supervision of a veterinarian or RVT, is currently what is happening. She raised concerns over adding barriers to licensure, but also the additional burden on veterinarians.

[Dr. Jaymie Noland](#) stated she really appreciated the efforts of Ms. Halbo and OAL in scrutinizing the language. She felt the language was becoming prescriptive, and the bottom line is that final year RVT students need practice. She added that the supervising veterinarian is ultimately responsible and supervising this clinical work, not the instructors or the program director. She liked the wording of “safe,” but she thought it should fall on the supervising veterinarian and simply state a student in their final year of an approved program can perform these tasks if deemed to safe by the supervising veterinarian. She requested if there was a way to make the language simpler because ultimately that is where the responsibility lies.

[Ms. Siefertman](#) clarified these edits did not come from OAL; the edits came from DCA’s Regulations Unit in an attempt to foresee what concerns would be from OAL. She stated that there could be more concerns or no concerns from OAL.

Ms. Halbo explained that this was a discretionary decision, and she was providing questions that the DCA Regulations Unit had received in the last few years from OAL. OAL wants either criteria to be applied or they say to adopt a bright line standard. She offered the Board could require the RVT student to successfully complete up to their third year of training and education and not be on academic probation or have no disciplinary actions. She stated that if there was a bright line standard that the Board wanted to use, then that was fine. She explained that merely telling the Board that “sufficient” is not clear, does not move the Board forward, and she was trying to help the Board with the many questions the Regulations Unit has received lately and give the Board specificity to move forward. Perhaps saying the RVT student had passed classes would be the bright line standard. Ms. Bowler agreed that would be a cleaner approach than some of the language in the proposal.

[Ms. Siefertman](#) asked Ms. Halbo if the Board defined the meaning of sufficient, could everything else that was added be taken out.

Ms. Halbo responded that it still raised concerns over the discretion within the language – as written, it would still be in the opinion of the instructor. If the instructor

rendered an opinion, they are still evaluating the RVT student's knowledge and familiarity and there would still be discretion there. [Defining sufficient would be better], but it could still be questioned as to what criteria will be applied to make this discretionary determination.

[Dr. Bradbury](#) responded that proposed regulation states that it is in their final year of a board-approved veterinary technology program, and that it is the definition of [RVT students] having completed the program to the point that they are in their final year. Dr. Bradbury believed it was already defined in the regulation.

Ms. Sieferman inquired about striking "and have completed a sufficient portion of the classroom" and leave "clinical instruction" from the proposed language because it already states, the final year. She asked if that part was needed at all.

[Dr. Sullivan](#) noted the reason that wording was included was their impression that programs vary dramatically from one group to another. At the beginning of the last year, a student may have great experience in one section, but not in another. He stated the MDC felt that there needed to be some approval that the student entering their senior or last year has sufficient knowledge in those tasks that they are going to be performing, but may not be sufficient in all tasks. He stated that was why it was put in the language.

[Ms. Welch](#) pointed out that subsection (b) is a definition of the phrase that is in subsection (a), students in their final year. She stated that perhaps all of this needed to be focused on students in their final year – students who have completed items 5 through 7 of section 2065, subsection (a)(1) and (2). She noted that in [proposed section 2036.1, subsection] (b), the proposed regulation says "sufficient portion of the classroom and clinical instruction set forth in subsection (a)(1) and (2) of section 2065." She recommended changes to section 2065.1, minimum requirements for practical experience and education, because it states education shall consist of a minimum of 20 semester units, and it lays out all the different kinds of topics that are required to be covered. She stated that perhaps it would be better in subsection (a) to not state final year, but the student has completed the requirements. She stated once student completes the requirements that are defined, then the student can do RVT tasks. She pointed out that the purpose is that the student does not need registration to get experience. She added that as long as the student completes those courses that the Board believes are important to be taken before performing animal health care tasks, then the Board can possibly get around having to do an entire new subsection (b), and instead can focus on subsection (a) and address the supervision issue later. She stated the Board may want to consider sending this back to the MDC for further review.

[Maria Salazar Sperber](#) agreed with the comments. She stated that if there was a baseline of education that the Board relies on, then it makes sense. She stated that there must be trust in the instructors and by the time the student has completed all courses, they are prepared. Ms. Sperber stated it seemed that the Board should list specific courses and rely on the expertise of the instructors to make sure that the students are well equipped to perform the tasks.

[Ms. Siefertman](#) asked the Board to consider sending the amendments in CCR section 2068.5 striking the expiration of the practical experience education forward. She felt that it was a disservice to the applicants and, with the access to care issues, the Board has applicants who are hindered by this right now. The Board, at the very least, should move that forward now.

[Dr. Bradbury](#) asked Ms. Loredo if the students in their last year are typically finished with all of the didactic courses or are they continuing on with those while they are getting their hands-on training.

Ms. Loredo responded that it depends on the program, and there is quite a variation between programs. She stated that pre-COVID this would be a different answer, but at this point, every program is playing catch up and trying to schedule surgeries when they can and catch up with everything. Ms. Loredo also noted there are concerns with students and COVID-related classroom restrictions, missing instruction, and students trying to catch up later.

Ms. Bowler requested input from CaRVTA.

[Nancy Ehrlich](#) noted that in her opinion, not CaRVTA, was that this was way too complicated and would be a real put off to the schools. She was not sure that it was necessary with all this verbiage. She agreed with Ms. Siefertman that the Board needed to move forward with eliminating the five years. She stated perhaps this needed to go back to the MDC to work on to try to simplify it. She thought the schools would be tearing their hair out when they see all these regulations.

Ms. Bowler asked if Ms. Ehrlich was comfortable with the language before DCA's Regulations Unit additions.

Ms. Ehrlich responded that it was still rather complicated. She was not sure the schools needed this much instruction about how to do their job. She asked the Board if it had seen any problems. She presumed that schools have been allowing students to do job tasks before all these regulations had been proposed.

- [Motion](#): Ms. Loredo moved and Dr. Bradbury seconded a motion to remove the proposed amendments to California Code Regulations (CCR), title 16, sections 2036.1, 2064, 2065, 2065.1, 2065.2, 2065.6, 2065.7, 2065.8, and 2066 from the pending regulatory proposal and only move forward with the proposed amendments of CCR, title 16, section 2068.5 regarding equivalent experience and education.

Ms. Bowler requested public comment on this item. There were no public comments made on this item.

Ms. Bowler called for the vote on the proposed motion. Ms. Siefertman took a roll call vote on the proposed motion.

- [Vote](#): The motion carried 6-0.

The Board continued discussion and noted that the MDC could continue to review the proposal. Ms. Sieferman stated the MDC could look at a legislative proposal so the regulations would not be necessary to define immediate, direct, or indirect supervision. She stated a legislative proposal would be a cleaner, faster way to do it. Ms. Welch noted the statute itself created the final year of study issue and statutory amendments may be better to address this, since the Board was struggling over how to define that in regulation.

Ms. Welch advised the Board that it may need a second motion to adopt the proposed modifications to CCR, title 16, section 2068.5.

- [Motion](#): Dr. Bradbury moved and Ms. Loredo seconded a motion to adopt the proposed modifications to CCR, title 16, section 2068.5 regarding equivalent experience and education, direct the Board's Executive Officer to take all steps necessary to initiate the rulemaking process, authorize the Executive Officer to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period, and, if no adverse comments are received during the 45-day comment period and no hearing is requested, adopt the proposed regulatory changes as modified.

Ms. Bowler requested public comment on this item. There were no public comments made on this item.

Ms. Bowler called for the vote on the proposed motion. Ms. Sieferman took a roll call vote on the proposed motion.

- [Vote](#): The motion carried 6-0.

C. Overview of October 18, 2022 MDC Meeting

[Meeting Materials](#)

Webcast: [01:24:43](#)

Dr. Sullivan noted that Dr. Jaymie Payton had resigned from the MDC due to her workload at the university and family obligations. The MDC thanked Dr. Payton for her contributions to the MDC. Dr. Sullivan also noted the following items from the October 18 meeting:

- Updates on implementation of AB 1282, the animal blood bank bill that required a guidance resource document for animal blood banks, presented by the California Department of Food and Agriculture (CDFA).
- Equine Practice Subcommittee report regarding resources reviewed by the Subcommittee, meeting with Board staff, and meetings with CVMA, CHRB, and UC, Davis Veterinary Medical School. The Subcommittee's process is just beginning, but two issues are already apparent. The medical records regulation,

CCR section 2032.3, is prescriptive compared to other states, and there is a need to distinguish the VCPR between patient-centered cases and client-centered cases.

- Updates and recommendation on the drug compounding regulations to eliminate much of the terminology that the MDC was proposing. The MDC passed a motion to move the proposed regulations to the Board for its next meeting.
- Amending and updating the Drug Compounding Guidance document.
- Updates from the Inspection Subcommittee, which included discussion with the North Carolina board on their enforcement process, and the MDC approval of a motion to recommend to the Board that it direct the Inspection Subcommittee to monitor the progress of the Board's inspection enforcement and other procedural changes that have been implemented. The update also included information related to a new mobile application under current development.
- Development of questions and answers to place on the Board's website to explain the spectrum of care.
- Request from CVMA to make a formal proposal for their RVT wellness appointments.

Dr. Sullivan answered Board questions.

Public comment on this item was requested after Item 5.D. below.

D. MDC 2023 Assignments

[Meeting Materials](#)

Webcast: [01:40:43](#)

Dr. Sullivan presented this item and responded to Board questions and comments.

[Ms. Bowler](#) inquired whether announced inspections would require a regulation change.

Ms. Sieferman and Ms. Welch responded that random, unannounced inspections, as well as announced inspections, are within the purview of the Board's statutory authority.

[Ms. Bowler](#) requested public comment on Items 5.C. and D. There were no public comments made on these items.

6. Update, Discussion, and Possible Action on National Association Involvement – Kathy Bowler, Richard Sullivan, DVM, and Jessica Sieferman

A. American Association of Veterinary State Boards (AAVSB) Annual Conference Overview

Webcast: [01:44:25](#)

Ms. Bowler and Ms. Sieferman provided background on the AAVSB Annual Conference, which included the Board's concerns over the examination pass rates from schools and how the data is displayed for students, development of transmission of data to the AAVSB, telemedicine and its impact to Nevada's veterinary practice.

Ms. Bowler requested public comment on this item after Item 6.C. below.

B. AAVSB Policy and Regulatory Task Force

Webcast: [02:01:30](#)

Dr. Sullivan presented this item, and he congratulated Dr. Mark Nunez on his appointment to the AAVSB. Dr. Sullivan responded to questions from the Board.

Ms. Bowler requested public comment on this item after Item 6.C. below.

C. International Council for Veterinary Assessment

Webcast: [02:08:00](#)

Ms. Bowler provided presented this item, and she answered Board questions.

Board members congratulated Ms. Bowler on her appointment as chair to the ICVA.

Ms. Bowler requested public comment on Items 6.A.-C. The following public comment was made on these items:

- [Nancy Ehrlich](#) stated that California has the highest percentage of licensees, excluding Canada, and California is entitled to have a seat on that committee. She stated the average pass rate has been lower than the average pass rate on the California exam, and she does not know if that was because things have changed, or if it has something to do with the type of questions that are asked. She thought it would be really helpful if the Board tried to get a California representative on the committee.

Webcast Link: Agenda Items 7.–15. (<https://youtu.be/qnHbJWFyb-Q>)

7. Access to Veterinary Care Task Force Report – *Jaymie Noland, DVM, and Dianne Prado*

Webcast: [00:00:45](#)

Dr. Noland and Ms. Prado presented this item and addressed questions related to the report, which focused on the following:

- Creating a webinar regarding the gold standard verses the spectrum of care and possibly having common frequently asked questions (FAQs) and answers on the Board's website.
- Disseminating information on student loan forgiveness.
- Review of UC, Davis' curriculum for spectrum of care. In addition to UC, Davis' approach, to provide students with opportunities to gain experience in low-cost and clinic work.
- The Board's receipt of a letter from Karen Atlas and APTC on their continued input and the issues related to the dual jurisdiction between two boards that would require legislative action.
- Recap that the Access to Veterinary Care Coalition a few years prior did a major survey in which it discovered that 28 of those owners surveyed had experienced a barrier to veterinary care within the previous two years and that the overwhelming barrier for all types of care was financial.

[Grant Miller](#), DVM, was asked to provide input from CVMA on its Access to Care Committee. Dr. Miller stated CVMA's Access to Care Task Force was still working and shared with the Board at its last meeting the findings of the task force, which was centralized on what it felt the veterinary profession could do to address access to veterinary care. He stated at the last meeting, there was review of some of the ideas that CVMA had for collaborating with the Board should the opportunity arise, which he hoped would be agendaized at an upcoming meeting. Dr. Miller stated it had to do with the RVT scope of practice. He stated the Access to Care Task Force, along with its RVT committee, did an analysis of the RVT profession and found that there may be an opportunity to increase access for low-income individuals by increasing the scope of what RVTs can do under the direct supervision of a veterinarian in an animal hospital setting. Dr. Miller stated it was CVMA's intent to submit a letter and some proposed regulations to the Board's Executive Officer in hopes that those would be included in the next MDC meeting.

[Ms. Siefertman](#) responded that Dr. Sullivan asked CVMA to come to the next MDC meeting to have that discussion there and then bring the recommendations from the MDC to the Board, which would most likely be at the April meeting.

Dr. Miller continued that CVMA would plan to give a brief presentation as time allows at the January MDC meeting, but CVMA would have the letter and proposed regulations included in the packet and encouraged Board members to attend or listen to the meeting to get an early understanding of the CVMA position.

[Ms. Bowler](#) requested public comment on this item. The following public comment was made on this item:

[Karen Atlas](#) thanked the Board for bringing the APTC letter to the attention of others. She reiterated she realized the access to care issue is so big that so many people cannot get access to care for so many different reasons, whether the person lives in a rural area, it is too expensive, or there are just not enough practitioners to be able to serve people. She stated the problem is solvable problem, and access to rehabilitative care is critical and access to care can be increased by getting legislation passed so that there can be work in a more interprofessional collaborative way for the benefit of the consumers and pets of California. She thanked the Board for addressing its letter and concerns. She stated APTC looked forward to hopefully working together to solve this problem next year.

8. Update and Discussion on Chaptered 2021/2022 Legislation Impacting the Board, DCA, and/or the Veterinary Profession

[Meeting Materials](#)

Webcast: [00:19:50](#)

Ms. Sieferman provided background information and status updates of the following bills:

A. Priority Legislation for Board Consideration

(1) Assembly Bill (AB) 1885 (Kalra, Chapter 389, Statutes of 2022) Cannabis and Cannabis Products: Animals: Veterinary Medicine

[Meeting Materials](#) and [Legislative Bill](#)

Webcast: [00:19:59](#)

Ms. Sieferman informed the Board that AB 1885 requires the Board to post guidelines to its website by January 1, 2024, which the MDC has already been tasked with and the goal of having the guidelines by October 2023.

(2) Senate Bill (SB) 731 (Durazo, Chapter 814, Statutes of 2022) Criminal Records: Relief

[Meeting Materials](#) and [Legislative Bill](#)

Webcast: [00:20:43](#)

Ms. Sieferman informed the Board that while the Board opposed the bill, it was passed. She informed the Board the bill would have minimal impact as it would limit the amount of criminal history that the Board will receive, which may reduce work, but not necessarily for the benefit of consumer protection.

(3) SB 1495 (Committee on Business, Professions and Economic Development, Chapter 511, Statutes of 2022) Professions and Vocations

[Meeting Materials](#) and [Legislative Bill](#)

Webcast: [00:21:09](#)

Ms. Sieferman informed the Board that the omnibus bill, SB 1495, passed. This bill struck portions of the continuing education requirement that is obsolete from BPC section 4846.5 and added the National Association of Veterinary Technicians in America-Recognized Veterinary Specialty Organization to BPC section 4883.

B. Other Board-Monitored Legislation

Webcast: [00:21:40](#)

Ms. Sieferman presented both items below.

(1) AB 1604 (Holden, Chapter 313, Statutes of 2022) Civil Service: The Upward Mobility Act of 2022

[Meeting Materials](#) and [Legislative Bill](#)

Webcast: [00:21:40](#)

Ms. Sieferman noted the bill does not necessarily provide an impact on the Board, but only on the Governor's appointed team. She recommended to the Board that it may want to consider mirroring the requirements in policy in the Administrative Procedures Manual for MDC member appointments.

Ms. Bowler directed Board staff to include the information in the manual.

(2) SB 1237 (Newman, 2022) Licenses: Military Service

[Meeting Materials](#) and [Legislative Bill](#)

Webcast: [00:22:20](#)

Ms. Sieferman informed the Board that the bill has minimal impact as there is a waiver in place for those who are called to active duty.

[Ms. Bowler](#) requested public comment on this item. There were no public comments made on the item.

9. Discussion and Possible Action on Potential Legislative Proposals

A. Amend BPC Section 4836.2 Regarding Veterinary Assistant Controlled Substance Permits and Felony Controlled Substance Convictions

[Meeting Materials](#)

Webcast: [00:25:02](#)

Ms. Sieferman presented this item and described the conflicting issues in BPC section 4836.2, subdivision (c), and felony convictions, which cause confusion as to whether a license should be issued. She presented two options to propose to the Legislature to amend the statute:

- (1) Adding “Unless otherwise permitted under section 480” to the beginning of the section.
- (2) Simply striking all of subdivision (c), which would mean that the Board would have the discretion of whether, or not to grant someone the license or not based on the existing criteria that is already in law.

The Board discussed both options to determine the direction for the Board.

- **Motion:** Ms. Prado moved and Ms. Bowler seconded a motion to request a legislative amendment to strike BPC section 4836.2, subdivision (c), completely.

Ms. Bowler requested public comment on this item. There were no public comments made on this item.

Ms. Bowler called for the vote on the proposed motion. Ms. Sieferman took a roll call vote on the proposed motion.

- **Vote:** The motion carried 5-0. Ms. Sperber was absent.

B. Amend BPC Section 4846 Regarding Veterinarian Applicant License Verification from Other Jurisdictions

[Meeting Materials](#)

Webcast: [00:35:55](#)

Ms. Sieferman presented this item and recommended that the Board propose a recommendation for an amendment to the statute as it appears it requires the Board to request the license verification, including any disciplinary enforcement history, and not the applicant.

The Board discussed clarifying the proposed language to provide for electronic license verification by the Board or direct submission from the licensing agency and revised the proposed amendments to BPC section 4846 as follows (proposed additions in [underlined in blue text](#); proposed deletions in [red strikethrough text](#)):

- (b) The applicant shall disclose each state, Canadian province, or United States territory in which the applicant currently holds or has ever held a

license to practice veterinary medicine. License verification, including any disciplinary or enforcement history, ~~must be directly submitted to the board~~ shall be confirmed through electronic means or direct submission from each state, Canadian province, or United States territory in which the applicant has identified the applicant currently holds or has ever held a license to practice veterinary medicine.

- Motion: Dr. Bradbury moved and Ms. Bowler seconded a motion to approve submission of the legislative proposal to the California State Legislature to amend BPC section 4846, subdivision (b), as revised at this meeting.

Ms. Bowler requested public comment on this item. There were no public comments made on this item.

Ms. Bowler called for the vote on the proposed motion. Ms. Sieferman took a roll call vote on the proposed motion.

- Vote: The motion carried 5-0. Ms. Sperber was absent.

C. Amend BPC Section 4861 to add Registered Veterinary Technician Member to Wellness Evaluation Committee

Meeting Materials

Webcast: 00:51:40

Ms. Sieferman presented this item and recommended that the Board propose a recommendation for an amendment the statute to allow an RVT to be member of the Wellness Evaluation Committee (WEC). She informed the Board that there is currently a public member vacancy, which the Board has attempted to recruit for, but it has not received any applications from the public. However, the Board did receive applications from RVTs who want to serve on the WEC.

The Board discussed the challenges of recruiting members for the WEC, including veterinarians, and discussed changing the legislative proposal from three veterinarian licensees under BPC section 4861, subdivision (b)(1), to three licensees (any combination of RVTs or veterinarians). During the discussion, concerns were raised over the member composition, including the possibility of one license type only serving on the committee verse a combination of the two license types serving on the WEC.

The Board revised the proposed amendments to BPC section 4846 as follows (proposed additions in underlined in blue text; proposed deletions in ~~red strikethrough text~~):

- (a) One or more wellness evaluation committees is hereby authorized to be established by the board. Each wellness evaluation committee shall be composed of five persons appointed by the board. The board in making its appointments shall give consideration to recommendations of state and local

associations and shall consider, among others, where appropriate, the appointment of individuals who have recovered from impairment or who have knowledge and expertise in the management of impairment.

(b) Each wellness evaluation committee shall have the following composition:

(1) At least one ~~Three~~ veterinarians licensed under this chapter. ~~The board in making its appointments shall give consideration to recommendations of state and local associations and shall consider, among others, where appropriate, the appointment of individuals who have recovered from impairment or who have knowledge and expertise in the management of impairment.~~

(2) At least two public members.

(3) At least one registered veterinary technician registered under this chapter.

- **Motion:** Ms. Bowler moved and Dr. Noland seconded a motion to approve submission of the legislative proposal to the California State Legislature to amend BPC section 4861, as revised at this meeting.

Ms. Bowler requested public comment on this item. There were no public comments made on this item.

Ms. Bowler called for the vote on the proposed motion. Ms. Siefertman took a roll call vote on the proposed motion.

- **Vote:** The motion carried 5-0. Ms. Sperber was absent.

10. Update, Discussion, and Possible Action on Proposed Regulations

Webcast: [01:02:20](#)

**Agenda items for this meeting were taken out of order, and the Board moved to [Agenda Item 10.B](#). The order of business conducted herein follows the publicly noticed Board meeting Agenda.*

A. *Status Update on Pending Regulations

[Meeting Materials](#)

Webcast: [02:23:44](#)

Jeffrey Olguin presented a status update on pending regulations.

Ms. Bowler requested public comment on this item. The Board received the following public comment:

- [Dr. Miller](#), CVMA, inquired, in relation to the minimum standards regulations for the alternate premises, whether there had been an anticipation that OAL would find those to be redundant.

[Ms. Siefertman](#) responded that not necessarily – yes, there was redundancy, but the biggest concern was existing law language that had been copied and pasted into the other proposed sections was vague and ambiguous. The Board would have to go through each and every word and explain and further define what those words mean for the new regulations; essentially, existing law would not pass OAL review now.

- [Dr. Miller](#) inquired if that meant that the Board would have to go back to the regular minimum standards for the three existing sets and redo those, as well.

[Ms. Siefertman](#) responded that the plan was to use a document from 2015 that Dr. Sullivan and Dr. Grant put together for the MDC that talks about what was the intent for each premises and mirrored back to where they got that from existing law. The plan now is to have Board staff work with the MDC and Dr. Sullivan, with possible input from Dr. Dayna Grant, to compare existing regulations to see where exemptions may be placed into those regulations or add to the regulations without changing existing law as much as possible. She informed Dr. Miller that Board staff already were working on the package and comparison document, but essentially were starting over.

- [Dr. Miller](#) responded that the original task force was a CVMA task force, and they were asked by the Board to form that task force. The lion's share of the work was done by Dr. Dayna Grant, who is also Dayna Wiedenkeller, Dr. Grant's wife. Dr. Miller stated that CVMA probably had the comparison document because it started with existing law, and then used it as a template to try to build out each new premises type that it had been able to identify, so CVMA may be able to assist there. He added that the redundancy portion was debated extensively, and CVMA opted to create the redundancy because of the user friendliness of the regulations in relation to those who are reading them. He stated if someone is a house call veterinarian, it made a lot of sense to be able to go to a section that stated house call and read it. Dr. Miller added that most of that section is synonymous with all the other sections, and if the Board wants people to comply and to understand the Act, so licensees are not flipping around pages, like what was just done during this meeting for three hours, it would help to make it a user-friendly approach, which is why CVMA chose to do that.

[Ms. Siefertman](#) agreed but stated the Board understood the intent and was trying to do it that way as much as possible. There might just be another section, but instead of repeating everything, the section would reference back to the initial section, and then state what does or does not apply.

- [Dr. Miller](#) responded that he understood what the Board was trying to do because he wrote it, and he believed he still has the document.

[Ms. Siefertman](#) noted that she had the document from Dr. Sullivan and Dr. Grant but not the other one.

- [Dr. Miller](#) responded that it might be his.

[Ms. Siefertman](#) noted that they could talk.

- [Dr. Miller](#) responded that CVMA had done extensive work on that, and it was really disheartening to hear that it would be held up longer, because there are so many divergent practice types now that are really trying to apply the existing rules as they feel they can, but it was just so important that the Board get the rulemaking moving; he was sorry to hear that it would be a while longer.

**Agenda items for this meeting were taken out of order, and the Board moved to [Agenda Item 10.A](#). The order of business conducted herein follows the publicly noticed Board meeting Agenda.*

B. *Amend CCR, Title 16, Section 2043 Regarding Civil Penalties for Citation

[Meeting Materials](#)

Webcast: [01:02:20](#)

Mr. Olguin presented a status update on the status of the Civil Penalties for Citation rulemaking package, including comments received during the 45-day public comment period. He provided a brief background of the regulations package, including the three classifications assigned to violations, and examples of violations that would not necessarily occur “while engaged in the practice of veterinary medicine.” The examples included the continuing education (CE) requirement of licensees and individuals who may have received a DUI [driving under the influence]. He summarized the three substantially related comments the Board received, which included:

CVMA

- Praise of the Board for its desire to go after unlicensed individuals.
- Concerns raised in relation to the area where it stated “while engaged in the practice of veterinary medicine” with the primary concern with the proposed regulation that the Board may overstep its authority.
- Concern relating to the training requirements of Board staff. CVMA indicated it was possible that Board staff might not have all the necessary training to make those proper determinations.

Rodney Ferry, DVM

- Dr. Ferry raised concerns over the removal “while engaged in practice of veterinary medicine,” and he stated it leaves too much to interpretation.

Tim Metzger, DVM

- Dr. Metzger raised concern over any type of fine or citation.

The Board was asked to review and provide their input to the proposed responses to public comment, which would be included in the final statement of reasons.

[Dr. Noland](#) stated the responses were reasonable, and the regulatory proposal was a good thing for consumer protection.

[Dr. Bradbury](#) inquired why the Board would not include “substantially related,” which CVMA raised. She expressed concern about the Board being careful about expanding things too far. She believed there was a regulation specific to substantial relationship criteria for the Board.

[Ms. Siefertman](#) responded that “substantially related” was already in existing law when it comes to making the nexus to the practice of veterinary medicine, and she did not believe it was necessary to add. She added that staff must consider substantial relationship when determining discipline. She informed the Board that any amendments now would cause a delay and require another public comment period.

Dr. Bradbury commented her understanding of the discussion that adding “substantially related” would not change the law much, it would just require an additional public comment period.

[Ms. Welch](#) pointed out that these were enforcement actions, not [formal] disciplinary actions, issued for violations that are more than a minor inspection violation but something that merits bringing this to the attention of the licensee, fining them for it, but was less than going after their license.

[Dr. Bradbury](#) noted the citation would go on the licensee’s permanent record and prevent them from serving on certain things.

[Ms. Siefertman](#) responded that a citation is not permanent; it is on the licensee’s record for five years from the date that it is satisfied.

[Dr. Bradbury](#) responded but it was still on the public record as a citation, and she requested that the regulation should still state “substantial.” She felt it would be an important addition.

[Ms. Bowler](#) felt similar to Dr. Noland and others – the proposal made sense as it was a less onerous approach to the disciplinary process with potential license probation and would be better for the licensee and Board. However, she had concerns about the issues raised in public comments, and she wanted to make sure the protections were there for the Board’s stakeholders, and the Board would not issue violations unrelated to the practice of veterinary medicine. She mentioned examples of citations, such as DUI and continuing education that are substantially related to the practice, and the Board was not trying to broaden the scope with the

proposed amendments, but she inquired where the Board could show stakeholders it is guaranteed the Board cannot go further.

[Ms. Welch](#) responded the citations themselves provide the information; every citation alleges a violation and cause for the citation in which it specifically references a BPC section or CCR violation; the Board cannot randomly allege acts. She stated the citation has to relate the conduct leading to need for the citation to a statute or regulation. She also indicated that the Board has the authority to enforce other federal and state laws relating to the practice of veterinary medicine, so she did not think it was a good idea to put parameters in this regulation that it would just apply to violations listed in the Veterinary Medicine Practice Act (Practice Act). The citations would relate to violations of the Practice Act and other federal and state laws relating to the practice and regulations.

[Dr. Noland](#) asked for clarification as she was confused around the phrase “substantially related to the practice of veterinary medicine” as her impression of the term was “while engaged in the practice of veterinary medicine.” She could see when using the term “while engaged in the practice of veterinary medicine did not directly relate to failing to complete continuing education. She stated that in her mind, practicing veterinary medicine is practicing medicine; continuing education is a requirement in order to practice.

[Ms. Siefertman](#) responded that the current proposal would strike “while engaged in the practice of veterinary medicine,” which is what Dr. Noland was referring to, and “substantially related to the practice” was the suggestion requested by CVMA.

[Dr. Bradbury](#) read the proposed CVMA language and after this discussion, she felt the CVMA language better protected stakeholders from potential over-interpretation of what is related to the practice of veterinary medicine and would set the bar a little higher for the violation to be substantially related.

[Ms. Welch](#) noted that the Board did not have the regulatory text before them, which may have helped clarify the issues. She pointed to existing CCR section 2043, subsection (a), are Class “A” violations that do not cause harm or death of the animal patient but would be subject to a civil penalty. She asked if it would be helpful for the Board to see the regulation.

[Dr. Bradbury](#) responded that seeing the full text of the regulation might help, but she did not understand why there was resistance to adding that language.

[Dr. Noland](#) responded that one of her reasons to resist it was the words “included in the Veterinary Medical Practice Act” was already in the wording, but CVMA requested to add it again, which she felt was a little redundant, but she understood how Dr. Bradbury wanted “substantially related,” but adding all the other wording may be redundant.

[Dr. Bradbury](#) responded she was hoping to add “substantially” to the wording.

[Dr. Noland](#) asked Dr. Bradbury if she considered whether not completing the CE requirements was substantially related to the practice of veterinary medicine.

[Dr. Bradbury](#) responded yes.

[Ms. Bowler](#) asked the Board if there was a need to possibly modify the proposed responses to better explain or clarify the limits.

[Dr. Bradbury](#) stated the discussion that she heard from Ms. Welch and Ms. Siefertman made sense, but since they stated that was what was meant anyway, she questioned why the word “substantially” could not be added in.

[Ms. Halbo](#) responded that to add the word in because it is repetitive is not creating new protections or making something better, and that was where the Board needs to be able to justify to OAL – why the Board is repeating itself. She stated the language was rejected because it was not adding new protections, and the Board is limited to what it can cite in the Practice Act and the regulations and some federal and state laws. She noted the whole concept was dealt with in AB 2138, and there is a regulation defining it. She noted that she was open to making the responses clearer that the Board is not adding new layers. The Board is just able to cite the statutes that otherwise are not considered citable because the violation is not during the practice of veterinary medicine, but the violation is part of the Practice Act.

[Ms. Siefertman](#) stated the current responses do cite the regulation for substantial relationship in CCR section 2040. She asked the Board for guidance on the responses and if they wanted Board staff to redo the response, what specifics should staff add to those responses.

[Dr. Noland](#) reviewed the proposed language in [CCR section] 2043, subsection (a), and she noted that the wording “relating to the practice of veterinary medicine” was still there. She added that the wording would allow unlicensed individuals to fall under the cite and fine regulation. She felt that the wording would be redundant and relating back to what is the practice of veterinary medicine.

[Ms. Bowler](#) responded that maybe the responses are clear enough, but she did not know if there was any other language the Board wants to put in to clarify the intent and the limitations.

[Ms. Siefertman](#) replied that in the first part of the Board’s response, references to the statutes that are already in place, which include BPC sections 125.9, 148, 4875.2, and 4883 and how those statutes provide the parameters of a citation. In addition, in [CCR section] 2040, it clarifies what substantially related means. She noted the response states that the Board does not intend to issue citations for violations unrelated to the practice of veterinary medicine, but criminal convictions occurring outside the actual engagement of veterinary practice can be, and often are, still considered related to the practice of veterinary medicine. She added that there was case law supporting that assessment. She thought the responses address the concerns that the Board had raised, but if the Board wanted staff to add more, it just needed more specific guidance.

[Dr. Bradbury](#) asked for clarification and if the reasoning for not wanting to add substantial was because that level rises above a citation.

[Ms. Sieferman](#) responded no not necessarily; substantially related is already in [CCR section] 2040.

[Dr. Bradbury](#) asked how was that a definition of substantially related yet it was not added in the proposed regulation.

[Ms. Sieferman](#) stated that substantially related could be a higher burden, as well, when the Board is considering citations. She noted the Board was not issuing a citation that is not related to the practice because it cannot issue a citation that is not related to the practice. She stated that citations are a lower burden than a disciplinary matter, which was why keeping the current language for related to the practice as is opened it up to align more with the intent of a citation.

[Dr. Bradbury](#) responded that made more sense to her than what had been said previously.

[Ms. Sieferman](#) responded perhaps the response could include the difference and the burdens when it comes to discipline versus a citation.

[Dr. Bradbury](#) responded that would help.

[Ms. Bowler](#) stated that was part of the goal of the proposed regulation, to alleviate some of those and speed it up and make it easier on the respondent. She added that the response could indicate that the Board does not intend to issue citations or that the Board by law cannot issue citations for unrelated violations.

[Ms. Sieferman](#) responded that Board staff could mirror the language that was in the response for number two, where there was a concern that one of the sections did not discuss the statute or regulation violation occurring, so there were concerns that it made it too broad, but the response was clarified that the Board can only issue a citation if a statute or regulation was violated.

[Ms. Bowler](#) requested public comment on this item. The Board received the following public comment:

- [Dan Baxter](#), CVMA, thanked Dr. Bradbury for how she presented the issue. He explained the inclusion of “substantially related” was not only well advised but was absolutely imperative as it boiled down to something that the lawyers in the room were very familiar with, which was canons of statutory and regulatory interpretation. He stated anytime different languages are used to describe a same or similar concept in a legislative or regulatory package, it was going to be legally presumed that different meanings were intended. Mr. Baxter stated if within 16 CCR there is language that, in various instances, uses substantially related and then later on there is an introduction of a provision into that same Practice Act that uses a term simply “related,” those are necessarily going to be presumed to mean different things. He stated the Board can have in the

materials that it are being reviewed here, references to other provisions that use the term “substantially”, which was fine for purposes of the discussion today and for what was intended today, but to Dr. Bradbury’s point, in 10 years there was not going to be the benefit of those materials. He added there was not going to be the benefit of the benevolent intent of this group sitting here today. He added that all that would exist was the black and white on the paper, and there would be two separate phrases being used. He stated people being called upon to interpret it later on are going to have to, pursuant to canons of statutory interpretation, accord those terms different meanings. Mr. Baxter’s asked what was the problem with using the word [substantially]. He stated there was no problem with using that word. He stated it would give a much more defined, digestible, and understandable meaning; it hearkens back to things that are already defined within the Practice Act. He stated to not take his word for it – the analysis that Mr. Olguin and his colleagues prepared refers back to CCR [section] 2040, which defines “substantial relationship,” and they stated in their response that in defining what was being discussed here, an individual should look to that. Mr. Baxter stated this was what he would call a valence issue; this is an issue where he thought, on some level, everybody in the room sort of agreed. He added that the group was having a hard time actually getting there, and how to get there was to rely on the canons of statutory interpretation, which was how this would be looked at later on down the road. He beseeched the Board in the strongest possible terms to please include “substantially related,” and he asked that the Board reconsider referring back to the Practice Act in the last clause of what CVMA suggested, because it would give the Board something grounded and not open to a whole big bunch of interpretation.

[Ms. Bowler](#) replied that she had no problem with including “substantially.” She understood making it uniform would cost the Board more time, but she also realized that uniformity was probably preferable. She realized there would be extended time to open this for public comment and explain to OAL why the Board was saying it twice. She asked staff that since the Board knows what the regulation was supposed to mean, if the word codified that in a better way for longer term; it did not seem to be a real problem to her.

[Ms. Siefertman](#) thought there was currently a lower burden of proof when it comes to issuing a citation. She added that it was under the preponderance of the evidence, versus a clear and convincing evidence. She stated that the substantial relationship criteria refers to discipline, which is a higher burden. She expressed concern that when substantial is added, there is a higher burden. She wanted to make sure that the Board understood that the citation burden was preponderance of the evidence versus clear and convincing.

[Ms. Bowler](#) asked if that would defeat the purpose of the ability to do a citation.

[Ms. Siefertman](#) responded it would make it harder. She explained that right now with the way the regulation stands, there have been cases in the past when there was discipline for criminal convictions that potentially could have been resolved at a lower means, such as a citation. She added that since the Board did not have the

have authority to do a citation [in those situations], the Board had opted to do discipline. She added that she would not be at the Board forever, and there could be Executive Officers who thought that they should do discipline because they do not want to close the case. Ms. Sieferman added that right now those are the only options that the Board has; either close it or do discipline. She thought the whole intent was to be able to offer a middle ground [for situations] where [the violation] is more egregious than closing [the case] with an educational notice, but less egregious than raising it to the level of discipline and this proposal would get the issue resolved quicker at a lower level. She asked Ms. Welch on her thoughts on the burden issue.

[Ms. Welch](#) responded she did not have any thoughts on the burden issue because at this point, the Board was in the weeds on this regulation, which was really Ms. Halbo's area. She stated that if the Board wanted to go back to AB 2138 to know whether or not the Practice Act was sufficiently covering the practice of veterinary medicine, she would be happy to discuss this, but she referred back to Ms. Halbo for her thoughts on this issue.

[Ms. Halbo](#) responded that in [CCR section] 2043, which is what was being amended, it would involve violating a statute or regulation relating to the practice of veterinary medicine. She stated this was the baseline, and all the Board was taking out was the phrase "while engaged in the practice of veterinary medicine." She continued that given there has to be a violation of statute relating to the practice, "substantially relating" seemed like unnecessary lawyering. She appreciated CVMA's advocacy to insert protections; however, there has to be a violation of the statute or regulations and the proposal allowed it. She added that the Board was attempting to provide an avenue that does not involve going to discipline where it can encourage compliance. She stated it was her understanding of trying to make this happen, but the Board can always amend the regulation in the future, if that is what the Board wants to do.

[Dr. Bradbury](#) expressed confusion in this discussion because Ms. Halbo was indicating that substantially related does not make a difference if that is in there or not, and on the other hand, Ms. Sieferman was saying that it does make a difference because it does not have to rise to such a high level, therefore allowing for a citation. She heard one argument that this was the same thing and the Board did not have to put the word in there, and then a different argument that this was not the same thing and it would help to allow for just citations, where it would not have to go to an accusation. She asked if she was hearing this wrong and asked for clarification on what was happening in the discussion.

[Ms. Halbo](#) responded that any citations under this existing language would have to be relating to the practice, and the "substantially relating" is adding different levels of what is relating to the practice of veterinary medicine. She stated that if [the violation] is relating to the practice, it involves a statute or regulation involved in the practice. There is a difference because when adding another term, that then changes how the evaluation of the particular action is being seen.

[Ms. Welch](#) asked CVMA what statute or regulation they are afraid the Board would attempt to enforce that does not relate to the practice of veterinary medicine, because CVMA seemed focused on making sure that statute or regulation that had been violated substantially relates to veterinary medicine.

[Dr. Bradbury](#) responded after reading the CVMA response, which was one of the reasons the Board asks for these so the Board can reconsider these before moving forward with legislation and hear other opinions and understand some things the Board has not thought of before. When she read the CVMA comment, it had her thinking if there was something the licensee was cited for outside of the licensee's work, such as at a bar and there was an altercation that would result in the licensee receiving a citation. She stated depending on who was in charge and interpreting the regulation, they could believe the incident was related to veterinary medicine because the licensee was showing a violent tendency. She stated it leaves so much open to interpretation, and licensees are already held to a high standard when it comes to their lifestyles and how they hold themselves in the community. She added that minor violations of the law that are outside of veterinary medicine could be interpreted as related in some way because the licensees talk to clients, which is her concern. When she read this, it caused her to say wait a minute, just as the public comment period is supposed – it is not supposed to be how does the Board push that aside, it is supposed to be the Board considers the comments, and then the Board thinks about how this may impact things in the future that the Board did not think of. When she was asking questions and hearing two different viewpoints, one that it does not matter, it is just that this is a redundant word and the Board staff do not want to want to put it in there because OAL is going to question the need for a redundant word, and then on the other hand hearing it actually is not in there because it does lower the bar and allows the Board to do these lesser citations, which is better for everybody. She expressed frustration this did not give her confidence in what the Board was doing in this regulation because she is not hearing the same thing from everyone.

[Ms. Welch](#) noted a quote from the CVMA comment where CVMA asked if the intent was to allow the Board to levy civil penalties based on criminal and civil violations outside the context of veterinary practice. She noted that for criminal conduct, the Board has authority under [BPC section] 4883 [to discipline], such as a shoplifting misdemeanor. She queried whether that criminal conduct related to the practice of veterinary medicine. She stated she believed the Board's Executive Officer issuing the citation would have to make that link. She stated that driving under the influence is regularly a violation, so that has not changed and would not change. She noted that would require a criminal conviction, not just a bar fight.

[Dr. Bradbury](#) noted just assault, not even a physical altercation. She stated this would leave more room to interpretation; it was just relating or substantially relating.

[Ms. Welch](#) stated that if the citation did not already cite to a violation of the statute or regulation relating to the practice of veterinary medicine, she would be concerned, because otherwise the licensee could be cited for conduct relating to the practice of veterinary. She state that at that point, the Board would need to add

“substantially,” because just the conduct, generally, would be a problem; there should be a specific tie in as to how that conduct related to the Board and the consumers the Board protects. She continued that the citation regulation specifically requires a violation of the statute or regulation relating to the practice. So she did not think the regulation needed to include “substantially” because it is a higher burden to prove, and the Board already has specific statutes and regulations that the Board refers to and regardless of who is the Executive Officer, they still must go to the written law to issue a citation. She stated the individual would have to violate a law (statute or regulation). If the issue was a crime that the Board could discipline the licensee for, the crime does have to be related to the practice of veterinary medicine, and there also would have to be a conviction of the crime. She continued that if the licensee got arrested, there must be a criminal conviction [to issue a citation] because that is what the Practice Act states – the Board can discipline people for criminal convictions.

[Dr. Bradbury](#) responded now it is like it does not have to be substantially related; it would just be that it might be related. She added if that was the statute already, and there was a conviction of some sort, then it would be up to the interpretation of whoever was in charge to determine whether something was related or substantially related.

[Ms. Welch](#) responded that if there is a criminal conviction, staff would use [CCR section] 2040 and the rehabilitation criteria in [CCR section] 2041 for what substantially related for a crime means and then how is the person demonstrating rehabilitation, how old was that criminal conviction, what is the nature of the crime, what mitigating evidence has the licensee provided to the Board that shows that this is never going to happen again, that the licensee is not actually a danger to the public. Ms. Welch stated these are the other considerations that are going into this [determination]. She continued that if it was a DUI, then most likely that is probably not a citation because most DUIs involve more egregious conduct that the Board is really concerned about, and the practice on animals and the danger to the public. She wanted to be clear that most criminal convictions are looked at with the other regulations and not automatically issued a citation. The convictions are reviewed for the substantial relationship criteria and then reviewed for rehabilitation. She queried what was the civil conduct that was one of the concerns of CVMA and whether that civil conduct was the bar fight, with no criminal conviction, or a licensee sued for fraud. She stated she did not know what CVMA meant by civil actions, but unless it was a violation of a statute or a regulation relating to the practice of veterinary medicine, the Board would not fight for random civil conduct. The action must be tied to a statute or a regulation because the current regulation requires that.

[Ms. Bowler](#) asked whether the Board would not cite meant that the Board could not cite.

[Ms. Welch](#) responded the Board could not cite for those.

[Ms. Bowler](#) responded that she wanted to clarify because she was confused, too.

Public Comment from CVMA

- [Dr. Miller](#) stated that a lot of his answers were already answered by Dr. Bradbury because her thought process was very similar to CVMA's. He apologized in the way the CVMA letter was written. He thought that they could do a better job next time in making sure they write a letter that does not result in more questions than answers. He stated that no insult was meant for anyone here. He continued that the fact was that Ms. Sieferman and Ms. Welch would not always be here; in the past, the Board has had very different people here, which has influenced CVMA's perspective. They were responding because of certain occurrences that have happened in the past. Dr. Miller stated that what CVMA has learned through the years of helping write legislation and regulations and monitoring these things was that it all comes down to the words and what is written here. He stated, as to what Ms. Halbo had mentioned earlier about OAL wanting to be very careful about what was written in regulations, that CVMA too would like to be very clear and careful about what was written in regulations. He stated that every section of the Practice Act was subject to interpretation to some degree. He added in the current structure, if Ms. Sieferman felt that there is a criminal conviction – he apologized for using the word civil which was a mistake – that might rise to a level that would require Board disciplinary action, Ms. Sieferman takes that to the attorney general, who acts as an advisor to her, and then that goes to the administrative law judge (ALJ), who is an impartial third party. He noted that in the cite and fine structure, it is first the accusation, then the citation, which is public record, and then if the licensee chooses to, they can appeal to an ALJ, so the Board was changing a process to vest more authority in the Executive Officer. He stated any time this happens, CVMA wanted to be very careful about making sure that it knows what those rules are, because it has seen Executive Officers before get a little bit artistic with their interpretation of some of these regulations – not this [Executive] Officer, but she will probably be more successful in her career at some point, and the Board will not have her here anymore. Dr. Miller stated that CVMA wanted to make sure that the words that are left are ones that can serve everyone, to make sure that everyone can clearly understand what this is. He added, for instance, [CCR section] 2040, which CVMA had reviewed, and the reference to [BPC section] 4883, in terms of violating federal statute is specifically in relation to controlled substance diversion or abuse, but in reading [CCR section] 2040, there was room for interpretation, as well. He added that if the Board can keep things synonymous and keep it clear, the term substantially related does have a legal precedent. He stated CVMA knows that DUIs are substantially related because there have been court case decisions prior that shows a person's judgment, or lack thereof, in getting behind the wheel of a car drunk can translate into their judgment or lack thereof in medically managing cases – that is substantially related, that is legal terminology that has been established in a court of law. CVMA wanted to make sure this carries through all sections of the law to avoid ambiguity. He asked how much time gets spent cleaning up ambiguous language in the law that, at some point in time, everyone understood it when it was written, but then the Board meets 15 years later, and it has lost its meaning. He was talking with Nancy [Ehrlich] the other night about the VCPR

[Veterinary-Client-Patient Relationship] language that when it was written, the intention of the VCPR language was totally different than how it was being interpreted today. He stated that CVMA wanted to be clear, which is what CVMA was asking for; CVMA wanted clarity so that everyone can understand what the licensee needs to be doing.

[Ms. Bowler](#) asked Ms. Siefertman if the initial goal of dealing with this was to provide a different route for individuals, who would normally have to go through the disciplinary process and probation and all the additional requirements of the probationary process, to be able to do a cite and fine when she knows that there is education and it is a one-time situation to make it simpler for everyone and a faster process, as well, and easier on the practitioner. She asked if adding the word “substantially” would defeat the purpose of this, meaning would the Board not be able to do these citations and would have to go back into the whole disciplinary route for some of these things.

[Ms. Siefertman](#) responded at the time that this was proposed, there were a number of accusations that were pending or maybe a proposed decision from a judge related to certain actions by either applicants or licenses regarding, for example, petty theft from 20 years ago or failing to disclose something on an application where discipline was taken. She stated as the Board recalls, she spent quite a bit of time going back and forth with the [deputy attorneys general] DAGs and the [supervising deputy attorneys general] SDAGs about why those should not have occurred. Because she did think the people before her had good intentions, she was trying to understand why they took the actions that they took. She stated that perhaps, at the time, with documentation that was not the greatest, to try to understand why decisions were made when it came to discipline, the only thing that made sense to her was that perhaps they thought that [when the violation] was more egregious [and needed more enforcement] than just closing the case, their only options were to do discipline. She thought that “while engaged in the practice” is unique to this healing arts board; it is not in other limitations for other healing arts boards, because there is the statutory authority to issue a citation for any violation in the [Practice] Act, so that is where this came from. She added, one of the things that came up by Dr. Pan during the Board’s Sunset Hearing was what does the Board do when it comes to continuing education, the audits, and what ramifications does the Board have if the licensee fails to do the continuing education. Right now the only ramification the Board has is discipline, which is also a concern because she did not think the Board needed to discipline everybody who may not have been the most honest or maybe did not understand the requirements. She stated the Board wanted to be able to do something at a lower level, through a citation. She was concerned that “substantially related” would increase the burden on these citations where the intent of a citation is for the lower-level violation.

- [Dr. Miller](#) thanked Ms. Siefertman for her response. He stated CVMA recognized the Board was trying to streamline things and do a good thing, but when reviewing the substantially related criteria, it stated that the Board has to consider the nature and gravity of the offense, the number of years elapsed since the date of the offense, and the nature and duties of the profession in

which the applicant seeks licensure. He added that when there is discussion about lying about CE, that is right up the bowling lane of being directly related to the practice of veterinary medicine – there was no question with that. He added the question came from what Dr. Bradbury had mentioned, which was what would happen if he walked outside the building and somebody attacked him and by the nature of who he is, he gets the upper hand in that, but in the end of all of it, he who has most bruises wins, and there is some kind of a court thing, and there it goes. He stated everyone knows that the court system is not fair, and it discriminates; it is not perfect. He stated this opens up this larger swath. He explained that what the Board was mentioning were very clean cases of a DUI, lying about the CE requirement, and some of the other examples that Mr. Olguin mentioned, that made total sense; but when the words “substantially related” are not written, there was a bigger swath out there, and there are people out there who do not think like Ms. Siefertman; he had seen them.

[Ms. Siefertman](#) thought in the example Dr. Miller provided, there was no violation of the actual statute or regulation, so unless it was what Ms. Welch was saying, and there was conviction, then that becomes a violation and a problem.

- [Dr. Miller](#) disagreed and felt that if a licensee was convicted of some bodily injury to some other person, even though the circumstances might be in self-defense, but that never gets outlined, an executive officer could say it really demonstrated a level of anger that might not be consistent with what the Board wanted to see in a [veterinary] medical licensee and thinks that it warrants something. He opined this is where things can get a little bit tricky, so CVMA wanted to put up the clearest most accurate language that it can to make this synonymous with other parts of the law. He felt there was nothing wrong with what CVMA had asked. Dr. Miller stated it was within the Practice Act; it was everything that the Board had already stated. He requested the Board please add the language so that 20 years from now, there does not need to be further discussion at this table to try to explain what the concept of it was when it was decided.

[Ms. Bowler](#) said she was persuaded by Ms. Welch when she talked about issuing a citation, violations must be cited. She said when considering the example, where is the violation in the criminal conviction. There must be some nexus in the Practice Act and so there are protections against that.

- [Dr. Miller](#) responded that [BPC section] 4883 has “but not limited to” in it, which means anything, so CVMA would like the Board to consider the language CVMA had requested.

[Ms. Bowler](#) thanked Dr. Miller for his input. She stated if the Board added “substantially related,” then the Board would still be back to discipline for many cases. If that was the case, it would not have the positive effect, but it would not hurt anything, per se.

[Ms. Prado](#) thanked the Board for the great conversation. She felt the spirit of the proposal was to discipline fewer people and have the option to cite people for lesser types of actions that do not rise to the level of discipline. She stated that adding “substantial” does add a higher level of burden, as it is changing the burden and takes away from the spirit of what the Board’s intent was, which was to not discipline and then revoke licenses and go through that process, but instead cite someone. She noted one of the concerns of CVMA was that the Board staff do not have the training to assess whether a civil or criminal conviction occurring outside of the practice of veterinary medicine. She guessed that there had not been training as to the use of substantial or not; it is subjective and the subjectivity, in general, of substantiality or not substantiality, would be subjective to whomever is on the Board or whomever is serving at any point in time. She believed the spirit of what the Board wanted was less discipline, less revoking of licenses, or putting the licensee on probation, which was more favorable to CVMA. She asked for not including substantial; she understood the concerns, but thought that the spirit of this was to reduce discipline and help veterinarians versus issuing citations left and right.

[Ms. Welch](#) clarified that licensees have the benefit of [BPC section] 4875.6, which authorizes persons who are cited to appeal the citation in two different ways. The licensee can request an informal hearing with the Executive Officer to discuss the merits of the citation, and at that time, the Executive Officer can dismiss, modify, or affirm it. If the citation is affirmed or modified, then the licensee still has the option of requesting a formal hearing and then it goes through to the ALJ and through the [Administrative Procedure Act] APA process, so the licensee with a citation has more leeway in resolving the alleged violations than waiting to do a formal disciplinary action and that is when an accusation is filed. She added there are not the same early methods of informal hearing to resolve [an accusation].

[Ms. Bowler](#) thanked Ms. Welch and stated the Board knows all their intentions are good here; it was just getting the language dialed in.

[Dr. Noland](#) felt she was drowning as different regulations were discussed. She asked what the timeline was for responding to the comments that the Board received, if the Board had more time to prepare a response, and what would happen if the Board did not vote on the responses.

[Ms. Halbo](#) responded the timeline for the regulations process was that Board staff would need to know, if there would be a modification of text, where the Board is putting in the term “substantially related” and make that clear. Then the Board would vote on adopting that language, and it could be sent out for a 15-day public comment period. In the final documents, the Board could respond to any comments that had been received. If the Board wanted to make changes, it would take more time, but the Board needed to decide on how to proceed. If the Board was unable to clarify what sort of modification it wanted to do at this meeting, then the proposal would not move forward until the next Board meeting, where it would be written up what the language is and what the changes are. She asked the Board to review their packet on the page where the section was for civil penalties, and she asked

the Board to look and see if what it wanted was to add “substantially related” just to the Class "A" violation or if there were other adjustments the Board wanted.

[Ms. Welch](#) added that she was trying to quickly do some research as to what other boards may be doing with their citations. Some boards appear to have “relate to the practice of” and do not have “substantial,” and other boards specifically list the specific code sections that are the violations that have fine amounts associated with those violations, so there are different ways of doing this regulation. She added that one of the ways would be a lot more onerous than what the Board was proposing now, but there are other boards that do not have “substantially related to;” those boards require a citation to the alleged violation and then they have to relate to the practice of that profession.

[Dr. Noland](#) asked Dr. Bradbury for clarification, as it seemed the Board was still discussing removing the phrase “engaged in the practice of veterinary medicine,” but was Dr. Bradbury talking about adding “substantially” in front of the “related to,” similar to what CVMA proposed.

[Dr. Bradbury](#) responded she wanted more clarity on what the Board was doing and why. She affirmed suggesting that “substantially” be added to the proposed language. She understood Ms. Prado’s point and thought that was also a good point, but she was struggling with this. She felt similar to Dr. Noland in that she thought she understood it all until reading the CVMA letter, and it made her reconsider things; it made her think about other implications. She did not have the same grasp of all of the different regulations as Dr. Miller, Ms. Welch, and Ms. Siefeman, so just in the language presented, there were two interpretations of this proposed regulation. She stated she was not sure because she wanted the Board to be able to write citations instead of just accusations. She did not want to limit that by adding a higher level, but at the same time, she was concerned about future interpretations. To specifically answer the question, she stated yes to adding “substantially related.” She also was not opposed to tabling the item for a future Board meeting.

[Ms. Bowler](#) did not know if the Board was ready to go the “substantially related” route right now and maybe the Board does have to postpone the proposal. She stated everyone understood and was in favor of the goal of the proposal, but the question was how to accomplish it.

[Ms. Halbo](#) explained the proposed text modification in [CCR] section 2043, subdivision (a), which is the Class "A" violation provision. Ms. Halbo read the proposed text for Class "A" violations involving a person “who” – and the proposal would remove “while engaged in the practice of veterinary medicine” – “has violated a statute or regulation relating to” – this is where “relating” would be replaced with “substantially related” – and that would be the modification. She did not believe there would be a change to add “substantial” to a Class "B" violation because the class involves harm to an animal patient and it is clearly related, so there was no need for that extra language, but if the Board wanted to make the change, the Board could [change] the text, in subdivision (a) of [CCR section] 2043, to “has

violated a statute or regulation substantially related to the practice of veterinary medicine,” and if that modification of text is what the Board would want to do, it could vote for that modification and then Board staff would send out a 15-day [notice on the modified text,] ask for public comments, and if there are no comments or no negative comments/concerns expressed, then Ms. Siefertman could proceed with finalizing the regulation. She advised if that was the modification the Board wanted to make, then the Board would say it reviewed the comments, and the discussion here would form the basis for the responses to comments. She informed the Board that it was not required, in the final documents, to vote on the responses to comments, but it was required to review the comments received, and there was evidence that the Board had reviewed these comments during this meeting.

[Ms. Bowler](#) stated that the only potential side effect, ultimately, was that perhaps some of the things that might get cited would not be cited, and the Board would have to move to disciplinary action because of the “substantial” caveat.

- [Motion](#): Dr. Bradbury moved and Ms. Bowler seconded a motion to modify the text in CCR, title 16, section 2043, subsection (a), to replace the term “relating” with “substantially related” and to direct Board staff to prepare and send out a 15-day modification of text and instruct the Executive Officer, if there are no negative comments, to take all steps necessary to complete the rulemaking process and authorize the Executive Officer to make any technical or non-substantive changes to the rulemaking package.

Ms. Halbo explained that the Board would be adopting the text as modified with this motion, so it would be to adopt the modified text and send it out for a 15-day, and if there are concerns or negative comments, the proposal would go back to the Board.

[Ms. Bowler](#) requested public comment on this item. The Board received the following public comment:

- [Bonnie Lutz](#), Esq., Klinedinst, stated she had been doing this for 22 years and thought that there was something called historical memory. She was really concerned about the reasons today for making these changes and not adding “substantially related” were really good reasons, but she thought the language needed to be added. She knew that it had been proposed to be added to only [CCR section 2043,] subsection (a), however, she thought it needed to be added to [CCR section 2043,] subsection (b), because subsection (b) does not limit a Class “B” by violation to where harm to an animal has happened. She noted the regulation stated “or has committed a violation,” which means the criteria for a Class “A” violation and has two or more citations for Class “A” violations within the five-year period. She stated that if the language was going to add “substantially related” in [CCR section 2043,] subsection (a), it needed to be added to [CCR, section 2043,] subsection (b), as well, because the Board has subsection (b), paragraph (3), to contend with, and with historical fact that memories fade, when the Board changes, and the Executive Officer changes, it was really important that the language be consistent in the regulations.

Ms. Bowler called for the vote on the proposed motion. Ms. Siefertman took a roll call vote on the proposed motion.

- [Vote](#): The motion carried 4-0-1 with Ms. Loredo abstaining.

[Ms. Siefertman](#) questioned the Board if there were any concerns over the proposed responses to the other two public comments.

[Ms. Bowler](#), after checking with the other Board members, responded that the Board did not.

11. Student Liaison Reports

A. University of California, Davis Liaison – *Amanda Ayers*

Webcast: [02:36:11](#)

Ms. Ayers provided the UC, Davis liaison report, which included:

- Updates to [UC, Davis' School of Veterinary Medicine's Strategic Plan](#).
- Veterinary leadership experience coming to California and the opportunity for UC, Davis to host the [Student American Veterinary Medical Association] SAVMA Symposium in March 2025.
- Issues brought up by students studying equine medicine.
- Brave Space and how it can help provide resources and training to veterinary staff for individuals who are impacted by domestic violence.

Ms. Bowler requested public comment on this item. There were no public comments made on the item.

B. Western University of Health Sciences Liaison – *Alexandra Ponkey*

Webcast: [02:47:14](#)

The Board thanked the previous student liaison, Kristina Junghans, for her representation of Western University to the Board.

Ms. Ponkey provided the Western University of Health Sciences liaison report, which included:

- Appointment to CVMA's Board of Governors by Diane McClure, DVM, Ph.D., Diplomate of the American College of Laboratory Animal Medicine (DACLAM).
- Recruitment of a new dean for the College of Veterinary Medicine.
- Spay and neuter campaign updates in partnership with organizations, including the Los Angeles Chargers, which provided funding to provide spay and neuter

surgeries to the local animal shelters and the rescue organizations. The campaign hopes to eradicate unnecessary companion animal euthanasia via improving access to these spay and neuter services and simultaneously promote pet adoption.

- The Western University SAVMA Chapter partnership with Not One More Vet to host a virtual symposium about imposter syndrome in veterinary medicine.
- Updates on the Student Veterinary Emergency and Critical Care Society's partnership with the College's Public Health Committee Disaster in the Disaster Relief Sector and partnerships with several west coast colleges.
- Access to Care updates, including the university's approach away from the Gold Standard to the Spectrum of Care.

Ms. Bowler requested public comment on this item. There were no public comments made on the item.

12. Recess until October 20, 2022 at 9:00 a.m.

The meeting was recessed at 4:15 p.m.

9:00 a.m., Thursday, October 20, 2022

Webcast Links:

Agenda Items 13.–26. (https://youtu.be/WKCaOUI_uZE)

13. Reconvene – Establishment of a Quorum

Webcast: [00:00:49](#)

Board President, Kathy Bowler, called the meeting to order at 9:01 a.m. Executive Officer, Jessica Sieferman, called roll; six members of the Board were present, and a quorum was established. Maria Preciosa S. Solacito, DVM, was absent.

Members Present

Kathy Bowler, President
Christina Bradbury, DVM, Vice President
Jennifer Loreda, RVT
Jaymie Noland, DVM
Dianne Prado
Maria Salazar Sperber, JD

Student Liaisons Present

Alexandra Ponkey, Western University of Health Sciences

Staff Present

Jessica Siefertman, Executive Officer
Matt McKinney, Enforcement Manager
Timothy Rodda, Administration/Licensing Manager
Patty Rodriguez, Hospital Inspection Program Manager
Rob Stephanopoulos, Enforcement Manager
Rachel Adversalo, Enforcement Analyst
Andrea Amaya-Torres, Senior Enforcement Analyst (Hospital Inspection)
Melissa Caudillo, Enforcement Analyst
Dillon Christensen, Enforcement Analyst
Jacqueline French, Enforcement Analyst
Marlene Gonzalez, Examinations/Licensing Technician
Kimberly Gorski, Senior Enforcement Analyst
Amber Kruse, Senior Enforcement Analyst (Hospital Inspection)
Rachel McKowen, Enforcement Technician
Jeffrey Olguin, Lead Administrative & Policy Analyst
Tara Reasoner, Lead Enforcement Analyst
Daniel Strike, Senior Enforcement Analyst
Jeffrey Weiler, Senior Enforcement Analyst (Probation Monitor)
Tara Welch, Board Counsel, Attorney IV, DCA, Legal Affairs Division

Guests Present

Al Aldrete, DVM
Loren Breen
Judie Bucciarelli, Manager, DCA, Executive Office
Alex Cristescu, Information Officer, DCA, Office of Public Affairs
Nancy Ehrlich, RVT, CaRVTA
Veronica Hernandez, Budget Analyst, DCA, Budget Office
Sarah Irani, DCA, SOLID
Grant Miller, DVM, CVMA
Karen Munoz, Manager, DCA, Budget Office
Mark Nunez, DVM
Jeff Pollard, DVM
Olivia Trejo, Chief, DCA, Office of Human Resources
Kristy Veltri

**Agenda items for this meeting were taken out of order and the Board moved to [Agenda Item 16\(A\)](#). The order of business conducted herein follows the publicly noticed Board meeting Agenda.*

14. Board President Report – Kathy Bowler

Webcast: [00:25:24](#)

Ms. Bowler provided the Board President Report and addressed questions regarding the report.

[Ms. Bowler](#) requested public comment on this item. There were no public comments made on this item.

15. Registered Veterinary Technician Report – *Jennifer Loredo, RVT*

Webcast: [00:30:14](#)

Ms. Loredo provided the Veterinary Technician Report, which included:

- Appreciation to all RVTs during National Veterinary Technician Week for their contributions to California.
- Board efforts to recruit more RVTs and additional pathways to licensure.
- Updates to the Comprehensive Rabies Mitigation Plan from the AVMA for accredited programs.

[Ms. Bowler](#) requested public comment on this item. The Board received the following public comments:

- [Dr. Miller](#), CVMA, stated CVMA would be happy to help the Board disseminate information about open positions. He stated CVMA automatically does this when it receives a notice or email from the Board. Dr. Miller stated CVMA is very active in the [Committee on Veterinary Technician Education and Activities] CVTEA program to find people to visit RVT schools to help them keep their accreditation. He stated CVMA spends a significant amount of time to try to find people to do that, so they are on board with the effort to try to enlist folks. Dr. Miller stated CVMA was always receptive if the Board wanted to email CMVA requests, but when CVMA receives something, such as an email blast from the Board, they automatically put it into the CVMA blast, which goes out every Wednesday.
- [Ms. Ehrlich](#), CaRVTA, stated that CaRVTA was more than happy to advertise these sorts of things when it is informed that these sorts of positions are available. She stated CaRVTA sends out email blasts to its members, so CaRVTA was definitely interested in getting an RVT on the CVTEA from California. She requested anytime there was an opening such as this, that CaRVTA be informed.

**Agenda items for this meeting were taken out of order, and the Board moved to [Agenda Item 16.B](#). The order of business conducted herein follows the publicly noticed Board meeting Agenda.*

16. Executive Management Reports

A. *Administration

[Meeting Materials](#)

Webcast: [00:01:00](#)

Timothy Rodda provided the updates on the Administration Report, excluding the budget section.

[Veronica Hernandez](#) provided an update regarding the latest Expenditure Projection Report and Fund Condition Statement.

Mr. Rodda, Ms. Hernandez, and Ms. Sieferman addressed questions regarding the report.

[Ms. Bowler](#) requested public comment on this item. There were no public comments made on this item.

**Agenda items for this meeting were taken out of order, and the Board moved back to [Agenda Item 14](#). The order of business conducted herein follows the publicly noticed Board meeting Agenda.*

B. *Examination/Licensing

[Meeting Materials](#)

Webcast: [00:45:30](#)

Mr. Rodda presented the Examination/Licensing Report.

Mr. Rodda and Ms. Sieferman addressed questions regarding the report.

[Ms. Bowler](#) requested public comment on this item. There were no public comments made on this item.

C. Enforcement

[Meeting Materials](#)

Webcast: [00:57:18](#)

Patty Rodriguez, Matt McKinney, and Rob Stephanopoulos presented the Enforcement Report.

Mr. McKinney, Ms. Sieferman, and Mr. Stephanopoulos addressed questions regarding the report.

[Ms. Bowler](#) requested public comment on this item. There were no public comments made on this item.

D. Outreach

[Meeting Materials](#)

Webcast: [01:21:50](#)

Ms. Sieferman presented and answered questions relating to the Outreach Report, including issues with RVTs providing in-home services to the public without the indirect supervision of a veterinarian.

[Ms. Bowler](#) requested public comment on this item. The Board received the following public comment:

- [Ms. Ehrlich](#), CaRVTA, stated regarding RVTs administering home care, [CCR] section 2034, [subsection (c)], defines a "veterinary assistant" as any individual who is not an RVT or a licensed veterinarian. She stated that nowhere does it state in a veterinary hospital or in a veterinary treatment facility. Ms. Ehrlich opined that if it meant what it says, anybody who is not an RVT or a veterinarian is a veterinary assistant, including those non-RVTs who come to the house and provide the cat a pill. She stated those individuals cannot do it either, it seems, if they are veterinary assistants.

[Ms. Bowler](#) responded that they are not licensed.

- [Ms. Ehrlich](#) continued by stating that they are not licensed, so they are an individual who is not an RVT or licensed veterinarian.

[Ms. Welch](#) clarified that in respect to veterinary assistants, CCR section 2036.5 authorizes veterinary assistants and VACSP holders to perform animal health care tasks in an animal hospital setting under subsection (b). She added that this does not extend to residences. Ms. Welch stated that not only is the definition under [CCR section] 2034 for veterinary assistant important, but also the activity that is authorized under [CCR section] 2036.5.

E. Strategic Plan

[Meeting Materials](#)

Webcast: [01:34:02](#)

Ms. Sieferman presented and answered questions relating to the Strategic Plan.

[Ms. Bowler](#) requested public comment on this item. There were no public comments made on this item.

17. Election of 2023 Board Officer

Webcast: [01:38:55](#)

Ms. Bowler nominated Dr. Bradbury as the Board's 2023 President. Dr. Bradbury accepted the nomination.

- [Motion](#): Ms. Bowler moved and Dr. Noland seconded a motion to appoint Dr. Christina Bradbury as the Board's 2023 President.

[Ms. Bowler](#) requested public comment on this item. There were no public comments made on this item.

Ms. Bowler called for the vote on the proposed motion. Ms. Sieferman took a roll call vote on the proposed motion.

- [Vote](#): The motion carried 6-0.

Dr. Noland nominated Dr. Maria Preciosa S. Solacito as the Board's 2023 Vice President. Dr. Solacito indicated in an email prior to the meeting that if she was nominated, she would accept the nomination.

- [Motion](#): Dr. Noland moved and Dr. Bradbury seconded a motion to appoint Dr. Maria Preciosa S. Solacito as the Board's 2023 Vice President.

[Ms. Bowler](#) requested public comment on this item. There were no public comments made on this item.

Ms. Bowler called for the vote on the proposed motion. Ms. Sieferman took a roll call vote on the proposed motion.

- [Vote](#): The motion carried 6-0.

18. Future Agenda Items and Next Meeting Dates

[Meeting Materials](#)

Webcast: [01:43:40](#)

Ms. Sieferman presented and answered questions relating to the Future Agenda Items and Next Meeting Dates. The future Board meeting dates are as follows:

- January 25–26, 2023
- April 19–20, 2023
- July 19–20, 2023
- October 18–19, 2023

[Ms. Bowler](#) requested public comment on this item. The Board received the following public comment:

- [Dr. Miller](#), CVMA, asked Ms. Sieferman if she anticipated that any of the future meetings would have an in-person component in a location other than the Sacramento offices.

[Ms. Siefertman](#) responded that not currently, and the plan is to keep them in Sacramento primarily due to budget reasons and the limitations on locations that can provide hybrid meetings.

19. Recess Open Session

Open Session recessed at 10:53 a.m.

20. Convene Closed Session

Closed Session convened at 11:20 a.m.

21. Pursuant to [Government Code Section 11126](#)(e)(1) and (2)(A), the Board Will Meet in Closed Session to Confer and Receive Advice From Legal Counsel Regarding the Following Matter: *San Francisco Society for the Prevention of Cruelty to Animals, et al. v. Jessica Siefertman*, United States District Court, Case No. 2:21-cv-00786-TLN-KJN

The Board did not discuss this item.

22. Pursuant to [Government Code Section 11126](#)(a)(1), the Board Will Meet in Closed Session to Discuss the Executive Officer Evaluation

The Board met in closed session to discuss the Executive Officer Evaluation.

23. Pursuant to [Government Code Section 11126](#)(c)(3), the Board Will Meet in Closed Session to Deliberate and Vote on Disciplinary Matters, Including Stipulations and Proposed Decisions

The Board did not discuss this item.

24. Adjourn Closed Session

Closed Session adjourned at 11:39 a.m.

25. Reconvene Open Session

Ms. Bowler reconvened Open Session at 11:40 a.m.

26. Adjournment – Meeting adjournment may not be webcast if it is the only item that occurs after Closed Session

The meeting was adjourned at 11:40 a.m.