



## MEETING MINUTES

**July 20-21, 2016**

1747 N. Market Blvd. – 1<sup>st</sup> Floor Hearing Room  
Sacramento, California

**Wednesday, July 20, 2016**

### **1. Call to Order - Establishment of a Quorum**

Dr. Mark Nunez called the Veterinary Medical Board (Board) meeting to order at 10:04 a.m. Executive Officer, Annemarie Del Mugnaio, called roll; eight members of the Board were present and thus a quorum was established.

### **2. Introductions**

#### Board Members Present

Mark Nunez, DVM, President  
Cheryl Waterhouse, DVM, Vice President  
Kathy Bowler, Public Member  
Lee Heller, J.D., PhD, Public Member  
Jennifer Loredo, RVT  
Judie Mancuso, Public Member  
Jaymie Noland, DVM  
Richard Sullivan, DVM

#### Staff Present

Annemarie Del Mugnaio, Executive Officer  
Nina Galang, Administrative Program Coordinator  
Kurt Hepler, Legal Counsel  
Ethan Mathes, Administrative Program Manager  
Bryce Penny, DCA Webcast  
Candace Raney, Enforcement Manager  
Diann Sokoloff, Supervising Deputy Attorney General

#### Guests Present

Nancy Ehrlich, RVT, California Registered Veterinary Technician Association  
Valerie Fenstermaker, California Veterinary Medical Association  
Alex Henderson, RVT, Veterinary Allied Staff Education  
Shelly Jones, DCA Board & Bureau Relations  
Jon Klingborg, DVM, Multidisciplinary Advisory Committee, Chair  
Ken Pawlowski, DVM, California Veterinary Medical Association  
Cindy Savely, RVT, Sacramento Valley Veterinary Technician Association  
Dan Segna, DVM, California Veterinary Medical Association

### 3. Review and Approval of April 20-21, 2016 Meeting Minutes

Legal Counsel, Kurt Heppler, made a clarifying amendment to his comment on page 18 of the Minutes.

- Judie Mancuso moved and Dr. Richard Sullivan seconded the motion to approve the April 20-21, 2016 meeting minutes as amended. The motion carried 6-0.

### 4. Proposed Regulations

#### A. Status of Pending Regulations

Ms. Del Mugnaio reported that following Office of Administrative Law (OAL) disapproval, the Civil Penalties for Citation proposed regulations were re-submitted to OAL on July 19, 2016. If approved, the regulations should take effect on October 1, 2016.

#### B. Discuss and Consider Commencement of Rulemaking for Animal Control Officer Training Regulations - Section 2039.5 of Title 16 of the California Code of Regulations

Dr. Nunez noted that Mr. Heppler identified sections of the previously approved Animal Control Office Training Guidelines that do not fall under the purview of the Board, such as the firearms component, no alcohol/drug-related convictions, and various other state and federal laws. Mr. Heppler explained that the proposed regulations now encompass only what is under the purview of the Board.

The Board discussed the intent behind “didactic” training since the definition is unclear. Lee Heller suggested using the language “face to face,” “direct instructor/student contact,” or “in person training” instead of “didactic.”

Mr. Heppler suggested using “which shall be personally attended” and “shall be a minimum of 4 hours.” Amendments to the proposed language in California Code of Regulations (CCR) section 2039.5 (c) are as follows: “The training, which shall be personally attended, which shall be a minimum of four hours, shall be provided by a licensee, and shall include didactic and hands-on training.”

Dr. Jaymie Noland added that CCR section 2039.5 (f) should include the word “years” after “four (4)” regarding the amount of time that the certificate will be valid.

Dr. Cheryl Waterhouse noted that the word “Material” should be removed from the title of the “Material Safety and Data Sheet (MSDS)” document, as it is no longer used in practice.

Dr. Waterhouse suggested adding the following change under the Anticipated Benefit/Rationale section on Page 2 of the Initial Statement of Reasons document: “By having the Board providing specific requirements for training...”

Ms. Heller suggested removing the word “mixtures” from CCR section 2039.5 (4)(A).

Supervising Deputy Attorney General (SDAG), Diann Sokoloff, suggested removing the word “various” from CCR section 2039.5 (d)(2) and correcting the punctuation error found in CCR section 2039.5 (f).

Dr. Dan Segna, California Veterinary Medical Association (CVMA), noted that he was part of the work group that developed the original guidelines and added that the intent was for the veterinarian to conduct the training. Dr. Segna suggested adding subdivision “(e)” and “(g)” to the list of required subdivisions in subdivision (a).

Dr. Segna suggested re-wording subdivision (e) to direct the language toward the person who is required to successfully complete the examination, rather than the requirement of the licensee to administer the examination.

Dr. Segna also clarified that the intent of subdivision (c) was to include a lecture component under “didactic” training, in addition to hands-on training.

Lastly, Dr. Segna suggested clarifying that the training course would need to be re-completed for re-certification.

Dr. Noland suggested leaving out the word “lecture” and replacing with the word “classroom” because there are other modalities of learning offered in a classroom. The Board agreed with using the word “classroom.”

Mr. Heppler requested that subdivision “(e)” be added to the list of required subdivisions in subdivision (a).

Ms. Del Mugnaio clarified that the Board has the opportunity to not hold a public hearing, pending a request for a hearing, on the proposed regulations if they do not anticipate objection.

- Dr. Richard Sullivan moved and Jennifer Loreda seconded the motion to adopt the proposed Animal Control Officer regulatory language as amended and delegate the Executive officer to notice the regulations for a 45-day public comment period and not to hold a public hearing unless one is requested. The motion carried 8-0.

### **C. Discuss and Consider Amendments to the Registered Veterinary Technician School Approval Regulations - Sections 2064-2066 of Title 16 of the California Code of Regulations**

Mr. Heppler noted that the request for legal analysis on the Registered Veterinary Technician (RVT) School Approval Regulations is in response to possible dual reporting between Board requirements and American Veterinary Medical Association (AVMA) accreditation. There has also been concern expressed regarding whether or not the Board can rely on AVMA accreditation in place of Board approval. As a way of the Board approving RVT schools, Mr. Heppler felt that AVMA accreditation can be relied upon without the palpable loss of consumer protection. Dr. Nunez added that the Board still retains the authority to inspect and/or disapprove programs.

Ethan Mathes noted that out of 19 California RVT schools, only one new school has been added to the list of approved schools in the last five years. The AVMA performs the initial inspection if the school seeks accreditation.

Mr. Heppler noted that there is an additional layer of approval for private schools in California through the Bureau of Private Postsecondary Education (BPPE) review and approval process.

Ms. Del Mugnaio noted that AVMA must communicate to the State when a school is at risk or loses their accreditation. AVMA will try to communicate with the State prior to the school's revocation, but no later than 60 days after revocation.

Ms. Del Mugnaio noted that schools are required to report their exam scores on their websites. The regulations may need to be amended to address the new exam requirements. The Board has access to Veterinary Technician National Examination (VTNE) scores and California scores by school; however, only the California scores are currently posted on the Board's website. The Board recently gained access to a portal through the American Association of Veterinary State Boards (AAVSB) which contains the VTNE scores, and Mr. Mathes is working to get them posted to the Board's website.

Nancy Ehrlich argued that the information contained in the comparison chart is incorrect. The Board's regulations require prospective students to be given literature prior to enrollment which contains information on the school's pass rate and transferability of units. In comparison, Ms. Ehrlich noted that AVMA requires this information only to be posted on the school's website. Passage rates do not appear to be on the website of several schools; therefore, AVMA does not appear to be enforcing this requirement. Ms. Ehrlich further noted that AVMA does not have a rule to put schools on probation when they fall below 10 percent of the average rate, which is a rule in California.

Dr. Sullivan reminded that the Board is not abdicating responsibility to revoke accreditation and retains that authority in regulation.

Ms. Ehrlich confirmed that the problematic programs are private institutions. Mr. Heppler clarified that BPPE approval is still required for private institutions, which includes definitive and comprehensive requirements regarding advertising and enrollment requirements in order to receive BPPE approval.

Ms. Del Mugnaio added that the Board has every right to investigate complaints and the missing data should be reported as a complaint to the Board and/or AVMA, the accrediting authority.

Dr. Nunez reminded that the Board is tasked with ensuring the schools meet a certain standard and asked the Board members to consider whether or not it is a good utilization of staff resources.

Alex Henderson, Veterinary Allied Staff Education (VASE), provided a background of his experience on the Registered Veterinary Technician Committee (RVTC). Mr. Henderson shared that it was his opinion that once schools receive AVMA accreditation they feel as though they do not have to report to the Board, which is more stringent than AVMA. He feels as though the Board is still responsible for the approval of all schools.

Mr. Henderson added that the BPPE approval process can take a year, making it difficult for schools to pay their lease and staff during this time without revenue, which is required to be in place to obtain approval.

Mr. Heppler stated that within the Education Code the enrollment agreement is not enforceable unless upon enrollment the student has been given the student performance fact sheet, the student initials the document, and has been provided a copy. The student performance fact sheet includes how many students are enrolled, how many have dropped out, and the catalog, among other details.

Mr. Henderson noted that the Board would not know that these requirements are being met unless AVMA sends an annual report.

Mr. Heppler reviewed three options for the Board to consider:

- Option #0 is to do nothing, meaning the Board would not adopt the regulations.
- Option #1 is to deem an AVMA accredited school to be Board approved (and if the school is a private school, it is approved by BPPE) without requiring schools to fill out an application for California approval.
- Option #2 is to pursue a statutory change that establishes a general framework for the Board to recognize an accrediting institution approval.

Ms. Mancuso expressed support for Option #1, as long as the Board audits the schools to ensure they are in compliance. Dr. Nunez noted that the current mechanism for enforcement is complaints.

Mr. Heppler noted that some Department of Consumer Affairs (DCA) Boards and Bureaus have executed a Memorandum of Understanding (MOU) with the BPPE to share information when something problematic arises with a BPPE approved school.

Dr. Dan Segna shared his experience as a former instructor at an AVMA accredited RVT program. Low passage rates and students dropping out of the program were problems that existed during his time as an instructor and they still exist today for a variety of reasons. Many students do not realize how difficult the program is until after they have enrolled. Another reason is that a number of students who graduated from the program are not able to pass the exam or they avoid taking it altogether.

Dr. Noland noted that the Board has a pattern of being proactive through monitoring and veterinary hospital inspections; therefore, the Board is not entirely complaint driven. The Board should be more proactive with school approvals once the issue of regulations has been resolved.

Dr. Sullivan expressed support for Option #1.

Ms. Ehrlich noted that Option #0 maintains the regulations that the Board has in place, which requires the schools to apply for approval.

Dr. Sullivan suggested amending the motion to include the requirement for schools to send the Board an annual report.

Ms. Heller suggested including a reminder of the Board's requirements in the letter that the Board sends schools once they are approved.

Ms. Del Mugnaio clarified that random audits of RVT schools may be considered as part of the rulemaking process.

Mr. Mathes noted that the regulations include a multi-year approval and the application could be sent every 2-4 years.

Mr. Heppler clarified that sharing complaint information between agencies can be problematic because giving out raw complaint information may violate privacy issue. The annual report, however, is public information.

Ms. Del Mugnaio referenced CCR section 2065.7 regarding the Board's inspection authority that the Board may conduct an inspection or place a program on probation if it believes the school or degree

program has substantially deviated from any standards of approval. Monitoring requirements are separate from approval requirements.

Ms. Ehrlich expressed confusion over the need to amend a regulation that has not yet been enforced and suggested that the Board give it a year or two and amend at such time duplicative work has been identified.

- Dr. Richard Sullivan moved and Lee Heller seconded the motion to pursue Option #1, commence the rulemaking process and delegate to the Executive officer to notice the regulations for a 45-day public comment period and not to hold a public hearing unless one is requested. The motion carried 6-2. Jennifer Loreda and Judie Mancuso opposed.

## **5. Update on Registered Veterinary Technician School Reporting Pursuant to Section 2064 of Title 16 of the California Code of Regulations**

Mr. Mathes updated that he was tasked with creating an application to send to all 19 California RVT schools with a requirement to respond within 60 days. Four applications have been received and several programs have called or otherwise have been responsive to providing information.

Mr. Mathes added that Board staff intends to follow up with schools that have not responded within the 60 day requirement. A comprehensive report will be provided at the Board meeting in October.

Ms. Mancuso felt that staff resources should not be used to duplicate what AVMA is doing, and staff efforts should still be spent on auditing and reviewing websites.

Mr. Mathes noted that Section #15 and #16 discuss the disclosure requirements of pass rates.

Ms. Del Mugnaio clarified that the current path for RVT school enforcement would be to send a site review team out to investigate. For more simple issues such as missing data on the website, the Board would direct questions to the school and if the school is not in compliance, this information would be reported to the AVMA and a corrective action may be issued. If the schools do not respond or do not come into compliance, the Board can move forward with placing the program on probation or revoking California approval.

Ms. Del Mugnaio noted that out of 19 RVT schools in California, six are public institutions and the remainder of the schools are private institutions.

Dr. Sullivan opined that a cursory review of questions regarding informational disclosure to students, within the returned applications, should not take a long time.

Ms. Del Mugnaio noted that the protocol is for BPPE to work with each agency regarding complaints and the Board has not received notification from BPPE regarding any reported complaints.

## **6. Discuss the Requirement for Veterinarians to Inform Clients Regarding Pharmaceutical Risks**

Dr. Nunez reviewed the letter from Senator Jerry Hill directing the Board to discuss, develop recommendations for action, and report back to the Legislature on the issue of veterinarians reporting pharmaceutical information to pet owners.

Member of the public, Solomon Stupp, thanked the Board for its consideration. Mr. Stupp shared his experience of not being informed that the antibiotic given to his pet, Lizzie, was an extended-release antibiotic and clarified that he is requesting the same courtesy that is given at a pharmacy for human medicine, that offers drug counseling, is given to pet owners. Mr. Stupp requested that the Board to develop a protocol to resolve the issue and include the word “Lizzie” in the title.

Dr. Nunez commended Mr. Stupp for his passion in his pursuit.

- Dr. Richard Sullivan moved and Kathy Bowler seconded the motion to refer the issue to the Multidisciplinary Advisory Committee as a priority issue for further research. The motion carried 8-0.

## **7. Multidisciplinary Advisory Committee Report – Dr. Jon Klingborg**

### **A. Review and Consideration of Multidisciplinary Advisory Committee Items and Recommendations**

Dr. Jon Klingborg reviewed the list of existing priorities with the Multidisciplinary Advisory Committee (MDC).

The Complaint Audit Task Force, Dr. Jeff Pollard and Dr. William Grant, provided a number of findings in their report which can be referred to the Expert Witness Training Program. Findings showed a clear improvement in the quality of expert witness reports since 2013.

One finding of the Task Force indicated there appeared to be a preferred order in which the complaint cases should be reviewed in order to avoid developing an unfair bias. For example, if the expert witness reviews the complaint prior to reviewing the medical records, it may cause the expert witness to review the case differently than if they had reviewed the medical records first. They also found that in the majority of the cases, the respondent provided an ineffectual response or did not submit a response letter at all.

Going forward, the Task Force will continue to review a variety of cases once or twice a year and Dr. Klingborg noted he will rotate the individuals who will serve on the Task Force for 1-2 year terms. The Task Force will also involve an RVT from the MDC to serve on the Task Force in order to review RVT enforcement complaint cases. Ms. Raney noted that there is now a consistent review template for expert witnesses.

The Board discussed the challenge Board staff has faced with getting respondents to respond to the Board’s initial letter. The Board agreed that the Board staff has been doing a better job of engaging with respondents and providing guidance regarding next steps once the initial letter has been received.

The Board discussed whether or not to keep the agenda item on future MDC agendas. Dr. Klingborg suggested that the Expert Witness Review Subcommittee be removed from the MDC’s priority list.

Dr. Klingborg reported on progress on the Minimum Standards for Alternate Premises. The California Veterinary Medical Association (CVMA) Task Force, with representatives from the MDC and Ms. Del Mugnaio, are working on language for RVTs to follow a written protocol to perform specific duties in the absence of a veterinarian within a shelter environment. The language is not fully developed and the MDC will meet with the shelter community to discuss the issue at the MDC meeting in October 2016.

Other issues brought up and to be discussed for consideration include: amend Veterinary-Client-Patient Relationship (VCPR) for shelter settings, develop a definition of “shelter setting,” consider allowing RVTs to be a managing licensee of a shelter setting, and discuss the induction of “anesthesia” vs. “sedation”.

Dr. Klingborg added that the Shelter Medicine Subcommittee hopes to have survey results sent to the shelter community by the next MDC meeting in October.

Regarding the Veterinary Student Exemption discussion, Dr. Klingborg noted that the language in Business and Professions Code (BPC) section 4830 (a)(5) needs to be clarified to allow for an exemption for veterinary students to practice under supervision while at the University of California, Davis (UCD) and Western University of Health Sciences (WesternU). Guidelines and objectives will also need to be created for off-site externship programs.

A workgroup is being formed consisting of members of MDC, UCD, and WesternU to modify language in CCR section 2027 which allows junior and seniors veterinary students and AVMA school veterinary graduates to function as RVTs. The proposed language will be presented at the October 2016 MDC meeting for a vote and to bring to the Board at a future meeting.

Regarding the “Extended Duties” for RVTs, the Subcommittee did not have any recommendations at this time. The California Registered Veterinary Technician Association (CaRVTA) has not yet discussed the issue; therefore, Dr. Klingborg kept the item on the MDC agenda to allow CaRVTA, CVMA, and the MDC to further discuss the issue. The Sacramento Valley Veterinary Technician Association noted that ideas for “extended duty” pertained to shelter settings. The MDC wanted to ensure any discussion on “extended duty” identifies access to care issues, and does not expand the job duties or functions of RVTs.

Dr. Klingborg noted that the MDC is in the process of developing language which authorizes veterinarians and RVTs to compound drugs. Input is being gathered from the Board of Pharmacy and the AVMA to assist with the language.

Ms. Del Mugnaio clarified that the Board completed its task to respond to the Legislature regarding the issue of Rodeos. The Board’s response in the Sunset Report stated that RVTs are lawfully able to attend rodeos and provide care. Dr. Nunez added that it has been added to MDC’s priority list to conduct more research and it may need to be handled through legislative action.

Dr. Klingborg noted that the development of Minimum Standards for Spay and Neuter Clinics is still on the list of MDC future priorities.

Dr. Klingborg requested to add the following issues to the list of MDC priorities:

- 1) Discussion of induction of “Anesthesia” vs. “Sedation”
  - 2) Discuss Minimum Standards for veterinarian Mobile Specialists
- Dr. Richard Sullivan moved and Kathy Bowler seconded the motion to add Induction of “Anesthesia” vs. “Sedation” and Minimum Standards for Mobile Specialists to the list of MDC priorities. The motion carried 8-0.



## 8. 2016 Legislation Report; Potential Adoption of Positions on Legislative Items

### A. SB 1193 (Hill) Veterinary Medical Board: executive officer

Dr. Nunez noted that there is an error in BPC section 4800(b) which should read that the Board has been extended to the year 2021, not 2018. The Legislature has been contacted and the change will be made.

Ms. Del Mugnaio clarified this legislation includes language requiring university licensure and those applying for the University License must get fingerprinted.

The Board continued to hold a Support position.

### B. SB 945 (Monning) Pet boarding facilities

Dr. Waterhouse warned that providing animals with “enrichment” may be problematic. For example, if a dog is given a toy and eats the toy, it is unclear who pays for the surgery.

The Board continued to keep a Watch position.

### C. AB 2505 (Quirk) Animals: euthanasia

The Board continued to hold a Support position.

### D. SB 1039 (Hill) Professions and vocations

The Board continued to hold a Support position.

### E. AB 1951 (Salas) Crimes: animal cruelty

AB 1951 is dead.

### F. AB 2269 (Waldron) Animal shelters: research animals: prohibitions

Dr. Nunez noted that the Board’s proposed position is to support the bill once proposed amendments have been incorporated.

Ms. Del Mugnaio clarified that this bill was not included in previous meeting agendas and is a new bill to consider.

Ms. Fenstermaker expressed concern regarding the bill because it limits the ability to access live animals and cadavers for educational enrichment programs. The live dogs and cats are also adopted at the end of the program. CVMA expressed full support of the bill with the expressed amendments.

- Dr. Richard Sullivan moved and Dr. Jaymie Noland seconded the motion to Support AB 2269 as amended. The motion carried 8-0.

G. SB 1348 (Canella) Licensure applications: military experience

The Board continued to hold a Watch position.

H. SB 1230 (Stone) Pharmacies: compounding

SB 1230 has been withdrawn.

I. SB 1182 (Galgiani) Controlled substances

The Board held a Watch position.

J. AB 2419 (Jones) Public postsecondary education: The New University of California

AB 2419 has been withdrawn.

K. Pet Lover's License Plate Update

Ms. Del Mugnaio stated that she spoke with the DCA and the Department of Food and Agriculture regarding the Pet Lover's License Plate Fund. Ms. Del Mugnaio added that she will need to get information from Ms. Mancuso on the history of the program, as they are in the process of working on a transition plan to potentially move the program to the Department of Food and Agriculture. The Pet Lover's Fund contains over \$700,000.

## 9. Board Chair Report – Dr. Mark Nunez

Dr. Nunez reviewed a list of outreach activities, trainings, and meetings that have occurred since the last Board meeting, as well as upcoming activities.

<b>May 4-5, 2016</b>	Expert Witness Training in Sacramento
<b>June 20, 2016</b>	Animal Rehabilitation Task Force Meeting in Sacramento
<b>June 23, 2016</b>	Dr. Nunez attended the CVMA Joint Board of Governors / House of Delegates Meeting in San Francisco
<b>July 22, 2016</b>	Ms. Del Mugnaio will attend a CaRVTA Conference at UCD
<b>August 2016</b>	Hospital Inspectors Training
<b>September 22-24, 2016</b>	Dr. Nunez, Dr. Waterhouse, Ms. Bowler, and Ms. Del Mugnaio will attend an AAVSB Meeting in Scottsdale, Arizona

A. Update on the Animal Rehabilitation Task Force

Dr. Nunez reviewed the purpose and composition of the Animal Rehabilitation Task Force and updated on the first meeting held on June 20, 2016.

The Task Force reached a consensus regarding the definition for “animal physical rehabilitation,” which is defined as “the treatment of injury or illness to address pain and improve function by means of physical corrective treatment.”

The Task Force also agreed that if animal physical rehabilitation was performed in accordance with the established definition, the practice would fall under the scope of practice of veterinary medicine and would require a VCPR to be established, and a diagnosis and prescription for treatment by a California licensed veterinarian. If the purpose of the rehabilitation is for wellness or exercises purposes, it would not be considered animal physical rehabilitation.

The next meeting is scheduled for October 4, 2016 in Sacramento. Topics for the next meeting include: adopt an official title for the practice, education and training requirements, and logistical operational challenges. The Board hopes to bring any discussion or information learned at the AAVSB meeting to the Task Force.

Dr. Nunez added that the Animal Rehabilitation Task Force falls under the Open Meeting Act and Task Force Members should not discuss meeting information with each other outside of the public meeting.

### **10. Registered Veterinary Technician Report – Jennifer Loredo**

Ms. Loredo announced that Ms. Del Mugnaio will be attending the CaRVTA conference to address the following:

- The process for moving the pending RVT regulations toward approval
- How the standing RVT report will enhance keeping RVT issues moving forward
- How the Board intends to enforce CCR section 2064 regarding the approval of RVT schools by the AVMA
- The process for assessing the appropriate fee for the RVT exam
- An update on pending policy and regulatory discussions
- Update on VACSP program roll out
- “Extended Duties” for RVTs
- Drug compounding regulations
- Animal Rehabilitation policy considerations
- Enforcement of RVT schools requirements and researching how other schools enforce those policies.

### **11. Public Comment on Items Not on the Agenda**

Ms. Ehrlich proposed moving up Agenda Item #18 and #19, rather than discussing at the July 21, 2016 meeting. The Board was not prepared to move the discussion items as requested.

Ms. Ehrlich added that foreign graduate RVTs do not have a simple way to become eligible to apply for the California RVT examination. Ms. Ehrlich suggested that this item be discussed at the MDC. Mr. Heppler added that it is permissible to direct the issue to the MDC for a future agenda.

Ms. Ehrlich requested a status update regarding a previous Board motion to send a letter to AAVSB regarding the exam fee increase. Ms. Del Mugnaio confirmed that the letter went out to AAVSB and a copy was sent to CaRVTA.

Mr. Henderson requested the Board to look into the AAVSB examination fees, windows to take the examination and AAVSB’s refund policy.

Ms. Ehrlich added that the pass rate on most recent AAVSB exam is only 50 percent, due to the examination containing too many large animal questions or questions on animals that are not common in California and the questions containing the answers “none of the above” or “all of the above.” Ms. Ehrlich agreed to forward the letter to Board staff that she sent to the AAVSB regarding examination questions prior to the AAVSB Conference so that the Board may bring it for discussion.

Ms. Ehrlich also requested that Agenda Item #18 and #19 be discussed before the closed session items on July 21, 2016. Ms. Del Mugnaio noted the Board is unable to fulfill her request because the Board must accommodate the availability of the Administrative Law Judge (ALJ).

**12. Recess until July 21, 2016, at 9:00 a.m.**

**9:00 a.m. Thursday, July 21, 2016**

**13. Reconvene - Establishment of a Quorum**

Dr. Mark Nunez called the Veterinary Medical Board (Board) meeting to order at 9:00 a.m. Executive Officer, Annemarie Del Mugnaio, called roll; seven members of the Board were present and thus a quorum was established. Dr. Jaymie Noland was absent.

**14. Introductions**

Board Members Present

Mark Nunez, DVM, President  
Cheryl Waterhouse, DVM, Vice President  
Kathy Bowler, Public Member  
Lee Heller, J.D., PhD, Public Member  
Jennifer Loredo, RVT  
Judie Mancuso, Public Member  
Richard Sullivan, DVM

Staff Present

Christy Bell, Associate Enforcement Analyst  
Elizabeth Bynum, Associate Enforcement Analyst  
Annemarie Del Mugnaio, Executive Officer  
Nina Galang, Administrative Program Coordinator  
Lou Galiano, DCA Television Specialist  
Kurt Heppler, Legal Counsel  
Anh-Thu Le, Enforcement Analyst  
Ethan Mathes, Administrative Program Manager  
Jaspreet Pabla, Probation Monitor Analyst  
Candace Raney, Enforcement Manager  
Diann Sokoloff, Supervising Deputy Attorney General

Guests Present

Jennifer Harrison  
Herbert Ho  
Marcie Larson, Administrative Law Judge  
Phyllis Mank, Court Reporter

### **15. Petition for Reduction of Penalty – Jennifer Harrison – 9:00 a.m.**

SDAG, Diann Sokoloff, opened the reduction of penalty hearing presenting the case against Jennifer Harrison. Ms. Sokoloff asked for the Investigator's Report to be marked into evidence with the accompanying documents as Exhibit #1. Ms. Sokoloff provided the petitioner a copy of the petition package and Ms. Harrison approved the contents. Ms. Sokoloff reviewed the contents of the petition package. Administrative Law Judge (ALJ) Marcie Larson, accepted the petition package with the accompanying documents into evidence.

Ms. Harrison represented herself and presented her case for reduction of penalty. Ms. Harrison answered questions from the SDAG and members of the Board.

ALJ Larson closed the hearing.

### **16. Petition for Reinstatement – Herbert Ho – 10:00 a.m.**

Ms. Sokoloff opened the reinstatement hearing presenting the case against Herbert Ho.

Ms. Sokoloff provided a copy of the petitioner's packet to Mr. Albert Garcia, counsel for the petitioner. The Petitioner's packet was marked for identification as Exhibit #1 and the Board's packet was marked as Exhibit #2. Mr. Garcia objected to language within the Investigation Report in Exhibit #2. ALJ Larson admitted the section as administrative hearsay and agreed to strike the language to the extent that it does not explain or supplement other evidence. Mr. Garcia submitted a letter of reference as Exhibit A. Mr. Ho's business card as a Veterinary Assistant was admitted into evidence as Exhibit B. Exhibit #1, #2, A, and B were admitted into evidence.

Mr. Garcia presented the case for reduction of penalty. Mr. Ho answered questions from Mr. Garcia, SDAG and members of the Board.

Mr. Garcia presented his closing argument. Ms. Sokoloff presented her closing argument. Mr. Garcia presented a rebuttal.

ALJ Larson closed the hearing and the Board went into closed session.

### **CLOSED SESSION**

#### **17. Closed Session**

##### Petition for Reduction of Penalty – Jennifer Harrison

The Board adopted the penalty modification.

##### Petition for Reinstatement – Herbert Ho

The Board rejected the petition for reinstatement.

##### AV 2013 13

The Board adopted the proposed decision with a modification.

D1 2012 8

The Board adopted the proposed decision.

4602016000110

The Board adopted the voluntary surrender.

D1 2010 28

The Board adopted the voluntary surrender.

**RETURN TO OPEN SESSION**

**18. Executive Officer & Staff Reports**

A. Administrative/Budget

Mr. Mathes provided an update on the Board's expenditures. The Hospital Inspection Program and Attorney General (AG) costs were identified as high expenditures and that staff would be mindful of these areas in future budgets.

Ms. Mancuso inquired about the fund balance in the Pet Lover's Fund. Ms. Del Mugnaio clarified that the fund balance in the Pet Lover's Fund is in a separate account and money has not been withdrawn pursuant to the Budget Change Proposal (BCP), with the exception of funding marketing for the plate.

Mr. Mathes clarified that the examination supplies line item in the budget includes the Office of Professional Examination Services.

B. Enforcement

Ms. Raney updated the Board on the Enforcement Report.

The plan for the Fall training is to focus on the expert witness's role in the process and report writing, as well as sharing information between experts. Feedback from the Complaint Audit Task Force and the Expert Witness Subcommittee will be incorporated.

There are currently 90 active probation cases being monitored. Monitoring includes meeting with probationers in person and conducting additional interviews when warranted.

Since the April Board meeting, Enforcement staff members Ray Delaney and Elizabeth Coronel have moved on to other employment; Kimberly Gorski and Terry Perry were recently hired.

The Board can expect two mail votes before the next meeting and one new petition for reduction of penalty, which has been tentatively scheduled for the October Board meeting.

Ms. Del Mugnaio clarified that the legal waiting period for a reduction in petition may be changed from 1 year to 2 years by adding proposed legislative language to an omnibus bill.

Ms. Raney reported on the statistics for FY 15/16. Due to BreEZe complications, Q1 and Q2 statistics were generated from the Consumer Affairs System (CAS) system and only Q3 and Q4

statistics were generated from BreZE. The goal is to create a report that is more consistent and easier to understand.

The biggest change to the report is to count multiple complaint investigation cases involving the same respondent as individual cases instead of one case.

Ms. Raney clarified that “criminal conduct” in the report may include driving under the influence (DUI) and substance abuse-related cases that probably did not result in a conviction; this was the reason they are not categorized as criminal conduct.

#### C. Licensing/Examination

Mr. Mathes noted that the OAL is expected to make a decision on the Veterinary Assistant Controlled Substances Permit (VACSP) rulemaking file in the next week. The VACSP program is expected to be implemented in late September 2016.

Regarding exam development, Office of Professional Examination Services staff are working on a Veterinary Law Exam (VLE) analysis to develop a new exam form. OPES will prepare a report on the findings of the efficacy of the VLE take home law exam and will be available for review by the Board in October 2016.

Board staff is currently working on an occupational analysis of the veterinary technician exam. The findings of the occupational analysis (OA) on the Veterinary Technician National Examination (VTNE) conducted in 2010 showed around 85 percent of the licensees polled worked in mixed and small animal practices. Mr. Mathes explained that the OA results were used to develop the examination plan.

Ms. Del Mugnaio added that approximately 4 percent of the licensees polled in the OA work in large animal practices, which strengthens the need to perform an occupational analysis and ensure all manner of the professional practice is addressed on the veterinary technician exam. Results of the occupational analysis are available to the public.

Mr. Mathes noted that a BreZE work authorization was sent for the University License and that research is being done on potential costs and workload timeframes associated with establishing the new license. Mr. Mathes added that revenue generated from the initial University License fees may cover the initial implementation.

Mr. Mathes noted that the Board members could expect to complete a mail vote online for enforcement cases in the near future.

BreZE system updates currently occur every nine weeks. Mr. Mathes will be meeting with BreZE staff to address system update requests placed in September 2016 and also to prioritize most urgent system update requests.

Ms. Del Mugnaio added that Mr. Mathes will be attending the CaRVTA conference on July 22, 2016 to provide the administrative/budget report.

#### D. Hospital Inspection

Patty Rodriguez, updated the Board that the program cost for the Hospital Inspections Program was \$183,500 at the end of FY 15/16 and the program was only appropriated \$148,000. Ms. Del Mugnaio added that the program is underfunded and Board staff are seeking additional funding sources.

Ms. Del Mugnaio clarified that the BCP that was developed in 2013/2014 for the Hospital Inspections Program was based on a one-time population for premises, which has since increased by more than five percent. One of the reasons for the increase in premises is the requirement for all anesthesia-free dental operations and vaccination clinics to register for a premises permit.

Ms. Rodriguez noted that we lost a few Hospital Inspectors this year but we are hoping to add five more, bringing the total to 17 for FY 16/17.

Ms. Rodriguez noted that as soon as the Board receives authority to do so, the Hospital Inspections Program will inspect universities.

Ms. Del Mugnaio added that Hospital Inspectors will need to be trained on how to inspect different types of premises such as clinics at a race track. The new oversight category will be discussed at the Hospital Inspector Training on August 1-4, 2016.

Ms. Del Mugnaio encouraged Board members to coordinate with Patty Rodriguez to go on a premises inspection ride-along if they have not already done so.

## **19. Agenda Items and Next Meeting Dates – October 19-20, 2016; Southern California**

### **A. Agenda Items for Next Meeting**

- RVT registration for foreign graduates
- Update to RVT school reporting with statistics
- Oversight of private RVT schools reporting data
- Legislative report
- Election of Board Officers
- Executive Officer evaluation
- Controlled Substance Utilization Review and Evaluation System (CURES) Update

Regarding the Controlled Substance Utilization Review and Evaluation System (CURES) Update, Ms. Del Mugnaio clarified that there were some concerns about practitioners being able to speak to one other about a potential drug diversion issues. The DCA is working with the Department of Justice (DOJ) on this issue.

Ms. Del Mugnaio clarified that Board members are not required to attend regulatory hearings and are not able to respond to comments raised at regulatory hearings. Based on feedback from the public, the Board will hold regulatory hearings in conjunction with Board meetings in the future. Ms. Mancuso recommended determining when to hold a hearing on a case-on-case basis.



B. Multidisciplinary Advisory Committee Meetings – October 18, 2016; TBD

Ms. Del Mugnaio noted that the next MDC meeting will be in Southern California, possibly Orange County.

C. Schedule 2017 Meeting Calendar

Next year's Board meeting schedule is as follows:

- January 18-19, 2017
- April 19-20, 2017
- July 26-27, 2017 (dates changed to accommodate AVMA conference)
- October 18-19, 2017.

**20. Adjournment**

The Board adjourned at 4:14 p.m.