



MEETING MINUTES - DRAFT

Veterinary Medical Board
Sacramento, California

January 25, 2012

1. Call to Order - Roll Call

Veterinary Medical Board (Board) President Dr. Stephanie Ferguson called the meeting to order at 3:05 p.m. Board Executive Officer Susan Geranen called roll; all seven members of the Board were present and thus a quorum was established.

Board Members Present

Stephanie Ferguson DVM, President
Tom Kendall, DVM, Vice-President
Patti Aguiar, Public Member
Richard Johnson, DVM
Judie Mancuso, Public Member
Linda Starr, Public Member
Kim Williams, RVT

Staff Present

Susan Geranen, Executive Officer, Veterinary Medical Board
Paul Sanchez, Assistant Executive Officer
Shela Barker, Legal Counsel
Ethan Mathes, Administrative Programs Coordinator
Sandra Monterrubio, Enforcement Lead

2. Closed Session

A. Deliberations on Disciplinary Cases (Government Code section 11126(c)(3))

IV 2011 7

Stipulated Settlement and Disciplinary Order
The Board adopted the stipulated settlement.

AV 2012 2

Default Decision and Order
The Board adopted the default decision.

IV 2011 2

Proposed Decision
The Board adopted the proposed decision.

AV 2011 24

Proposed Decision
The Board adopted the proposed decision.

AV 2010 25

Proposed Decision after Remand
The Board adopted the proposed decision.

AV 2011 38

Proposed Decision after Remand

The Board adopted the proposed decision.

IV 2012 39

Stipulated Settlement and Disciplinary Order

The Board adopted the stipulated settlement.

IA 2012 38

Proposed Decision

The Board adopted the proposed decision.

Recess

January 26, 2012

3. Call to Order - Roll Call

Board President Dr. Ferguson called the meeting to order at 9:05 a.m. Board Executive Officer Ms. Geranen called roll; all seven members of the Board were present and thus a quorum was established.

Board Members Present

Stephanie Ferguson DVM, President

Tom Kendall, DVM, Vice-President

Patti Aguiar, Public Member

Richard Johnson, DVM

Judie Mancuso, Public Member

Linda Starr, Public Member

Kim Williams, RVT

Staff Present

Susan Geranen, Executive Officer, Veterinary Medical Board

Paul Sanchez, Assistant Executive Officer

Shela Barker, Legal Counsel

Diann Sokoloff, Deputy Attorney General Liaison

Ethan Mathes, Administrative Programs Coordinator

Sandra Monterrubio, Enforcement Programs Coordinator

Karen Robison, Administrative Analyst

Liz Parker-Smith, Administrative Analyst

Guests Present

Gloria Armstrong

Ryan Arnold, Department of Consumer Affairs

Judy Capaul, CPS Consulting

Stacy DeFoe

Nancy Ehrlich, RVT, California Registered Veterinary Technicians Association

Reichel Everhart, Department of Consumer Affairs

Valerie Fenstermaker, California Veterinary Medical Association

Roger Ganse, CPS Consulting

Bill Grant, DVM, Multidisciplinary Committee

Anne Howard, PT

Mike Kanemoto, CPS Consulting

Ron Kelp, DVM, California Veterinary Medical Association

Pamela Mauer, California Registered Veterinary Technicians Association

Kristi Pawlowski, RVT

Stephanie Trumm, MAXIMUS

4. Approve October 17-19, 2011, Meeting Minutes

- **Linda Starr motioned and Dr. Tom Kendall seconded the motion to approve the October 17-19, 2011 Meeting Minutes.**
- **The motion carried 7-0.**

5. Executive Officer Report

Ms. Geranen reported there are several important projects coming up including Disciplinary Guidelines rulemaking and sunset review. The Sunset Review Questionnaire will be sent to staff sometime in February; the last sunset review took place in 2003 and the Board will be required to report performance statistics since the last sunset review. The Sunset Review Committee of Linda Starr, Dr. Richard Johnson, and Patti Aguiar will write the report based on statistics compiled by Board staff. The Sunset Report is due on November 1, 2012.

A. Board Program Reports

Mr. Sanchez reported previously approved Budget Change Proposals (BCP) were rejected by the Department of Finance and that staff will look to resubmit the BCPs later this year. There continues to staff shortages but that the Board recently hired a retired annuitant to work of human resources issues in order to fill the vacant positions.

Mr. Sanchez reported the Department of Consumer Affairs (DCA) now requires all expert consultants to sign a contract for services; staff anticipates that there are about 100 expert consultants who will require a contract.

Staff worked on sorting and compiling the voluminous comments received as a result of the 45-day notice on the proposed minimum standards regulations. Staff was able to pare down original named commenters from over 20,000 names to about 4,000 verifiable original names. The 15-day notice was then sent to the approximate 4,000 verifiable original names. The Board received over 200 phone messages from individuals who claimed to not know why they were sent the 15-day notice in addition to over 300 returned pieces of mail.

Mr. Sanchez reported that staff, Dr. Tom Kendall, Linda Starr and the California Veterinary Medical Association (CVMA) attended a meeting of Chinese veterinarian delegates and that it was a positive meeting and beneficial to all the involved parties.

6. Presentation from MAXIMUS on Diversion Program

Stephanie Trumm presented an overview of the MAXIMUS program to the Board. She spoke about the issue of addiction, why the MAXIMUS program is important in treating the addicted, the purpose of the program services offered, and how MAXIMUS monitors its participants. The Board and Ms. Trumm discussed the member composition of the Diversion Evaluation Committee, how program participants check in with MAXIMUS, the appropriate length of time to monitor participants, program success rate, and the number of active participants.

Ms. Geranen noted Paul Sanchez attends all the Diversion Evaluation Committee (DEC) meetings and that all but one of the DEC members are in recovery from addiction which helps them in handling addiction related issues.

A. Consider Reappointment of DEC Public Member Jim Weisenberg

Ms. Geranen reported member Jim Weisenberg has been an excellent contributor to the DEC and that staff recommends his reappointment.

- **Patti Aguiar motioned and Dr. Tom Kendall seconded the motion to reappoint Jim Weisenberg to the Diversion Evaluation Committee.**
- **The motion carried 7-0.**

7. Administrative/Legislative Committee Report

A. Review Budget, Revenue and Expenditure Projections for 2011/2012

Ms. Geranen reported that current budget projections indicate there will be a large amount of funds that may be reverted back into the Board's contingency fund this year. However, some of these funds are allocated to the plan to move the Board office to DCA headquarters, for the CPS consulting project and succession planning, and for miscellaneous equipment and other Board expenses.

B. Update on American Association of Veterinary State Boards Mid-Year Meeting - Dr. Tom Kendall

i. Consider Nominations for AAVSB Board of Directors

Dr. Kendall reported the Registry of Approved Continuing Education (RACE) Committee discussed the issue of alternate medicine programs meeting both RACE and California standards for continuing education. Dr. Richard Johnson added the Committee also discussed continuing education program approval standards and specific reasoning for approving or denying alternate medicine continuing education programs. Action on this issue is still pending.

C. Review and Consider Adopting Updated Administrative Procedures Manual

Ms. Geranen reported the Administrative Procedures Manual is given to all new Board members and that updates to the Manual are appropriate due to recent legislation changes. Judie Mancuso suggested adding an enforcement workflow document to the Manual. Ms. Geranen reminded the Board that in July staff will conduct Board member enforcement training and this would be a good time to add these kinds of items. Dr. Johnson suggested adding Center for Public Interest Law informational documents to the Manual. The Board agreed to discuss and consider adding the documents at a future meeting.

- **Judie Mancuso motioned and Patti Aguiar seconded the motion to approve the Administrative Procedures Manual as amended.**
- **The motion carried 7-0.**

D. Update on CPS Contract Proposal for Succession Planning and Board Staff Allocations

Mr. Sanchez reported the importance of succession planning has necessitated working with CPS HR Consulting, a firm that will evaluate the Board's processes and make recommendations for future Board challenges in succession and staffing. Additionally, the outcome of the CPS report is anticipated to help the Board identify and request appropriate staffing levels.

Roger Ganse introduced CPS HR Consulting and explained that it is a joint-powers authority governed by a board of public jurisdictions and therefore is able contract with public and non-profit sectors. Through a contract with the Board, CPS would provide an analysis of existing workforce and structure, evaluate the needs of the Board, and identify requirements for succession planning.

Judy Capaul added that CPS's analysis of the Board will gather data on staff workload, conduct interviews with staff, identify structural knowledge's and tools to use to pass on that knowledge; the evaluative process will take approximately 6 months to complete. Mike Kanemoto reiterated the CPS analysis would seek to identify gaps in workflow, identify opportunities and make recommendations for improvement.

E. Review and Consider Adoption of the Board's Strategic Plan 2012-2014

The Board reviewed the Strategic Plan; Patti Aguiar agreed to go through the document and make editorial corrections. Following the discussion a motion was made to adopt the Strategic Plan as corrected.

- **Dr. Tom Kendall motioned and Linda Starr seconded the motion to approve the Veterinary Medical Board Strategic Plan 2012-2014 as amended.**
- **The motion carried 7-0.**

F. Review Issues Referred to Multidisciplinary Committee for Prioritization

The Board discussed the Multidisciplinary Committee's (MDC) Board Action Plan assignments. Ms. Geranen clarified that the Board has given the MDC this list in order for them to prioritize their action plan assignments. Dr. Bill Grant added the MDC will discuss priority of assignments but that the Cite and Fine Guidelines remain a top priority.

G. Sunset Review Project - 2012/2013 **i. Electronic Records Requirements**

Shela Barker recommended the Board consider incorporating language similar to Senate Bill 850 into its statutes. The language could be also be used for consideration in the Board's sunset review. The Board discussed and agreed to look into including similar language in its statutes.

- **Patti Aguiar motioned and Dr. Tom Kendall seconded the motion to research electronic medical record confidentiality language passed in Senate Bill 850 and potentially adopt similar language as part of the Veterinary Medical Board Practice Act statutes.**
- **The motion carried 7-0.**

H. Update on State Required Training

Ms. Geranen reviewed State requirements for ethics and sexual harassment training. Staff will look into the currency of Board member training certifications and report back to the Board.

I. Update on Form 700 Requirements

Ms. Geranen reported the Form 700 is due on April 1, 2012 and that the Form will be sent to the Board members for them to complete.

8. Exam Committee Report

There was no Board discussion on this item.

9. Multidisciplinary Advisory Committee Report – Dr. Bill Grant

A. Report on November 16, 2011 Meeting

B. Report on Status of Citation and Fine Guidelines and Regulations

Dr. Grant reported the MDC worked with staff on the Citation and Fine Guidelines at their November 2011 meeting. The MDC's goal is to prepare a final version of the Guidelines and review it at their March meeting.

C. Consider Reappointments of Committee Members Dr. Bill Grant, Dr. Jon Klingborg, Jennifer Boyle, RVT, and Diana Hagle to First Full Three-Year Term

- **Linda Starr motioned and Dr. Richard Johnson seconded the motion to reappoint Dr. Bill Grant to the Multidisciplinary Committee.**
- **The motion carried 7-0.**
- **Dr. Tom Kendall motioned and Patti Aguiar seconded the motion to reappoint Dr. Jon Klingborg to the Multidisciplinary Committee.**
- **The motion carried 7-0.**
- **Dr. Tom Kendall motioned and Patti Aguiar seconded the motion to Jennifer Boyle, RVT to the Multidisciplinary Committee.**
- **The motion carried 7-0.**
- **Dr. Tom Kendall motioned and Judie Mancuso seconded the motion to reappoint Diana Woodward Hagle to the Multidisciplinary Committee.**
- **The motion carried 7-0.**

10. Discussion and Consider Adoption of Disciplinary Guidelines

A. Consider Amendments from SB 1441 in Guidelines

Ms. Barker presented the amended Disciplinary Guidelines which includes language from SB 1441 and other amendments as discussed at the Board's last meeting. The Board discussed the definition of terms for revocation, appropriate minimum and maximum penalties, the Standard Terms and Conditions, the Optional Terms and Conditions, the Drug and Alcohol Abuse Terms and Conditions, and Overview Guide for Disciplinary Decisions.

The Board discussed whether to hold the Disciplinary Guidelines over to its next meeting for review or to finalize the document and schedule a public hearing.

- **Patti Aguiar motioned and Dr. Tom Kendall seconded the motion to reformat the Disciplinary Guidelines as amended and bring back to the Board at its April meeting.**
- **The motion failed 3-4.**

The Board continued its discussion on Factors to be Considered, Evidence of Rehabilitation, whether Mitigating Evidence should be in the Guidelines, and animal cruelty penalty provisions.

- **Dr. Tom Kendall motioned and Linda Starr seconded the motion to adopt the Disciplinary Guidelines as amended and hold a public hearing at the Veterinary Medical Board's April meeting.**
- **The motion carried 7-0.**

11. Legislation/Regulations Committee Report

A. Discuss 2012 Legislation

i. Veterinary Practice – Unlicensed Activity

Ms. Geranen reported the unlicensed activity language was updated with input from the Ms. Barker and that some provisions in SB 1111 were also incorporated that would make unlicensed activity a higher

level of enforcement. Ms. Barker offered she would add language that would make unlicensed activity a priority but not give it a specific priority order.

- **Patti Aguiar motioned and Judie Mancuso seconded the motion to forward the proposed language in Business and Professions Code sections 4826 and 4875.7 and take a support position on the proposed language.**
- **The motion was withdrawn to be amended.**
- **Dr. Tom Kendall motioned and Judie Mancuso seconded the motion to accept amendments to Business and Professions Code sections 4826 and 4875.7 and support a future proposed legislative bill relative to unlicensed activity.**
- **The motion carried 6-1.**

ii. Business and Professions Code Section 4836.1 – Administration of Drugs

Ms. Geranen reported Business and Professions Code section 4836.1 had previously been scheduled to sunset but was extended for an additional year in order for the Board to continue its discussion on amending the language. Dr. Kendall reported that a Task Force of the Admin Committee, the CVMA and California Registered Veterinary Technicians Association worked to draft the proposed language.

- **Linda Starr motioned and Dr. Tom Kendall seconded the motion to adopt the proposed Business and Professions Code section 4836.1 language.**
- **The motion carried 7-0.**

iii. SB 969 – Pet Groomers

Ms. Geranen reported she spoke with the author of SB 969 and that there are concerns about the timelines in the SB 969 language. The bill is likely to be amended to address implementation dates and clarity issues.

B. Discuss Pet Lovers License Plate

- i. AB 610 - License Plate**
- ii. Proposed Regulations**

Ms. Mancuso reported the language in Assembly Bill (AB) 610 has recently been amended and that there are 3,600 license plates pre-sold to date. Ms. Barker stated that she is continuing to work on proposed regulatory language.

C. Review and Consider Comments in Response to 15-day Notice on Changes to Proposed Minimum Standards Regulations

Dr. Grant reviewed the comments received in the 15-day comment period. All comments were rejected because they were already addressed in the 45-day comment period responses. Ms. Barker noted that the suggested change to section 2030(g)(4) was valid for distinguishing the intent of the Board to override the Building Code for this specific section.

- **Linda Starr motioned and Dr. Richard Johnson seconded the motion to amend California Code of Regulations section 2030(g)(4) as discussed.**
- **The motion carried 7-0.**

- **Judie Mancuso motioned and Kim Williams, RVT seconded the motion to direct staff to take all necessary steps to complete the rulemaking process including sending out the modified proposed language and 15-day Notice. If after the 15-day Notice period ends and no adverse comments are received the Executive Officer may make any non-substantive changes to the proposed regulations and adopt the proposed regulations.**
- **The motion carried 7-0.**

D. Proposed Regulations for RVT Approved School Requirements

Ms. Geranen reported the proposed registered veterinary technician (RVT) school approval regulations will be sent out to California RVT schools and alternate route programs for comment. Once the Board reviews any comments received, staff will schedule a regulatory hearing for July or October. Additionally, the Registered Veterinary Technician Subcommittee will begin work on addressing proposed regulations to approve alternate route schools and California RVT program approvals.

E. Review Regulation Calendar

F. Review Hospital Inspection Self Checklist

Dr. Grant reviewed the staff's suggested edits to the Hospital Standards Self-Evaluation Checklist. He additionally requested staff to review the citations in the dangerous drugs section of the Checklist. Once the Minimum Standards regulations become law, the Checklist will need to be reevaluated and updated. Ms. Barker stated that she will review the amended Checklist.

- **Dr. Tom Kendall motioned and Dr. Richard Johnson seconded the motion to accept the Hospital Standards Self-Evaluation Checklist as amended, authorize legal staff to review the Checklist, and to make the Checklist available to the public as soon as possible.**
- **The motion carried 7-0.**

12. Enforcement Committee Report

- A. Committee Recommendations for Improving Enforcement Program**
- B. Expert Witness Manual/Training**

Dr. Johnson reported that he, Ms. Geranen and Sandra Monterrubio met and discussed ongoing enforcement projects including updating the Expert Witness Manual. The Board discussed using a secure website or email in order to review closed session items in between meetings. Mr. Sanchez noted staff has done some preliminary research on this and will look into implementing secure email.

13. Comments from Public/Outside Agencies/Associations

There were no comments from public/outside agencies/associations.

14. Agenda Items and Next Meeting Dates

- A. Board Meetings**
 - i. April 24/25, 2012 – Orange County**
 - ii. July 24/25, 2012 – Sacramento**
 - iii. October 23/24, 2012 – Paso Robles or Vicinity**
 - iv. January 22/23, 2013 – Sacramento**

Ms. Geranen reminded that Board member enforcement training will take place at the July meeting.

- B. Multidisciplinary Committee Meetings (3 meetings per year)**
 - i. March 14, 2012 – Sacramento**
 - ii. June 13, 2012 – Sacramento**
 - iii. November 14, 2012 – Sacramento**

Adjourn

- **Linda Starr motioned and Kim Williams, RVT seconded the motion to adjourn**
- **The motion carried 7-0.**

The meeting adjourned at 4:45 p.m.