

MEETING MINUTES VETERINARY MEDICAL BOARD

Department of Consumer Affairs
1747 N. Market Blvd.
1st Floor Hearing Room
Sacramento, California 95834

10:00 a.m., Thursday, January 30, 2020

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

Dr. Jaymie Noland called the Veterinary Medical Board (Board) meeting to order at 10:00 a.m. Executive Officer Jessica Sieferman called roll; seven members of the Board were present, and a quorum was established. Jennifer Loreda, RVT, was absent.

Board Members Present

Jaymie Noland, Doctor of Veterinary Medicine (DVM), President
Kathy Bowler, Public Member, Vice President
Christina Bradbury, DVM
Mark Nunez, DVM
Dianne Prado, Public Member
Cheryl Waterhouse, DVM
Alana Yanez, Public Member

Staff Present

Jessica Sieferman, Executive Officer
Timothy Rodda, Administration/Licensing Manager
Patty Rodriguez, Hospital Inspection Program Manager
Justin Sotelo, Lead Administrative & Policy Analyst
Tara Welch, Legal Counsel, Department of Consumer Affairs (DCA)

Guests Present

Al Aldrete, DVM, Veterinary Allied Staff Education (VASE)
Tim Baldwin, Professional Rodeo Cowboys Association (PRCA)
Brian Clifford, DCA
Scott Dorenkamp, PRCA
Ryan Dowling, International Longshore and Warehouse Union (ILWU)
Ron Dunbar, PRCA
Tim Eastman, DVM, Steinbeck Country Equine Clinic
Nancy Ehrlich, California Registered Veterinary Technicians Association (CaRVTA)
Stacey Evans, General Counsel, ElleVet Sciences
Valerie Fenstermaker, California Veterinary Medical Association (CVMA)
Troy Ford, DVM, Clovis Rodeo

Bill Gage, Social Compassion in Legislation
Karen Halbo, Attorney III, DCA, Regulations Unit
Paul Hansbury, Lovingly and Legally Grown
Anita Levy Hudson, Registered Veterinary Technician (RVT), CaRVTA
Liz Hughston, RVT, National Veterinary Professionals Union & CaRVTA
Marilyn Jasper, Humane Society of the Sierra Foothills
Kimberly Kirchmeyer, Director, DCA
Brandy Kuentzel, San Francisco Society for the Prevention of Cruelty to Animals (SF SPCA)
Bonny Lutz, Esq., Klinedinst
Grant Miller, DVM, CVMA
Eric Mills, Action for Animals
Jeandra Page, SF SPCA
John Pascoe, DVM, University of California, Davis (UC Davis)
Ken Pawlowski, DVM, CVMA
Jeff Pollard, DVM, Board Multidisciplinary Advisory Committee (MDC)
Mike Sanchez, Television Specialist, DCA
Cindy Savely, Sacramento Valley Veterinary Technician Association (SVVTA)
Saundra Snyder, VASE
Alex Solis, ICWU/California Advocacy
Susan Tibbon, Lovingly and Legally Grown

2. Introductions

Dr. Noland invited members of the public to introduce themselves.

Ms. Sieferman introduced and welcomed the Board's new Administration/Licensing Manager, Mr. Timothy Rodda. She indicated that Mr. Rodda comes to the Board with fourteen years of experience with the California Architects Board and that he will be a great addition to the Board. Ms. Sieferman also introduced the Board's new Administrative & Policy Analyst, Mr. Justin Sotelo. She indicated that Mr. Sotelo also comes to the Board with a variety of state service experience and that he worked with Mr. Rodda at the California Architects Board for about ten years.

3. Public Comment on Items Not on the Agenda

Dr. Noland indicated that comments regarding rodeos and the emergency fee increases would be welcomed under Agenda Items 7 and 10A, respectively.

Dr. John Pascoe of UC Davis acknowledged staffing issues with the Board, but expressed concerns with license processing times. He added that the delays are limiting access to high quality care in California, but more importantly, they are limiting his university's ability to deliver their state mandate to train students, veterinarians, and specialists. He concluded that he realizes there may be extenuating circumstances regarding Board staffing, but that the processing delays need to be addressed.

4. Review and Approval of Board Meeting Minutes

Dr. Noland indicated that because the November 2019 minutes were recently provided to the Board, they would be reviewed and approved on January 31, 2020.

A. October 9-11, 2019

The Board made minor changes to the October 9-11, 2019 meeting minutes.

- Dr. Mark Nunez moved and Ms. Kathy Bowler seconded the motion to approve the meeting minutes, as amended. The motion carried 6-0-1, with Ms. Alana Yanez abstaining.

B. *November 6, 2019

The Board reviewed the November 6, 2019 Teleconference meeting minutes.

- Dr. Cheryl Waterhouse moved and Ms. Kathy Bowler seconded the motion to approve the meeting minutes. The motion carried 5-0-2, with Dr. Mark Nunez and Ms. Alana Yanez abstaining.

5. Report and Update from Department of Consumer Affairs

DCA Director Kimberly Kirchmeyer thanked the members for the opportunity to report to the Board. She shared that DCA has been her home and that she has served 30 years with the Department, which includes about 20 years with the Medical Board of California.

Ms. Kirchmeyer shared an email she sent to all DCA employees, highlighting what her initial focus would be as Director. She indicated that she would be focusing on: client services and satisfaction; working smarter together; data transparency and action; metrics; processing of regulations; obtaining FI\$Cal reports; decreasing investigation timeframes; Americans with Disabilities Act compliance; and, ensuring that legislation gets implemented by the boards and bureaus. She also stated that she will be having one on one meetings with all boards and bureaus to learn more about their goals and issues.

Ms. Kirchmeyer reported that the DCA Legal Affairs Division has created a Regulations Unit that is now directly assisting with the processing of departmental rulemaking packages. In November 2019, the unit became fully staffed, and all of the programs have been assigned a regulations attorney. A large priority for the unit has been to work on AB 2138 because that needs to be implemented in order to meet the July 1, 2020 deadline. Another thing DCA is doing to improve transparency in the unit is putting together a database called Cherwell, where clients and the boards and bureaus will be able to go in and see the status of regulations and know where their documents are. Regarding FI\$Cal reports, Ms. Kirchmeyer reported that the Budget Office and Office of Information Services are in the testing phase of a project that will allow programs access to budget expenditure reports, similar to what it used to be under the CALSTARS reports.

The plan is to release the new expenditure reports early this year for the 2019/20 fiscal year. Eventually, these reports will be available on an on-demand basis by the executive officers.

Ms. Kirchmeyer also shared information regarding DCA's Organizational Improvement Office. She explained that they are a unit that performs change management services, business process mapping, and information technology system requirement documentation.

Dr. Noland thanked Ms. Kirchmeyer for the update and expressed her appreciation for the Director's background and experience. Dr. Noland mentioned that the Board does need assistance with regard to expenses the Board has no control over. And there are probably other issues that DCA could assist with that would make the Board a more streamlined and cost-effective program. Dr. Nunez stated that a majority of the Board's budget issues are related to the Attorney General's Office (AG's Office), with a 70% fee increase for their clerks and a 30% fee increase for their attorneys. He further explained that boards are limited in recovering costs in the disciplinary process, and this is not sustainable unless something is done about the AG's Office. He explained that the Board definitely needs help in that area. He said that there have been discussions on how processes can be streamlined, and that can be part of the solution.

Ms. Kirchmeyer explained that there are two sides of the AG's Office: the Health Quality Enforcement section; and the Licensing section. She stated that she wants to look at differences in the way they process and talk to the Senior Assistant Attorney Generals and see where they can streamline processes and requirements of the evidence. She added that things may not change drastically because there is due process for licensees. Ms. Kirchmeyer also explained that the Board's fee increases are not solely due to the AG's Office. The Board has been hit with several items over the last several years. She stated that they can look for efficiencies, but at the end of the day, they have to face the various expenditures and costs for services. She added that earlier settlement conferences are also something that could be discussed with the AG's Office.

Ms. Bowler asked when the Cherwell database would be launched. Ms. Kirchmeyer indicated that they are hoping it will be launched in a couple of months. Ms. Bowler also asked when the FISCal reports will be available; Ms. Kirchmeyer indicated that they are looking at March or April 2020.

6. Review, Discussion, and Possible Action on Multidisciplinary Advisory Committee (MDC) Report

Dr. Jeff Pollard reported on the January 29, 2020 MDC meeting. He indicated that consensus was received on the item related to Legislative and Regulatory Proposals Regarding Corporate Practice of Veterinary Medicine. He added that the subcommittee, consisting of Kristi Pawlowski, RVT, and Stuart Eckmann, drafted a memo itemizing bullet points based on survey responses from DVMs and veterinary students that testified at the last meeting. He stated that the process was aided immensely by public comment and a corporate presence. The proposed language was tweaked some more with the assistance of Ms. Tara Welch. The MDC voted to accept the proposed language unanimously, and the language will go to the Board at its next meeting.

Dr. Nunez commended the MDC for the detailed work that they do. He stated that there were two big areas of discussion: application for a premises permit by a corporation (are the names of all of the shareholders of a corporation needed on an application?); and compensation (how does that exercise control over professional judgement of an employee?). Dr. Pollard responded on the topic of compensation and indicated that it was believed that the Board should not get involved with how employees are paid. Ms. Welch responded on the topic of reporting names of all shareholders on the premises registration application. She clarified that the language was revised to only require veterinary corporations to provide the names of all shareholders.

Ms. Valerie Fenstermaker mentioned that this issue is raised in the Board's Sunset Report and asked if the Board was considering rolling this proposal into its Sunset legislation.

Ms. Sieferman responded that during the Board's last teleconference, it was decided that this issue would not be included in the Sunset legislation, but the issue would be raised to let the Legislature know that this is something the Board is addressing. So, this proposal will likely be pursued during the next legislative session.

Dr. Pollard indicated that the MDC next had a discussion about the closed case audit subcommittee. He stated that there was a good discussion regarding what the original task and goals were. He added that the purpose of the subcommittee's review of closed cases is to: determine how the standard of care has been applied in prior Board disciplinary actions and whether the expert opinions are generally supported as a standard of care; and identify areas of opportunity for improvement in both the actual process of disciplinary cases, as well as provide greater consistency with regard to the application of the standard of care. He next discussed the case selection process. He stated that initially there was a selection of cases based on: common case review that included disagreement among Board consultants and expert witnesses; cases that are more factually complex; and cases that have been closed within the last three years. Dr. Pollard noted there was a random case review where more generic cases were picked for a more random sampling. Dr. Pollard reported that the last physical review of cases took place in December 2018.

He added that, in the interim, other related tasks have been completed, such as evaluating expert witness writing and making sure that they adhere to the standard of care. He also added that over the course of four and a half years, he and Dr. Grant attended two expert training sessions where they met many of the expert witnesses. More recently, Dr. Pollard indicated that he, Dr. Kevin Lazarcheff, Ms. Sieferman, and Enforcement Manager Rob Stephanopoulos met to come up with a model for expert witness opinion that is now being used in training.

Dr. Pollard stated that he felt the subcommittee's task has morphed and it was recently concluded that he, Dr. Lazarcheff, and Ms. Sieferman would get together and see what the MDC can continue to provide input for to help the process.

Dr. Nunez stated that he has great expectations for this subcommittee. He indicated that Ms. Sieferman, at the MDC meeting, made a point that the whole complaint process, from start to finish, should be evaluated to find out if the standard of care is being applied to all complaints. He added that Ms. Sieferman also stated that the subcommittee's focus has mostly been on the expert witness training. He summarized that he sees the subcommittee evaluating the whole

complaint process, and referenced Ms. Kirchmeyer's earlier statements about streamlining processes. Ms. Sieferman stated that she believes that the subcommittee is heading in a good direction, and her goal is to come up with some items to measure improvements. She added that the Board's efforts need to be focused on existing expert witnesses, as well as recruiting new expert witnesses. She explained that recruitment is more effective when it is word of mouth from the Board members or from the association. But the Board will still send out recruitment notifications within the next month.

Dr. Nunez added that he would encourage the MDC to review the original task and goals of the subcommittee, take a look at applicable goals from the strategic plan, take note of Ms. Sieferman's comments at the MDC meeting, and take note of Ms. Kirchmeyer's earlier comments. He explained that he would like the committee to focus on the whole process, from start to finish, and especially how the standard of care can be better applied to these complaint processes.

Dr. Bradbury asked if the Board is looking at how expert witnesses are being chosen. Dr. Pollard explained that expert witnesses are required to have five years of experience and no disciplinary action against their license. He added that the expert witnesses are to utilize their judgement in determining whether or not they are qualified to review the case. Dr. Noland mentioned a list of common questions that are used to establish the expertise of expert witnesses. She suggested that it would be helpful to look at and incorporate that. Ms. Sieferman stated that is something the Board is looking at in order to properly match expert witnesses to cases. Ms. Bonnie Lutz explained that her comments at the MDC meeting did not suggest that expert witness reports have not improved, but that expert witness qualifications should be looked at more closely.

Regarding future agenda items, Dr. Pollard indicated that the MDC discussed the following: the MDC will vote on a new chair in April, because he will be termed out in June; Dr. Richard Sullivan suggested addressing the tiered premises permit fee in the context of the RVT license fee increase; and, future meeting dates and locations.

7. *Report on the Current Statutory Framework Regarding Rodeos

Ms. Sieferman reported that at the last Board meeting, there was a presentation made by a representative from SHARK (Showing Animals Respect and Kindness) about concerns regarding rodeos. She noted that after hearing the concerns, the Board requested an overview on the current statutory framework regarding rodeos. Ms. Sieferman explained that rodeos are primarily regulated by local cities and counties, who are responsible for enforcing Penal Code section 596.7. She added that veterinarians are required to report animal injuries at rodeos to the Board per Business and Professions Code section 4830.8; however, the Board does not oversee violations of rodeos. The Board has more of a minor role when it comes to regulating rodeos; it collects animal injury reports. She explained that the Board can take action against a veterinarian, if the licensee did not report an injury to the Board or did not follow the standard of care when treating an injured animal. Ms. Sieferman indicated that there were members of the public present who would like to speak on the topic.

Mr. Scott Dorenkamp, PRCA, Tim Eastman, DVM, Steinbeck Country Equine Clinic, and Troy Ford, DVM, Clovis Rodeo, addressed the Board and discussed compliance with Penal Code section 596.7 and Business and Professions Code section 4830.8 and standards and protocols with regard to rodeo events.

Mr. Dorenkamp indicated that after watching the video of the Board's October 2019 meeting, he felt that it was important to address the Board regarding attending rodeo veterinarians. As the largest sanctioning body in the world, PRCA sanctions over 40 events in California. He indicated that their rules require that a veterinarian be on site for every event. Additionally, Dr. Eastman responded to the allegations of SHARK; he indicated that he has been a personal target of Mr. Hindi. Dr. Eastman stated that he believes SHARK's agenda is to politicize the issue and diminish or outlaw the sport of rodeo in the state of California. Mr. Dorenkamp explained that they require attending veterinarians at their PRCA sanctioned rodeo events.

Dr. Nunez and Ms. Bowler discussed how many of the problems likely occur at smaller and local events. Mr. Dorenkamp indicated that he would not be able to estimate how many rodeo events occur in California, annually.

Dr. Ford discussed his personal duties as an attending veterinarian at rodeo events and discussed preparedness for potential animal injuries. He also indicated that injury rates are low. Dr. Waterhouse indicated that the Board's Rodeo Reporting Form could perhaps request some additional information. For example, whether the animal was injured during the event or not. Dr. Eastman indicated that he would caution against requesting more information on the form, as personal threats have been made against him and his staff after he provided his home address on the form. Dr. Nunez requested that Ms. Sieferman report back to the Board on any discrepancies with the report statistics. He also requested that the Board ensure confidentiality with the reports, so that retaliation is not occurring. The threat of retaliation could decrease the number of reports that are submitted.

Dr. Noland thanked Mr. Dorenkamp, Dr. Eastman, and Dr. Ford for addressing the Board and presenting the other side of the story. She added that she apologized for the personal attacks and indicated that the Board takes that very seriously.

Ms. Marilyn Jasper, with the Humane Society of the Sierra Foothills, addressed the Board and explained that attending veterinarians at rodeo events have a legal obligation to report to local authorities when there is reasonable cause to believe that animal neglect, abuse, cruelty, or other illegalities have occurred. She stated that, legally, there should be no difference between a veterinarian seeing signs of abuse or cruelty in an examination room or seeing it at a rodeo event. She concluded by stating that the Board has the authority and capacity to help close rodeos' abusive loopholes and clarify veterinarians' legal obligations. She added that her organization is willing to assist.

Mr. Eric Mills, with Action for Animals, addressed and thanked the Board for its work on behalf of animals. He indicated that he hoped members would review the materials he provided and watch the short rodeo documentary that he is affiliated with entitled "Bucking Tradition." Mr. Mills expressed concern with the high number of rodeo events held in California versus the

number of animal injuries that are being reported, suggesting that reports are not being made or submitted to the Board. He also mentioned that sometimes multiple injuries are reported on a single form, which can be confusing, and asked that the Board require that a single injury be reported on each form. He discussed a bill that he is presently proposing, which would require a veterinarian, or an RVT onsite with a veterinarian on call, present at all rodeo events. He discussed his concerns with the treatment of animals at rodeos, and cited specific examples that he had observed or was aware of. He said that if rodeos cannot provide an onsite veterinarian, or RVT with an on-call veterinarian, then they should be abolished; he added that all sporting events have ambulances and paramedics onsite.

Mr. Bill Gage, representing Social Compassion in Legislation, indicated that his organization was in support of Mr. Mills' efforts in terms of trying to make changes to rodeo reporting requirements. He stated that his organization would like to work with the Board to ensure that it does receive the reports that it should be receiving from on call and onsite veterinarians at rodeos.

8. *Update, Discussion, and Possible Action on the Board's Guidelines for Veterinarian Discussion of Cannabis Within the Veterinarian-Client-Patient Relationship

Ms. Sieferman reported that this item pertains to the directive from the Legislature through Assembly Bill 2215. She indicated that the Board had approved its guidelines at the October 2019 Board meeting, and they were posted to the Board's website shortly thereafter, before the deadline. She explained that after the guidelines were posted, the Board received some stakeholder concerns from the industrial hemp industry. They specifically requested that language be removed from the guidelines pertaining to the approval of industrial hemp product by the U.S. Food and Drug Administration. To address the concern, while retaining clarity regarding the safe and lawful use of industrial hemp, she explained that the proposed revisions to the guidelines could be adopted by the Board. Ms. Sieferman also asked Dr. Pollard to summarize his viewpoint and involvement with the guidelines and proposed revisions. He encouraged the Board to adopt the proposed revisions to the guidelines.

Stacey Evans, General Counsel for ElleVet Sciences, provided concerns with the proposed revisions, as they pertain to legal animal supplements. Dr. Nunez explained that there will likely be a new set of regulations in the near future and these concerns will likely be somewhat of a moot point. He added that the Board is also taking a more cautious approach when it comes to the topic of cannabis-related issues.

- Dr. Mark Nunez moved and Dr. Cheryl Waterhouse seconded the motion to approve the proposed revisions to the Board's "Guidelines for Veterinarian Discussion of Cannabis Within the Veterinarian-Client-Patient Relationship." The motion carried 7-0.

9. *Update, Discussion, and Possible Action on the Board's Strategic Plan

Dr. Noland reported that the Board did a very thorough job of identifying strategic planning goals at its last strategic planning session. She recommended that the Board put a subcommittee together to look more closely at the goals, and to consolidate and prioritize them. Dr. Noland

indicated that Dr. Bradbury expressed interest in assisting with this. She added that it would be impossible to direct the Executive Officer and staff to do all of this. Dr. Noland also stated that the Sunset review process could assist in helping the Board prioritize its strategic planning goals. Dr. Nunez also volunteered to assist Dr. Bradbury in looking at the strategic planning goals.

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

A. *Status Update on Pending Regulations

Ms. Siefertman reported that an update was provided in the Board meeting packet. She indicated that for the amount of public comment on the topic of the emergency fee increase, the Board should begin with that topic. She noted that this is what the Board approved in October 2019, and the rulemaking package was filed with the Secretary of State's office and approved by the Office of Administrative Law on January 27, 2020. It was effective immediately. So, the next steps for this is to finalize that packet through the regular rulemaking process. There will be another 45-day public comment period. She indicated that the Board has a deadline of July 24, 2020.

Mr. Ryan Dowling, of ILWU, presented public comment to the Board. He indicated that his union represents workers in the veterinary support industry up and down the West Coast. He stated that they believe the fee increase is disproportionately on the support staff. These workers are under-compensated, they have to spend their own money on continuing education, and they live in some of the most expensive places in the country. He stated that the fee increase could have the opposite effect – workers may not renew their licenses, which would have an adverse effect on the industry. He stated that they ask that the Board work in partnership and find ways to generate revenue outside of just increasing fees on the support staff that make this industry possible.

Ms. Nancy Ehrlich, of CaRVTA, indicated that she concurred with the comments of the previous speaker. She added that RVTs are a relatively low-paid profession. Because of the fee increase, and due to high student loan debt, they may not apply for the exam and licensure because they cannot afford it. With this increase of over 100%, there is no question that there will be fewer RVT applicants and licensees. Some RVTs will not renew their licenses. The Board may end up in the ironic position of making less money off of licensing fees. She added that she would encourage the Board to consider the sliding scale of the premises permit fee to reverse this RVT fee increase.

Ms. Fenstermaker, of CVMA, stated that in their letter to the Board during the public comment period, it did outline its understanding for the fee increase. She added that they also recognized that it was a large hardship on all veterinary professionals, but particularly on the RVT profession; and, asked if that could be looked at. Ms. Siefertman responded that the Board had discussed that when looking at fees during Sunset, it would consider lowering RVT fees and increase premises registration fees.

Ms. Liz Hughston, RVT, and President of the National Veterinary Professionals Union, stated that she conducted an informal survey and found that approximately 53% of veterinary practices pay their RVTs' fees. She further explained that RVTs typically have to pay fees up front before

being reimbursed and for some RVTs, that payment is subtracted from their continuing education fee allowance. She added that the fee increase is falling on the lowest paid licensees of the Board, and it is falling on them disproportionately. Dr. Waterhouse shared that she was at a CVMA meeting where they talked about the economic survey CVMA conducted. Of the 684 RVTs who were surveyed, 58% of them indicated that their licensing fees are paid by their practice.

B. Sections 2090-2096, Article 11, Division 20, Title 16 of the California Code of Regulations (CCR) Regarding Drug Compounding

Ms. Sieferman explained that, at its October 2019 meeting, the Board approved revisions to the previously approved Drug Compounding regulations removing Board of Pharmacy inspection authority over veterinary premises. Shortly thereafter, the U.S. Department of Health and Human Services, Food and Drug Administration (FDA), Center for Veterinary Medicine released the “Draft Guidance on Compounding Animal Drugs from Bulk Drug Substances.” The new FDA guidance provides more leniency for bulk substance compounding. For consistency with the FDA guidance, she indicated that the Board is being asked to consider reviewing the drug compounding proposal to authorize drug compounding from a bulk substance only when performed by a veterinarian or the registered veterinary technician (RVT) under direct supervision of the veterinarian.

- Dr. Mark Nunez moved and Ms. Kathy Bowler seconded the motion to approve the proposed regulatory changes, direct the 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. The motion carried 7-0.

C. Section 2032.1, Article 4, Division 20, Title 16 of the CCR Regarding Veterinarian-Client-Patient Relationship and Informed Consent of a Client

Ms. Sieferman explained that following the enactment of the Board’s telemedicine provisions, it is recommended that the Board readopt the informed consent provisions. She explained that this proposal would only revise CCR section 2032.1, and does not revise the VCPR rulemaking, which revised CCR sections 2032.15 and 2032.25.

- Ms. Kathy Bowler moved and Dr. Mark Nunez seconded the motion to approve the proposed regulatory changes, direct the 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. The motion carried 7-0.

D. Sections 2040 and 2041, Article 5, Division 20, Title 16 of the CCR Regarding Substantial Relationship and Rehabilitation Criteria to Comply with the Requirements of Assembly Bill (AB) 2138 (Chiu, Chapter 995, Statutes of 2018)

Ms. Sieferman advised the Board on the history of the regulatory proposal and indicated that the Board's AB 2138 rulemaking file was the first to be submitted to the Office of Administrative Law (OAL) on October 8, 2019. However, on November 20, 2019, OAL advised Ms. Sieferman of several minor, technical corrections to be made to the regulatory text, as well as some substantive concerns. The rulemaking file was therefore withdrawn from OAL on November 20, 2019. As the regulatory proposal was based on the DCA template being used by 40 DCA boards, DCA worked with OAL to resolve the substantive concerns with the regulatory proposal. DCA and OAL agreed on the modified proposed language that is being presented to the Board.

Ms. Welch summarized and explained the more substantive modifications to the regulatory language that were agreed upon by DCA and OAL.

- Dr. Christina Bradbury moved and Ms. Kathy Bowler seconded the motion to approve the proposed modified text for a 15-day comment period and, if there are no adverse comments received during that 15-day public comment period, delegate to the Executive Officer the authority to adopt the proposed regulatory changes, as modified, and also delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.

During discussion, concern was raised by a member of the public with regard to the proposed definition of "a substantially related crime, professional misconduct, or act" under CCR section 2040, subsection (c). More specifically, there was concern that the text "but is not limited to" (a term used in the existing regulation) was too broad and could be misused to include crimes, misconduct, and acts unrelated to the practice of veterinary medicine. Stakeholders requested the language be revised by striking "but is not limited to" to provide more certainty as to limits on the Board's consideration of whether there is a substantial relationship of a crime, professional misconduct, or act to the practice of veterinary medicine. After discussion, Dr. Bradbury withdrew her motion. Dr. Nunez then entertained a motion approving the proposed modified text, but striking "but is not limited" from CCR section 2040, subsection (c).

- Dr. Mark Nunez moved and Dr. Christina Bradbury seconded the motion to approve the proposed modified text, as amended, for a 15-day comment and, if there are no adverse comments received during that 15-day public comment period, delegate to the Executive Officer the authority to adopt the proposed regulatory changes, as modified, and also delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file. The motion carried 4-3, with Ms. Kathy Bowler, Dr. Jaymie Noland, and Dr. Cheryl Waterhouse voting no.

Ms. Bowler asked what the next steps would be, procedurally. Ms. Welch stated that the Board would likely need to run the language by OAL. She added that, if there are additional concerns, the Board may need to hold a teleconference to discuss the language further.

DAG Karen Denvir addressed the Board on January 31, 2020, to discuss removal of the text, “but is not limited to.”

DAG Denvir explained that by removing the text, “but is not limited to,” the Board’s authority would be more limited. After further discussion, it was determined that members would still vote as they did the previous day.

E. Section 2043, Article 5.5, Division 20, Title 16, of CCR Regarding Civil Penalties for Citation

Ms. Sieferman explained that CCR section 2043 is the Board’s system for issuing citations and administrative fines for violations of the Practice Act. However, the existing regulation limits the Board’s authority to issue citations and fines for only violations that occur “while engaged in the practice of veterinary medicine.” She explained that there are circumstances when the Board may want to have authority to issue citations and fines when an individual is not engaged in the practice (for example, failing to provide records to the Board, probation violations, or not complying with continuing education requirements). Ms. Sieferman strongly recommend striking “while engaged in the practice of veterinary medicine” from CCR section 2043. She added that the regulatory language is currently more restrictive than statute. Lastly, she stated that this would be an added enforcement tool.

- Dr. Mark Nunez moved and Ms. Alana Yanez seconded the motion to approve the proposed regulatory changes, direct the 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. The motion carried 7-0.

11. Update, Discussion, and Possible Action on 2019-2020 Legislation

A. Animal Blood Banking Legislation

1. AB 366 (Bloom, 2019) Animals: blood, blood components, and biologics

Ms. Sieferman reported that AB 366 was withdrawn earlier in the legislative process. Discussion took place with regard to the intent of the legislation, the Board’s role, and issues related to animal blood banking. Stakeholders provided comments on the matter.

2. Senate Bill (SB) 202 (Wilk, 2019) Animal blood donors

Ms. Sieferman reported that SB 202 made it to the Governor’s desk, but was vetoed. Discussion took place with regard to the intent of the legislation, the Board’s role, and issues related to animal blood banking. Stakeholders provided comments on the matter. Dr. Noland indicated that the Board is interested in being a part of this dialogue, moving forward.

3. Legislation Introduced or to be Introduced in 2020

There were no updates to provide for this agenda item.

B. [AB 228 \(Aguiar-Curry, 2019\) Food, beverage, and cosmetic adulterants: industrial hemp products](#)

Ms. Sieferman indicated that this agenda item was a placeholder; however, there were no updates to report or discuss.

C. [SB 627 \(Galgiani, 2019\) Cannabis and cannabis products: medicinal use on an animal patient: veterinary medicine](#)

Ms. Sieferman reported that SB 627 had not been amended since the last Board meeting. Discussion took place with regard to the intent and status of the legislation, and other issues related to the bill.

D. [Legislation Introduced or to be Introduced in 2020 Regarding the Board's Sunset](#)

Ms. Sieferman indicated that this agenda item was a placeholder if the Board's sunset bill had been introduced; however, legislation had not yet been introduced.

12. [Discussion and Possible Action on Proposed Amendments to Business and Professions Code Sections 4875.2 and 4875.6 Regarding Contesting a Citation and Procedure for Issuing a Citation](#)

Ms. Sieferman reported that this proposal would streamline the citation process. She indicated that she is hoping to put this proposal in the Board's Sunset Bill. Ms. Bowler added that the proposal is not controversial. Ms. Bonnie Lutz indicated that she would be happy to see this done.

- Dr. Mark Nunez moved and Dr. Cheryl Waterhouse seconded the motion to approve and include the proposed amendments to Business and Professions Code sections 4875.2 and 4875.6 regarding contesting a citation and procedure for issuing a citation in the Board's Sunset Bill. The motion carried 6-0.

13. Discussion and Possible Action Regarding American Association of Veterinary State Boards

A. [Call for Bylaws Amendments](#)

The Board did not have any amendments to the AAVSB Bylaws.

B. Proposed Amendments to Model Regulations Regarding Appropriate Use of Opioids and Other Controlled Substances

Ms. Sieferman explained that these model regulations are in fact new proposed regulations, and not proposed amendments. After discussion, she offered to draft additional Board suggested amendments to address the stated concerns by Dr. Waterhouse and Dr. Noland, and have both members review and approve the document before sending it back to AAVSB.

C. Proposed Amendments to Model Regulations Regarding Scope of Practice for Veterinary Technicians and Veterinary Technologist

Ms. Sieferman explained that AAVSB is proposing new model regulations regarding scope of practice for veterinary technicians and veterinary technologists. It was agreed by the Board to send a letter to AAVSB expressing the stated concerns. It was also agreed that Ms. Loreda and Dr. Nunez would review and approve the letter before sending it to AAVSB.

D. Resolution 2019-1 Regarding Regular Submission of Licensee Data

Ms. Sieferman indicated that the Board is ahead of the curve on this item because it is working closely with AAVSB. She indicated that there was no action required for this item and that it was just an update.

E. Nominations for the 2020-2021 Leadership Positions

Ms. Sieferman indicated that there are currently some leadership vacancies at AAVSB. She stated that Dr. Nunez had been nominated in the last round. She added that she would encourage the Board to nominate individuals again, as it is very important that California has an active voice at AAVSB.

- Dr. Cheryl Waterhouse moved and Ms. Kathy Bowler seconded the motion to nominate Dr. Mark Nunez for a leadership position at AAVSB. The motion carried 6-0.

F. Legal Counsel Funding Program

Ms. Sieferman explained that the Legal Counsel Funding Program is a new AAVSB program that will fully fund Board attorneys to attend the annual meeting. She added that they are limiting it to ten individuals. She indicated that she had nominated Ms. Welch, if the Board so approves and if Ms. Welch accepts the nomination.

- Dr. Mark Nunez moved and Dr. Jaymie Noland seconded the motion to nominate Ms. Tara Welch to attend the next AAVSB meeting through the Legal Counsel Funding Program. The motion carried 6-0.

Ms. Welch accepted the nomination subject to her supervisor and Deputy Director's approval. Ms. Bowler added that Ms. Welch would provide a great wealth of information.

14. *Recess until January 31, 2020, at 9:00 a.m.

The meeting was recessed at 5:14 p.m.

9:00 a.m., Friday, January 31, 2020

15. Reconvene - Establishment of a Quorum

Dr. Jaymie Noland called the meeting to order at 9:01 a.m. Ms. Jessica Sieferman called roll; seven members of the Board were present, and a quorum was established. Dr. Christina Bradbury was absent.

Members Present

Jaymie Noland, DVM, President
Kathy Bowler, Public Member, Vice President
Jennifer Loreda, Registered Veterinary Technician (RVT)
Mark Nunez, DVM
Dianne Prado, Public Member
Cheryl Waterhouse, DVM
Alana Yanez, Public Member

Staff Present

Jessica Sieferman, Executive Officer
Timothy Rodda, Administration/Licensing Manager
Patty Rodriguez, Inspections Manager
Virginia Gerard, Probation Monitor
Justin Sotelo, Lead Administrative & Policy Analyst
Tara Welch, Legal Counsel, DCA

Guests Present

Joseph Bisignano, DVM, Petitioner
Danette Brown, Administrative Law Judge (ALJ), Office of Administrative Hearings
Karen Denvir, Supervising Deputy Attorney General (DAG), Office of the Attorney General,
Department of Justice
Bikram Dhaliwal, DCA, Budget Office
Nancy Ehrlich, California Registered Veterinary Technicians Association (CaRVTA)
Cindi Gonzalez, Riverside County Animal Control
Karen Munoz, DCA, Budget Office
Adam Richards, Attorney
Miguel Rivera, Petitioner
Taylor Schick, Fiscal Officer, DCA

16. Special Order of Business

A. Petition for Termination of Probation – Joseph Bisignano, DVM, License No. 18138

ALJ Danette Brown presided over the petition for termination of probation. DAG Karen Denvir updated and presented the case against Dr. Joseph Bisignano. Dr. Bisignano and his legal counsel, Adam Richards, Esq., presented his petition for termination of probation. Dr. Bisignano answered questions from the DAG and members of the Board. ALJ Brown closed the hearing.

B. Petition for Termination of Probation – Miguel Rivera, RVT, Registration No. 12349

ALJ Brown presided over the petition for termination of probation. DAG Karen Denvir updated and presented the case against Mr. Miguel Rivera. Mr. Rivera represented himself and presented his petition for termination of probation. Mr. Rivera answered questions from the DAG and members of the Board. ALJ Brown closed the hearing.

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

Petition for Termination of Probation – Joseph Bisignano, DVM, License No. 18138

The Board adopted a motion to grant the petition for termination of probation.

Petition for Termination of Probation – Miguel Rivera, RVT, Registration No. 12349

The Board adopted a motion to grant the petition for termination of probation, with the condition precedent to complete eight hours of ethics prior to full restoration of the registration.

18. *Board President Report – Jaymie Noland, DVM

Dr. Noland reported that, in November, she, Dr. Jim Howard, Dr. Pollard, and Ms. Sieferman attended the SCVMA meeting in Long Beach. She also reported that she attended a meeting at Alan Hancock College, which was attended by administrators, instructors, graduates, and current students. Dr. Noland also thanked Dr. Waterhouse and Ms. Sieferman for touring Hemopet and visiting Western University and speaking to their students. Lastly, she reported that she and Ms. Sieferman attended the CVMA Board of Governors meeting in Costa Mesa on January 24, 2020.

19. *Registered Veterinary Technician Report – Jennifer Loreda, RVT

Ms. Loreda asked for an update regarding the fee increase; Ms. Sieferman provided Ms. Loreda with an update. Ms. Loreda then reported on the issue of foreign graduate RVTs and indicated that the AAVSB Program for the Assessment of Veterinary Equivalence (PAVE) committee is still ongoing. With regard to VTNE pass rates, she stated that information was obtained from AAVSB and that things are moving forward to get the information out there. She further discussed title protection issues in Tennessee with unregistered assistants being called

veterinarian technicians. She also talked about RVT application processing times, which is posted on the Board's website.

20. *National Association Involvement Reports – Kathy Bowler

A. International Council for Veterinary Assessment

Ms. Bowler reported that the International Council for Veterinary Assessment (ICVA) recently held a board meeting in Atlanta. She reported that 6,300 new students took the NAVLE last year. She added that the recent November/December cycle included all of the recoding from the blueprint that was derived from the practice survey. Additionally, she discussed a presentation, which covered a new graduate survey that is required by universities. She stated that the next ICVA meeting will be held in June 2020.

B. American Association of Veterinary State Boards Member and Program Services Think Tank

Ms. Bowler reported that she is serving on a think tank, which is an ad hoc committee for the AAVSB. She stated that one of the issues they are really looking at is barriers to licensure for incoming veterinarians.

21. Executive Management Reports

A. Joint Sunset Review Oversight

Ms. Sieferman indicated that there was not much to report at this time. She indicated that she and Mr. Rodda visited the Capitol on January 27, 2020, to meet with Committee staff to go over all potential sunset issues. She added that the Board would likely have its Sunset hearing in late February or early March, and attendees would include the Board President and Vice President. Additionally, the Board will provide written responses to issues raised during the Sunset review process. Dr. Noland indicated that she would not be available in late February and asked if there was any flexibility with dates.

B. Administration

Ms. Sieferman reintroduced the Board's new Lead Administrative & Policy Analyst, Mr. Sotelo. She also reported that the Board's receptionist retired on December 31, 2019, and that several applications were received to backfill the position. The Board is continuing to go through the hiring process to fill the position.

Ms. Sieferman invited members of the DCA Budget Office to address the Board and answer questions related to the Board's fund condition and expenditure reports. Karen Munoz and Bikram Dhaliwal addressed the Board and presented on the status of the budget.

C. Examination

Ms. Sieferman provided an update regarding subject matter experts and recruitment. She also reported that the Occupational Analysis was completed, and the linkage study would be

conducted in May 2020. Additionally, Ms. Sieferman discussed the VTNE statistics provided in the report. She added that Board staff is working to provide VTNE statistics for all California schools, first time vs. retake candidates, California vs national candidates, and to post all of that information on the Board's website. Additionally, members discussed the requirement to place RVT schools or programs on probation if their annual average pass rate for first time candidates falls below 10 percentage points of the state average pass rate.

D. Licensing

Ms. Sieferman reported that former licensing manager Moneel Singh had recently accepted a position with DCA's Office of Information Services. She also reintroduced Mr. Rodda, indicating that he was promoted from the California Architects Board and filled the licensing manager position. She also reported that DCA's Consumer Information Center and Office of Professional Examination Services extended their contracts for loaning staff to the Board. Additionally, Ms. Sieferman discussed the fingerprinting requirement, various concerns and processing issues related to the requirement, and the Boards' efforts to clarify the requirement and the process. She also discussed issues and challenges related to licensing workload and staffing, and she was looking forward to improvements going forward.

E. Enforcement

Ms. Sieferman reported that enforcement staff member Dillon Christensen had been promoted to Staff Services Analyst within the Enforcement Unit. She indicated that he was assisting with duties outside of his normal duties (i.e., public records act requests). She added that his promotion created a vacancy, but that they were hoping to have that position filled soon. Regarding the probation monitor vacancy, Ms. Sieferman stated that analyst Virginia Gerard had shifted her job duties and took on the probation monitor duties. She spoke of Ms. Gerard's vast experience in that area, and of the several contributions Ms. Gerard has made. Efforts are underway to fill the vacancy behind Ms. Gerard in the complaints unit. Ms. Loreda asked if a breakdown could be provided with regard to complaints received against the different license types. Ms. Sieferman also shared that the Board is looking at issuing citations, as a result of the inspections performed.

F. Probation

Ms. Sieferman invited Ms. Gerard to address the Board. Ms. Sieferman indicated that she would like to have probation reports as an ongoing report at Board meetings. Ms. Gerard introduced herself to the Board and indicated that she started probation monitor duties on December 16, 2019. She reported that: 67 veterinarians and 22 RVTs are currently on probation; 37 active probationers have active biological fluid testing, as a condition of probation; there are 44 open complaints against probationers; and 9 probationers have pending cases with the AG's Office. Dr. Nunez asked if the probation numbers and definitions could be provided to the Board at future meetings. Ms. Sieferman added that probation compliance meetings would be happening more regularly, and these meetings could be scheduled around other planned travel, so that she and Enforcement Manager Rob Stephanopoulos could assist.

G. Hospital Inspection

Inspections Manager Patty Rodriguez provided the program report. She indicated that Joclynn July started her new position as an Inspection Analyst, and that Ms. July comes to the Board highly recommended and with diverse experience. Ms. Rodriguez also mentioned that Emily Groves recently left the program, which was a significant loss to the Board. Ms. Rodriguez announced that Adam Mackey was hired to fill the Office Technician position. She shared that program staff have been focused on compliance document review for the last few months, and significant progress has been made. Ms. Rodriguez shared that citations have not been issued yet, as a result of inspections, but things are moving in that direction. She stated that if facilities remain out of compliance, the Board will utilize its citation authority. She reported that the program is also continuing to transition to cloud technology for submission of inspection reports and compliance documents. Ms. Rodriguez addressed program questions from the Board members.

H. Public Outreach

Ms. Siefertman reported that the Board does a lot of outreach when it comes to licensees and the associations. However, she stated that she thinks the Board could do more for consumers. She added that if members are involved with events, she would like the Board to have a presence at those events.

22. Future Agenda Items and Next Meeting Dates

Dr. Noland indicated that the Board should be cognizant of travel costs and access and be sensitive to the needs of its stakeholders.

After discussion, it was decided that the Board's April 23-24, 2020 meeting would be held in Sacramento. For future 2020 meetings, it was determined that Fresno and Los Angeles would be considered.

23. Adjournment

Dr. Noland adjourned the meeting at 4:00 p.m.

**Agenda items for this meeting were taken out of order. The order of business conducted herein follows the publicly noticed Board meeting Agenda.*