



MEETING MINUTES
Veterinary Medical Board
Sacramento, California
January 20-21, 2015

9:00 a.m. Tuesday, January 20, 2015

I. Call to Order - Establishment of a Quorum

Dr. Mark Nunez called the Veterinary Medical Board (Board) meeting to order at 9:10 a.m. Annemarie Del Mugnaio, Executive Officer, called roll; seven members of the Board were present and thus a quorum was established. Dr. Nunez also presented a plaque in honor of former President, Dr. Tom Kendall, for his service on the board.

Board Members Present

Mark Nunez, DVM, President
Cheryl Waterhouse, DVM, Vice President
Richard Sullivan, DVM
Jennifer Loreda, RVT
Kathy Bowler, Public Member
Elsa Florez, Public Member
Judie Mancuso, Public Member

Staff Present

Annemarie Del Mugnaio, Executive Officer, Veterinary Medical Board
Rebecca Bon, Legal Counsel
Diann Sokoloff, SDAG, Board Liaison
Ethan Mathes, Administrative Program Manager
Candace Raney, Enforcement Program Manager
Nina Galang, Administrative Program Coordinator
Matt Nishimine, DCA Budget Analyst
Bryce Penney, DCA Web Cast
Cesar Victoria, DCA Television Specialist

Guests Present

Rick Arthur, California University of Davis-School of Veterinary Medicine/California Horse Racing Board
Jeff Backus, RVT, California Registered Veterinary Technician Association
Rick Baedeker, California Horse Racing Board
Nancy Bassali, Center for Public Interest Law, University of San Diego Law School
Steve Blackledge, California Public Interest Research Group
Stacy DeFoe, California Physical Therapy Association
Nancy Ehrlich, RVT, California Registered Veterinary Technician Association
Valerie Fenstermaker, California Veterinary Medical Association
William A. Grant II, DVM, Multidisciplinary Advisory Committee
Kristen Hagler, RVT, Proposed Academy of Physical Rehabilitation Veterinary Technicians
Liz Hughston, RVT, California Registered Veterinary Technician Association
Leslie Lopez, Business, Consumer Services and Housing Agency
Bob Miller, California Horse Racing Board
Grant Miller, California Veterinary Medical Association
Cindy Savely, RVT, Sacramento Valley Veterinary Technician Association
Marshall Scott, California Veterinary Medical Association

Dan Segna, DVM, California Veterinary Medical Association
Don Shields, DVM
Erin Troy, DVM
Jessica Waldman, DVM, California Animal Rehabilitation
Dayna Wiedenkiller, California Veterinary Medical Association

II. Introductions

III. Approval of October 21-22, 2014 Meeting Minutes

- Dr. Richard Sullivan motioned and Dr. Cheryl Waterhouse seconded the motion to approve the October 21-22, 2014 meeting minutes as amended. The motion carried 7-0.

IV. Proposed Regulations

A. Status of Pending Regulations

B. Review and Possible Approval of Amendments to Pet Lovers License Plate Regulations

Dr. Mark Nunez stated that the Pet Lovers License Plate regulations were disapproved by the Office of Administrative Law (OAL) in December 2014. Ms. Del Mugnaio and staff are working to address OAL's concerns.

Ms. Del Mugnaio added that previously proposed regulation language was vague and a draft application was not submitted in the submission to OAL. Modified language would need to provide more detail and address the objections from OAL. Dr. Nunez added that there is a need to include a clear definition of how the funds will be used by the grantees. The Board agreed that regulations would need to include clear definitions for various terms in the language in order to demonstrate the standard used when distributing funds.

Current language, as OAL pointed out, indicates that the Board does not have authority to delegate regulatory oversight of program to a nonprofit organization. Dr. Richard Sullivan recommended a third party audit of the grant program if the nonprofit organization takes on the operational responsibility of the grant program.

Ms. Del Mugnaio added that the Department of Consumer Affairs (DCA) Internal Audits Office is an option to provide third party oversight at a cost to the Board.

Ms. Del Mugnaio stated that the Board needs to provide staff direction whether or not to respond to the objections from OAL or suggest a different route.

- Kathy Bowler motioned and Dr. Richard Sullivan seconded the motion to direct staff to work with OAL to address the disapproval objections within statutory confines. The motion carried 7-0.

Judie Mancuso and Jennifer Loreda were tasked with serving as a resource to address the OAL objections to the proposed language. A public teleconference may be held to further discuss the proposed modified regulations.

C. Review and Discuss Possible Action for the Emergency Filing of Approved Proposed Animal Control Officer Training Regulations

Ms. Del Mugnaio updated the Board that she received a call from the Orange County Animal Control Agency requesting an emergency filing of the approved proposed Animal Control Officer Training Regulations. Ms. Del Mugnaio requested documentation from the requestor to justify the necessity for filing emergency regulations. The necessity statement has not yet been received and until the request is justified, the approved regulations will be filed through the normal regulatory process.

Ms. Del Mugnaio added that there are Board approved guidelines available that Animal Control Officer programs may use to start developing their training program. The training program cannot be approved, however, until the regulations are in place.

- Jennifer Loreda motioned and Judie Mancuso seconded the motion to add the Animal Control Officer regulations item to the Board's April meeting agenda. The motion carried 7-0.

D. Review and Possible Approval of Updates to Disciplinary Guidelines

The Board reviewed the proposed Disciplinary Guidelines language and sample supervision language and made various minor amendments.

- Judie Mancuso motioned and Dr. Cheryl Waterhouse seconded the motioned to adopt the Disciplinary Guidelines as amended. The motion carried 7-0.
- Dr. Richard Sullivan motioned and Judie Mancuso seconded the motion to adopt the Standard Terms and Conditions as amended. The motion carried 7-0.
- Dr. Richard Sullivan motioned and Dr. Cheryl Waterhouse seconded the motion to adopt the Optional Terms and Conditions as amended. The motion carried 6-0-1, with Judie Mancuso abstained.

E. Review and Possible Approval of Updates to Approved Proposed Animal Rehabilitation Regulations

The Board discussed amendments to the third version of the proposed Animal Rehabilitation regulation language, which was distributed during the meeting. The Board and public members discussed additional amendments to the language. The Board agreed to direct staff to put together language based on the feedback and provide notice for a public hearing in April or July 2015.

- Dr. Richard Sullivan motioned and Dr. Cheryl Waterhouse seconded the motion to adopt the Animal Rehabilitation regulations as amended. The motion carried 7-0.

F. Review and Possible Recommendations on California Horse Racing Board Regulation (Title 4, CCR section 1845)

The California Horse Racing Board (CHRB) Executive Director, Rick Baedeker, reported on the history of CHRB and its efforts to modify medication rules to be more defined and more restrictive. The top priority of CHRB over the last few years has been to have third party Veterinarians administer the authorized medication, Lasix, to race horses on race day in order to control the simultaneous administration of unauthorized medication.

The Board added that third party Veterinarians must physically examine the horse sufficient to establish a veterinarian-client-patient relationship (VCPR) prior to administering Lasix to the race horse under California Code of Regulations, Title 16, section 2032.1.

- Dr. Richard Sullivan motioned and Dr. Cheryl Waterhouse seconded the motion to approve the California Horse Racing Board regulations as amended. The motion carried 7-0.

V. 2015 Legislation Report

- ##### A. Review and Approval of Legislative Omnibus Bill Proposal (BPC sections 4836.35, 4836.2, 4853.7, 4887, and 4883)

Adopt BPC sections 4836.35 and 4853.7

The Board discussed combining Business & Professions Code (BPC) sections 4836.35 and 4853.7 due to both sections dealing with failure to renew.

- Kathy Bowler motioned and Judie Mancuso seconded the motion to adopt the Veterinary Assistant Controlled Substance Permit language and the Premise Registration – Effect of Failure to Renew within Five Years language. The motion carried 7-0.

Amend BPC 4836.2

The Board discussed the amendment to BPC section 4836.2 and the process for denying an application and affording the applicant their due process rights when applying for the Veterinary Assistant Controlled Substances Permit (VACSP).

Amend BPC Section 4887

- Judie Mancuso motioned and Kathy Bowler seconded the motion to adopt the Petition for Reinstatement or Modification language as amended. The motion carried 7-0.

Amend BPC Section 4883

- Dr. Richard Sullivan motioned and Kathy Bowler seconded the motion to approve the language as amended. The motion carried 5-1-1, with Judie Mancuso opposed and Jennifer Loreda abstained.

B. SB 27 – Hill (2015-2015) – Livestock: Use of Antibiotics

Dr. Mark Nunez provided an overview of Senate Bill (SB) 27, which prohibits the use of medically important antimicrobial drugs unless prescribed by a Veterinarian pursuant to a VCPR.

Ms. Del Mugnaio updated the Board that she has been asked to serve on a task force with the Governor's Office, along with various other state agencies to look at research and data collection of antimicrobials. The task force is also looking to educate those that are involved in providing for the health and welfare of livestock on what prevention is, when it is necessary, and looking for ways to control over-the-counter sales of antibiotics. Ms. Del Mugnaio added that SB 27 is not in its final form and recommended that the Board watch this bill.

- Judie Mancuso motioned and Jennifer Loreda seconded the motion to watch SB 27. The motion carried 7-0.

VI. Update on Upcoming Strategic Planning

Dr. Mark Nunez explained that Strategic Planning for the Board will be offered through the Department of Consumer Affairs (DCA). The Board will meet on April 1-2, 2015 to develop the plan.

Board stakeholders will be given the opportunity to participate in an online survey and the results of the survey will be analyzed and presented to the Board as part of the planning session. Board members have been interviewed regarding the strengths and weakness of the Board, and the challenges and opportunities that the Board may face in the future. DCA will also interview Board managers and staff in a group setting to gather additional feedback.

Once the plan is adopted, DCA will continue to assist in the creation of an action plan. The final plan will be made available on the web.

VII. Rodeo Reporting (BPC section 4830.8) – Presentation by Eric Mills, Action for Mills

Eric Mills of Action for Animals spoke to his experience working at rodeos throughout California and indicated that within 15 years, there have only been 38 injuries recorded. There is concern that there has been a severe under-reporting of animal injuries occurring at the rodeos.

Mr. Mills requested that there be a requirement for an on-site Veterinarian or an on-site RVT with a licensed Veterinarian on-call at all rodeos. Judie Mancuso offered on behalf of her advocacy group, Social Compassion for Animals, to assist Mills in the development of legislative bill language. Ms. Mancuso expressed concern that enforcement will be the most challenging. Ms. Del Mugnaio confirmed that Animal Control is currently responsible for enforcement; however, local law enforcement and certain jurisdictions can assist as well.

Mr. Mills also requested a method to inform Veterinarians of the current laws. Ms. Del Mugnaio indicated that the Board has an obligation to educate licensees of the requirements of the law. Current methods include newsletters, Board website updates, flyers, as well as an information mailing packet that goes out to all licensees for new

licenses and license renewals. Ethan Mathes has been working on a recent update on the rodeo reporting requirement that will be included in the license renewals. Dr. Mark Nunez added that this information could also be made available through the Board's social media efforts.

VIII. Sunset Review – Update on Current Sunset Review Issues

Ms. Del Mugnaio updated that staff are preparing for the next Sunset Review in late Spring to early Summer and she also provided a status update on many of the issues in the most recent Sunset Review document. Great progress has been made as most of the issues have been taken care of over the past few years, but more detail will be discussed at the next Board meeting in April. A follow up on issues #1-7 and new issues #8-10 will be addressed in the next report.

Ms. Del Mugnaio updated that the Veterinary Assistant Controlled Substances Permit (VACSP) Program has an implementation date of July 2015, per legislation. Therefore, work group meetings will begin in February to start devising emergency regulations.

IX. Action on Administrative Disciplinary Procedures

Dr. Mark Nunez clarified that the package included is an informational document that will be placed into the Board Member Administrative Manual. The Board voted on several procedural items that affect how the Board will process a disciplinary case.

- Judie Mancuso motioned and Kathy Bowler seconded the motion to require a minimum of a two Board memberhold policy where a case will be held for a closed session discussion to decide on a proposed discipline. The motion carried 7-0.
- Judie Mancuso motioned and Kathy Bowler seconded the motion to delegate authority to the Board President to issue a 10-day extension, for Petition of Reconsideration cases, if necessary, for submission of arguments that were not present at the Board hearing. The motion carried 7-0.
- Judie Mancuso motioned and Dr. Cheryl Waterhouse seconded the motion for the Board to only call for written arguments by default once a petition for reconsideration is granted. The motion carried 7-0.

Judie Mancuso suggested that no new evidence should be considered for reconsideration other than the factual evidence that was presented at the hearing. Staff will review the Administrative Procedures Act to determine what is allowed and place in the Board Member Administrative Manual.

X. Discuss Board Approval Process for California Veterinary Technician Schools – California University of Management and Sciences

Dr. Mark Nunez provided background information on current regulations which authorize the Board to approve veterinary technician schools through the American Veterinary Medical Association (AVMA) accreditation process or through inspection by the Board. The Board currently only accepts one non-AVMA accredited veterinary technician school, San Diego-Mesa College, as a California approved veterinary technology program. Judie Mancuso requested that another inspection be performed of San Diego-Mesa College since it was last inspected in 2006.

California University of Management and Sciences (CalUMS) has requested that the Board review and approve its veterinary technician program. Dr. Nunez noted that the process in place to inspect the program and the Board must vote on the decision to initiate the process.

- Dr. Richard Sullivan motioned and Jennifer Loreda seconded the motion to direct staff to inspect the CalUMS veterinary technology program for approval and re-inspect the San Diego Mesa College veterinary technology program. The motion carried 7-0.

XI. Discuss Continuing Education Program Provider Approval (Title 16, CCR section 2085.5) – Mark Cushing, Animal Policy Group

Mark Cushing of the Animal Policy Group (APG) has requested the inclusion of North American Veterinary Community, Western Veterinary Conference, CVC, and American Animal Hospital Association as Board approved continuing education providers. Mr. Cushing provided an overview of the challenges associated with going through the American Association of Veterinary State Boards (AAVSB) accreditation process and argued that the four continuing education providers he is representing are on par with other statutorily recognized programs.

Dr. Richard Sullivan noted that if APG wants an exemption similar to how AVMA received an exemption, then that would require a statutory change which must go through the legislative process. The Board cannot introduce a statutory change, but can set up a protocol to assess program similar to the AAVSB's Registry of Approved Continuing Education.

- Mr. Cushing requested to keep the item open until the Board's April 2015 meeting. Dr. Richard Sullivan motioned and Judie Mancuso seconded to motion to table this item until the next Board meeting.

Ms. Del Mugnaio suggested that the Board have Mr. Cushing submit additional proposal details in writing prior to the meeting.

XII. Board Chair Report – Dr. Mark Nunez

Dr. Nunez provided an overview of the Board purpose and a preview of the upcoming year for the Board.

The Board received an increase in funding, with revenues generating from licensing, permit, and exam fees, as well as other sources. The new budget has allowed the Board to hire new staff in order to meet workload demands and better serve the consumers of California and the stakeholders of the Veterinary community.

Dr. Nunez gave special recognition to Executive Officer, Annemarie Del Mugnaio, Administrative Program Manager, Ethan Mathes; and Enforcement Program Manager, Candace Raney for all of their hard work getting new staff hired. Recognition was also given to Rebecca Bon for all of her expertise as Legal Counsel for the Board.

Dr. Nunez announced that all positions on the Board and the Multidisciplinary Advisory Committee (MDC) are filled. Improvements have also been made to the order of Board meeting agenda items and scheduling of meetings.

XIII. Executive Officer & Staff Reports

A. Administrative/Budget

Ms. Del Mugnaio announced that the Veterinary Continuing Education Tracking System (VCETS) is available through the AAVSB, which may help the Board streamline its Continuing Education (CE) audit program.

Judie Mancuso emphasized the need to make the Board more visible through social media and outreach efforts, as well as the need to provide educational information (e.g. best practices for medical record keeping) to licensees.

Matt Nishimine, Budget Analyst, spoke to the possibility of transitioning all temporary positions to permanent through a justified workload. Mr. Nishimine also provided updates from the Pet Lover's License Plate Program Budget Change Proposal pre-hearing, stating that the meeting went well and there are no anticipated problems.

B. Enforcement

Candace Raney summarized the improvements in enforcement statistics from Quarter 1 to Quarter 2 of FY 14/15, including a decrease in the average number of days to complete a desk investigation. Ms. Del Mugnaio addressed other areas in which the Board should expect to see improvements due to the additional staff hired.

The Attorney General's office is working with the Office of Administrative Hearings to reduce the amount of time it takes to get hearings on the calendar. Currently, hearings are already booked 18-24 months out due to space unavailability and staffing issues.

Ms. Raney reported that the expert witness training held on December 10, 2014 went well and the final post evaluation survey results will be provided to the Board. Dr. Richard Sullivan provided positive feedback of his experience at the training and recommended that the Board members should mandatorily attend.

C. Licensing/Examination

Public guest, Nancy Ehrlich, requested the pass rates for the Veterinary Technician National Examination (VTNE) and the California Veterinary Technician Examination. Ethan Mathes confirmed that the pass rates are available and may be published at the request of the Board.

XIV. Comments from Public/Outside Agencies/Associations

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

XV. Agenda Items and Next Meeting Dates – April 1-2, 2015; April 21-22, 2015 - TBD; July 21-22, 2015 - Sacramento; October 20-21, 2015 - TBD

A. Agenda Items for Next Meeting

- San Diego-Mesa College Inspection Status Update
- Regulations Status Update
- Minimum Standards vs. Standards of Care.
- AVMA Pass Rate Rules
- Sunset Review
- Continuing Education Program
- Newsletter/Social Media

B. Multidisciplinary Advisory Committee Meetings – February 19, 2015; April 20, 2015 (TBD)

XVI. Recess

9:00 a.m. Wednesday, January 21, 2015

XVII. Call to Order - Establishment of a Quorum

Dr. Nunez called the Board meeting to order at 9:00 a.m. Ethan Mathes, Administrative Program Manager, called roll; seven members of the Board were present and thus a quorum was established.

Board Members Present

Mark Nunez, DVM, President
Cheryl Waterhouse, DVM, Vice President
Richard Sullivan, DVM
Jennifer Loreda, RVT
Kathy Bowler, Public Member
Elsa Flores, Public Member
Judie Mancuso, Public Member

Staff Present

Annemarie Del Mugnaio, Executive Officer, Veterinary Medical Board
Rebecca Bon, Legal Counsel

Diann Sokoloff, SDAG, Board Liaison
Ethan Mathes, Administrative Program Manager
Candace Raney, Enforcement Program Manager
Nina Galang, Administrative Program Coordinator

Guests Present

Elizabeth Sarley, Administrative Law Judge
Cristina Jarvis, Deputy Attorney General
Steve R. Schwartz, Attorney
Dr. Kim De La Peza

XVIII. Introductions

XIX. Petition for Penalty Modification – Dr. Kim De La Peza, VET 19593

Deputy Attorney General (DAG) Cristina Jarvis opened the reinstatement hearing presenting the case against Dr. Kim De La Peza. Steve R. Schwartz, counsel for the petitioner, presented the case to reinstate full licensure of Dr. De La Peza. Mr. Schwartz called six witnesses to testify for Dr. De La Peza. Dr. De La Peza answered questions from DAG Jarvis and members of the Board. Mr. Schwartz presented the closing argument. Administrative Law Judge (ALJ) Elizabeth Sarley closed the hearing and the Board went into closed session.

XX. Petition for Penalty Modification – Dr. Corea Kiejoon Choi, VET 12070

DAG Jarvis stated that Dr. Corea Kiejoon Choi requested a continuance of hearing. The Board granted the continuance to hear Dr. Choi at the Board's April 2015 meeting.

CLOSED SESSION

XXI. Closed Session

Petition for Penalty Modification – Dr. Kim De La Peza, VET 19593

The Board adopted the penalty modification.

AA 2014 25

Board adopted proposed decision.

AV 2013 32

Board rejected the proposed stipulated settlement, however, voted to adopt the stipulated settlement with a modification. The motion carried 7-0.

AV 2012 33

Board adopted the decision following the petition for reconsideration.

XXII. Adjourn

The Board adjourned at 2:00 p.m.