

**Veterinary Medical Board**

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**MEETING MINUTES  
VETERINARY MEDICAL BOARD**

**April 20-21, 2016**

1625 N. Market Blvd. – 1<sup>st</sup> Floor Hearing Room  
Sacramento, California

**9:30 a.m. Wednesday, April 20, 2016**

1. Call to Order - Establishment of a Quorum

Dr. Mark Nunez called the Veterinary Medical Board (Board) meeting to order at 9:40 a.m. Executive Officer, Annemarie Del Mugnaio, called roll; seven members of the Board were present and thus a quorum was established. Jennifer Loreda was absent.

2. Introductions

Board Members Present

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

Staff Present

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

Guests Present

Karen Atlas, California Association of Animal Physical Therapists  
Nicole Billington, Senate Committee on Business, Professions and Economic Development  
Jonathan Burke, Department of Consumer Affairs  
Stacy DeFoe, California Physical Therapy Association  
Nancy Ehrlich, California Registered Veterinary Technician Association  
Valerie Fenstermaker, California Veterinary Medical Association  
Marilyn Jasper, President of the Humane Society of the Sierra Foothills  
Justin Johnson  
Jon Klingborg, Multidisciplinary Advisory Committee  
Carl London, California Physical Therapy Association  
Bruce Max Feldmann, DVM  
Eric Mills, Action for Animals  
Ken Pawlowski, California Veterinary Medical Association

Kristi Pawlowski, Multidisciplinary Advisory Committee  
Cindy Savely, RVT, Sacramento Valley Veterinary Technician Association  
Marshall Scott, California Veterinary Medical Association  
Dan Segna, California Veterinary Medical Association  
Leah Shufelt, California Veterinary Medical Association  
Linda Tripp, University of California Davis and Sacramento Valley Veterinary Technician Association,  
Vice President

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

Dr. Nunez, Dr. Cheryl Waterhouse, and public member, Nancy Ehrlich, made minor corrections.

- Dr. Jaymie Noland moved and Kathy Bowler seconded the motion to adopt the January 20-21, 2016 meeting minutes as amended. The motion carried 6-0-1. Dr. Heller abstained.

4. Swearing in of New Board Member, Lee Heller, PhD, J.D.

Ms. Del Mugnaio swore in Ms. Lee Heller as a new member on the Board. Ms. Heller provided a brief background of her history within the veterinary community.

5. Board Appointments

A. Multidisciplinary Advisory Committee Appointment

- Judie Mancuso moved and Dr. Cheryl Waterhouse seconded the motion to reappoint Dr. Allan Drusys to the Multidisciplinary Advisory Committee. The motion carried 7-0.

B. Diversion Evaluation Committee Public Member --Justin Johnson

The Board asked Justin Johnson a list of interview questions.

- Dr. Cheryl Waterhouse moved and Judie Mancuso seconded the motion to appoint Justin Johnson to the Diversion Evaluation Committee. The motion carried 7-0.

6. Proposed Regulations

A. Status of Pending Regulations

Ms. Del Mugnaio noted that the Civil Penalties for Citation regulations were disapproved by the Office of Administrative Law (OAL) and the Board has 120 days to resubmit. Ms. Del Mugnaio clarified that they are on the agenda to discuss the language, but there is no need for the Board to vote.

Ms. Del Mugnaio added that the Board intends on holding a hearing on the Registered Veterinary Technician (RVT) Alternate Route School Approval regulations.

B. Consideration of Proposed Revisions to Section 2064 of title 16 of the California Code of Regulations Pertaining to Board Approval of Registered Veterinary Technology Schools

Dr. Nunez reviewed the documents in the packet pertaining to Board Approval of California RVT Schools, including the memo and the comparison chart of American Veterinary Medical Association (AVMA) Accreditation standards with California Board Approval requirements. Dr. Nunez agreed that

RVT students need access to passing rates, staffing levels, resource levels, transferability of credits, etc. The Board needs assurance that if an RVT School comes out of compliance with the accreditation standards, it will be reported to the Board.

Dr. Nunez clarified that the AVMA accreditation standards are equivalent to Board approval requirements, but there is currently no mechanism or trigger for AVMA to report to the Board once a RVT school comes out of compliance. To rectify this, Dr. Nunez suggested that a Memorandum of Understanding (MOU) be developed with AVMA to establish a reporting process to the Board, in effort to achieve consumer protection.

Legal Counsel, Kurt Heppler, added that there was a concern raised at the January 2016 meeting regarding the duplication of reporting. Mr. Heppler recommended that the whole regulatory package be reviewed more thoroughly before the Board moves ahead, as periodic renewals are not embraced in the regulations.

Dr. Nunez suggested adding a provision which retains the Board's authority to disapprove and inspect programs.

Ms. Del Mugnaio noted that in terms of renewal, initially accredited programs are required to report to the AVMA every two years and demonstrate compliance with AVMA standards. Any substantive changes are required to be submitted to AVMA within 60 days. Within the first three years of the initial accreditation, the program is required to report to the Committee on Veterinary Technician Education and Activities (CVTEA) at least quarterly. Currently, the only issue is that there is no process in place for notifying the Board of substantive changes.

Ms. Del Mugnaio also noted that California is the only state that retains some form of oversight over accredited RVT programs. Every other state recognizes AVMA accreditation as equivalent to State Board approval.

Ms. Del Mugnaio added that the Board has access to three years' worth of exam scores and we can report the data.

Ms. Ehrlich noted that the average pass rates have not been posted and the public is not notified when it falls below 10 percent of the average.

Ms. Ehrlich requested that the Board send a letter to AVMA schools informing them that California Code of Regulations (CCR) section 2064 is in effect and request the schools to submit an application for Board approval.

Dr. Nunez proposed deferring the regulation amendments to a future meeting until Legal Counsel has the opportunity to gain a full understanding of the MOU to consider exempting requirements and avoid duplication. Dr. Nunez also proposed directing staff to send a letter to all RVT schools informing them of the requirements in section 2064.

Kathy Bowler suggested developing a timeline for implementation once Legal Counsel has reviewed the MOU.

Ms. Del Mugnaio noted that most schools in California are private and regulated by the Bureau for Private Postsecondary Education. To date, the Board has not received any complaints and AVMA has none on record from California.

Mr. Heppler reminded the Board that they may still reserve disciplinary authority over the RVT Schools.

- Ms. Lee Heller moved and Judie Mancuso seconded the motion to defer voting on the proposed regulations pertaining to Board approval of RVT Schools, obtain counsel on the Memorandum of Understanding, and direct staff to send letter to all RVT schools informing them of the regulations in section 2064. The motion carried 7-0.

C. Consideration of Revisions to Citation and Fine Regulations Following Disapproval by the Office of Administrative Law

Dr. Nunez stated that the Civil Penalties for Citation regulations were disapproved by OAL on March 8, 2016, providing the Board with 120 days to resubmit language. Any changes must be made available for at least 15 days for public comment.

In introducing the topic, Dr. Nunez said that two sections did not comply with clarity standards of Administrative Procedures Act: CCR 2043 first paragraph and 2043 subsection (g).

Ms. Del Mugnaio reviewed the proposed changes to the language. The changes to the first paragraph have to do with the fact that some citations are issued without a fine. Former subsection (b)/current subsection (a) adds “to an animal patient could result from the violation”.

On the second page, “paragraph” is changed to “subsection” in several places. This is a minor change. In paragraph (c) there are grammatical changes.

Subsection (e) “notwithstanding the foregoing” shows that the Board does not have to go through subsections (a)-(c) to prove unlicensed activity and issue a \$2,000-5,000 fine.

Subsection (g)(1) provides that an individual must demonstrate how they are going to comply with the laws and regulations related to the violation in a written corrective action plan.

Subsection (g)(2) states that individuals must take courses for remediation from a Board approved provider, and the course itself must also be approved by the Board prior to the course being acceptable to cure the citation.

- Judie Mancuso moved and Kathy Bowler seconded the motion to delegate to the Executive Officer the authority to post a 15-day Notice of Modified Text of the Citation and Fine regulations, and submit the rulemaking file to the Office of Administrative Law, in the absence of any adverse comments. The motion carried 7-0.

7. Discussion and Potential Approval of Sunset Review Background Document and Joint Legislative Committee Recommendations

Dr. Nunez noted that the Board’s Sunset Review Legislative document was submitted to the Legislature in December 2015. The Sunset Review background paper contains the Senate Committee on Business, Professions and Economic Development and Assembly Committee on Business and Professions Joint Legislative (Committee’s) response to the Board’s Supplemental Sunset Review Report.

A. Recreating the Registered Veterinary Technician Committee

Dr. Nunez reviewed the Board's response to Issue #2, RVT issues, that the Board does not support the recreation of Registered Veterinary Technician Committee (RVTC) and instead, proposed including a standing report of RVT issues at each scheduled Board meeting.

Ms. Del Mugnaio reminded the Board that you cannot take action on an item until it is on the agenda; therefore, the RVT report would be a place to discuss current priorities and set priorities for future meetings, similar to how the standing Multidisciplinary Advisory Committee (MDC) agenda item is treated at each scheduled Board meeting.

The recommendation to recreate the RVTC is not within the Sunset Bill, but could be potentially amended into Senate Bill (SB) 1195.

- Judie Mancuso moved and Dr. Richard Sullivan seconded the motion to approve the Board's proposed response to the Legislature regarding the recreation of the Registered Veterinary Technician Committee. The motion carried 7-0.

#### B. CaRVTA – Fees Charged by the AAVSB to RVT Candidates

Dr. Nunez reviewed Issue #3 regarding converting the California RVT Law Examination into a mail out examination. The Committee had no recommendations.

The Office of Professional Examination Services (OPES) has determined that RVTs are required to pass the Veterinary Technician National Examination (VTNE) and the California RVT Law Examination.

At the Sunset Review Oversight Hearing on March 14, 2016, the California Registered Veterinary Technician Association (CaRVTA) requested the Board to write a letter to American Association of Veterinary State Boards (AAVSB) requesting an evaluation of the cost of the VTNE exam.

Ms. Del Mugnaio clarified that the California RVT Law Examination covers the law, and also closes the gap regarding content specific to California RVTs that is not on the VTNE.

Mr. Heppler expressed concern that the agenda item addresses the fees charged by the AAVSB to RVT candidates and the discussion was centered on the conversion of the California RVT Law Examination into a mail out examination. Additionally, there has been a separate request to send a letter to the AAVSB requesting an evaluation of the cost of the VTNE exam.

Dr. Nunez requested a motion to approve the Board's response which outlines support for maintaining the California examination as a board administered examination. The request to send a letter to AAVSB may be placed on a future agenda item or the Board's response may be amended to include this.

- Kathy Bowler moved and Dr. Jaymie Noland seconded the motion to amend the Board's response to the Legislature to include sending a letter to the AAVSB regarding the cost of the VTNE for RVT Candidates in California. The motion carried 7-0.

#### C. Consider Language to Authorize Veterinarians and RVTs Under Supervision to Compound Drugs

Dr. Nunez reviewed Issue #6 regarding drug compounding.

Ms. Del Mugnaio updated the Board that there was agreement amongst representatives from the Board, MDC, Board of Pharmacy, the California Veterinary Medical Association (CVMA), stakeholders and VMB Meeting

Legislature to amend SB 1195 to allow a more broad grant of authority for veterinarians to compound drugs with a provision that by regulation, the Board and Board of Pharmacy will work together to define the limitations on the drug compounding authority of veterinarians.

Valerie Fenstermaker, CVMA, added that it was not a simple fix to change terms in the existing pharmacy language to apply to veterinary medicine. There is confusion regarding who has authority over veterinary drugs.

Dr. Nunez reviewed the Board's response to work with the Board of Pharmacy, CVMA, and staff to refine the proposed statutory language.

- Lee Heller moved and Dr. Cheryl Waterhouse seconded the motion to adopt the Board's response with the deletion of the words "more to follow." The motion carried 7-0.

D. Discuss Composition of the Task Force to Examine Goals for Regulating the Practice of Animal Rehabilitation

Dr. Nunez reviewed Issue #7 regarding animal rehabilitation.

Dr. Nunez updated the Board on the outcome on the Sunset Review Oversight Hearing held on March 14, 2016. The Legislature recommended that the Board create a Task Force comprised of stakeholders such as veterinarians, RVTs, animal rehabilitation and related animal industry professions, consumers and representatives from the Legislature and present recommendations to the Board by January 2017.

Dr. Nunez felt it was most fair to identify a list of stakeholders groups by organization and ask the stakeholder groups to select individuals to represent their group in order to prevent an unfair imbalance of representation. Stakeholder groups must submit their representatives by May 15, 2016, which provides for enough time for the Task Force to meet at least twice.

Dr. Nunez read off a list of stakeholders and the number of representatives per stakeholder group that the Board has selected to participate in the Animal Rehabilitation Task Force:

- California Physical Therapy Association (CPTA) – *One (1) representative*
- Consumers – *Two (2) representatives*
- Veterinarian specializing in Animal Rehabilitation – *One (1) representative*
- RVT specializing in Animal Rehabilitation – *One (1) representative*
- California Horse Racing Board (CHRB) – *One (1) representative*
- Equine Community – *One (1) representative*
- California Association of Animal Physical Therapists – *One (1) representative*
- Certified Canine Rehabilitation Practitioners – *One (1) representative*
- California Veterinary Medical Association (CVMA) – *One (1) representative*
- California Registered Veterinary Technician Association - *One (1) representative*
- Veterinary Medical Board – *Two (2) representatives*
- Multidisciplinary Advisory Committee – *One (1) representative*
- Legislature – *Appointed by Legislature*
- Legal Counsel – *One (1) representative*
- University of California, Davis – *One (1) representative*
- Western University of Health Sciences – *One (1) representative*

The Board's Sunset response was amended to include that the Board has identified a list of stakeholder organizations to participate in the Task Force and will send a letter requesting organizations to submit the names of the representative(s) by March 15, 2016.

Carl Lunden, California Physical Therapy Association (CPTA), recommended and submitted the name of the CPTA's Past President as a representative.

Karen Atlas, President of the Association of Animal Physical Therapists, inquired about how the Board plans to notice consumers. Dr. Nunez clarified that the Board currently has a list of consumers that have already expressed interest and intends to reach out to them. Additionally, Dr. Nunez clarified that the Certified Canine Rehabilitation Therapist (CCRT) and the Certified Canine Rehabilitation Practitioner (CCRP) will be represented separately.

Ms. Del Mugnaio added that the Task Force will participate in approximately two meetings, most likely held in Sacramento, and the dates of the meeting have yet to be determined. Task Force representatives will not be eligible for travel and per-diem expenses paid for by the Board.

Ms. Del Mugnaio reminded the Board that the discussion is not limited to the Task Force, as the recommendations will come back before the Board for further discussion. If any statutory or regulatory changes are proposed, the Board would hold a public hearing.

Mr. Heppler clarified that if there are three members present from any entity, Board and/or MDC, the meeting must be duly noticed and open to the public. Responses can be limited if managing the discussion becomes difficult.

Dr. Nunez assigned himself and Ms. Heller to represent the Board and assigned Dr. Klingborg as the representative for the MDC. The Chair of the Task Force will be Dr. Nunez.

- Judie Mancuso moved and Kathy Bowler seconded the motion to create the Animal Rehabilitation Task Force, with the addition of University of California, Davis and Western University of Health Sciences representatives. Once approved, a notice will be sent to the stakeholder groups with a deadline of May 15, 2016 to submit names of the selected representatives. The Task Force will submit their report to the Board by January 1, 2017. The motion carried 7-0.
  - Lee Heller moved and Kathy Bowler seconded the motion to approve the Board's response in the Sunset Report, with the addition of the identified list of stakeholders and invitation to the forthcoming meeting. The motion carried 7-0.
- E. Discuss Committee Recommendation Authorizing an RVT Under the Supervision of a Veterinarian to be the On-Site Practitioner for Rodeos

Dr. Nunez reviewed Issue #8 regarding animal injuries at rodeo events and stated the Board did not have an official response formulated. Dr. Nunez requested feedback from the Board regarding veterinary care equivalent to an emergency room at the rodeos, which would require the presence of a veterinarian on site, or something equivalent to urgent care, in which case only an RVT would be required to be present on site.

One suggestion is to approach the issue similar to Shelter Medicine by considering developing written protocols for an RVT to perform tasks when a veterinarian is not present, or allow an RVT to be present with a veterinarian on-call, as the Legislature has recommended.

Dr. Noland shared her understanding of the limited number of veterinarians available per county in rural areas and expressed there may not be enough qualified veterinarians or RVTs in the area.

Ms. Mancuso and Ms. Heller inquired about why rodeo events are held if veterinary care is not available. Ms. Del Mugnaio clarified that the Board does not regulate rodeos, as it falls under local jurisdiction. The Board must consider the Committee's recommendation and decide whether or not it agrees that by expanding veterinary care to RVTs at rodeos, it will be able to influence on-site care due to access issues. Ms. Del Mugnaio added that the Legislature's recommendation lacks specificity, as it is unclear what an RVT would be authorized to do.

Ms. Mancuso suggested specifying a specific mileage within which an on-call veterinarian must be available with respect to a rodeo event.

Regarding the Board's response to the Legislature, Dr. Sullivan recommended that RVTs should be allowed to attend and provide emergency care within their scope, with a veterinarian placed on-call.

Dr. Nunez proposed including Dr. Sullivan's response in the Board's official response to the Legislature and add that it is an issue that requires additional study and will be added to the MDC's priority list.

Eric Mills, coordinator for Action for Animals, provided a brief history of his experience advocating for the better care of animals at rodeo events and presented a number of findings of rodeo injuries that went untreated by a veterinarian, many of which were not reported to the Board. Mr. Mills requested that the Board write a letter of support to ensure there is a veterinarian on-site or an RVT on-site with a veterinarian on call.

Dr. Bruce Max Feldmann, DVM, expressed that the rodeo coordinator should ensure that there is a veterinarian available. Dr. Feldmann added that if there is no Rodeo Board in existence, then it should be the Board's responsibility to make sure the animals are adequately cared for at rodeos.

Marilyn Jasper, President of the Humane Society of the Sierra Foothills, agreed with Mr. Mills and Dr. Feldmann and urged the Board to make its recommendation to Legislature stronger. The injuries occurring at rodeos are emergency situation and cannot wait. Ms. Jasper added that there is evidence to suggest that the injuries occurring at rodeos are much greater than what is being reported.

Dr. Marshall Scott, CVMA, shared that he was a former cowboy and on-call veterinarian at rodeos for several years. In 22 years, he was only called three times and by the time he got there, the animal was gone. Dr. Scott expressed support for an RVT on-site and a veterinarian on-call.

- Lee Heller moved and Judie Mancuso seconded the motion to recommend that RVTs should be allowed to attend rodeo events and provide emergency care within their scope of practice, with a veterinarian placed on-call, and add this item to the MDC's priority list as the Board's official response to the Legislature. The motion carried 7-0.
- F. Implementation of SB 361 – Continuing Education Course for the Judicious Use of Medically Important Antimicrobial Drugs

Dr. Nunez reviewed Issue #9 regarding the use of antimicrobial drugs.

At the Sunset Review Oversight Hearing, the Board received confirmation from the author of SB 361, Senator Hill, that the requirement for a licensed veterinarian to complete one hour of continuing

education on the judicious use of medically important antimicrobial drugs every four years as part of the existing 36 hours of continuing education required every two years begins on January 1, 2018. The Board will begin the auditing process in January 1, 2022.

Dr. Nunez noted that Dr. Noland was assigned to the California Department of Food and Agriculture (CDFA) interagency working group that was developed for the implementation of SB 27. Dr. Noland provided a brief summary of the meeting that occurred in the past week. The meeting included a presentation by various entities, including the University of California, Davis (UCD), and a summary of what other entities are doing to regulate the use of antimicrobials and support SB 27. No action items were taken from the meeting and there will be more information to come.

Ms. Del Mugnaio noted that changes to SB 361 are now included in SB 1195 to clarify that the continuing education requirements begins January 1, 2018.

- Kathy Bowler moved and Judie Mancuso seconded the motion to accept the Board's response to clarify when the requirement begins to complete one hour of continuing education on the judicious use of antimicrobial drugs and when the Board begins its auditing process. The motion carried 7-0.

Dr. Nunez reviewed responses to the Sunset Review background document that were not included in agenda.

Issues #1, 5, and 10 received no comments.

Ms. Del Mugnaio updated the Board on Issue #4 regarding University Licensure. At the Sunset Review Oversight Hearing, the Board went on record supporting the request before the Legislature to require veterinarians employed by a California university to obtain a University License. The Board's official response is to support the staff recommendation and the Committee was receptive to including it in the Sunset Review bill as it has been amended into SB 1195. Technical amendments will be addressed in the Legislative section on the agenda.

Ms. Del Mugnaio requested the Board to amend the Board's response to include "to assist with Legislative ongoing technical changes as requested by the Board" to provide the Board with room to make changes later on if it so chooses.

Mr. Heppler clarified that SB 1195 will take effect first on January 1, 2017 if passed. The issuance of the University License will likely commence by September 1, 2017.

Dr. Cheryl Waterhouse inquired about Issue #11, the formal discipline is still taking more than two years, regarding why the Board is double-charged when a case is re-assigned to a new Deputy Attorney General. Ms. Del Mugnaio noted that the Board can elevate this question to leadership at the Office of Attorney General, but added that it is not unique to this Board and occurs with other clients at the Department of Consumer Affairs.

Ms. Sokoloff inquired if the intent of the Board was to authorize RVTs to compound drugs under direct supervision. Ms. Del Mugnaio clarified that it was a policy decision and was vetted with Board of Pharmacy.

Dr. Nunez added that the Committee recommended that the Board's Sunset date be extended by four years.

- Judie Mancuso moved and Dr. Richard Sullivan seconded the motion to accept the Board's Sunset Review responses and submit to the Legislature. The motion carried 7-0.

8. Multidisciplinary Advisory Committee Report – Dr. Jon Klingborg

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

Dr. Jon Klingborg reviewed a history of the tasks that the MDC has completed since its inception in 2009 including Cite and Fine and Minimum Standards regulations, updating the Veterinary-Client-Patient-Relationship (VCPR), standards for vaccine clinics, prescription re-fill without an examination in an emergency situation, and the hospital inspection handbook.

Dr. Klingborg expressed frustration with the issues brought up by CaRVTA at the Sunset Review Oversight Hearing, adding that in 2013, the MDC became responsible for the duties of the RVTC and many RVT issues were given a high priority.

Dr. Klingborg noted that all subcommittees are ongoing and provided a summary of the progress on the existing priorities assigned to the MDC.

The Complaint Audit Task Force, consisting of Dr. Grant and Dr. Pollard, met earlier this year to review cases to audit the outcome of the expert witness report and the application of the standard of care. The Task Force will meet again this year and more updates will be available at the next scheduled MDC meeting.

The Expert Witness Review Subcommittee, consisting of Dr. Pollard and Diana Woodward-Hagle, discussed the Expert Witness Training Program in general, and specifically, the Expert Witness Guidelines. The training manual was evaluated and the Subcommittee made recommendations for improvement. The Subcommittee suggested looking at writing samples and asking the Expert Witness questions during the hiring process, and training Expert Witnesses on the Veterinary Medicine Practice Act.

The members of the Minimum Standards on Alternate Premises Task Force, consisting of Dr. Klingborg, Dr. Richard Sullivan, and Ms. Del Mugnaio, served on the CVMA Task Force, which held its second meeting in February 2016. The discussion included minimum standards for alternate premises at great length, which will likely result in the development of standards for large animal practice, shelter settings, etc. In particular, the Task Force discussed Shelter Medicine and the concept of written orders for an RVT in the absence of a veterinarian in a shelter environment.

Dr. Allan Drusys and David Johnson captured 20 different aspects of the Practice Act that require clarification as it pertains to Shelter Medicine. Ms. Del Mugnaio, Dr. Drusys, and Mr. Johnson attended a joint meeting of the State Humane Association of California (SHAC) and the California Animal Control Directors' Association (CACDA) in early April 2016 to seek input. In July 2016, the MDC hopes to bring back the results of a survey that should capture the number of veterinarians and RVTs on staff at shelters, and discuss written orders.

The MDC also intends to have a stakeholders forum in Southern CA for Shelter Medicine and invite the Stakeholders to speak at the scheduled Board meeting in October 2016. Ms. Mancuso and Ms. Heller requested to be informed of the meeting dates once they have been set.

Regarding the Veterinary Student Exemption, Business and Professions Code (BPC) 4830(a)(5), the MDC discussed what is permissible under direct supervision and what physical settings are covered

under the Veterinary Student Exemption. The MDC also discussed graduates of a recognized veterinary college, who have not yet received their license, being able to practice as unlicensed RVTs under CCR section 2027 as it currently written. This was not the intent of CCR section 2027 and Legal Counsel has been requested to review the language and provide an opinion on whether or not it should be changed. Another point to consider is the possibility of an alternate path for junior and senior veterinarian students to be eligible to sit for the RVT examination.

The Extended Duties for RVT Subcommittee, consisting of Mr. Johnson and Ms. Pawlowski, is exploring duties that have historically been performed by a veterinarian that could be performed by an RVT in a shelter setting. Mr. Johnson noted that it is an issue of access that if not addressed could create problems for public health and consumer protection. More research will need to be done and CaRVTA has been asked to weigh in on the issue and provide feedback.

In addition to the existing priorities, Dr. Klingborg reviewed a list of potential future priorities for the MDC:

- Drug Compounding
- CCR section 2027 language
- CCR section 2027, Alternate Route Path for 3<sup>rd</sup> and 4<sup>th</sup> year veterinary students to sit for RVT exam
- BPC section 4830.8, regarding veterinary care at rodeo events.

Ms. Del Mugnaio clarified that Drug Compounding will eventually come back to the MDC to develop regulations after legislation becomes effective.

The Board agreed to make CCR section 2027 a priority on the MDC list.

Ms. Del Mugnaio clarified that the goal for the future meeting regarding Shelter Medicine was for it to be held at the MDC meeting on October 18, 2016. The proposed site is in Southern California.

Ms. Del Mugnaio added that Erica Hughes from SHAC will send the Shelter Medicine survey to her stakeholder contacts and obtain responses for the Board.

- Dr. Richard Sullivan moved and Judie Mancuso seconded the motion to accept the Multidisciplinary Advisory Committee report and recommendations. The motion carried 7-0.

#### 9. 2016 Legislation Report; Potential Adoption of Positions on Legislative Items

- A. SB 1195 (Hill) Veterinary Medical Board: executive officer

Dr. Nunez reviewed SB 1195 which incorporates the Board's Sunset Review Report.

Mr. Heppler suggested that the Board add a fourth subdivision which includes language that the person seeking the University License must submit an application, including fingerprints. Additionally, the concept of license fees should be included in the language.

Dr. Waterhouse suggested adding a "graduate veterinarian" to the proposed fourth subdivision and adding "University of California, Davis, School of Veterinary Medicine" to subdivision (a).

The Board discussed defining subdivision (b) to reflect the individual defined in subdivision (a) to resolve the issue of who is eligible to apply for the University License. Mr. Heppler clarified that the

Board could specify by way of regulations that it would be the licensee's responsibility to notify the Board if they are no longer employed by UCD.

The Board discussed the use of the term "DVM" or "veterinarian" if an individual is unlicensed and not employed with UCD. Ms. Del Mugnaio clarified that there is no title protection in the Practice Act for "DVM," as this is an earned academic degree.

Dr. Jane Sikes, University of California, Davis, expressed support for the proposed changes and thanked the Board for its efforts.

- Dr. Richard Sullivan moved and Kathy Bowler seconded the motion to allow the Executive Officer to communicate the proposed changes to SB 1195 to the Senate Business Professions and Economic Committee. The motion carried 7-0.
- Lee Heller moved and Dr. Cheryl Waterhouse seconded the motion to Support SB 1195. The motion carried 7-0.

B. SB 945 (Monning) Pet boarding facilities

Dr. Nunez proposed a Watch position because there are currently veterinary hospitals that board pets.

- Dr. Richard Sullivan moved and Kathy Bowler seconded the motion to Watch SB 945. The motion carried 7-0.

C. AB 2505 (Quirk) Animals: euthanasia

The Board held a Watch position and Dr. Nunez proposed taking a Support position.

- Judie Mancuso moved and Kathy Bowler seconded the motion to Support Assembly Bill (AB) 2505. The motion carried 7-0.

D. SB 1039 (Hill) Professions and vocations

Dr. Nunez noted that SB 1039 is an omnibus bill which includes language from CVMA regarding veterinary consultants that is supposed to be amended in the bill. Dr. Nunez proposed taking a Support position.

Ms. Fenstermaker, CVMA, provided a brief history of SB 1039 and the language developed by CVMA which closes a loophole in regards to veterinarians who are brought in from out-of-state to consult on a case, but then continue to practice in California, unlicensed, after the case has closed.

Ms. Del Mugnaio clarified that if the Board would like to conceptually support the language but does not want to support the bill that the Board has not seen yet, it may delegate to the Executive Committee (President and Vice President) the authority to look at the legislation once the language is in the bill and ensure all of the changes are captured.

Mr. Heppler clarified that the Board may conceptually support the bill with the understanding that it will be deferred to the Executive Legislative Committee once the bill has been amended. The Open Meetings Act allows the Board to convene a special meeting in 48 hours for the purposes of considering proposed legislation.

- Lee Heller moved and Dr. Richard Sullivan seconded the motion to direct the Executive Committee to make a determination on the proposed language in SB 1039 once amended, in support with the conceptual agreement of the Board. The motion carried 7-0.

E. AB 1951 (Salas) Crimes: animal cruelty

The Board held a Watch position.

- Judie Mancuso moved and Dr. Richard Sullivan seconded the motion to Watch AB 1951. The motion carried 7-0.

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

The Board held a Watch position.

- Dr. Richard Sullivan moved and Ms. Lee Heller seconded the motion to Watch SB 1348. The motion carried 7-0.

G. SB 1230 (Stone) Pharmacies: compounding

The Board did not hold a current position; however, Dr. Nunez proposed a Track position. Dr. Sullivan proposed a Watch position.

- Dr. Richard Sullivan moved and Judie Mancuso seconded the motion to Watch SB 1230. The motion carried 7-0.

H. SB 1182 (Galgiani) Controlled substances

The Board did not hold a current position; however, Dr. Nunez proposed tracking SB 1182.

- Dr. Richard Sullivan moved and Dr. Jaymie Noland seconded the motion to Watch SB 1182. The motion carried 7-0.

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

The Board did not hold a current position.

- Dr. Cheryl Waterhouse moved and Judie Mancuso seconded the motion to Track SB 2419. The motion carried 7-0.

J. Pet Lover's License Plate Legislative Concept

At the January 2016 Board meeting, the Board formed a Subcommittee to develop guidelines for qualified providers and dispersing of funds, as well as authorized the Subcommittee to hold an interested parties workshop to receive input from stakeholders to develop criteria for the selection of the nonprofit to administer the program.

Dr. Nunez noted that since the last meeting, conflict of interest issues have been raised regarding the Board's selection of the nonprofit; therefore, a new sponsoring agency, the CDFA, is currently being explored as an agency to oversee the Pet Lovers' program.

Dr. Nunez proposed directing the Executive Officer to assist in identifying a legislative remedy which authorizes the transfer of the Pet Lover's License Plate Program to the CDFA.

- Dr. Richard Sullivan moved and Dr. Cheryl Waterhouse seconded the motion to direct the Executive Officer to assist in identifying a legislative remedy which authorizes the transfer of the Pet Lover's License Plate Program to the CDFA. The motion carried 6-0-1. Judie Mancuso recused herself from voting.

K. Other Legislation of Interest

10. Board Chair Report – Dr. Mark Nunez

Dr. Nunez reviewed a list of outreach activities, meetings, and workshops that have occurred this year.

*The following is a table of the completed 2016 Board activities to date:*

<b>January 22, 2016</b>	Dr. Nunez presented a Board report at the CVMA Board of Governors Meeting in Newport Beach, CA
<b>January 23, 2016</b>	Ms. Del Mugnaio presented a second Board report and Ethan Mathes gave a BreEZe presentation at the CVMA Board of Governors Meeting in Newport Beach, CA
<b>February 4, 2016</b>	Hearing of the Little Hoover Commission
<b>February 10, 2016</b>	Ms. Del Mugnaio, Dr. Klingborg, and Dr. Sullivan attended the CVMA Task Force on practice types – 2 <sup>nd</sup> session
<b>March 5, 2016</b>	MDC Shelter Medicine Subcommittee (Dr. Drusys and Mr. Johnson) met with CACDA and SHAC at Annual Care Conference to present the MDC's exploration of Minimum Standards for Shelter Medicine and Extended Duties for RVTs
<b>March 14, 2016</b>	2 <sup>nd</sup> Hearing of the Little Hoover Commission
<b>March 15, 2016</b>	Ms. Bowler attended National Board of Veterinary Medical Examiners (NBVME) Working Group in Chicago, IL
<b>April 14, 2016</b>	Stakeholder Meeting for Drug Compounding Issue with a representative from CVMA and the California Board of Pharmacy to discuss language
<b>April 16, 2016</b>	Ms. Del Mugnaio attended CVMA Board of Governors meeting in Sacramento, CA to present Board report
<b>May 4-5, 2016</b>	Expert Witness Training in Sacramento
<b>TBD</b>	Expert Witness Training in Southern California

Nina Galang will put the NBVME Practice Analysis survey for the North American Veterinary Licensing Examination (NAVLE) on the Board's social media account.

11. Public Comment on Items Not on the Agenda

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

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

13. Reconvene - Establishment of a Quorum

Dr. Mark Nunez called the Veterinary Medical Board (Board) meeting to order at 9:14 a.m. Executive Officer, Annemarie Del Mugnaio, called roll; seven members of the Board were present and thus a quorum was established. Jennifer Loreda was absent.

14. Introductions

Board Members Present

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

Staff Present

Elizabeth Bynum, Associate Enforcement Analyst  
Annemarie Del Mugnaio, Executive Officer  
Nina Galang, Administrative Program Coordinator  
Kurt Heppler, Legal Counsel  
Ethan Mathes, Administrative Program Manager  
Bryce Penny, DCA Webcast  
Candace Raney, Enforcement Manager  
Patty Rodriguez, Hospital Inspection Program Analyst  
Diann Sokoloff, Supervising Deputy Attorney General

Guests Present

Jonathan Burke, Department of Consumer Affairs  
Nancy Ehrlich, California Registered Veterinary Technician Association  
Cindy Savely, RVT, Sacramento Valley Veterinary Technician Association

15. Executive Officer & Staff Reports

A. CURES Update

Ms. Del Mugnaio reported on an issue that has been raised within the Board regarding the Controlled Substance Utilization Review and Evaluation System (CURES) 2.0 and practitioners sharing information in order to make a determination when drug diversion or self-administration is suspected. CURES 2.0 contains a history of drugs prescribed, but does not currently include the identification of medical necessity. Without the medical necessity, it is difficult to determine when drug diversion or “drug shopping” has occurred and disclosure is confidential unless a medical release from the client is obtained or information is shared between practitioners consulting on the same patient.

DCA is currently looking at this issue to determine if a practitioner could make a determination whether or not an individual should be prescribed a drug based on the information that is currently available in CURES 2.0.

Mr. Heppler added that he will bring this issue back to those working on the CURES 2.0 guidance document and report the findings at the next scheduled Board meeting.

With regard to Administration, Ms. Del Mugnaio noted that there are a few vacancies. Staff has also been experiencing some operational challenges because of BreEZe, which has impacted licensing timelines. The BreEZe online system has had a number of interface problems and system glitches have impeded processing timelines. The Board is working to resolve the issues and hopes to see progress within the next month.

Ms. Del Mugnaio added that she will attend the CaRVTA conference on July 23-24, 2016 to provide a Board report and answer questions. Efforts are being made to improve the relationship between the Board and CaRVTA, as well as being committed to doing more outreach to the RVT and veterinarian community. Ms. Del Mugnaio asked the Board members to let her know of any other opportunities for outreach.

Ethan Mathes, Administrative Program Manager, noted that DCA has provided a staff member to provide assistance with BreEZe related issues. Mr. Mathes added that critical issues could take six months to a year to resolve.

The Board expressed concerns with the quality of BreEze and noted there is a line item within the Board's budget that is over by \$120,000. Mr. Mathes clarified that the BreEZe costs do not affect staffing and are strictly related to contract costs, operations, and maintenance.

## B. Administrative/Budget

Mr. Mathes noted that Attorney General (AG) expenditures, Office of Administrative Hearings (OAH) costs, an increase in in-house consultants, and Hospital Inspections costs all contribute to the low surplus of 0.2 percent. New AG cases have been suspended due to budget constraints and Board staff is working on current cases. Anticipated revenue for the Veterinary Assistant Controlled Substances Permit (VACSP) program will help generate revenue for the Board and will help bolster the Board's fund.

Ms. Del Mugnaio clarified that as of today, we are proceeding with our AG cases. At the end of April, we will then look at our cost appropriation. The AG's office caps the work at \$460,000 and the Board is currently exceeding its costs by \$91,000. This will not impede ongoing cases, but the Board may not be able to file new accusations between May and June in order not to over exceed the budget.

Mr. Mathes noted that the 2016/2017 Budget Change Proposal (BCP) has been approved by the Department of Finance (DOF) and the Board is still waiting on the Governor's budget.

Mr. Mathes added that he is currently recruiting for the vacant Program Technician II position.

## C. Enforcement

Enforcement Manager Candace Raney noted that due to the BreEZe issues the Board has been experiencing, the statistical profile is unavailable until more accurate data can be reported.

Ms. Raney provided a breakdown of Enforcement activities for the third quarter of the fiscal year including 205 complaints received, 224 cases closed, 12 citations issued, 12 new cases referred to the AG's Office, 13 pleadings filed, and 12 cases closed. A full statistical report of the 2015/2016 Fiscal Year should be available at the scheduled Board meeting in July 2016.

The Board discussed a couple of BreEZe related data conversation problems that have been affecting Enforcement. Ms. Raney noted that the examples given are extreme anomalies and there is a BreEZe reports user group and Enforcement user group that meet regularly to identify gaps and coordinate efforts to work towards a solution.

Mr. Mathes added that there are data elements that exist in BreEZe, which did not exist in the previous data system, CAS, and which require manual data entry.

The Director of DCA, Awet Kidane, testified before the Legislature at the Sunset Review hearings on March 9, 2016 on behalf of DCA and the BreEZe program. While the Department applied the lessons learned from Release 1 to Release 2, a big issue the Department is finding is that the data was not clean before it was converted and therefore, it was not converting accurately.

With regard to the Complaint Investigation Unit, Board staff has increased and are able to process complaints faster and increase outcomes. Additionally, staff has developed a color-coding system to prioritize pending complaints.

The next Expert Witness training is on May 4-5, 2016 and Ms. Raney confirmed that four Board members is the maximum number of Board members that can be in attendance.

The Board anticipates using the entire amount of \$432,881.25 that has been appropriated for formal discipline. Ms. Raney noted that the reason budget appears high, is that the Board now has a full staff and is working through a greater number of cases. The Board is experiencing what it costs to operate at full capacity compared to previous years.

Ms. Raney clarified that the number of days to formal resolution of an administrative case is down to 1100 days from an average of 1700 days, which is a huge improvement.

With regard to the issuance of conditional RVT licenses, there have been two Statement of Issues filed this year, saving the Board approximately \$5,000 in adjudication costs.

The Probation program has 95 licensees recorded on probation, 81 of which are active probationers being monitored.

The Enforcement Unit currently has two vacant Office Technician positions: one is a full time position and the other is a 0.8 time base position. Ms. Raney is hoping to schedule interviews for next week.

Board members may anticipate a Petition for Reinstatement hearing at the July 2016 Board meeting, as well one or two mail votes before the meeting.

#### D. Licensing/Examination

Mr. Mathes noted that due to the BreEZe issues the Board has been experiencing, some figures on the Licensing/Examination report are shown as "TBD" until more accurate data can be retrieved. The goal for future meetings is to show the number of online application submission versus paper application submissions to show the effects of BreEZe.

The Board is under an Executive Order to track complete applications with no deficiencies and report to the Legislature.

Mr. Mathes has been in contact with San Diego Mesa College regarding the RVT school approval process and an inspection should be scheduled within 60-90 days.

Under Exam Development, the Board is going through the occupational analysis to compare the VTNE examination plan with the tasks, skills and abilities in California to ensure that the test is current.

Ms. Del Mugnaio added that the California and national examination performance statistics by RVT schools (both traditional and alternate route schools) will be reported at the next Board meeting.

#### E. Hospital Inspection

Ms. Del Mugnaio reported that the Hospital Inspection Program is starting to recruit Inspectors in the Central Valley and Southern California areas. There have been 527 routine inspections assigned and 140 pending inspections should be completed by the end of May 2016. In August, the Hospital Inspection Program will hold its annual inspection training in August for new and returning inspectors.

Ms. Mancuso reminded the Board that, as previously requested in a past Board meeting, she would like to discuss the fact that Hospital Inspections are coming back with a less than one percent compliance rate. Ms. Del Mugnaio noted that the Self Inspection Hospital Checklist is a tool that the Board is looking to disseminate to hospitals. Ms. Bowler noted that after speaking with an inspector during a ride along, the inspector noted that most hospitals reach full compliance at the 30-day response time after initial inspection.

Ms. Del Mugnaio clarified that the Board is making efforts to send hospitals a copy of the minimum standards, the managing licensee's responsibilities, a link to Board's website directing hospitals to the online hospital checklist, and a hard copy booklet of the Hospital Inspection Checklist in the mail. Ms. Del Mugnaio noted that everything can be found online as well.

#### F. *North Carolina Board of Dental Examiners v. Federal Trade Commission*: Policy Concepts Update

Mr. Heppler noted that there is a memo in the packet that includes language that was not present in SB 1195, which is still expected to evolve. Mr. Heppler added that Director Kidane conceptually proposed fine-tuning the authority to deny regulations that may have an anti-competitive impact, elimination of the requirement of certain Boards requiring that the Executive Officer must be a licensee, and recasting the exemplary and punitive damages to make sure the State will still indemnify Board members.

In response to the policy decision to deny regulations that may have an anti-competitive impact, Mr. Heppler shared that the Federal Trade Commission guidance and the AG's opinion suggest that an individual's behavior which may result in a denial or revocation of a license, for example, would not trigger an anti-competitive concern.

Mr. Heppler noted that if the Board were to consider cross cutting regulations with a substantial economic impact, consumer protection concerns would need to be fully articulated at the Board level. The Board may typically override the DCA Director's decision to veto regulations, but based on the proposed change in SB 1195, may not do so with regulations containing anti-competitive behavior.

Dr. Nunez expressed concern regarding what may be considered anti-competitive behavior under the scope of veterinary medicine since the field is constantly evolving.

16. Agenda Items and Next Meeting Dates – July 20-21, 2016; TBD

A. Agenda Items for Next Meeting

Ms. Del Mugnaio noted that the next scheduled Board meeting is on July 20-21, 2016 and either the July or October 2016 meeting will be in Southern California.

Ms. Del Mugnaio reviewed a list of agenda items for discussion at the next meeting:

- RVT School Approval
- Legislative Updates
  - SB 1039
  - SB 1195 including the new University License and Drug Compounding language
  - AB 2505
  - Watch positions on the remaining Bills
- Letter to Current RVT Schools requesting reports pursuant to CCR section 2064
- Animal Rehabilitation Task Force
- Citation and Fine Regulations.

Ms. Del Mugnaio noted that a request came from a public member to discuss allowing training by licensed veterinarians of emergency response individuals to provide Advanced Life Support (ALS) skills to canines in the field.

Dr. Sullivan provided a brief summary of this request that was received at the national level recently. Dr. Sullivan noted that it has been opined that there is existing language which allows individuals to care for animals on an emergency basis without liability and expressed that it is not necessary to write regulations.

Dr. Nunez noted that he will do some research before deciding whether to add it to the next meeting agenda.

B. Multidisciplinary Advisory Committee Meetings – July 19, 2016; TBD

C. Future Veterinary Medical Board Meeting Dates 2016: October 19-20, 2016; TBD

**CLOSED SESSION**

17. The Board met in closed session (pursuant to Government Code Section 11126(c)(3) to discuss and vote on disciplinary matters including stipulations and proposed decisions.

AV 2015 22

The Board adopted the stipulated settlement.

IV 2016 9

The Board adopted the stipulated settlement.

BV 2015 38

The Board adopted the stipulated settlement.

AV 2013 13

The Board non-adopted the proposed decision.

**RETURN TO OPEN SESSION**

18. Adjournment

The Board adjourned at 12:47 p.m.