

**Veterinary Medical Board**

1747 N. Market Blvd., Suite 230, Sacramento, CA 95834

Telephone: 916-515-5220 Fax: 916-928-6849 | www.vmb.ca.gov



**MEETING MINUTES**

**October 19-20, 2016**

The Mission Inn  
3649 Mission Inn Avenue,  
Riverside, California

**9:00 a.m. Wednesday, October 19, 2016**

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

Dr. Mark Nunez called the Veterinary Medical Board (Board) meeting to order at 9:01 a.m. Executive Officer, Annemarie Del Mugnaio, called roll; eight members of the Board were present and thus a quorum was established.

**2. Introductions**

Board Members Present

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

Staff Present

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

Guests Present

Nancy Ehrlich, RVT, California Registered Veterinary Technician Association  
Valerie Fenstermaker, California Veterinary Medical Association  
Diane Isbell, DVM  
Jon Klingborg, DVM, Multidisciplinary Advisory Committee, Chair  
John Pascoe, DVM, University of California, Davis  
Ken Pawlowski, DVM, California Veterinary Medical Association  
Marshall Scott, DVM, California Veterinary Medical Association  
Dan Segna, DVM, California Veterinary Medical Association  
Ron Terra, DVM, Western University of Health Sciences

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

Lee Heller made grammatical corrections.

- Judie Mancuso moved and Dr. Cheryl Waterhouse seconded the motion to approve the July 20-21, 2016 meeting minutes as amended. The motion carried 8-0.

### **4. Election of Officers**

- Dr. Richard Sullivan nominated Dr. Cheryl Waterhouse for President. The Board voted 8-0.
- Lee Heller nominated Dr. Mark Nunez for Vice-President and Dr. Mark Nunez declined the nomination.
- Kathy Bowler nominated Dr. Richard Sullivan for Vice-President and Dr. Richard Sullivan accepted the nomination. The Board voted 8-0.

### **5. Review of Occupational Analysis and Examination Development – Heidi Lincer-Hill, Office of Professional Examination Services**

Office of Professional Examination Services (OPES) Chief, Heidi Lincer, and Tracy Montez of the Department of Consumer Affairs (DCA) gave a presentation on the Board's latest Occupational Analysis (OA), Examination Development and the purpose of OPES examination development.

Ms. Lincer explained that the OA and examination validation cycle occurs every 5-7 years and takes 9 months to one year to complete. Entry level and experienced practitioners serve as subject matter experts throughout the cycle and the weights or percentages of each practice subject area are determined by surveys and/or committees. Additionally, Ms. Lincer explained how examination performance is monitored and the roles and responsibilities of Board staff in examination development.

Ms. Lincer noted that OPES has not been legally challenged on any examinations, but professions have been challenged within the industry. Ms. Montez explained that examination methodology is not unique to California and other states follow the same guidelines as a way to defend the examination development process.

Ms. Del Mugnaio clarified that the Board has not been challenged, but other professions have been challenged.

Ms. Montez provided a brief overview of the occupational analysis and examination history. She noted that if there were strong justification of a deficiency in the practice survey and examination, it would be brought to the Board's attention.

Ms. Lincer confirmed that the Board's RVT occupational analysis will be completed and available in December 2016. Once completed it will take some time to develop and/or update the exam as OPES will need to compare the national examination OA.

The response rate from the Registered Veterinary Technician (RVT) profession in relation to the most recent veterinary technician OA was high; therefore, the results should be better since they will be based on a large survey. OPES is waiting for the American Association of Veterinary State Boards

(AAVSB) OA to be completed to compare with the California OA. Ms. Montez noted changes that need to be made to the California exam have been identified during previous OAs.

Ms. Montez discussed passing rates on examinations. Fluctuations tend to happen at the beginning of a new examination validation cycle as candidates get used to the testing structures and specific material. A variance of 10 percent passing rate is considered normal for new examinations.

Ms. Del Mugnaio clarified that the intent of the discussion is to provide an overview of the exam, but exact information regarding what is going to be covered in the test cannot be provided. Discussion of examination questions should not occur, as it is a violation of the confidential process. Examination concerns must be brought to Board staff.

Nancy Ehrlich expressed concerns about the test plan. She noted that the California Registered Veterinary Technicians Association (CaRVTA) developed a study guide and was not notified that the test plan had changed. Ms. Del Mugnaio clarified that the Board does not have an obligation to inform organizations when changes to a test plan occur. Information is available on the PSI website, including the revision date and a link is posted on the Board's website. Administrative Program Manager, Ethan Mathes, confirmed that examination candidates are provided a current hard copy of the candidate information bulletin, which includes the examination plan.

Legal Counsel, Kurt Heppler, noted that the concept that the Board would approve an industry's test plan is outside the scope of the Board. Mr. Mathes confirmed that the Board did not approve an industry test plan or study guide.

Ms. Heller identified the "How do I obtain a license" link on the Board's website to be under construction. Mr. Mathes confirmed that the link is not currently live but there are forms available on the website. Kathy Bowler asked the staff to review the Board's website for potential link issues. Ms. Del Mugnaio clarified that the Board's website is not under construction, only one link.

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

### **A. Review BPPE Program Approval**

Mr. Mathes received a 100 percent response on each application sent to all 18 RVT programs throughout California. The responses to the applications that have been reviewed so far have been thorough and address some specific areas of Board concerns (disclosure of pass rates, disclosure of transferability of credits, and faculty qualifications). Mr. Mathes will follow up on any responses requiring additional information.

Mr. Heppler expressed that he does not see a depreciable loss of consumer protection based on the review of the RVT programs requirements with the Bureau for Private Postsecondary Education (BPPE) and the American Veterinary Medical Association (AVMA). A Memorandum of Understanding (MOU) that authorizes a sharing of information, similar to MOUs executed by other Boards, is still under construction. There is no exact date on the completion of the MOU at the moment.

Ms. Del Mugnaio clarified that MOUs typically cover unannounced site inspection and complaint investigation to confirm ongoing compliance.

Mr. Heppler explained a new operational change has been established regarding the rulemaking process. The Business, Consumer Services, and Housing Agency (Agency) now requests documents be sent to

them first for review and then the rulemaking process may commence. Mr. Heppler clarified that the director does not have veto power at the initial stage.

Mr. Heppler suggested that the Board must make a new motion to comply with the new operational procedures if the Board would still like to proceed with the rulemaking process. He also clarified that the MOU would not be part of the rulemaking process.

Ms. Del Mugnaio clarified that the language approved by the Board in July 2016 included California Code of Regulations (CCR) sections 2064 and 2065.8.

The Board agreed to change the word “and” to “or” in CCR section 2065(a)(2).

Ms. Del Mugnaio noted that the last year’s VTNE scores will be available on October 20, 2016 and Board staff can draft language to address either the California or national examination dropping below 10 percent of the average. The Board conceptually agreed.

Mr. Heppler noted that he will work with staff on the MOU and that it will be made available to the public.

- Dr. Richard Sullivan moved and Dr. Jaymie Noland seconded the motion to approve the revisions to CCR section 2064 and 2065.8 (previously approved by the Board in July 2016), the revisions to CCR section 2065(a)(2), direct staff to submit the text and related rulemaking forms to the Director of DCA and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received from either agency, take the necessary steps to commence the rulemaking process and set the matter for hearing. The motion carried 8-0.

## **7. Proposed Regulations**

### **A. Status of Pending Regulations**

Ms. Del Mugnaio noted that the Telemedicine language would need to be revisited at the next Board meeting. She also added that she is actively recruiting for a Retired Annuitant to help move the pending regulations through the lengthy review process.

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

*Agenda Item 7B was discussed under Agenda Item 6.*

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

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

Dr. Jon Klingborg reviewed a list of existing priorities with the Multidisciplinary Advisory Committee (MDC) and noted that a number of items were not discussed at their meeting due to time constraints.

The Shelter Medicine Subcommittee, Dr. Allan Drusys and David Johnson, are continuing to work on obtaining feedback from the shelter community, especially regarding different types of shelters. The Subcommittee identified nine items on the list of priorities, including whether or not a Veterinary Assistant Controlled Substances Permit (VACSP) would be needed for various shelter staff.

Regarding the “Extended Duties” for RVTs, the California Veterinary Medical Association (CVMA) identified none, other than those within the shelter environment. CaRVTA suggested restricting duties for veterinary assistants.

The list of restricted duties for veterinary assistants was proposed by CaRVTA and is as follows:

1. Administration of anesthetic agents during induction, monitoring, and recovery from anesthesia
2. Central line placement (jugular or femoral PICCs)
3. Invasive procedures including inserting nasogastric tubes, inserting urinary catheters, or tracheal placement/suctioning
4. Assessment of patient condition
5. CSF/spinal taps
6. Rabies specimen processing
7. Chest tube placement
8. Intraosseous catheter placement
9. Centesis including (cysto, abdominal, thoraco)
10. Advanced nerve blocking techniques
11. Administration of injectable controlled drugs.

Dr. Nunez suggested sending the issue of restricted duties for veterinary assistants back to the MDC as a new priority item. Ms. Del Mugnaio suggested calling it an “exclusions” list for veterinary assistants. Dr. Richard Sullivan requested that the MDC look at the exclusions list from the perspective of need and access to care.

Ms. Ehrlich clarified that the list submitted by CaRVTA was intended to be for private facilities, not shelters.

Dr. Cheryl Waterhouse recommended removing items #1, #4, #6, and #11 from the list.

- Jennifer Loreda moved and Lee Heller seconded the motion to send the list submitted by CaRVTA, with the exclusion of #1, #4, #6, and #11, to the MDC for further research. The motion carried 6-2. Dr. Mark Nunez and Dr. Jaymie Noland opposed the motion.

Regarding the Veterinary Student Exemption discussion, the MDC voted and passed version #1 of the proposed language. The Board agreed that the approved version provides a higher level of consumer protection. Dr. Klingborg added that the licensee still retains the responsibility to supervise the student.

Ms. Del Mugnaio noted that the MDC struck the phrase “in place of” in version #1 of Business and Professions Code (BPC) section 4830(a)(5)(B). The Board agreed that the phrase “a mechanism for ensuring that the consumer is protected as the student is training at the site” is too vague.

Dr. Ron Terra from Western University of Health Sciences (WesternU) agreed that version #2 is vague. He suggested neither version of BPC section 4830 (a)(5)(B) is needed because there is already an MOU in place and WesternU complies with current BPC section 4830 requirements in order to be accredited. Dr. Terra expressed support for the language in BPC section 4830 (a)(5)(A) and interpreted proposed section BPC section 4830(a)(5)(B) as giving the Board and Legislature unnecessary authority over the curriculum.

- Dr. Cheryl Waterhouse moved and Lee Heller seconded the motion to accept version #1 of proposed BPC sections 4830(a)(5)(A) and 4830(a)(5)(B), with the exclusion of the phrase “in place of.” The motion carried 8-1. Dr. Jaymie Noland opposed the motion.

Dr. Klingborg noted that the MDC voted to strike the phrase “or a graduate” from CCR section 2027 and keep the language regarding “junior” or “senior” class standings. Dr. Klingborg requested the Board’s approval on the “Current 2027” language included in his handout.

Dr. John Pascoe expressed that the “proposed” language is clearer than the “Current 2027” language. By removing the class standings, it acknowledges flexibility with the pace of the curriculum.

- Judie Mancuso moved and Dr. Richard Sullivan seconded the motion to accept the proposed changes to the language listed under “Current 2027” with the exclusion of the phrase “or a graduate,” and the addition of the language “outside the university” after the word “premises.” The motion carried 7-0-1. Dr. Jaymie Noland abstained.

Dr. Klingborg noted that the MDC voted to table the discussion on allowing Doctor of Veterinary Medicine (DVM) graduates to sit for RVT exam and requested guidance from the Board.

The Board discussed allowing the new pathway for DVM graduates to sit for the RVT examination and suggested exploring retroactivity for RVT exam eligibility for past DVM graduates. Dr. Waterhouse suggested adding a provision for veterinary graduates who have already been practicing as an RVT for a year or more.

Ms. Del Mugnaio noted that exam scores expire after five years and suggested attaching a time frame for when the candidate is considered ineligible to sit for the RVT exam.

Mr. Heppler noted the Board can determine whether or not to commence with the rulemaking at the January 2017 Board meeting.

- Dr. Mark Nunez moved and Judie Mancuso seconded the motion to adopt CCR section 2027.5.
- Dr. Mark Nunez withdrew his motion to adopt CCR section 2027.5 since the Board has agreed to address veterinary graduates who are currently functioning as RVTs.
- Lee Heller moved and Jennifer Loreda seconded the motion to direct the MDC to research the issue of allowing veterinary graduates a pathway to sit for the RVT exam, research the issue of how long to allow them to function as RVTs without a veterinary license, and direct Legal Counsel to research and report back findings regarding prospectivity at the January 2017 MDC and Board meeting. The motion carried 8-0.

Regarding rodeos, Dr. Klingborg noted that one issue has been owners not seeking care for their injured animals. There appears to be a lack of enforcement of this issue, but the MDC felt that enforcement is the role of the animal control officer and it is the rodeo management’s responsibility to ensure that a veterinarian or RVT is present.

With respect to the Board’s role, the MDC suggested adding a couple of tasks to the emergency care duties that an RVT may perform, such as pain management and sedation. Dr. Waterhouse expressed support for having animal control officers perform the tasks of pain management and sedation since they are already equipped with the necessary drugs.

Ms. Del Mugnaio added that RVTs have the opportunity to call Animal Control when an animal injury goes untreated since they have knowledge of the law. Dr. Sullivan noted that BPC section 4830.5 requires licensees to report animal abuse or cruelty.

- Dr. Jaymie Noland moved and Lee Heller seconded the motion to task the MDC with researching the addition of pain management and sedation to the list of emergency care duties an RVT can perform. The motion carried 8-0.

Ms. Del Mugnaio will include the motions in the Board's Sunset Review response to the Legislature following the Board's report.

The following items were identified to be added to the list of MDC's priorities:

- Exclusions for veterinary assistants
- Pathway for veterinary graduates to take the RVT exam
- Addition of pain management and sedation to the emergency care duties list for RVTs at rodeos.

Dr. Klingborg added that the MDC will also discuss the following:

- Enforcement Report
- Drug Compounding
- Anesthesia vs. Sedation
- Drug Counseling.

## **9. 2016 Legislation Report**

- A. SB 1193 (Hill) Veterinary Medical Board: executive officer**
- B. SB 945 (Monning) Pet boarding facilities**
- C. AB 2505 (Quirk) Animals: euthanasia**
- D. SB 1039 (Hill) Professions and vocations**
- E. AB 2269 (Waldron) Animal shelters: research animals: prohibitions**
- F. SB 1348 (Canella) Licensure applications: military experience**
- G. SB 1182 (Galgiani) Controlled substances**

Senate Bill (SB) 1193, SB 945, Assembly Bill (AB) 2505, SB 1039, AB 2269, SB 1348, and SB 1182 have been chaptered.

### **H. AB 2419 (Jones) Public postsecondary education: The New University of California**

AB 2419 has not been chaptered yet.

### **I. Pet Lover's License Plate Update**

Ms. Del Mugnaio noted that she is working with the California Department of Food and Agriculture (CDFA) on the Pet Lover's License Plate program's transition to CDFA. The proposed legislation should be available in December.

## **10. 2017 Legislative Proposals**

- A. Discuss and Consider Amending Business and Professions Code Section 4887 to Extend the Time Before a Petitioner May Petition for Reinstatement or Modification of Penalty.**

Mr. Heppler provided a breakdown of the three options:

- 1) Option #1 is a statutory amendment to stagger the waiting period for a Respondent to file a petition
- 2) Option #2 is a procedural mechanism to assign all petitions for reinstatement or modification of penalty to an Administrative Law Judge (ALJ)
- 3) Option #3 is a logistical consideration to add a third day to all quarterly board meetings for the purpose of holding petition hearings and conducting closed session.

Enforcement Manager, Candace Raney, noted that the Office of Administrative Hearings has significantly increased staff and their backlog in hearings has been reduced.

Dr. Nunez suggested a hybrid model where the Board has the option to send the petitioner case out to an ALJ.

Dr. Jaymie Noland expressed concern that cases are being pushed back and not being prioritized based on the length of their probation.

Dr. Sullivan suggested utilizing online voting more and adding a day for contested cases and petition hearings.

Mr. Heppler added that Option #1 can be amended to include language such as “may be granted an early term for petitioning the Board based on due cause.”

Ms. Del Mugnaio noted that the Board may decide at the time of adopting a decision whether or not to include an option to allow the respondent to come back early to petition for reduction in penalty or reinstatement. The Board should also consider whether one year is enough time for a petitioner to demonstrate rehabilitation.

Ms. Raney noted that voluntary surrenders typically come about during stipulated settlements, not during hearings.

Ms. Del Mugnaio noted that the Disciplinary Guidelines rulemaking has not been filed yet and proposed amendments to the language can still be added to the rulemaking file.

- Dr. Richard Sullivan moved to table the discussion until after seeing the cases at the Board meeting on October 20, 2016. The motion did not receive a second.
- Dr. Cheryl Waterhouse moved and Kathy Bowler seconded the motion to adopt Option #1 and under Part #1, add “except that the Board may, at its discretion and for good cause demonstrated, permit reapplication after not less than one year has elapsed from the effective date ...” The motion carried 7-1. Dr. Richard Sullivan opposed the motion.

**B. Review and Discuss Reciprocity Issues and License Eligibility for Applicants Who are Foreign Trained or Possess Work Experience in Foreign Territory; Potential Revisions to Existing Statute**

## **1. Reciprocity for Veterinarians (BPC section 4848 (b)(1))**

Dr. Nunez explained that the point of the discussion was to determine if the clinical practice required of applicants applying for reciprocity must be completed domestically, or if it can be completed in a foreign land.

Dr. Nunez proposed clarifying the requirement that clinical training must be obtained in the United States (U.S.), Canadian province, or U.S. territory, requiring that the license and clinical training are both obtained domestically. Ms. Loredo expressed support for Dr. Nunez's proposal.

Mr. Heppler suggested pursuing a legislative amendment to clarify Dr. Nunez's proposal at the front of the statute.

Ms. Del Mugnaio added that the proposed change has been the intent of the Board since the regulations were first developed and the discussion aims to clarify the ambiguity of the language.

Dr. Noland noted that there are a number of AVMA-accredited schools across the world and felt that students should be better informed that their foreign education and/or experience may not qualify for the reciprocity pathway to licensure. She also expressed support for clinical experience in the U.S.

Internist, Jonathan Kreissler, requested a greater discussion on equivalency. Dr. Kreissler shared that it can be an undue hardship to take the North American Veterinary Licensing Examination (NAVLE) again and expressed concerns regarding a disparity between statute and the application instructions. He questioned the intent of the requirements and inquired about the evidence that the requirements provide assurance of consumer protection.

Dr. Nunez noted that the reciprocity pathway does not prevent you from taking the NAVLE or State board examination.

Dr. Kreissler requested the Board to add the phrase "at the discretion of the Board" to allow exceptions to the regulations. Mr. Heppler suggested that the Board could strengthen the language by including "considering special circumstances."

Dr. Waterhouse suggested exempting those that are AVMA-board certified.

Dr. Kreissler added that since the NAVLE is only offered twice a year, there is no way to sustain a living as a veterinarian during the waiting period.

Ms. Del Mugnaio requested clarification from the Board regarding the intent to align the clinical experience with the education, training, and licensure requirements within the U.S., Canadian province, and U.S. territories.

The Deputy Attorney General, Diann Sokoloff, added that the regulatory language does not align with the statutory language, but pointed out that the Board has authority to be more restrictive in its regulation.

Mr. Heppler suggested putting this item on the agenda for the next Board meeting for a conceptual discussion to resolve the item legislatively.

- Dr. Mark Nunez moved and Judie Mancuso seconded the motion to clarify existing BPC section 4848(b)(1) to make mandatory the minimum of two years of clinical veterinary medicine experience and the completion of a minimum of 2,944 hours of clinical practice be obtained in the U.S., Canadian province, or U.S. territory. The Board voted 4-4 and the motion did not pass. Dr. Cheryl Waterhouse, Dr. Jaymie Noland, Lee Heller, and Judie Mancuso opposed the motion.
- Judie Mancuso moved and Dr. Mark Nunez seconded the motion to clarify the intent of the original language which requires that the location of the clinical training received is consistent with where the license was received. The motion carried 7-1. Lee Heller opposed the motion.

## 2. RVT Graduates of Foreign Institutions

Dr. Nunez noted that the point of the discussion was to determine if there is a way for RVT applicants who have completed programs that are not AVMA-accredited to satisfy the educational requirements to sit for the veterinary technician examinations.

Dr. Nunez suggested communicating with the American Association of Veterinary State Boards (AAVSB) to recommend the creation of a pathway similar to the two certification programs for graduates of non- accredited veterinary schools: Educational Commission for Foreign Veterinary Graduates (ECFVG) and the Program for the Assessment of Veterinary Education Equivalence (PAVE).

Ms. Del Mugnaio attended the AAVSB national conference and reported that the groundwork has been laid for AAVSB to consider this pathway for foreign graduates. She also encouraged AAVSB create a task force or subcommittee to continue the work on this and that staff would draft a Memorandum to the AAVSB to initiate a task force to address this issue. Ms. Loreda agreed to serve as a representative of the Board to work with an AAVSB Task Force.

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

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

July 22, 2016	Ms. Del Mugnaio and Mr. Mathes attended the CaRVTA Conference at the University of California, Davis
August 1-4, 2016	Hospital Inspectors Training
September 22-24, 2016	Dr. Nunez, Dr. Waterhouse, Ms. Bowler and Ms. Del Mugnaio attended the annual AAVSB meeting in Scottsdale, AZ
October 4, 2016	Animal Rehabilitation Task Force
October 30, 2016	Dr. Nunez attended the CVMA Board of Governors Meeting
November 3, 2016	Expert Witness Training in San Diego, CA

### A. American Association of Veterinary State Boards 2016 Conference Report

Ms. Del Mugnaio provided a brief overview of the discussion points at the annual AAVSB Conference and noted that foreign veterinary technicians, animal physical rehabilitation, shelter medicine, and drug compounding were topics that she raised during the Executive Director’s forum.

Ms. Del Mugnaio added that AAVSB has been working on a Telemedicine guidance document, which may be ready by January 2017.

In some states, such as California, the term “nurse” is title protected; however, in states where it is not title protected, Ms. Del Mugnaio shared that there has been a push for the term veterinary “nurse” to be more commonly used as a uniform title instead of veterinary “technician.”

Ms. Ehrlich shared that there has been discussion regarding the adoption of a uniform Practice Act. Ms. Del Mugnaio noted that the issue with this idea is that some states do not register veterinary technicians.

## **12. Discussion and Consideration of Recommendation(s) from Animal Rehabilitation Task Force**

Ms. Del Mugnaio noted that the next Animal Rehabilitation (AR) Task Force meeting is tentatively set for February 2, 2017.

Dr. Nunez reviewed a list of the motions passed at the second meeting of the Animal Rehabilitation Task Force:

- Five categories of professionals who may engage in the practice of AR (veterinarians, RVTs, veterinary assistants, physical therapists, and physical therapy assistants)
- The following policy statement: “Veterinarians have sufficient education and training to provide animal physical rehabilitation.”
- RVTs performing animal physical rehabilitation must have additional training in animal physical rehabilitation to provide services under indirect supervision
- RVTs who do not have additional training in animal physical rehabilitation must work under the direct supervision of a veterinarian or within a range setting
- RVTs are allowed to perform animal physical therapy under the direct supervision of a veterinarian unless in a range setting, in which case the supervising veterinarian may determine the level of supervision
- Veterinary assistants may provide animal physical rehabilitation under the direct supervision of a veterinarian or an RVT.

The next issues to be discussed at the Task Force meeting are what physical therapists and physical therapy assistants are allowed to perform on animals for the purposes of physical rehabilitation, as well as what level of supervision is necessary and in which settings.

The Animal Rehabilitation Task Force also discussed animal rehabilitation outreach efforts, regulatory matters with regard to enforcement and oversight, and which board will be responsible for oversight.

## **13. Registered Veterinary Technician Report – Jennifer Loreda**

Jennifer Loreda provided a report on the issues raised at the CaRVTA conference including:

- The status of pending regulations pertaining to RVT matters
- Enforcement of CCR section 2064
- The RVT examination fee structure
- Update on the VACSP program roll out
  - Concern regarding fingerprinting process and background checks
- Drug compounding and RVT supervision
- Occupational analysis survey for the VTNE and outreach efforts
- California RVT examination statistics pending in the Board
- Issues raised by CaRVTA Board

- Retroactive fingerprinting for RVTs
- Possible new eligibility category for RVT licensure (e.g. veterinary school graduates, Animal Science Bachelor degrees, etc.).

Mr. Mathes noted that there are regulations in place which authorize the Board to fingerprint upon renewal; however, this process was only functional in DCA's legacy system, Applicant Tracking System (ATS). The issue will need to be revisited since the process is not functional in the new online system, BreZE.

#### **A. RVT Exam Validation and Test Plan Discussion**

The Board received a letter from CaRVTA regarding the VTNE test plan, including questions regarding the content, domain, question answers being legally valid (i.e. "all of the above," "none of the above"), etc. and the letter was elevated to the AAVSB. In response, the AAVSB replied to the Board with practice domains and the OA completed in 2012.

#### **B. Future RVT Agenda Items**

Ms. Del Mugnaio noted that it is on the agenda for Dr. Sullivan to continue working on the recruitment of a representative to serve on the Committee on Veterinary Technician Education and Activities (CVTEA).

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

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

#### **15. Recess until October 20, 2016, at 9:00 a.m.**

**9:00 a.m. Thursday, October 20, 2016**

#### **16. Reconvene - Establishment of a Quorum**

Dr. Mark Nunez called the Board meeting to order at 9:09 a.m. Executive Officer, Annemarie Del Mugnaio, called roll; eight members of the Board were present and thus a quorum was established.

#### **17. Introductions**

##### Board Members Present

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

##### Staff Present

Annemarie Del Mugnaio, Executive Officer  
 Nina Galang, Administrative Program Coordinator

Kurt Heppler, Legal Counsel  
Ethan Mathes, Administrative Program Manager  
Cesar Victoria, DCA Webcast  
Candace Raney, Enforcement Manager  
Diann Sokoloff, Supervising Deputy Attorney General

Guests Present

Nancy Ehrlich, California Registered Veterinary Technician Association

**18. Executive Officer & Staff Reports**

**A. Administrative/Budget**

Mr. Mathes reported on the Board's expenditures during Fiscal Month (FM) 3. He noted that the examination "season" tends to occur during the early part of the Fiscal Year (FY); therefore, many expenses related to examination development tend to occur earlier in the FY.

The Hospital Inspection Program and Attorney General (AG) costs were identified as high-expenditure items and staff will be mindful of these areas in future FMs. Budget Change Proposals (BCPs) are under development for FY 17/18.

The Hospital Inspection Program is currently underfunded and has a net appropriation of \$200,000 through the end of the year. The Board did not anticipate the high costs associated with BreEZe and also experienced higher than anticipated spending in the area of exam costs.

In January 2017, Board members will be provided with the fund condition projections to discuss what needs to be done regarding a proposed fee increase. Ms. Del Mugnaio added that the last time there was a fee increase was in March 2012.

The OPES and PSI expenses covered under the Subject Matter External line item includes the most recent OA and will not be as high in years where no OA is conducted. Mr. Mathes added that the goal is better delineate line items in the future in order to more accurately reflect where expenditures occur.

Ms. Del Mugnaio is meeting with DCA Executive staff and other BreEZe Release 2 Boards on October 27, 2016 to learn how the additional BreEZe costs were charged. DCA is estimating an annual maintenance cost of high \$200,000s for BreEZe, which is significantly higher than was charged for the legacy systems. The workload of Board management has also been significantly impacted in order to triage BreEZe-related issues.

In addition to the backlog of BreEZe maintenance requests, Mr. Mathes added that there are also department wide system changes affecting BreEZe; for example, recently enacted Military Bills. Of the applications the Board has received, 60 percent have been submitted online. The plan is to have the future University License application entirely online.

Mr. Mathes noted that Board staff are looking into using an outside entity to perform a complete audit of all of the Board's set fees. Ms. Loreda reminded the Board that based on recent requests from the RVT community to lower existing fees, there would likely be significant push back from RVTs if the fees are increased.

Ms. Bowler suggested aligning the audit in conjunction with other boards to reduce contract fees.

Ms. Del Mugnaio will communicate with other boards to solicit interest in a collective contract.

## **B. Enforcement**

Ms. Raney updated the Board on the Enforcement Report.

On October 8, 2016, Ms. Raney attended the California Medical Board's Expert Witness Training and opined that in comparison, the Board appears to be on track with regard to our training. One of the factors that may disqualify a Subject Matter Expert (SME) is the ability to testify well at hearings.

On November 3, 2016, the Board is holding a "round table" type of Expert Witness Training in San Diego, CA. The goal of the training is to focus on questions about the process, the expert's role within the process, conflict of interest considerations, and the opportunity for experts to share situations that they did or did not know how to handle. The Complaint Audit Taskforce, Dr. William Grant and Dr. Jeff Pollard, will be in attendance at the training to share some of the lessons learned based on their audit.

The Complaint Investigation Unit received 866 complaints in FY 15/16 and closed 890 complaints.

With regard to formal discipline, 61 cases were forwarded to the AG's Office and 50 cases were closed.

The Probation Monitoring Unit is currently monitoring approximately 90 probationers.

Board members can expect to receive two mail-in votes before the January 2017 Board meeting.

Ms. Raney noted that the Board no longer sends cease and desist letters, and instead, sends a preliminary letter requesting additional information. Ms. Del Mugnaio clarified that this change was made to the process since there is no due process for cease and desist orders. She confirmed that the Board does have the authority to issue a cite and fine for unlicensed activity.

## **C. Licensing/Examination - Update on the Veterinary Assistant Controlled Substance Permit Program (VACSP)**

There have been a lot of questions regarding which individuals need or do not need a VACSP. Ms. Del Mugnaio noted that the VACSP topic needs to be placed on the agenda in order to clarify specific policy decisions.

Ms. Ehrlich expressed concern regarding practitioners assuming that a permit holder is qualified to perform duties allowed with a VACSP and requested that the VACSP postcard be re-done to include the information. Mr. Mathes clarified that the information can be found in the VACSP Frequently Asked Questions (FAQ).

Ms. Ehrlich also noted that the pass rate in July through December 2016 for the California RVT Board examination has gone down from 94 percent to 54 percent since last year. She requested that the Board be more proactive in letting organizations be aware of changes since CaRVTA was not made aware of changes to the test plan. Mr. Mathes confirmed that the current candidate information bulletin is on the Board's website and PSI provides a hard copy to applicants. Dr. Nunez responded that the Board will ensure that all information that is being passed along is current.

Mr. Mathes noted that he has requested an early implementation of the University License to be added to BreEZe in July 2017.

Mr. Mathes clarified that the national examination pass rates broken down by school were recently received and will be published on the Board's website.

#### **D. Hospital Inspection**

Ms. Del Mugnaio noted inspectors have been providing suggestions on how hospitals can improve when risks are identified; more data on the outcomes of the inspections will be made available in January 2017. Board members were also encouraged to participate in ride-alongs during the hospital inspections.

Hospital Inspection Program staff member, Kristina Kennedy, will be leaving the Board staff and management is actively recruiting to fill the position.

#### **E. CURES Report**

Ms. Del Mugnaio noted that the Controlled Substances Utilization Review and Evaluation System (CURES) information included in the agenda items is a Department-wide update. The Board is still waiting on more information regarding the concerns about practitioners being able to speak to one other about a potential drug diversion issues.

The deadline is July 1, 2017 to register with CURES. Ms. Del Mugnaio noted that veterinary licensees are charged a \$12 fee for CURES when renewing their license. Registering for CURES is mandated and is considered non-compliance for not registering.

### **19. Agenda Items and Next Meeting Dates**

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

- January 18-19, 2017 – Sacramento
- April 19-20, 2017 – Oakland (TBD)
- July 26-27, 2017 (dates changed to accommodate the AVMA conference) – Sacramento/Southern California (TBD)
- October 18-19, 2017 – Sacramento/Southern California (TBD)

Ms. Del Mugnaio noted that the location of the July 2017 and October 2017 MDC meetings may be switched depending on the availability of hotels.

The following is a list of discussion items for the next Board meeting:

- Telemedicine
- Reciprocity for Veterinarians who Practice in Foreign Countries
- VACSP Program Update and Policy Discussion
- Fee Structure (including BreEZe costs and budget projections)
- Update to RVT School Reporting (with statistics)

### **CLOSED SESSION**

**20. Pursuant to Government Code Section 11126(c)(3), the Board will meet in closed session to discuss and vote on disciplinary matters including stipulations and proposed decisions.**

Ms. Heller was not present for closed session.

AV 2014 4

The Board non-adopted the proposed decision.

Sally Lespier, 4602016000288

The Board adopted the proposed decision.

AV 2015 18

The Board non-adopted the proposed decision.

D1 2012 44

The Board adopted the proposed decision.

D1 2011 35

The Board adopted the default decision.

AV 2016 24

The Board adopted the default decision.

AV 2015 48

The Board adopted the stipulated settlement.

D1 2010 8

The Board adopted the stipulated settlement.

AV 2013 36

The Board adopted the stipulated settlement.

**21. Pursuant to Government Code Section 11126(a)(1), the Board will meet in closed session to evaluate the performance of the Executive Officer .**

The Board was unable to discuss this item during the allotted amount of time; therefore, it will be placed on the agenda for discussion during closed session at the next Board meeting.

**RETURN TO OPEN SESSION**

**22. Adjournment**

The Board adjourned at 4:14 p.m.