

VETERINARY MEDICAL BOARD TELECONFERENCE MEETING MINUTES

Pursuant to Governor Gavin Newsom's Executive Order [N-29-20](#), issued on March 17, 2020, the Veterinary Medical Board (Board) met via teleconference/WebEx Events with no physical public locations on **Thursday, October 22, and October 23, 2020.**

9:00 a.m., Thursday, October 22, 2020

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

Dr. Jaymie Noland called the Board meeting to order at 9:00 a.m. Executive Officer Jessica Sieferman called roll; seven members of the Board were present, and a quorum was established. Ms. Alana Yanez was absent.

Board Members Present

Jaymie Noland, Doctor of Veterinary Medicine (DVM), President
Kathy Bowler, Public Member, Vice President
Christina Bradbury, DVM
Jennifer Loreda, Registered Veterinary Technician (RVT)
Mark Nunez, DVM
Dianne Prado, Public Member
Maria Preciosa S. Solacito, DVM

Staff Present

Jessica Sieferman, Executive Officer
Timothy Rodda, Administration/Licensing Manager
Patty Rodriguez, Hospital Inspection Program Manager
Terry Perry, Enforcement Technician
Justin Sotelo, Lead Administrative & Policy Analyst
Karen Halbo, Regulatory Counsel, Department of Consumer Affairs (DCA)
Tara Welch, Board Counsel, DCA

Guests Present

Michelle Angus, DCA, Legal Affairs Division
Karen Atlas, PT, MPT, President, California Association of Animal Physical Therapists (CAAPT)
/ Animal Physical Therapy Coalition (APTC)
G.V. Ayers, Lobbyist, Gentle Rivers Consulting, LLC
Daniel Baxter, California Veterinary Medical Association (CVMA)
Jordanue Bourque
Heather Case, DVM, MPH, Chief Executive Officer (CEO), International Council for Veterinary Assessment (ICVA)
Anita Casey-Reed, Program Manager, ICVA
Baird Cowan, Chief Technology Officer, DCA, Office of Information Services (OIS)
Nancy Ehrlich, RVT, California Registered Veterinary Technicians Association (CaRVTA)
Valerie Fenstermaker, CVMA
Nancy Grittman, Director of Program Services, American Association of Veterinary State Boards (AAVSB)

Carrie Holmes, Deputy Director of Board and Bureau Relations, DCA
Anita Levy Hudson, RVT, CaRVTA
Sarah Irani, Moderator, DCA, SOLID
Aubrey Jacobsen, Legislative Analyst, DCA, Division of Legislative Affairs
Shelly Jones, Program Manager, DCA, SOLID
Tom Jurach, Co-Moderator, DCA, SOLID
Brandy Kuentzel, General Counsel, San Francisco Society for the Prevention of Cruelty to Animals (SF SPCA)
Heidi Lincer, Chief, DCA, Office of Professional Examination Services (OPES)
Rory Lubold, DVM, Paion
Ryan Marcroft, Deputy Director, DCA, Legal Affairs Division
Edie Marshall, DVM, California Department of Food and Agriculture
Grant Miller, DVM, CVMA
Tracy Montez, Chief, DCA, Division of Programs and Policy Review
John Pascoe, DVM, University of California, Davis
Kristi Pawlowski, RVT, Board Multidisciplinary Advisory Committee (MDC)
Jim Penrod, Executive Director, AAVSB
Ryan Perez, Business Analytics Manager, DCA, Organizational Improvement Office (OIO)
Susan Riggs, Senior Director of State Legislation, American Society for the Prevention of Cruelty to Animals (ASPCA)
Mike Sanchez, Television Specialist, DCA, Office of Public Affairs (OPA)
Cindy Savely, RVT, Sacramento Valley Veterinary Technician Association (SVVTA)
Leah Shufelt, RVT, MDC
Trisha St. Clair, Strategic Business Analyst and Facilitator, DCA, SOLID
Richard Sullivan, DVM, MDC
Jill Tucker, CEO, California Animal Welfare Association (CAWA)
Jessica Vogelsang, DVM
Anita Zifer, DVM

Dr. Noland welcomed new Board Member Dr. Maria Solacito. Dr. Noland stated Dr. Solacito has been the Senior Veterinarian for the Los Angeles County Department of Animal Care and Control since 2013, and prior to then, was a shelter veterinarian for the same agency from 2008 to 2012.

2. *Public Comment on Items Not on the Agenda

Anita Zifer, a veterinarian from Oakdale, California, commented on her recent experience with Board staff, Patty Rodriguez and Kellie Flores, and thanked and complemented them for their assistance with answering questions and providing information.

Dr. Noland thanked Dr. Zifer for acknowledging the hard work of Board staff and indicated the Board continues to look at ways to streamline its processes.

3. Review and Approval of Board Meeting Minutes

A. July 23-24, 2020

The Board reviewed the July 23-24, 2020 meeting minutes.

Kathy Bowler noted on page 5, Item 6.A., line 4, a minor revision may be needed, changing the wording "representation" to "representative response." MDC Chair Kristi Pawlowski concurred.

Board Counsel Tara Welch reminded Board members that if they were not present at a meeting, they should consider abstaining from the vote on those meeting minutes.

- Dr. Mark Nunez moved and Ms. Kathy Bowler seconded the motion to approve the July 23-24, 2020 meeting minutes, as amended. The motion carried 6-0-1, with Dr. Maria Solacito abstaining.

B. August 13, 2020

The Board reviewed the August 13, 2020 meeting minutes.

- Ms. Kathy Bowler moved and Dr. Christina Bradbury seconded the motion to approve the August 13, 2020 meeting minutes. The motion carried 5-0-2, with Ms. Dianne Prado and Dr. Maria Solacito abstaining.

4. *Report and Update from Department of Consumer Affairs (DCA)

Carrie Holmes, DCA Deputy Director of Board and Bureau Relations, thanked the Board for inviting her to provide a department update. She also welcomed and congratulated Dr. Solacito as the newest member of the Board and thanked her for her willingness to serve.

Ms. Holmes reported that in July 2020, the DCA Budget Office and Office of Information Services (OIS) launched four new budget expenditure and revenue reports utilizing FISCAL information. She explained the four new reports can be produced using DCA's Quality Business Interactive Reporting Tool (QBIRT) and will aid Board staff in providing budget reports to Board members and for meeting packets. She added that DCA is working on providing three additional budget reports in the future.

Ms. Holmes also reported that prior to the Board's July 2020 meeting, DCA and its boards and bureaus had just re-opened their offices to the public after a temporary closure due to the state and local stay-at-home orders to prevent the spread of COVID-19. She stated DCA offices remain open with preventative measures in place to safeguard the health and safety of employees and visitors. She added that DCA continues to partner with the Governor's Office and the Business, Consumer Services and Housing Agency (Agency) on statewide efforts related to awareness and enforcement of public health measures.

Ms. Holmes reported that during the state of emergency, DCA has been issuing waivers in order to maintain a licensed workforce during COVID-19. She stated, to date, DCA had issued 68 waivers, ranging from continuing education, telehealth requirements, and licensure reinstatement. She asked the Board to continue looking at the waivers and changes that have affected the Board and its licensees.

Ms. Holmes thanked the Board again for inviting her to the meeting and suggested reaching out to DCA if there were any questions or needs.

Ms. Bowler thanked Ms. Holmes for her report and for the frequent DCA updates sent to the Board.

5. [Review, Discussion, and Possible Action of Multidisciplinary Advisory Committee \(MDC\) Report – Kristi Pawlowski, RVT, Chair, MDC](#)

A. [Overview of October 21, 2020 MDC Meeting](#)

Ms. Pawlowski reported on the October 21, 2020 MDC meeting and stated the meeting began with a discussion on telemedicine. She stated representatives from SF SPCA, ASPCA, and CVMA were given the opportunity to present to the MDC and provide their comments and opinions. She also indicated, prior to the meeting, it was explained to the MDC, Telemedicine Subcommittee that a primary focus of the stakeholders was to extend the DCA Director waivers. However, she explained the Board does not have the authority to extend waivers, and a permanent change in requirements would require a regulatory change. She noted the overall discussion was informative, and the MDC has asked for more data. She stated the discussion on this issue will continue, it will not be rushed, and any future decisions will be driven by data.

Ms. Siefertman explained that stakeholders would like the Board to consider removing the condition-specific language for the veterinarian-client-patient relationship (VCPR) and making the prescription waiver permanent as well.

Dr. Bradbury noted the Board might not receive as much data as it would like, given the fact there would only be data available from during the pandemic. She added the stakeholders still want a VCPR to be established in-person, but to remove the condition-specific requirement.

Dr. Noland noted there may be other opportunities for the Board to glean information from sources like Canada.

Dr. Bradbury indicated the main concern of the stakeholders had to do with access to care and individuals not being able to receive veterinary services due to work obligations or transportation issues. She noted that seniors and individuals with disabilities have those same access challenges, as well. She added that stakeholders also made the case the pandemic has exacerbated these issues. Dr. Bradbury also stated that many of these organizations are non-profit organizations, and they just want to ensure that individuals and their pets have access to veterinary care.

Ms. Pawlowski indicated the MDC is approaching this topic with an open mind and ensuring that all of the right questions are being asked. She stated that no one can deny there are communities that are underserved when it comes to veterinary care; however, the MDC is focusing on what they were tasked to do.

Regarding California Code of Regulations, title 16, section 2035, Duties of a Supervising Veterinarian, Ms. Pawlowski reported that Agency raised concerns the proposed regulatory language was too broad; however, it was determined the existing regulation is enforceable, and therefore, the MDC recommended the Board withdraw the rulemaking.

Regarding premises registration fees, Ms. Pawlowski reported there was a low response on the original survey they conducted. However, she noted that after thorough discussion, the MDC has decided to revise the survey, utilizing multiple-choice questions and trying to make it easier. She stated the MDC would also be researching premises online, and she and Dr. Richard Sullivan would establish a standardized method of counting veterinarians according to information found on websites. She stated the goal is to see if a tiered fee structure for premises permits can be established in order to offset the higher fees that RVTs are paying.

Regarding a pathway for foreign educated or experienced RVT applicants, Ms. Pawlowski reported the MDC will be obtaining more information from AVMA and AAVSB.

Regarding the Complaint Audit Subcommittee, Ms. Pawlowski reported that reviews have improved dramatically and immediate feedback is now provided. She stated they are also able to determine if the standard of care was followed, if subjective or biased opinions were used, and if reputable sources were cited. She added they are also able to determine if bottlenecks in the process are occurring, and if so, where. Ms. Pawlowski also reported the Subcommittee will be getting a cost breakdown for each step in the process, which will assist with determining how the process can be more efficient.

Susan Riggs, ASPCA, stated that she was pleased to participate in the conversation with the MDC regarding telemedicine. She encouraged Board members to review the recording or transcript of the discussion. She noted that her group was mainly focused on the temporary waiver for telemedicine during the pandemic; however, their overarching concern is access to care. She indicated that if there could be clarity on what specific data is needed for future discussions, that would be helpful.

Nancy Gritman, Director of Program Services at AAVSB, commented on the international RVT pathway the MDC is considering. She noted the AAVSB was working on a veterinary technician pathway similar to PAVE for veterinary programs. She stated that Jennifer Loreda was serving on that committee. She added that AAVSB will be glad to make an update to California as they continue to make progress. She also stated they hope to have the new program in place within the next year.

6. Discussion and Possible Action on Veterinary Licensing Examination

A. Office of Professional Examination Services (OPES) Review of North American Veterinary Licensing Examination (NAVLE) and Occupational Analysis and Linkage Study – Heidi Lincer, Chief, OPES, DCA

Ms. Siefertman stated that Tracy Montez, Chief of the DCA Division of Programs and Policy Review, would be presenting the findings of OPES and their recommendations.

Ms. Montez indicated that OPES is one of the offices under her division. She thanked the Board for allowing her to present. Ms. Montez explained the services that OPES provides and provided general information about licensing examinations, the cycle of examination development, and the Occupational Analysis (OA). She next presented specific results from the Veterinarian OA and discussed the Review, or audit, of the NAVLE and the linkage study process. She explained that at the end of the process, it was determined whether a California-specific examination was required. Ms. Montez reported that OPES recommended the Board: 1) replace the current California-based state board examination with a law and regulations examination; and 2) discontinue the current mail-out Veterinary Licensing Examination (VLE). She explained the Board does not need three examinations at this time, and that reducing the number of examinations to two would be a reasonable direction to go in. She explained that, if approved by the Board, OPES would proceed with developing a new California-specific examination outline, which would bring in just the law and ethics, update the reference list, review existing test questions, and develop new test questions, as needed.

Dr. Nunez asked if a low response rate on the Veterinarian OA could result in data that accurately represents practice in California. Ms. Montez explained that because OPES had prior reports and data to build on, and there was not a significant change, they feel confident the results are sufficient. She added that when OPES does the Board's next OA, they would want to brainstorm some ways to get a higher response rate. She also stated that if OPES had any concerns about the validity of the data, then they would have contacted Ms. Sieferman.

Dr. Nunez also asked if there was an ideal response rate that psychometricians prefer. Ms. Montez responded that for mail-out surveys, they typically like to see a 10 to 12% response rate; for web-based surveys, it can vary. She explained there is not a magic number, and there are many variables across the different professions. She also added there are different checks and balances in place in the process. Ms. Montez also stated that through continued examination development, OA results and the test plan are always re-scrutinized.

Dr. Noland asked when the Board's last linkage study was conducted. Ms. Sieferman indicated that OAs were conducted in 2001 and 2013; however, it does not appear that a linkage study was conducted during those years, comparing the California examination with the national examination.

Dr. Noland thanked Ms. Sieferman and Ms. Montez for ensuring the latest linkage study was conducted. Dr. Noland also stated that it is currently uncommon for states to test on technical content that is tested on the NAVLE. She also explained that, similar to what the Board did with the California RVT examination, it is important to retain language in the law in the event an examination needs to be reinstated in the future. She also stated the Board would better serve its consumer protection mandate if it had something that was continuing education-oriented that touches licensees on a regular basis regarding current issues and current laws and regulations.

Dr. Noland stated that it appears that, with the significant overlap between the national and state examinations, the Board needs to consider removing the California examination from the requirements; however, she noted that, in doing so, there is a lot of regulatory language that references the examination, so that would need to be looked at. Ms. Sieferman indicated it would be addressed under Agenda Item 6.B.

B. Proposed Legislation and Regulatory Amendments Regarding State Board Examination and Temporary Licensee Requirements

Ms. Sieferman stated the cover memo was broken down into two topics: 1) whether the California State Board Examination (CSBE) should be eliminated as a requirement for licensure in California; and 2) if the Board approves elimination of the CSBE, a request that a subcommittee be formed to identify and recommend additional legislative and regulatory changes that would be needed.

Ms. Sieferman stated the Board's OA and linkage study were distributed to CVMA, the deans of University of California, Davis and Western University, and ICVA. She indicated that with regard to the potential elimination of the CSBE, the concerns received were provided in the cover memo.

Ms. Sieferman also stated that, based on OPES's recommendations and the research conducted, she believed the CSBE is a redundant examination and no longer necessary. She indicated the Board, therefore, needs to make a decision regarding the examination. She also

added that this could send a strong message to the Legislature, licensees, and the public the Board is considering removing unnecessary barriers.

Ms. Sieferman explained that if the CSBE is eliminated, other requirements need to be looked at (i.e., the three-day course that out-of-state licensees take, the temporary license requirement, and other minor requirements). She stated that if the Board approves a motion to eliminate the CSBE, she would like to put a subcommittee together quickly to identify additional needed legislative and regulatory changes, and then bring a legislative proposal back to the Board for consideration in January 2021. Drs. Noland and Bradbury indicated they would be willing to serve on the subcommittee.

- Dr. Jaymie Noland moved and Dr. Christina Bradbury seconded a motion for the Board to pursue legislation to remove the CSBE as a requirement for licensure and to form a subcommittee to research and recommend additional legislative and regulatory changes that may be needed. The motion carried 7-0.

Anita Levy Hudson, CaRVTA, asked what the cost savings per individual would be if the CSBE is eliminated. Ms. Sieferman indicated the fee for the examination is \$350. Dr. Noland asked what the cost savings would be for the Board. Ms. Sieferman indicated that she did not have the figures available; however, she noted the CSBE is more expensive to develop and administer compared to the RTV examination. She added there were instances when the Board was paying more to administer the examination than the revenue it was generating.

Open session recessed at 10:50 a.m.

7. Pursuant to Government Code Section [11126\(c\)\(1\)](#), the Board Will Meet in Closed Session to Deliberate and Approve the Veterinary Law Examination (VLE)

Closed session convened at 11:00 a.m.

The Board met in closed session to discuss the VLE.

Closed session recessed at 11:57 a.m.

Open session reconvened at 11:57 a.m., and the Board proceeded to Agenda Item 9.C.

8. [*Update on 2019-2020 Legislation](#)

Ms. Sieferman reported that none of the bills included on the meeting agenda were successful, and all background information was provided in the cover memo.

- A. Assembly Bill (AB) [2028](#) (Aguiar-Curry, 2020) State agencies: meetings**
- B. Senate Bill (SB) SB [627](#) (Galgiani, 2019) Cannabis and cannabis products: medicinal use on an animal: veterinary medicine**
- C. SB [1115](#) (Wilk, 2020) Commercial blood banks for animals: animal blood donors**
- D. SB [1347](#) (Galgiani, 2020) Veterinary medicine: license exceptions: limited veterinary services premises registration**

9. Update, Discussion, and Possible Action on Proposed Regulations

A. Status Update on Pending Regulations

Regulatory Counsel Karen Halbo provided a status update on the Board's pending regulations. She indicated the update included changes in the status of rulemaking packages since July 2020. She reported the Board currently has 20 rulemaking packages that are pending the regulatory process; 10 packages are in various stages of the initial or final phase of the process, and 10 are pending Board approval or further development from staff before submission. Ms. Halbo provided a specific update on each package, discussing all steps that had occurred since July 2020.

B. Section 2006, Article 1, Division 20, Title 16 of the California Code of Regulations (CCR) Regarding Disciplinary Guidelines

Ms. Siefertman stated that Agenda Item 9.B. would be postponed until the January 2021 Board meeting. She indicated there were many concerns pertaining to the supervised practice condition that were explained in the Probation report; she noted that proposed recommendations would be presented for Board consideration at the next meeting. She added that for this regulatory proposal, there were no comments received during the 45-day public comment period. She also stated that she believed it would be best to address the more recent concerns in the current rulemaking package via a 15-day public comment period, as opposed to addressing them in a separate package.

C. *Section 2010.1, Article 2, Division 20, Title 16 of the CCR Regarding Eligibility Evaluation - National Veterinarian Examination

After Agenda Item 7 (closed session), the Board proceeded to Agenda Item 9.C. Open session reconvened at 11:57 a.m.

Ms. Siefertman noted the background information contained in the cover memorandum for this item. She explained that California veterinarian applicants are required to apply to AAVSB to determine eligibility to sit for the NAVLE, and California is the only board that AAVSB does this for. Ms. Siefertman stated that she provided information as to why she believes the requirement was originally created; however, she indicated that she believed the requirement was no longer necessary, and by repealing CCR section 2010.1, the application process for California applicants could be streamlined. She stated it would be faster if applicants could apply directly to ICVA, which already does this for over 35 jurisdictions. She also explained that this would eliminate a lot of confusion for applicants.

Ms. Grittman stated that AAVSB would have no concerns with this transition.

Ms. Siefertman stated that Heather Case, CEO of ICVA, did not have any concerns either.

- Ms. Kathy Bowler moved and Ms. Jennifer Loreda seconded a motion for the Board to repeal CCR section 2010.1, direct the Executive Officer to take all steps necessary to initiate the rulemaking process, authorize the Executive Officer to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period and, if no adverse comments are received during the 45-day comments period and no hearing is requested, adopt the proposed regulatory changes, as modified. The motion carried 7-0.

D. Sections 2032.15 and 2032.25, Article 4, Division 20, Title 16 of the CCR Regarding Veterinarian-Client-Patient Relationship in Absence of Client Communication and Written Prescriptions in Absence of Originally Prescribing Veterinarian

Justin Sotelo provided background and a status update on the VCPR regulatory proposal. He reported that during the 45-day public comment period, the Board received three written comments: one letter in support with conditions; and two letters in support. He explained the letter in support with conditions raised concerns with statements in the Initial Statement of Reasons (ISR), asserting the potential for the proposed regulations to serve as a barrier to future regulations/legislation, as it relates to a veterinarian making a referral or providing medical clearance to allow another qualified non-veterinarian professional to provide rehabilitative services for animals under veterinarian indirect supervision at another location. He further explained that in reviewing the matter with Board Counsel, it was determined no modifications to the regulatory language would be required in response to the comment; however, the Board could include a response in the Final Statement of Reasons (FSR).

Separately, Mr. Sotelo reported that, in reviewing the regulatory proposal, Board Counsel noted some additional modifications to the regulatory language that might be necessary. He explained that those potential modifications pertained to access to medical records and more access to veterinary care.

With regard to the proposed Board response to the comment, Ms. Welch explained there is no statutory provision authorizing a California licensed veterinarian to refer an animal patient for rehabilitation treatment to be performed by a physical therapist, who is not a licensed veterinarian, due to the VCPR requirement. However, she indicated the proposed response includes a statement that if the California State Legislature enacts legislation that conflicts with the VCPR or the regulations, the Board could address those issues at that time.

Ms. Welch next discussed potential modifications to the regulatory language for the Board's consideration. She explained that to address potential confusion as to the utility of the proposal by a designated veterinarian who works with the original veterinarian but at a location different from where the VCPR was established, and to reduce the potential negative effect on access to veterinary care, the Board may wish to consider modifying the language, as provided in the meeting packet. The Board discussed various modifications to the language.

During public comment, Dr. Richard Sullivan explained the original intent of amending CCR section 2032.15 was to address situations at emergency animal clinics when a veterinarian on the next shift assumes care for the animal patient; the veterinarian on the previous shift had established a VCPR with the animal patient. The second shift veterinarian would be allowed to utilize the original VCPR with the animal patient without establishing a new VCPR, as long as that veterinarian does not change the diagnosis or the treatment. The diagnosis and treatment would have to be performed at the same location where the medical records are kept.

Dr. Sullivan further explained the intent of amending CCR section 2032.25 was to close a loophole that could have allowed a client to transfer medical records to a new veterinarian at a new premises and refill a prescription without the new veterinarian establishing a VCPR. The amendments to CCR section 2032.25 would require the medical records to be at the veterinary premises so that the VCPR cannot be transferred to another clinic; otherwise, a client could ask for records to be transferred to a different location and request a prescription refill [without the new veterinarian examining the animal patient and establishing a new VCPR]. Then, CCR

section 2032.25, subsection (b), addresses emergency situations where the client and animal patient are traveling; the client would be able to refill a prescription for a short period of time until the animal patient returns home to the original prescribing veterinarian for continued treatment.

After discussion, the Board determined that modifications to the regulatory language were not necessary, and the Board should maintain its original proposed language.

- Ms. Kathy Bowler moved and Dr. Jaymie Noland seconded a motion to approve the proposed response to the written comment received during the 45-day public comment period, and direct staff to incorporate the response into the FSR when proceeding with the final rulemaking package. The motion carried 7-0.

E. Section 2038.5, Article 4, Division 20, Title 16 of the CCR Regarding Animal Physical Rehabilitation

Ms. Welch stated that this agenda item followed up on the responses to public comment expressing objections to and recommendations on the animal physical rehabilitation (APR) rulemaking. She noted that although the Administrative Procedure Act only requires the Board to respond to comments received during the 45-day public comment period that was completed on April 27, 2020, the Board continued to receive public comment on the Board's action on the proposed rulemaking. She explained that the revised responses before the Board addressed the objections and recommendations received up to, during, and after the August 13, 2020 public hearing. She stated the revised responses are intended to provide the most complete responses to all public objections and recommendations to the rulemaking.

On pages 3 through 15 of the cover memo, Ms. Welch summarized all objections to the regulatory proposal and proposed (and revised) responses for Board consideration for inclusion in the FSR. On pages 15 through 24 of the cover memo, Ms. Welch summarized all alternatives proposed in the public comments received by the Board after submission of the ISR and the proposed Board determinations and explanations regarding those alternatives.

Ms. Welch stated the Board was asked to consider and approve proposed responses to written and oral comments received on the APR proposal for inclusion in the Board's FSR; separately, the Board was asked to discuss proposed modifications to the regulatory text to address wildlife rehabilitation and APR performed on large animals. She noted the proposed modifications to the text were found within the cover memo.

On page 9 of the cover memo (Proposed Response #3 - Objections), second paragraph, line one, Ms. Bowler recommended changing the word "bill" to "proposal." Ms. Welch concurred. On page 18 of the cover memo (Proposed Response #3 – Proposed Alternatives), second paragraph, last line, Ms. Bowler also recommended removing and replacing the word "for" with "or other underlying medical conditions of."

The Board opened the meeting up to public comment; no public comment was made.

- Dr. Christina Bradbury moved and Ms. Jennifer Loreda seconded a motion to approve the proposed responses to written and oral comments received on the APR proposal for inclusion in the Board's FSR, as revised by Ms. Bowler. The motion carried 5-0-2, with Dr. Mark Nunez and Ms. Dianne Prado abstaining.

- Dr. Jaymie Noland moved and Ms. Kathy Bowler seconded a motion to approve the proposed modified text for a 15-day public comment period, and if there are no adverse comments received during that 15-day public comment period, delegate to the Executive Officer the authority to adopt the proposed regulatory changes as modified, and delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file. The motion carried 7-0.

After the Board voted on this item, a public member requested to make a comment, and the Board received the following comments.

G.V. Ayers, of Gentle Rivers Consulting LLC, thanked the Board for the opportunity to speak and indicated that he was representing the Animal Physical Therapy Coalition (APTC). He stated that APTC President Karen Atlas was unable to attend the meeting and that he was also making remarks on her behalf. He stated the APTC remains opposed to the current regulatory proposal. Mr. Ayers explained the issue of APR needs a legislative solution rather than a regulation because the Board cannot adequately address this issue through regulation. He stated the revised memo from Board Counsel proposes a number of recommendations for the Board in response to objections to the proposed regulation. However, he explained the basic argument throughout the memo is the Legislature has already decided on the issue of APR and refers to the committee analysis of AB 3013 in 2018 and the Sunset Review background paper to make its point. He added that as a committee consultant with the Senate Business and Professions Committee from 1993 to 2014, he would caution the Board against such conclusions. He explained that committee analyses are valuable and informative, but should not be interpreted as complete legislative determinations.

Mr. Ayers stated that the Practice Act does not place APR or its modalities within the exclusive scope of the practice of veterinary medicine. He explained that for the Board to seek to carve this out in regulation, it does so without legislative oversight or input. He stated that because of the pandemic, the Board's Sunset Review was delayed until 2021; the APTC therefore urges the Board to delay any action on this issue until it is fully considered under Sunset Review and a legislative remedy is made. He also stated the proposed regulation fails to recognize the real ability of a license physical therapist with advanced education and training in animal physical therapy to safely perform APR. He added the Board has not, to date, answered all of the substantive issues and questions raised by the APTC; he asked when and if they will be answered. Mr. Ayers stated the Board is not considering the needed tool of legislation to address this issue in the Act and has failed to engage in any meaningful efforts to amend the law.

Valerie Fenstermaker, CVMA, thanked Ms. Welch and the Board for all of their work on this issue. She stated that CVMA supports the proposed responses to public comments.

Dr. Bradbury asked about consideration of the public comments received given the fact they were received after the votes. Ms. Welch stated the meeting agenda encourages members of the public to submit written comments prior to the meeting due to potential technical difficulties. Additionally, she stated that members of the public were ultimately able to provide comment, and the substantive comments received are arguably already addressed in the cover memo. Ms. Welch stated the Board could further discuss the agenda item or re-open the motion, if necessary. Dr. Noland stated that she believed the Board had received written comments up until a few days before the meeting that were comparable to the comments received from Mr. Ayers; therefore, she indicated that she was comfortable with moving on. There was no additional discussion.

F. Section 2069, Article 6, Division 20, Title 16 of the CCR Regarding Emergency Animal Care

Mr. Sotelo provided background and a status update on the RVT Emergency Animal Care regulatory proposal. He reported that during the 45-day public comment period, the Board received three comments: two comments in support; and one comment with concerns. He summarized all of the statements that were included in the comment with concerns and indicated that Board Counsel had prepared detailed proposed responses to those concerns, which were provided on pages two through five of the cover memo. Ms. Welch summarized the proposed responses for Board consideration.

- Ms. Kathy Bowler moved and Dr. Mark Nunez seconded a motion to approve the proposed responses to the written comment received during the 45-day public comment period, and direct staff to incorporate the responses into the FSR and proceed with the final rulemaking package. The motion carried 7-0.

G. Sections 2090-2095, Article 11, Division 20, Title 16 of the CCR Regarding Drug Compounding

Mr. Sotelo provided background and a status update on the Drug Compounding regulatory proposal. He reported that during the 45-day public comment period, the Board received three written comments: two comments in support; and one comment in support with recommendations. He summarized all of the recommendations received and indicated that Board Counsel had prepared detailed proposed responses to those recommendations and, if approved, they would be incorporated into the FSR when proceeding with the final rulemaking package. Additionally, Mr. Sotelo stated that in response to some of the concerns raised, Board Counsel prepared modified regulatory text for the Board's consideration. If approved, he noted the modified text would be noticed for a 15-day public comment period.

Dr. Grant Miller, CVMA, thanked Ms. Welch for her hard work on this very difficult subject. He explained that drug compounding was a dynamic topic because there is movement on it at the federal and state levels. He stated the comments submitted by the Animal Health Institute were very thoughtful, and they were adequately addressed by Ms. Welch.

Dr. Sullivan agreed with the comments from Dr. Miller.

- Ms. Kathy Bowler moved and Dr. Mark Nunez seconded a motion to approve the proposed responses to the written comment with recommendations received during the 45-day public comment period, and direct staff to incorporate the responses into the FSR and proceed with the final rulemaking package. The motion carried 7-0.
- Dr. Mark Nunez moved and Ms. Kathy Bowler seconded a motion to approve the proposed modified text for a 15-day public comment period, and if there are no adverse comments received during that 15-day public comment period, delegate to the Executive Officer the authority to adopt the proposed regulatory changes as modified, and delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file. The motion carried 7-0.

10. Recess until October 23, 2020, at 9:00 a.m.

Dr. Noland thanked members of the public for their comments and interest in what the Board is trying to accomplish. She also thanked all Board members for their efforts over the last year.

Ms. Bowler thanked staff for all of their work and welcomed Dr. Solacito to the Board. She also thanked former Board member Dr. Cheryl Waterhouse for her tremendous work and contributions over the last eight years. She noted that Dr. Waterhouse served as President of the Board for a couple of terms and set up the Board's first meeting in the Central Valley. She added that Dr. Waterhouse was a very hard worker and a mentor to Ms. Bowler. Dr. Noland concurred with Ms. Bowler's comments.

Dr. Nunez also welcomed Dr. Solacito to the Board and thanked Ms. Welch for her knowledge and exceptional work as Board Counsel.

The meeting was recessed at 2:50 p.m.

9:00 a.m., Friday, October 23, 2020

11. Reconvene - Establishment of a Quorum

Dr. Jaymie Noland called the meeting to order at 9:00 a.m. Ms. Jessica Sieferman called roll; seven members of the Board were present, and a quorum was established. Ms. Alana Yanez was absent.

Members Present

Jaymie Noland, DVM, President
Kathy Bowler, Public Member, Vice President (*arrived at 9:50 a.m.*)
Christina Bradbury, DVM
Jennifer Loreda, RVT
Mark Nunez, DVM
Dianne Prado, Public Member
Maria Preciosa S. Solacito, DVM

Staff Present

Jessica Sieferman, Executive Officer
Timothy Rodda, Administration/Licensing Manager
Patty Rodriguez, Inspections Manager
Kellie Flores, Licensing Unit Lead Analyst
Virginia Gerard, Probation Monitor
Kimberly Gorski, Enforcement Analyst
Terry Perry, Enforcement Technician
Justin Sotelo, Lead Administrative & Policy Analyst
Karen Halbo, Regulatory Counsel, DCA
Tara Welch, Board Counsel, DCA

Guests Present

Daniel Baxter, CVMA
Dale C. Cotton, DVM, Petitioner
Anahita Crawford, Deputy Attorney General (DAG), Office of the Attorney General, Department of Justice
Bikram Dhaliwal, DCA, Budget Office
David Disbrow, Court Reporter
Nancy Ehrlich, RVT, CaRVTA
Valerie Fenstermaker, CVMA
Carrie Holmes, Deputy Director of Board and Bureau Relations, DCA
Anita Levy Hudson, RVT, CaRVTA
Sarah Irani, DCA, Moderator, DCA, SOLID
Aubrey Jacobsen, Legislative Analyst, DCA, Division of Legislative Affairs
Mary Kathryn Cruz Jones, DCA, Executive Office
Tom Jurach, DCA, Co-Moderator, DCA, SOLID
Shawn Lynch
Grant Miller, DVM, CVMA
Ryan Perez, Business Analytics Manager, DCA, OIO
Mike Sanchez, Television Specialist, DCA, OPA
Cindy Savely, RVT, SVVTA
Jill Tucker, CEO, CAWA
Ed Washington, Administrative Law Judge (ALJ), Office of Administrative Hearings

12. Update, Discussion, and Possible Action on the Board's Strategic Plan – Mark Nunez, DVM and Christina Bradbury, DVM

Dr. Nunez reported the Board conducted its strategic planning session at the end of 2019. He stated the session resulted in several objectives that needed to be reorganized, reprioritized, and trimmed down a bit. Dr. Bradbury added they also wanted to ensure the Board had an effective tool and there were appropriate expectations. She also noted that due to the way Ms. Sieferman has been managing the Board, a lot of items had already been completed.

Ms. Sieferman also explained the Strategic Plan is only meant to have overall objectives and that staff will determine and create an action plan with SOLID, which will explain the specifics on how objectives will be met. She also indicated the action plan will be brought back to the Board regularly, so they can monitor progress. She again clarified that staff just needs the overall objectives from the Board, and then staff will meet with SOLID to create the action plan.

Dr. Nunez also pointed out the Executive Management Reports in the meeting packets now reference the applicable Strategic Plan Objectives when updates or achievements are being reported.

Dr. Noland stated that in order for a goal to be a good goal, it needs to have some measurability. She indicated that Ms. Sieferman will determine the measurable items, which will then go into the action plan. She also noted the draft Strategic Plan started with approximately 64 objectives, and they were consolidated down to 39. She complimented Drs. Bradbury and Nunez for their work in accomplishing this. She stated the document will be a great tool in moving the Board forward with achieving its goals.

Dr. Bradbury reviewed the working document with the Board, which explained how the objectives were consolidated, and addressed questions from members.

- Dr. Jaymie Noland moved and Dr. Maria Solacito seconded a motion to accept the amended Strategic Planning document, which consolidates the Strategic Plan objectives. The motion carried 6-0.

13. Board President Report – Jaymie Noland, DVM

Dr. Noland reported that since the last Board meeting, she, Ms. Bowler, Ms. Sieferman, and Ms. Welch met with Brandy Kuentzel, SF SPCA, Susan Riggs, ASPCA, and Ms. Holmes. She stated they had a good discussion regarding telemedicine and the stakeholders presented several instances where telemedicine was helping during the pandemic. She added they encouraged the Board to change the way it handles telemedicine. Dr. Noland also stated the purpose of the meeting was to listen and glean more information.

Dr. Noland also reported that: on August 13, 2020, the Board held its APR public hearing; on August 14, 2020, there was a meeting regarding Senate Bill 1347 (shelter medicine bill), discussing how stakeholders can move forward with this legislation in the future; on August 18, 2020, she, Ms. Bowler, and Ms. Sieferman held an executive leadership meeting where they discussed Board updates and what staff is working on; and on September 15, 2020, they held another executive leadership meeting to plan for the October 2020 Board meeting.

Next, Dr. Noland reported that on October 9, 2020, she and Ms. Sieferman virtually attended CVMA's Board of Governors meeting. She stated that Ms. Sieferman provided a very good report on all of the recent legislative efforts and many of the issues the Board is currently addressing, including the feasibility of continuing with a state Board examination. She added that CVMA agrees the national examination has been an adequate examination for many years. She also stated the deans of both of the California veterinary schools provided reports on how they are continuing their educational efforts during the pandemic. She added that Ms. Sieferman and Board staff were given a lot of praise for the support the Board has given to students during the pandemic.

Ms. Sieferman stated that Ms. Fenstermaker was retiring on October 30, 2020. Ms. Sieferman thanked Ms. Fenstermaker for all of the tremendous work she has done. She added that Daniel Baxter would be taking over the role of Executive Director at CVMA. Dr. Noland agreed that Ms. Fenstermaker has been tremendous with her collaboration with the Board and that she looked forward to working with Mr. Baxter. Dr. Bradbury also stated that appreciated Ms. Fenstermaker for her fairness and willingness to work with the Board. Dr. Nunez also thanked Ms. Fenstermaker for her contributions and accomplishments.

Ms. Fenstermaker thanked the Board members and staff for their comments, service, and dedication.

Kathy Bowler joined the meeting.

14. Registered Veterinary Technician Report – Jennifer Loredo, RVT

Ms. Loredo reported the prior week was National Veterinary Technician Week and congratulated all RVTs for their accomplishments. She discussed the MDC's work on looking at an RVT licensure pathway for foreign educated or experienced applicants and mentioned the AAVSB has a subcommittee working on this issue as well. She indicated that she hopes progress can be made.

Ms. Loredo asked for an update on obtaining and publishing Veterinary Technician National Exam (VTNE) pass rates. Ms. Sieferman explained there was a significant cost involved with obtaining a custom report; however, she stated that in working with AAVSB, the Board will eventually be able to have scores transmitted to its system, and the Board will be able to pull the information and post it to the website.

Ms. Loredo also reported the MDC is continuing to look at options for lowering RVT fees.

Ms. Loredo also discussed the issue of title protection and the idea of requiring name badges. She noted that this issue is something the Board may want to address at some point in the future.

Ms. Loredo brought up the topic of animal shelters and noted that, although the recent bill was pulled, the issues have not gone away and all agree that something needs to be done. Dr. Solacito stated the Board needs to facilitate more conversations with veterinarians, RVTs, and shelter representatives. She explained there is a disconnect between shelters and organized veterinary leadership. Dr. Solacito suggested there be further outreach and discussion regarding standards. Ms. Loredo agreed there is a disconnect and that hearing from more of the shelter personnel is very important; she also agreed that outreach is a good idea, but that she was hesitant to mention revisiting the standards, but that it might need to happen.

Lastly, Ms. Loredo encouraged RVTs to get involved with the efforts of associations and the Board.

Anita Levy Hudson, CaRVTA, thanked Ms. Loredo for encouraging RVTs to get more involved and thanked Ms. Loredo for her report.

15. National Association Involvement Reports – Kathy Bowler and Mark Nunez, DVM

A. International Council for Veterinary Assessment

Ms. Bowler reported the ICVA last met virtually in August 2020. She stated the ICVA, like many testing and academic associations, continues to make accommodations for testing due to the pandemic. She explained that each testing window this year has been extended; therefore, she believed there would be no decline in the number of candidates tested.

Ms. Bowler also reported that one interesting issue the ICVA is engaged in is a foresight project working with the University of Houston. She explained it has been a fascinating team exercise in attempting to forecast and plan for transformational change by analyzing rapid alterations in external environments in veterinary education, assessments, practice, etc. She stated that she hopes to provide another update to the Board in January 2021.

Ms. Bowler reported the ICVA is beginning the process of updating its strategic plan, which is done every three years. She also stated that a new chief assessment officer, Dr. Kent Hecker, was brought on board who is a leader in research assessing the neural and behavioral correlates of learning and decision-making in all health profession education. She stated that under Dr. Hecker's lead, new assessment methodologies for the NAVLE will be considered.

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

Dr. Nunez reported there was an upcoming Think Tank meeting and that he could provide an update at the next Board meeting; he shared items that were on the upcoming meeting agenda.

Dr. Nunez also reported the AAVSB recently held their annual meeting virtually and that all Board members were invited to participate.

Ms. Bowler stated she also serves on the Think Tank as an ICVA representative and that between her, Dr. Nunez, Dr. Noland, and Ms. Loredo, California is very well represented in the national association at many levels.

Dr. Noland stated she and Dr. Bradbury participated in the telemedicine discussion at the AAVSB annual meeting, and it was very helpful and provided global perspectives.

Dr. Bradbury thanked Board members for their participation with AAVSB and acknowledged the value and how it has benefitted the Board.

16. Executive Management Reports

Dr. Noland indicated the reports for Agenda Items 16.A. through 16.G. were well written and thorough. In the interest of time, Dr. Noland suggested that instead of presenting each report, Board members could raise specific issues they would like to discuss under any of the reports.

A. Administration

Ms. Bowler asked if there would continue to be a deficit in the next couple of years with regard to fingerprint reports. Ms. Sieferman explained the Board collects funds from licensees, but then they are transferred to the Department of Justice and the Federal Bureau of Investigation; she further explained why the line item is depicted in red text in the budget report.

Ms. Bowler also asked about the savings with Attorney General costs. Ms. Sieferman explained those savings were likely the result of petition hearings being continued due to the pandemic.

Dr. Noland also noted there had been cost savings in the travel line item.

B. Examination

Dr. Bradbury inquired about the high VTNE fail rates for the California alternate route schools. Ms. Sieferman stated that staff has flagged this and is looking into it further. Tim Rodda also explained the Board is looking for the California average pass rate for the past two years, which then needs to be compared to the pass rates of all of the California schools. Mr. Rodda also stated that once the Board has direct transfer scores, that will assist in reporting to the Board.

C. Licensing

Ms. Bowler asked about the decrease in university license and premises registration applications. Mr. Rodda explained the pandemic and the social security requirement has impacted the university license applications; additionally, he explained that most of the premises renew their registrations in May.

Dr. Bradbury commended the Board on the updates to BreEZe, as she had recently used the system.

D. Enforcement

There was no discussion for this agenda item.

E. Probation

There was no discussion for this agenda item.

F. Hospital Inspection

There was no discussion for this agenda item.

G. Outreach

Ms. Sieferman reported that one of the outreach goals was to revamp the Board's website and make it more reader-friendly. She stated that during the prior month, she and Ms. Loreda met with OIS to explore options for re-designing the website. She noted that Mr. Loreda provided great input, updates are in progress, and they hope to see results within the next few months.

Ms. Sieferman reported that another goal was to create new customer service satisfaction surveys for each Board unit; she stated that those have been completed and are now being fully utilized. She added there is currently a low response rate, but Board management is working on ways to get the surveys out and get more feedback.

Ms. Sieferman also discussed the increased outreach and interaction with AAVSB.

17. Election of 2021 Board Officers

Dr. Noland stated that she appreciated serving as President of the Board and thanked members for their participation over the year. Dr. Noland indicated that Ms. Bowler had been a fantastic Vice President over the year and nominated Ms. Bowler as the Board's next President.

Ms. Bowler thanked Dr. Noland for the nomination. She stated that she very much enjoys serving on the Board and that she respects public service, the profession, and consumer protection. She indicated that she had an interest in serving as President, but respectfully declined the nomination due to time constraints in the upcoming year. However, she noted that she would be interested in continuing to serve as Vice President, if the Board would consider that.

Dr. Bradbury thanked Dr. Noland and Ms. Bowler for their service. She then nominated Dr. Nunez as the Board's next President and indicated that Dr. Nunez has been a great mentor to her. Dr. Nunez accepted the nomination; however, he reminded members that his term expires in June 2021. Dr. Noland stated that he did have a one-year grace period.

- Dr. Christina Bradbury moved and Dr. Jaymie Noland seconded the motion to appoint Dr. Mark Nunez as the Board's 2021 President. The motion carried 7-0.
- Dr. Jaymie Noland moved and Dr. Christina Bradbury seconded the motion to appoint Ms. Kathy Bowler as the Board's 2021 Vice President. The motion carried 7-0.

Dr. Noland congratulated Dr. Nunez and Ms. Bowler on their appointments.

18. Future Agenda Items and Next Meeting Dates

Ms. Sieferman stated that she had previously shared future meeting dates with Board members and there were no conflicts.

Dr. Noland stated the Board's efforts would be focused on Sunset Review in the upcoming year and during the next meeting.

Ms. Hudson stated that she would like to see the Board have more discussion regarding badges that identify credentials and patient/staffing ratios.

19. Special Order of Business (11:00 AM)

This agenda item commenced at 12:02 p.m.

Dr. Noland turned the meeting over to ALJ Ed Washington.

A. Petition for Termination of Probation – Dale C. Cotton, DVM, License No. VET 14009

ALJ Washington presided over the petition for termination of probation. DAG Anahita Crawford updated and presented the case against Dale C. Cotton, DVM. Dr. Cotton represented himself and presented his petition for termination of probation. Dr. Cotton answered questions from the DAG and members of the Board. ALJ Washington closed the hearing.

Open session recessed at 2:27 p.m.

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

Closed session convened at 2:28 p.m.

Petition for Termination of Probation – Dale C. Cotton, DVM, License No. VET 14009

The Board adopted a motion to grant the petition for modification of penalty.

Closed session recessed at 3:44 p.m.

21. Adjournment Upon Conclusion of Business – Due to technological limitations, adjournment will not be broadcast. Adjournment will immediately follow Closed Session under Item 20., and there will be no other items of business discussed.

Open session reconvened at 3:44 p.m.

Dr. Noland adjourned the meeting at 3:45 p.m.

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