

Veterinary Medical Board

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MEETING MINUTES
Veterinary Medical Board
The Waterfront Hotel
10 Washington Street
Oakland, CA
July 21-22, 2015

9:00 a.m. Tuesday, July 21, 2015

1. Call to Order - Establishment of a Quorum

Dr. Mark Nunez, called the Veterinary Medical Board (Board) meeting to order at 9:00 a.m. Executive Officer, Annemarie Del Mugnaio, called roll; six members of the Board were present and thus a quorum was established. Kathy Bowler was absent.

2. Introductions

Board Members Present

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

Staff Present

Christy Bell, Associate Enforcement Analyst
Annemarie Del Mugnaio, Executive Officer, Veterinary Medical Board
Nina Galang, Administrative Program Coordinator
Lou Galiano, DCA Television Specialist
Sabina Knight, Legal Counsel
Ethan Mathes, Administrative Program Manager
Diann Sokoloff, Supervising Deputy Attorney General, Board Liaison

Guests Present

Al Aldrete, DVM, Veterinary Allied Staff Education
Nancy Ehrlich, RVT, California Registered Veterinary Technician Association
William A. Grant II, DVM, Multidisciplinary Advisory Committee
Alex Henderson, Veterinary Allied Staff Education
Elisa Martin, RVT
Eric Mills, Action for Animals
Cindy Savely, RVT, Sacramento Valley Veterinary Technician Association
Marshall E. Scott, California Veterinary Medical Association
Dan Segna, DVM, California Veterinary Medical Association
Linda Tripp, University of California, Davis and Sacramento Valley Veterinary Technician Association

3. Review and Approval of April 1-2, 2015, April 28-29, 2015 and June 17, 2015 Meeting Minutes

- Dr. Richard Sullivan motioned and Dr. Cheryl Waterhouse seconded the motion to adopt the April 1-2, 2015, April 28-29, 2015, and June 17, 2015 meeting minutes. The motion carried 5-0.

4. Proposed Regulations

A. Status of Pending Regulations

Administrative Program Manager, Ethan Mathes updated that the Cite and Fine regulations will likely take effect in January 2016. Ms. Del Mugnaio updated that the public hearing for Animal Rehabilitation is on September 10, 2015 in Sacramento, CA. The Minimum Standards/Telemedicine regulations affect section CCR 2032.1 and are coupled with the Veterinary-Client-Patient Relationship (VCPR) regulations. Mr. Mathes also updated that the Notice of Proposed Action for the Veterinary Assistant Controlled Substances Permit (VACSP) regulations will likely be published within the next month.

B. Review and Possible Approval of Updates to Disciplinary Guidelines

The Board reviewed and discussed the changes to the proposed Disciplinary Guidelines. Dr. Nunez requested to review the subcommittee comments.

Ms. Del Mugnaio clarified that the delinquency period for submission of quarterly reports may be added to the quarterly period if the respondent is not in compliance.

The Board discussed the term “preceptor” and agreed that they are in private practice, and provide no supervision of veterinary interns, students, or residents. The Board also discussed the term “registered intern” and agreed to strike the word “registered.” The Board agreed to leave both terms “licensee manager” and “managing licensee” since they appear interchangeably in other forms and statutes.

Dr. Nunez recommended combining section #7, 8, and 9 of the Standard Terms and Conditions of Probation. Supervising Deputy Attorney General, Diann Sokoloff, warned about the potential for ambiguity of the requirement of a Licensee Manager vs. the requirement of the employee. The Board agreed not to collect probationary costs while respondents are on a tolled status.

- Dr. Richard Sullivan motioned and Dr. Cheryl Waterhouse seconded the motion to approve the proposed Standard Terms and Conditions for Probation text for 45-day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if no adverse comments during the public comment period are received and to 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 6-0.

Mrs. Sokoloff requested to revisit sections #7-9 and added that based on her analysis, she recommends combining only #7 and #9 and leaving #8 separate since it deals with employees.

Based on the recommended changes, the Board requested Dr. Sullivan to rescind his previous motion in order to vote on the amended language.

- Dr. Richard Sullivan motioned and Elsa Flores seconded the motion to rescind Dr. Sullivan’s previous motion to adopt the Standard Terms and Conditions for Probation proposed text in order to adopt the changes drafted by Mrs. Sokoloff. The motion carried 6-0.

- Dr. Richard Sullivan motioned and Dr. Cheryl Waterhouse seconded the motion to approve the proposed Standard Terms and Conditions for Probation text for 45-day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if no adverse comments during the public comment period are received and to 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 6-0.

The Board reviewed and discussed the changes made to section #6 and #8 of the Optional Terms and Conditions.

The Board reviewed and discussed the Overview Guide for Disciplinary Decisions, including minor changes to supervision. The Board requested more information regarding when the Board wants to increase the penalty of a proposed decision. Legal counsel, Sabina Knight, added that she will research the issue and follow up.

- Dr. Richard Sullivan motioned and Elsa Flores seconded the motion to approve the proposed Disciplinary Guidelines text for 45-day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if no adverse comments during the public comment period are received and to 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 6-0.

C. Review and Discuss Proposed Alternate Route Regulations [California Code of Regulations, Title 16, Division 20, section 2065.1 et. seq.]

The Board reviewed and discussed minor changes to the proposed Alternate Route regulations, including rewording the title of section 2065.1 to clarify the purpose of the section and correcting the lettering/numbering of subsections referenced within the text. The Board also agreed with public guest, Nancy Ehrlich's, recommendation to add an effective date to section 2068.5 to clarify that practical experience and education will no longer be used by a specific date.

Sections 2065.2(b) and (i) were combined since they are redundant. The Board agreed to add the word "national" to further describe the registered veterinary technician examination in section 2065.2(j) and use the same wording throughout the proposed language to refer to the examination.

Section 2068.5 will be stricken; therefore, the reference to section 2068.5 will be removed from section 2066.1 as well.

- Dr. Richard Sullivan motioned and Dr. Cheryl Waterhouse seconded the motion to approve the proposed text for 45-day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if no adverse comments during the public comment period are received and to 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 6-0.

5. Establish Subcommittee to Work with California Horse Racing Board on Drug Labeling Regulations

Dr. Nunez reviewed the request from the California Horse Racing Board to appoint a subcommittee.

Ms. Del Mugnaio clarified that persons interested in participating in the subcommittee should be referred in the near future and those with large animal experience and knowledge of the Federal Drug Administration and drug compounding would be ideal.

6. Review and Discuss Board Strategic Action Plan 2015-2019

Ms. Del Mugnaio reported on the action planning session conducted in May 2015, and the work of staff and SOLID. Ms. Del Mugnaio outlined action item areas in which work is ongoing: sections 1.3-1.4, sections 2.2-2.3, sections 3.3-3.4, and section 6.1.

Ms. Del Mugnaio noted that a stakeholder meeting facilitated by the California Veterinary Medical Association (CVMA) will be held in September 2015 to develop minimum standards for various premise types, including shelter medicine. Ms. Mancuso expressed concern about ensuring there is a live staff member who can answer questions. Ms. Mancuso also requested a list of Veterinary Medical Associations (VMA) across California and other stakeholders for section 6.4.

Mrs. Ehrlich, expressed concern over Goal 2 regarding the Registered Veterinary Technician (RVT) examination, and questioned the reason it is not being addressed until Quarter #3 of 2016. Ms. Del Mugnaio clarified that we need at least a year and a half of history of developing examination questions for the RVT law examination to justify costs of the examination.

Ms. Del Mugnaio noted that the Action Plan is a staff document and the Board is not required to adopt the document.

7. 2015 Legislation Report and Consider Legislative Proposals

- A. AB 12 (Cooley) State government: administrative regulations: review
- B. AB 85 (Wilk) Open meetings
- C. AB 611 (Dahle) Controlled substances: prescriptions: reporting
- D. AB 750 (Low) Business and professions: retired category: licenses.
- E. AB 1060 (Bonilla) Professions and vocations: licensure
- F. AB 483 (Patterson) Healing arts: initial license fees: proration
- G. AB 316 (Maienschein) Veterinarians
- H. AB 317 (Maienschein) Veterinary medicine: temporary shelter facility.
- I. SB 27 (Hill) Livestock: use of antimicrobial drugs.
- J. SB 361 (Hill) Skilled nursing facilities: antimicrobial stewardship guidelines.
- K. SB 800 (BP&E Committee) Clean-up Provisions for VMB
- L. AB 192 (Allen) Pet Lovers License Plate
- M. Review and Discuss Proposed Statutory Language Regarding Drug Compounding by Veterinarians

Dr. Nunez reviewed the bills contained within the July 2015 Legislative Report and noted that Assembly Bill (AB) 12, AB 85, and AB 750 are already under track/watch status with the Board, AB 611 was canceled and AB 1060 has been amended and no longer relevant to the Board; therefore, discussion on these bills was not needed.

The Board noted that AB 483 will have a negative impact to the Board in terms of a loss in revenue due to prorating the initial license fee on a monthly basis.

Dr. Nunez reviewed AB 316 which authorizes law enforcement to call in a veterinarian from another State to assist with criminal investigations on alleged animal fighting or animal cruelty and authorizes

the veterinarian to operate temporary shelters to provide care to animals seized as a result of a criminal case. The Board took an Oppose position at the last Board meeting.

Guest speaker, Kevin O'Neill, representing the American Society for the Prevention of Cruelty to Animals (ASPCA) clarified the intent of bill and updated the Board on the amendments made since the last Board meeting and requested a Support or Neutral position from the Board. Mr. O'Neill shared examples of emergency situations in which there was a need for additional veterinarians on site when resources were needed. The Board requested additional information regarding the need for this bill including a number of veterinarians employed by the ASPCA and how many of them have a California license. Mr. O'Neill noted that he will look into providing this information. The Board argued that it would be more practical to hire veterinarians within California; there is also a concern regarding the mechanism for the Board to evaluate and approve sponsoring agencies.

Dr. Dan Segna shared that CVMA has taken an Oppose position on this bill and expressed its concern regarding the sponsoring agency employing unlicensed individuals at unlicensed facilities. CVMA feels that there is no demonstrated need to bring out-of-state veterinarians to California who are not licensed by the Board or regulated by the Board.

- Dr. Richard Sullivan motioned and Dr. Cheryl Waterhouse seconded the motion to take an Oppose position on AB 316. The motion carried 6-0.

Dr. Nunez reviewed the intent of AB 317, which exempts temporary shelters that are established to provide care and shelter to animals displaced by a state of emergency from the premise registration requirements. The Board took an Oppose position at the last Board meeting.

Mr. O'Neill added that current law authorizes the state to call in out-of-state veterinarians whenever there is a State-declared emergency.

Mr. O'Neill clarified that if out-of-state health practitioners are called, the Bill makes it legal to establish a temporary shelter in an emergency situation without needing to go through the lengthy premise permit registration process. Temporary shelters would be subject to inspections and the ASPCA is not opposed to inspection by the Board.

Ms. Del Mugnaio clarified that section 4809.5 restricts the Board from inspecting premises that are not registered with the Board.

Dr. Segna shared that CVMA has taken an Oppose position on AB 317. There does not appear to be a need for the exemption in California and there is concern that the Board will not have oversight.

- Dr. Richard Sullivan motioned and Jennifer Loreda seconded the motion to take an Oppose position on AB 317. Four of the Board members voted to support the motion. Judie Mancuso and Elsa Flores voted to oppose the motion. The motion carried 4-2.

Ms. Del Mugnaio updated the Board on the current status of Senate Bill (SB) 27, which reflects significant stakeholder feedback. Dr. Segna shared that CVMA is taking a Support position on SB 27.

- Judie Mancuso motioned and Dr. Cheryl Waterhouse seconded the motion to a Support position on SB 27 in its current form. The motion carried 6-0.

Dr. Nunez reviewed the intent of SB 361, requiring veterinarians to complete an approved course on the judicious use of medically important antimicrobial drugs as part of their biennial 36 hours of continuing VMB Meeting

education requirement for license renewals. Ms. Del Mugnaio clarified that the language needs to say “one hour” instead of “one unit” and staff is working to clarify this change and write the author’s office.

- Dr. Richard Sullivan motioned and Dr. Cheryl Waterhouse seconded the motion to take a Support position on SB 361. The motion carried 6-0.

SB 800 contained only minor changes; therefore, there was no need for the Board to vote on a position.

Ms. Del Mugnaio noted that since two Board members must recuse themselves from voting, on AB 192 due to conflicts of interest, there were not enough members present to vote on a position.

Dr. Nunez reviewed the proposed statutory language regarding drug compounding by veterinarians.

Ms. Del Mugnaio added that CVMA has offered to assist the Board with securing an author to provide for limited authority for veterinarians to compound drugs. Ms. Del Mugnaio noted that it would benefit the Board to authorize the Executive Officer to work with CVMA to find an author.

Ms. Mancuso requested storage requirements to be added to the Bill language and requested clarification on various terms. The Board discussed the Board of Pharmacy regulations as they apply to the compounding of drugs by veterinarians and the current challenges with veterinarians being limited to dispensing only 120 hours of compounded medication.

- Dr. Richard Sullivan motioned and Jennifer Loreda seconded the motion to move the proposed statutory language regarding drug compounding by veterinarians to the CVMA and Multidisciplinary Advisory Committee (MDC) for consideration. The motion carried 6-0.

8. Board Chair Report – Dr. Mark Nunez

Dr. Nunez provided an update on the list of activities, meetings, and workshops that have occurred since the last meeting.

The following is a table of the latest Board activities since the April 2015 meeting, as well as future activities:

May 5, 2015	Completed VMB Strategic Plan/Action Plan
May 15, 2015	Legislative Subcommittee Teleconference to discuss Board position on AB 516, AB 517, and SB 800
May 21, 2015	Disciplinary Guidelines Subcommittee met with VMB Enforcement Manager and Legal Counsel to review and amend language
June 17, 2015	Teleconference to discuss proposed VACSP regulations
June 18, 2015	Board President provided a VMB update at the Board of Governors and House of Delegates joint meeting at the CVMA Conference in Long Beach, CA
August 4-7, 2015	Hospital Inspection Training for new and returning hospital inspectors in Sacramento, CA
August 14, 2015	Expert Witness Training in San Diego, CA
September 17-19, 2015	Dr. Nunez and Ms. Del Mugnaio will attend the American Veterinary Association of State Boards annual meeting in Milwaukee, WI

9. Multidisciplinary Advisory Committee Report – Dr. William Grant

Dr. William Grant provided an update from the MDC meeting. Ms. Del Mugnaio swore in four members: new member Kristi Pawlowski; reappointed members: Dr. Jon Klingborg, David Johnson, and Dr. Grant. Dr. Klingborg was elected as the new MDC Chair and Dr. Allan Drusys was elected Vice-Chair.

The MDC discussed and approved the RVT School Exemption and University Licensure regulatory language; guest speakers were present to provide feedback on behalf of the universities regarding the University Licensure statutory proposal. Both items were forwarded onto the Board for their review.

The MDC also discussed Shelter Medicine minimum standards, but no action was taken since it has not been prioritized by the Board; the MDC is working to develop a subcommittee to address this issue. Dr. Grant noted that we should add a priority to create minimum standards for large animal practice and animal shelters.

A CVMA task force has been formed and includes Ms. Del Mugnaio, Dr. Klingborg, and Dr. Sullivan and is scheduled to meet in September 2015 to develop minimum standards for various practice types including: large animal ambulatory, shelter medicine, and limited premise types.

A. Review and Prioritize Multidisciplinary Advisory Committee Action Items

The MDC has not yet addressed veterinary student exemption, standard of care for animal care dentistry, extended duty for RVTs, and first year licensure as a temporary license under the supervision of a licensed veterinarian.

New items added to the MDC priority list include: self-reporting Continuing Education (CE) for DVM and RVT license renewals, workflow of complaint handling, and develop statutory authority language for drug compounding.

Ms. Del Mugnaio clarified that University Licensure, RVT Alternate Route School Approval, and RVT Student Exemption are already with the Board and do not need to be prioritized for the MDC.

The Board agreed to have Minimum Standards and workflow of complaint handling placed at the top of the list of MDC priorities. Of the remaining assignments, the Board agreed to have veterinary student exemption and extended duty for RVTs as the top two priorities and first year licensure as a temporary license and animal dentistry as the last two priorities.

Dr. Sullivan requested a task force be developed to draft regulations, in partnership with the Board of Pharmacy, to develop statutory authority language for drug compounding.

The Board agreed to add it as an assignment for the MDC and prioritize the issue as one of the top three assignments. Dr. Grant added that some of the top assignments can be worked on concurrently.

- Dr. Cheryl Waterhouse motioned and Jennifer Loreda seconded the motion to accept the priority of assignments for the MDC. The motion carried 6-0.

10. Review and Discuss Sunset Review Issues

A. Specialty Titles/Credentials Used by Veterinarians

Dr. Nunez stated that the language in the binder are examples of language developed by other Boards. The Board discussed what it means to be “Board eligible” and “Board certified.”

B. Mandatory Reporting Requirements

Ms. Del Mugnaio updated that outside of mandatory reporting requirements for animal abuse, there is no parallel provision which currently exists for other health care practitioners regarding reporting expectations when a veterinarian is found to be under the influence of drugs or alcohol or unfit to practice. The Board will request more clarification from the Legislature regarding expectations for mandatory reporting requirements.

C. Discussion of New Issues Raised by the Board

Ms. Del Mugnaio noted that this discussion is an opportunity to raise issues before the Legislative Sunset Committee (such as drug compounding and establishing a new University License category) and report to the Legislature that the Board is addressing major public interest issues outside of State mandates. The Board agreed to include the Strategic Plan and the MDC priority list in the Sunset Review report and to draft language in order to introduce these new issues with the Legislature.

11. Executive Officer & Staff Reports

A. Administrative/Budget

Ms. Del Mugnaio reported on the Hospital Inspection Program and noted that there has been an increase in the number of inspectors employed by the Board and the number of inspections that were performed in the past year. Training for returning and new inspectors will be held on August 4-7, 2015. Ms. Del Mugnaio added that we are drastically underfunded for the Hospital Inspection Program and will need to be addressed in a Budget Change Proposal (BCP).

Mr. Mathes provided an update on the current fiscal month's Budget Report. There has been an increase in costs for in-house consultants; however, the Board was not fully staffed until December 2014 which led to salary savings. Limited term positions hired for the VACSP program are set to expire in July 2015; staff is working on a BCP to request the positions as permanent.

Mr. Mathes added that the VACSP program is anticipated to roll out early 2016 at the same time as BreEZe. The new VACSP program is expected to bring in new revenue, but the estimated revenue is not included in attached Budget Report.

B. Enforcement

Associate Enforcement Analyst, Christy Bell, updated the Board on the latest enforcement activities including a new probationary license that was offered and accepted, expert witness training on August 14, 2015 for experts and Board members, and a reduction in complaint processing time. Probation staff is working on creating a desk manual outlining new procedures and forms, as well as a web-based training for licensees and their supervisors. Ms. Del Mugnaio added that staff can publish enforcements statistics on the website and possibly add it to social media.

C. Licensing/Examination

Mr. Mathes updated the Board on the latest licensing activities. Specifically, notifying the Board that a long-time VMB analyst will be retiring, and reported on the Department's new data system, BreEZe, projected to roll out in January 2016.

12. Review and Discuss Social Media/Publications

Ms. Del Mugnaio updated the Board on the staff's plan for future social media/publication outreach opportunities including record keeping requirements and rodeo injury reporting requirements.

Dr. Nunez appointed Ms. Mancuso to assist with the Board's newsletter and at a later date, he agreed to appoint another Board member to assist in the development of a newsletter.

13. Public Comment on Items Not on the Agenda

Mrs. Ehrlich added that there are 26 total AVMA approved RVT schools in California (18 AVMA approved in California and eight AVMA approved distance learning programs).

Mrs. Ehrlich inquired about the status of Board approval for each of the 26 RVT schools. Ms. Del Mugnaio noted that this item will be referred to Legal to look into the recognition of AVMA accredited schools.

Eric Mills, Action for Animals, requested to have the public comment period placed at the beginning of the agenda to accommodate public members who are unable to stay the entire duration of the meeting. Mr. Mills provided an update on the underreporting of rodeo animal injuries, and added that on-call veterinarians are still not being called to treat rodeo animal within 48 hours of being injured.

Mrs. Ehrlich requested the Board reconsider requiring the veterinary law examination for RVTs. Additionally, Mrs. Ehrlich expressed that there are unnecessary barriers for candidates who are trying to meet requirements under section 2068.5 and the appeal process for denials is not working.

Dr. Nunez provided his assurance that he will look into the process and address any issues of improper or inconsistent practices.

14. Agenda Items and Next Meeting Dates – October 20-21, 2015

A. Agenda Items for Next Meeting

Ms. Mancuso requested that a future Board meeting be held in Orange County and Dr. Waterhouse requested a future Board meeting be held in a Central Valley location.

Ms. Del Mugnaio noted that the next Board meeting will be held October 20-21, 2015 in San Diego and the next MDC meeting will be held on October 22, 2015 at the same location. The Board agreed to begin planning the 2016 meetings at the October meeting.

Ms. Mancuso addressed Mrs. Ehrlich's question regarding how the Board certifies or approves specialties. Ms. Del Mugnaio noted that the alternate route pathway has been discussed in previous Board meetings but can be added to the agenda for the next meeting if it needs to be revisited.

Ms. Del Mugnaio recapped the items from the MDC meeting which have been forwarded to the Board for discussion including:

- proposed RVT Student Exemption regulations
- discussion and possible action of University licensure regulations for consideration
- an explanation of Continuing Education and audit programs
- updates on legislation
- status of pending regulations

- notice of Disciplinary Guidelines and Alternate Route regulatory documents
- Sunset Review

B. Multidisciplinary Advisory Committee Meetings – October 22, 2015

15. Recess

9:00 a.m. Wednesday, July 22, 2015

16. Reconvene - Establishment of a Quorum

Dr. Nunez called the Board meeting to order at 9:00 a.m. and five members of the Board were present, thus a quorum was established. Judie Mancuso and Kathy Bowler were not present.

17. Introductions

Board Members Present

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

Staff Present

Nina Galang, Administrative Program Coordinator
Sabina Knight, Legal Counsel

CLOSED SESSION

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

AV 2013 11

The Board adopted the proposed decision.

AV 2011 48

The Board adopted the proposed decision.

AV 2012 5

The Board adopted the proposed decision.

AV 2011 18

The Board adopted the proposed decision.

AV 2008 13

The Board adopted the proposed stipulated settlement.

IA 2015 36

The Board adopted the proposed stipulated settlement.

19. The Board met in closed session (pursuant to Government Code Section 11126(a)(1)) to update and discuss the Executive Officer Evaluation.

RETURN TO OPEN SESSION

20. Adjourn

The Board adjourned at 11:25 a.m.