

Veterinary Medical Board

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MEETING MINUTES VETERINARY MEDICAL BOARD

February 21-22, 2018
1747 N. Market Blvd.
1st Floor Hearing Room
Sacramento, California 95834

10:00 a.m. Wednesday, February 21, 2018

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

Dr. Cheryl Waterhouse called the Veterinary Medical Board (Board) meeting to order at 10:06 a.m. Executive Officer, Annemarie Del Mugnaio, called roll; six members of the Board were present and thus a quorum was established. Jaymie Noland, Doctorate of Veterinary Medicine (DVM) and Alana Yanez, Public Member were absent.

2. Board President's Remarks, Board Member Comments and Introductions

Members Present

Cheryl Waterhouse, DVM, President
Richard Sullivan, DVM, Vice President
Mark Nunez, DVM
Jennifer Loreda, Registered Veterinary Technician (RVT)
Kathy Bowler, Public Member
Judie Mancuso, Public Member

Staff Present

Annemarie Del Mugnaio, Executive Officer
Ethan Mathes, Administrative Program Manager
Amanda Drummond, Administrative Program Analyst
Tara Welch, Legal Counsel

Guests Present

Bonnie Lutz, Klinedinst
Bryan Yerger, CPIL
Charles Lozow, Esq., Right:Ratio
Cindy Savely, RVT, CVMA and Sacramento Valley Veterinary Technician Association (SVVTA)
Cody Storm, Legislative Aide for the Office of Assemblyman Marc Steinorth
Diana Duncan
Erica Hughes, State Humane Association of California (SHAC)
Gary Richter, DVM,

Grant Miller, DVM, California Veterinary Medical Association (CVMA)
John Pascoe, DVM, University of California (UC) Davis
Leah Shufelt, RVT, CVMA
Linda Tripp, SVVTA and UC Davis
Marshall E. Scott, DVM, CVMA
Nancy Ehrlich, RVT, California Registered Veterinary Technician Association (CaRVTA)
Paul Hansbury, Lovingly and Legally Grown
Rick Arthur, DVM, UC Davis and California Horse Racing Board (CHRB)
Rick Baedeker, CHRB
Solomon Stupp, The Lizzie Initiative for Pet Protection
Susan Tibbon, Lovingly and Legally Grown
Valerie Fenstermaker, CVMA

3. Review and Approval of October 18-19, 2017 Board Meeting Minutes

The Board made minor changes to the October 18-19, 2017 meeting minutes.

- Dr. Mark Nunez moved and Ms. Kathy Bowler seconded the motion to approve the minutes as amended. The motion carried 6-0.

4. Review and Approval of December 11, 2017 Board Teleconference Meeting Minutes

The Board made minor changes to the December 11, 2017 meeting minutes.

- Ms. Bowler moved and Dr. Nunez seconded the motion to approve the minutes as amended. The motion carried 6-0.

5. Election of Officers

- Ms. Bowler nominated Dr. Richard Sullivan as vice-president of the Board. Ms. Judie Mancuso seconded the nomination. Dr. Sullivan accepted the nomination. The vote carried 6-0.
- Ms. Bowler nominated Dr. Waterhouse as president of the Board. Ms. Jennifer Loredó seconded the nomination. Dr. Waterhouse accepted the nomination. The vote carried 6-0.

6. Discussion and Possible Board Action on Nominations for Leadership Positions Within the American Association of Veterinary State Boards (AAVSB)

Dr. Waterhouse addressed the Board that Ms. Bowler currently represents the Board as the only public member as the AAVSB's representative to the International Council of Veterinary Assessments (ICVA). The Board must vote to re-nominate Ms. Bowler for this position. Ms. Bowler discussed her role as the public member for the ICVA and her desire to be re-appointed to the position.

- Ms. Loreda moved and Ms. Judie Mancuso seconded the motion to re-nominate Ms. Bowler for the AAVSB public member position to the ICVA. The motion carried 6-0.

Ms. Del Mugnaio noted she will send the nomination letter to the AAVSB.

7. Proposed Regulations

A. Status of Pending Regulations

Ms. Del Mugnaio reported the Animal Control Officer (ACO) regulations have gone into effect and the proposed Consumer Protection Enforcement Initiative (CPEI) regulations are under final review with the Department of Consumer Affairs (DCA). Comments were received from legal regarding the proposed Disciplinary Guidelines regulations and those corrections have been made and the rulemaking file will be re-submitted to DCA.

Board staff is currently working on the emergency filing of the Scheduled Fees regulations, which have been approved by DCA and the Business Consumer Services and Housing Agency (BCSH) and will be submitted to the Office of Administrative Law (OAL) today and, if approved, will take affect within 10 days. Staff is also working on Board-approved proposed regulations for Telemedicine, but updates to a national policy from the AAVSB may impact the language the Board previously approved; the Board will discuss this issue later in the agenda.

B. Discussion and Possible Board Action on the following Regulatory Proposals:

- i. Adopt Position on California Horse Racing Board's Proposed Regulations, Section 1660.1, Article 7, Division 4, Title 4 of the California Code of Regulations (CCR) Regarding Delivery of Medical Records**

Ms. Del Mugnaio provided an overview for the CHRB's proposed regulation regarding delivery of medical records. In current horse racing regulation, medical records cannot be shared between veterinarians when a horse is sold to a new owner, which is dangerous for both horses and jockeys. The CHRB is requesting the support of the Board to allow for the expeditious exchange of medical records between veterinarians when a horse is sold at a claiming race.

Mr. Rick Baedeker, Executive Officer for the CHRB, and Dr. Rick Arthur, Equine Medical Director for UC Davis who is assigned to the CHRB, provided a background into the varied types of racing and explained how a claiming race works. The proposed regulation has not been brought before the CHRB, and Messrs. Baedeker and Arthur wanted to obtain input from the Board and request support for this proposed medical records transfer concept. The proposed regulations would require medical records for a horse claimed in a claim race to be transferred to the new owner within 7 days and require the new veterinarian to review the records prior to treating the horse. These regulations would help to better protect the horse and jockey from potentially catastrophic injuries that the new veterinarian would be unaware of without medical records.

The Board discussed the 7-day requirement for record transferring and that the Veterinary Medicine Practice Act (Act) mandates that veterinarians provide medical records to clients within

5 days. Mr. Baedeker stated that he has no problem with revising the language to 5 days to provide consistency with the Act.

The Board expressed concern regarding an emergency or the need for treatment within the 5-day window, prior to receiving the medical record. Dr. Arthur and Mr. Baedeker both stated that the 5 days would be a maximum, and they anticipate most veterinarians will have the records submitted prior to the 5 days, but that there will be an exception to providing treatment in emergent or urgent situations.

Dr. Grant Miller recommended the CHRB consider basing their requirements for sharing medical records content off CCR section 2032.3(b) because veterinarians are already familiar with these regulations and should be able to easily comply with the proposed CHRB's requirement.

- Dr. Nunez moved and Ms. Bowler seconded the motion to support the concept of 4 CCR Section 1660.1 to require veterinarians to transfer medical records for a horse claimed during a claiming race to the new owner within 5 days and that the new veterinarian be required to review the medical record prior to providing treatment, except in urgent or emergent situations. The motion carried 6-0.

ii. Adopt Position on California Department of Food and Agriculture's Proposed Regulations, Sections 5000-5004, Articles 1-4, Chapter 1, and Sections 5005-5012, Articles 1-4, Chapter 2, Division 5, Title 3 of the CCR Regarding Livestock Drugs

Ms. Del Mugnaio provided an overview of the California Department of Food and Agriculture's (CDFA) proposed regulation. The language was made available the day before the Board's meeting, and the 45-day public comment period will remain open until March 22, 2018. This will provide an opportunity for the Board to review the proposed language and submit their comments prior to the end of the comment period.

Ms. Del Mugnaio also provided a history regarding this regulatory proposal. Senate Bill (SB) 27 was signed by Governor Brown and became effective on January 1, 2016 to help prevent the overuse of antimicrobial drugs in livestock and help reduce antibiotic resistance. One of the effects of this bill is that large animal veterinarians will no longer be using antimicrobial drugs in a regular pattern of use and the prescription of antibiotic drugs will need to be medically indicated or treat a diagnosed disease. For this reason, there has been concern raised from the public that there would be an access issue to obtain antibiotics. The CDFA began developing regulations in response to the access concern by proposing an allowance for a restricted livestock antimicrobial dealer who can dispense antimicrobial medications to individuals with a prescription from a veterinarian. In July of 2017, the Board drafted a response to CDFA that included a number of concerns regarding the proposed regulation. Since then, the Governor's office has hosted multiple meetings that included the Board, CDFA, the Pharmacy Board, and BCSH to address the concerns and continue working together in implementing these regulations. The language that was published the day prior addresses some of the concerns, and it is up to the Board to review the current language and determine if they wish to provide a public comment during the current comment period.

Mr. Philip Laird, Deputy General Counsel for the BCSH conveyed BCSH's perspective and provided additional overview of the proposed regulation. He stated that a component of the proposed regulation provides for restricted livestock drug licensees to have the ability to fill antibiotic prescriptions, and it has been the goal of the various stakeholder meetings to resolve expressed concerns. The proposed language includes training requirements for anyone filling antibiotic prescriptions, and this is a process the CDFA believes they can regulate and enforce effectively.

Dr. Waterhouse brought up the Board's multiple concerns, including how non-medical personnel will be dispensing antibiotics, how there are no identified revocations for multiple violations of the law, an unclear plan for record auditing, who will be reviewing those records, and if a pharmacist resigns as a supervisor, how are facilities allowed to dispense medication during the time period where there is no supervision. Additional concern was raised regarding the lack of clear labeling requirements similar to the Board's requirements. Dr. Waterhouse further identified as concern that facilities can only sell antibiotics in the quantity that they receive, and the client may end up with a larger quantity of antimicrobial drugs than that was prescribed.

The Board discussed the various concerns expressed and agreed that they wanted to draft a comment letter regarding their concerns and submit it to the CDFA during the 45-day regulatory comment period.

- Ms. Mancuso moved and Ms. Bowler seconded the motion for the Executive Committee of Dr. Waterhouse and Dr. Sullivan to draft a letter to submit to the CDFA during their 45-day regulatory comment period that addresses the Board's concerns regarding the proposed regulation. The motion carried 6-0.

iii. Amend Section 2069, Article 6, Division 20, Title 16 of the CCR Regarding Emergency Animal Care to include a provision authorizing RVTs to Euthanize Animals in an Emergency

Ms. Del Mugnaio updated the Board on CCR section 2069, which was previously approved by the Board at the October 2017 Board meeting; however, concerns were raised at that time over the authorization for an RVT to provide euthanasia services in an emergency. Currently, under CCR sections 2036 and 2069, it is within the authority of an RVT to provide euthanasia services in an emergency, and there was an expressed need to clarify if this was the intent of the Board to allow RVTs to provide these services.

Dr. Waterhouse clarified that RVT emergency service would only be provided after direct communication with a veterinarian. Ms. Tara Welch confirmed that this emergency service can only be authorized after direct communication or under CCR section 2069(c), if written protocols have been established by the supervising veterinarian.

The Board discussed that, while there is nothing currently preventing an RVT from providing euthanasia services, it may be in the best interest of clarity to include euthanasia as a service that RVTs can provide in an emergency. Ms. Loreda proposed a change to section 2069(b) to add

subsection (3) to specify that RVTs may administer drugs to end the suffering of an animal, up to and including euthanasia.

- Ms. Mancuso moved and Ms. Loredo seconded the motion to revise Section 2069, Article 6, Division 20, Title 16 of the CCR regarding Emergency Animal Care to include a provision authorizing RVTs to euthanize animals in an emergency as amended.

Dr. Grant Miller identified that the phrases “pharmacological agents” and “a drug or drugs” are both used in this section and recommended that the Board use only one term for clarity. He also inquired as to the definition of pharmacological agents and how those vary from drugs.

Ms. Welch identified that no definition of pharmacological agents currently exists within the Veterinary Medicine Practice Act. This item was assigned to legal counsel to research further to determine if pharmacological agents are identified in the pharmacy code.

- The motion was rescinded due to further research from legal counsel being required.

iv. Amend Section 2036, Article 4, Division 20, Title 16 of the CCR Regarding Tasks RVTs may Perform Under Indirect Supervision

Ms. Del Mugnaio introduced the proposed changes to CCR section 2036; the proposed language was forwarded to the Board from the Multidisciplinary Advisory Committee (MDC), due to a request by CaRVTA to remove the application of casts and splints by an RVT from direct supervision to indirect supervision.

- Ms. Mancuso moved and Dr. Sullivan seconded the motion to approve the language as amended.

There was public comment from Ms. Nancy Ehrlich regarding the necessity of subsection (c), and a concern due to how the language is currently written that it could be interpreted that RVTs are restricted to only administering controlled substances and applying casts and splints under indirect supervision, and no other tasks are allowed under indirect supervision.

The Board discussed amending section 2036(c) to state “An RVT may perform the following procedures under indirect supervision of a licensed veterinarian, including, but not limited to (1) controlled substances, (2) apply casts and splints,” but legal counsel opined that this may open up additional tasks to be performed by veterinary assistants. Currently, under CCR section 2036.5, veterinary assistants are restricted from performing the items listed in section 2036(a), (b) and (c), but by adding “including and not limited to,” this could potentially open up additional tasks that a veterinary assistant can perform.

Ms. Welch requested that the Board direct her to research the history of CCR section 2036(c) and why it was originally added to the Act, as well as to research the history of section 2036.5 before the Board proceeds further with this issue.

- Dr. Nunez moved and Ms. Bowler seconded the motion for legal counsel to research the history of CCR sections 2036(c) and 2036.5. No vote was necessary to delegate this task to legal counsel. The original motion by Ms. Mancuso was rescinded.

- v. **Amend Section 2003, Article 1, and Adopt Section 2017, Article 2, and Section 2042, Article 5, Division 20, Title 16 of the CCR Regarding the Consumer Protection Enforcement Initiative (CPEI).**

Ms. Del Mugnaio updated the Board and reported the CPEI regulations had previously been adopted by the Board but, as outlined in the included Memo, there are conforming changes to the proposed language. Upon legal counsel review, it was identified that some citations were missing and there are also substantive changes to section 2042(a)(2).

Ms. Welch clarified Business and Professions Code (BPC) Section 4808 will not be removed from statutory authority, and the addition as stated in the second and third bullet point of the Memo will actually be additions to the reference section, not authority. The substantive changes were a result of the initial rulemaking package review, where it was identified that the regulatory proposal was overbroad and went beyond what was allowed in statute. Specifically, the portion of the proposed language that identifies disciplinary action taken by the federal government or the United State military is beyond statute and should be removed.

There was concern from members of the Board regarding allowing licensure for applicants who have disciplinary action taken against them by other countries, the military, or the federal government. Ms. Welch referenced BPC Section 141, which authorizes disciplinary action against a licensee for disciplinary action taken by another state, an agency of the federal government, or another country for any act existentially related to the practice. By adding BPC section 141 to the reference section, the federal portion of the proposed language can stay, but the U.S. military language will still need to be removed.

- Dr. Nunez moved and Ms. Mancuso seconded the motion to approve the proposed regulatory changes to Section 2042, Article 5, Division 20, Title 16 of the CCR as modified, 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 public comment period and if no adverse comments are received during the 45-day comment period and no hearing is requested, adopt the proposed regulatory changes as modified. The motion carried 6-0.

The Board revisited this topic on day two of the Board meeting.

Ms. Welch revisited the topic of CPEI, and after additional research, reported that BPC section 141 allowed for the U.S. Military language to remain, given that the U. S. Military operates under the Department of Defense, which is a federal public agency.

- Dr. Nunez moved and Dr. Sullivan seconded the motion to amend the previously adopted motion. The motion carried 6-0.

- Dr. Nunez moved and Ms. Mancuso seconded the motion to adopt the amended language. The motion carried 6-0.

8. Discussion and Consideration of Board Comments to the American Association of Veterinary State Board's Draft Policy on Telehealth

A. Discussion and Possible Board Action to Amend Section 2032.1, Article 4, Division 20, Title 16 of the CCR Regarding the Veterinarian-Client-Patient Relationship and Telemedicine

Dr. Sullivan addressed the Board and stated that he participated in the AAVSB webinar regarding telehealth, and due to changes at the national level, wanted to bring this topic back to the Board for further input to see if the Board wanted to draft a response to the AAVSB to include their concerns with the AAVSB draft policy.

The Board discussed some of the concerns they have with the AAVSB's telehealth policy, including the use of telehealth and telemedicine interchangeably, that the definition of telehealth did not include telephones, and that the veterinary-client-patient relationship (VCPR) can be established via electronic means. There was also concern raised over the issue of a client crossing state lines and if the veterinarian provides services electronically, the veterinarian would be violating the practice act for that particular originating state.

Ms. Del Mugnaio suggested that the Board recommend the AAVSB establish an interstate compact that would lend to consistency between the states and prohibit a veterinarian with an existing VCPR from receiving disciplinary action if they continue to treat their patient when they cross state lines.

- Ms. Bowler moved and Ms. Mancuso seconded the motion to draft a letter to the AAVSB to address the Board's concerns regarding the AAVSB's draft policy on telehealth. The motion carried 6-0.

The Board further discussed whether the AAVSB's draft policy impacts the Board's previously approved language regarding telemedicine or if they wanted staff to continue working with the previously approved rulemaking file. The Board agreed to proceed with their rulemaking file since the AAVSB draft policy will take additional time to develop.

Dr. Nunez identified a discrepancy in the proposed language where the language states diagnostic services can be performed via telemedicine, but for the purposes of this Board, telemedicine can only be performed after an initial VCPR has been established for that issue, therefore diagnosis cannot be accomplished via telemedicine. The Board agreed that "the diagnosis" should be removed from the telemedicine regulatory proposal.

- Ms. Bowler moved and Dr. Sullivan seconded the motion to approve the proposed regulatory changes to Section 2032.1, Article 4, Division 20, Title 16 of the CCR as modified, 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 public comment period and if no adverse comments are received during the 45-day comment period and no hearing is requested, adopt the proposed regulatory changes as modified. The motion carried 6-0.

9. Multidisciplinary Advisory Committee Report – Dr. Jon Klingborg

A. Review, Discussion, and Possible Board Action on Multidisciplinary Advisory Committee Items and Recommendations

Dr. Sullivan presented on behalf of the MDC chair, Dr. Jon Klingborg. He reviewed the MDC meeting discussion, including an update from the complaint process audit subcommittee and updates on minimum standards for shelter medicine. The MDC voted to move minimum standards for alternate veterinary premises and duties of a supervising veterinarian to the Board for approval.

10. Discussion and Possible Board Action on Legislative and Regulatory Proposals Regarding the Corporate Practice of Veterinary Medicine

Ms. Welch presented the topic and stated that it is unclear for healing arts boards as to how to enforce the common law ban on corporate practice of medicine. Currently there are unlicensed corporations who may be influencing how their employed veterinarians perform their duties and dictating the products and services that they can provide to a client. The goal is to limit the interference of corporations within the practice.

There was a request from the Board to hear input from stakeholders and receive some discussion regarding this topic. The Board decided to place this issue on the August agenda and include a public hearing.

11. 2018 Legislation of Interest; Possible Board Action to Adopt Positions on Legislative Bills and Proposals

A. Assembly Bill 1776 (Steinorth, 2018) Emergency Medical Transportation: Transport of Police Dogs

Ms. Del Mugnaio presented Assembly Bill (AB) 1776 to the Board and introduced public members who were speaking on behalf of the Bill.

Mr. Cody Storm, Legislative Aide for the Office of Assemblyman Marc Steinorth, and Mr. Mike Meoli, a firefighter and tactical paramedic, discussed the background behind AB 1776 and why they are looking for Board support for the bill. AB 1776 would allow for the transportation of law enforcement canines, whom are injured in the line of duty, via ambulances to a veterinary hospital. The proposed bill language is based off existing laws already in effect in other states.

Mr. Storm also noted another potential bill to accompany AB 1776 that would allow paramedics to obtain training from a veterinarian and perform life-sustaining services for injured animals during emergent situation. The Board had concerns regarding the additionally proposed bill. Ms. Del Mugnaio added this topic was to be addressed in the Public Comment section of the agenda and that only comments regarding AB 1776 and the proposed text should be addressed at this time.

Some Board members expressed support for AB 1776, while other members of the Board expressed support for the concept of AB 1776 but had concerns about voting to support the bill when amendments may be made later in the legislative process.

- Ms. Mancuso moved and Ms. Loredo seconded the motion to support AB 1776 as published. The motion failed 3-3. Dr. Waterhouse, Dr. Sullivan and Ms. Bowler voted no.
- Dr. Sullivan moved and Ms. Bowler seconded the motion to watch AB 1776. The motion carried 6-0.

B. Assembly Bill 1753 (Low, 2018) Controlled substances: CURES Database.

Ms. Del Mugnaio reported AB 1753 is a Controlled Substance Utilization, Review and Evaluation System (CURES) bill that, as it is currently written, does not change a veterinarian's responsibility under CURES but offered the Board may want to watch the bill as it proceeds through the legislative process.

- Dr. Sullivan moved and Ms. Bowler seconded the motion to watch AB 1753. The motion carried 6-0.

C. Legislative Proposal for Protections for Veterinarians to Discuss the Use of Cannabis for Animal Patients

(i) Presentation by Dr. Jaymie Payton, University of California, Davis (UCD) Regarding UCD's Cannabis Survey

Dr. Jaymie Payton, the chief of integrated medicine services at UC Davis, addressed the Board regarding a survey she is conducting regarding the use of cannabis in pets. The survey will remain open until the end of March, but preliminary results reflect over 1,300 respondents who use medical cannabis on their pets. The survey appeared to suggest there is a public desire for use of cannabis with most respondents reporting that they obtain their dosing information from companies selling the cannabis products to owners. Dr. Peyton reiterated there is limited research on the use of cannabis in pets and that the ability to conduct this research is difficult due to funding and because cannabis is labeled as a Federal Schedule I drug. She further reported on the requirements for conducting a study and the need for such studies to be conducted to ensure efficacy and proper dosages of cannabis are used with animals.

Ms. Valerie Fenstermaker stated that the CVMA has been working with Assemblymember Kalra's office to develop AB 2215 that would allow for the discussion and recommendation of cannabis in pets. She believes there is a need in the veterinary community to develop legislation that would allow clients to discuss cannabis usage in pets with veterinarians, but under current law veterinarians are prohibited. This prohibition has led to the majority of clients obtaining their information, including dosages of cannabis for use on pets, from other sources. Ms. Fenstermaker stated that while the CVMA does not condone the recommending of cannabis in pets, they could not distinctly determine where discussing the use of cannabis in pets ends and where

recommendation begins, so they support legislation that allows for both discussion and recommendation.

There was concern from the Board regarding the recommendation of cannabis without research to back the recommendations, as well as concern in the proposed legislative language that prohibits the Board from seeking disciplinary action. The Board also expressed a desire to support funding for research regarding and to encourage Assemblymember Kalra to make researching cannabis a priority of this AB 2215.

Numerous public comments requested the Board to support AB 2215 and promote animal safety. The public felt that it is the responsibility of the Board to lead the way in regulating cannabis usage in pets and to ensure clients are obtaining their cannabis treatment information from veterinarians as opposed to outside sources.

- Dr. Nunez moved to support AB 2215 if amended to exclude the recommendation portion of the bill. There was no second.
- Dr. Sullivan moved and Ms. Mancuso seconded the motion to support AB 2215. *The motion failed 4-2 due to the Board requirement to have 5 votes in favor to pass a motion when there is a Board quorum of 6.*
- Ms. Bowler moved and Ms. Loreda seconded the motion to watch AB 2215, but work with Assemblymember Kalra. *The motion failed 4-2 due to the Board requirement to have 5 votes in favor to pass a motion when there is a Board quorum of 6.*

The Board further discussed the requirements of the language that required that the Board develop guidelines for veterinarians when there is no evidence based practice to rely on. There was a desire amongst the Board to work with Kalra's office to address their concerns.

- Ms. Bowler moved and Ms. Loreda seconded the motion to watch AB 2215, communicate with Assemblymember Kalra's office to express concerns regarding the use of the term "recommendation," the requirement to develop guidelines, and the lack of Board's disciplinary oversight if there is abuse in the recommendation of cannabis. The motion passed 6-0

D. Legislative Proposal for Exemptions for Veterinarians to Render Services to an Animal During a Declared Emergency

Ms. Del Mugnaio introduced this topic and stated that while the proposed language is not currently a bill, CVMA is working to get it into legislation that allows a veterinarian to provide certain services in a declared emergency situation.

Ms. Fenstermaker noted that the language is due to the recent Northern California fires where there was an emergent need for veterinarians to be deployed to assist pet owners, but there is a lack of existing statute that would allow for veterinarians to bypass the VCPR and provide services and medications.

Ms. Welch had concerns regarding some of the terms used in the proposed language and the need to clarify those terms. She recommended a cross-reference to the Emergency Services Act in order to provide additional clarity. Ms. Del Mugnaio referenced Government Code section 8659(b), which includes the types of emergencies and what services can be rendered by a veterinarian and RVT during emergencies, but felt that the cross-reference to that section alone was not enough and there was a need to develop statutes.

Ms. Fenstermaker added she would update the proposed statute per the discussion and forward it to the Board for their input and consideration.

- Dr. Nunez moved and Dr. Sullivan seconded the motion to support the concept of the legislative proposal providing exemptions for veterinarians to render services to an animal during a declared emergency. The motion carried 6-0.

E. Legislative Proposal Regarding the Status of the Premises Permit Following Disciplinary Action Against a Licensee Manager and Premises Permit Application Requirements for Owner and Licensee Manager

Ms. Del Mugnaio provided background that there is an issue with premises permit registration requirements; when a managing licensee, who is also the premises owner, is facing disciplinary action regarding their premises, the managing licensee may simply switch their managing licensee duties but still retain ownership of the premises. Both the managing licensee and the premises owner are subject to discipline by the Board.

Ms. Del Mugnaio re-iterated that the new language would require an inspection of the premises before a new managing licensee could be substituted. The Board proposed minor changes to the language to ensure that substituting a premises owner for reasons other than disciplinary actions would not warrant a re-inspection.

- Dr. Sullivan moved and Ms. Mancuso seconded the motion to approve the legislative proposal as amended. The motion carried 6-0.

F. Legislative Proposal for Spay and Neuter Surgeries as Continuing Education Credits

Ms. Susan Riggs from the American Society for the Prevention of Cruelty to Animals (ASPCA) presented AB 2300 to the Board authored by Assemblymember Maienschein. A similar bill was passed in New York, and it allows for veterinarians to provide spay and neuter services to low income communities in lieu of 6 hours of continuing education (CE) credits. This service would be provided in conjunction with a shelter or humane society.

Multiple members from the Board expressed their concerns with AB 2300, stating that the CE is an important requirement in veterinary licensure as a means of protecting consumers. They felt CE requirements in California are already low at 36 hours for every two years, and taking 6 of those hours away for pro bono spay and neuter services would dilute the CE.

- Dr. Nunez moved and Ms. Loreda seconded the motion to watch AB 2300. The motion carried 6-0.

G. Legislative Proposal for Electronic Administration of the Veterinary Law Exam

Ms. Del Mugnaio introduced the topic of the electronic administration of the Veterinary Law Exam (VLE). This update to BPC Section 4848 would allow the VLE to be administered via electronic means instead of only regular mail.

Mr. Ethan Mathes with the Board clarified that applicants taking the VLE will be notified via email and will take the examination via a web-based portal. The electronic VLE is currently set up on Survey Monkey but could be moved to another in the future.

Ms. Welch suggested a revision to the proposed language to strike “or both by regular mail and email” and add “or by electronic means” to maintain consistency and clarity.

- Dr. Sullivan moved and Ms. Bowler seconded the motion to accept the proposed language as amended. The motion carried 6-0.

H. Update on the 2018 Omnibus Provisions Approved by the Board

Ms. Del Mugnaio addressed the Board that the 2018 Omnibus Provisions were already approved by the Board at their last meeting, and this item is an update to those proposals. Ms. Del Mugnaio reported that she spoke to the Senate Business and Economic Development Committee consultant regarding the proposals, and they agreed to carry the proposals in a committee bill. The committee bill will also include the electronic administration of the VLE, premises permit inspection changes, and the disciplinary actions taken against a managing licensee of a premises that the Board voted on today.

There was a public inquiry from Ms. Ehrlich regarding if there was an option to add eligibility for graduates of veterinary schools to take the RVT exam. Ms. Del Mugnaio clarified that this is one of the loopholes they are attempting to rectify in the Omnibus provisions and that regulation will be developed later to address that issue once the proposed legislative language becomes law. Ms. Welch added that there is a delayed implementation date in incorporating this proposal so that veterinary graduates currently practicing as an RVT have time to complete the RVT exam.

12. Public Comment on Items Not on the Agenda

Ms. Del Mugnaio informed the Board that there were three public comments received that she wanted to make the Board aware of in case they wanted to address these topics as future agenda items. The first public comment had been briefly discussed earlier in the agenda under 11.A. and included the emergency treatment of animals by Emergency Medical Technicians (EMTs). The other public comments included a licensing situation and reciprocity requirements and also a suggestion regarding changing the requirements for direct supervisions of an RVT for dental services.

13. Recess until February 22, 2018 at 9:00 a.m.

9:00 a.m., Thursday, February 22, 2018

14. Reconvene - Establishment of a Quorum

Dr. Waterhouse called the Board meeting to order at 9:10 a.m. Ms. Del Mugnaio called roll; six members of the Board were present and thus a quorum was established. Dr. Noland and Ms. Yanez were absent.

15. Introductions

Members Present

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

Staff Present

Annemarie Del Mugnaio, Executive Officer
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Patty Rodriguez, Hospital Inspection Program Manager
Tara Welch, Legal Counsel

Guests Present

Bonnie Lutz, Klinedinst
Grant Miller, DVM, CVMA
Linda Tripp, SVVTA and UC Davis
Stephanie Trumm, MAXIMUS
Valerie Fenstermaker, CVMA

16. Board President Report – Dr. Cheryl Waterhouse

Dr. Waterhouse updated the Board regarding the MDC pre-screening interviews and stated that full interviews will be held at the next Board meeting in May. She also had a conversation with the human resources director of DCA regarding upgrading the Board's size and structure; however, DCA is currently conducting an evaluation of all boards and is hoping to have another update at the May meeting. Dr. Waterhouse also discussed she has been in numerous meetings regarding important topics, including the antimicrobial drug discussion, the use of cannabis in animals, and telehealth services.

17. RVT Report – Jennifer Loredo, RVT

Ms. Loredo updated the Board on CCR section 2036, the tasks of the RVTs, and stated that there is progress on getting casting and splits moved to indirect supervision. She also expressed a desire to see RVT drug compounding added to a future agenda discussion. Ms. Loredo also cautioned RVTs to be cognizant about where they obtain their information from, as there are misleading sources regarding the fee increase circulating social media.

18. Presentation Regarding Assessment of Rehabilitation for Substance Use Disorders – Stephanie Trumm, Clinical Case Manager, MAXIMUS

Ms. Stephanie Trumm addressed the Board regarding her role as the MAXIMUS clinical case manager. She provided insight into her duties and provided guidance how the Board can evaluate an individual who petitions the Board to determine if they are in recovery. The Board had questions regarding making disciplinary determinations and the recovery statistics of MAXIMUS.

19. Executive Officer & Staff Reports

A. Administrative/ Budget

Mr. Mathes updated the Board on the draft expenditure report and reported that the report reflects previous reports where the Board had a very lean fund condition which supports the need for the upcoming emergency fee increase in part due to the deficit in Attorney General (AG) expenditures and revenues. He also stated that he would be filing a mid-year AG budget augmentation request to the Department of Finance and clarified questions that Board members and members of the public had regarding his report.

B. Enforcement

Ms. Del Mugnaio updated on the enforcement program's status and stated that there will be over 1,000 complaints this year. In Fiscal Year (FY) 2016/2017, there were 1,019 complaints and it appears the Board will exceed that number in FY 2017/2018. She stated that she believes this situation is unique to this Board, as no other boards within DCA have experienced as drastic of an increase in complaints. Ms. Del Mugnaio attributed this to an increase in staff to work cases, how staff tracks the cases, and the Board taking a more active role in unlicensed activity.

C. Licensing/ Examination

Mr. Mathes updated the Board on the status of the RVT/AAVSB job analysis and stated that the report from the Office of Professional Examination Services (OPES) has been delayed until the May meeting. He also updated that he is working with staff to update the Board's website to a new design.

There was a public inquiry from Ms. Ehlich regarding the Veterinary Technical National Exam (VTNE) and California school statistics, and she expressed concern that the rates for California RVTs are 20% lower than other RVT candidates from other states. Mr. Mathes stated he had reached out to AAVSB regarding these statistics but had not yet received that information.

D. Hospital Inspection

Ms. Patty Rodriguez updated the Board regarding the hospital inspection program. The program has been suspended since November of 2017 due to a lack of funds and is estimating to fall short of the 20% inspection goal, and end up around 12% of veterinary premises inspected for FY 2017/2018.

20. Future Agenda Items and Next Meeting Dates – May 23-24, 2018, Sacramento; August 29-30, 2018, Location TBD; November 21-22, 2018, Location TBD

A. Agenda Items for Next Meeting – Tattooing Spayed and Neutered Animals; DEA Registration for Animal Hospital Premises

B. Multidisciplinary Advisory Committee Meetings – May 22, 2018, Sacramento; August 28, 2018, Location TBD; November 20, 2018, Location TBD

The Board discussed their upcoming meetings and proposed a date and time for a teleconference meeting on March 8, 2018 at 11:00 a.m. The August meeting is moved to August 29th and 30th with a location to be determined. The Board discussed potential topics for the May meeting including spay and neuter tattooing, a presentation from the Drug Enforcement Administration (DEA) regarding DEA facility licenses, and MDC interviews. The Board also discussed re-visiting topics for the May meeting that needed additional research from legal or continued Board discussion. The Board delegated the issue of dental extractions by RVTs to the MDC for further research.

CLOSED SESSION

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

In the Matter of the Accusation Against Davinder S. Sandhu, Case Number AV 2014 4 - Decision After Remand

The Board approved the Decision After Remand for Case Number AV 2014 4.

In the Matter of the First Amended Accusation Against Dale Cotton, DVM - Board Case No. BV 2015 37

The Board adopted the stipulated settlement.

In the Matter of the Accusation Against Melinda Newton, DVM - Board Case No. 4602016000381

The Board adopted the stipulated settlement.

In the Matter of the First Amended Accusation Against Roma Salib, DVM - Board Case No. 4602016000020

The Board adopted the stipulated settlement.

In the Matter of the Statement of Issues Against Beth Schultz, VACSP Applicant - Board Case No. 4602017001027

The Board adopted the stipulated settlement.

In the Matter of the Accusation Against William Sawyers, DVM, Veterinarian License No. VET 14207, and William E. Sawyers, DVM, PC AKA Equine Assisted Reproductive Technologies, Premises Permit No. HSP 5978 - Board Case No. AV 2016 30

The Board adopted the stipulated settlement.

In the Matter of the Statement of Issues Against Aidin Rahbari-Kharazi, Veterinarian License Applicant - Board Case No. 4602017000537

The Board moved to remand this case back to the Administrative Law Judge.

In the Matter of the Second Amended Accusation Against Amandeep Singh, DVM, and Geisert Animal Hospital, Premises Permit No. HSP 1592

The Board adopted the Proposed Decision.

22. Pursuant to Government Code Section 11126(e), the Board Conferred with and Received Advice from Legal Counsel and Deliberated regarding *Gloria Faith Gong Simons, DVM v. Veterinary Medical Board, San Diego County Superior Court, Case No. 37-2017-00030529-CU-WM-CTL*

23. Pursuant to Government Code Section 11126(a)(1), the Board will meet in closed session to discuss the Executive Officer Evaluation.

RETURN TO OPEN SESSION

24. Adjournment

- Ms. Loreda moved and Dr. Sullivan seconded the motion to adjourn the meeting. The motion carried 5-0.

The meeting adjourned at 3:43 p.m.