

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, July 2, 2020.**

9:00 a.m. Thursday, July 2, 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
Cheryl Waterhouse, DVM

Staff Present

Jessica Sieferman, Executive Officer
Timothy Rodda, Administration/Licensing Manager
Patty Rodriguez, Hospital Inspection Program Manager
Robert Stephanopoulos, Enforcement Manager
Virginia Gerard, Probation Monitor
Terry Perry, Enforcement Technician
Justin Sotelo, Lead Administrative & Policy Analyst
Tara Welch, Legal Counsel, Department of Consumer Affairs (DCA)

Guests Present

Susie Aviles, Petitioner
Elizabeth Coronel, Co-Moderator, DCA, SOLID
Anahita Crawford, Deputy Attorney General (DAG), Office of the Attorney General,
Department of Justice (DOJ)
Brian Cronin, Chief of Animal Care and Control, San Bernardino County
Charis Fifield, Chief of Staff, VETCBD
Paul Hansbury, Lovingly and Legally Grown
Carrie Holmes, Deputy Director of Board and Bureau Relations, DCA
Aubrey Jacobsen, Legislative Analyst, DCA, Division of Legislative Affairs

Elyse Kent, DVM, Petitioner
David Kinley
Jeffrey Leacox, Greenberg Traurig
Ann Leitz, Court Reporter
Bonnie Lutz, Esq., Klinedinst
Judie Mancuso, Founder/Chief Executive Officer (CEO)/President, Social Compassion in
Legislation
Max Mikalonis, Legislative Advocate, K Street Consulting
Grant Miller, DVM, California Veterinary Medical Association (CVMA)
Ashita Mohandas, DOJ
Jolie Onodera, Department of Finance
Ken Pawlowski, DVM, CVMA
Bryce Penney, Television Specialist, DCA
Nickolaus Sackett, Social Compassion in Legislation
Mike Sanchez, Television Specialist, DCA
Tim Shu, DVM, Founder/CEO, VETCBD
Trisha St. Clair, Moderator, DCA, SOLID
Richard Sullivan, DVM, Multidisciplinary Advisory Committee
Jill Tucker, CEO, California Animal Welfare Association
Ed Washington, Administrative Law Judge (ALJ), Office of Administrative Hearings
Nicole Wordelman, Legislative Advocate, Precision Advocacy

2. Public Comment on Items Not on the Agenda

No public comments were received.

3. Update, Discussion, and Possible Action on 2019-2020 Legislation

A. Assembly Bill (AB) 2028 (Aguiar-Curry, 2020) State agencies: meetings

Ms. Sieferman reported that AB 2028 was amended on June 4, 2020, which addressed several of the prior concerns raised by the Board. She summarized the provisions of and improvements to the bill; however, she explained that there were some remaining restrictions and concerns with the bill.

Ms. Sieferman stated that staff is concerned that the bill's 48-hour posting requirement still limits the Board's ability to consider written public comments and other essential information prepared by outside parties. Ms. Sieferman provided examples of how that limitation could impact critical actions of the Board. She further explained that many documents prepared by outside parties, including petitions with handwritten notations are not ADA compliant and would take a considerable amount of resources to make them compliant for posting. She added that some documents may never be made compliant and, therefore, would not be allowed to be posted to the website, and the Board would not be able to discuss those documents. Lastly, Ms. Sieferman mentioned another provision that appears to prohibit the Board from removing materials from its website that may have been updated, revised, or corrected. She explained that having these earlier versions of materials on the website seemed impractical, confusing, and

could cause future website capacity issues. Board members discussed and concurred with these remaining restrictions and concerns shared by Ms. Sieferman.

- Dr. Cheryl Waterhouse moved and Ms. Jennifer Loredo seconded the motion to take an Oppose, Unless Amended position on AB 2028 and to communicate the remaining restrictions and concerns to the author in a letter. The motion carried 7-0.

B. Senate Bill (SB) SB 627 (Galgiani, 2019) Cannabis and cannabis products: medicinal use on an animal: veterinary medicine

Ms. Sieferman indicated that SB 627 was provided on the agenda in the event the bill was amended since the last Board meeting. However, she shared that it had not been amended and was still with the Assembly Appropriations Committee. She added that the Board had submitted its Support, If Amended letter, which explained the additional concerns raised by the Board; namely, requesting that medicinal cannabis for animals only be sold at medicinal dispensaries.

C. SB 1115 (Wilk, 2020) Commercial blood banks for animals: animal blood donors

Ms. Sieferman reported that SB 1115 was amended on May 20, 2020. She explained that the main amendment was the removal of the January 1 deadline for closed colonies to terminate or change their business operation – it was changed to three years after the date the California Department of Food and Agriculture (CDFA) has determined that the equivalent blood supply has been met. She added that the amendments also changed the data collection years to 2018-2019.

Ms. Sieferman reminded the Board that it had taken a Watch position on this bill. She added that the bill passed out of the Senate Appropriations Committee, despite the high fiscal impact that was assigned to it, and that it was now in the Assembly for referral.

Ms. Kathy Bowler indicated that she appreciated the amendments to the bill; however, she still had concerns about the availability of different types of blood products and cost, not just volume, and hoped that those details were still under consideration by the author.

Ms. Dianne Prado stated that she was glad the Board is watching this bill, and that items will need to be addressed, but that the interested parties will work out the details.

Dr. Waterhouse indicated that she shared the same concerns as Ms. Bowler. She asked whether community banks would be able to meet the future levels of demand and added that issue should be addressed in the bill.

Dr. Christina Bradbury shared similar concerns regarding types of blood products, blood types, and supply and demand. Ms. Loredo indicated that her concerns have been about supply and quality, and that she was glad the bill is still being worked on. Dr. Mark Nunez added that California's supply needs are currently not being met.

Dr. Noland stated that she agreed with all of the Board member statements. She also mentioned that she has always questioned what is not liked about closed colonies, and why those issues could not be addressed first, instead of addressing a new complex substitution. However, she concluded that she agreed with all comments, but that there are a number of issues that still need to be resolved. Dr. Waterhouse shared that she had posed that same question to the groups who were writing these bills, but that they did not want to address that issue.

Ms. Tara Welch noted that Section 12 of the bill, Food and Agricultural Code section 9269, subdivision (d) needs to be amended to authorize state or local agencies, in addition to law enforcement officers, with jurisdiction over any matter covered by the chapter access to those records, so that if a veterinarian or other registered professional of the Board becomes aware that there is a problem with respect to the blood banks, this Board could take action against the licensee after receiving records from CDFA. Ms. Sieferman stated that if the Board maintains its Watch position, that concern or all concerns could be raised with the author.

Dr. Noland asked that a letter be written to the author, expressing all of the Board's concerns, including the item raised by Ms. Welch. Ms. Sieferman indicated that she could write the letter, as long as she was provided with all of the identified concerns. The concerns identified were: availability of different types of blood products; current supply; future demands; cost; and, the proposed amendment to Food and Agricultural Code section 9269, subdivision (d).

Due to a technical issue, public comments regarding SB 1115 could not be provided at this time (however, public comments were provided under Agenda Item 3.D.)

D. SB 1347 (Galgiani, 2020) Veterinary medicine: authorized care and registration

Ms. Sieferman explained that SB 1347 is a bill that provides an exemption to licensure for shelter facilities. She stated that the Board had previously taken an Oppose position on the bill. She added that the bill was amended on May 22, 2020, to require shelter employees to follow written protocols by a veterinarian and require a veterinarian examination prior to shelter employees changing bandages or dressings and providing wound care. However, she explained that there is still no oversight of those employees or the facilities in the bill, so there is still some concern on what happens if a patient is harmed and the Board receives a complaint – those complaints would need to be closed as non-jurisdictional.

Ms. Sieferman added that CVMA provided some proposed amendments to the Assembly Business and Professions Committee consultant. Those amendments were shared with the Board and posted on the Board's website. She explained that those amendments would create a limited premises registration that would be solely for administering non-prescription vaccinations. Additionally, CVMA's amendments would provide Board oversight, establish a limited premises registration fee, require defined training to perform limited veterinary services, and require the limited veterinary premises to maintain clean and sanitary conditions, written records, and client and patient confidentiality. Ms. Sieferman explained that she does not see a high fiscal impact associated with this bill; however, it is contingent upon the volume that is anticipated and how the Board configures it.

Dr. Waterhouse stated that she liked the new version of the language, and that it had a much better concept. She asked about the potential fee associated with the registration, and if it had been estimated how many facilities would be in this position. Ms. Sieferman stated that it has been estimated that approximately 25% of animal shelters in California do not have a registration; however, that does not mean that they are all required to have a registration – it depends upon the services they are providing on site. She added that she has heard that there are approximately 30 shelters that should have a registration, but cannot get a registration because of their inability to get a managing licensee (MGL).

Dr. Nunez stated that there needs to be minimum standards for animal shelters, and there cannot be an excuse to go below minimum standards.

Dr. Bradbury stated that she was appreciative of the CVMA amendments. She explained that she has been on the fence with regard to this issue; however, she understands the importance and need for oversight. She added that she would be supportive of the bill with the new proposed amendments, but would not support the bill without the amendments.

Ms. Loreda stated that she would focus her concerns on lack of oversight, which was addressed in CVMA's proposed amendments. She explained that, in shelter medicine, one of the main reasons for high staff turnover is compassion fatigue. This is attributed to workload, lack of resources, and lack of oversight. She added that some of these employees are newer to the field, they are very passionate, and they are not exactly marketable. Ms. Loreda stated that some of the employees could be put in a position where they are asked to treat an animal where there is no VCPR, or no written protocol, and that puts them in a position to either break the law or potentially harm an animal. She added that this could also impact their ability to become licensed in the future. She concluded that it is not fair to put employees in that position, when there is not adequate oversight. Ms. Loreda stated that she liked the proposed CVMA amendments.

Ms. Bowler asked if the CVMA amendments would be in conflict with the Board's proposed regulations regarding shelters. Ms. Sieferman stated that she did not think the Board's proposed regulations would be in conflict with the CVMA amendments.

Dr. Noland next asked for public comment on all bills discussed by the Board.

Ms. Jill Tucker, CEO of California Animal Welfare Association, indicated that she was representing most of the public and private animal shelters in California and was providing comments in reference to SB 1347. She discussed working collaboratively on a limited liability permit that would allow and encourage veterinarians to help shelter animals by visiting shelter facilities and providing treatment for injuries and illnesses. She stated that the proposed amendments do not help shelter animals and create bureaucracy and layers of control over the use of over-the-counter vaccines and medication. She added that the Board's job is to oversee veterinary medicine, not shelter operations. Ms. Tucker explained that this proposed control over shelters is costly and an overstep of the Board's authority. She stated that the Board's website FAQs stated that shelters can provide vaccines without veterinarian oversight, and shelters have been operating under this permission, and no legal basis has been provided for changing that policy, as the underlying laws have not changed, and the Board has not been directed to do so.

She added that the policy was then changed, and shelters were told that it was unacceptable to vaccinate without permit. She concluded that the amendments do not incorporate stakeholder buy in, create a costly structure of oversight, and impose an unfunded mandate on shelters to comply. She added that they are very much opposed to CVMA's amendments, but are willing to work with the Board and CVMA on training and protocols for shelters.

Mr. Nickolaus Sackett of Social Compassion in Legislation thanked the Board for the discussion on SB 1115. He stated that his organization agrees with the prior statements regarding the availability of different types of blood products and giving state and local agencies access to documents. He also clarified that if community blood banks cannot meet demands, then the closed colonies will remain in business.

Ms. Nicole Wordelman, on behalf of San Bernardino County, shared strong support of SB 1347, as it is currently in print. She explained that San Bernardino County assisted in crafting the legislation, and while they appreciate the Board's work on the issue, they cannot support the proposed amendments. She added that they are greatly concerned that the proposed amendments create unfunded mandates for the County, which at this time, cannot be absorbed.

Ms. Judie Mancuso of Social Compassion in Legislation thanked the Board for taking a Watch position on SB 1115 and putting its letter together. She added that the Board's proposed amendments make a lot of sense. Ms. Mancuso stated that the shortage of blood supply is a concern today, and the intent of the bill is to increase blood supply, not make things worse. She also mentioned that the closed colony blood banks in California do not need to be selling out of state, if they cared about the supply of blood in California. She concluded by stating that they have done their due diligence and have spoken to everyone around the United States.

Dr. Noland thanked members of the public for their comments.

- Ms. Jennifer Loreda moved and Dr. Cheryl Waterhouse seconded the motion to take an Oppose, Unless Amended position on SB 1347, reflecting the amendments of CVMA. The motion carried 6-1, with Ms. Dianne Prado voting no.

4. Future Agenda Items

Dr. Noland indicated that the Board received a request for public hearing in response to the proposed regulatory action related to Animal Physical Rehabilitation (APR), and the Board would need to select a date for that hearing. The dates proposed were August 6, 7, 13, and 14, 2020, and Board members were polled on their availability. Ms. Sieferman indicated that she would poll Ms. Yanez via email and would then provide Board members with the date that works for the majority of the members.

The date of Thursday, August 13, 2020, was selected for the public hearing.

Ms. Welch mentioned that the Board would also need to discuss some revisions to the Duties of a Supervising Veterinarian regulatory proposal. She added that the Board would need to do this after August 3, 2020 (end of 45-day public comment period), and perhaps the Board could

discuss this item on the same day as the APR hearing. Ms. Sieferman indicated that she could discuss this with the Executive Committee, and they could decide whether they would like to discuss that item on the same day as the APR hearing or carry it over to the Board's October 2020 meeting.

No public comments were received.

5. Special Order of Business (Approximate Time 10:30 a.m.)

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

A. Petition for Reinstatement – Susie Del Castillo Aviles, Surrendered RVT Registration No. 6555

ALJ Washington presided over the petition for reinstatement. DAG Anahita Crawford updated and presented the case against Ms. Susie Aviles. Ms. Aviles represented herself and presented her petition for reinstatement. Ms. Aviles answered questions from the DAG and members of the Board. ALJ Washington closed the hearing.

B. Petition for Termination of Probation – Elyse Kent, DVM, License No. 7368

ALJ Washington presided over the petition for termination of probation. DAG Crawford updated and presented the case against Elyse Kent, DVM. Dr. Kent and her legal counsel, Bonnie Lutz, Esq., presented her petition for termination of probation. Dr. Kent answered questions from the DAG and members of the Board. ALJ Washington closed the hearing.

Open session recessed at 1:57 p.m.

6. 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 2:00 p.m.

Petition for Reinstatement – Susie Del Castillo Aviles, Surrendered RVT Registration No. 6555
The Board adopted a motion to grant the petition for reinstatement.

Petition for Termination of Probation – Elyse Kent, DVM, License No. 7368
The Board adopted a motion to grant the petition for termination of probation.

Closed Session adjourned at 2:40 p.m.

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

Open Session reconvened at 2:40 p.m.

Dr. Noland adjourned the meeting at 2:40 p.m.