

BACKGROUND PAPER FOR THE Veterinary Medical Board

Joint Sunset Review Oversight Hearing, March 3, 2021

**Assembly Committee on Business and Professions and the
Senate Committee on Business, Professions and Economic
Development**

IDENTIFIED ISSUES, BACKGROUND, AND RECOMMENDATIONS REGARDING THE VETERINARY MEDICAL BOARD

NOTE: This background paper was originally published in March of 2020 in anticipation of the Sunset Review Oversight Hearing of the Veterinary Medical Board. Due to the circumstances surrounding the COVID-19 global pandemic, Sunset Review for the Board was delayed into 2021. This version of the paper has been updated to reflect any changes or new issues that have been identified during this interim period.

BRIEF OVERVIEW OF THE VETERINARY MEDICAL BOARD

History and Function of the Veterinary Medical Board

The Veterinary Medical Board (Board) traces its origins back to 1893, originally established as the State Board of Veterinary Examiners. Since then, the Board has regulated the veterinary medical profession through many of its changes: from opening the first California veterinary college in 1894, to helping eradicate the Hog cholera in 1972, to the creation of the animal health technician profession (now titled Registered Veterinary Technician) in 1975.

Today, the Board licenses and regulates Veterinarians, Registered Veterinary Technicians (RVTs), Veterinary Assistant Controlled Substances Permit (VACSP) holders, veterinary schools, and veterinary premises. The Board derives its authority through the enforcement of the Veterinary Medicine Practice Act (Practice Act).

The veterinary profession provides health care to many different types of animals, including pets such as dogs, cats, rabbits, birds, hamsters and snakes, to agricultural livestock such as cattle, poultry, fish, goats, pigs, and horses. Similarly to human medicine, there are recognized specialties within the veterinary profession: surgery, internal medicine, microbiology, pathology and more.

Licensed practitioners of veterinary medicine can operate in a range of environments. They can work in private clinical practice, or engage in public service as wildlife health specialists, agricultural inspectors, or disease control workers.

With pet ownership on the rise in the United States, the veterinary profession also offers a critical consumer protection role to Californians and their animal companions. The American Veterinary Medical Association (AVMA) indicates that in 2016, more than half of Americans, or 57 percent, identified as pet owners. As such, veterinary care continues to be an important part of pet ownership, with 83 percent of dog owners and 54 percent of cat owners making at least one visit to the veterinarian per year—bringing the total spending on veterinary care at an estimated \$27.8 billion during 2016. Consequently, the pet-owning public expects that veterinary professionals be qualified, competent, and trained to provide these important services.

The Board protects the California public from the incompetent, unprofessional, and unlicensed practice of veterinary medicine. The Board requires adherence to strict licensure requirements for California Veterinarians, RVTs, and VACSP holders, and ensures that each licensee possesses the level of competence required to perform animal health care services. The Board further protects the public by investigating complaints – and if violations are found, take disciplinary actions against licensees.

The Board’s current mission statement is as follows:

“The mission of the Veterinary Medical Board (VMB) is to protect consumers and animals by regulating licensees, promoting professional standards, and diligent enforcement of the Veterinary Medicine Practice Act.”

Board Membership and Committees

The Board is composed of eight members: four licensed Veterinarians, one RVT, and three public members. The Governor appoints the four Veterinarian members, one RVT member, and one public member. The Senate Committee on Rules and the Speaker of the Assembly each appoint a public member. The Veterinarian and RVT members of the Board must be licensed by the Board and have engaged in the practice of veterinary medicine for a period of at least five years. Each Board member may serve a maximum of two consecutive four-year terms.

The current composition of the Board is as follows:

Name and Bio	Term Expiration Date	Appointment Type	Appointing Authority
<p style="text-align: center;">Mark T. Nunez, DVM Board President</p> <p>Dr. Nunez of Burbank was appointed to the Board in August, 2013. Dr. Nunez has been an Associate Veterinarian at the Veterinary Care Center since 2012. He was practice</p>	6-1-2023	Licensee	Governor

<p>owner and Veterinarian at Animal Medical Center Inc., Van Nuys from 2006 to 2012, and held multiple positions at the Veterinary Centers of America (VCA), including Medical Director and Veterinarian at VCA Animal Hospital, Burbank from 2002 to 2005, and VCA Regional Medical Director from 1999 to 2001. Dr. Nunez was an Associate Veterinarian at the Animal Medical Center, Inc., Van Nuys from 1994 to 1999, and at Dill Veterinary Hospital from 1993 to 1994. He earned a Doctor of Veterinary Medicine degree from the University of California, Davis.</p>			
<p style="text-align: center;">Kathy Bowler Board Vice President</p> <p>Ms. Bowler of Fair Oaks was appointed to the Board in August, 2014. Ms. Bowler has been a political consultant at the K. Bowler Group since 2009. She was the California director for Gore 2000 in 2000, and executive director of the California Democratic Party from 1995 to 2009. Ms. Bowler was chief executive officer at Statewide Information Systems from 1987 to 1993, and consultant for California State Senator David Roberti from 1985 to 1987.</p>	6-1-2022	Public	Governor
<p style="text-align: center;">Christina Bradbury, DVM</p> <p>Dr. Bradbury of Meadow Vista was appointed to the Board in 2018. Dr. Bradbury has been an internist and senior veterinary associate at Vista Veterinary Specialists since 2011. She was an internist at Loomis Basin Veterinary Clinic from 2010 to 2011, a small animal internal medicine resident at Colorado State University Veterinary Teaching Hospital from 2007 to 2010, and a small animal rotating intern at Texas A&M College of Veterinary Medicine and Biomedical Sciences, Veterinary Medical Teaching Hospital from 2006 to 2007. Dr. Bradbury is a member of the Sacramento Valley Veterinary Medical Association and the</p>	6-1-2022	Licensee	Governor

<p>American Veterinary Medical Association. She earned a Doctor of Veterinary Medicine degree from the University of California, Davis School of Veterinary Medicine and a Master of Science degree in clinical science from the Colorado State University, College of Veterinary Medicine and Biomedical Sciences.</p>			
<p>Jaymie Noland, DVM</p> <p>Dr. Noland of Los Osos was appointed to the Board in September, 2015. Dr. Noland has been head of the California Polytechnic State University, San Luis Obispo Animal Science Department since 2013, where she has been an animal science professor since 1998. She has been an independent thoroughbred breeder consultant since 2008. Dr. Noland was an associate veterinarian at the Oak Park Veterinary Clinic from 1996 to 2000, and at the South County Veterinary Hospital from 1991 to 1996, and was co-owner and operator at Cal-Tex Feed Yard from 1977 to 1988.</p>	<p>6-1-2021</p>	<p>Licensee</p>	<p>Governor</p>
<p>Jennifer Loredo, RVT</p> <p>Ms. Loredo of Riverside was appointed to the Board in September, 2014. Ms. Loredo has been the supervising Registered Veterinary Technician (RVT) at the Riverside County Department of Animal Services since 2005. She was an RVT at Advanced Critical Care and Internal Medicine from 2004 to 2005 and at the Animal Hospital of Walnut from 2001 to 2004. Ms. Loredo was a patient relations representative at Magan Medical Clinic from 1997 to 2003.</p>	<p>6-1-2022</p>	<p>Licensee</p>	<p>Governor</p>
<p>Alana Yanez</p> <p>Ms. Yanez was appointed to the Board in July, 2017. She began her career as an Animal Care Technician for the Santa Cruz SPCA and a Veterinary Technician for a private practice veterinary hospital. Ms. Yanez then worked as a Field Deputy for</p>	<p>6-1-2020</p>	<p>Public</p>	<p>Senate</p>

<p>State Senator Kevin de Leon for 5 years. She then worked for the Humane Society of the United States as the Manager of the Pets for Life – Los Angeles. In April of 2012, Ms. Yanez was appointed by Mayor Villaraigosa to become a Commissioner for Los Angeles Animal Services, where she served until 2016.</p>			
<p align="center">Dianne Prado</p> <p>Ms. Prado was appointed to the Board in June, 2019. Ms. Prado is the founder and Executive Director of the Housing Equality & Advocacy Resource Team (HEART L.A.). Ms. Prado began her career as a staff attorney with the Eviction Defense Network. She then joined the Inner City Law Center in 2012 as a Staff Attorney with the Homelessness Prevention Project. Ms. Prado then joined the Slum Housing Litigation unit and became a Supervising Attorney. She is a graduate of Western State University College of Law and holds her Bachelor of Arts in Criminology, Law, & Society from the University of California, Irvine.</p>	<p align="center">6-1-2022</p>	<p align="center">Public</p>	<p align="center">Assembly</p>
<p align="center">Maria Preciosa S. Solacito, DVM</p> <p>Dr. Solacito of Palmdale was appointed to the Board in August, 2020. Dr. Solacito has been Senior Veterinarian at the County of Los Angeles Department of Animal Care and Control since 2013. She was a Shelter Veterinarian at the County of Los Angeles Department of Animal Care and Control, Lancaster from 2008 to 2012. Dr. Solacito is a member of the Southern California Veterinary Medical Association, Southern California Filipino Veterinary Medical Association, Association for Animal Welfare Advancement, California Animal Welfare Association and the Philippine Veterinary Medical Association. She earned a Doctor of Veterinary Medicine degree</p>	<p align="center">6-1-2024</p>	<p align="center">Licensee</p>	<p align="center">Governor</p>

from the University of the Philippines, College of Veterinary Medicine.			
--	--	--	--

The Board has two statutorily created committees: the Diversion Evaluation Committee (DEC) and the Multidisciplinary Advisory Committee (MDC).

The DEC was created in 1982 to assist the Board in identifying and rehabilitating Veterinarians and RVTs suffering from abuse of dangerous drugs or alcohol. The DEC works to treat licensees, with the goal of returning them to the practice of veterinary medicine in a manner that will not endanger the public or animal welfare. The DEC consists of five members comprised of three Veterinarians and two public members. Each DEC member is required to have experience or knowledge in the evaluation or management of persons with substance abuse.

The MDC was created in 2009 to assist, advise, and make recommendations for the implementation of rules and regulations necessary to ensure proper administration and enforcement of the Practice Act and to assist the Board in its examination, licensure, and registration programs. The MDC consists of nine members comprised of five licensed Veterinarians, three registered veterinary technicians, and one public member. One veterinarian and one RVT must be Board members.

The Board and the MDC also often create subcommittees to focus policy discussions and research on a variety of specialized topics. These two-member committees can issue recommendations to the MDC and the full Board on how to address current or emerging issues. The Board reports using the following committees:

- Executive Committee
- Complaint Process Audit Subcommittee
- 2020 Strategic Plan Committee
- Tiered Premises Registration Subcommittee
- Telemedicine Subcommittee
- Foreign RVT Pathway Subcommittee
- Inspections Program Subcommittee

The Board notes that the following committees completed their objectives and are no longer active:

- Uniform Standards for Substance Abusing Licensees Subcommittee
- Corporate Practice Subcommittee
- Cannabis Discussion Guidelines Subcommittee

Fiscal, Fund, and Fee Analysis

As a regulatory board under the umbrella of the Department of Consumer Affairs (DCA), the Board is entirely special funded and does not receive funds from the state's General Fund. The Board generates revenue from the licensing of Veterinarians, RVTs, veterinary premises, and their corresponding biennial and annual renewal fees. The Board also draws revenue from the VACSP

program, which was first implemented by the Board in 2016. Fee amounts are generally set in statutes, not to exceed a specified maximum. The Board may decide to increase the fees up to its statutory caps through regulations.

Since FY 2015/16, the Board has been facing a significant budget deficit, with expenses consistently growing. According to the Board, expenditures have risen from \$4.5M in FY 2015/16 to \$5.9M in FY 2019/20 and reached \$6.6M in FY 2020/21. At the same time, the Board's revenue has not been able to keep pace.

There are several factors contributing to the Board's declining fund condition:

- *Increase in Attorney General Fees.* In 2019, the Office of the Attorney General notified licensing boards of an abrupt increase in billing rates for client services. New rates include a 30% increase in attorney services and 71% increase in paralegal services.
- *The VACSP program.* Launched in 2016 as part of a new legislative mandate, the Board reports that this program is not meeting revenue expectations. Issuing these permits is resource intensive, and only accounts for 5% of the total revenue. The VACSP program is discussed in more detail in a later section of this report.
- *Elimination of the California RVT examination.* After determining that the California veterinary technician exam did not meet the statutory requirement to test animal health care tasks limited to California because there currently are no animal health care tasks performed by only California RVTs, the Board opted to eliminate administration of the California RVT examination. Although the Board is saving \$50,000 in administration costs, the elimination has reduced revenue streams by \$180,000 annually.
- *General increase in operational costs.* The Board is experiencing general cost increases to cover in personnel services (wages and benefits), increased pro-rata costs paid to the Department of Consumer Affairs, compensation for Subject Matter Experts and Inspectors, and implementation of various legislative mandates.

To address this budget shortfall and stabilize its fund conditions, the Board voted in 2017 to increase its fees; those increases were enacted in 2018. Unfortunately, the Board continued to face a notable structural deficit which threatened to leave the Board financially insolvent.

Existing statute mandates that the Board operate with not less than three months reserve and not more than ten. With the Board not meeting these parameters, and with a projected insolvency, the Board voted to increase fees again, this time to their statutory maximums. These emergency fee increases went into effect in January 2020. Among other fees, these increases raised the initial and renewal fees for Veterinarians from \$350 to \$500 and raised the initial and renewal fees for RVTs from \$160 to \$350.

With the most recent fee increase, the Board projects sustainability of its fund through FY 2022/23. However, the Board has now reached the statutory maximum for all fees, and will need statutory approval to raise fee caps. According DCA projections, the Board's fund will begin to decrease in

FY 2023/24, necessitating fee increases shortly thereafter. The Board has indicated that it would like to discuss setting a new statutory minimum fee for premises registrations and veterinarian licenses in order to cover revenue generated by the recent RVT increase. Recognizing the disproportionately affected RVT profession, the Board would like to lower RVT fees if the revenue can be generated by other means.

Budget Change Proposals

Since the last Sunset Review, the Board submitted the following Budget Change Proposals (BCPs) and were granted the authority to hire the additional following positions:

- FY 2016/17: Conversion of four limited-term positions to permanent full time positions with two year limited term funding to implement the VACSP program.
- FY 2018/19: Two of the four limited-term positions were made permanent, and the Board received additional authorization to fund increased AG/OAH costs incurred due to the new program.
- FY 2019/20: Three positions as well as budget authority to cover operating expenses and equipment costs for new workload associated with the requirements of SB 1480 (Hill, Chapter 571, Statutes of 2018).
- FY 2020/21: Six three-year limited term positions to support the Board's enforcement operations.

Staffing

The Board has statutory authority to appoint its own Executive Officer (EO), who is tasked with performing duties as delegated by the Board. The current EO was appointed into the position on July 2, 2018, following the promotion of the previous EO to another state agency.

To support its mission, the Board has an additional 29.7 authorized employee positions and 18 contracted licensees (Veterinarians and RVTs) who serve as Inspectors and Enforcement Subject Matter Experts. Board staff is allocated within 3 teams: the Administration, Licensing and Examinations team; the Inspection team; and the Enforcement team.

Since the last Sunset Review, the Board was also granted several increases in its budget to provide additional staff resources to implement the VACSP program, as well as meet the statutorily mandated hospital inspection goals. In addition, the Board received three-year limited term funding of \$898,000 in FY 2020/21 and \$850,000 in FY 2021/22 and FY 2022/23 to bolster its Enforcement operations, which included 6 limited term positions to address the backlog of complaints. These positions were requested to be limited term due to the prior uncertainty of the Board's fund condition and was the maximum number of positions for which the Board could budget. According to the Board, all positions have been filled.

Licensing & Examination

The veterinary profession is experiencing consistent growth; since the Board’s last Sunset Review in 2016, the Veterinarian licensee population has grown from 12,068 to 12,847. Similarly, the RVT licensee population has grown from 6,379 to 7,191. The Board also requires registration of all veterinary premises – locations where veterinary medicine, dentistry, or surgery is being practiced. Since 2016, the number of premise registrations issued have modestly grown from 3,431 to 3,500.

Veterinary Medical Board: Licensee Population				
	FY 2015/2016	FY 2016/2017	FY 2017/2018	FY 2018/2019
Veterinarian	12,068	12,441	12,700	12,847
RVT	6,379	6,626	6,875	7,191
Premises	3,431	3,477	3,488	3,500

Veterinarians

To qualify for licensure as a Veterinarian, an individual must graduate from an accredited postsecondary institution recognized by the Board or by the AVMA. The Board does accept non-AVMA education, but those candidates must provide a completion certificate from either the Program for the Assessment of Veterinary Education Equivalence (PAVE) through the AAVSB or the Educational Commission for Foreign Veterinary Graduates (ECFVG) through the AVMA. In addition, candidates must pass three examinations: The Veterinarian California State Board Exam (CSBE), the California Veterinary Law Exam (CVLE)¹ and the North American Veterinary Licensing Examination (NAVLE). The CSBE and CVLE are administered by the Board, and the NAVLE is administered by the International Council for Veterinary Assessment (ICVA). The ICVA is a national organization that provides national veterinary assessments services, and designs its tests by collaborating with stakeholders in academia, licensing boards, and practicing veterinarians.

After conducting a review of the content of the CSBE and identifying redundancies with the NAVLE, the Board will be seeking statutory changes to remove the CSBE from licensure requirement.

RVTs

To qualify for registration as an RVT, two pathways to licensure are available. The first requires graduation from an AVMA accredited RVT program or a California Board-approved RVT program. The second pathway, also known as the “alternate route,” requires candidates to complete a combination of 20 semester units, or 30 quarter units or 300 hours of specific education and 4,416 hours of directed clinical practice experience completed in no less than 24 months under the

¹ For Non-California graduates only.

direct supervision of a California licensed veterinarian. Upon completion of either pathway, candidates must then take a national examination.

The testing requirements for RVT registration have changed since the Board's last Sunset Review. Prior to 2019, candidates for a veterinary technician registration were required to pass two examinations: the California Veterinary Technician Examination (CVTE) and the Veterinary Technician National Examination (VTNE). After careful consideration of both RVT examinations, the Board determined that the CVTE did not test any animal health care tasks unique to California, as statutorily required, and the VTNE adequately tested the clinical knowledge used to determine minimal competency for California RVTs. Accordingly, the Board voted to discontinue the administration of the CVTE. As of April 2019, only the VTNE is required for registration as an RVT.

VACSPs

In 2013, the Legislature mandated the Board create a Veterinary Assistant Controlled Substance Permit (VACSP). Holders of this permit are able to perform the functions of a Veterinary Assistant, but are also approved by the Board to obtain and administer controlled substances. VACSP permit holders must be at least 18 years of age and must not have been convicted of a state or federal felony controlled substance violation. The Board conducts a background check to verify VACSP requirements are met. Once the VACSP has been issued, the permit holder is required to establish a supervisory relationship with a licensed veterinarian.

In 2016, the Board began issuing VACSPs, with 4,937 permit holders to date. The Board's goal is to process an initial application within four weeks. However, the Board is currently unable to meet this target. The issue of licensing timelines is detailed in a later section of this paper.

School Approval

The Board has authority to approve schools offering a curriculum for training RVTs. Private veterinary technology programs must be approved by both the Board and the Bureau of Private Postsecondary Education. In addition, all schools accredited by AVMA are deemed by the Board to have met the minimum requirements for approved schools. All other veterinary colleges must have academic standards equivalent to schools accredited by the AVMA in order to be recognized by the Board.

School approval is for a period of no more than four years and must be renewed. The Board is in the process of developing guidelines for individual school approval and pursuing regulations to establish an application fee for the program.

Continuing Education

Existing law requires veterinarians and RVTs to complete continuing education courses in order to renew their licenses. Veterinarians are required to complete 36 hours of continuing education every two years, and RVTs are required to complete 20 hours of continuing education every two

years. Continuing education must be obtained in subjects related to the practice of veterinary medicine and/or veterinary technology. The continuing education courses must be consistent with current standards and practices beyond the initial academic studies required for initial licensure or registration.

Beginning January 1, 2018, a veterinarian who renews their license must complete a minimum of one credit hour of continuing education on the judicious use of medically important antimicrobial drugs, as defined, every four years as part of the continuing education requirement.

Due to budget limitations, the Board does not have a comprehensive audit program to guarantee that licensees are completing the CE requirements – but the Board reports that is currently developing a CE audit process to be able to audit a percentage of its licensee population every year, and hopes to have the program operational in 2021.

Enforcement

The Board's Enforcement Unit protects consumers by investigating complaints received, prosecuting violations of the Practice Act and unlicensed veterinary activity, and monitoring licensee probationers.

Since its last Sunset Review, the Board received 5,055 complaints. Subsequent investigations have led to 107 formal accusations filed through the Office of the Attorney General, the revocation or surrender of 63 licenses, and 118 licenses placed on probation.

In addition, the Board has issued 105 citations. Cite and fine is generally used against unlicensed practitioners of veterinary medicine, as well as licensees and registrants for offenses in which formal discipline may not be warranted. Such violations include failure to update an address of record or minor medical record-keeping violations.

The Board contracts with Maximus Inc. to provide licensees with access to its Diversion Program. The program aims to identify and rehabilitate licensed veterinary professionals who suffer from substance addiction, including drugs and alcohol. In FY 2016/17, there were 6 new participants in the Board's diversion program. There have been no additional participants since. There is currently one participant enrolled in the Diversion Program.

In addition to Enforcement activities related to licensees, the Board also has authority to conduct inspections on any premises where veterinary medicine, dentistry or surgery is being practiced. Through the Board's contracted inspectors, 42 standards are used to inspect fixed premises, 16 standards for mobile premises, and 14 standards for vaccine clinics. Inspections are generally random and entirely unannounced, and may be triggered by complaints alleging violations of the Practice Act.

Cost Recovery and Restitution

Current law authorizes the Board to request fee recovery from any licensee found guilty of violation of the licensing act to pay for the reasonable costs of the investigation and enforcement

of their case. Cost recovery is a standard term and condition specified in the Board’s disciplinary guidelines for all proposed decisions and stipulations.

There is no specific amount of cost recovery ordered for revocations, surrenders, and probationers, as each discipline case has its own amount of cost recovery ordered depending on the investigation and prosecution costs incurred. According to the Board, over the prior four fiscal years, the Board has ordered cost recovery an average of 28 times per year, with each order averaging \$6,490. A fiscal overview of the Board’s cost recovery program is available below:

Cost Recovery (list dollars in thousands)				
	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19
Total Enforcement Expenditures	\$2,054	\$2,558	\$2,313	\$2,443
Potential Cases for Recovery *	34	28	26	25
Cases Recovery Ordered	34	28	26	25
Amount of Cost Recovery Ordered	\$251	\$110	\$161	\$203
Amount Collected	\$222	\$204	\$264	\$110
* “Potential Cases for Recovery” are those cases in which disciplinary action has been taken based on violation of the license practice act.				

PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS

The Board was last reviewed by the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development (the Committees) in 2016. At that time, the Committees identified 12 issues for discussion. Below are prior issues raised by the Committees in the Background Paper of 2016, the Committees’ recommendations, and the Board’s responses to how the issues or recommendations were addressed by the Board.

Prior Issue #1: (BreEZe) The Committees expressed concerns over implementation difficulties with BreEZe. The Committees also requested additional information on potential costs related the platform. The Board reports that is has now fully transitioned and integrated into BreEZe, and that although some implementation challenges remain, the Board is working closely with DCA to identify design improvements that will streamline licensing and enforcement processes. The Board lists \$520,000 in anticipated cost in FY 2017/18 through FY 2018/19 associated with BreEZe maintenance costs.

Prior Issue #2: (RVT Issues) The Committees stated that RVTs represent an important part of animal care services, and that the Board and the MDC should provide more attention to RVT-related policy issues. In response, the Board has enumerated the number of RVT-focused actions and regulatory packages it has or is currently working on. These include eliminating the RVT state exam, expanding the RVT Alternate Route to licensure, and expanding RVT animal health care tasks. In addition, the Board notes that Board meetings have a standing RVT item on all of its agendas to ensure RVT issues are discussed.

Prior Issue #3: (RVT Law Exam Costs) The Committees asked the Board to consider solutions to lower costs to licensure for RVT candidates, including converting the California RVT exam into a mail out examination. As discussed earlier in this report, after careful analysis of the California RVT examination, the existing statute, the occupational analysis, an analysis from AAVSB, and input from stakeholders, the Board approved eliminating the administration of the RVT exam at its April 2019 Board meeting.

Prior Issue #4: (University Licensure) The Legislature amended statutes to create a University License, issued to veterinarians who are both employed by and who engage in the practice of veterinary medicine in a California university. The Board reports having fully implemented Business and Professions Code (BPC) Section 4848.1 and began issuing university licenses in FY 2017/18.

Prior Issue #5: (Delinquent Registration Status) The Committees recommended that premise registrations be cancelled by the Board after five years in a delinquent status, as consistent with other license types maintained by the Board. The change was enacted through the Board's Sunset legislation.

Prior Issue #6: (Compounding of Drugs) The Committees recommended that the Board work with the Board of Pharmacy to grant limited authority for veterinarians to compound drugs. The Board's Sunset legislation enacted the change, and the Board began the rulemaking process on the issue. However, during its review process, the package was pulled back for additional review in October of 2019. The Board made changes to the regulatory proposal at its October 22, 2020 meeting to address public recommendations; the Board is submitting its final rulemaking package for review and processing.

Prior Issue #7: (Animal Rehabilitation) The Committees requested that a Task Force be created to explore the issue of Animal Physical Rehabilitation services. This Task Force would discuss the scope of services, the level of veterinary supervision, and minimum education standards necessary to provide Animal Physical Rehabilitation, and provide recommendations to the Board. In response to this request, the Board convened the Task Force, developed a set of recommendations, and promulgated regulation on Animal Physical Rehabilitation in 2017. The Board made changes to the proposed regulation at its October 22, 2020 meeting to address public recommendations; the Board is submitting its final rulemaking package for review and processing.

Prior Issue #8: (Animal Injuries at Rodeo Events) The Committees inquired about requiring veterinarian presence at rodeo events, and whether an RVT can provide care to injured animals at such events. The Board is clarifying through regulatory amendments that an RVT may provide lifesaving aid or emergency treatment to an animal patient without a Veterinarian present if the RVT makes direct communication with a Veterinarian or in accordance with written instructions established by the supervising Veterinarian or Veterinarian responsible for the rodeo or event. In addition, the Board has heard concerns from the public over rodeo animal injuries – however, the Board does not believe that it has statutory oversight jurisdiction over these events.

Prior Issue #9: (Use of Antimicrobial Drugs) The Committees inquired if the Board had the necessary resources to implement legislation regarding the prescription of medically important

antimicrobial drugs to livestock, and the requirement for veterinarians to complete continuing education courses related to these antimicrobial drugs. The Board reports that it worked with the California Department of Food and Agriculture to publish antimicrobial stewardship guidelines and best practices in 2019. In order to implement the new continuing education (CE) requirement, the Board included information in all veterinarian renewal notices and posted additional information on its website. Currently, licensees certify that they have complied with the CE requirement.

Prior Issue #10: (Increased Inspection of Veterinary Premises) The Committees stated that the Board should continue its effort to meet its mandate to inspect at least 20% of veterinary practices on an annual basis. The Board reports that given its fund condition, the increase in premises locations, and the increase in complaint related inspections, the Board may struggle to support the mandate. The Board was approved for three additional positions in FY 2019/20 through the budget process to address the issue.

Prior Issue #11: (Formal discipline is still taking more than two years) The Committees requested that the Board develop strategies to decrease the timeframe for areas of the disciplinary process. In response to this request, the Board implemented a start-to-finish investigation model, in which a single enforcement analyst performs both the complaint investigation and disciplinary process. In addition, the Board reports working with DCA's Organizational Change Management team to examine and improve existing enforcement procedures. The Board is also reporting working closely with the Office of the Attorney General to reduce enforcement timelines.

Prior Issue #12 (Should the Veterinary Medical Board be Continued?) The sunset repeal date for the Board was extended by four years.

CURRENT SUNSET REVIEW ISSUES FOR THE CALIFORNIA VETERINARY MEDICAL BOARD

BOARD ADMINISTRATION ISSUES

ISSUE #1: (FEE INCREASES) The Board has levied multiple fee increases over the years, reaching their legislative statutory maximums. Should the statutory fee caps be raised again?

Background: The Board is a special funded entity, drawing revenues primarily from licensing, renewal, and examination fees for Veterinarians, RVTs, and VACSP holders. The Board does not receive revenue from the state's General Fund.

The Board enacted incremental fee increases in 2009, 2012, 2018, and most recently raised fees again to their statutory caps in 2020 via emergency regulations. According to the Board, the fee increases implemented through 2012 were necessary to cover basic operational costs such as staff salaries, wages, benefits and office rent, as well as staff hiring to support the Board's functions.

In 2018, the Board adopted emergency regulations to raise fees and correct a structural budget imbalance caused by increased costs in personnel services, increased pro-rata costs paid to the

DCA, compensation for Subject Matter Experts and Inspectors, and implementation of additional legislative mandates. The fees were set based on a third-party audit commissioned by the Board, which concluded that not raising fees would threaten the Board's long-term sustainability and ability to execute its mission.

In 2019, additional and unexpected cost pressures further degraded the Board's fund condition. First, the Office of the Attorney General notified licensing boards of a significant rate increase, such as a 30% increase in attorney services and a 71% increase in paralegal services. Second, the elimination of the RVT state examination led to a notable decrease in the Board's revenues. Third, the VACSP program - which was enacted in 2016 to allow veterinary assistants to obtain or administer controlled substances - is not meeting revenue expectations. Under these conditions the Board was projected to become financially insolvent for FY 2020/21. In response to these budget pressures, the Board implemented a new round of emergency regulations to raise renewal, licensing and delinquency fees to their statutory maximums, which went into effect in 2020.

For Veterinarians, these increases raised the initial and renewal fees from \$350 to \$500; increasing the examination eligibility review fee from \$150 to \$350; increasing the state board examination from \$235 to \$350; and increasing the temporary license fee from \$175 to \$250.

For RVTs, this included increasing initial and renewal fees from \$160 to \$350 and increasing the examination eligibility review fee from \$150 to \$350. The Board also increased university licensing fees, raising the application filing fee from \$125 to \$350 and raising both the initial licensing and renewal fee from \$290 to \$500.

During the regulatory public comment period, stakeholder groups representing various segments of the veterinary medical profession have expressed significant concerns over these continued fee increases. While some advocates recognize the Board's need to cover operational costs, they note that the fees are growing more burdensome to all veterinary medical professionals. Examples provided point out that new veterinarians paid \$735 in fees for the exam application, the cost of the exam, and the fee to apply for the initial license. The new fees increased the total to \$1,200 - nearly double the past fee amount. Stakeholders note particular concerns that the new fees have disproportionately affected RVTs and new graduates entering the profession.

With the most recent fee increases, the Board projects sustainability through FY 2022/23. However, the Fund will begin to decrease in FY 2023/24, and the Board will likely need to increase fees shortly thereafter.

The Board's current fund condition chart, which includes projections through FY 2025/26, is included below:

Fund Condition Chart								
(Dollars in Thousands)	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25	FY 2025/26
Beginning Balance	\$1,754	\$2,090	\$2,439	\$3,170	\$3,651	\$3,931	\$4,001	\$3,851
Revenues & Transfers	\$5,509	\$6,347	\$7,708	\$7,713	\$7,717	\$7,718	\$7,716	\$7,710
Total Resources	\$7,254	\$8,437	\$10,147	\$10,883	\$11,368	\$11,649	\$11,717	\$11,561
Expenditures	\$5,164	\$5,998	\$6,977	\$7,232	\$7,437	\$7,648	\$7,866	\$8,090
Fund Balance	\$2,090	\$2,439	\$3,170	\$3,651	\$3,931	\$4,001	\$3,851	\$3,471
Months in Reserve	4.2	4.2	5.3	5.9	6.2	6.1	5.7	5.0

It is important to note that the Board has reached the statutory maximum for its fees and cannot further increase them without approval from the legislature. Thus, to make incremental increases through regulation to sustain long term fund viability, the Board is requesting that all statutory fee caps be increased, except for the RVT-related fees.

The Board's fee schedule is included below:

Fee Schedule				
Fee		Current Fee Amount	Statutory Limit	% of Total Revenue
Veterinarians	Application Eligibility Review	\$350	\$350	2.4%
	California State Board Examination	\$350	\$350	3.2%
	Veterinary Law Examination	\$100	\$100	3.8%
	Initial License Fee (1 year or more)	\$500	\$500	4.6%
	Initial License Fee (less than 1 year)	-	\$250	0.0%
	Biennial Renewal Fee	\$500	\$500	40.7%
	Delinquency Fee	\$35	\$50	0.1%
	Temporary License	\$250	\$250	0.3%
University	Application Fee	\$350	\$350	0.1%
	Initial License Fee	\$500	\$500	0.1%
	Biennial Renewal	\$500	\$500	0.1%
Premises	Initial Premises Registration	\$400	\$400	1.5%
	Annual Premises Renewal	\$400	\$400	18.7%
	Delinquency Fee	\$35	\$50	0.1%

Registered Vet. Techs	Application Eligibility Review	\$350	\$350	2.8%
	State Examination	\$200	\$300	3.8%
	Initial Registration (1 year or more)	\$350	\$350	1.9%
	Initial Registration (less than 1 year)	-	\$175	-
	Biennial Renewal Fee	\$350	\$350	10.5%
	Delinquency Fee	\$35	\$50	0.1%
VACSP	Application Fee	\$50	\$100	2.0%
	Initial Fee	\$50	-	2.0%
	Biennial Renewal	\$50	\$50	0.7%
	Delinquency Fee	\$25	\$25	0.0%

The Board acknowledges that the recent fee increase was particularly burdensome for the RVT profession. As such, the Board is requesting to work with the Committees to temporarily lower the statutory fee caps for the RVT profession while simultaneously establishing higher statutory minimum fees for premises registrations and/or Veterinarians. The Board states that this approach would enable the Board to maintain a sustainable revenue source while decreasing the financial burden for the RVT profession.

Staff Recommendation:

The Board should describe its long-term budget sustainability plan and update the Committees on the Board's budget outlook. The Board should continue to work with the Committees on its request to increase the Board's fee schedule caps and determine the best approach to balance the Board's budgetary needs while minimizing increased financial burden placed on veterinary licensees.

ISSUE #2: (RVT ISSUES) Does the Board have sufficient representation of the RVT profession, and are RVT policy issues appropriately addressed?

Background: RVTs are an essential part of the veterinary workforce, performing critical support tasks such as drawing blood to run laboratory tests, operating radiographic equipment, or administering medication. Under the direct supervision of a Veterinarian, an RVT is also able to suture skin, extract teeth, apply casts, or administer anesthesia.

As an increasingly important part of providing animal care, the RVT profession has been steadily growing over the years - from 6,379 RVT licensees in FY 2015/16 to 7,191 in FY 2018/19. But representatives of the profession contend that while RVTs are growing in size, their representation on the Board is not keeping pace. Since 2010, out of the eight board members appointed on the board, only one must be a licensed RVT, appointed by the Governor. Members of the RVT profession have expressed that under this current structure and composition, the Board is unable to adequately address RVT policy issues.

Inclusion of RVTs under the Board began in 1975. At the time, the profession was designated as Animal Health Technician (AHT), and was created by the Legislature in response to the need to

create a trained and state-credentialed workforce within veterinary medicine. To ensure proper regulation of this new profession, the Legislature created the AHT Examining Committee (AHTEC) as an independent committee, tasked with assisting the Board with issues related to AHTs.

In 1994, the title “Animal Health Technician” was renamed Registered Veterinary Technician, and AHTEC was accordingly renamed the Registered Veterinary Technician Examining Committee (RVTEC). In 1998, RVTEC was eliminated as an independent committee, and moved under the administration of the Board as the Registered Veterinary Technician Committee (RVTC). Under this new model, the RVTC was provided statutory authority to advise the Board on issues pertaining to the practice of RVTs, including RVT education, examinations, and continuing education.

In 2010, the Legislature added an RVT representative to the Board for the first time, increasing the Board composition to a total of eight members: four veterinarians, one RVT and three public members. At the same time, the RVTC was eliminated upon the appointment of the RVT board member.

The Board’s MDC, which has been established by the Legislature to assist, advise, and make recommendations for the implementation of rules and regulations to the Board, is made of four licensed veterinarians, two RVTs, and one public member. The MDC also includes one veterinarian member of the Board and RVT member of the Board.

Since its last Sunset Review, the Board has taken substantive actions related to the RVT profession. This includes completing a full review of the RVT examination requirements, and the elimination of the RVT state examination, which lowered RVT overall licensing costs. The Board is also currently moving several RVT-related regulatory packages, including a proposed expansion of animal health care tasks performed under indirect veterinarian supervision and proposed changes to RVT pathways to licensure. Finally, the Board includes a standing RVT report at all of its meetings, allowing RVT issues to be discussed and prioritized.

Nevertheless, some members of the RVT profession believe that the current structure is inadequate in addressing RVT issues in a timely manner, and that RVT issues are not being prioritized. Examples cited include significant delays in passing RVT-related regulations.

Staff Recommendation:

The Board should report on its work related to the RVT profession, and assess whether it can effectively address issues related to RVT examination, continuing education, and approval of RVT schools. The Board should discuss how it is addressing delays regarding RVT-related Board actions or proposed regulatory packages.

ISSUE #3: (STAFF RETENTION) The Board is experiencing frequent employee turnover. What solutions should the Board consider in order to improve staff hiring and retention?

Background: Inadequate staffing and employee turnover has been a long-standing issue for the Board. Between 2007 and 2014, the Board experienced growing licensing and enforcement backlogs with only 12 authorized staff positions. Through fee increases and Budget Change Proposals, the Board was able to nearly double its staff, appropriating an additional 17 new positions.

While the Board was able to increase its staffing levels, employee turn-over, as well as timelines to hire new staff, remain a challenge impacting Board functions. In 2013, the Board's Executive Officer retired from state service. Shortly after, 75 percent of staff moved on to other opportunities. While the Board was able to eventually fill these positions, employee turnover continues to be a frequent experience: between FY 2016/17 and FY 2017/18, 13 employees left the Board, including another EO and the Board's Licensing and Enforcement Managers. Many of these employees left for other promotional opportunities or transferred to other state departments.

In addition to potential negative effects on morale, staff departures and loss of institutional knowledge can cause negative impacts on the Board's consumer protection function. In the licensing unit, the Board reports that two out of the three analyst positions were vacant for a time, and that the single staff member available had been with the Board for less than a year. Similarly, in the Enforcement Unit, vacancies in the Board's intake program caused a spike in backlogs of pending complaints.

In turn, filling staff vacancies can take an extended period of time, with several factors outside of the Board's control. Multiple state entities are included in the hiring process, with DCA and the California Department of Human Resources (CalHR) intimately involved in defining job classifications, salaries and benefits, as well as approving job postings, recruitment efforts, and final hiring. Therefore, when employees depart the Board, hiring new staff members may be a lengthy process, further impacting staff morale and Board activities.

It should be noted that the Board has worked diligently to address staffing issues at an administrative level, and ensure that all employees receive proper training and onboarding. Board management is currently identifying and implementing operational efficiencies in coordination with DCA's Organizational Improvement Office (OIO), and Board staff are participating in various training, both offered by DCA and external parties. These trainings range from better utilizing the BreEZe platform, improving use of Information Technology, and learn how to better navigate the state regulatory process. In addition, DCA has loaned staff members to the Board in order to temporarily address staffing shortages.

In FY 2020/21, to assist with enforcement operations, the Board requested and subsequently received 6.0 limited term staff positions to address the backlog of complaints.

Staff Recommendation:

The Board should continue its focus on filling any existing vacancies, and report on the steps it is taking to improve employee morale and retention. The Board should also discuss how it is ensuring that new hires transition into their roles quickly and effectively. Finally, the Board should update the Committees on projected staff needs in the coming years.

ISSUE #4: (BREEZE IMPLEMENTATION) Is any action necessary to ensure the Board can address BreEZe implementation issues?

Background: In 2009, DCA began efforts to replace antiquated IT systems used by the licensing boards under its jurisdiction. DCA initiated the development and implementation of a new, integrated, enterprise wide enforcement and licensing system, referred to as BreEZe. In 2011, DCA awarded Accenture LLC with the contract to build BreEZe, a single IT platform which would allow Boards to perform licensing, renewals, enforcement, monitoring, cashiering, and data management functions. As a web-enabled tool, BreEZe would allow licensees to complete and submit applications, renewals, and the necessary fees online. For members of the public, BreEZe would also be able to help file complaints, access complaint status, and check licensee information.

The project plan called for BreEZe to be implemented in three phases (also known as Releases), with each phase containing its own separate design, configuration, and implementation work efforts while sharing project management processes and refined system requirements. The Board is part of the Release 2 plan for the BreEZe rollout, which went live on January 19, 2016.

During its last Sunset Review, the Board reported that the process of transitioning to BreEZe had required a substantial staff commitment, with up to 30 to 40 percent of Board staff working full-time on BreEZe programming tasks, including system configuration and testing. At that time, the Board reported being heavily impacted by BreEZe activities, with staff members asked to commit a significant amount of time and resources assisting in testing the functionality of the system. In addition, the Board worked on various outreach components of BreEZe, including updating forms, its website, as well as interfacing with various interested parties, professional organizations, and schools.

The Board reports that BreEZe has had fiscal impacts on the Board’s budget. From FY 2009/10 through FY 2016/17, the Board has contributed \$799,053 to the BreEZe system. It is anticipated that BreEZe costs will be \$520,000 for FY 2017/18 through FY 2018/19 for maintenance costs.

Veterinary Medical Board BreEZe Costs (Amounts in Whole Dollars)									
FY 09/10	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17	FY 17/18	FY 18/19
\$2,845	\$9,642	\$37,084	\$30,317	\$64,292	\$126,428	\$273,395	\$255,050	\$265,000	\$255,000

Several years of experience implementing BreEZe has yielded some positive outcomes for certain Board functionalities. As noted earlier, the Board has implemented an effective online renewal process that allows individuals to renew their license the same day, without requiring any Board interaction. In addition, Board staff is pro-actively looking to implement additional functionalities that would save time and resources, such as a direct interface with schools that would allow exam scores to be automatically submitted, eventually eliminating the current manual entry process used by staff.

Despite those improvements, the Board notes continued challenges with BreEZe. For example, the Board cites that the current system design has redundant and unnecessary steps that are causing confusion among applicants and licensees. The Board also reports a lack of confidence in the licensing data that it receives from BreEZe, and that unintended system design errors will require Board staff to spend several years researching fixing data inconsistencies.

Given the Board's significant budget investment in BreEZe and under-utilized system functionalities, the Board is currently working with DCA to revamp current BreEZe design and configuration and improve efficiencies within the Board's licensing, inspection, and enforcement units.

Staff Recommendation:

The Board should provide a report on the status of implementing the BreEZe system, and note if it expects any additional or increased maintenance costs in the coming years.

ISSUE #5: (MISSING RECORDS) The Board is unable to locate applicant files who were denied a license due to prior criminal convictions. Are the Board's recordkeeping protocols adequate?

Background: Business and Professions Code Section 480 provides that a board may deny a license to an applicant on the grounds that the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the profession. In 2018, the Legislature enacted AB 2138, which aimed to reduce barriers to licensure for individuals with prior criminal conviction by limiting a Board's discretion to deny a new license if offenses are older than seven years, with several enumerated exemptions. The law will become effective July 1, 2020.

As part of the Sunset Review process, the Committees ask each licensing board to provide a list of how many licenses have been denied based on this statute, including details on the offenses that the board determined were substantially related to the profession.

The Committees are concerned that several files on these applicants were missing from Board records. As part of the Sunset Review Report document that the Board produced, the Board flagged these missing records as "Unable To Locate File."

While the missing records make up a small number of the total reported files (7 out of 108, or about 6%), it is critical that the Board maintains and safeguards these records. Appropriate record-keeping is an essential component of consumer protection, particularly in regards to managing information related to criminal convictions and issuance of professional licenses. This information is important to the Committees and to the public, as it helps inform how the Board performs its consumer protection function.

In addition, these files are of significance given AB 2138's upcoming implementation. Professional licensing boards are currently taking steps to contact all previously denied applicants and inform them of their rights to reapply under the new law. Having these applicant records on file is essential to these efforts.

Staff Recommendation:

The Board should attempt to locate any missing files on applicants who were denied a license based on substantially related criminal convictions. The Board should review existing internal record-keeping protocols and ensure that all files are appropriately maintained.

ISSUE #6: (COVID-RELATED WAIVERS) Was the Board able to obtain the necessary emergency waivers to adequately respond to the COVID-19 pandemic while maintaining its consumer protection mandate?

In response to the COVID-19 global pandemic, Governor Newsom proclaimed a state of emergency on March 4, 2020, mobilizing state agencies and resources to battle the highly contagious respiratory virus. On March 30, 2020, the Governor also issued Executive Order N-39-20, which authorized the DCA Director to temporarily waive any of the professional licensing requirements relating to health care licensees in the Business and Professions Code.

Since then, DCA – in coordination with the licensing boards under its jurisdiction – issued several waivers to adapt and respond to changes brought by the pandemic. The Board worked with DCA to enact the following waivers impacting the veterinary profession:

- Examination Requirements: On June 23, 2020, DCA issued a waiver extending the time to satisfy various examination requirements, which included veterinarian license applicants otherwise required to take and pass the national veterinarian examination, California state board examination, and veterinary law examination.
- Telemedicine for New or Different Medical Conditions: On June 4, 2020, DCA issued a waiver authorizing a veterinarian to use telemedicine to diagnose and treat an animal patient for a new or different medical condition if a veterinarian-client-patient relationship has been established.
- Prescription Refills: On June 4, 2020, DCA issued a waiver temporarily authorizing a prescription issued following an in-person examination last performed between June 1, 2019, and December 31, 2019, to be refilled by the veterinarian, without another in-person examination, for up to 18 months from the date of the last examination and issuance of prescription. This waiver was withdrawn and superseded by another waiver to address a one-year time limitation on prescriptions. The superseding waiver authorized a veterinarian to prescribe a drug for a duration longer than one year from the date the veterinarian examined the animal and prescribed the drug, subject to the condition that any such prescription may be refilled for a total period not to exceed 20 months from the date the veterinarian last examined the animal and prescribed the drug. For prescriptions that may not be refilled between January 1, 2021, and February 28, 2021, due to the one-year time limitation, a waiver has been issued authorizing a refill of the prescription up to 18 months from the date the veterinarian last examined the animal patient and prescribed the drug. In addition, for prescriptions that may not be refilled between June 1, 2020, and October 1,

2020, a waiver has been issued authorizing a refill of the prescription up to 24 months from the date the veterinarian last examined the animal and prescribed the drug.

- **Face-to-Face Training:** On June 4, 2020, DCA issued a waiver authorizing electronic remote trainings for specific trainings that are required to be provided face-to-face for licensure through reciprocity.

Staff Recommendation:

The Board should report on its experience requesting COVID-19 related waivers and discuss if those measures were adequate in responding to the circumstances of the pandemic while maintaining consumer protection.

LICENSING AND EXAMINATION ISSUES

ISSUE #7: (LICENSING DELAYS) What solutions does the Board have to address the severe delays in its licensing timelines?

Background: The Board’s Licensing Unit plays a vital role in ensuring that aspiring veterinary professionals meet the necessary qualifications to practice veterinary medicine. Prior to issuing a license, Board staff perform a range of essential tasks, including verifying official school transcripts, checking examination scores, cross-referencing criminal records and fingerprint clearances from the Department of Justice and the Federal Bureau of Investigation, and more.

The Board’s goal is to process an initial application for licensure within four weeks. However, the Board is currently not meeting this target. At its January 2020 meeting, the Board reported extended delays in its licensing operation, with the Licensing Unit processing applications within 18-20 weeks of receipt. The Board cites several factors that are causing these concerning timelines, such as staff vacancies and BreEZe system design issues, which are documented in other sections of this report.

Stakeholder groups and associations representing licensees have reported significant concerns regarding these prolonged licensing timelines. Candidates seeking licensure describe that the delays have hindered their ability to start new jobs, open new veterinary practices, and generally obstructed their capacity to make a living. Individuals seeking basic answers on how to obtain a license or how to process renewals report not being able get basic answers from the Board’s office.

In response to these extended delays, the Board has taken a number of steps to bring licensing timelines down. Of note, the Board has launched an outreach campaign to encourage all applicants and licensees to process their initial and renewal applications online. Using the BreEZe system significantly reduces processing times and resources drain on the Board. The Board reports that this outreach campaign has yielded positive results, with 70% of Veterinarians and 85% of RVTs renewing online in 2019.

The Board is also focusing on filling staff vacancies in its Licensing Unit. But as an interim solution, the Board has put in place a Memorandum of Understanding with DCA throughout 2019

and 2020 for additional staff support. This allowed the Board to borrow DCA employees, and have them assist with processing applications while the Board focuses on filling existing vacancies.

Staff Recommendation:

The Board should continue to implement strategies to address licensing delays, and describe the resource it needs to improve timelines. The Board should continue to monitor licensing performance closely, and report to the Committee with an update during the next Sunset Review.

ISSUE #8: (VACSP) Does the Board have recommendations to improve participation in the VACSP program?

Background: The title Veterinary Assistant (VA) generally refers to all unlicensed staff in a veterinary facility. VAs can assist with supporting animal health care tasks, but are prohibited from performing tasks restricted to a Veterinarian or an RVT.

In 2013, the Legislature mandated the Board to create a Veterinary Assistant Controlled Substances Permit program. Holders of this permit are able to perform the functions of a VA, but are also approved by the Board to obtain and administer controlled substances. VACSP holders must operate under the direct or indirect supervision of a licensed veterinarian.

In 2016, the Board implemented the VACSP program and began issuing the permits. In addition to paying the associated licensing fees, the VACSP application requires a fingerprint-based background check. If the applicant has a criminal record, issuance of the VACSP is handled on a case-by-case basis by the Board. The Board cannot issue a VACSP to any applicant with a state or federal felony controlled substances conviction.

Since the inception of the VACSP program, the Board has reported several challenges surrounding this new permit. Data indicates that not only is the Board issuing less permits than expected, but the permits are not being renewed. The Board believes that the shortfall is caused by lack of information on the permit, and the transient nature of the VACSP profession. By the time the renewal notice is generated, the permit holders have already moved to another clinic and failed to update their address with the Board or left the veterinary profession entirely. A summary of VACSP data is included below:

Veterinary Assistant Controlled Substances Permit Data				
	FY 2015/2016	FY 2016/2017	FY 2017/2018	FY 2018/2019
Active	-	2,704	4,104	4,394
Inactive/Expired/Retired	-	0	167	1,285

The Board notes that administering the VACSP program has proved to be resource intensive. Applications take a considerable amount of time to process, since many applicants have criminal backgrounds that necessitates further investigation by the Board.

Staff Recommendation:

The Board should report on the implementation of the VACSP license category, and recommend potential actions to improve initial permitting and renewal into this program.

ISSUE #9: (RECIPROCITY) Should the Legislature clarify what foreign experience counts towards waiving the Board's examination requirements?

Background: To become licensed as a Veterinarian, an applicant is required to take the national and state board exams, as well as a jurisprudence exam on the statutes and regulations of the Practice Act. However, a Veterinarian license applicant can receive a Board waiver from those examinations if, among other things, the applicant holds a current valid license in good standing in another state, Canadian province, or United States territory and has practiced clinical veterinary medicine for a minimum of two years and completed a minimum of 2,944 hours of clinical practice within three years immediately preceding the application.

The Board reports that the statute is unclear: while the Board interprets the statute to require the practice hours to be completed within another state, Canadian province, or U.S. territory, some applicants are reading the statute differently to mean that the applicant only has to have a current valid license in another state, Canadian province, or U.S. territory, and the clinical practice hours can be obtained in any foreign country, regardless of whether the minimum practice standards in those countries meets the minimum practice standards in California or any other state, Canadian province, or U.S. territory.

Since the statute is unclear with regard to what exact out-of-state experience is counted as valid towards an examination waiver, the Board is requesting amending statutes to clarify the clinical practice experience.

Staff Recommendation:

The Board should discuss its request to statutorily clarify reciprocity of out-of-state clinical practice experience.

ISSUE #10: (ABANDONED APPLICATIONS) Should the Board be able to abandon or remove licensing applications that are several years old?

Background: According to the Board, it currently does not have authority to abandon applications if the applicants pay the fee but fail or are unable to correct any deficiencies on a submitted application. As a result, applications can stay on the Board's system for several years never to be completed, causing problems such as skewing Board-produced statistical reports.

To ensure the Board's limited resources are spent more efficiently, the Board is requesting statutory revisions to authorize the Board to abandon applications that are several years old.

Staff Recommendation:

The Board should discuss with the Committees its request to have authority to abandon and application, and speak to what it believes to be an appropriate amount of time before an application can be abandoned.

ISSUE #11: (CHANGE OF ADDRESS) Should applicants be required to notify the Board of a change of address?

Background: The Practice Act requires veterinarians, registered veterinary technicians, and VACSP holders to inform the Board of changes to their mailing or employer addresses within 30 days of the change. However, the Board reports that there is no requirement for applicants to advise the Board when their mailing or employer addresses change. The Board notes that the inability of its staff to locate VACSP applicants due to changes in mailing or employer address is contributing to the backlog of pending applications. To address these problems, the Board is requesting statutory changes that would require veterinarian license, veterinary technician, and VACSP applicants to notify the Board of any changes in their mailing or employment address.

Staff Recommendation:

The Board should report on its request to require applicants to notify to Board of a change of address, and discuss its plans to enforce non-compliance of this proposed provision.

ISSUE #12: (ELIMINATION OF THE STATE EXAMINATION) Should the California State Board Examination be eliminated based on findings that the national North American Veterinary Licensing Examination (NAVLE) is sufficient in determining applicant competency?

Background: The BPC requires the Department to have a process for developing and/or validating examinations required for licensure. To that end, the DCA's Office of Professional Examination Services (OPES) periodically conducts an occupational analysis to validate that examinations adequately test applicants and are effective at preventing unqualified individuals from obtaining professional licensure.

To obtain licensure as a veterinarian, an individual must pass three examinations to determine competency:

1. A national examination.
2. A California state board examination (CSBE).
3. A veterinary law examination of California rules, statutes, and regulations (CVLE)².

In coordination with the Board, OPES conducted a comprehensive review and linkage study of the NAVLE and the CSBE to evaluate their continued use for veterinary licensure in California. OPES concluded that the NAVLE met the professional and technical standards to adequately test applicants. Furthermore, it was determined that the NAVLE also covered the practice areas tested by the CSBE, except for California law, rules and regulations – making the CSBE a largely redundant examination. As a result, OPES recommended that the CSBE be revised from a practice-based examination to a supplemental examination that measures California law, rules, and regulations only. OPES further recommended that this revised CSBE replaces the current CVLE.

² For Non-California graduates only.

In October 2020, based on the OPES recommendations, the Board voted to pursue the elimination of the CSBE given its redundancy with the NAVLE. The Board subsequently established a workgroup comprised of board members and stakeholders to consider the impacts of eliminating the state examination, and draft statutory changes that would properly implement the elimination of the CSBE. As currently drafted, the Board's proposed legislation, which was approved by the Board at its January 28, 2021 meeting, would restructure veterinarian license requirements, and eliminate existing reciprocity requirements and temporary licensure for out-of-state licensees.

Staff Recommendation:

The Board should report on its recommendation to eliminate the California State Board Examination, and discuss how its proposed statutory changes would impact existing pathways to licensure.

ISSUE #13: (AB 2138.) What is the status of the Board's implementation of Assembly Bill 2138 (Chiu/Low) and are any statutory changes needed to enable the Board to better carry out the intent of the Fair Chance Licensing Act?

Background: In 2018, Assembly Bill 2138 (Chiu/Low, Chapter 995, Statutes of 2018) was signed into law, making substantial reforms to the license application process for individuals with criminal records. Under AB 2138, an application may only be denied based on prior misconduct if the applicant was formally convicted of a substantially related crime or was subject to formal discipline by a licensing board. Further, prior conviction and discipline histories are ineligible for disqualification of applications after seven years, with the exception of serious and registerable felonies, as well as financial crimes for certain boards. Among other provisions, the bill additionally requires each board to report data on license denials, publish its criteria on determining if a prior offense is substantially related to licensure, and provide denied applicants with information about how to appeal the decision and how to request a copy of their conviction history.

Because AB 2138 significantly modifies current practice for boards in their review of applications for licensure, it was presumed that its implementation would require changes to current regulations for every board impacted by the bill. Currently, the Board is in the process of finalizing its regulations to revise its denial criteria to incorporate the changes from the bill. It is also likely that the Board may identify potential changes to the law that it believes may be advisable to better enable it to protect consumers from license applicants who pose a substantial risk to the public. AB 2138 went into effect on July 1, 2020.

Staff Recommendation:

The Board should provide an update in regards to its implementation of AB 2138 provisions, as well as relay any recommendations it has for statutory changes.

VETERINARY PRACTICE ISSUES

ISSUE #14: (ANIMAL SHELTERS) Does the Board have recommendations to address concerns regarding minimum standard of care in animal shelters?

Background: In 2015, the Orange County Animal Shelter contacted the Board requesting guidance on the shelter's existing protocols for directing RVTs to provide animal care on in-take, in the absence of the supervising Veterinarian. At that time, the Orange County Animal Shelter had been audited by the County Auditor, who inquired whether established shelter protocols complied with the Practice Act.

Following this request, the Board began an effort to review existing and needed regulations related to the practice of animal medicine in a shelter setting. After interviewing several shelters throughout the state and examining their facility protocols, the Board determined that shelters that performed certain animal health care tasks – such as administering medication or rendering basic first aid – were required to register with the Board. However, it appeared at the time that some shelters in California were either unaware of the registration requirements, or were not able to comply with them due to the unique nature of providing animal care in a shelter environment. For example, under a premises registration, one of the more difficult requirements for shelters to meet is having a veterinarian maintaining a physical presence within the facility at all times. Some shelters in California, particularly those in rural areas, report that there are no Veterinarians available in their jurisdiction, and thus cannot meet the premises registration requirements.

Between 2015 and 2018, in response to concerns from animal shelters, the Board engaged in stakeholder discussions with the California Veterinary Medical Association (CVMA), the State Humane Association of California (SHAC) and the California Animal Control Director's Association (CACDA) to identify the unique challenges of providing animal care in shelters. (Note: SHAC and CACDA merged in 2018 to become the California Animal Welfare Association, or CalAnimals.) The Board aimed to use this feedback to draft regulations that would enact minimum standards of care specifically designed for animal shelters.

Based on these stakeholder discussions, the following challenges were identified as unique to animal shelter care:

- A veterinarian cannot establish a Veterinary-Client-Patient-Relationship for animals that have been found, abandoned, seized due to abuse or neglect, or any other instances where the owner cannot be located;
- In high-volume shelters (some facilities report seeing hundreds of animals on average per day), a Veterinarian may not realistically be able to examine every animal patient prior to treatment by an RVT;
- Some shelters operate seven days a week, and veterinarians may not be able to be at the facility every day that the shelter is open;

- Some animal shelters are located in areas of California that face a significant shortage of Veterinarians and RVTs, and rely on staff and volunteers to run shelter operations. In order to access veterinary services, these shelters have to drive animals several hours outside of their jurisdiction to reach the nearest Veterinarian.

In April of 2018, after multiple rounds of stakeholder negotiation, the Board voted to approve a regulatory package that would establish minimum standards of care in animal shelters. These regulations are undergoing the review process and are not yet implemented.

The draft regulations approved by the Board, among other items, would allow shelter staff to provide limited medical care to animals, but still require a degree of involvement and physical presence from a Veterinarian. For example, RVTs, VACSP holders and Veterinary Assistants at the shelter would be able to provide care for the purpose of controlling infectious and zoonotic disease, controlling acute pain, and preventing environmental contamination, but only if a supervising Veterinarian has direct knowledge of the shelter's animal population and has established written care protocols for shelter staff to follow.

CalAnimals and several county organizations representing rural areas have since expressed significant concerns over the Board's proposed regulations. These stakeholders posit that many shelters are struggling to obtain veterinary support, and that shelters cannot meet the proposed Board requirements due to a chronic shortage of veterinarians specializing in shelter medicine. Shelters propose that in order to safeguard the lives of animals, shelter staff must have the ability to perform low-risk animal care without veterinary oversight, such as vaccinations and prophylactic control of internal and external parasites. Stakeholders have also expressed concerns that some of the building and equipment requirements proposed by the Board's regulations are too vague and necessitate additional clarifications.

In response to the Board's regulations, stakeholder groups representing animal shelters pursued legislation to allow shelter staff and employees to perform certain animal health care tasks without the supervision of a veterinarian. This legislation, SB 1347 (Galgiani, 2019) did not pass and was held in the Assembly.

Staff Recommendation:

The Board should discuss its draft regulations regarding minimum standards of care in animal shelters. In addition, the Board should outline any additional recommendations it may have regarding concerns of Veterinarian shortages working in shelter settings, and concerns about facility standards for animal shelters.

ISSUE #15: (ANIMAL PHYSICAL REHABILITATION) Is further action necessary to clarify the scope, the level of veterinary supervision, and the minimum education and training requirements for providing animal rehabilitation?

Background: Since 2004, the Board examined the issue of persons outside of the veterinary medical profession providing physical rehabilitative services for animals. This issue came in particular focus as stakeholder groups representing licensed Physical Therapists (PT) and specializing in animal physical therapy have been seeking legislative and regulatory clarity about their ability to work with animals.

Candidates for a PT license must complete a doctorate degree in physical therapy from an accredited postsecondary institution or an institution approved by the Physical Therapy Board of California (PTBC). The educational requirements must include instruction in the subjects prescribed by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association or Physiotherapy Education Accreditation Canada and must include a combination of didactic and clinical experiences. In addition to classroom and laboratory instruction, students must complete at least 18 weeks of full-time clinical experience with a variety of human patients. Candidates must also take and pass both a national examination and a California-specific law and ethics examination.

Under current California law, only licensed Veterinarians may provide veterinary medicine to an animal for a wound, fracture, and bodily injury, which includes all treatment, including physical therapy. In some instances, RVTs and VAs may treat animals under a veterinarian's supervision. Therefore, if a licensed Physical Therapist wants to perform physical therapy on an animal, the PT must pursue additional licensure as a Veterinarian or RVT, or work under the supervision of a Veterinarian.

Currently, several other states define Animal Physical Therapy, also known as "Animal Rehabilitation" (AR), and define whether a licensed PT is able to perform this task. For example, Colorado, Nevada, and Nebraska include some authority to provide AR by licensed PTs, as long as they operate under the supervision of a licensed Veterinarian. State provisions vary in terms of the level of veterinarian oversight required in order for PTs, Veterinary Assistants, or other support personnel to provide AR services.

Since 2012, the Board has included the issue of AR at a number of its public meetings. The discussion has generated a great deal of interest from the public, with the Board receiving several hundred comments, thousands of signed petitions, and heard testimony from over 60 interested parties representing diverse and conflicting sentiments on the issue.

As part of its last Sunset Review, the Committees recommended that the Board create a Task Force composed of stakeholders that include Veterinarians, RVTs, animal rehabilitation and related animal industry professionals, consumers, and representatives from the Legislature to further examine the issue of animal rehabilitation and present a recommendation to the Board.

As a result, the Board established in 2016 a 19-member Task Force comprised of the following representatives

- California Physical Therapy Association
- Veterinarian specializing in Animal Rehabilitation
- RVT specializing in Animal Rehabilitation
- California Horse Racing Board
- Equine Community
- California Association of Animal Physical Therapists
- Certified Canine Rehabilitation Practitioners
- California Veterinary Medical Association
- California Registered Veterinary Technician Association
- Veterinary Medical Board and its Multidisciplinary Advisory Committee
- University of California, Davis
- Western University of Health Sciences
- Representatives of the Senate Committee on Business, Professions and Economic Development and the Assembly Committee on Business and Professions.

The Task Force held meetings on June 20, 2016, on October 4, 2016, and on February 2, 2017. At the conclusion of these meetings, the Task Force submitted their findings to the Board and provided several recommendations. The Board considered these findings at its April 19-20 and July 26-27, 2017 meetings, during which the Board received approximately 270 letters and heard testimony from 21 individuals.

After deliberating on and amending the Task Force's recommendations regarding VA and licensed PTs, the Board ultimately approved the following:

1. Animal Physical Rehabilitation (APR) is defined as the treatment of injury or illness to address pain and improve function by means of physical corrective treatment.
2. APR does not include relaxation, recreational or wellness modalities, including but not limited to, massage, athletic training or exercise.
3. Prior to performing or authorizing APR, a veterinarian shall establish a valid veterinarian-client-patient relationship
4. RVTs may provide Animal Physical Rehabilitation under the degree of supervision to be determined by the veterinarian who has established the veterinarian-client-patient relationship.
5. Veterinary assistants may provide APR under the direct supervision of a Veterinarian.
6. Any proposed changes to existing law and regulations are not an attempt to restrict or amend Section 2038 of the California Code of Regulations regarding the provision of musculoskeletal manipulation modalities.

Based on these findings, the Board promulgated regulations which are currently undergoing the rulemaking process.

Separate from the regulatory package, the Board approved the following statement:

“California licensed Physical Therapists with advanced certification in Animal Physical Rehabilitation (with such certification to be defined by the Veterinary Medical Board and the Physical Therapy Board working cooperatively) may provide animal physical rehabilitation under direct supervision by the veterinarian who has established a veterinarian-client-patient relationship on a licensed veterinary premises or for large animal practice, the appropriate degree of supervision shall be determined by the veterinarian who established the veterinarian-client-patient relationship in a range setting.”

It is important to note that the statement above was not included in the Board’s proposed regulations. The Board recognized that it only has authority over licensees in the Practice Act, and that enforcing the Practice Act over PTs would require legislative changes. Therefore, the statement above was omitted from the Board’s final regulatory proposal on APR.

The Legislature did attempt to enact this change through AB 3013 (Chu, 2018), which would have allowed, under specified conditions, a licensed PT under veterinarian supervision with a certificate in APR approved by both the Board and the PTBC to provide APR services to an animal patient. The bill was held in the Assembly Committee on Appropriations and was opposed by the Board.

The Committees have received significant public comment from associations and persons representing animal Physical Therapists, including over 40 written letters, and petitions signed by several thousands of individuals from California and other states. These groups and individuals have expressed concerns that the Board is intentionally attempting to restrict AR services to those in the veterinary medical profession, and limit business competition to protect the profession’s financial interests. Stakeholders representing animal PTs in and outside California contend that their efforts aim to expand options available to consumers seeking AR services from qualified professionals. They further support PTs working under an indirect supervision model, and provisions that would require a premise permit overseen by the Board to guarantee consumer protection.

Over the years, the Board has stated that the impetus and rationale for pursuing a regulatory proposal regarding APR is purely motivated by the concerns raised before the Board regarding animal welfare, and that it is not driven by a form of financial or professional protectionism.

Staff Recommendation:

The Board should report back on the work of the Animal Rehabilitation Task Force, and discuss if it has any further recommendations for consideration by the Legislature.

ISSUE #16: (ANIMAL CANNABIS) Does the Board anticipate new emerging animal cannabis issues that would require legislative action?

Background: With the legalization of adult-use cannabis in California in 2018, there has been a growing interest from the public regarding the use of cannabis on animals. For example, consumer and cannabis industry groups have pushed to allow Veterinarians to recommend cannabis for animal patient treatment. The passage of AB 2215 (Kalra, Chapter 819, Statutes of 2018) allowed Veterinarians to discuss with clients the use of cannabis for treatment on animal patients and required the Board to develop guidelines for veterinarians to use for those discussions. These guidelines were developed and adopted by the Board in October 2019.

Throughout this process, the Board and the MDC received a number of inquiries regarding the state of cannabis use on animals. Topics ranged from continuing education for licensees, availability of academic research, FDA approval of cannabis and cannabis-derived products, fraudulent marketing claims, and the constantly-shifting legal and regulatory landscape of the cannabis industry.

Staff Recommendation:

The Board should provide an update on its work related to medicinal cannabis use on animals, and report if it anticipates new issues to emerge in the future regarding this issue.

ISSUE #17: (ANIMAL INJURIES AT RODEO EVENTS) Are current statutes sufficient to safeguard animal welfare at rodeo events, and ensure accurate reporting of animal injuries?

Background: During the Board’s last Sunset Review, the Committees inquired about concerns regarding animal injuries at rodeo events. Under existing law, it was determined that the requirement for a Veterinarian to be available “on-call” during a rodeo performance may not be sufficient to provide appropriate animal care in case of injuries.

Rodeo events, which feature competitions such as bareback bronc riding, saddle bronc riding, bull riding, calf roping, steer wrestling, or team roping, are primarily regulated by local cities and counties. Although rodeo organizations, such as the Professional Rodeo Cowboys Association (PRCA), have rules improving animal welfare and the treatment of rodeo animals, injuries can still occur. Animals involved in rodeos may suffer from:

- Traumatic leg injuries
- Back injuries
- Spinal cord injuries
- Neck injuries
- Internal injuries
- Trachea injuries
- Sprained and torn ligaments
- Broken horns and spurring injuries

Under Penal Code Section 596.7, a licensed veterinarian must be present at all times during the performances of a rodeo. Alternatively, a veterinarian must be “on-call” and be able to arrive at the rodeo within one hour after a determination has been made that there is an injury which requires treatment to be provided by a veterinarian.

According to the Board, 46 rodeo injury reports were filed with the over the last 4.5 fiscal years; those reports indicated 60 animal injuries. With the exception of two, all animals were treated onsite at the rodeo and not referred for further treatment.

However, animal welfare groups believe that the numbers are severely under-reported, alleging that rodeo organizers use the “on-call” requirement to ensure a veterinarian will never witness animal injuries, thus preventing them from reporting it to the authorities. In some instances, animal welfare advocates believe that rodeos frequently and actively try to cover up animal injuries, and in some instances, animal deaths.

In analyzing this issue, the Board has determined that it cannot enforce or hold any role in issuing penalties to rodeo event organizers who are in violation of the Penal Code. The Board believes that its jurisdiction only applies to Veterinarians providing care to the animal, and their associated responsibility to report any injuries at these events.

Staff Recommendation

The Board should report on its findings regarding the role of veterinary medical professionals at rodeo events, and provide any recommendations it has to address concerns regarding animal injuries.

ISSUE #18: (HORSE RACING) Should the Board be involved in monitoring equine welfare in the horse racing industry?

Background: In 2018 and 2019, the deaths of over 30 race horses at a Southern California track garnered significant public attention. Discourse on the issue focused on the high number of equine fatalities per year, and the treatment of animals in the horse racing industry.

Multiple reasons may cause a horse to die on the race track, including cardiovascular failure or pulmonary hemorrhage. In some instances, a broken leg may require euthanasia of the animal. As a result of increased scrutiny, some race tracks have changed their racing policies, such as replacing whips with “cushion crops” and restricting the use of steroids, anti-inflammation, and race-day drugs.

While regulation of the horse racing industry falls under the jurisdiction of the California Horse Racing Board (CHRB), animal welfare advocates have inquired if the Board can play a role in improving conditions for horses on race tracks. The Board has authority over the Veterinarians providing mobile services at the race tracks and continues to conduct random inspections of these mobile practices.

In 2019, the Board took initiative to connect with the CHRB to explore if it can have a role with, or lend expertise to, CHRB going forward. Board staff visited some race tracks across California,

and developed initial ideas and processes that may be helpful during race season. The Board is in the exploratory phase of determining if it should take a more active role in the horse racing industry.

Staff Recommendation:

The Board should continue to update the Committees on its collaboration with the CHRB.

ISSUE #19: (COLLABORATION WITH THE BOARD OF PHARMACY) Should the Board engage in greater collaboration with the Board of Pharmacy regarding promulgation of regulations that apply to the veterinary profession?

Background: Prescribing, dispensing, and administering medication are important functions of the veterinary profession – allowing Veterinarians to provide vital, and at times life-saving drugs to animal patients.

However, regulatory oversight of the practice of pharmacy falls under the jurisdiction of the California State Board of Pharmacy (BOP). As a result, both boards are expected to interact and coordinate when resolving cross-cutting issues that impact both professions. For example, SB 1193 (Hill, Chapter 484, Statutes of 2016) authorized Veterinarians and RVTs to perform limited drug compounding. In promulgating regulations to implement this mandate, the Board worked with the BOP to determine appropriate parameters for veterinary in-office compounding.

The Board has expressed concerns over recent regulations proposed by the BOP. Specifically, the Board is concerned with the BOP’s proposed regulations that would authorize a pharmacy to only compound a compounded sterile preparation (CSP) after the pharmacy has received a valid patient specific prescription document or prepare and provide a limited quantity of CSPs to a Veterinarian based on a contract between the pharmacy and Veterinarian for office use administration only. The Board is concerned that this proposal does not take into account how veterinary clinics and hospitals operate, and would severely limit a Veterinarian’s ability to provide medication and treat animal patients in a timely manner.

The Board and the BOP are undergoing Sunset Review concurrently. The Committees believe that this is a timely opportunity to address how both boards can improve long-term communication and coordination regarding regulatory proposals that impact both professions.

Staff Recommendation:

The Board should provide its perspective on any recent issues involving pharmacy regulations promulgated by the BOP, including pharmacy compounding, and speak to whether there are any opportunities for greater communication and collaboration between the two boards.

ISSUE #20: (CORPORATE PRACTICE OF MEDICINE) Should existing statutes be updated to ensure appropriate corporate practice of medicine?

Background: In 2017, the Board received information from Veterinarians that general corporations that own or operate veterinary premises are using employment contracts to control the provision of veterinary medical care to animal patients. Examples include forcing the veterinarians to use, sell, or recommend to clients particular products that are owned by the corporation.

Current statutory and regulatory law does not explicitly prohibit general corporate ownership or operation of a veterinary medical practice or influence over the standards of veterinary medicine practice. The Board explains that without statutory language, it cannot protect consumers from commercial motives of the corporation being asserted over a licensee's professional judgment.

To address these concerns, the Board approved legislative recommendations and regulations aimed at providing corporate practice prohibitions. However, due to concerns from various corporate entities, the Board directed the MDC to conduct further analysis, and solicit additional feedback industry stakeholders. Following those discussions and input, the Board finalized a legislative proposal for consideration by the Legislature.

Staff Recommendation:

The Board should report on its legislative recommendations on addressing corporate practice of medicine, and provide additional details on the feedback it has received from industry representatives.

ISSUE #21: (DATA COLLECTION ON CORPORATE VETERINARY PRACTICE) Should the Board collect data on corporate ownership of veterinary practices?

Various stakeholder groups have recently highlighted the emerging prominence of large corporate entities providing veterinary care in California. In its 2018 report "The Market for Veterinary Services," the AVMA notes that between 2013 and 2016, large veterinary businesses that employ more than 100 employees have increased by 51 percent and business that employ 50 to 99 people have grown by 31 percent. This trend indicates that either medium-size businesses have merged to create larger firms, or that large corporations have bought medium-sized practices.

Organizations representing veterinary workers, such as the International Longshore & Warehouse Union, have expressed concerns that the consolidation of veterinary practices into large business entities could lead to significant higher price for animal healthcare. Given the shortage of data on the corporatization of veterinary medicine, the Board received a request to begin tracking data on corporate ownership of veterinary practice. This data collection request includes requiring veterinarians to note if their veterinary practice is connected to a corporate establishment during their initial license application and at the time of license renewal.

Staff Recommendation:

The Board should discuss the value and the feasibility of collecting data on corporate ownership of veterinary practices.

ISSUE #22: (INDEPENDENT CONTRACTORS) Does the new test for determining employment status prescribed by the court decision *Dynamex Operations West Inc. v. Superior Court*, have any unresolved implications for licensees working in the veterinary profession?

Background: In 2018, the California Supreme Court issued a decision in *Dynamex Operations West, Inc. v. Superior Court* (4 Cal.5th 903) that significantly confounded prior assumptions about whether a worker is legally an employee or an independent contractor. In a case involving the classification of delivery drivers, the California Supreme Court adopted a new test for determining if a worker is an independent contractor, which is comprised of three necessary elements:

- A. That the worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of such work and in fact;
- B. That the worker performs work that is outside the usual course of the hiring entity’s business; and
- C. That the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.

Commonly referred to as the “ABC test,” the implications of the *Dynamex* decision are potentially wide-reaching into numerous fields and industries utilizing workers previously believed to be independent contractors. Occupations regulated by entities under the Department of Consumer Affairs have been no exception to this unresolved question of which workers should now be afforded employee status under the law. In the wake of *Dynamex*, the new ABC test must be applied and interpreted for licensed professionals and those they work with to determine the rights and obligations of employees.

In 2019, the enactment of Assembly Bill 5 (Gonzalez, Chapter 296, Statutes of 2019) effectively codified the *Dynamex* decision’s ABC test while providing for clarifications and carve-outs for certain professions. Specifically, physicians and surgeons, dentists, podiatrists, psychologists, and veterinarians were among those professions that were allowed to continue operating under the previous framework for independent contractors.

Staff Recommendation:

The Board should inform the committees of any discussions it has had about the *Dynamex* decision and AB 5, and whether there is potential to impact the current landscape of the veterinary profession, beyond the exemption provided for veterinarians.

ISSUE #23: (TELEHEALTH) Should existing law be amended to increase access to veterinary services via telehealth?

Background: A veterinarian is required to establish a veterinarian-client-patient-relationship (VCPR) before providing care to an animal patient. Among other requirements, VCPR is established when the client has authorized the veterinarian to make medical judgements, and when the veterinarian has gained sufficient knowledge of the animal to make a diagnosis, generally through an in-person examination.

Existing laws and regulations provide that a VCPR must be established before care can be provided remotely via telehealth. It is also generally understood that VCPR must be re-established for any subsequent diagnosis and treatment of a new medical condition. In practice, this means a veterinarian will request to examine an animal in-person again if diagnosing or treating a new condition, even if the animal was receiving care via telemedicine on a prior medical condition.

As discussed in a prior issue, DCA issued a VCPR waiver on June 4, 2020 authorizing a veterinarian to use telemedicine to diagnose and treat an animal patient for a new or different medical condition, if a veterinarian-client-patient relationship was previously established. At the request of various stakeholders, the Board directed the MDC to evaluate the telemedicine waiver and determine if it should be made permanent.

In its preliminary discussions, the MDC acknowledged the need for clarity in statutes and regulations around the definitions of telehealth and telemedicine. At the time of writing, the MDC is conducting research and convening stakeholder discussions, and will meet to provide recommendations to the Board in April 2021.

Staff Recommendations:

The Board should provide the Committees with an update on its discussions around telehealth and telemedicine, and advise if there are statutory changes that could facilitate increased access to services while maintaining high standards of veterinary care.

CONTINUING EDUCATION REQUIREMENTS

ISSUE #24: (CONTINUING EDUCATION AUDIT) Are there any requirements or resources needed to implement the Board's continuing education audit program?

Background: Continuing Education (CE) is an important tool to ensure licensees stay up to date on the latest development, skills, and technologies of the veterinary profession. CE requirements for Veterinarians are statutorily mandated, and CE requirements for RVTs are statutorily authorized and implemented through regulation; Veterinarians are required to complete 36 hours of CE every two years, and RVTs are required to complete 20 hours of CE every two years. In addition, in order to renew a Veterinarian license, a licensee must complete a minimum of one

credit hour of CE on the judicious use of medically important antimicrobial drugs every four years, beginning 2018.

The Practice Act provides a list of statutorily approved course providers. Additionally, CE courses and providers may be approved by the Board or the American Association of Veterinary State Boards, pursuant to regulation. The CE courses must cover subjects related to the practice of veterinary medicine and veterinary technology. The CE courses must be consistent with current standards and practices beyond the initial academic studies required for initial licensure.

Currently, due to resource constraints, the Board does not have a comprehensive audit program to guarantee that licensees are completing the CE requirements. Existing practice requires licensees to sign under penalty of perjury that they have completed the requisite number of CE hours during the license renewal process. In addition, licensees are asked to maintain proof of CE completion for no less than four years, and are required to provide that documentation to the Board upon request. Currently, failing a CE audit may result in disciplinary action. The Board is pursuing regulatory authority to issue citations for failing to comply with the CE requirement.

The Board is currently developing a CE audit process to be able to audit a percentage of its licensee population every year, and hopes to have the program operational soon. The Board is also exploring automated options, such as developing cloud infrastructure to receive primary source verification of CE immediately upon completion.

Staff Recommendation:

The Board should report on its CE audit program, and include information on implementation timelines and audit objectives.

ENFORCEMENT ISSUES

ISSUE #25: (ENFORCEMENT BACKLOGS) Does the Board have any administrative remedies or solutions, beyond requesting additional resources, to address the growing enforcement backlogs and timelines?

Background: As a regulatory entity, the Board has vested legislative authority to enforce the Practice Act. In fulfilling this role, the Board can investigate complaints to address licensee violations and unlicensed activity, and issue citations and fines for certain offenses. More egregious violations may result in the Board referring cases to the DCA's Division of Investigation (DOI), a subject matter expert licensed by the Board, and/or the Office of the Attorney General for disciplinary action. For criminal allegations, the board, through DOI, will refer cases to the local district attorneys for consideration of criminal prosecution.

To gauge the effectiveness of an enforcement program, licensing boards under DCA use enforcement Performance Measures (PM), a set of target metrics used to assess the performance of an enforcement program. Among other metrics, PMs include complaint intake cycle time (average time between receiving a complaint and assigning it to a Board investigator), investigation cycle time (average time to complete the entire enforcement process for non-serious

offenses), and formal discipline cycle time (average time to complete the entire enforcement process that involve the Office of the Attorney General).

Since its last Sunset Review, the Board was largely able to meet key performance measure target goals. In FY 2015/16, FY16/17, and FY17/18, the Board stayed within its 10-day target for complaint intake, and within its 365 day-target for investigations.

However, more recent data indicates that the Board is beginning to struggle managing an ever-increasing workload on its enforcement operation. In FY 2018/19, the Board reports that the number of complaints filed are 20% higher over the prior years, with documented increases of complaints filed by other governmental agencies and members of the public. This increase is causing increased delays on the Board's enforcement operations; in FY 2018-2019, with a backlog of cases requiring investigation growing, the PM for intake cycle reached an average high of 56 days. In practical terms, the Board describes that it has over 3,000 pending cases with each enforcement analyst juggling over 300 cases; a situation that the Board describes as "unmanageable" for its staff.

The Board has also been unable to meet its target goals of 540 days for formal discipline, with some cases taking up three years before reaching resolution. However, these cases heavily rely on other state entities; DCA's Division of Investigation and the Office of the Attorney General are responsible for leading the investigation for serious criminal allegations, and in the case of a formal accusation, the Office of Administrative Law must schedule an Administrative Law Judge to preside over the hearing proceedings. Many of these factors are ultimately outside of the Board's control, but can greatly add to the overall length of time it takes to complete formal discipline.

As noted previously, the Board requested and subsequently received 6.0 limited term staff positions in its FY 2020/21 budget to address the backlog of complaints. According to the Board, these six positions have been filled, and their focus will be on processing the Board's oldest, highest priority cases.

Beyond receiving additional staff, the Board has also adopted new internal strategies to reduce timelines, such as streamlining complaint investigations and managing the disciplinary process to a single enforcement analyst, and focusing Board resources on older and more complex cases. It is also working with DCA's OIO team to map out, examine, and propose improvements to all existing enforcement procedures employed by the Board.

Staff Recommendation:

The Board should inform the Committees on its short-term and long-term strategies to address the growing enforcement backlogs and the increase in investigation timelines. The Board should detail how new resources, if granted, will be used to improve enforcement operations. All efforts should be made to fill any existing vacancies in its Enforcement Unit to further reduce backlogs. The Board should continue to monitor enforcement performance closely, and report to the Committee with an update during the next Sunset Review.

ISSUE #26: (HOSPITAL INSPECTIONS) How does the Board plan to reach its 20% hospital inspection goal?

Background: Under Business and Professions Code Section 4809.5, the Board has the authority to inspect at any time premises in which veterinary medicine, dentistry or surgery is being practiced. The authority to conduct unannounced inspections is a helpful tool for the Board to ensure the protection of consumers and the wellbeing of animal patients.

To accomplish these inspections, the Board contracts with licensed Veterinarians and RVTs to serve as Board inspectors. These inspectors ensure that facilities meet all requirements set forth in law, including animal care practices, facility sanitation, recordkeeping, and inventory of controlled substances.

In 2018, SB 1480 (Hill, Chapter 571, Statutes of 2018) mandated that the Board inspect at least 20% of veterinary premises annually. To ensure the Board's inspection program met this threshold, a BCP was submitted and approved for FY 2019/20, which provided budgetary authority for three additional staff positions to bolster inspection operations. This legislation did not increase fees to fund the additional staff positions.

Despite these new resources, the Board reports that it was unable to meet the 20% inspection goal. The Board cites its degrading fund condition, an increase in premise locations, an increase in complaints, and staff vacancies, as factors for the shortfall.

Staff Recommendation:

The Board should inform the Committees how it plans to meet the legislatively mandated 20% hospital inspection goals.

ISSUE #27: (PREMISES REGISTRATION) Does the Board require additional enforcement tools in regards to premises registration and managing licensees?

Background: BPC Section 4853 requires all premises where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof is being practiced to be registered with the Board. An application for premises registration is required to contain the name of the responsible licensee manager (MGL) who is to act for and on behalf of the licensed premises. There is no requirement that an owner or operator of a veterinary premises be licensed as a Veterinarian or other veterinary health care provider.

All license applicants are required to submit to a criminal background check. Based on the person's record, the Board has authority to deny license and registration applications for convictions and discipline by public agencies.

However, existing law does not require the owner or operator of the veterinary premises to be the premises registration applicant or be identified on the application. Therefore, according to the Board, it is unclear who needs to be fingerprinted and under what circumstances the Board can deny premises registrations.

In addition, the building where veterinary medicine is practiced may be leased from a third party not involved in the practice. The Board notes that the statute is unclear whether the premises means the real estate, the brick and mortar building, or the location of the practice.

Furthermore, it is unclear if the Board has authority to deny a premises registration or MGL substitution application when a revoked Veterinarian is the owner or operator of the premises. Currently, a Veterinarian, who was named as the premises MGL but whose license was subsequently revoked or suspended, may submit to the Board an application naming a new MGL associated with the premises, while the revoked veterinarian attempts to operate the premises without the Board's knowledge. The Board reports instances of abuse, in which MGLs who have been disciplined for various violations were able to continue controlling the veterinary premises and the veterinary practice therein.

The Board is aware of multiple instances where unlicensed individuals own or operate the premises without maintaining minimum standards and keep rotating MGLs. New MGLs assume responsibility, realize the premises owner will not provide necessary resources to properly maintain the premises, decide to go elsewhere, and the premises owner/operator hires a new MGL. This endless loop leads to veterinary services being provided on an ongoing basis without the unlicensed premises owner/operator ever being held responsible for the premises conditions.

Although the Board does have authority to withhold, suspend, or revoke the premises registration when an MGL leaves, there is no specified timeframe for how long the owner has to designate a new MGL. Without a specified timeframe or explicit authority to cancel the registration, the Board explains that its only options are to either hold a renewal, which could take an entire year, or go through the disciplinary process in order to suspend or revoke the registration. The Board argues that the ability to enforce a clear timeframe incentivizes compliance and enables the Board to adequately enforce the consumer protection statute.

To address these issues, the Board is requesting that statutes be amended to (1) clarify the premises refers to the location of veterinary medicine practice rather than the real estate, (2) clearly identify the premises registration applicant, (3) grant authority to deny registrations on the basis of the premises owner(s)/operator(s) criminal and disciplinary history, (4) hold the premises registration holder responsible for unsanitary, unsafe, and unlawful conditions, and (5) cancel registrations when an MGL has not been identified after 30 days.

Staff Recommendation:

The Board should report to the Committees about its recommendations to address loopholes and abuses of the premises permits and the managing licensee designation. The Board should provide details about the prevalence of the problem, and whether the Board needs additional enforcement tools to address the reported abuses.

ISSUE #28: (DIVERSION PROGRAM COSTS) Should Diversion participants pay the administrative costs of the program?

Background: The Board's Diversion Program was established to identify and rehabilitate Veterinarians and RVTs who suffer from alcohol or drug abuse. The program aims treat such licensees, with the goal of eventually returning them to the practice of veterinary medicine in a manner that will not endanger public health and safety.

Participants in the program are enrolled for a minimum of three years – but the length of treatment can extend based on individual needs and level of rehabilitation. The current Board cost for the program is \$4,560 per participant and rises 3% annually. In addition, program participants pay a flat fee of \$2,000. Thus, the minimum cost for a three-year program is roughly \$16,000, with the Board covering \$14,000, or 88% of the costs. While the Board may increase the participants' flat fee to \$4,000, the initial and ongoing Board costs continue to increase annually.

According to the Board, program participation has historically been low. Since 2003, there have been 24 total participants, and as of this Sunset Review, only one individual is currently participating in Diversion. The Board believes that the low participation rate may be due to the lack of knowledge about this program. As a result, the Board would like to develop an outreach campaign that would educate licensees about the rehabilitative and healing benefits of the Diversion program.

However, there is significant concern that the Board's fund condition would not be able to sustain the program if more participants enrolled. Therefore, in order to sustain the Board's fund in the event that more participants enroll in Diversion, the Board is requesting statutory changes to increase the amount participants pay to participate in the Diversion program. The Board recommends participants pay the administrative costs for the program rather than a flat fee.

Staff Recommendation:

The Board should explain its request to change the payment arrangements for individuals wishing to enroll in the Board's Diversion program. The Board should also detail potential timelines and anticipated costs for these changes, and how it would impact current and future Diversion participants.

ISSUE #29: (DIVERSION EVALUATION COMMITTEE) Should the Board have statutory authority to suspend members of its Diversion Evaluation Committee?

Background: The Board's Diversion Evaluation Committee (DEC) assists in the administration of the Diversion program. Among other responsibilities, the DEC evaluates licensees who request participation in the program; designates the treatment facilities which licensees may be referred to; and considers whether licensees may safely continue or resume the practice of veterinary medicine. Existing law requires a majority vote of the Board to appoint members of the DEC.

However, according to the Board, there is no provision for suspending or dismissing DEC members without the full Board during public session. If, in the unfortunate event a DEC member relapses or is suspected of drug or alcohol abuse, that member and the integrity of the DEC may

be compromised. In response to this potential issue, the Board is requesting adding provisions allowing for the suspension of DEC members pending an investigation into allegations of existing alcohol or drug addiction. In addition, the Board recommends adding authority to remove a member if the allegations are substantiated. Since there is no exemption in the Bagley-Keene Open Meeting Act for such discussions, the Board is also recommending delegating this authority to the Board President.

Staff Recommendation:

The Board should report on its request to obtain statutory authority to dismiss a DEC member. If pursuing this change, the Board should discuss the appropriate level of public disclosure that should occur in the event that substantiated evidence found a DEC member relapsing or abusing drugs and/or alcohol.

ISSUE #30: (VETERINARY SPECIALISTS) Should the Legislature clarify the term “veterinary specialist” for the purpose of public protection?

Background: The American Board of Veterinary Specialties (ABVS) is an organization within the American Veterinary Medical Association (AVMA). The ABVS establishes criteria for recognition of veterinary specialty organizations, ensuring well-defined levels of competency in specific areas of study or practice categories within veterinary medicine.

Currently, there are 22 AVMA-Recognized Veterinary Specialty Organizations comprising 40 distinct AVMA-Recognized Veterinary Specialties. According to the AVMA, there are more than 13,500 veterinarians have been awarded diplomate status in one or more of these specialty organizations after completing postgraduate training, education, and examination requirements.

Unlike some other healing arts licensees who are statutorily required to be certified by a recognized entity to advertise the licensee’s specialized practice, the Practice Act does not provide any distinction between Veterinarians who are general practitioners and Veterinarians who are specialists. The Board argues that this puts consumers at risk, as they may not be able to distinguish a Veterinarian who has specialist training and certification from a Veterinarian who claims an interest in a particular field but has no specialist training or certification.

According to the Board, it is important to protect the public from misleading claims of specialized veterinary practice and ensure that consumers have full understanding of a Veterinarian’s qualifications.

To accomplish this goal, the Board is requesting that a new violation of the Practice Act be added for making any statement, claim, or advertisement that the licensee or registrant is a veterinary specialist or “board certified,” unless they are certified by an AVMA-Recognized Veterinary Specialty Organization.

Staff Recommendation:

The Board should provide a report on its request to add statutory clarity of veterinary specialties, and discuss whether additional specialties beyond AVMA-recognized specialty organizations should be considered.

ISSUE #31: (CITATIONS) Should the Legislature update the Board’s process for issuing and contesting citations?

Background: Existing statutes allows the Board’s Executive Officer to issue citations to Veterinarians, RVTs, or unlicensed persons for Practice Act violations. Before any citation may be issued, the EO is required to submit the alleged violation for review and investigation to at least one of its contracted licensee Subject Matter Experts.

The Board contends that although its licensed Subject Matter Experts are essential when determining whether animal patients received the minimum standard of care from a licensee, not all violations warrant Subject Matter Expert review. For example, review of past criminal convictions, failure to complete continuing education, unlicensed practice, or minor record keeping violations may not necessitate a Board licensee expert reviewing and investigating.

In addition, the Board reports conflicting statutes regarding the timelines for contesting a citation: BPC section 125.9 allows a cited individual 30 days to contest a citation and request an informal conference or hearing. On the other hand, BPC section 4875.6 requires notification in 10 business days from receipt of the citation if the individual contests the citation and wants an informal conference. The Board explains that this inconsistency leads to confusion amongst Board staff and cited individuals wishing to appeal the citation.

The Board has approved at its January 2020 meeting proposed legislative language to modify and clarify the processes for issuing and contesting a citation. Among other items, the proposed legislative changes would prescribe when the Board’s EO may issue a citation with or without review and investigation of a Subject Matter Expert, and clarify that a cited person shall have 30 days to contest to contest a citation and request an informal conference or hearing.

Staff Recommendation:

The Board should review with the Committees its proposed legislative language regarding the process of issuing and contesting citations, and describe how these changes would improve the Board’s enforcement program and consumer protection function.

TECHNICAL CLEAN-UP

ISSUE #32 (TECHNICAL CLEANUP) Is there a need for technical cleanup?

Background: As the veterinary profession continues to evolve and new laws are enacted, many provisions of the Business and Professions Code relating to veterinary medicine become outmoded or superfluous. The Board should recommend cleanup amendments for statute.

Staff Recommendation:

The Board should work with the Committees to enact any technical changes to the Business and Professions Code needed to add clarity and remove unnecessary language.

CONTINUATION OF THE VETERINARY MEDICAL BOARD

ISSUE #33: (CONTINUATION OF THE BOARD) Should the licensing and regulation of the practice of veterinary medicine be continued to be regulated by the current Board membership?

Background: The health, safety, and welfare of consumers and animals are protected by a well-regulated veterinary profession. Although the Board is facing increased licensing and enforcement workloads and is struggling to meet established processing timelines, the Board has displayed a strong commitment to improve the Board's overall efficiency and effectiveness. In addition, the current Board and its staff have worked cooperatively with the Legislature and the Committees to identify and address issues impacting veterinary medicine.

Staff Recommendation:

The practice of veterinary medicine should continue to be regulated by the Veterinary Medical Board in order to protect the interest of the public. The Board should be reviewed by the Committees once again on a future date to be determined.