

**VETERINARY MEDICAL BOARD  
RESPONSES TO RECOMMENDATIONS BY THE JOINT COMMITTEES  
SUNSET REVIEW HEARING, MARCH 14, 2016**

**CURRENT SUNSET REVIEW ISSUES**

The following are unresolved issues pertaining to the Board, or areas of concern for the Committees to consider, along with background information concerning the particular issue. Also included are recommendations made by Committee staff regarding particular issues or problem areas that need to be addressed. The Board and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

**BOARD ADMINISTRATION ISSUES**

**ISSUE #1: (BREEZE.) Board staff is significantly impacted by BreEZe implementation and the potential costs to the Board are still uncertain.**

**Background:** The DCA has been working since 2009 on replacing multiple antiquated standalone information technology (IT) systems with one fully integrated system. In September 2011, the DCA awarded Accenture LLC (Accenture) with a contract to develop a new customized IT system, which it calls BreEZe. According to the DCA, BreEZe is intended to provide applicant tracking, licensing, renewals, enforcement, monitoring, cashiering, and data management capabilities. In addition, BreEZe is web-enabled and designed to allow licensees to complete and submit applications, renewals, and the necessary fees through the internet. The public also will be able to file complaints, access complaint status, and check licensee information if and when the program is fully operational.

The project plan called for BreEZe to be implemented in three releases. The Board is part of the Release 2 (R2) plan for BreEZe rollout which went live on January 19, 2016. Board staff has provided regular updates on the project to the Board and has explained that the system consists of two main components, Versa Regulation and Versa Online. Versa Regulation is the back-office component of the BreEZe database system and is utilized for internal processes that guide an initial application through licensure. Versa Online is the front facing component of the BreEZe database system and is used by external customers for online payments and activities such as submitting a complaint, checking the status of a complaint, applying for examination eligibility, applying for licensure, renewing a license, updating an address of record, etc.

According to information presented to the Board, the process of transitioning to BreEZe has 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. As of November 2015, Board staff continued to be heavily impacted by BreEZe activities and was working on various components of the rollout leading up to Release 2 of the BreEZe system. Preparation activities included validating legacy systems data to ensure that all legacy data will be accurately converted to the BreEZe system, continued review of the Board's system design Profile Reports, and user acceptance testing. User acceptance testing started September 23, 2015 and lasted approximately 8-10 weeks. Staff members were asked to commit a significant amount of time to assist in testing the functionality of the BreEZe system during this testing period. Board staff additionally participated in training for all staff, in

addition to continued Organizational Change Management efforts to ensure staff is prepared to adjust processes for the new system. Board staff has worked on various outreach components of BreEZe including updating Board forms and the Board 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. The Board has paid \$270,608 in BreEZe related costs from FY 2009/10 to FY 2014/15. According to an analysis of the Board's 2016/17 fund, total projected BreEZe expenditures for the Board will be \$809,248 by FY 2016/17. The current project budget augmentation authorized for the Board under the most recent special project report for BreEZe is \$786,896.

***Staff Recommendation:*** *The Board should report to the Committees on the status of the transition to BreEZe. Does the Board expect to have any maintenance needs? Has staff been able to resume normal duties now that R2 is live? It would be helpful to understand how BreEZe related costs will continue to impact the Board's budget.*

**2016 Board Response:**

The Board went live on January 19, 2016, and while much time pre-go-live was spent on system functionality, the Board continues to experience challenges with the functionality of the BreEZe system. Generally, the Board is experiencing issues related to data conversion, as well as understanding and adapting to new cashiering procedures, and application and business processes. There are a number of outstanding business process improvements as well as system enhancements and data patch solutions that are being addressed. Management of the various phases of the project, post-go-live, continues to consume a measurable portion of staff time. To date, the Board has identified well over 140 potential post-go-live change orders (request a fix for a system defect, or request a system enhancement). Some are based on known issues (including department-wide issues), and some are system enhancements that will make processing applications and complaints more efficient. The time involved to request the system fixes, in terms of researching the problem, proposing a solution, and finally creating the request change order, has been significant since go-live. However, the Department has provided the Board with additional staff to help triage and capture the aforementioned changes.

Notwithstanding staff challenges post-go-live, applicants and licensees have taken well to the new BreEZe online system. Among the most significant benefits, is the ability to accept applications and payments online which expedited back-office processing timelines. The Board directs applicants to BreEZe on its website and includes the option on its forms. The Board continues to receive increasing numbers of applications online, including many renewal applications.

The cost to the Board for the implementation of the BreEZe program as noted by the Department is \$275,000 in current year 2015/16 and \$264,000 in BY 2016/17. The on-going BreEZe costs including maintenance costs for Department staff and other program costs, have not been identified by the Department. As such, the Board is uncertain of the ongoing impact of BreEZe to the Board's budget, its staff, and the overall health of the Board's fund.

**ISSUE #2:** (RVT ISSUES.) RVT issues appear to still be persisting.

**Background:** According to representatives of the RVT profession, there have been several RVT issues that either the MDC or the Board have not addressed or have delayed action in resolving. During the prior sunset review, the Committees were concerned the Board had no direct input during MDC

meetings and had not given the MDC clear directives to address RVT issues. The Committee also acknowledged that the Board had allowed RVT matters to be splintered between different subcommittees. While the Board did make improvements by removing RVT issues from subcommittees and handling them more directly through appointments to the MDC, concern remains, that RVT issues are not being prioritized by the Board.

In 1975, the profession of Animal Health Technician (AHT) was created by the Legislature in response to the desire by the veterinary profession to have a well-trained and reliable work force. The AHT Examining Committee (AHTEC) was created as an independent committee with a separate budget to assist the Board with issues related to the new profession. In 1994, the title “Animal Health Technician” was changed to Registered Veterinary Technician, and AHTEC was renamed the RVTEC. In 1998, the original independent RVTEC was allowed to sunset, and a new committee of the Board, the Registered Veterinary Technician Committee (RVTC), was created. The Legislature gave the new RVTC the statutory authority to advise the Board on issues pertaining to the practice of RVTs, assist the Board with RVT examinations, CE, and approval of RVT schools. The Legislature also specifically stated in the law its intent that the Board give specific consideration to the recommendations of the RVTC. In 2004, the Joint Legislative Sunset Review Committee was concerned that the RVTC had no independent authority over issues within its jurisdiction like examinations, eligibility categories and establishing criteria for and approval of RVT school programs. In 2006, the duties of the RVTC were expanded to include assisting the Board in developing regulations to define procedures for citations and fines. In 2010, the Legislature added an RVT 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 allowed to sunset upon appointment of this RVT. The newly created MDC was made up of four veterinarians, two RVTs, and one public member.

Today, the MDC includes one veterinarian member of the Board and the RVT member of the Board, both of whom are voting members of the MDC. There are no longer RVT or MDC subcommittees addressing RVT matters, as RVT professional issues are delegated to the MDC by the Board. It appeared that both veterinarians and RVTs believed this structure would allow for issues regarding the RVT profession to be adequately addressed. Current concerns indicate, however, that this may not be the case. RVTs may not be able to provide important input about regulations to define the parameters for a student exemption allowing them to perform restricted RVT job tasks. Additionally, a regulation to clarify the Board’s authority over RVT schools took two and half years to go to public hearing after approval by the Board. The Board also was significantly delayed in transition from using the state RVT examination to using a national RVT exam.

While the Board has historically cited limited staffing as the rationale for past unresponsiveness to RVT issues, some of those within the RVT profession believe that the lack of responsiveness has persisted past the 2010 change in MDC structure. Some RVTs have cited the supervisory relationship between veterinarians and RVTs as a barrier to success in the current structure. The power dynamic naturally creates an imbalance in the issues that are addressed by the Board and MDC. Additionally, with over 6,000 licensed RVTs in California, many believe that issues of the profession require more significant and consistent attention.

***Staff Recommendation: RVTs represent an important part of animal care services whose issues are significant and warrant consistent attention. If the Committees believe that RVT issues are not be adequately addressed then consideration should be given to recreating the RVTC with a legislative mandate to advise the VMB on issues pertaining to the practice of veterinary technicians and assist the VMB with RVT examinations, continuing education, and approval of RVT schools. The MDC***

*should continue considering issues referred by the Board with its current structure. To provide necessary context and continuity, the RVT member who sits on the Board and MDC should also serve as a voting member of the RVTC.*

**2016 Board Response:**

While the Board agrees with staff that issues related to RVT education, training, and scope of responsibility as it relates to consumer protection are vitally important in providing competent and necessary animal health care services, the Board does not support recreating the RVTC.

As outlined in the Board's Sunset Review Supplemental Report, the MDC was not delegated RVT issues until 2013, as the RVTC was sunset in June 2011, and the MDC was still completing its initial charge of addressing enforcement provisions, e.g., minimum standards, hospitals inspections, and the citation and fine program. Although the MDC was unable to take on new issues in 2011-2012, it did form a two member subcommittee specifically to handle RVT issues.

In 2013, the Board asked its RVT subcommittee to merge with the MDC RVT subcommittee and hold RVT Task Force meetings to discuss the transition to the national exam, to solicit public input on the RVT student exemption issue, and to develop standards for regulating the RVT alternate route programs. The RVT Task Force held three public meetings in 2013 and then all pending matters were transitioned to the MDC.

Today, the composition of the MDC includes one veterinarian member of the Board and the RVT member of the Board, who are both voting members of the MDC. RVT professional issues are delegated to the MDC by the Board. **Subsection (f) of 4809.8 clearly expresses the Legislature's intent that the MDC give appropriate consideration to issues pertaining to the practice of registered veterinary technicians**, which is exactly what the MDC has done over the past two years. In reviewing the past two+ years of meeting agendas of the MDC, and decisions of the Board, RVT issues have been given a very high priority. The MDC has examined each of the pending RVT issues, including RVT education and training and alternate route programs and the RVT student exemption:

- April 2015 – MDC adopted recommendations regarding regulations for the California Veterinary Technology Alternate Route Program Regulations.
- In July 2015 - Board approved a regulatory proposal that would establish program approval criteria for students enrolling in a Veterinary Technology Alternate Route Program.
- July 2015 – MDC made regulatory recommendations to the Board regarding the RVT Student Exemption matter. The issue had been previously discussed by the **RVT Subcommittee, but no formal action was taken**. The Board considered and approved the language in October 2015.
- The Board's 2015-2019 Strategic Plan includes specific objectives for RVT issues moving forward:
  - Complete a cost-benefit analysis of the RVT exam to determine reasonable and equitable fees.
  - Monitor and approve the education and training offered by RVT Alternative Route Programs to measure quality and consistency.
  - Address Shelter Medicine Minimum Standards and the RVT's role in triaging and administering medication to animals upon intake).

In addition to the issues above, the MDC has recently examined the RVTs role in drug compounding, animal rehabilitation, and is continuing its work as delegated by the Board on determining the appropriate scope of autonomy for RVT practice in shelter medicine and extended functions for RVTs related to neutering male cats, and the RVTs role in providing on-site animal health care at rodeos.

The long delays as cited in the Background Paper were delays both at the RVTC and the MDC, and were delays prior to 2014, when there was not sufficient staff to compile research, prepare issue memos, and facilitate the on-going work of the Committees. It was not due to a lack of prioritization. The Board and MDC have worked diligently to elevate and resolve many long-standing RVT matters in recent years.

To the extent that the Board may improve the visibility and tracking of all RVT matters before the Board and the MDC, the Board will institute a standing RVT report at each scheduled Board meeting which will be provided to the Board by the RVT member, and which will outline the RVT issues and priorities before the Board. The report may serve as an on-going action item report for future updates to the Legislature on the work of the MDC as it relates to RVT matters.

### **LICENSING AND EXAMINATION ISSUES**

#### **ISSUE #3: (RVT LAW EXAM COSTS.) Should the California RVT Law Examination be converted to a mail out examination?**

**Background:** For a profession in which the cost of education can be upwards of \$40,000 and the starting wage is roughly \$12 to \$17 per hour, the cost of licensure can be a barrier to potential RVT candidates. In March of 2014, the Board transitioned from use of its own RVT examination to utilizing the national RVT examination (VTNE). The national RVT examination does not test candidates on their knowledge of California-specific veterinary practice; therefore, RVT candidates are required to take an additional California-specific practice examination. This examination predominately serves as a jurisprudence examination for RVT. Business and Professions Code Section 4841.1 (c) requires the Board to administer an examination specific to the animal health care tasks limited to California RVTs. This transition from a single examination to two separate examinations brought about a total examination cost increase from \$300 to \$600 for RVT candidates. Concern has been raised that the higher cost for RVT candidates is burdensome, unjustified, and inconsistent with requirements for veterinary candidates.

The California law examination for veterinary candidates is administered in a mail out format. However, in practice, only out of state veterinary candidates are required to take the mail out law examination. Veterinary students at UC Davis and Western University are exempt from the law examination because they complete a Board approved course on veterinary law and ethics that covers the Medicine Practice Act.

It is inconsistent and arbitrary to impose a more stringent standard at a higher cost on RVTs than what is required for the veterinarians who will be supervising them.

**Staff Recommendation:** *No recommendation at this time.*

#### **2016 Board Response:**

When the Board decided to make the transition to the Veterinary Technician National Examination

(VTNE) for the purpose of creating portability for RVT applicants, it contracted with the Department's Office of Professional Examination Services (OPES) to conduct a study of the VTNE. The report was published on July 12, 2010, and the results of the report concluded that while the competencies assessed in the national exams are relevant and comprehensive to veterinary technician practice in California, the specific RVT animal health care tasks and knowledge statements related to California laws and regulations were not reflected in the national exam. As such, the experts who participated in the national exam study concluded that a California supplemental examination for RVT-related California laws and regulations must be administered. The OPES advised the Board that an open-book examination would not suffice as a psychometrically validated exam.

Also, it should be noted that licensed veterinarians are required to take a pass the California Board Exam in addition to an open-book jurisprudence exam.

Since the issue of examination costs for RVTs was raised by the Committee staff in the background summary, the Board is researching the cost of both the state and the national examinations. [The issue of the RVT cost analysis is an objective in the Board's Strategic Plan as outlined under Issue #2.]

#### **ISSUE #4: (University Licensure.) Should the Board license veterinarians employed by veterinary medical schools?**

Background: Existing law, BPC Section 4830(a)(4) allows for an exemption to licensure for veterinarians working at both veterinary medical schools in California, UC Davis and Western University.

States that have veterinary schools typically have exemptions or some form of university licensure to accommodate the schools' hiring needs. Veterinary schools hire veterinarians from all over the world who sometimes come into a state for a limited period of time, and who do not practice outside the confines of the university. However, problems can arise when the university veterinary hospital is providing services to the general public and the consumer does not have recourse through a licensing board for standard of care issues.

The Board receives calls periodically from consumers whom are unhappy with the services at a university teaching hospital and request the Board to intervene. Since veterinarians working at the universities are exempt from licensure, the Board states that it has no authority to pursue disciplinary action and must advise the consumer to seek recourse through the university's complaint mediation process. The exemption presents consumer protection issue, and the Board believes that all veterinarians providing treatment to the public's animals should be licensed and regulated. Faculty recruited for clinical positions within the university typically specialize in certain species and conditions, are experts in their field of study, and have undergone intensive specialty testing that exceeds the examinations required for entry-level licensure. In fact, for employment in clinical faculty positions, the university requires specialty training or other advanced clinical training. Some faculty may have graduated from foreign veterinary schools that are recognized but not accredited by the American Veterinary Medical Association. As reported by UC Davis and Western University, requiring full licensure would negatively impact the universities' ability to attract and recruit the best qualified veterinarians.

During the past two years, the MDC has debated the issue of requiring veterinarians working in a university setting to obtain a University License and therefore, no longer be exempt from Board oversight. As part of the MDC's research, former legal counsel reviewed the pertinent statutes, BPC

section 4830 (a)(4), and concluded that the existing exemption for veterinarians employed by the universities would need to be amended to either to strike the language in section 4830 (a)(4) and thus require a license for university personnel or include language in 4830 (a)(4) that would qualify when a “University License” must be issued in order for a veterinarian employed by a university to provide veterinary services to the public’s animals.

The MDC voted to recommend to the Board that a separate University License be issued to veterinarians who are employed by and who engage in the practice of veterinary medicine in the performance of their duties for the university. Both UC Davis and Western University are supportive of requiring a University License for veterinarians practicing within the university setting as it will provide consumer recourse through the Board and the Board may assist the university in handling enforcement matters involving university employees.

The Board voted to approve the request for a statutory change at its October 2015 meeting and is requesting assistance from the Legislature to amend Section BPC Section 4830 and add new BPC 4848.1. The change would require an implementation date set out at least 6 months from the effective date to enable university personnel to comply with the proposed examination requirements (California jurisprudence exam) and educational course on regionally specific diseases and conditions.

**Staff Recommendation:** *The exemption for university-employed veterinarians presents a consumer protection issue. The Committees should amend the Business and Professions Code to require the Board to separately license veterinarians practicing within the university setting.*

*Add New BPC 4848.1 – University License Status*

**(a) Veterinarians engaged in the practice of veterinary medicine as defined in Section 4826, employed by the University of California while engaged in the performance of duties in connection with the School of Veterinary Medicine or employed by the Western University of Health Sciences while engaged in the performance of duties in connection with the College of Veterinary Medicine shall be licensed in California or shall hold a University License issued by the Board.**

**(b) An applicant is eligible to hold a University License if all of the following are satisfied:**  
**(1) The applicant is currently employed by the University of California or Western University of Health Sciences as defined in subdivision (a);**  
**(2) Passes an examination concerning the statutes and regulations of the Veterinary Medicine Practice Act, administered by the board, pursuant to Section 4848, subdivision (a) paragraph (2) subparagraph (C); and**  
**(3) Successfully completes the approved educational curriculum described in Section 4848 subdivision (b) paragraph 5 on regionally specific and important diseases and conditions.**

**(c) A University License:**  
**(1) Shall be numbered as described in Section 4847;**  
**(2) Shall cease to be valid upon termination of employment by the University of California or by the Western University of Health Sciences;**  
**(3) Is subject to the license renewal provisions pursuant to Section 4846.4; and**  
**(4) Is subject to denial, revocation, or suspension pursuant to Sections 4875 and 4883.**

**(d) Individuals who hold a University License are exempt from satisfying the license renewal requirements of Section 4846.5.**

## *Strike BPC 4830(a)(4) – Practice Provisions Exception*

~~(4) Veterinarians employed by the University of California while engaged in the performance of duties in connection with the College of Agriculture, the Agricultural Experiment Station, the School of Veterinary Medicine, or the agricultural extension work of the university or employed by the Western University of Health Sciences while engaged in the performance of duties in connection with the College of Veterinary Medicine or the agricultural extension work of the university.~~

### **2016 Board Response:**

The Board supports the staff recommendation and appreciates the Committee’s willingness to assist with legislative amendments. The Board has requested technical amendments to the language above for review and consideration by the Legislature.

**ISSUE #5:** (DELINQUENT REGISTRATION STATUS.) Should the premises registration be cancelled after 5 years if they are in a delinquent status?

**Background:** Currently there is no provision for the premises registration to cancel after five years, as would be consistent with other license types regulated by the Board. Instead hospital premises registrations are left in a delinquent status indefinitely and remain on the Board’s records. The records are accessible on the Board’s website under the “License Verification” feature. It is confusing for consumers who use the website to find registered veterinary premises and retrieve data on hospitals that have been in a delinquent status for more than five years. Many of these hospitals are no longer operating veterinary premises, yet there is not mechanism by which the Board may cancel the premises registration. In addition, the retention of electronic records for delinquent premises registrations is a resource issue for the Board as there is a “per record” cost for maintaining the data.

**Staff Recommendation:** *The Committees may wish to consider adding language that would allow the Board to cancel the premises registration of veterinary premises that have remained in delinquent status for more than five years.*

### **2016 Board Response:**

The Board appreciates the Committee’s willingness to assist the Board with a legislative change which would update the Board’s public records and ensure up-to-date and accurate information is available to the public regarding registered veterinary premises.

## **VETERINARY PRACTICE ISSUES**

**ISSUE #6:** (COMPOUNDING OF DRUGS.) Should veterinarians be granted authority to compound drugs for animal patients?

**Background:** During hospital inspections, Board inspectors routinely encounter bulk form drugs used for compounding medications stored at veterinary hospitals. If the drugs are not properly stored, labeled, or are expired, the inspector will advise the Licensing Manager of the compliance issue. However, there are no specific provisions in the Practice Act to provide oversight of a veterinarian compounding drugs for use in day-to-day veterinary practices and for dispensing to clients. Instead, the Board has looked to laws and regulations governing pharmacies (BPC Sections 4051, 4052, and 4127 & Title 16 CCR Sections 1735-1735.8 and 1751 et. seq.) since veterinarians are authorized prescribers under BPC Section 4170. Pharmacy regulations not only include specific requirements for pharmacies



that compound and dispense medications, but also define the “reasonable quantity” of a compounded medication that may be furnished to a prescriber (in this case, veterinarian) by the pharmacy to administer to the prescriber’s patients within their facility, or to dispense to their patient/client. It should be noted that the Board of Pharmacy is currently pursuing a regulatory amendment to its Compounding Drug Preparation regulations that includes amendments to the “reasonable quantity” definition of compounded drugs that may be supplied to veterinarians for the purposes of dispensing. In addition to pharmacy provisions, federal law provides for *Extralabel Drug Use in Animals*, CFR Title 21 Part 530.13, which authorizes veterinarians to compound medications in following situations:

- There is no approved animal or human drug available that is labeled for, and in a concentration or form appropriate for, treating the condition diagnosed.
- The compounding is performed by a licensed veterinarian within the scope of a professional practice.
- Adequate measures are followed to ensure the safety and effectiveness of the compounded product.
- The quantity of compounding is commensurate with the established need of the identified patient.

The Board has been actively engaged in discussions regarding the regulation of veterinarians compounding drugs since October 2014 when the US Government Accountability Office contacted the Board to obtain information on California’s regulation of animal drug compounding. At that time, the federal Food and Drug Administration (FDA) was considering changes to its guidance on Compounding Animal Drugs from Bulk Drug Substances. Ultimately, the FDA released Draft Guidance #230 in May 2015, which was intended to provide parameters for compounding animal drugs.

At its October 20, 2014 meeting, the MDC reviewed the issue of drug compounding by veterinarians for their animal patients. The issue, as raised by Board legal counsel, was that there is no explicit grant of authority in the Practice Act authorizing licensed veterinarians to compound drugs pursuant to federal law. Board counsel advised that provisions for veterinarians to compound drugs for animal patients would need to be added to the veterinary medicine scope of practice. The MDC examined the lack of statutory guidance for veterinarians and ultimately recommended that the Board consider a legislative proposal to grant veterinarians the authority to compound drugs for their animal patients under the existing limitations of CFR Title 21 Part 530.13.

**Staff Recommendation:** *The Board should continue its work with the Pharmacy Board and legal counsel to develop language to be added to the Veterinary Medicine Practice Act granting limited state authority for veterinarians to compound drugs.*

**2016 Board Response:**

The Board has met with the Board of Pharmacy, the California Veterinary Medical Association, and Committee staff to craft a statutory proposal which provides limited authority for veterinarians to compound drugs pursuant to federal rule, and which creates an ongoing working relationship between the Veterinary Medical Board and the Board of Pharmacy for developing further regulations.

**ISSUE #7: (ANIMAL REHABILITATION.) Should the Board continue to pursue regulations to more clearly define and describe the scope of animal rehabilitation, the level of veterinary supervision, and what minimum education and training requirements may be necessary?**

**Background:** For the past four years, the Board, with the help of the MDC, has examined the issue of persons involved in rehabilitative services for animals. The impetus for the research, and an eventual regulatory solution, was the number of concerns the Board received regarding unlicensed persons diagnosing and treating animals under the guise of “animal rehabilitation”. The Board became increasingly concerned about the welfare of the animals being treated by unlicensed personnel, and ultimately learned through oral testimony at its public meetings, that animal harm has occurred.

Thirty-five states define Animal Physical Therapy, also known as “Animal Rehabilitation” (AR), as the practice of veterinary medicine. A few states such as Colorado, Nevada, and Utah include some authority to provide AR under the scope or practice of physical therapists who work under the authorization or supervision of a licensed veterinarian. State provisions vary in terms of the level of veterinary oversight required in order for physical therapists, registered veterinary assistants, or other support personnel to provide AR services. At least four states require direct or immediate supervision, while others allow a less restrictive oversight role by a veterinarian.

The Board has included the issue of AR at a number of its meetings throughout 2012-2013 and the discussion has generated a great deal of interest from the public who attended the Board meetings to express their support or concern regarding the Board’s role in regulating AR services. In June 2015, the Board filed its regulatory proposal for AR, and a public hearing was held September 10, 2015. The Board received several hundred comments, thousands of signed petitions, and heard testimony from over 60 interested parties. The testimony at that hearing included similar opposition as was raised in public meetings in 2012/2013 and highlighted the following sentiments:

- Complementary therapy, such as massage, should not be defined as AR.
- Supervision parameters are overly restrictive.
- The lack of specific training in AR for all providers poses a consumer protection problem.
- The definition of AR in the Board’s proposal is too broad.

The following reflects some of the more recent concerns and feedback from interested parties in response to the Board’s regulatory proposal:

- This is an attempt by the Board to restrict business competition.
- AR should be regulated to protect animal patients from incompetent providers.
- Specifically state that Musculoskeletal Manipulation (chiropractic treatment) 16 C.C.R. Section 2038 is not being modified by the regulatory proposal.
- Since animals are deemed property, the consumer should have a right to choose complementary services for their animals.

- Significant negative impact to jobs and businesses would result if the regulations were to take effect.
- The supervision requirement is far too restrictive; there should be a change from the direct supervision requirement to indirect supervision.
- The level of supervision should be determined by the referring veterinarian.
- Massage should be removed from the definition of AR.
- Exercise for the prevention of disease is not medicine and should be excluded.
- Horse trainers are not licensed and yet provide most of the exercise therapy for race horses.
- There are not enough veterinarians to oversee AR services and thus the regulations present a barrier to access for the consumer.
- The regulations will drive up consumer costs for AR.

Although this issue has been considered by the Board for some time, several more recent policy and legal issues have been raised. Initially, the Board must consider the definition of the practice of veterinary medicine and whether the practice of veterinary medicine pursuant to BPC Section 4825 authorizes the Board to adopt regulations that would allow other practitioners who are not licensed by the Board to engage in aspects of veterinary medicine. If the modalities or interventions included in the regulatory proposal do not constitute the practice of veterinary medicine, it is questionable whether the Board can adopt regulations to govern areas outside its scope of practice.

In either case, concerns have been raised that the Board is attempting to limit business competition and protect the profession's financial interests, not to further its consumer protection mandate. The Board is confident that the impetus and rationale for pursuing a regulatory proposal regarding AR is purely motivated by the concerns raised before the Board regarding animal welfare and not a form of protectionism. That being said, the Board is mindful of the public perception and is taking another look at how the regulatory proposal may be modified to address the public's concerns.

At its October 20, 2015 meeting, the Board voted to withdraw its regulatory action on AR from the OAL and delegate to the MDC the task of revising the proposed regulation in light of the numerous challenges raised by interested parties. The Board provided specific direction to the MDC to formulate language that would: define that AR is the practice of veterinary medicine, describe the practice of AR and eliminate the laundry list of modalities, address whether minimal education or training requirements should be specified, explore the option of an indirect supervision parameter, and include the requirement that the settings where AR is performed is subject to holding a premises registration with the oversight of a Licensee Manager (BPC Section 4853).

At the January 2016 meeting, after a lengthy discussion, the MDC decided to table consideration of the animal rehabilitation issue pending a recommendation from the legislature through the sunset process.

**Staff Recommendation: *The Board should create a task force comprised of stakeholders including veterinarians, RVTs, animal rehabilitation and related animal industry professionals, consumers,***

*and representatives from the legislature to further examine the issue and present a recommendation to the Board by January 1, 2017.*

**2016 Board Response:**

The Board appreciates the complexity of the issue of animal rehabilitation and has approached the concept of regulation from the standpoint of how to most effectively protect the public and the public's animals, while considering issues such as access, as well as, the vast difference in terms of the level of experience and training of individuals who provide this specialized care. Several public Board meetings and hearings have attracted interested parties to the issue, and although the Board has considered much of the input it's received from the stakeholders, the Board is eager work with a diverse task force with the charge of addressing issues related to supervision, education and training, and settings where AR services may be provided.

The Board has identified the organizations which should be represented on the AR Task Force. The composition of the task force includes industry groups, consumers, regulatory bodies, universities, practitioners specializing in rehabilitative care for animals, and representatives of the Legislature. The first of at least two AR Task Force meetings is scheduled for June 20, 2016 to be held in Sacramento.

**ISSUE #8: (ANIMAL INJURIES AT RODEO EVENTS.) Should there be better oversight and more immediate treatment of injured animals by veterinarians and possibly RVT's at rodeo events?**

**Background:** The welfare of animals in rodeo events has been a topic of discussion for the industry, the public, and the law for decades. The American Humane Association (AHA) has worked with the rodeo industry, specifically the Professional Rodeo Cowboys Association (PRCA) to establish rules improving animal welfare in rodeo events and the treatment of rodeo animals. The PRCA has adopted what it considers as 60 humane rules for the protection of rodeo animals for all PRCA-sanctioned events. One of the rules requires that a veterinarian be present for every performance. There are approximately about 90 sanctioned rodeos in California per year and many more amateur events some of which are considered as "backyard events" with little if any oversight. (It has been indicated that there may be as many as 800 of these rodeo events per year.) The PRCA acknowledges that they only sanction about 30 percent of all rodeos, while another 50 percent are sanctioned by other organizations and 20 percent are completely unsanctioned.

The types of injuries that can occur to rodeo animals include the following:

- Traumatic leg injuries
- Back injuries
- Spinal cord injuries
- Neck injuries
- Internal injuries
- Trachea injuries

- Sprained and torn ligaments
- Broken horns and spurring injuries

Although the injuries suffered by animals in rodeo events can be severe, past studies by both the PRCA and American Veterinary Medical Association (AVMA) have indicated that the rate of animal injury is less than one percent for sanctioned events which require a veterinarian present at the day(s) of the event. (There appear to be no more recent independent studies on animal injuries at rodeos than the survey conducted by the AVMA of 21 PRCA sanctioned rodeos in 2001.)

Veterinarians who have had extensive experience with rodeo events, and may now serve as the veterinarian on-site, have indicated that having a veterinarian present at the rodeo event helps in preparing the rodeos for the best outcome possible for the health and welfare of the animals. There are meetings with rodeo management and officials both before the event and immediately after the event to evaluate, assess, discuss and, if needed, change any practice for animal handling or health procedures at the rodeo. This also provides an opportunity to help prevent further injuries and evaluate the level of care to the animals and revise procedures as necessary. As one veterinarian, Chairman of the PRCA Animal Welfare Committee, has stated, veterinarians themselves agree that the mere fact that they are the caregiver to animals, lends them more credibility. This individual went on to indicate that as veterinarians they are expected to know more on these issues and are able to work more closely with rodeo committees and the rodeo community as a whole to provide for the care of these animals. Of greater importance is that veterinarians are able to identify possible disease outbreaks. For example, the veterinarians on-site were able to deal with outbreak of equine herpesvirus (EH-1) in 2012, and also bovine tuberculosis regarding Mexico-origin cattle. Rodeos (at least sanctioned rodeos) rely on veterinarians when such as outbreak occurs and they are really the professionals that can work closely with government officials and others to assure there is not a widespread outbreak of a disease.

In response to the concerns of potential animal injuries at rodeo events and the availability of a veterinarian, California law (Penal Code § 596.7) requires that the management of any professionally sanctioned or amateur rodeo that intends to perform in any city or county shall ensure that there is a licensed veterinarian present at all times during the performances of a rodeo, or that a licensed veterinarian is “on-call” and 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. PC § 596.7 also requires that any animal that is injured during the course of, or as a result of, any rodeo event shall receive immediate examination and appropriate treatment by the attending veterinarian or shall begin receiving examination and appropriate treatment by a licensed veterinarian within one hour of the determination of the injury requiring veterinary treatment. The attending veterinarian must also submit a brief written listing of any animal injury requiring veterinary treatment to the Veterinary Medical Board within 48 hours of the conclusion of the rodeo. Business and Professions Code § 4830.8 also restates this requirement to report an animal injury and further states that the attending veterinarian shall also report to the Board within seven days of rendering treatment to an animal for an injury that the veterinarian knows occurred at a rodeo event.

Animal welfare groups have continued to voice concerns about animal injuries that may be occurring at rodeo events. They argue that many animals are injured and even killed in rodeos and that because they are only able to observe a very small percentage of rodeos each year, that only a very small percentage of injuries or deaths are documented. In some instances they believe that rodeos frequently try to cover up animal injuries and even deaths. Some groups have even attempted or captured video footage

documenting animals injured at an event. Of most concern is that unsanctioned rodeos which do not require veterinarians on-site may have higher abuse and injury rates. Likewise, anecdotal reports suggest that events held in small venues with little public notice, some of which are considered as private “backyard” events, may have some of the highest injuries. It is argued that even though California now requires reporting of animal injuries by veterinarians to the Board, this is not an adequate reflection of the amount of injuries that actually occur. They believe there is underreporting or no reporting at all for many of the rodeo events held in California and that rodeos are not forthcoming about the animals injured in an event so as to avoid any problem with animal authorities. For example, based on the chart below, since 2002 when reporting became required, there have been only 43 injury reports up to June, 2015 and in some years there were zero.

**STATISTICS FOR RODEO INJURY REPORTS**

Fiscal Year	Rodeo Injury Report
7/1/2014 - 6/30/2015	5
7/1/2014 - 6/30/2015	1
7/1/2013 - 6/30/2014	3
7/1/2012 - 6/30/2013	6
7/1/2011 - 6/30/2012	4
7/1/2010 - 6/30/2011	4
7/1/2009 - 6/30/2010	2
7/1/2008 - 6/30/2009	0
7/1/2007 - 6/30/2008	6
7/1/2006 - 6/30/2007	2
7/1/2005 - 6/30/2006	0
7/1/2004 - 6/30/2005	2
7/1/2003 - 6/30/2004	7
7/1/2002 - 6/30/2003	1
<b>Total</b>	<b>43</b>

Animal welfare groups believe that requiring a veterinarian to be present at every rodeo event and to provide immediate veterinary care to injured animals must be established and that requirements to report animal injuries must be enforced to at least provide some protection to rodeo animals. As an alternative to having to use a veterinarian for every rodeo event, a RVT could be utilized if under the appropriate supervision of a veterinarian.

**Staff Recommendation:** *It should be required that the management of any professionally sanctioned or amateur rodeo that intends to perform in any city or county shall ensure that there is*

*a licensed veterinarian present at all times during the performances of the rodeo or a RVT who is under the appropriate degree of supervision of the veterinarian for those animal health care tasks that may be performed by the RVT at a rodeo event. The on-call requirement for a veterinarian should be considered as insufficient to provide for appropriate oversight and the immediate treatment of injured animals at rodeo events.*

**2016 Board Response:**

Under current statute, BPC Section 4840.5, an RVT may provide emergency aid and treatment to an animal patient without a veterinarian present. Further, Section 2069 of the California Code of Regulations provides for the specific aid and treatment that an RVT may provide an animal under the conditions of an emergency which includes: application of tourniquets or pressure bandages to control bleeding, administration of pharmacological agents under direction of the veterinarian, application of temporary splints or bandages to prevent further injury to bones or soft tissue, external cardiac resuscitation, and intubation for opening airways, to name a few. As such, an RVT may provide treatment at a rodeo event under current law and regulation to assist in emergency situations.

However, the Board feels strongly that the presence of the RVT at a rodeo event should not be a substitute for the requirement for a veterinarian to be on-call for any professionally sanctioned or amateur rodeo, but instead, if an RVT will be present at the event to provide emergency care and treatment, a veterinarian should be on-call to provide direction regarding ongoing treatment and transport to a veterinary hospital as deemed necessary.

In addition, the Board has delegated to the MDC, the task of examining protocols for non-veterinarians to provide emergency care to animals at rodeo events. An MDC report and recommendation will come before the Board for consideration.

## **CONTINUING EDUCATION REQUIREMENTS**

**ISSUE #9: (USE OF ANTIMICROBIAL DRUGS.) Are there any additional requirements or resources necessary to implement SB 27 (Hill) and SB 361 (Hill).**

**Background:** The Board has reviewed the provisions of SB 27 and SB 361 and has not identified the need for additional resources and implementing regulations at this time.

SB 27 (Hill, Statutes of 2015) places the onus on veterinarians to only prescribe medically important antimicrobial drugs for livestock if, in the professional judgment of the veterinarian, the drugs are necessary to treat or control the spread of a disease or infection or is warranted as a preventative measure to address an elevated risk of contraction of a disease or infection. If a veterinarian was found to have prescribed a medically important antimicrobial drug that was not warranted or medically necessary based on expert review, the Board would be responsible to pursue disciplinary action against the licensed veterinarian. SB 27 also calls for the development of antimicrobial stewardship guidelines and best management practices on the proper use of medically important antimicrobial drugs. The Board is one of the consulting entities involved in the development of such guidelines however, since the mandate is placed on the California Department of Food and Agriculture (CDFA), any necessary resources to develop the guidelines would be identified by the CDFA.

SB 361 (Hill, Statutes of 2015) requires that on or after January 1, 2018, a licensed veterinarian must complete one hour of continuing education on the judicious use of medically important antimicrobial

drugs every four years as part of the existing 36 hours of continuing education required every two years. Such courses would be offered by Board-approved providers. Since the provisions in the statute are specific, it does not appear that further regulations regarding the requirement for the new course work are necessary.

**Staff Recommendation:** *The Board should continue implementation of SB 27 and SB 361 and report back to the Committees on the results of implementation during the next sunset review.*

**2016 Board Response:**

The mandate for developing antimicrobial stewardship guidelines and best practices is placed on the California Department of Food and Agriculture (CDFA), and therefore, any resource needs for the development of the guidelines would be identified and allocated to CDFA. The Board is one of the consulting agencies, and has identified a member to serve on the Ad Hoc Technical Advisory Committee currently being developed by the CDFA. The Ad Hoc Committee is scheduled to meet in April 2016 and discuss the plan and approach for developing monitoring strategies and analyzing the legal impacts of Senate Bill 27 on CDFA's role in oversight of retail veterinary drugs.

Once stewardship guidelines are in place, the Board may see an increase in enforcement activity generated from complaints filed by CDFA against veterinarians who prescribe a medically important antimicrobial drug to livestock that is not warranted for medical purposes. However, it is too early to forecast whether the volume will be such that the Board needs additional staff resources. The Board will continue to monitor the impact to its enforcement program.

The Board has sought clarification regarding implementing the provisions of SB 361, and the requirement for veterinarians to complete one hour of continuing education on the judicious use of medically important antimicrobial drugs, every four years. Existing language in BPC Section 4846.5 (k)(1) states, "*On or after January 1, 2018, a licensed veterinarian who renews his or her license shall complete...*" which made it unclear as to whether a licensed veterinarian must have completed the one hour course by the 2018 renewal, or whether the mandate begins January 1, 2018.

Ultimately, the Board worked with Senator Hill's staff, the Governor's Office, and the California Veterinary Medical Association, to resolve the clarity issue. The parties have agreed to support an amendment to BPC Section 4846.5 (k)(1) to read *Beginning January 1, 2018, a licensed veterinarian who renews his or her license shall complete...*

The Board will begin to educate its licensing population through various modes of communication regarding the new continuing education requirement.

## **ENFORCEMENT ISSUES**

**ISSUE #10: (INCREASED INSPECTION OF VETERINARY PREMISES.)** Are there any outstanding issues regarding the Board's inspection of veterinary premises?

**Background:** California Code of Regulations Section 2030 sets the minimum standards for fixed veterinary premises where veterinary medicine is practiced, as well as all instruments, apparatus, and apparel used in connection with those practices. The method the Board has selected to enforce such standards is premises inspections.



SB 304 (Lieu, Chapter 515, Statutes of 2013) required the Board to make every effort to inspect at least 20% of veterinary premises on an annual basis. Pursuant to language in SB 304, the Board has bolstered its inspection program and is quickly approaching the 20% goal. In 2014-15, the Board's budget was augmented by \$277,000 for each fiscal year to fund the staff position authority for 2.0 positions (1.0 Staff Services Analyst and 1.0 Office Technician) and the work of the Hospital Inspectors.. In order to meet its mandate of SB 304, the Board contracted twelve new Hospital Inspectors located throughout the state in an effort to inspect at least 600 registered veterinary premises in 2014-15. The new inspection team included a veterinarian who specialized in avian and exotics, an equine specialist, a former Area Director for VCA Hospitals and a former Associate Dean of External Relations for Clinical Rotations for Western University. Staff completed an extensive Inspection Training Workshop in the fall of 2014 and ended the fiscal year with 590 inspections completed, or 19% of the premises population, just shy of the mandate. With the increase in in veterinary hospital inspection program staff and inspectors, the number of inspections completed per year has more than doubled since FY 2013/14. Keeping up on reviewing compliance documentation, the administrative paperwork to contract with and pay Inspectors, and the enforcement actions that result from non-complaint hospitals has been challenging. However, staff has eliminated the backlog of inspection compliance review documentation.

For 2015-16, the number of premises has increased 14% to nearly 3,500 facilities. This means approximately 700 inspections must be completed in order to meet the 20% mandate; 100 more inspections than were completed this past fiscal year. The Board has contracted with additional Inspectors, bringing the number of Inspectors to 16. The Board conducted Inspector training in January 2015, and again in August 2015, which included presentations from the Pharmacy Board, Radiologic Health Branch, and DOJ.

Also, the Board anticipates inspecting all new registered premises within the first year of opening as this is an objective in the VMB's Strategic Plan and will be phased in during the coming year.

The Board's Hospital Inspection Program costs were \$143,000 in FY 2014/15. With the increased workload for 2015-16, the Board's Inspection costs are anticipated to be approximately \$185,000.

**Staff Recommendation:** *The Board should continue its efforts to meet the inspection mandate of 20% and inform the Committees if additional resources are needed to comply with SB 304.*

**2016 Board Response:**

The Board appreciates the Committees support in meeting the mandate of inspecting 20% of its registered hospital premises. In the past two years, the Board has been just shy of the 20% mark, coming in at about 19% last year. The hospital inspection program expenditures are an area of concern, as budget projections have not historically tracked program costs uniformly. Staff is currently working with the Department's budget staff to ensure program expenditures are budgeted appropriately to meet the 20% goal. Should there be a need for a budget augmentation, the Board will report such detail to the Committee.

**ISSUE #11: (FORMAL DISCIPLINE IS STILL TAKING MORE THAN TWO YEARS.) Are there other steps the Board can take to reduce the timeframe for taking formal disciplinary action against a licensee?**

**Background:** In 2009, the DCA evaluated the needs of the boards' staffing levels and put forth a new program titled the "Consumer Protection Enforcement Initiative" (CPEI) to overhaul the enforcement process of healing arts boards. According to the DCA, the CPEI was a systematic approach designed to address three specific areas: Legislative Changes, Staffing and Information Technology Resources, and Administrative Improvements. The CPEI was intended to streamline and standardize the complaint intake/analysis, reorganize investigative resources, and reduce the average enforcement completion timeline for healing arts boards to between 12-18 months by FY 2012/13. For purposes of funding the CPEI, the DCA requested an increase of 106.8 authorized positions and \$12,690,000 (special funds) in FY 2010-11 and 138.5 positions and \$14,103,000 in FY 2011-12 and ongoing to specified healing arts boards. As part of CPEI, the Board requested 7.1 first year and 8.1 ongoing staff positions. The Board received approval for only 1.0 special non-sworn investigator position. In 2010 and 2011, the position was reduced to .70 due to the Governor's Workforce Cap Reduction and Salary Savings Elimination plans, which left the Board with .30 of a non-sworn investigator position. Under the CPEI, this Board never had an opportunity to utilize any additional staffing to improve its enforcement program. There was an expectation that with additional staffing, the average enforcement completion timeframes (from intake, investigation of the case and prosecution of the case by the AG resulting in formal discipline) could be reduced. The implementation of the CPEI and the additional staff provided improved performance levels of some boards, but not this Board. The goal set for the Board, and all boards under CPEI, was 12 to 18 months to complete the entire enforcement process for cases resulting in formal discipline. In 2011/2012, it took the Board nearly three years (36 months) or more to complete a disciplinary action against a licensee.

Other reasons the Board is unable to meet its performance measures and goal of 12 to 18 months to complete disciplinary action include its necessary reliance on the Division of Investigation (DOI) to investigate the case, on the Attorney General's Office (AG) to file an accusation and prosecute the case, and on the Office of Administrative Law (OAL) to schedule an Administrative Law Judge (ALJ) to hear the case. According to the Board, an investigation by DOI can take anywhere from six to 18 months. Once the case is transferred to the AG, it can take six months to a year to file an accusation and another year to have the case heard before an ALJ. These timelines are outside the Board's control, but add greatly to the overall length of time it takes from receipt of a complaint to ultimate resolution.

With the increased staffing in the enforcement unit, that being: two AGPAs, two SSAs, and one OT, as authorized by the Budget Change Proposal effective July 1, 2014, the Board has made significant progress toward elimination of a backlog of complaints identified in its 2012 Sunset Report. Additionally, the Board continues to work toward meeting its performance measures for handling of disciplinary cases through reduction of processing timeframes. The following is an update to the focused efforts in each of the Board's enforcement program areas:

**Complaint Intake and Investigation:**

The Board, with the increased staffing levels, has worked diligently to reduce the timeframe for intake of a complaint despite an increasing number of incoming complaints.

The performance measure target for intake of a complaint as established during the Consumer Protection Enforcement Initiative (CPEI) is 10 days. Over the past four years, the average number of

days to complete the intake process hit a high of 147 days in FY 2012/13 Quarter 4. As of June 30, 2015, this number has decreased to 21 days. It is anticipated that the Board will meet this performance measure target of 10 days in FY 15/16 Q2.

The performance measure target established pursuant to CPEI for the average time from complaint receipt to closure of the investigation process is 365 days. The Board has met this goal of 365 days in 13 of the 16 quarters that make up FY 2011/12 through 2014/15. During the first six months of 2015, the enforcement unit's newly trained staff was tasked with conducting a comprehensive audit of all pending complaint investigation cases to identify the status of the all pending investigations and to determine how many cases were beyond the established performance target of 365 days. As of June 30, 2015, staff has nearly eliminated the backlog with a mere 124 of a total 598 cases pending resolution that were identified as beyond the target of 365 days.

#### Citation and Fine:

With the diminishing backlog, staff has been able to devote resources to other enforcement areas where process improvement was critical. Prior to 2014, the citation and fine program duties were bifurcated and the process for issuing citations, setting informal conferences, and monitoring outcomes was shared between multiple staff where important legal timeframes were not carefully monitored. Today, the program is centralized and has been overhauled to streamline the investigative process, the informal conference procedures, and the collection of fines levied against licensees.

As identified above, the Board is currently pursuing regulatory authority to increase its maximum fine authority to \$5,000. It is anticipated that the new regulatory language will be implemented March 2016.

Due to staffing shortages, the Board was forced to temporarily suspend its use of the Franchise Tax Board Intercepts Program. With increased staffing, the Board has been able to once again begin to employ the use of this program for those citations and fines that have been closed as uncollectible.

#### Expert Witness:

The Board conducted two separate Expert Witness trainings, December 2014 and August 2015. Approximately twenty (20) new Experts were trained in the two sessions facilitated by Board staff and the Office of the Attorney General (OAG). Prior to 2014, it had been several years since the Board conducted Expert Witness training and the Experts working for the Board at that time, were performing their services with limited knowledge of the administrative disciplinary process and basic confusion about their role within the process. The lack of guidance for the Experts resulted in expert reports that were not conclusive. However, as a result of the more recent training, the Board's Experts are now submitting complete reports with clear conclusions regarding substandard care. This has also resulted in a greater percentage of cases referred to the OAG being accepted and less cases being declined. Today, the percentage of cases accepted by the OAG is 98%.

#### Formal Discipline:

As indicated in the 2012 Sunset Review Report, in FY 2011/12, it took nearly three years (36 months) or more to complete a formal disciplinary action against a licensee by the Board. The Board continues to see extended processing timelines in the area of formal discipline.

The performance measure target established pursuant to CPEI for the average number of days to complete the entire enforcement process for cases resulting in formal discipline is 540 days (Initially, the Board identified its target at 740 days. However, the Department's CPEI target is 540 days.)

Although staff has made significant progress in moving formal disciplinary actions through the adjudication process as expeditiously as possible, the average timeframes for completion continues to exceed two years.

In January 2015, staff was tasked with conducting a comprehensive audit of all pending formal discipline cases. It was determined that there were several cases that were completely resolved or very near complete resolution that had not been closed in the database which necessitated review and closure of the cases. The result was an unusual spike in the processing times for case closure.

In FY 2014/15, the Board closed a total of 60 formal discipline cases, many of which were over 540 days old. In the coming fiscal year, the Board should have identified and closed all dated disciplinary cases and as a result, the Board anticipates a significant reduction in processing timeframes. However, since many of the procedural factors involved in the resolution of formal disciplinary matters reside with the OAG and the Office of Administrative Hearings (OAH), it is unlikely the Board will meet its performance measure target of 540 days. The length of time necessary for processing of a formal discipline case through the OAG and the OAH continues to serve as a barrier in the enforcement process. In the past, it has taken anywhere from six months to one year to prepare an accusation and as much as one year to schedule and conduct a hearing. Unfortunately, this is still the case. These are factors outside the Board's control.

#### Probation:

The Board's probation program is critical to the formal disciplinary process. It provides the Board with a mechanism to consider practice restrictions that serve to protect the health, welfare, and safety of animals and their owners, while addressing the licensee's compliance issues, whether related to substandard care or ethical violations. It provides for appropriate and meaningful discipline and consumer protection, by placing the licensee under careful monitoring, while affording the licensee an opportunity to continue to practice and ultimately, demonstrate rehabilitation. The goal of the probation program is to ensure the practice deficiencies or unprofessional conduct behaviors are addressed through mandatory continuing education, examinations, practice monitoring, etc., and that the issues are corrected before the licensee returns to unrestricted practice.

With the improved focus on adjudication and resolution of formal disciplinary actions, the Board has seen a significant increase in the number of probationers currently being monitored. As of June 30, 2012, the Board was monitoring 36 probationers. Today, the Board's probationer caseload has more than doubled and the Board currently monitors a total of 76 probationers.

The increased staffing has allowed the Board to utilize a dedicated staff member to serve as a probation monitor and immediately address compliance issues while also serving as a resource to supervisors and practice monitors who are approved to supervise probationers.

***Staff Recommendation: The Board should continue strategies to decrease the timeframe for areas of the disciplinary process over which it has control. The Board should also continue to monitor progress within each stage of the disciplinary process and provide the committee with an update during the next sunset review.***

#### 2016 Board Response:

Prior to 2015, many disciplinary cases lingered without timely resolution and a large portion of that case aging had to do with the Board's limited staffing in its enforcement unit.

In December 2014, (pursuant to a new budget augmentation), the Board hired 5 new enforcement staff members and began digging out of its backlog. It has taken the better part of a year to identify all of the aging cases, as some were merely never closed-out in the database, while others were near resolution, but were not finalized. The actual clean-up explains some of the more lengthy timeframes noted in the Board's statistical data, which averaged cases taking almost 1,000 days in FY 14/15 to complete. In that same year, the Board closed 60 disciplinary cases, which is three-times the average of 20 cases closed in years past.

The Board has made tremendous strides in reducing its timeframes for formal disciplinary action. Having more staff in the Board's disciplinary unit monitoring each stage of the case has helped move cases through the disciplinary process. Staff monitors each case from: transmittal to the Office of the Attorney General (OAG), date of filing of the pleading, receipt of the respondent's notice of defense, receipt of mitigation, scheduling mandatory settlement conferences, and dates or continuances of formal hearings. Staff schedules status updates every 60 days to continue to monitor all stages of the process.

The performance measure of 540 days as established by the Department for formal discipline will continue to be a challenge. Current processing timelines gathered by the Board, reflect that on average, from the date the Board transmits a case to the OAG, to the date a pleading is filed, is between 100-150 days; from the date of referral of a case, to the actual hearing date, is on average another 420 days. Those two stages of the process alone are beyond the performance measure of 540 days, and this timeframe doesn't include the process for the Board to review and deliberate a decision. Another factor that affects the Board's performance timeframes, are case reassignments at the OAG. Recently, the Board has had a number of cases reassigned to a new Deputy Attorney General which delays the case and is an added expense to the Board.

Despite the many challenges, things are beginning to turn around. In the first two quarters of the FY 15/16, 27 cases have been closed with formal discipline, which means the Board is on track to close over 60 cases this year. While disciplinary case processing timelines have yet to come down dramatically, the Board is confident that with the increased staff, the resolution of older cases, and the partnership with the OAG to reduce case aging, we will continue to reduce the average case processing timelines for formal discipline.

## **CONTINUATION OF THE VETERINARY MEDICAL BOARD**

**ISSUE #12: (SHOULD THE VETERINARY MEDICAL BOARD BE CONTINUED?) Should the licensing and regulation of the practice of veterinarian medicine be continued and be regulated by the current Board membership?**

**Background:** The health, safety, and welfare of consumers are protected by a well-regulated veterinary profession. Although the Board has been slow to implement changes as recommended by the former JLSRC and other matters presented to the Board for consideration over the past eight years, it appears as if the current Board has shown a strong commitment to improving the Board's overall efficiency and effectiveness. The current Board has worked cooperatively with the Legislature and this Committee to bring about necessary changes. It is obvious that there are still important regulations and problems that need to be addressed by this Board, but it seems more than willing to work with the Legislature, the DCA, and other professional groups to act more expeditiously to deal with these issues

in a timely fashion. The Board should be continued with a four-year extension of its sunset date so that the Committee may review once again if the issues and recommendations in this Paper and others of the Committee have been addressed.

**Staff Recommendation:** *Recommend that the practice of veterinary medicine continue to be regulated by the current Board members of the Veterinary Medical Board in order to protect the interests of the public and that the Board be reviewed by this Committee once again in four years.*

**2016 Board Response:**

The Board concurs with and appreciates the Committee's recommendation to extend the Board's sunset date by four years.