

BACKGROUND PAPER FOR THE Veterinary Medical Board

(Oversight Hearing, March 19, 2013, Senate Committee on
Business, Professions and Economic Development and the Assembly
Committee on Business, Professions and Consumer Protection)

IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS REGARDING THE VETERINARY MEDICAL BOARD

BRIEF OVERVIEW OF THE VETERINARY MEDICAL BOARD

History of the Veterinary Medical Board

Created in 1893, the Veterinary Medical Board (Board) licenses and regulates veterinarians, registered veterinary technicians (RVTs), RVT schools/programs and veterinary premises/hospitals through the enforcement of the California Veterinary Medicine Practice Act.

The Board is composed of eight members; four veterinarians, one RVT, and three public members. An RVT was added as a full member of the Board in 2010, and the RVT Committee consisting of 5 members was allowed to sunset on June 30, 2011. Having an RVT member provides the Board with a broader knowledge of issues relating to the RVT profession. The Board meets about four times per year. All Board meetings are subject to the Bagley-Keene Open Meetings Act. The following is a listing of the current members of the Board:

Name and Short Bio	Appointment Date	Term Expiration Date	Appointing Authority	Professional or Public
<p>Tom Kendall, DVM - President, Professional Member</p> <p>Dr. Tom Kendall of Carmichael was appointed to the Board in February, 2008 and reappointed in June, 2012. Dr. Kendall has been the owner of a three-doctor practice since 1982 and built a new facility in 1999. Along with private practice he has served as associate clinical professor connected through the Senior externship program at the University of California, Davis (UCD), School of Veterinary Medicine and serves as an AAHA Student Advocate for the UCD AAHA Student Chapter and volunteers at the UCD Mercer Clinic of Sacramento. Dr. Kendall served as President of the California Veterinary Medical Association (CVMA) in 1997-98. He visited all 28 US Veterinary Schools as American Veterinary Medical Association (AVMA)</p>	06/11/2012	06/01/2015	Governor	Professional

<p>Vice President in 2003-04 and served on the AVMA Executive Board. Dr. Kendall served on the American Animal Hospital Association (AAHA) Board of Directors from 2008-10. In 2011 he was elected to the American Association of Veterinary State Board of Directors (AAVSB). Educating the public on how they can better care for their pets has always been Dr. Kendall's concern. He has appeared on talk shows and local TV and radio stations on pet health care topics for the last 20 years.</p>				
<p>Kim Williams, RVT – Vice President, Professional Member, RVT</p> <p>Kim Williams of San Marcos was the first RVT to be appointed to the Board in December, 2010. Ms. Williams is currently the Associate Director of Veterinary Administration for San Diego Zoo Global. She has worked in the exotic animal field for 34 years as an RVT at Sea World of San Diego, San Diego Wild Animal Park (now the San Diego Zoo Safari Park) and the San Diego Zoo. She also serves as an adjunct faculty member in the Animal Health Technology Program at San Diego Mesa College where she has taught for 27 years. Ms. Williams was a founding member of the Academy of Veterinary Zoological Medicine Technicians, where she continues to serve on the examination committee. In addition she serves on the Veterinary Technician National Examination committee. Ms. Williams earned an Associates of Science degree in Animal Health Technology from San Diego Mesa College and holds a Lifetime Community College teaching credential in Animal Production. Prior to her Board appointment, Ms. Williams served on the Registered Veterinary Technician Committee.</p>	12/20/2010	06/01/2014	Governor	Professional
<p>Linda Starr – Public Member</p> <p>Linda Starr of Gold River was appointed to the Board in June, 2004 and reappointed in June, 2008. After serving 30 years in the State Senate Accounting Department, Ms. Starr retired in September of 2006. Her dedication to public service extends to other causes including serving on the Sacramento SPCA Board, the California Pet Lover's License Plate, and California Board of Psychology.</p>	06/17/2008	06/01/2012 Grace Period	Senate	Public
<p>Judie Mancuso – Public Member</p> <p>Judie Mancuso of Laguna Beach was appointed to the Board in July, 2010. Following a successful 20+ year career in the Information Technology industry, Ms. Mancuso left the corporate world to volunteer full time to improve the care and welfare of animals in California through legislation, animal rescue, advocacy and program development. In 2007, Ms. Mancuso founded Social Compassion, a 501(c)(3) organization formed to raise awareness and funding for free spay and neuter programs for pets of low-income families, and founded Social Compassion in Legislation, a 501(c)(4)</p>	08/02/2010	06/01/2014	Assembly	Public

<p>organization which was created to sponsor and support legislation that promotes the care and protection of animals. She is also President of the California Spay and Neuter License Plate Fund, Inc., a 501(c)(3) organization formed to administer the new “Pet Lover’s License Plate” and oversee the distribution of grants generated by the fund for free and low-cost spay and neuter programs statewide.</p>				
<p>Patti Aguiar – Public Member</p> <p>Patti Aguiar of Paso Robles was appointed to the Board in December, 2010. She recently served as County Supervisor for San Bernardino County from 2004-2005. Prior to joining the Board of Supervisors, Ms. Aguiar was elected to the Chino Valley Independent Fire District which serves the cities of Chino and Chino Hills, and served as President and Director for over five years. For over 30 years, Ms. Aguiar was employed as Director of Business Development and Marketing for a local hospital. She also served as Field Representative to Senator Ruben S. Ayala, Chino, for over four years. Now retired and living in Paso Robles, Ms. Aguiar raises cattle and is actively involved in the Cattlewomen’s Association of San Luis Obispo County. She is a current member of the Miniature Hereford Breeders Association.</p>	12/23/2010	06/01/2014	Governor	Public
<p>Richard G. Johnson, DVM – Professional Member</p> <p>Dr. Richard G. Johnson of El Cajon was appointed to the Board in December, 2010. Prior to his Board appointment, Dr. Johnson served on the RVT and MDC Committees for 10 years. Dr. Johnson, along with his wife and partner Dr. Nancy Hampel, designed and built Animal Medical Center after owning Broadway Animal Hospital for 16 years. He is a 1977 University of California, Davis, School of Veterinary Medicine graduate and completed surgical residencies at the Animal Medical Center in New York City and the Veterinary Medical Group in Los Angeles. Dr. Johnson also served as an associate professor at the University of Illinois. He is an active member of the AVMA, AAHA, CVMA, and Past President of the San Diego County Veterinary Medical Association.</p>	12/20/2010	06/01/2013	Governor	Professional
<p>Cheryl Waterhouse, DVM – Professional Member</p> <p>Dr. Cheryl Waterhouse of Fresno was appointed to the Board in July, 2012. She is a 1981 graduate of Iowa State University School of Veterinary Medicine, and has practiced in Iowa, Kansas, and for the last 22 years, in Fresno, California. She started her own small animal practice in 1995. Dr. Waterhouse is a member of AVMA, AAHA, CVMA, the Southern California Veterinary Medical Association, the Central California Veterinary Medical Association, and the American Veterinary Dental Society.</p>	06/11/2012	06/01/2013	Governor	Professional

<p>Richard Sullivan, DVM – Professional Member Dr. Richard Sullivan of Palos Verdes Estates was appointed to the Board in June, 2012. He graduated from Purdue University School of Veterinary Medicine in 1972. After serving two years in the Peace Corps in Mato Grosso, Brazil, he has been practicing small animal medicine and surgery at Bay Cities Pet Hospital in Torrance. He is co-owner of a six-person practice. He was also on the Board of Directors of the South Bay Emergency Pet Clinic, Torrance, CA, for twenty years.</p> <p>Dr. Sullivan has been active in organized veterinary medicine at the local, state and national level.</p>	06/14/2012	06/01/2014	Governor	Professional
---	------------	------------	----------	--------------

The Board has one statutorily mandated advisory committee, the Multidisciplinary Advisory Committee (MDC) and several working committees that consist of two board members each. The Board’s working committees include Administration/Budget, Enforcement, Examination and Licensure, Legislative/Regulatory, RVT, Consumer Education/Newsletter, Continuing Education, Strategic Planning, and a designated liaison Board member to the MDC.

The Board’s MDC was created in 2009 by the Legislature to assist, advise, and make recommendations for the implementation of rules and regulations necessary to ensure proper administration and enforcement of the Board’s laws and regulations and to assist the Board in its examination, licensure, and registration programs. It was also created to address the various practices of the profession and address both veterinarian, RVT and veterinarian assistant issues. The MDC is a seven-member committee comprised of four veterinarians, two RVTs and one public member.

The MDC, as its first priority, worked for more than a year and a half to update the minimum standards of practice and the hospital inspection program. The MDC worked diligently on the standards and the inspection program and these critical projects have been completed and adopted by the Board — a major accomplishment according to the Board.

The Board indicates that the MDC has updated and submitted the guidelines for the Board’s citation and fine program and is in the process of addressing other up-and-coming issues, including animal rehabilitation, telemedicine, RVT issues, and complementary and alternative medicine . Both the Board and the MDC are scheduled to participate in training workshops on the enforcement process in January 2013 and March 2013, respectively, in conjunction with the Office of the Attorney General, as one way to be well informed on consumer issues in California.

Working with the Department of Consumer Affairs (DCA), various committees, the State Legislature and many professional organizations, the Board indicates that since their last Sunset Review in 2004, the Board has implemented the following enhancements to the profession and on behalf of the consumer:

Consumer Outreach Efforts

- Increased consumer awareness by enhancing access to the Website and information provided on the Website and created an electronic mailing list.
- Created two new consumer brochures with updated information and pictures.
- Participated in consumer events such as pet expos, State and county fairs and other consumer-oriented events.

- Updated the complaint form, information and all complaint-related letters to better explain the process.
- Monitored consumer satisfaction surveys sent to complainants and respondents to continually improve the process.

Enforcement

- Updated Minimum Standards of Practice.
- Updated Disciplinary Guidelines.
- Published the Hospital Standards Self-Evaluation Checklist.
- Reinstated the Board's mandatory continuing education audit program in September 2012.
- Increased enforcement authority over California approved RV T schools.
- Began posting Accusations and Decisions on the Board's Website.

Examinations/Licensing

- Conducted job analyses for the Veterinary State Board Examination.
- In the process of transitioning to the National Veterinary Technician Examination and developing a California Law Exam for RVTs.

Administration

- Updated the Board's Administrative Procedures Manual and Strategic Plan.
- Updated the radiation safety booklet and exam for non-registered veterinary assistants and made it available on the Website.

Current Projects

- Continue to work with the Board of Pharmacy to define jurisdiction over Internet pharmacies and dispensing of dangerous drugs.
- Updating the minimum standards of practice.
- Developing minimum standards for Licensee Managers of veterinary hospitals and for vaccination clinics.
- Developing a hospital inspection self-checklist for licensees to use to insure that their establishment meets the minimum standards of practice and made the checklist available to licensees and the public on the Board's Website.
- Expanding Website information and updated all available forms.
- Updating RVT school approval criteria.
- Creating a Pet Lovers Specialty License Plate for funding low-cost spay and neuters.

Internal Changes

- All Board appointees are new members since 2003.
- Adjusted to a 33% growth in consumer complaints that increased the workload pressure on staff and negatively impacted investigative and response times.
- Created a new Assistant Executive Officer position.
- Moved the Board office location.
- Updated the Board's Strategic Plan in 2007 and 2011.

Strategic Planning

- Effective 2011, held strategic planning meetings in conjunction with regularly scheduled Board meetings as a cost-savings measure.
- In anticipation of ongoing budget constraints, the Board prioritized its enforcement, legislative, examination, and licensing activities.

The Board also indicates that it is looking forward to new and revised ways to oversee the protection of consumers and animals in areas that include, but are not limited to, the following:

- Telemedicine/telehealth.
- Unlicensed activity.
- Faculty licensure for the two veterinary colleges in California.
- Animal rehabilitation.
- Updated citation and fine regulations.
- A license plate program that provides low- and no cost spay/neuter services.
- Consumer notification in veterinary hospitals that provides Board contact information.
- Approval of RVT schools and programs.
- Fingerprinting of veterinary assistants working in veterinary hospitals who have access to controlled substances.
- Notice to consumers of the Board's contact information.
- Mandatory reporting requirements of impaired professionals.

Function of the Veterinary Medical Board

The Board protects the public from the incompetent, unprofessional, and unlicensed practice of veterinary medicine. The Board requires adherence to strict licensure requirements for California veterinarians and RVTs. The pet-owning public expects that the providers of their pet's health care are well-trained and are competent to provide these services. The Board assures the public that veterinarians and RVTs possess the level of competence required to perform these services by developing and enforcing the standards for examinations, licensing, and hospital and school inspection. The Board also conducts regular practice analyses to validate the licensing examinations for both veterinarians and RVTs. Additional eligibility pathways have also been approved for licensure of internationally trained veterinary graduates and certification of RVTs to allow qualified applicants from other states in the U.S. and countries around the world to come to California and to improve the provision of veterinary health care for consumers and their animals.

The Board also states that its mission is to protect consumers and animals through the development and maintenance of professional standards; the licensing of veterinarians and registered veterinary technicians, and through diligent enforcement of the California Veterinary Medicine Practice Act.

To meet this mission, the Board does the following:

- Promotes legal and ethical standards of professional conduct.
- Conducts background checks for all applicants.
- Promotes a national examination reflective of the current practice of veterinary medicine, in addition to a jurisprudence examination focused specifically on the laws and regulations of the State. Provides for an examination for RVTs. (The Board is in the process of transitioning to the National Veterinary Technician Examination and developing a California Law Exam for RVTs.)
- Licenses veterinarians and registered veterinary technicians and has oversight responsibility for others working within veterinarian offices and hospitals such as veterinarian assistants.
- Establishes animal health care tasks and an appropriate degree of supervision required for those tasks that may be performed by a licensed veterinarian, RVT, or a veterinarian assistant.
- Investigates complaints on veterinarians, RVTs and unlicensed veterinary medicine practice.

- Takes disciplinary action and issues citations when appropriate.
- Conducts various outreach activities to provide the public, licensees, and potential licensees the most comprehensive and current information.
- Routinely develops a Strategic Plan to establish goals and objectives for the Board.

The Board's goals as stated in its Strategic Plan include decreased enforcement cycle times, enhanced quality and training of hospital inspectors, inspecting existing hospitals every five years and inspecting new hospitals within one year of licensure, and working with DCA to reduce the amount of unlicensed activity occurring in the marketplace.

Pursuant to Section 4800.1 of the Business and Professions Code, it is also stated in the Practice Act that protection of the public shall be paramount:

Protection of the public shall be the highest priority for the Veterinary Medical Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

Practice of Veterinary Medicine

The veterinary medical profession provides health care to livestock, poultry, and pets from birds, fish, rabbits, hamsters, and snakes to dogs, cats, goats, pigs, horses, and llamas. The quality of health care is on a par with that of human medicine. Currently there are 36 recognized specialties in veterinary medicine such as surgery, internal medicine, pathology, and ophthalmology. In some cases, drugs and procedures are identical in both human and animal medicine. Frequently, techniques and procedures are developed in veterinary medical research prior to their use in human medicine.

Every day, Californians are protected by the veterinary profession through its responsibilities for food safety and control of zoonotic diseases (diseases spread from animals to people). Early recognition of symptoms, aggressive vaccination campaigns, and accompanying education by veterinarians have significantly reduced the public health threat of rabies, the most well-known disease that is transmitted between animals and people. Although there are fluctuations in numbers of occurrences of other diseases such as tuberculosis, brucellosis, Eastern and Western encephalomyelitis, and West Nile virus, the overall low incidence rate of these diseases is due to the competency of veterinarians who diagnose and supervise preventive medicine programs. In addition, veterinary medicine is on the front line of defense against bio-terrorism threats such as anthrax, foot and mouth disease, and food and water resource contamination.

The services veterinarians and registered veterinary technicians provide to the food, agricultural, pharmaceutical, research, horse racing, and pet care industries have a major impact on the State's economy. According to the American Veterinary Medical Association (AVMA), veterinary services are a \$1.2 billion industry in the State. Based on 2010 statistics from the California Department of Food and Agriculture, livestock and poultry products alone generate over \$9.8 billion in sales with dairy being the leading commodity.

On page 41 of its 41st Annual Report for FY 2010-2011, the California Horse Racing Board estimates that the horse racing industry generates revenue in California in excess of \$2.9 billion per year. All of these services are dependent on veterinary services and the figures do not include the revenues generated by support industries such as feeds, equipment, construction, advertising, financial services,

real estate, and transportation.

In a recently released pet ownership survey based on data from 2011, the AVMA shows that 56% of all American households own at least one pet. A national average shows that dog owners spend approximately \$19.1 billion and cat owners spend approximately \$7.4 billion for veterinary health care maintenance. Ninety percent of dog owners use veterinary services at least once per year and make 2.2 repeat visits, while 75% of cat owners use veterinary services with 1.2 repeat visits per year.

Licensing

The Board licenses approximately 10,998 Veterinarians and 5,811 RVTs. The licensee population has increased somewhat over the past four years. The Board also requires registration of all premises where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof, is being practiced. The Board currently registers 3,111 veterinary premises.

The requirements for licensure as a veterinarian generally includes graduation from a degree program of an accredited postsecondary institution or institutions approved by the Board and passing a national veterinarian examination and an examination provided by the Board to test the knowledge of the laws and regulations related to the practice of veterinary medicine in California. If a veterinary college is not recognized by the Board, the Board shall have the authority to determine the qualifications of such graduates and to review the quality of the educational experience attained by them in an unrecognized veterinary college.

The requirements for licensure as a RVT is to be at least 18 years of age and graduation from, at a minimum, a two-year curriculum in veterinary technology, in a college or other postsecondary institution approved by the Board, or the equivalent thereof as determined by the Board. In the case of a private postsecondary institution, the institution shall also be approved by the Bureau of Private Postsecondary and Vocational Education. The Board could also determine that the combination of education and clinical experience of the RVT constitutes the equivalent of the graduation requirement. The RVT must also pass an examination provided by the Board. [It should be noted that the Board is in the process of transitioning to providing a national examination for RVTs and an examination specific to the animal health care tasks limited to California RVTs. Providing the national examination was made contingent on providing for a computerized examination.]

Veterinary assistants, under the supervision of a veterinarian and an RVT, are not required to meet any specific requirements for education or examination. RVTs and veterinary assistants may perform those animal health care services and tasks as prescribed by law or regulation under the supervision of a veterinarian. However, RVTs may perform animal health care services on impounded animals pursuant to direct, written or telephonic order of a veterinarian and may directly purchase sodium pentobarbital for performance of euthanasia without the supervision or authorization of a veterinarian.

The Board requires both primary source documentation of training and education and certification verification of documents to prevent falsification of licensing documents. To ensure authenticity, all documents verifying an applicant's training, examination status, out-of-state licensure, and disciplinary actions must be sent directly to the Board from the respective agency rather than from the applicant. As part of the licensing process, all applicants are required to submit fingerprint cards or utilize the "Live Scan" electronic fingerprinting process in order to obtain prior criminal history and criminal record clearance from the California Department of Justice (DOJ) and Federal Bureau of Investigation (FBI). Licenses are not issued until clearance is obtained from both DOJ and FBI background checks.

Additionally, since applicants are fingerprinted, the Board is able to obtain any subsequent criminal conviction information that may occur while the individual is licensed as a PA. [It should be noted that RVTs registered between 1979 and 2004 were not fingerprinted. The Board recently passed regulations that require those RVTs upon renewal of their license to now be fingerprinted.] The Board also queries the AAVSB's national disciplinary database – the Veterinary Information Verifying Agency – to determine if prior disciplinary actions have been taken against licenses in other states.

The Board states in its veterinary, RVT, and premise permit eligibility applications/instructions that the application will take up to 30 to 60 days to review. Even with the limitations of staff and resources over the past four years for the Board, applications that are received in completed form are being processed within the Board's prescribed review timeline. The average review time is 30 days or less. The Board does, however, without additional staff, anticipate several future performance barriers that will impact application processing timelines. For example, the Board has recently begun random veterinarian continuing education audits. The Board will also begin auditing registered veterinary technicians in 2013 in accordance with regulations approved in 2011. Additionally, in accordance with regulations approved in 2012, the Board will roll out its retroactive fingerprint program to those RVTs who do not currently have electronic fingerprints on file. According to the Board, in the past four years they have submitted BCPs to increase staffing in Licensing. Even though the Board is fiscally solvent and maintains a structural balance, the proposals have been denied at the Agency level or by the Department of Finance because they did not meet the criteria set by the Governor's Administration. The Board continues to submit BCPs in order to address anticipated performance barriers.

School Approvals

The Board is the approval authority for all schools providing instruction in veterinary medicine and veterinary technology. The Board accepts AVMA accreditation for purposes of California approval of veterinary and veterinary technology. The Board requires Bureau of Private and Postsecondary Education approval for all private veterinary technology programs that are not approved by a national accredited agency. The Board currently approves all California veterinary technology programs; some through approval of national accreditation standards and some through California regulatory requirements and physical inspection. School approval is for a period of no more than four years at one time. As far as international schools, the Board recognizes the accreditation standards of the AVMA.

Continuing Competency Requirements

The California Legislature mandates continuing education (CE) for veterinarian and registered veterinary technician license renewal. 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. Both CE providers and courses must be "approved" as defined in the California Veterinary Medicine Practice Act and the CE must be obtained in subjects related to the practice of veterinary medicine and/or veterinary technology. The CE courses must be consistent with current standards and practices beyond the initial academic studies required for initial licensure or registration.

Licensees are required to sign their renewal notice under penalty of perjury stating that they have completed the requisite number of CE hours within the last two year renewal period. Licensees are required to maintain completion documentation for no less than four years and, if audited, are required to provide that documentation to the Board upon request.

The Board conducts CE audits on licensees. Veterinary mandatory CE became law in 1998, and the random audit process began in 2000 with a target of 10% of licensees per two-year renewal cycle. In 2002/03 the Board was granted an additional position for its mandatory CE program. However, in the following year (2003/04), the Board's budget was cut and 3.0 authorized positions were eliminated. Consequently, the Board was forced to scale back its CE audit program due to lack of personnel and funding. With limited resources, the Board focused on licensees who are compelled to do CE as a term of their probation and those renewing a delinquent license. In the past four years, the Board has submitted BCPs to the DCA requesting an augmentation to provide for additional staff to handle the workload of this very valuable consumer protection program. Unfortunately, each year the Board's requests have been denied. In FY 2012/13, the Board was able to fill two of its staff vacancies and is attempting to absorb this additional workload in order to fulfill its mandate to ensure that veterinarians meet their CE requirement through random Board audits. Despite staff reductions and limitations of personnel resources over the past four years, the Board has conducted approximately 50 audits each year for probationers and for those licensees who wished to renew a delinquent license. The Board is considering an RVT audit program once a full CE mandated renewal cycle has completed in July 2013; however, without additional personnel the Board's ability to perform audits is severely limited.

The Board's CE course approval criterion is outlined in regulation (CCR Sections 2085-2085.13 and 2086-2086.9). Based on the approval criteria outlined in regulations, the Board delegates course approval to its national regulatory agency, the American Association of Veterinary State Boards (AAVSB), Registry of Approved Continuing Education (RACE), for all non-statutorily approved providers and courses. AAVSB evaluates courses and providers based on the regulatory criteria and either approves or disapproves the application. Approved providers are listed on the AAVSB Website at aavsb.org. The Board also recognizes certain continuing education providers, such as AVMA and government sponsored courses, spelled out in B&P Section 4846 .5. The Board audits statutorily approved providers on a case-by-case basis. If documentation for the licensee is not complete due to an issue with the provider, the Board will contact the provider and ask for proof of compliance. Providers that go through the AAVSB - RACE approval process are audited and reviewed during each two-year renewal period and during individual audits of licensees. The number of programs and providers approved and denied by AAVSB – RACE are as follows:

Continuing Education Programs			
	fY 2009/10	fY 2010/11	fY 2011/12
Programs			
Submitted*	1,349	1,341	1,586
Denied	12	16	5
Approved	1,286	1,256	1,502
Providers			
Submitted*	171	177	206

Denied	0	0	1
Approved	161	161	181

Fiscal and Fund Analysis

The Board is a special fund agency, and its funding comes from the licensing of veterinarians and registration of RVTs and veterinary premises and their corresponding biennial and annual renewal fees. Currently, the initial veterinary license fee for a veterinarian is \$290 and the biennial license fee is \$290. The initial registration fee for an RVT is \$140 and the biennial registration fee is \$140. The initial registration fee for a veterinary premise is \$200 and the biennial registration fee is \$200. The Board’s license and registration fees are between 40% to 60% of the statutory limit allowed by law. The Board does not anticipate increasing fees since legislation in 2010 increased the statutory maximums allowed and the Board increased its fees via regulation in 2012.

The total revenues anticipated by the Board for FY 2012/13, is \$5,230,000 and for FY 2013/14, \$5,416,000. The total expenditures anticipated for the Board for FY 2012/13, is \$2,827,000, and for FY 2013/2014, is \$2,905,000. The Board anticipates it will have approximately 9.9 months in reserve for FY 2012/13, and 9.1 months in reserve for FY 2012/13, if a BCP is approved for additional staff. If not approved, then the Board is projected to have 11.3 months and increasing up to 14.4 months by FY 2017-18 if the Board receives no additional staffing. (It is prudent for boards to have from 3 to 6 months in reserve for unintended expenditures). [This Board is projected to have more than sufficient reserves and may have to consider reducing license fees, after already being authorized to increase license fees, unless increased expenditures for staff is allowed; which was originally intended when the Board was provided with statutory authority to increase the statutory maximums for licensure in 2010.]

The Board spends approximately 60 percent of its budget on its enforcement program, 18 percent on its examination and licensing program, 15% to DCA pro rata costs, and 8 percent on its administration and Diversion program costs. The following is the Fund Condition of the Board for the past four years and the projected revenues and expenditures for the next two fiscal years.

Table 2. Fund Condition (in thousands)						
	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
Beginning Balance	1,248	1,411	1,651	1,938	2,320	2,403
Prior Year Adjustments	52	63	31	26	-	-
Revenues and Transfers	2,298	2,519	2,416	2,955	2,910	3,013
Total Revenue	3,598	3,993	4,098	4,919	5,230	5,416
Budget Authority	2,444	2,672	2,619	2,721	2,827	2,905
Expenditures	2,187	2,342	2,160	2,599	2,827	2,905
Loans to General Fund	-	-	-	-	-	-
Accrued Interest	-	-	-	-	-	-
Loans Repaid; General Fund	-	-	-	-	-	-
Fund Balance	\$ 1,411	\$ 1,651	\$ 1,938	\$ 2,320	\$ 2,403	\$ 2,511
Months in Reserve	7.2	9.2	8.9	9.8	9.9	9.1*

Staffing Levels

Currently, the Board is authorized 12.2 permanent positions, .6 permanent-intermittent positions (temporary staff) and one vacancy. Over the past four years and longer, the Board's staffing levels have not increased significantly; this is in spite of the fact that the Board has had significant workload increases. In 2009, the DCA took the initiative to evaluate the needs of the board's 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 proposed to streamline and standardize the complaint intake/analysis, reorganize investigative resources, and, once fully implemented, the DCA expected the healing arts boards to reduce the average enforcement completion timeline to between 12-18 months by FY 2012/13. 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 for purposes of funding the CPEI. 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 leaving the Board with .30 of a non-sworn investigator position. [The Board is still trying to fill this position.] In 2012, the Board submitted concept papers to DCA to increase staffing in 2013 by 3.0 positions to support its inspection program of veterinary premises and perform audits of continuing education for its licensees. The BCPs were denied by the DCA and Agency because they didn't meet the Governor's criteria for staffing increases.

As indicated, the Board's workload continues to grow, backlogs continue to increase and the volume of workload per staff member is becoming increasingly impossible to handle. Currently, the Board has a backlog of consumer complaints of approximately one year. Increased workload trends since 2009 includes the following:

- Complaints received by the Board have increased 43% from 536 to 766.
- Cases pending with the Attorney General's office has increased by 75% from 52 to 91.
- Number of licensed veterinarians has increased by 12% from 14,277 to 15,936.
- Number of registered veterinary technicians has increased by 25% from 6,934 to 8,654.
- Number of registered veterinary premises (animal hospitals) has increased by 11.6% from 3,074 to 3,431. The Board has the responsibility to inspect these premises or investigate complaints regarding these premises.

The Board believes that increasing its enforcement staffing is imperative. The Board recently submitted an analysis to this Committee which shows that with the recent fee increase there will be additional revenue to support an additional 5.0 permanent staff positions and that even with the additional positions, the Board's fund condition will be healthy through FY 2017-2018.

Enforcement

Under the CPEI, this Board never really 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. As indicated by the Board, there is now a backlog of complaints of one year and the Board is unable to meet its performance measures for the handling of disciplinary cases. The Board further argues the lack of enforcement staff significantly impacts the consumers of California as the workload for the Board has increased considerably and continues to grow each fiscal year, resulting in the Board not meeting the workload demand. The result is case backlog and increased processing delays and the inability of the Board to take prompt disciplinary action against a licensee. The consequences of delayed processing are that public safety is compromised, animals are harmed, consumer remedies are delayed, and negligent and/or incompetent licensees continue to practice without restrictions. Due to the volume of workload and lack of staffing, the Board has redirected staff to address the highest priority caseload. It has also hired temporary help, utilized the services of the American Association of Retired Persons (AARP) volunteers, and authorized overtime for enforcement staff.

These inadequacies, according to the Board, stifle the Board’s progress to achieve its intended performance measures. 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 nearly three years (36 months) to complete a disciplinary action against a licensee by the Board. The chart below identifies the formal disciplinary actions taken by the Board for the past four years.

Fiscal Year	FY 2009/2010	FY 2010/2011	FY 2011/12
Accusations Filed	32	40	55
Revocation	6	6	9
Voluntary Surrender	2	1	3
Suspension	0	0	0
Probation with Suspension	1	2	3
Probation	7	7	10
Probationary Licenses Issued	0	0	5

PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS

The Board was last reviewed by the former Joint Legislative Sunset Review Committee (JLSRC) in 2004. At that time, the JLSRC identified 17 issues for discussion.

On November 1, 2012, the Board submitted its required Sunset Report to this Committee. Below are the prior issues raised by the JLSRC in its Background Paper of 2004 and in its final recommendations, and the Board’s responses to how the issues or recommendations of the JLSRC were addressed. (The prior “Veterinary Medical Board’s Background Paper of 2004” which details these issues and the JLSRC Recommendations regarding the Board can be obtained from this Committee.)

- The JLSRC expressed concerns at its January 7, 2004 hearing regarding the lack of RVT representation on policy matters approved by the Board that impact the RVT population. It was indicated by the JLSRC that providing independent statutory authority in a number of areas handled currently by the Board will help resolve concerns that RVTs have in assuring a voice in decisions that impact the RVT profession. The JLSRC recommended that the RVT Committee be given independent statutory authority over issues within its jurisdiction,

e.g., examinations, eligibility categories, establishing criteria for and approving RVT school programs, etc. The Board supported this recommendation and expanded the authority of the RVT beyond assisting the Board with examination duties and included authority for the RVT Committee to assist the Board in developing regulations to define procedures for citation and fines. It also supported the sunset of the RVT Committee to be replaced with the Multidisciplinary Committee and to include two RVTs on the Committee. It also created a two-member RVT subcommittee of the Board.

- The JLSRC was concerned that unregistered (veterinarian) assistants were performing activities that only veterinarians or RVTs are licensed or qualified to perform. The JLSRC and the DCA recommended that the Board report on ways to clarify and delineate veterinary and RVT duties. The Board conducted a practice analysis and updated its regulations as necessary to more clearly delineate the duties of the veterinarian, RVT and veterinarian assistant.
- The JLSRC raised the issue of whether a national examination could be provided for RVTs. The Board is now in the process of transitioning the RVT State Board Examination to the national examination (VTNE) in 2014, and because there are five RVT-only job tasks in California, is developing a supplemental RVT law examination to augment the VTNE.
- The JLSRC was concerned about veterinarians using specialty titles and about the public being misled by the use of these titles. It recommended that the Board establish regulations incorporating the AMVA guidelines for the use of specialty titles used by veterinarians and to develop a plan to educate consumers on specialty titles. The Board ran into legal problems regarding regulation of specialty titles since it does not specifically regulate specialty licensure and that there are some specialty organizations that are recognized on a national scale but are not accredited by the AVMA. Based on advice of legal counsel, excluding such organizations could amount to a restraint of trade issue. The Board did not pursue this issue any further and instead recommended that the profession consider an educational message to licensees in California. Recently, the Board posted information on its consumer and licensee info pages on its Website that was obtained from the AVMA on the guidelines for the use of the title “Board Certified” since the misuse of such titles, if proven, could result in false advertising and unprofessional conduct violations under California laws.
- The JLSRC raised the issue of whether its Diversion Program should be self-supporting and because of its few participants and unknown success rate, whether consideration should be given to its elimination. The Board supported the 2003 recommendation and since 2003, the Board revised its contract for its Diversion Program and the costs are approximately \$13,500 a year for the Diversion Evaluation Committee (DEC) meetings. The Board believes that its Diversion Program is an excellent option for licensees who are battling addictions and is working with the contract vendor, Maximus, to increase the advertising about the program and get the word out into the profession that it is available. The actual cost for participants is \$2,800 annually and the fee charged by the Board to licensee participants was increased in 2012 from \$1,600 to \$2,000. The Board supported this proposal and supports its Diversion program, but has been unable to achieve direct cost savings that would make the program self-supporting.

- The JLSRC was concerned that only 13 percent of veterinary premises (facilities) are inspected by the Board, and that once a facility has been inspected, it is generally not inspected again until other facilities have been inspected – perhaps as long as six or more years later. The JLSRC recommended that the Board should attempt to increase the number of veterinary facilities inspected, as staff is made available, and these inspections should be on a “random basis.” Priority should be given to those facilities in which complaints have been filed with the Board. The Board supported the 2003 recommendation and indicates that it has tried to increase the expenditure authority and add one personnel year to its inspection program every year since this report was completed and has been denied each year. Despite the lack of funding and staff, the Board is working within its existing resources to improve the program and although the number of inspections annually has not increased, the Board opened up the annual inspection program to RVTs. Improved the inspector training and implemented a “shadowing” program whereby the Enforcement Program Manager and Assistant Program Manager go out with the new inspector to monitor and train. The Board hired three new inspectors for the 2012/13 fiscal year to begin in September 2012, with a goal of increasing the actual number of inspections each year to 500, or 16%. The Board also changed the method of hiring inspectors from the Request for Proposal process to establishing a pool of qualified experts and hiring via the streamlined contract process implemented by the DCA last year. This has greatly improved the pool of qualified applicants.
- The JLSRC recommended that the current cite and fine authority for the Board should be raised from \$1,500 to a statutory maximum of \$5,000. The Board supported the 2003 recommendation and within the Board citation and fine authority, the Board developed ranges of fines to impose at different levels depending on the violation or pattern of violations. The Board supports increasing fine amounts for its citations up to the current statutory limit of \$5,000 and has referred proposed regulations to increase the limit to its MDC. It is anticipated that draft regulations will be adopted by the MDC at its November 2012 meeting and will go to the Board for discussion and consideration of adoption at the Board’s January 2013 meeting.
- The JLSRC was concerned that the Board was ignoring its own disciplinary guidelines regarding mandatory revocation (no stay) of licenses in cases involving cruelty to animals and recommended that the Board assure that disciplinary guidelines were consistently applied to disciplinary cases which are decided upon by the Administrative Law Judge and the Board. The Board supports the concept of consistent application of the disciplinary guidelines, but has little to no control over the application of such guidelines by an administrative law judge . Each case and the resulting fact pattern is unique and administrative law judges must have the latitude to apply the guidelines uniquely to each case. The Board reviews the guidelines regularly to insure that they are current and relevant. It is currently in the process of updating the guidelines to be as consistent as possible with the laws governing veterinary medicine in California. Since 2008, the Board has been severely impacted by vacancies on the Board, hiring freezes, furloughs, and layoffs. However, in spite of the Board’s limitations, in 2009 the Board held a workshop to review and update its Disciplinary Guidelines, but, due to workload factors, was unable to bring those changes forward until October 2011 during a Strategic Planning workshop held in conjunction with a regularly scheduled Board meeting. The guidelines were updated and brought back to the Board in January 2012 for discussion and again in June 2012 for a public regulatory hearing. The Guidelines are now going through the rulemaking process and the Board hopes to have them in effect in June 2013.

- The JLSRC recommended that the Board should raise fees to be paid by applicants for licensure to assure that licensing fees are not subsidizing the costs of the development and administration of examinations provided by the Board. The Board supported the 2003 recommendation and in 2005, the Board voted to initiate a five-year plan to increase fees so that all of its programs were self-supporting, including the examination program. The Board implemented a regulatory fee increase to its statutory maximum in October 2007, but that was not sufficient to correct the deficiencies. In 2008, the Board sponsored a bill to increase fees, but, due to political factors, the bill did not pass. The Board again sought a fee increase in 2009 and this time the bill passed and the statutory fee ceilings were increased. In 2010, the Board again sought a regulatory fee increase, but by then the economy was in a downturn and it was difficult to consider an increase in any fees. The Board compromised the amount of the fees and delayed implementation of the increases until March 2012 so that the regulations would be supported. The increased fees are now in place and all of the Board's programs are self-supporting.
- The JLSRC recommended that the Board should work with the DCA to improve the information provided on its Website and to assure that all disciplinary actions taken against a licensee are made available to the consumer. The Board supported the 2003 recommendation and the Board indicates that its Website has been updated since 2003 and it is being improved on a continual basis. In 2010, the Board obtained scanning equipment and, in addition to a summary, is now posting enforcement documents to the Website. The Board is current for the past two years with such documents. Utilizing AARP-funded temporary help, the Board is going back and retroactively posting actual documents from the previous five years. Currently, for disciplinary actions prior to 2010 the Board has updated its disciplinary summary information and consumers can still request the actual documents from the Board. The Board does not post citation and fine documents on its Website; however, it does notify consumers that a citation has been issued and that the documents are available upon request.
- The JLSRC was concerned that veterinarians and RVTs have no duty to report animal abuse or cruelty for animals under their care or treatment and recommended that licensed veterinarians and RVTs should report incidents of animal abuse or cruelty about which they know or have reasonable suspicion regarding such abuse or cruelty to animals under their care or treatment. However, legal immunity should be provided to veterinarians and RVTs who report such incidents. The Board implemented mandatory reporting of animal cruelty and abuse in Business and Professions Section 4830.5 in 2004/05 following the adoption of SB 1584, Chapter 467, and provided immunity from civil liability as a result of making such report.
- The JLSRC indicated that there appeared to be general non-compliance with the law that requires rodeo veterinarians to report rodeo-related animal injuries to the Board and recommended that the Board attempt to assure that veterinarians are aware of the reporting requirements regarding any rodeo-related injury for which they provide care or treatment, and provide for an injury form to be submitted to the Board. The Board updated its law regarding mandatory reporting of animal injuries at rodeos in Section 4830 .8 in 2010 to make reporting requirements more specific. The Board also created a reporting form that is now posted on the Board's Website along with the information on the law and the reporting requirements.
- It was reported by the CVMA that there are some who are practicing illegal animal dentistry because the definition of "dental operation" is unclear. The JLSRC recommended that the

Board review whether changes are necessary to the definition of “dental operation” in the Business and Professions Code and make recommendations to the Legislature if necessary. The Board supported the 2004 proposal and proposed regulatory amendments in 2012. The regulatory package contains updates to the minimum standards of practice including amendments to Section 2037 – the definition of dental operation. The file was rejected by the Office of Administrative Law (OAL) for several reasons: 1) grammatical changes; 2) changes to the Initial Statement of Reasons; 3) to add documents to the file that the Board had relied upon, but had not been included, and 4) to more fully respond to the comments regarding necessity. The Board believes that once the corrections are made as identified by OAL and resubmitted, they should be approved sometime in 2013.

- The CVMA indicated that cities have passed local ordinances that prohibit veterinarians from performing certain procedures that would be permissible under the Veterinary Practice Act. The JLSRC recommended that the Board review whether local cities or counties can or should be prevented from passing local rules, regulations or ordinances regarding the practice of veterinary medicine within their jurisdictions. According to the Board, SB 762, Chapter 16, was passed to assist in this endeavor in 2010, but at least five local jurisdictions were allowed to change their laws to prohibit declaw procedures prior to the effective date of the law.

CURRENT SUNSET REVIEW ISSUES

The following are unresolved issues pertaining to the Board, or areas of concern for the Committee to consider, along with background information concerning the particular issue. There are also recommendations the Committee staff have made regarding particular issues or problem areas which 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.

BUDGETARY ISSUES

ISSUE #1: (LACK OF NECESSARY STAFF.) The Board currently has inadequate staffing and this continues to hamper the Board’s productivity.

Background: According to the Board, in order to fulfill its mission, the Board must have a workforce consistent with the workload resulting from its mandates. However, the largest challenge of the Board has been the consistent refusal of any BCPs it has submitted over the years and the necessary position authority to effectively fulfill its responsibilities in regulating the veterinary profession and protecting consumers.

Since the last Sunset Review in 2004, the Board has had a significant increase in workload as more veterinarians have become licensed, more RVTs registered and more veterinary premises in need of inspections. As indicated, the Board’s enforcement costs, duties and tasks continue to grow, backlogs continue to increase and the volume of workload per staff member is becoming increasingly impossible to handle.

The Board believes that increasing its enforcement staffing is imperative. The Board recently submitted an analysis to this Committee which shows that with the recent fee increase there will be additional revenue to support an additional 5.0 permanent staff positions and that even with the additional positions, the Board's fund condition will be healthy through FY 2017-2018.

Staff Recommendation: *Since current staffing levels of the Board are insufficient to maintain the ongoing workload and responsibilities of the Board and will result in continuous backlogs of enforcement cases and possible delays in licensure, the Board should be provided with the additional staffing it is requesting and which the Board has sufficient funds to support. Also, before any new requirements or responsibilities are placed on the Board, there should be sufficient staffing to cover this additional workload in addition to the staffing already requested by the Board.*

BOARD AND COMMITTEE RESPONSIBILITIES

ISSUE #2: (ADDRESSING RVT ISSUES.) It does not appear as if the MDC is addressing some of the more important issues as it pertains to the RVT profession or both the Board and MDC are delaying action in addressing these issues.

Background: According to those representing the RVT profession, there has been several issues which either the MDC or the Board have not addressed or have delayed action in resolving. Examples given were (1) regulations to define the parameters for a student exemption allowing them to perform restricted RVT job tasks; (2) a regulation to clarify the Board's authority over RVT schools which took two and half years to go to public hearing after approved by the Board; (3) the transitioning from using the state RVT examination to using a national RVT exam.

A little history regarding the RVT profession and RVT committees, and RVT input on Board matters, may be appropriate at this point. 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 RVT and the committee was called the RVTEC. In 1998, the original independent RVTEC was sunsetted, and a new committee of the Board, the RVTC, was created. The Legislature gave the new committee 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 that its intent was that the Board would give specific consideration to the recommendations of the RVTC. In 2004, the JLSRC was concerned that the RVTC had no independent authority over issues within its jurisdiction, e.g., examinations, eligibility categories, establishing criteria for and approving 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 8 members: 4 veterinarians, 1 RVT and 3 public members. At the same time the RVTC was allowed to sunset upon appointment of the RVT. The newly created MDC also had the following make-up of members: 4 veterinarians, 2 RVTs and 1 public member.

The RVT committee has basically gone from an autonomous, semi-autonomous to a non-existent committee. However, it appears that both veterinarians and RVTs believed that both representation on the Board by an RVT and providing for RVTs on the MDC would allow for issues regarding the RVT

profession to be adequately addressed. It appears, however, that this may not be the case. The Board seemed to realize this oversight at its September 5, 2012 meeting as it discussed the role of its committees and a structure for the committees that might be best to address the issues of the Board. It appears that one of the problems may be that the Board has no direct input during MDC meetings or oversight of matters brought before the MDC, or has not given clear direction to the MDC to address important issues brought before the Board or that must be resolved. The Board has also allowed RVT matters to be splintered between different subcommittees. There is one RVT subcommittee of the Board made up of two board members and another subcommittee of the MDC made up of one RVT and one veterinarian. Section 4809.8 of the Business and Professions Code was clear that the role of the MDC was to assist, advise, and make recommendations for the implementation of rules and regulations necessary for the proper administration and enforcement of the Veterinary Medicine Practice Act and to assist the Board in its examination, licensure, and registration programs. The MDC was intended to be inclusive of all issues regarding the veterinarian profession, and the Board must do the same.

Staff Recommendation: *To assure the Board had direct input and oversight of matters related to the MDC, there should be one veterinarian member of the Board that sits on the MDC, and the RVT member of the Board should also sit on the MDC. They would not act as a liaison to the MDC but rather as actual participants of the MDC. The Board should eliminate its RVT subcommittee and the MDC RVT subcommittee and deal with RVT issues directly and not delay implementation of important RVT matters. Section 4832(b) of the Business and Professions Code of 2005 should be reinstated and included within Section 4809.8 to assure that the Board will give specific consideration to the recommendations of the MDC regarding RVT matters.*

ISSUE #3: (RESPONSE TO ISSUES AND RECOMMENDATIONS OF THE JLSRC.)

The Board has been slow to respond to issues and recommendations raised by the JLSRC in 2004 and other matters presented before the Board.

Background: The Board has been slow to deal with the issues and recommendations made by the JLSRC during its sunset review in 2004, and other issues which may have been brought before the Board over the past 8 years. The following are some examples:

- Transitioning to the RVT National Examination.
- Appropriate oversight of RVT schools.
- Allowing students to perform limited RVT job tasks.
- Providing information to consumers about the use (or misuse) of specialty titles of veterinarians.
- Making its Diversion Program self-supporting.
- Only recently planning to increase the number of inspections of veterinary premises.
- Only recently putting forth regulations to increase its fine authority.
- Only recently updating its Disciplinary Guidelines.
- Posting Disciplinary Actions taken by the Board on its Website.
- Only recently putting forth regulations to deal with illegal animal dentistry.
- Adoption of Uniform Substance Abuse Standards for its Diversion Program.
- Adoption of CPEI SB 1111 regulations similar to other health related boards.
- Lack of a consumer satisfaction survey.

Staff Recommendation: *The Board should explain to the Committee why some of the important matters which the Board was directed to deal with back in 2004 by the JLSRC, and other matters brought before the Board over the past 8 years by DCA and others, have taken such a long time to resolve or implement. The Board needs to move ahead expeditiously to implement these necessary changes.*

LICENSING AND REGISTRATION

ISSUE #4: (ACCESS TO CONTROLLED SUBSTANCES.) Should veterinary assistants be required to obtain a permit from the Board so that they may be allowed to have access to controlled substances under the supervision of a veterinarian?

Background: For many years the RVTs and veterinarian assistants who assisted veterinarians in practice were allowed to administer drugs under indirect supervision of a veterinarian, by the veterinarian's order, control, and full professional responsibility. However, in 2007, the Board's legal counsel questioned the language in existing law regarding who can administer drugs to animals in a veterinary practice setting. The CVMA disagreed with the Board's interpretation of the law and subsequently sought a Legislative Counsel (LC) opinion. The LC opinion confirmed CVMA's position and it further validated current practice as it pertains to federal drug laws.

Ultimately, however, the CVMA determined that temporary regulations, designed to rectify the confusion in the law, could only go so far, and that a statutory change would be necessary. In 2007, CVMA carried SB 969 to make the statutory changes necessary to clarify those persons who could provide controlled substances in a veterinary office or clinic and under what level of supervision. This measure was signed into law, but contained a sunset provision. The purpose for the sunset provision was to assure that there were no problems of complaints received by the Board regarding the access to controlled substances by veterinary assistants. The sunset provision was extended to January 1, 2013, pursuant to SB 943 of 2011. During the interim, the DCA, CVMA, the Board and representatives from the RVT community met to determine if other changes were necessary in the law to assure that veterinary assistants who had access to controlled substances had appropriate oversight and had no criminal history. Discussions centered around the requirement for the fingerprinting of veterinary assistants who would have access to controlled substances within the veterinary facility. However, the Department of Justice (DOJ) indicated that they would be unable to provide criminal background information on veterinarian assistants to the Board unless they were under the authority of the Board. Therefore, the Board would have to at least require veterinary assistants to obtain a permit from the Board to be allowed access to controlled substances so that the Board could then request fingerprints of the veterinarian assistant that would be provided to DOJ. The Board could then be provided with the criminal background information from DOJ before they granted a permit.

Staff Recommendation: *The Board should be required to establish a permitting process for veterinary assistants who will have access to controlled substances, both under direct and indirect supervision of a veterinarian, so that the Board can require fingerprints of veterinarian assistants and obtain criminal history information from DOJ. The requirement for a permit should begin by 2014. However, the Board should be provided adequate staffing to implement this new program to be paid from fees collected pursuant to the permit requirement.*

INSPECTION OF VETERINARY PREMISES

ISSUE #5: (INSPECT MORE VETERINARY PREMISES.) It is unknown the extent to which the Board has been able to inspect veterinary premises over the past 8 years. In 2004, only 13% of veterinary facilities on average were inspected each year.

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 premise inspections. During the sunset review of the Board in 2004, the Board inspected an average of 300 registered veterinary facilities that were selected from a master list, and an average of 31 facilities in response to complaints it received. The vast majority of these inspections were unannounced. From 1996 to 2003 the Board had completed 2,616 inspections, including 211 complaint-related ones. The average rate for annual routine hospital inspections during those years was 13 percent, with a slight improvement during 2001/02 to 18 percent and 16 percent in 2002/03. In its report to the JLSRC at the time, the Board indicated that all new veterinary premises are were inspected within the first six to 12 months of operation and that its goal was to have all premises inspected within a five-year period.

The Board further indicated to the JLSRC at the time that when it “randomly” selects premises to inspect, it eliminates from selection those premises with the most recent inspection dates. Thus, it appears that once facilities are inspected, they enjoy “safe harbors” from random inspections for an extended period of time, perhaps as long as six or more years. To accomplish these inspections, the Board contracted with private veterinarians who hold current California licenses and have at least five years of clinical practice experience. However, the Board was at the time considering expanding the pool of prospective inspectors to include RVTs as well.

The Committee did not receive any current information regarding the Board’s inspection program of veterinary premises. The Board only indicated that it hired three new inspectors for the 2012/13 fiscal year to begin in September 2012, with a goal of increasing the actual number of inspections each year to 500, or 16%. The Board also changed the method of hiring inspectors from the Request for Proposal process to establishing a pool of qualified experts and hiring via the streamlined contract process implemented by DCA last year. This has greatly improved the pool of qualified applicants.

Staff Recommendation: *The Board should update the Committee on its inspection program for the past 8 years and indicate if it has adequate staff to increase the number of actual inspections and what percentage of veterinary premises does it believe it will be able to inspect on an annual basis.*

ISSUE #6: (PRIORITIZE FACILITIES AND PREMISES TO BE INSPECTED.) Should the Board be involved in inspecting humane society facilities, shelters and other type of nonprofit animal rescue or adoption centers?

Background: It has come to the attention of the Committee that the Board may be inspecting non-veterinarian premises, including 501(c)(3) animal rescue groups, and providing an “inspection report” and possibly issuing citations and fines. This may not be a reasonable use of resources for the Board especially in light of the problems it is having maintaining its own inspection program over those facilities and hospitals that provide direct veterinary services. There may be some confusion in the law

regarding the Board’s jurisdiction over these types of “premises” and that should be clarified. There does not appear to be any need for the Board to be involved in inspecting nonprofit animal rescue or adoption centers unless of course the Board has probable cause to believe that such facility is involved in unlicensed activity. However, the Board should only pursue action based on unlicensed activity, not pursuant to its inspection authority. The scope of Board authority over humane society facilities needs to be clarified so that resources are not being expended on low-priority activities while higher priorities are suffering. Local jurisdictions, either pursuant to health and safety violations or complaints received, may be able to deal with these other entities more directly.

Staff Recommendation: *The Committee believes that existing law should be clarified so that the Board is not inspecting these non-veterinarian premises so that it can better target their use of scarce enforcement (inspection) resources and staff. The Board should provide justification for its continued inspection of humane society facilities and animal shelters. Unless the Board has evidence of unlicensed activity within nonprofit facilities, it should immediately cease any further action which is related to its inspection authority.*

ENFORCEMENT

ISSUE #7: (DISCIPLINARY CASES STILL TAKING ON AVERAGE THREE YEARS OR MORE.) Will the Board be able to meet the CPEI goal of reducing the average disciplinary case timeframe from three years or more, to 12-18 months?

Background: As earlier indicated, in 2009, the DCA took the initiative to evaluate the needs of the board’s 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 proposed to streamline and standardize the complaint intake/analysis, reorganize investigative resources, and, once fully implemented, the DCA expected the healing arts boards to reduce the average enforcement completion timeline to between 12-18 months by FY 2012/13. 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 for purposes of funding the CPEI. 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 leaving the Board with .30 of a non-sworn investigator position. [The Board is still trying to fill this position.] Under the CPEI, this Board never really 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. As indicated by the Board, there is now a backlog of complaints of one year and the Board is unable to meet its performance measures for the handling of disciplinary cases. Due to the volume of workload and lack of staffing, the Board has redirected staff to address the highest priority caseload. These inadequacies, according to the Board, stifle the Board’s progress to achieve its intended performance measures. 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 nearly three years (36 months) or more to complete a disciplinary action against a licensee by the Board. Other reasons why the Board is unable to meet its performance measures and goal of 12 to 18 months to complete disciplinary action, is because it has to rely 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 6 to 18 months. Once the case is transferred to the AG, it can take 6 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. [It should be noted the DOI has markedly improved in its investigation of cases. Most cases are completed within about a 6 month period on average. However, the AG's Office and the OAL were never made partners in the CPEI effort by DCA to reduce timeframes in the handling of cases. The timeframes for disciplinary cases handled by the AG have not changed significantly over the past years and OAL is now backlogged with cases and it is taking up to one year to schedule a case to be heard.]

Staff Recommendation: *It is obvious unless there is buy-in from the other agencies (the DOI, AG and the OAL), which the Board must depend on, the goal of CPEI will never be realized. The Board has at least improved on part of the process it had control of, the processing of complaints and forwarding them to investigation, but still hasn't met its performance measure of 10 days for handling a complaint. This is due primarily, however, to inadequate staffing levels of the Board. As was indicated in Issue #1, the Board must receive adequate staffing so that it can more quickly process disciplinary cases. The bigger issue of dealing with delays by DOI, the AG and the OAL is something that is going to have to be addressed by the Legislature, DCA and these other agencies.*

ISSUE #8: (REPORTING SUBSTANCE ABUSE) Should a veterinarian or RVT be required to report instances in which they believe a fellow practitioner is involved with drug or alcohol abuse during their practice?

Background: The Board has indicated that it is discussing requirements similar to the mandatory reporting requirements for animal cruelty, under Section 4830.5 of the Business and Professions Code, if a fellow practitioner suspects drug or alcohol abuse. There would be an obligation to report to the Board. There are a number of health care boards under the DCA that require health care facilities to report health care practitioners who have been fired or suspended for harming a patient or other serious misconduct such as substance abuse. Currently, employers of vocational nurses, psychiatric technicians, pharmacists and respiratory care therapists are required to report to the respective boards the suspension or termination for cause of these health care practitioners. The Medical Board, Board of Podiatric Medicine, Board of Behavioral Sciences, Board of Psychology and the Dental Board also have more extensive reporting requirements for peer review bodies and hospitals which are specified in Section 805 et seq. of the B&P Code. The Board of Pharmacy also requires its licensed pharmacies to report their own employees (pharmacists or pharmacy technicians) if there is evidence of theft, diversion or misuse of drugs and they are terminated from employment for any of those reasons.

Staff Recommendation: *The Board should consider a reporting requirement for veterinarians, RVTs and veterinarian assistants to report to the Board any instances in which someone working at a veterinarian facility may be abusing drugs or alcohol during their practice. There should also be immunity from civil liability for anyone who reports such substance abuse to the Board.*

PUBLIC NOTIFICATION

ISSUE #9: (POST BOARD CONTACT INFORMATION.) Should veterinary premises be required to post contact information for the Board?

Background: The Board has indicated that the Board is discussing requiring a sign in every veterinary premise that notifies consumers of the Board's contact information if the consumer has a complaint.

Staff Recommendation: *The Board should require that veterinary premises post a sign that notifies consumers of contact information for the Board if they wish to file a complaint regarding a veterinarian, RVT or veterinarian assistant.*

ISSUE #10: (USE OF NAME TAGS.) Should veterinarians, RVTs and veterinarian assistants be required to wear name tags?

Background: The RVTs indicate that in 2010 the Legislature gave RVTs title protection. However, they argue, that without mandatory name tags for the veterinary profession, the public has no way of knowing with whom they are dealing in a veterinary facility. The RVTs further indicate that by most estimates, there are at least two unlicensed veterinarian assistants for every RVT. Since many veterinary personnel wear similar clothing, unless a staff member is wearing a name tag, the public cannot distinguish between unlicensed veterinarian assistants and RVTs and even veterinarians. "The public has a right to know who is treating their animals."

Staff Recommendation: *The Board should consider whether the use of name tags is necessary to identify the individual practitioner within a veterinary facility.*

CONTINUATION OF THE VETERINARY MEDICAL BOARD

ISSUE #11: (CONSUMER SATISFACTION WITH THE BOARD IS UNKNOWN.) Should the Board immediately start using a survey consumer satisfaction survey implement veterinarians, RVTs and veterinarian assistants be required to wear name tags?

Background: The Board has indicated it utilized its own customer satisfaction paper and pencil survey tool up until 2010 when it was discontinued due to staffing and workload issues. The Board does not use the DCA customer satisfaction surveys per se; however, it is developing an electronic survey tool based on questions in the DCA survey and plans to implement its own survey following the Board's conversion to BreEZe, DCA's new database system.

Staff Recommendation: *The Board should immediately upon the implementation of the BreEZe system start using a consumer satisfaction survey to determine if future changes may be necessary in its handling of consumer complaints and the way the public should be dealt with by the Board and its staff.*

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 and 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.*