

BACKGROUND PAPER FOR THE BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

**Joint Sunset Review Oversight Hearing, March 17, 2020
Senate Committee on Business, Professions and Economic Development
and the Assembly Committee on Business and Professions**

IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS

BRIEF OVERVIEW OF THE BOARD

The Board of Vocational Nursing and Psychiatric Technicians (BVNPT) is responsible for administering the laws related to the education, practice and discipline of Licensed Vocational Nurses (LVNs) and Psychiatric Technicians (PTs).

The Legislature first established the LVN program under the Board of Vocational Nursing in 1951. In 1959, the Legislature established the PT Certification Program and placed the program under the board's jurisdiction due to the unique mental health and nursing care functions performed by PTs and changed the board's name to the Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California.

In 1970, Senate Bill (SB) 298 changed the PT Certification Program to a licensure program. To change from a certification program to a licensure program, the law specified that Certified PTs would be eligible for licensure (e.g., grandfathered) upon renewal of their certificate. In addition, it made any person, including persons employed in State Hospitals for the mentally ill and developmentally disabled, eligible for licensure upon evidence that he/she performed PT services specified in Business & Professions (B&P) Code § 4502, for no less than two of five years prior to January 1, 1970. Thereafter, the applicants for a PT license were required to comply with specific education and experience requirements and pass the licensure examination. In 1998, the name of the board was changed to BVNPT.

In 2007, due to a legislative oversight, the Assembly adjourned without taking up SB 797 which contained the statutory language required to extend the sunset date for the BVNPT and three other licensing boards within the Department of Consumer Affairs (DCA). As a result, the BVNPT became a Bureau operating under DCA for six months from July 1, 2008 through December 31, 2008. Two legislative bills were signed into law to re-establish the BVNPT (SB 797 and Assembly Bill (AB) 1545) effective January 1, 2009.

The BVNPT oversees two distinct licensure programs, each with separate statutes, and regulations, curriculum requirements and examinations. Today, the BVNPT regulates the practice of approximately 130,000 LVNs and 13,000 PTs, the largest groups of LVNs and PTs in the nation. As of August 1, 2016, a total of 172 programs are approved by the BVNPT to offer educational programs leading to an LVN and PT license in the State of California.

Licensed Vocational Nurses provide basic nursing care to clients under the direction of a licensed physician or registered nurse. However, there is no requirement that a registered nurse or physician be present on the premises during the performance of duties.

LVNs use scientific and technical expertise and manual skills to provide nursing care to assigned patients. They gain the skills by completing a BVNPT-approved VN program or a BVNPT-approved equivalent. Duties within the scope of practice of an LVN typically include:

- Provision of basic hygienic and nursing care;
- Basic assessment of body systems, including measurement of temperature, pulse, respirations, and blood pressure, and documentation of findings;
- Performance of prescribed medical treatments;
- Nursing interventions;
- Observation and documentation of patient responses to treatments and interventions;
- Participation in the development of nursing care plans;
- Administration and documentation of prescribed medications;
- Assessment and documentation of patient responses to administered medications;
- Supervision of certified nurse assistants and other unlicensed personnel;
- Administration of prescribed skin tests and reading the patient's immune system response to the testing agent;
- Administration of prescribed immunizations;
- Patient education; and
- Performance of intravenous therapy (IV) and/or blood withdrawal (BW). The BVNPT requires post-licensure certification to perform IV and/or BW.

Upon completion of additional specialized training within their scope of practice, LVNs may also work in specialty care areas such as Surgery Centers, Intravenous Therapy Teams, Critical Care Units, Telemetry Units, Hemodialysis Units, Gastroenterology Laboratories and Genitourinary Laboratories. They may also teach VN students, certified nursing assistants, home health aides, or other allied health personnel.

Psychiatric Technicians provide care for clients diagnosed with mental disorders or developmental disabilities under the direction of a physician and surgeon, psychiatrist, psychologist, rehabilitation therapist, social worker, registered nurse or other professional personnel. While the PT is not an independent practitioner, there is no statutory or regulatory requirement that the aforementioned professionals be present during the performance of duties.

PTs utilize scientific and technical expertise and manual skills to provide care and training for clients with mental disorders and developmental disabilities. They learn the skills through a BVNPT-approved PT program or a BVNPT-approved equivalent. Duties within the scope of practice of a PT typically include:

- Provision of basic hygienic, grooming and nursing care;
- Measurement of temperature, pulse, respirations and blood pressure;
- Basic physical assessment;
- Documentation of client assessment data;
- Performance of prescribed medical treatments;
- Participation with the interdisciplinary team in the development, implementation and evaluation of a plan of care that is based upon client need;
- Basic nursing interventions consistent with the needs of the client;
- Observation and documentation of client responses to prescribed treatments and interventions;
- Administration and documentation of prescribed medications;
- Supervision of pre-licensed or unlicensed personnel;
- Administration of prescribed skin tests and reading the client's immune system response to the testing agent;
- Performance of therapeutic interventions, relative to crisis intervention and management;
- Behavioral management techniques;
- Crisis intervention;
- Sensory and perceptual development;
- Client social and vocational training and education; and
- The facilitation of individual and group therapeutic activities.

Currently, Arkansas, Colorado, Kansas, and Missouri are the only other states that license PTs in some form. Colorado also issues a separate license to eligible candidates in two specialty areas: care of clients with developmental disabilities and a license in the care of clients with mental disorders.

The current BVNPT mission statement, as stated in its 2019 Strategic Plan, is as follows:

The Board serves and protects the public by licensing qualified and competent vocational nurses and psychiatric technicians through ongoing educational oversight, regulation, and enforcement.

Board Membership

The BVNPT has eleven members with a public member majority (six public members and five professional members). Nine members are appointed by the Governor, one by the Speaker of the Assembly and one by the Senate Pro Tempore. Six members of the BVNPT constitute a quorum for transaction of business at any meeting. BVNPT members receive a \$100-a-day per diem. The BVNPT meets four times per year. All meetings are subject to the Bagley-Keene Open Meetings Act.

The following is a listing of the current BVNPT members and their background:

Board Members	Appointment	Term Expiration	Appointing Authority
<p>Tammy Endozo, President, Professional Member, has been a licensed vocational nurse (LVN) since 1996. Since 2006, she has served as a LVN at the Richard J. Donovan Correctional Facility. From 2003 to 2011, she served as a LVN at Scripps Mercy Hospital and a residential care leader and LVN at the Veteran’s Home of California, Chula Vista, from 2000 to 2006. Ms. Endozo was a LVN at University Community Medical Center in San Diego from 1998 to 2004, at the County of San Diego, Edgemoor Hospital from 1998 to 2000, and at Friendship Manor Lakeside Nursing Home from 1996 to 2000.</p>	9/30/15	6/1/19	Governor
<p>Bernice Bass De Martinez, Vice-President, Public Member, has been chair of the Department of Foreign Languages at California State University, Sacramento since 2009, where she has served in several positions since 2000. She was senior associate vice president for academic affairs and dean of the School of Graduate Studies at Indiana State University from 1996 to 2000, associate provost and director of graduate studies at Mills College from 1993 to 1996, dean of the Seton Hall University, College of Education and Human Services from 1991 to 1993, chair of the Fresno State Department of Teacher Education from 1987 to 1991, founding chair of the William V.S. Tubman University Foundation Board, and member of the CSU, Sacramento Foundation Board and the Elk Grove Multicultural Committee. Bass de Martinez earned a Doctor of Philosophy degree in curriculum and instruction from the University of Florida and a Master of Arts degree in elementary education from the University of Northern Colorado.</p>	5/5/15	6/1/19	Governor
<p>Paula Amezola de Herrera, Public Member, has been a Master of Public Health career services coordinator and advisor for the University of Southern California, Keck School of Medicine since 2015. Ms. Amezola de Herrera was a program and financial manager for the University of Southern California, Annenberg School for Communication and Journalism from 2009 to 2015; a program and evaluation manager for the Cancer Information Service at the Norris Comprehensive Cancer Center, University of Southern California from 2006 to 2009; and an epidemiologist at the Los Angeles Gay and Lesbian Center from 2002 to 2006. Ms. Amezola de Herrera is a member of Parks, Recreation and Community Services Commission for Culver City; Hispanas Organized for Political Equality Leadership Institute; Latina Task Force, American Public Health Association; and California Dialogue on Cancer, Cervical Cancer Committee. Ms. Amezola de Herrera earned a Master of Public Health degree in Epidemiology from the University of California, Los Angeles.</p>	7/7/17	6/1/21	Governor
<p>Aleta Carpenter, Public Member, was a community education specialist at the Shasta County Health and Human Services Agency from 2007 to 2012 and a lobbyist and managing partner at Carpenter Snodgrass and Associates from 1982 to 2003. She is a member of the California Heritage Youth Build Academy, Women’s Fund, American Women Artists, Youth Violence Prevention Council and the Shasta County Tobacco Education Coalition. Ms. Carpenter earned a Master of Arts degree in Communication Studies from California State University, Sacramento.</p>	7/7/17	6/1/21	Governor

<p>John Dierking, Public Member, is an attorney and Tax Compliance Officer with the City of Los Angeles. He belongs to Volunteers in Service to Others (VISTO) within the Los Angeles County Probation Department and served as a Speaker appointee on the California Council on Criminal Justice from 1997 to 2000. He also serves on the Board of Governors of the Engineers and Architects Association/IBEW 11, a labor organization representing approximately 4,700 professional members.</p>	6/1/16	6/1/20	Senate
<p>Kenneth Maxey, Public Member, works as a Public Affairs Manager for Comcast. Prior to his current assignment, Mr. Maxey was employed as a legislative staff member followed by a stint with President Obama’s presidential campaign in 2008. He has also been Deputy Political Director for the Democratic National Committee, GOTV Director for Obama for America in Polk County, Iowa, State Outreach Director for Phil Angelides for Governor, and Grassroots Campaign Coordinator with John Kerry for President. Mr. Maxey holds Bachelor of Arts in Political Science/History from the Notre Dame De Namur University and a Master of Public Administration from Howard University and MA in International Peace and Conflict Resolution from the American University.</p>	3/20/17	6/1/21	Assembly
<p>Carol Mountain, Professional Member, has been Director of Nursing at Sacramento City College since 2016 and an online instructor at the University of Phoenix since 2006. She was a professor at Shasta College from 1997 to 2016. Mountain is a member of the California Organization of Associate Degree Nursing Program Directors, National League for Nursing and Sigma Theta Tau. She earned a Master of Science degree in nursing administration and education from Sonoma State University and a Doctor of Nursing Practice degree from California State University, Fresno.</p>	12/7/18	6/1/22	Governor
<p>Donna Norton, Professional Member, has been a licensed vocational nurse (LVN) since 1986. Since 1989, Ms. Norton has been an LVN at Kaiser Permanente. From 1984 to 1985, she was a LVN and phlebotomist at Oneida Hospital. From 1981 to 1985, she was a LVN at Straub Hospital and served as a LVN in the United States Army at Tripler Army Hospital from 1975 to 1981.</p>	6/9/16	6/1/20	Governor
<p>Paul Sellers, Professional Member, has served as a senior psychiatric technician at the California Department of State Hospitals since 2008. Mr. Sellers was an adjunct professor at DeVry University from 2006 to 2008. From 1999 to 2003, Mr. Sellers was a computer manufacturing engineer at Sun Microsystems Inc. and an optical manufacturing engineer at KLA-Tencor from 1993 to 1998. From 1991 to 1992, he was a mechanical designer at the NASA Ames Research Center and a product sales manager at Interstate Engineering from 1983 to 1990. From 1974 to 1980, Mr. Sellers was an electronic assembly technician at Tab Products. Mr. Sellers holds a Master of Business Administration degree in general</p>	5/18/17	6/1/21	Governor
<p>Melissa Rubalcava, Professional Member, has been a program nurse at Exodus Recovery since 2015. She was an administrator at Willow Glen Care Center from 2012 to 2016, a program nurse and case manager at Turning Point from 2010 to 2012 and a licensed psychiatric technician at the Coalinga State Hospital from 2006 to 2010.</p>	11/14/19	6/1/23	Governor
<p>Cheryl Turner, Public Member, has been principal attorney at the Law Offices of Cheryl C. Turner since 1989. She was vice president at the Los Angeles Convention and Exhibition Center Authority in 2015. Attorney</p>	5/9/17	6/1/21	Governor

Turner earned a Juris Doctor degree from the University of Southern California, Gould School of Law.			
--	--	--	--

Committees

The BVNPT has five committees composed of two to four BVNPT members who are charged with gathering public input, exploring approaches to issues, analyzing collected data, and making recommendations to the full board. The following are from the BVNPT’s 2019-20 Administrative Manual:

Executive Committee – Provides oversight and recommendations regarding administration of the BVNPT; directs and supervises the Executive Officer; provides guidance to BVNPT members, provides a confidential avenue for rank and file staff to discuss complaints, and monitors all Committees.

Education and Practice Committee – Evaluates educational programs and policies, such as approval, curriculum, education and practice requirements for LVNs and PTs.

Enforcement Committee – Ensures licensee, program, and applicant compliance with laws and regulations and reviews and evaluates statistical reports and trends in workload to assess performance.

Legislation and Regulations Committee – Monitors and reviews proposed and pending legislative and regulatory changes impacting the BVNPT and develops Board positions.

Licensing and Evaluations Committee – Provides oversight to licensing functions and reviews and oversees complaint trends.

Staffing

The BVNPT’s Executive Officer is currently appointed by the Governor. The current Executive Officer was appointed in January 22, 2018. For more information regarding the temporary appointment structure please see Issue #2 under Current Sunset Review Issues below. As of Fiscal Year (FY) 2017/18, the BVNPT has a staff of 67.9 authorized positions. Currently, it’s 71.4 PYs, plus 7 Temporary (RA) positions. It also received approval for 2 more positions in the new budget year. The BVNPT states that it fills most vacancies within 90 days of posting, assuming no processing delays outside of its control.

Fiscal and Fund Analysis

The BVNPT is a special fund agency and receives no support from the general fund.¹ The BVNPT’s fund, the Vocational Nursing and Psychiatric Technicians Fund,² is funded primarily through licensing

¹ For more information related to state funds, see Department of Finance, *Glossary of Budget Terms*, http://www.dof.ca.gov/budget/resources_for_departments/budget_analyst_guide/glossary.pdf.
² BPC § 205(a)(22)

fee and administrative fee revenues, though it may also collect some revenues from fines and enforcement cost recovery.

Current budget projections indicate that the VN/PT Program’s fund reserve will become insolvent past FY 2021/22. In FY 2017-18, the BVNPT’s estimated annual revenue was approximately \$12.2 million and its annual expenditures were \$15.6 million, suggesting a budget deficit of at least \$3.6 million. The BVNPT’s estimated fund reserve at the time was approximately \$8.5 million (5.8 months of solvency without revenue).

Due to the delayed implementation of the Financial Information System for California (FISCal), California’s statewide accounting, budget, cash management and procurement IT system, the BVNPT has not received final accounting for Fiscal Years 2017-18 and 2018-19.

Fund Condition (Dollars in Thousands)					
	FY 2017-18	FY 2018-19*	FY 2019-20*	FY 2020-21*	FY 2021/22*
Beginning Balance	\$11,926	\$8,478	\$5,325	\$3,923	\$1,482
Totals, Revenues and Transfers	\$12,218	\$14,336	\$16,869	\$16,802	\$16,801
Totals, Resources	\$24,144	\$22,814	\$22,214	\$20,725	\$18,284
Expenditures	\$15,666	\$17,469	\$18,291	\$19,243	\$19,722
Fund Balance	\$8,478	\$5,345	\$3,923	\$1,482	-\$1,438
Months in Reserve	5.8	3.5	2.4	0.9	-0.9
<i>*Projected estimates without actual budget variance provided by FISCal.</i>					

Expenditures by Program Component

In FY 2015-16, the BVNPT’s enforcement expenditures were approximately 46% of its total expenditures. Licensing expenses were approximately 22%, and administrative expenses were approximately 5%. Its DCA pro rata contribution was approximately 25% of its total expenditures.

In FY 2016-17, enforcement expenses were approximately 47% of the total expenditures. Licensing expenses were approximately 22%, and administrative expenses were approximately 6%. The pro rata contribution was approximately 24%.

In FY 2017-18, the enforcement expenses were approximately 57% of the total expenditures. Licensing expenses were approximately 19%, and administrative expenses were approximately 5%. The pro rata contribution was approximately 19%.

In FY 2018-19, the enforcement expenses were approximately 59 % of the total expenditures. Licensing expenses were approximately 19%, and administrative expenses were approximately five%. The pro rata contribution was approximately 17%.

According to the BVNPT, the change in its enforcement expenses versus its pro rata expenses is due to the initial day-to-day presence of the DCA's Division of Investigation (DOI), which the Committees recommended as a partner to assist the BVNPT in fixing the identified issues in its enforcement program. The BVNPT also points out that, while the DOI presence lessened over the three FYs, enforcement costs went up due to Department of Justice and Office of Administrative Hearing costs, which rose sharply in 2018 as staff addressed the backlog of cases that built up since the last sunset review. For more information on this issue, please see Issue # 1 under the Current Sunset Issues Section.

Cost Recovery – Pursuant to B&P Code §125.3, all DCA boards have the authority to recover costs from licensees related to enforcement activities except for the Medical Board of California. All enforcement cases referred to the Attorney General's Office that result in the filing of an accusation have the potential for a cost recovery order. If the case goes to an administrative hearing, an Administrative Law Judge may award cost recovery. All costs recovered are deposited into the BVNPT Reserve Fund.

The BVNPT indicates that it seeks cost recovery in all cases where cost recovery is authorized. The BVNPT seeks the award of costs when settling cases with a stipulation, as well as with decisions provided through an administrative hearing. The BVNPT notes that there have been no changes implemented in the BVNPT's cost recovery efforts since the last review, and staff is currently analyzing the procedures for future action.

Licensing

In general, licensing programs serve to protect the consumers of professional services and the public from undue risk of harm. The programs require anyone who wishes to practice a licensed profession to demonstrate a minimum level of competency. Requirements vary by profession, but usually include specific education, examination, and experience.

For the BVNPT, LVN applicants in California must be at least 17 years of age and must have completed 12th grade or its equivalent, completed the NCLEX/PN exam and have completed either the education or experience, or any combination of both equivalent to that acquired in an approved VN program via one of the following four methods:

- Graduation from an approved program of VN in California;
- Completion of specified months of paid general duty bedside nursing experience in specified areas or an individual may submit formal nursing education in lieu of paid bedside nursing;
- Completion of a least 12 months of verified active duty bedside patient care in the medical corps of any branch of the Armed Forces; proof of completion of a basic course of nursing while in the armed forces; and proof that service has been honorable; or
- Graduation from an out-of-state accredited school of practical/vocational nursing, provided that the course completed is substantially equivalent to a California approved VN program.

Applicants for licensure as a PT must be at least 18 years of age and must have completed 12th grade or its equivalent, successfully completed the California PT Licensure Examination and completed either the education, or a combination of both education and experience, equivalent to that acquired in an approved PT program via one of the following three methods:

- Graduation from an approved PT program in California;
- Completion of specified hours of theory, pharmacology and supervised clinical experience and paid work experience may be substituted for supervised clinical experience; or
- Completion of an armed forces course involving neuropsychiatric nursing and an armed forces or civilian course from an accredited school in the care of developmentally disabled client; one year of verified full time paid work experience, including at least six months in a military clinical facility caring for clients with mental disorders and at least six months in a military or civilian clinical facility caring for clients with developmental disabilities.

The BVNPT requires primary source documentation for any educational transcripts, experience records, license verification from other states, and professional certifications. As part of the licensing process, all applicants are required to submit fingerprint images in order to obtain criminal history background checks from the DOJ and Federal Bureau of Investigation (FBI).

School Approvals

The BVNPT works cooperatively with the Bureau of Private Postsecondary Education (BPPE) in the approval and monitoring of VN and PT programs, and providers of continuing education that are operated in proprietary settings. In general, the BPPE reviews and approves areas of the school involving the physical institution, and areas of finance, including salaries and student tuition. The BVNPT is authorized to approve the program curricula and areas directly related to the presentation and effectiveness of the curriculum and student achievement. As of July 25, 2019, the BVNPT reported a total of 147 (135 VN and 12 PT) approved programs.

Continuing Education (CE)

The BVNPT requires 30 hours of CE every two years to ensure that its licensees receive current information about new concepts, procedures and practices relative to their respective scopes of practice.

The BVNPT accepts CE courses for LVNs and PTs from nursing agencies or organizations from California or other states. In addition, the BVNPT approves providers who wish to offer CE specifically for LVNs and PTs. The provider pays a fee to the BVNPT that is submitted with the approval application for the first class. Once approved, the provider may offer as many classes as he/she wishes within a two-year period.

The BVNPT verifies CE by checking the validity of individual provider names and numbers with the agency who grants the provider status. In addition, random CE audits are performed on licensees monthly and individual audits are conducted if a problem of false information becomes apparent to the BVNPT. Licensees are required to maintain CE information for a period of four years for audit purposes. This allows the BVNPT an opportunity to check not only CE compliance for the most recent renewal period, but for the prior period as well.

Enforcement

The Practice Acts require the BVNPT to enforce the laws relating LVNs and PTs. The BVNPT has the authority to investigate violations of the Practice Act, issue citations, deny applications for licensure or take disciplinary action against a license (e.g. probation, suspension, or revocation), and refer cases for criminal prosecution.

As with other licensing boards, the BVNPT relies on information it receives to initiate investigations, mainly complaints and information drawn from documents submitted by licensees or other agencies. Complaints also include cases which are opened internally on initiative of enforcement staff (rather than a complaint it has received).

Targets and expectations for the enforcement program were set in 2010 by the DCA's Consumer Protection Enforcement Initiative (CPEI). The CPEI introduced Performance Measures and set target cycle times for every stage of the enforcement process in an effort to streamline the enforcement process and reduce backlogs. The major goal of CPEI was for boards to complete formal disciplinary action within 12 to 18 months.

This may have been an unrealistic goal for formal discipline, as investigation and prosecutorial timelines are often extended in more serious cases that are referred to the Office of the Attorney General (OAG). As a result, there are few boards that have been able to meet this target cycle time. However, many boards have been able to at least meet some of their target cycle times for handling complaints and for the initial investigation of cases by both non-sworn investigators (those located within a board's own investigation unit) and sworn investigators (those with the DCA's DOI).

This was also true for BVNPT's enforcement program, despite recent improvements. The BVNPT has reported consistent statistics that meet or exceed the CPEI Performance Measurement targets for the past three fiscal years with respect to all established performance measures except for cycle times for formal discipline cases referred to the OAG (Performance Measure 4).

Additional Background Information

For additional information regarding the BVNPT's responsibilities, operations, and functions, please see the BVNPT's *2019 Sunset Review Report*. The report is available on the Assembly Committee on Business and Professions website: <https://abp.assembly.ca.gov/reports>.

PRIOR SUNSET REVIEWS: CHANGES AND IMPROVEMENTS

The BVNPT was last reviewed in 2017. Due to the number of ongoing issues, the Senate Committee on Business, Professions, and Economic Development and the Assembly Committee on Business and Professions each wrote a separate sunset background paper. While there was some overlap between the two papers, the Senate Committee paper tended to focus more on the enforcement issues, while the Assembly paper focused more on the administrative issues. Both papers identified a total of 16 issues, but there was some overlap. Below are the issues addressed since the last sunset review. Current outstanding issues are discussed under Current Sunset Review Issues.

- **Staffing and Management.** In 2017, the BVNPT had an extremely high vacancy rate, exceeding 20 percent, with no executive team or experienced managers. The Committees and the administration found that this likely resulted from a number of management issues. Currently, the BVNPT reports that its vacancy rate is lower than seven percent, and that most departures are for promotional opportunities or retirement. The BVNPT reports that it also has a complete leadership team and a vibrant, motivated and hard-working staff. The BVNPT also reports that it generally fills positions within ninety days of vacancy postings.
- **Utilizing Board Committees.** The BVNPT established an Administrative Committee to address an issue raised in the BVNPT's 2017 sunset review. Legislature and the Governor's Office in 2016 and 2017 received allegations from rank and file employees, complaining of abusive and incompetent practices by Executive and managerial staff. After the 2017 Sunset Review, the BVNPT appointed a two-member Administrative Committee and charged it with investigating these concerns and improving staff morale. Because staff complaints tapered off heading into 2019, the duties of the Administrative Committee were folded into the Executive Committee.
- **Strategic Plan.** In a 2016 DCA internal audit, the BVNPT's strategic plan was found to be incomplete. Since then, the BVNPT worked closely with consultants from Strategic Organizational Leadership Individual Development (SOLID), DCA's in-house training unit to examine the existing 2017-19 Strategic Plan, and to design and implement an inclusive and comprehensive Strategic Planning process. In November of 2019, the BVNPT approved a new 2020-2025 Strategic Plan.
- **Policies, Procedures, Desk Manuals.** The 2017 Sunset review noted the lack of process and procedure manuals. Throughout 2018 and 2019, the BVNPT staff leadership reviewed, updated, and created duty statements, policy manuals, including the Office Expectations Manual and desk-specific procedure manuals. New staff members receive a thorough onboarding orientation, and managers expedite training requests wherever possible. The manuals can be found in the attachments to the *BVNPT 2019 Sunset Review Report*.
- **Implementation of BreEZe.** The BVNPT has fully implemented the BreEZe system and states that all staff members are fully trained. The staff in the front office who assist customers on the telephone

or at the public counter can easily access licensee account information and answer questions directly and efficiently.

- **Moratorium on New Program Approval.** The Committees expressed reservations about the BVNPT’s moratorium on adding new proposals to the list for program approval. The BVNPT has since lifted the moratorium. As of 2019, the BVNPT reports that it has a full complement of NECs and a qualified Supervising Nursing Education Consultant (SNEC) and the prior backlog is moving in the right direction. Some applications have been under consideration longer than two years, and some applicants have contacted their elected officials about this matter. The executive officer responded personally to every inquiry from legislative offices and has at times included committee staff. BVNPT staff reaches out to the applicants on the list to verify their continued interest.
- **2016 Continuing Education (CE) Audit.** After discussing the BVNPT’s 2016 CE Audit, both the Assembly and Senate Committees urged the Board to issue an apology letter to all affected licensees. Staff at the time were directed to prepare this letter, but never completed this request due to the large, unbudgeted cost and added staff workload. Instead, the BVNPT posted a message on its website.
- **Modification of Equivalency.** During the last sunset review, the Committees were concerned that the BVNPT was unnecessarily eliminating pathways to licensure, including the experience equivalency pathway, or “method 3.” The BVNPT ultimately chose not to eliminate the pathway.
- **Clinical Rotation Availability.** The Committees have previously raised, and continue to work on, the issue of the availability of clinical placements for all nursing students, including registered nurses and LVNs. The BVNPT reports that it has little to no control over this issue, but it plans to be part of the ongoing discussion.
- **Enforcement Improvements/Implementation of Monitor’s Recommendation.** Over the past two years, the BVNPT staff made great strides in rebuilding and improving its Enforcement Division, in coordination with the DCA’s Division of Investigations (DOI). Key to this progress is the implementation of the Program Monitor’s recommendations regarding the reorganization of the units, prioritizing training for the staff and hiring and training experienced leadership. See Issue #2 under Current Sunset Review Issues below for additional details.

CURRENT SUNSET REVIEW ISSUES

The following are unresolved issues pertaining to the BVNPT and other areas of concern for the Committees to consider along with background information concerning the issues. There are also recommendations the Committee staff have made regarding issues or problem areas which need to be addressed. The BVNPT 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.

BUDGET ISSUES

ISSUE #1: FUND CONDITION. *Despite recent fee increases, the BVNPT continues to operate with a structural deficit due to the lack of a fee for school approvals. Should the BVNPT have the authority to charge a fee for school approvals, address the deficit in other ways, or both?*

Background: The BVNPT writes that fiscal sustainability is a top priority during this sunset review. As a result of funding issues identified during the BVNPT's last three recent sunset reviews and support from multiple fee audits, the Legislature passed SB 1480 (Hill), Chapter 571, Statutes of 2018, which established various statutory fee increases and adjustments for available LVN and PT license pathways, CE provider approvals, and other statutory fees. The BVNPT implemented the fee adjustments on January 1, 2019.

However, the BVNPT's fee audit also noted that the BVNPT would continue to operate at a structural deficit due to the lack of a fee for its school approval process. The BVNPT also shares some of its school approval duties with the Bureau of Private Post-Secondary Education (BPPE) and other accreditors. The BPPE is currently undergoing sunset review as well, and there may be opportunities to eliminate duplicative duties or find other efficiencies. For further discussion of the school approval issue, please see Issue #8 below.

Other costs continue to rise as well. Beginning July 1, 2019, the BVNPT reports that its annual rent increased by approximately \$30,000. It also submitted a Budget Change Proposal to augment its Education Division that would take effect in FY 2020-21.

There was also a recent and unexpected Department of Justice Deputy Attorney General rate increase that impacted all DCA entities and deepened the BVNPT's deficit. At the beginning of FY 2019-20, the BVNPT reports that it received notice that the rates would increase by an annual cost of more than \$900,000. It's recent monthly bills from the Attorney General tend to be in excess of \$220,000.

Further complicating the issue, the Financial Information System for California (FI\$Cal), California's statewide accounting, budget, cash management and procurement IT system, has had implementation delay issues. The delay prevented the BVNPT and many other state agencies from receiving their final accounting for FYs 2017-18, 2018-19, and beyond in a timely manner. The BVNPT only recently received its 2017-18 final and is working with the DCA's Budget Office to analyze it.

While the BVNPT is able to use preliminary estimates, it is unclear what its true budget variance is. While prior staff vacancies resulted in salary savings that helped the fund reserve last longer than projected in the BVNPT's 2016 fee study, the BVNPT has filled many of its vacancies and does not anticipate its savings to continue. Once FISCAL system provides more timely FY finals, there should be additional information to help determine the best course of action.

Staff Recommendation: *The BVNPT should continue to work with the Committees and stakeholders to determine the best solution to its budget deficit, such as instituting fees for unreimbursed workload, as well as provide an update on its FISCAL issues.*

ADMINISTRATIVE ISSUES

ISSUE #2: GOVERNOR APPOINTMENT OF EXECUTIVE OFFICER. *Should the Legislature reauthorize the BVNPT the authority to select its own executive officer? If so, when?*

Background: During the last sunset review, the Committees found that the BVNPT was suffering from numerous structural issues as the result of ongoing mismanagement dating at least back to 2014. Further, its executive team at the time resigned during sunset review, and nearly all of its experienced managers had left due to morale issues. With a 20 percent vacancy rate, it was unclear whether the BVNPT was going to be able to recover on its own, despite having an administrative and enforcement program required by its last sunset bill, AB 179 (Bonilla), Chapter 510, Statutes of 2015.

Still, the BVNPT members resisted many of the Committees' and program monitor recommendations, including the recommendation to institute an executive officer review process that might allow the board to receive feedback from outside the board (such as a 360 degree review). The BVNPT members' attitude towards improvement made it unclear whether it could be trusted to fulfill its governance duties, which included among other things selecting an executive team that could handle the reconstruction of its staff team while implementing the recommendations coming from the Committees, the DCA, and the program monitor.³

As a result, AB 1229 (Low), Chapter 586, Statutes of 2017, temporarily transferred the authority to appoint an EO to the BVNPT to the Governor until January 1, 2020, among other provisions to assist the BVNPT. The decision was made in coordination with the Governor's office, the Business, Consumer Services and Housing Agency, the DCA, and stakeholders.

The following year, at the request of the administration, the Legislature passed SB 606 (Glazer), Chapter 375, Statutes of 2019, which contained a provision extending the Governor's authority until January 1, 2021, to align with the BVNPT's sunset date.

³ For additional background, please refer to the 2017 sunset background papers produced by the Senate and the Assembly and the *BVNPT 2019 Sunset Report*.

Since the Governor's appointment of the current executive officer, most of the recommendations coming from various sources at the time have been implemented in some fashion. Most recently, in a report to the Committees dated March 6, 2020, the program monitor noted that:

“[The] BVNPT made significant progress in restoring a fully functional Enforcement Program. Major accomplishments during the past two years include:

Enforcement Division Organization and Staffing – BVNPT rebuilt its Enforcement Program Management Team, established a new Intake and Enhanced Screening Unit, restored its Citation Desk, stabilized its workforce, and decreased the number of vacant Enforcement Division positions by more than 90 percent, from 12 vacant positions in mid-2017 to just one (1) vacant full-time, permanent position, currently.

License Applicant Cases – BVNPT reduced the number of pending License Applicant case investigations and the average elapsed time to complete these investigations to record low levels. As of December 31, 2019, there were just 27 pending License Applicant cases and, during 2019, the average elapsed time to complete these investigations was just six (6) weeks.

Licensee Subsequent Arrest/Conviction Report Cases – BVNPT continues to receive about 1,000 new Licensee Subsequent Arrest/Conviction Reports per year. During the past two years, the number of pending investigations of these cases has changed very little. The average elapsed time to complete these investigations is currently about eight (8) months, including all of the elapsed time during the period when BVNPT is waiting for the licensee's criminal case to be adjudicated. About 75 percent of the investigations completed within 360 days of initial receipt of the report. These cases continue to account for about one-half of all discipline cases.

Licensee Complaint Cases – Largely due to the establishment of a new Intake and Enhanced Screening Unit and implementation of enhanced complaint screening processes, BVNPT significantly increased the number of Licensee Complaint investigations that it completes. This enabled:

- A 90 percent reduction in the number of pending unassigned Non-Sworn investigations
- A 6-month reduction in the average elapsed time to complete all Licensee Complaint investigations (Desk, Non-Sworn and Sworn), from an average of about 17 months to an average of about 11 months.

Sworn Investigations – BVNPT continues to utilize Consumer Protection Enforcement Initiative (CPEI) case prioritization guidelines to identify high priority cases for referral

to DCA's Division of Investigation (DOI) and continues to consistently refer about 200 cases per year to DOI for Sworn investigation. These cases continue to account for about one-third of all discipline cases.

Discipline Program – While continuing to refer about 350 cases per year to the Office of the Attorney General (AG) for discipline, BVNPT has reduced the number of pending discipline cases and the average elapsed time to complete discipline cases to record low levels. As of December 31, 2019, there were just 221 pending discipline cases and, during 2019, the average elapsed time to complete discipline cases decreased to 26 months.

Probationer Monitoring – While the number of new probationers per year has stabilized at a level of about 100 probationers per year, BVNPT's total probationer population has decreased by 20 percent, reversing much of the extraordinary growth that occurred during the preceding two years as a result of earlier one-time investigation and discipline case backlog reduction efforts.”

In addition, the BVNPT staff continue to work with the DCA to identify and institute other improvements, including the SOLID DCA Organizational Change Management review of the BVNPT's licensing program (discussed below under Issue #5) and administrative operations. While these changes are ongoing, BVNPT staff have been open and communicative throughout the process.

The DCA executive staff wrote, “Overall, it was recognized amongst the division leaders that there have been positive improvements in BVNPT staff morale, staff engagement, communication, and organization with the support and direction given by both the new Executive Officer and Assistant Executive Officer. BVNPT's leadership and board staff have expressed tremendous excitement surrounding the change management process and having the opportunity to participate in the review of their daily operations.”

Still, board members of the BVNPT have expressed the desire that the authority to appoint an executive officer to be restored to the BVNPT. As a result, the question before the Committees is whether the Legislature should restore the authority at the end of the current sunset review.

One additional question is whether the BVNPT still believes that a 360 degree review of its executive officer would offer parties participating “undue influence” over its executive officer. While the BVNPT worked with DCA executive staff to perform a review, after removing the executive officer from the survey process, the BVNPT has only discussed the review in closed session and it is unclear what, if any, recommendations came from the process.

Staff Recommendation: *Given the BVNPT's prior history with the appointment of executive officers, the BVNPT should continue to work with the Committees, the administration, and stakeholders to determine the appropriate timeline for the reinstatement of the BVNPT's authority to appoint an executive officer.*

ISSUE #3: ONLINE MATERIALS. *What impediments impact the BVNPT's ability to approve and post its online materials?*

Background: As noted in the last sunset review, the BVNPT had become an exemplar for consumer outreach. It webcasts all regular Board meetings, uploads all materials, and utilizes the latest DCA website. While an issue was raised during the last sunset review regarding the posting of meeting minutes, the BVNPT began posting meeting minutes in response to the issue.

However, AB 434 (Baker), Chapter 780, Statutes of 2017, requires the director of each state agency or entity and the chief information officer of that state agency or entity to post on the home page of the agency's or entity's Internet Web site a signed certification that the agency's or entity's Internet Web site is in compliance with specified accessibility standards.

As a result, the BVNPT, among other boards, notes that it "is in the process of ensuring that its online content is compliant with the Americans with Disabilities Act (ADA) and some archived materials may no longer be available at this writing. New materials, especially those with complex images and tables, may not be posted immediately. Case in point: this report, given the number of tables and graphics, will take a considerable amount of time to make ADA accessible, and will not be posted immediately."

Staff Recommendation: *The BVNPT should continue to work with the DCA to streamline its process for publishing ADA materials so that the public has access to meeting materials and other documents necessary for public participation.*

LICENSING ISSUES

ISSUE #4: BARRIERS TO LICENSURE AND EMPLOYMENT. *What barriers currently exist to licensure and workforce pathways? Are there BVNPT policies that could address barriers for students?*

Background: The BVNPT writes that it "considers cost of and access to the education programs to be the most critical barriers to licensure." LVNs and PTs are required to complete BVNPT-approved educational programs of at least 1530/hours or 50/semester units. Currently, there are 135 approved VN education providers in California. Approximately 60 percent are private colleges, 25 percent are community colleges, and 15 percent are adult schools, which operate under a local school district. Program costs range significantly, from approximately \$46/unit + books and supplies (around \$4000, community college) to \$35,000 at a (private, for-profit college). According to the Employment Development Department (EDD), Labor Market Information (LMI) annual wages for VNs range from \$47,737 - \$65,430. Currently, there are 12 approved PT programs in California, and 9 are offered through community colleges. Program costs similarly range from \$46/unit + books and supplies (community college) to more than \$30,000 (private, for-profit college). According to the EDD LMI annual wages for PTs range from \$54,971 - \$76,204.

According to BVNPT, most private, for-profit programs are well-run and produce skilled healing arts professionals. Unfortunately, there are no guidelines or criteria driving what private, for-profit institutions may charge a student, and the value may be inconsistent school to school. BVNPT notes that the programs run through public education systems, most notably the California Community Colleges, charge much less than their private counterparts, but their enrollment is limited, and students must either wait or turn to another costlier program.

Staff Recommendation: *The BVNPT should discuss whether it is appropriate to establish guidelines or criteria governing tuition costs of VN and PT programs, and whether such guidelines and criteria would be more appropriately addressed and enforced by BVNPT or the Bureau for Private Postsecondary Education. Further, the BVNPT should discuss any other statutory or regulatory policy levers that could support the expansion of affordable educational options for students.*

ISSUE #5: LICENSING PROGRAM IMPROVEMENTS. *What is the status of the implementation of the OCM recommendations?*

Background: AB 1229 (Low), Chapter 586, Statutes of 2017 authorized the Director of Consumer Affairs to “direct department staff, including staff of the Strategic Organization, Leadership, and Individual Development (SOLID) Training and Planning Office, to review and evaluate the board’s licensing systems and procedures, as determined appropriate by the director, for the purpose of identifying deficiencies and improving the quality and efficiency of the board’s licensing processes.”

Pursuant to that authority, the DCA Executive Team asked the SOLID DCA Organizational Change Management (OCM) to work with the BVNPT to identify improvement opportunities and changes that would increase efficiencies in its licensing section. The OCM noted that:

“[The] BVNPT has taken steps toward making improvements that have proved to be successful and for which the Board should be recognized. These include the following:

- The addition of a Licensing Service Supervisor has assisted in supervising the front office staff and generated weekly workload reports, monitored the Board’s inbox and created detailed accountability reports.
- The volume of consumer telephone calls has been significantly reduced due to the development of a more efficient process for returning telephone calls and redirecting more staff to answer incoming calls during high volume times.
- Staff morale has increased as a result of management listening to staff’s concerns and dedicating a space specifically for staff to take breaks and eat their lunches.”

The OCM also made recommendations for further improvement in the five methods for licensure that the BVNPT performs, grouped into four primary sections (for further detail, please reference the BVNPT’s 2019 *Sunset Report* attachments submitted to the Committees):

- 1) Streamline VN/PT application process
- 2) Develop an understanding for rules and regulations
- 3) Improve manager communication and implement staff accountability measures
- 4) Explore process change opportunities

The sections covered a total 18 items for improvement, with several recommendations for each item. The OCM team also provided an implementation strategy.

Staff Recommendation: *The BVNPT should update the Committees on its progress in implementing the OCM recommendations.*

ISSUE #6: LICENSEE EMAIL REQUIREMENTS. *The BVNPT would like to require an email address for communication with licensees, should it? Does this need to be authorized in statute?*

Background: The BVNPT noted in its report that “The BVNPT believes that it is essential to require licensees to provide email addresses as our primary source of communication. Although there may be licensees without email access of their own, this is likely a small and dwindling portion of the population.

“If the BVNPT had been able to send an email to all licensees, the impacts of the 2016 CE audit might have been blunted, and we would have been able to provide an update and apology to all affected, without the \$30,000 cost incurred by mailing individual letters. Similarly, when the Board implemented the fee increases earlier this year, the ability to send notification would have mitigated a great many problems and concerns and reduced the number of incoming calls and emails.

“Proactively, we plan to develop regular updates for the licensees, such as information on current legislation and other issues.”

Staff Recommendation: *The BVNPT should work with stakeholders to determine what size of the population would be unable to comply with an email requirement and what alternatives those licensees may have.*

ISSUE #7: RESPIRATORY CARE FUNCTIONS. *The BVNPT was working with the Respiratory Care Board on a scope of practice issue, but progress has stalled at the regulatory level. Should LVNs be allowed to care for ventilated patients and adjust ventilators in statute? Should PTs also be allowed?*

Background: The BVNPT and the Respiratory Care Board (RCB) began meeting in September 2018 and released a joint statement April 11, 2019. The initial joint statement clarified the roles of the respective scopes of practice relating to patient care on mechanical ventilators. The feedback from the various types of facilities and organizations expressed a need to further clarify its respective regulations regarding patient care.

The BVNPT and the RCB hosted a meeting for stakeholders on June 27, 2019 to discuss patient care needs and competencies. At the meeting, stakeholders were divided into working groups and asked to provide input for regulatory language addressing the following:

- As a licensee – competencies
- As a facility – expectations
- As an association - expectations/advocacy
- Accountability – quality control measurements and competencies

The BVNPT states that it is using the input to develop guidelines for training and certification for Vocational Nurses and Psychiatric Technicians to provide care to patients on mechanical ventilators in specified settings. The RCB has also submitted two Legislative proposals for clarifying the LVN respiratory care functions which are under review.

Staff Recommendation: *The BVNPT should continue to work with the Committees, the Respiratory Care Board, and stakeholders to determine the necessary clarifications surrounding care of ventilated patients, including distinctions between home care and other settings.*

SCHOOL APPROVAL ISSUES

ISSUE #8: **SCHOOL APPROVAL AND APPROVAL FEES.** *Should the BVNPT continue to approve schools? If so, should it be given the authority to charge schools for approval?*

Background: The BVNPT is one of the few DCA Boards statutorily required to inspect and approve schools.⁴ During the BVNPT’s last sunset review, the Committees asked whether the BVNPT’s school approval process be changed in any way to make it more effective and efficient. The Committees also questioned whether the BVNPT actively collaborates with the BPPE to approve schools.

Specifically, the BVNPT requires institutions seeking approval for commencement of a VN program to submit a detailed proposal that demonstrates the application and integration of Anatomy & Physiology, Pharmacology, Communication, Nutrition, Normal Growth and Development, Nursing Theory, Nursing Care Skills, etc., into the clinical practice of the students. Similarly, it also requires institutions seeking approval for commencement of a PT program to submit a detailed proposal that demonstrates the integration and application of didactic content into the clinical practice of enrolled students.

Upon submission of a request for program commencement, the BVNPT assigns an NEC to assist the school in reaching its goal for development of a proposal that includes a curriculum with critical resources that is presented in a sequence that results in students’ progressive mastery of complex

⁴ BPC §§ 2883, 4531.

scientific knowledge and skills and demonstrated proficiency in performance of skills and procedures. Early in the development process, the VN or PT program director is forwarded an electronic orientation. Information presented provides an orientation and clarification relative to statutory and regulatory requirements with which programs must comply to achieve approval. The electronic orientation is followed by a teleconference with the assigned NEC. During that time, additional clarification is provided as needed. The assigned NEC also assists the director in the development of the necessary curriculum. Specifically, the consultant completes a thorough analysis of the curriculum and provides critical feedback. Following program approval, the Education Division continues to offer assistance relative to new and existing VN and PT programs.

According to the BVNPT, once the it deems a school as approved it notifies programs seeking approval that approval by the BPPE is also required prior to commencement of the initial class. Additionally, the BVNPT notifies the BPPE of the approval of new VN and PT programs, commencement of the initial class, and the date on which program approval will be considered. A Memorandum of Understanding specifies premises and terms of the BVNPT's agreement with the BPPE.

Given the length of this process, and the high cost of NECs, the school approval process is costly, but schools do not currently pay a fee. In 2018, the BVNPT performed a workload analysis to estimate the cost of school approvals. The BVNPT found that new program approvals, continuing approvals, new location approvals, and provisional approvals costed the board between approximately \$5,000 and \$30,000. Substantive change approvals costed around \$5,000 to \$8,000. According to board staff, the reason for this variation is primarily the result of incomplete or improperly completed applications and documentation.

As noted above, school approval by a regulatory board is not common. The Board of Registered Nursing (BRN) also approves schools, but it charges school approval fees according to the following schedule:

- Application Fee for an institution of Higher Education or a Private Postsecondary School of Nursing Approval: \$40,000
- Fee for Continuing Approval of a Nursing Program Established after January 1, 2013: \$15,000
- Fee for Authorizing of a Substantive Change to an Approval of a School of Nursing: \$2,500

The underlying question regarding the fee issue is whether regulatory boards are the most appropriate entities for approving schools. There are national and regional accreditors that may perform many of the same functions. Neither the BVNPT nor the BRN are recognized by the U.S. Department of Education for the approval of nurse education.⁵

⁵ Only five state agencies have been recognized: the Kansas State Board of Nursing, the Maryland Board of Nursing, the Missouri State Board of Nursing, the New York State Board of Regents, State Education Department, Office of the Professions (Nursing Education), and the North Dakota Board of Nursing (https://www2.ed.gov/admins/finaid/accred/accreditation_pg20.html).

The BRN's school approval process is currently undergoing a Joint Legislative Audit Committee mandated audit to answer this question as it relates to the BRN, and additional information related to its school approval process may provide additional insights throughout the sunset review process.⁶ The audit is a continuation of AB 1364 (Rubio) of 2019, which was held in the Assembly Appropriations Committee.

Further, while the BRN has traditionally charged a fee, the fees were established years ago. The BVNPT has not charged a fee, and all schools would have to begin paying the fee, including public institutions like community colleges. Unlike non- and for-profit schools, public institutions cannot pass the cost along to the student. If a fee is established, one possibility would be to allow a lower fee structure for public institutions or low-cost institutions.

That said, the school approval process is currently subsidized by licensees. And, most PT programs are unique to California (the PT profession only exists in a handful of states), so there is no U.S. Department of Education recognized accreditor for PT programs.

Staff Recommendation: *The BVNPT should continue to engage with the Committees and the BPPE. It should also continue to work with the Committees, the BPPE, and other school approval entities to determine what steps are necessary for the Board to receive necessary resources to cover its costs of VN and PT program approval. The Committees may wish to explore alternative funding options the BVNPT to receive reimbursement from BPPE for VN and PT program approval it conducts for institutions overseen by BPPE. The BVNPT should work with public education institutional segments to determine what resources the BVNPT may be provided for VN and PT education and training program approval offered at public institutions.*

ENFORCEMENT ISSUES

ISSUE #9: SCHOOL APPROVAL CITE AND FINE. *The Committees have previously recommended against instituting a cite and fine authority due to overlap with the BPPE. Should the issue be revisited since the Committees are reviewing the BPPE as well?*

Background: As noted above, the BVNPT is one of the few DCA Boards statutorily required to inspect and approve schools. It is also authorized to place schools that do not meet the required standards on provisional approval.⁷ If a program fails to meet the requirements at the end of the provisional approval period, the BVNPT may either extend the provisional approval period or revoke the provisional approval.

Still, BVNPT staff note that there may still be benefits and cost savings associated with a cite and fine program, particularly for minor violations that can be fixed with an order of abatement. Staff also note

⁶ For more information, see the letter to the Joint Legislative Audit Committee titled, 2019-120 Board of Registered Nursing—Oversight of PreLicensure Nursing School Programs (Assemblymember Rubio).

⁷ CCR, tit. 16, §§ 2526.1, 2581.1.

that, while it works closely with the BBPE, there are situations where it is unclear where the jurisdictional lines end, such as when there are substantive issues with curriculum.

Staff Recommendation: *The BVNPT should continue to work with the Committees and the BPPE through this sunset review to determine whether a cite and fine program for educational programs would be beneficial.*

ISSUE #10: AUDITS OF CE PROVIDERS. *The BVNPT does not currently audit continuing education providers. Should the BVNPT implement a process for doing so?*

Background: All licensees are required to complete 30 contact hours of continuing education (CE) every two years to renew their license with an active status. The purpose of CE is to ensure that licensees maintain ongoing competence as healthcare evolves to ensure patient safety. As a result, the competency requirements for courses must be related to the scientific knowledge and/or technical, manual skills required for VN and/or PT practice; related to direct and/or indirect client care; and provide learning experiences expected to enhance the knowledge of the VN or PT at a level above that required for initial licensure.

While, the BVNPT approves providers and their continuing education courses for VNs and PTs. the BVNPT notes that it does not currently have the resources to audit CE providers, but is willing to discuss the issue going forward. Between 2016 and 2019, the BVNPT received between 40 and 90 initial applications and 45 and 92 renewals.

Staff Recommendation: *The BVNPT should continue to work with the Committees to discuss the possibility of auditing CE providers going forward.*

EDITS TO THE PRACTICE ACT

ISSUE #11: TECHNICAL EDITS. *Are there technical changes to the Practice Act that may improve the BVNPT's operations?*

Background: There may be technical changes to the BVNPT Practice Act that are necessary to enhance or clarify the Practice Act or assist with consumer protection.

Staff Recommendation: *The BVNPT should continue to work with the Committees on potential changes.*

CONTINUED REGULATION OF THE PROFESSION

ISSUE #12: SUNSET EXTENSION. *Should the current BVNPT be continued and continue regulating the practice of LVNs and PTs?*

Background: A review of the issues raised since the last review of the BVNPT in 2017 shows that the BVNPT has made significant improvements. The administrative and enforcement program monitor placed at the BVNPT pursuant to AB 179 has reported that the BVNPT has worked well with the DCA's Division of Investigation to restructure its enforcement program and implement the monitor's recommendation.

The BVNPT has also implemented a number of prior committee recommendations and addressed many of the vacancy and morale issues. The BVNPT has demonstrated good faith efforts to address these issues and continue to work with the Legislature, the DCA, and Board staff to efficiently meet its consumer protection mandate.

Still, there is always room for improvement. The BVNPT needs to continue to implement improvements and continue to work with the SOLID DCA Organization Change Management on its licensing and administration programs. There are also still questions about whether the current changes are self-sustaining, about the appointment authority of the executive officer, and the long-term sustainability of the BVNPT's fund.

Staff Recommendation: *The BVNPT's current regulation of LVN's and PT's should be continued, to be reviewed again on a future date to be determined.*