

**BACKGROUND PAPER FOR THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC
TECHNICIANS**

Joint Oversight Hearing, March 12, 2024

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

**BACKGROUND, IDENTIFIED ISSUES, AND
RECOMMENDATIONS**

BRIEF OVERVIEW OF THE BOARD

The Board of Vocational Nursing and Psychiatric Technicians (BVNPT) is a licensing entity within the Department of Consumer Affairs (DCA). The BVNPT is responsible for administering and enforcing both the Vocational Nursing Practice Act¹ and the Psychiatric Technicians Law.² Those laws establish the BVNPT and outline two distinct licensure programs, each with a separate regulatory framework for the practice, licensing, education, and discipline of Licensed Vocational Nurses (LVNs) and Psychiatric Technicians (PTs). The BVNPT also approves educational programs for both licenses.

LVNs utilize technical and manual skills to provide basic nursing care under the direction of a licensed physician or registered nurse. PTs utilize technical and manual skills to provide care to 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.

The BVNPT reported a total of 117,576 active, in-state licensees at the end of Fiscal Year (FY) 2022-23, including 108,905 LVNs and 8,671 PTs.³ It also reported 168 approved LVN and PT educational programs in California, including 157 LVN programs and 11 PT programs.⁴

¹ Business and Professions Code (BPC) §§ 2840-2895.5.

² BPC §§ 4500-4548.

³ BVNPT, *Sunset Review Report 2023*, at 24.

⁴ *Id.* at 39.

The BVNPT's mission statement, as stated in its *2020-2025 Strategic Plan*, is:

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

Legislative History

The specific regulation of LVNs in California began in 1951 when the state first enacted the Vocational Nursing Practice Act.⁵ The act was similar to the current act and established the BVNPT's predecessor, the Board of Vocational Nurse Examiners of the State of California (BVNE).

The regulation of PTs followed in 1959 when the state enacted the Psychiatric Technicians Law.⁶ The law established a voluntary certification program within the jurisdiction of the BVNE, prohibiting the use of the titles "certified psychiatric technician" and "C.P.T.," unless certified under the program. While there was no prohibition against the performance of PT services by an uncertified person, the law standardized the education requirements associated with the titles and established disciplinary provisions.

Eventually, in 1968, the state changed the PT certificate program into a licensure program. The new license requirement, effective January 1, 1970, prohibited the performance of PT services by those without a PT license, among other conforming and updating changes.⁷ The updated law also renamed the BVNE to the Board of Vocational Nurse and Psychiatric Technician Examiners (BVNPTE).

The BVNPT's final name change occurred in 1998 when the BVNPTE was renamed the BVNPT through sunset review.⁸ The sunset review legislation also modified the board member composition from a professional member majority to the current public member majority.

The BVNPT structure remained stable until 2008 when the BVNPT was temporarily converted into a bureau under the DCA. Due to an oversight, the Assembly adjourned without taking up the BVNPT's 2007 sunset bill, which contained the statutory language required to extend the sunset date for the BVNPT and three other DCA licensing boards.⁹ As a result, the impacted boards operated as bureaus for six months, from July 1, 2008, to December 31, 2008. During the lapse, a

⁵ Senate Bill (SB) 1625 (Miller et al.), Chapter 1689, Statutes of 1951.

⁶ SB 732 (Thompson et al.), Chapter 1851, Statutes of 1959.

⁷ SB 298 (Teale), Chapter 1323, Statutes of 1968.

⁸ SB 827 (Greene), Chapter 759, Statutes of 1998.

⁹ California Legislature, *Senate Final History*, 2007-08 Regular Session, at 547.

pair of bills were passed to 1) maintain operations during the transition¹⁰ and 2) re-establish the BVNPT and the other boards on January 1, 2009.¹¹

The next significant changes arose from the BVNPT's 2015 sunset review, which identified severe deficiencies and discrepancies in its budget, staffing levels, enforcement, and overall management. As a result, the BVNPT's sunset legislation: 1) required the DCA internal audit unit to review the BVNPT's finances, 2) required the DCA to appoint a third-party contractor to monitor and evaluate the BVNPT's administrative and enforcement processes, and 3) gave the BVNPT a protracted two-year extension.¹² The legislation also merged the LVN and PT funds to avoid the need for an immediate fee increase.

At the time, the BVNPT was also having difficulty filling its executive officer position, so an accompanying urgency bill also deleted the requirement that the BVNPT's executive officer be a licensed vocational nurse, registered nurse, or psychiatric technician to open the candidate pool.¹³

The BVNPT's 2017 sunset review focused on the BVNPT's unwillingness to address the numerous issues identified by the DCA-appointed monitor or the ongoing mismanagement. As a result, the BVNPT's sunset legislation temporarily transferred the authority to appoint an executive officer to the Governor until January 1, 2020, and extended the BVNPT until January 1, 2021, giving the authority back to the BVNPT during its next review year.¹⁴ However, at the request of the administration, the Governor's authority was extended until January 1, 2021.¹⁵ Both dates were further extended until January 1, 2022, due to the inability to perform sunset review during the early months of the COVID-19 pandemic.¹⁶

The BVNPT's delayed review occurred in 2021, and the sunset legislation returned the authority to appoint an executive officer to the BVNPT.¹⁷ In an attempt to address the BVNPT's budget deficit and educational program approval backlog, the legislation also established new school approval fees and processes.

Board Membership

The Vocational Nursing Act specifies that the BVNPT is composed of eleven members, six public members and five professional members, a public member majority. The Governor appoints all of the professional members and four of the public members, while the Senate Rules Committee and the Speaker of the Assembly appoint the remaining two public members. The professional

¹⁰ SB 797 (Ridley-Thomas), Chapter 33, Statutes of 2008.

¹¹ Assembly Bill (AB) 1545 (Eng), Chapter 35, Statutes of 2008.

¹² AB 179 (Bonilla), Chapter 510, Statutes of 2015.

¹³ AB 178 (Bonilla), Chapter 429, Statutes of 2015.

¹⁴ AB 1229 (Low), Chapter 586, Statutes of 2017.

¹⁵ SB 606 (Glazer), Chapter 375, Statutes of 2019.

¹⁶ SB 1474 (Committee on Business, Professions and Economic Development), Chapter 312, Statutes of 2020.

¹⁷ AB 1536 (Committee on Business and Professions), Chapter 632, Statutes of 2021.

members must include two LVNs, two PTs, and one LVN or RN with teaching or school administrative experience. There are no qualifications for the appointment of public members, except that they may not be licensees of the BVNPT or any other healing arts board.

The BVNPT is required to meet at least twice per year and aims to meet at least four times per year. Meetings are public, pursuant to the Bagley-Keene Open Meetings Act.¹⁸ Members are not paid but receive a per diem of \$100 for each day spent in the discharge of official duties and are reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.

The current BVNPT members and their backgrounds are listed on the following pages.

Board Members	Appointment	Term Expiration	Appointing Authority
Carel M. Mountain, President, LVN Educator Member , is an Assistant Professor of Nursing at Sacramento State University. She was previously Director of Nursing at Sacramento City College and has over 30 years of experience in nursing education. She is a member of the National League of Nursing, Sigma Theta Tau, and the Association of California Nurse Leaders. She earned a Master of Science in nursing administration and education from Sonoma State University and a Doctor of Nursing Practice from California State University, Fresno.	9/25/20	6/1/24	Governor
John Dierking, Vice-President, 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 CA Council on Criminal Justice from 1997 to 2000. He also served on the Board of Governors of the Engineers and Architects Association/IBEW 11 and both the City of Azusa Library and Planning Commissions.	10/20/20	6/1/25	Senate
Taisha Brown, Public Member , has been an Employment Program Representative at the CA Employment Development Department since 2010. She works extensively within her union, SEIU Local 1000, as a member leader advocating on behalf of workers and the community at large. She is the former President of the Martin Luther King Jr. Democratic Club and the former Vice President of the A. Philip Randolph Institute. She sits on several boards, such as the Neighborhood Unity Foundation as the Director of external affairs and on the Board of Advisors for Nile Sisters.	3/2/21	6/1/25	Governor

¹⁸ Government Code §§ 11120-11132.

Board Members	Appointment	Term Expiration	Appointing Authority
<p>Aleta Carpenter, Public Member, was a Community Education Specialist II for the Public Health Department 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 CA Heritage Youth Build Academy, Women’s Fund of Shasta County, Shasta Environmental Alliance, and Shasta County Tobacco Education Coalition. She is the national vice president of American Women Artists and vice chair of Youth Violence Prevention Council/Youth Options. She earned a Master of Arts in Communication Studies from CA State University, Sacramento.</p>	9/25/20	6/1/24	Governor
<p>Abraham C. Hill, PT Member, has been a PT Instructor for the CA Department of Developmental Services at Northern STAR Community Crisis Home since 2018 and has served in several positions for the Department since 1990, including as a PT Instructor at Agnew’s Developmental Center and Sonoma Developmental Center and as a Consultant at the Golden Gate Regional Center. He has been a Direct Support Professional Instructor and Proctor at Eden Area Regional Occupational Program Center since 2008. Hill was a Clerk/Typist at the General Services Administration from 1985 to 1999. He earned Teaching Credentials from San Jose State University and a PT Certificate from Mission College.</p>	10/22/20	6/1/24	Governor
<p>Kenneth E. Maxey II, Public Member, works as a Public Affairs Manager for Comcast. He serves on numerous boards, including the Boys & Girls Clubs of Oakland. He holds a Bachelor of Arts in Political Science/History from Notre Dame De Namur University, a Master of Public Administration from Howard University, and a Master of Arts in International Peace and Conflict Resolution from American University.</p>	11/19/20	6/1/24	Assembly
<p>Gloria Guzman, LVN Member, has been an LVN since 1986. She is a Certified Coding Specialist, served as a SEUI-UHW Executive Board Member 2010-2019, Nursing and Caregivers Cooperative Board Founding Board Member, Labor Management Partnership Council KP, Community Organizer, Union Member Organizer, Union Representative Chair, Chief Steward, and Union Member for 35 years. She earned an Associate of Arts from the College of the Canyons.</p>			Governor
<p>Lessie Moore, PT Member, has been a Senior Psychiatric Technician at Patton State Hospital since 1996. She was a Psychiatric Technician at the Fairview Developmental Center from 1993 to 1996. Moore is a member of the California Association of Psychiatric Technicians.</p>			Governor

Board Members	Appointment	Term Expiration	Appointing Authority
<p>Nelly Nieblas, Public Member, has been the Manager of Policy and Advocacy and Civic Engagement at Respectability since 2021. She was Advocacy Specialist at the American Lung Association from 2019 to 2021. Nieblas was Manager of Public Policy and Advocacy at Breathe Southern California from 2018 to 2019. She was Legislative Manager and Information Officer at the California State Council on Developmental Disabilities from 2015 to 2016. Nieblas was Director of Public Policy and External Affairs at Public Allies Inc. from 2010 to 2014. She was a Research Analyst at the Los Angeles County Department of Social Services from 2008 to 2010. Nieblas earned a Master of Public Administration degree from Harvard University. She is a member of the Lions Club of Montebello.</p>			Governor
<p>Rashima Sonson, Public Member, has been Founder of SONSON since 2014 and a Senior Compliance, Governance and Risk Consultant at Pacific Gas and Electric Company since 2021. Sonson was Director of Quality, Safety and Sanitation at Canna Craft in 2021. She was Senior Quality and Compliance Manager at the DionyMed Brands from 2018 to 2019. Sonson was an Industrial Fabric Production Supervisor at the California Prison Industry Authority from 2017 to 2018. She was a Quality Sourcing Strategist and Product Manager at Gap Inc. from 2010 to 2016. Sonson is a member of the American Society for Testing Material and is Chair-Elect Board Member of the American Society for Quality. She earned a Master of Business Administration degree from the University of Phoenix.</p>			Governor
<p>Vacancy, LVN Member</p>			Governor

Committees

Because members of the licensing boards often have professional responsibilities outside of their board responsibilities, they are usually only able to meet a few times a year. As a result, many use smaller committees that can meet more frequently, explore issues in-depth, and then make recommendations to the full boards at the public board meetings.

The BVNPT currently 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.

- **Executive Committee:** provides oversight and recommendations regarding the 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 other Committees.
- **Education and Practice Committee:** evaluates educational programs and policies, such as approval, curriculum, education, and practice requirements for LVNs and PTs. This committee is comprised of four members and therefore meets publicly according to the Bagley-Keene Open Meetings Act.

- **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.

Staff

In FY 2022-23, the BVNPT had 76.4 authorized staff positions. Its executive officer, Elaine Yamaguchi, has served the board since 2017 and its assistant executive officer, Mark Ito, has served since September 2022. It does not report any significant vacancy issues, except that program technician turnover in its licensing division has increased since its last review.

The BVNPT attributes the turnover to three factors. First, the licensing program technicians are considered entry-level positions, and they often promote out within a year. Second, many program technician duties cannot be performed remotely, which affects the attractiveness of the position. Third, changes to the minimum qualifications for classifications like staff service analysts have led applicants to seek the higher-paid positions. However, the BVNPT believes that the recent state employee contract agreements creating special salary adjustments may alleviate this problem.

The BVNPT also notes that it has seen significant improvement in its previous recruitment and retention challenges for the nursing education consultants (NEC) position, and reports that its education division is fully staffed. As with the program technician position, the new state employee contract agreement created a special salary adjustment for NECs. Historically, the NEC position has been very difficult to recruit due to the specialized skills and experience required, and the pay scale could not compete with other positions that attract similar candidates, such as school program directors. The BVNPT credits the improvements to its new Supervising NEC, Beth DeYoung.

The BVNPT reports working on two additional issues. First, it is experiencing salary compaction issues that lead to inefficient reporting relationships and possible communication gaps. For example, in its enforcement division, the supervising special investigator (SSI) earns a higher pay rate than the enforcement chief, who is classified as a staff service manager II, so the SSI cannot report directly to the division chief. The BVNPT notes that, until it can develop a structural solution, the SSI instead reports to the assistant executive officer.

Second, the BVNPT has not discussed a succession planning manual for the executive officer position. BVNPT staff plan to include succession planning during the board's upcoming strategic planning process.

Fiscal

The BVNPT is a special fund agency and receives no support from the General Fund.¹⁹ The BVNPT's fund, the Vocational Nursing and Psychiatric Technicians Fund,²⁰ is primarily funded through licensing and administrative fee revenues. The largest and most consistent source of revenue is renewal fees. Revenue from fines, enforcement cost recovery, and other sources are relatively insignificant (usually around 10% or less).

Since FY 2019-20, the BVNPT's most significant revenue sources were:

- Renewal fees (65.2% combined, 60% LVN, 5.2% PT)
- Initial license fees (9.4% combined, 9% LVN, 0.4% PT)
- Application fees (8.8% combined, 8.3% LVN, 0.5% PT)
- Reexamination fees (6.2% combined, 5.9% LVN, 0.3% PT)

The BVNPT and other licensing boards also try to maintain a healthy fund reserve, a fund balance that can cover economic uncertainties, potential litigation, salary or price increases, and other unexpected expenditures. The DCA's current budget projections indicate that the BVNPT is operating with a surplus, projecting an increase of approximately \$5.6 million in FY 2023-24 and \$6.4 million in FY 2024-25.

If the projections hold, the fund reserve will grow to 8.8 months of operating expenses in FY 2023-24 and 12.7 months in FY 2024-25.

Fund Condition (Dollars in Thousands)						
	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24*	FY 24-25*
Beginning Balance**	\$6,435	\$4,253	\$4,449	\$2,573	\$7,847	\$13,432
Revenues/Transfers	\$16,702	\$17,721	\$17,201	\$23,323	\$24,621	\$24,747
Total Resources	\$23,137	\$21,974	\$21,650	\$25,896	\$32,468	\$38,179
Authorized Budget	\$16,413	\$17,439	\$16,663	\$17,852	\$18,565	\$17,753
Expenditures	\$17,920	\$17,898	\$19,084	\$18,049	\$19,036	\$18,382
Fund Balance	\$5,217	\$4,076	\$2,566	\$7,847	\$13,432	\$19,797
Months in Reserve	3.5	2.6	1.7	4.9	8.8	12.7

* Projections—may not reflect actuals at the end of the FY.
**May not match prior fund balance due to prior year adjustments.

Expenditures by Program Component

BVNPT expenditures can be broken down by administrative, licensing and education, and enforcement costs. All licensing boards also pay a pro-rata contribution to cover various administrative services provided by the DCA, which include training and planning, legal affairs, legislative affairs, information technology, communications, public affairs, and investigative services, among other services.

¹⁹ 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.

²⁰ BPC § 205(a)(22).

In FY 2019-20, the BVNPT’s enforcement expenses were about 41% of its total expenditures. Licensing expenses were about 20%, and administrative expenses were about 5%. Its pro rata contribution was about 33%.

In FY 2020-21, the BVNPT’s enforcement expenses were about 46% of its total expenditures. Licensing expenses were about 21%, and administrative expenses were about 5%. Its pro rata contribution was about 29%.

In FY 2021-22, the BVNPT’s enforcement expenses were about 45% of its total expenditures. Licensing expenses were about 21%, and administrative expenses were about 5%. Its pro rata contribution was about 29%.

In FY 2022-23, the BVNPT’s enforcement expenses were about 44% of its total expenditures. Licensing expenses were about 24%, and administrative expenses were about 5%. Its pro rata contribution was about 27%.

The BVNPT notes that enforcement expenses have decreased since FY 2020-21 due to efficiencies implemented in its Enforcement Division. Its enforcement chief and management reviewed the staff configuration and work assignments, which resulted in personnel reclassifications. For example, it found that Program Technician IIIs are more appropriate for some units than Staff Service Analysts. It also studied the policy and practice of referring cases to the DCA Division of Investigations. It now keeps more investigations in-house, assigning them to the board’s unit of Special Investigators, which reduces cost and the risk of case aging.

Fees

The BVNPT’s fees are established under the Vocational Nursing Practice Act,²¹ the Psychiatric Technicians Law,²² and the BVNPT’s regulations.²³ The licensing fees were last increased in September of 2022. The educational program/school approval fees were established in 2021 after the BVNPT’s last Sunset Review.

LVN Fee Categories	Previous Fee	Fee as of 09/21/2022
Exam (CA School Graduate)*	\$220.00	\$300.00
Exam (Equivalency/Non-CA School Graduate)*	\$250.00	\$330.00
Re-Examination Applications*	\$220.00	\$300.00
Interim Permit	\$20.00	\$50.00
Initial License	\$220.00	\$300.00
Biennial Renewal for 2 years**	\$225.00	\$305.00
Delinquent Fee	\$110.00	\$150.00
Duplicate Wall Certificate (Duplicate pocket cards discontinued as of September 15, 2017)	\$25.00	\$50.00

²¹ BPC §§ 2890-2895.5, 2881.2.

²² BPC §§ 4544-4578, 4531.1.

²³ CCR, tit. 16, §§ 2537-2537.2, 2590-2590.2.

License Endorsement (Licensed in another state coming to CA)	\$220.00	\$300.00
Verification of Licensure (Licensed in CA going to another state)	\$100.00	\$150.00
Copy of Records/Documents (transcripts, certification letter, etc.)	\$2.00	\$2.00
Reinstatement of a License (minus any applicable delinquent fees)	\$220.00	\$300.00
Intravenous (IV), Blood Withdrawal (BW), or IV with BW Combination Certification Fee	\$20.00	\$50.00
Continuing Education Provider	\$150.00	\$250.00
Intravenous (IV), Blood Withdrawal (BW), or Intravenous with Blood Withdrawal (Combo) Course Provider Approval/Renewal	\$150.00	\$250.00
Dishonored Check Fee	\$25.00	\$25.00
DOJ Fingerprint Fee	\$32.00	\$32.00
FBI Fingerprint Fee	\$17.00	\$17.00
* The examination fee is for the authorization to test (the evaluation of application materials). It does not include the NCLEX-PN administration fee charged by the NCSBN. Upon written notification of exam eligibility, applicants must submit their NCLEX registration fee directly to the NCLEX Data Center to register for their vocational nursing examination. ** BPC § 2895.5 requires the BVNPT to collect a \$5.00 fee from LVNs at the time of license renewal to fund a scholarship and educational loan program for vocational nurse education.		

PT Fee Categories	Previous Fee	Fee as of 09/21/2022
Exam (CA School Graduate)	\$265.00	\$345.00
Exam (Equivalency/Non-CA School Graduate)	\$295.00	\$375.00
Re-Examination Applications	\$265.00	\$345.00
Interim Permit	\$20.00	\$50.00
Initial License	\$220.00	\$300.00
Biennial Renewal for 2 years	\$220.00	\$300.00
Delinquent Fee	\$110.00	\$150.00
Duplicate Wall Certificate	\$25.00	\$50.00
License Endorsement (Licensed in another state coming to CA)	\$220.00	\$300.00
Verification of Licensure (Licensed in CA going to another state)	\$100.00	\$150.00
Copy of Records/Documents (transcripts, certification letter, etc.)	\$2.00	\$2.00
Reinstatement of a License (minus any applicable delinquent fees)	\$220.00	\$300.00
Blood Withdrawal Certification Fee	\$20.00	\$50.00
Continuing Education Provider	\$150.00	\$250.00
Blood Withdrawal Course Provider Approval/Renewal	\$150.00	\$250.00
Dishonored Check Fee	\$25.00	\$25.00
DOJ Fingerprint Fee	\$32.00	\$32.00
FBI Fingerprint Fee	\$17.00	\$17.00

Education Program/School Fee Categories	Fee
Initial Application Fee	\$5,000.00
Final Approval Fee	\$15,000.00
Reduced Final Approval Fee (BPC §§ 2881.2(b)(2)(B), 4531.1(b)(2)(B))	\$5,000.00
Continuing Approval Fee	\$5,000.00
Reduced Continuing Approval Fee (BPC §§ 2881.2(d), 4531.1(d))	\$2,500.00

The BVNPT is currently requesting an increase in the educational program/school fees. The request is discussed further on page 26 under Current Sunset Review Issues, Issue #1: Educational Program Approval Fee Increases.

Cost Recovery

Under 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.

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 in decisions provided through an administrative hearing.

Cost recovery is an insignificant source of revenue (less than 2%). The BVNPT reports the following cost recovery data since FY 2019-20:

Cost Recovery	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
Total Enforcement Expenditures	\$6,775,000.00	\$7,577,000.00	\$7,967,000.00	\$7,313,000.00
Potential Cases for Recovery	284	222	194	201
Cases Recovery Ordered	284	222	194	201
Amount of Cost Recovery Ordered	\$897,022.44	\$982,499.39	\$1,009,780.03	\$752,199.58
Amount Collected	\$241,067.50	\$30,191.12	\$48,226	\$26,346.86

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, examinations, and experience. The requirements for licensure are listed in the Vocational Nursing Practice Act and the Psychiatric Law. The acts make it a misdemeanor for an unlicensed person to impersonate or pretend to be an LVN or PT via titles or other methods.²⁴

Licenses expire after two years and are therefore renewed biennially. A license that is not renewed is considered delinquent and will not provide any authority to practice until it is renewed.

The BVNPT reported a total of 117,576 active, in-state licensees at the end of FY 2022-23, including 108,905 LVNs and 8,671 PTs.²⁵ Between FYs 2020-21 and 2022-23, the BVNPT issued

²⁴ BPC §§ 2885-2887, 4540-4543.

²⁵ BVNPT, *Sunset Review Report 2023*, at 24.

new licenses to an average of 8,135 LVNs and 285 PTs per year. It also issued renewals to an average of 49,565 LVNs and 4,346 PTs per year.

The BVNPT reports the following license data since FY 2019-20:

		FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
LVN Licensees	Active	106,444	107,989	106,500	108,905
	Out of State	15,058	15,737	7,634	8,098
	Out of Country	79	64	48	40
	Delinquent	23,830	23,974	23,413	24,300
	Inactive	2,443	2,438	2,525	2,424
PT Licensees	Active	9,194	8,970	8,819	8,671
	Out of State	760	678	227	237
	Out of Country	5	5	4	4
	Delinquent	1,948	1,875	1,808	1,843
	Inactive	311	304	307	306

LVN Application Requirements. LVNs in California must be at least 17 years of age, have completed 12th grade or its equivalent, and have passed the National Council Licensure Examination for Practical/Vocational Nurses (NCLEX-PN) examination.²⁶ LVN applicants seeking authorization to take the NCLEX-PN examination may do so via one of the following five methods:

- 1) Graduate from an approved VN program in California.²⁷
- 2) Graduate from a practical or VN program approved by another state, provided that the course of instruction completed is substantially equivalent to an approved VN program in California.²⁸
- 3) Complete education or experience, or a combination, equivalent to that acquired in an approved VN program, including 51 months of paid bedside nursing experience in an acute care facility, verification of skill proficiency, and 54 hours of pharmacology theory.²⁹
- 4) Complete education and experience as U.S. military medical personnel, including a minimum of 12 months of verified active duty rendering bedside patient care in any branch, a basic course of nursing in a branch, and service or discharge under honorable conditions.³⁰
- 5) Complete documented equivalent experience from an employer indicating the applicant received credit for paid work experience.³¹

²⁶ BPC §§ 2866, 2872.2.

²⁷ BPC § 2866(c).

²⁸ BPC § 2866(c), CCR, tit. 16 § 2516(a).

²⁹ BPC § 2873, CCR, tit. 16 § 2516(b).

³⁰ BPC § 2873.5, CCR, tit. 16 § 2516.5.

³¹ BPC § 2873, CCR, tit. 16 § 2516(b).

According to BVNPT staff, methods 3 and 5 are similar, and most applicants for method 3 are international applicants.

The BVNPT also allows equivalent licensees from other states and countries, such as licensed practical nurses, to apply without taking the NCLEX-PN (licensure by endorsement). Endorsement applicants must present proof of active licensure and have obtained a passing score on the NCLEX-PN or Nursing State Board Test Pool Examination for Practical Nurse (SBTPE).³²

LVN Scope of Practice. The LVN license authorizes, under the direction of a licensed physician or registered nurse, the performance of services requiring technical and manual skills acquired in a BVNPT-approved vocational nursing school. According to the Vocational Nursing Practice Act and the BVNPT's regulations, services requiring technical and manual skills include the following:³³

- Basic nursing services, which means basic assessment (data collection), participation in planning, execution of interventions per a treatment plan, and contribution to the evaluation of individualized interventions related to the care plan or treatment plan.
- Administration of medications, including by hypodermic injection when directed by a physician.
- Application of communication skills for patient or client care and education.
- Contribution to the development and implementation of a teaching plan related to self-care for the patient or client.
- The performance of the following when directed by a physician and if additional training requirements are met:
 - The start and superimposition of intravenous fluids.
 - Blood withdrawal.
 - Tuberculin skin tests, coccidiosis skin tests, and histoplasma skin tests within the course of a tuberculosis control program.
 - Immunizations under written guidelines adopted by a hospital or medical group with whom the supervising physician is associated.

PT Application Requirements. Licensed PTs must be at least 18 years of age, have completed 12th grade or its equivalent, qualify for the California PT licensure examination by completing specified PT education or experience, and have passed the California PT licensure examination (CAPTLE).

³² BPC § 2872.1, CCR, tit. 16, § 2517.

³³ BPC §§ 2859-2860.7; CCR, tit. 16, § 2518.5, 2542-2542.5, 2544-2544.4, 2547-2547.5.

PT applicants seeking authorization to take the CAPTLE may do so via one of the following four methods:

- 1) Graduate from an approved PT program in California.³⁴
- 2) Graduate from a PT program that the BVNPT finds equivalent to the minimum requirements of an approved PT program.³⁵
- 3) Complete education or experience, or a combination, equivalent to that acquired in an approved PT program, including 576 hours of classroom theory and 954 hours of supervised clinical experience in pharmacology, nursing science, mental disorders, and disabilities, or similar paid experience.³⁶
- 4) Complete specified education and experience as U.S. military medical personnel, including 1) an armed forces course involving Neuropsychiatric Nursing, 2) an armed forces or civilian course from an approved school in the care of clients with developmental disabilities, and 3) a minimum of 1 year of verified full-time paid work experience, with at least 6 months in a military clinical facility rendering bedside care to clients with mental disorders and at least 6 months to clients with developmental disabilities.³⁷

Currently, there is no national examination that can be used for licensure by endorsement. 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.

PT Scope of Practice. The PT license authorizes the implementation of procedures and techniques that involve the understanding of cause and effect and are used in the care, treatment, and rehabilitation of clients diagnosed with mental disorders or developmental disabilities. PTs must practice under the direction and responsibility of a physician and surgeon, psychiatrist, psychologist, rehabilitation therapist, social worker, registered nurse, or other professional personnel.

According to the Psychiatric Technicians Law and the BVNPT's regulations, the PT scope includes the following:³⁸

- Basic nursing services, which means basic assessment (data collection), participation in planning, execution of interventions per a treatment plan, and contribution to the evaluation of individualized interventions related to the care plan or treatment plan.

³⁴ BPC § 4511(c)(1).

³⁵ BPC § 4511(c)(3).

³⁶ BPC § 4511(c)(2); CCR, tit. 16, § 2575(a).

³⁷ BPC § 4511(c)(2); CCR, tit. 16, § 2575(b).

³⁸ BPC §§ 4502-4502.3; CCR, tit. 16, §§ 2576.5, 2593-2593.4, 2594.

- Administering or implementing specific therapeutic procedures, techniques, treatments, or medications to enable recipients or patients to make optimal use of their therapeutic regime, their social and personal resources, and their residential care. If working in a mental health facility or developmental disability facility and directed by a physician, a PT may administer medications by hypodermic injection.
- Application of interpersonal and technical skills in the observation and recognition of symptoms and reactions of recipients or patients, for the accurate recording of these symptoms and reactions, and for the carrying out of treatments and medications as prescribed by a licensed physician and surgeon or a psychiatrist.
- Contribution to the development and implementation of a teaching plan related to self-care for the patient or client.
- The performance of the following when directed by a physician and if additional training requirements:
 - Blood withdrawal from a patient with a mental disorder or developmental disability.
 - Tuberculin skin tests, coccidiosis skin tests, and histoplasmin skin tests within the course of a tuberculosis control program.
 - Immunizations under written guidelines adopted by a hospital or medical group with whom the supervising physician is associated.

License Processing Targets. The BVNPT’s license processing target is four to six weeks for both online and hardcopy applications. The timeline begins with the receipt of the initial license application and ends with the issuance of the initial license. Since FY 2019-20, the BVNPT has exceeded its target for standard applications, processing applications within two weeks.

However, the BVNPT reports that it does not meet its target for equivalency applications, which take longer due to the complexity and open-endedness of the application. Staff may have to go through a significant amount of back-and-forth with the applicant or third parties regarding requirements and application deficiencies. This issue is discussed further on pages 28 and 29 under Current Sunset Review Issues, Issue #4: Alternate Pathways to Licensure.

Education

LVN and PT educational programs must have BVNPT approval before their students qualify for licensure.³⁹ The purpose of BVNPT approval is to ensure that the offered course of instruction is

³⁹ BPC §§ 2880-2884; §§4530-4532.

consistent with the requirements for licensure. Educational programs are also subject to periodic inspection and review, as determined by the BVNPT.

In its *Sunset Review Report 2023*, the BVNPT reports 168 approved programs, including 157 LVN and 11 PT programs. The number of approved LVN schools has increased since the last renew (up from 137) and the number of PT programs has decreased (down from 13). The BVNPT reports having improved its program approval process since its last review, typically approving applications within one year.

In terms of program approval requirements, both practice acts are vague. The Vocational Nursing Practice Act requires that programs must: 1) offer no less than 1,530 hours or 50-semester units; 2) offer clinical experience in medical, surgical, obstetrical patients, and sick children; and 3) give credit for experience and education earned in other nursing fields. Otherwise, the act broadly authorizes the BVNPT to determine the required curriculum, clinical experiences, and distribution of units and hours.

The Psychiatric Technicians Law similarly gives the BVNPT broad discretion to decide the appropriate standards for PT programs. The law only specifies that the hours are equal to or greater than the requirement for VN programs, that the subjects include the principles of care for the mentally disabled and the developmentally disabled, and that clinical inpatient experience is integral and earned at a state hospital, except as specified.

The BVNPT's additional requirements for both types of programs are outlined in its regulations.⁴⁰ The regulations specify application procedures, reporting requirements, curriculum, and clinical experience. They also include faculty, resource, and facility requirements, although both practice acts are silent on the duty to establish the latter requirements.

The California Private Postsecondary Education Act of 2009 also specifies separate requirements for private postsecondary institutions that offer VN and PT programs.⁴¹ Private institutions must obtain prior approval from the Bureau for Private Postsecondary Education (BPPE), or an exemption, before becoming eligible for BVNPT approval.

While BVNPT approval is to ensure that the offered course of instruction is consistent with the requirements for licensure, the purpose of the BPPE regulation is to ensure a minimal level of overall quality. Specifically, the BPPE establishes and enforces standards that: 1) aim to protect consumers and students against fraud, misrepresentation, or other business practices that may lead to loss of students' tuition and related funds and 2) promote ethical business practices, health and safety, fiscal integrity, instructional quality, and institutional stability.

⁴⁰ CCR, tit. 16, §§2525-2536, §§ 2580-2589.

⁴¹ BPC §§ 94800-94950.

Given the overlap in approval responsibilities, the BVNPT reports that it works cooperatively with the BPPE in the approval and monitoring of educational programs, as well as providers of continuing education that are operated in proprietary settings.

Examination

As discussed above, LVNs and PTs who have completed education from an approved program or possess equivalent education or experience must pass a licensing examination before being issued a license. LVNs are required to take the national NCLEX-PN, which is administered and developed by the NCSBN, and PTs are required to take the CAPTLE, which is administered by the BVNPT through PSI Services LLC and developed by the DCA Office of Professional Examination Services.

The BVNPT reports the following examination data since FY 2019-20:

NCLEX-PN			CAPTLE		
FY 2019-20	Number of Candidates	7,676	FY 2019-20	Number of Candidates	523
	Overall Pass %	74%		Overall Pass %	68%
	Overall Fail %	36%		Overall Fail %	42%
FY 2020-21	Number of Candidates	8,702	FY 2020-21	Number of Candidates	506
	Overall Pass %	70%		Overall Pass %	63%
	Overall Fail %	45%		Overall Fail %	45%
FY 2021-22	Number of Candidates	8,326	FY 2021-22	Number of Candidates	402
	Overall Pass %	69%		Overall Pass %	60%
	Overall Fail %	45%		Overall Fail %	50%
FY 2022-23	Number of Candidates	9,261	FY 2022-23	Number of Candidates	438
	Overall Pass %	76%		Overall Pass %	64%
	Overall Fail %	42%		Overall Fail %	47%

Continuing Education

Professions and practices can change over time. For instance, new technology, research, or ethical requirements may increase the level of minimum competence needed to protect consumers. Therefore, some licensing boards require licensees to complete additional training or classes to maintain minimum competence post-licensure. This is usually accomplished through continuing education (CE) or continuing competence requirements at the time of renewal.

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. It also 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 any number of classes within two years.

The BVNPT verifies CE by checking the validity of individual provider names and numbers with the agency that 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 four years for audit purposes. This allows the BVNPT an opportunity to check not only CE compliance for the most recent renewal period but also for the prior period as well.

Since June 3, 2019, the BVNPT audits 2.5% of the renewal population per renewal cycle (about 116 LVN and 10 PT audit letters per month). In 2020, CE audits were suspended per the Governor’s Executive Order N-39-20 which included a temporary waiver of the continuing education requirement for individuals whose active licenses expired between March 31, 2020, and June 30, 2020. The BVNPT plans to recommence CE audits this year.

CE Providers. CE course providers must obtain BVNPT approval before they offer courses that qualify for license renewal credits. The BVNPT’s process for approving CE providers and their courses is established in its regulations.⁴²

The NECs approve CE providers and their courses for two years at a time. Individuals seeking approval as course providers are required to complete an application that identifies the initial course to be offered. The courses must meet all of the following requirements:

- Be related to the scientific knowledge or technical, manual skills required for VN or PT practice.
- Be related to direct or indirect patient or client care.
- Provide learning experiences expected to enhance the knowledge of the LVN or PT at a level above that required for initial licensure.

Additionally, the NECs analyze and evaluate the following elements of proposed courses:

- Course description relates to the practice of VNs or PTs.
- Learning objectives are clearly stated in measurable terms and specify the learning standards students are expected to meet upon course completion.
- Theory and clinical course hours to be awarded.
- Student evaluation methodology.
- The name of textbooks or reference materials.

The BVNPT reports the following CE course provider data:

Non-IV/BW CE Providers	New	Renewals	Total
2020	12	12	24
2021	18	25	43
2022	17	20	37
2023 (not final)	5	18	23

⁴² CCR, tit. 16, §§ 2540.3, 2592.3

IV/BW CE Providers	New	Renewals	Total
2020	102	83	185
2021	32	85	117
2022	38	90	128
2023 (not final)	83	182	265

Enforcement

The BVNPT is responsible for enforcing the requirements of the Vocational Nursing Practice Act and the Psychiatric Technicians Law. The purpose of enforcement is to ensure that licensees continue to adhere to licensing requirements and protect the public from those that do not.

To that end, the BVNPT is required to investigate potential violations. Like other licensing boards, the BVNPT relies on complaints and other information submitted by consumers, licensees, employers, and relevant organizations and governmental entities, including arrest and conviction notices from law enforcement. BVNPT enforcement staff may also open a case based on internal information reviewed by staff.

Cases without sufficient evidence or that do not allege a violation of either practice act are closed without further action. If it finds there was a violation, the Enforcement Division may take several types of actions depending on the severity of the violation.

For minor violations, the BVNPT may send a Notice of Warning letter or issue a citation, which may include a fine up to a maximum of \$5,000 or an order of abatement. For more significant violations, it may seek formal disciplinary actions against a license, including probation, suspension, or revocation. The BVNPT can initiate formal disciplinary action by referring the matter to the Office of the Attorney General to prepare a case for prosecution in an administrative proceeding. For violations that also involve criminal conduct, the DCA's Division of Investigation can also refer the case to law enforcement.

The BVNPT reports that the volume of enforcement investigations first assigned, closed, and pending has been consistent since FY 2019-20. The Enforcement Division assigned an average of 2,045 cases to investigation and closed an average of 1874 cases by the close of each FY. Since its last sunset review, the BVNPT has noted an improvement in the number of investigations pending at the close of each FY, an average of 1,002 cases, down from an average of 1,414.

Cite and Fine. The BVNPT uses its cite and fine authority in cases in which violations can be remedied through an order of abatement and fine, such as technical violations. The BVNPT does not issue citations in cases that involve patient harm or otherwise require restrictions on the license to ensure consumer protection. The BVNPT's top five citation violations over the last three years are:

- 1) Arrest (alcohol) - 127
- 2) Other - 28
- 3) Unlicensed practice - 20
- 4) Arrest (other) - 20

5) Falsifying medical records - 15

Enforcement Timelines. Consumers, licensees, and the public benefit from the expedient resolution of investigations and disciplinary proceedings. In May 2015, the BVNPT implemented the DCA’s Consumer Protection Enforcement Initiative (CPEI), which introduced performance measures and set target cycle timelines with the aim of resolving investigations and disciplinary proceedings in a timely manner.

The CPEI timelines track statistics for every stage of the enforcement process, including the following statistics quarterly:

- Performance Measure (PM) 1—Case Volume: the total number of complaints and conviction or arrest notices received within the specified period.
- PM 2—Intake: New complaint intake and the average number of days to close a complaint or assign it for an investigation (target average of 30 days)
- PM 3—Investigations: Investigation cases completed and the average number of days to complete an investigation without formal discipline (target average of 360 days).
- PM 4—Formal Disciplinary Actions: the number of formal disciplinary actions completed and the average number of days to complete a disciplinary action (target average of 540 days).
- PM 7—Probation Intake: new probationers and the average number of days from assignment to first contact (target average 15 days).
- PM 8—Probation Violation Response: probation violations and the average number of days to initiate appropriate action (target average 30 days).

The BVNPT indicates that its cycle times have met or exceeded the performance targets since FY 2019-20 except for PM 4, which measures formal discipline cases referred to the Office of the Attorney General. However, few boards, including the BVNPT, report meeting this target cycle time. PM4 target timelines are discussed further on pages 33-34 under Current Sunset Review Issues, Issue #10: Formal Discipline Timelines.

	Target Average	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
PM4 Cycle Time	540	785	847	787	754

The BVNPT reports that its staff continues to work with the Office of the Attorney General (OAG) to reduce the average cycle time for completion of these cases, including implementing and expanding the “Fast Track” program and transmitting all formal discipline case referrals to the OAG using cloud technology.

The BVNPT also reports other improvements under its new Enforcement Division Chief, Antoinette Wood, who joined the BVNPT staff in 2020, including developing a more efficient staffing structure, reassigning positions to accommodate changing caseloads, implementing regular and routine audits and more management oversight, and reassigning cases from the Division of Investigation (DOI) to the in-house special investigators. As a result, it reported a total savings of approximately \$600,000. The division also created a Knowledge Transfer plan and

Enforcement Division Overview to handle concerns about succession planning and retention concerns.

Additional Background

For additional information regarding the BVNPT's responsibilities, operations, and functions, please see the BVNPT's *Sunset Review Report 2023*. The report is available on the Assembly Committee on Business and Professions website: abp.assembly.ca.gov/publications/reports.

PRIOR SUNSET REVIEWS: CHANGES AND IMPROVEMENTS

The BVNPT was last reviewed in 2020. A total of 23 issues were raised by the Committees at that time. In the BVNPT's *Sunset Review Report 2023* and responses to the previous background paper, the BVNPT describes actions it has taken to address the recommendations made in the staff background paper for the review. The issues that have not been fully addressed or may still be of concern to the Committees are discussed under "Current Sunset Review Issues."

- **Prior Issue #1: Are there ways to improve the accuracy of the BVNPT's budget projections?** During the last review, it was noted that the BVNPT's budget projections were not reliable indicators of its actual budget needs. Since then, the BVNPT reports that information from Fi\$Cal and the reports from the DCA Budget Office have improved in quality, quantity, and timeliness and that its staff continued to work with the DCA to improve communications, reducing the variances between FYs and between projections and actuals.
- **Prior Issue #2: What solutions are available to address the BVNPT's potential ongoing budget deficit?** During the last review, the BVNPT was operating at a significant deficit, risking insolvency beyond FY 2023-24. Since then, the BVNPT has increased license fees to their statutory limit and implemented a new educational program/school approval fee. The BVNPT is now operating with a healthy surplus.
- **Prior Issue #3: Should the Legislature reauthorize the BVNPT the authority to select its executive officer? If so, when?** This issue was the result of mismanagement dating back to as early as 2014. Unlike other DCA licensing boards, the BVNPT was stripped of the authority to appoint its executive officer. Instead, until January 1, 2022, the BVNPT's executive officer was appointed by the Governor. The unique appointment structure was the result of the BVNPT's unwillingness to acknowledge its inability to meet its consumer protection mandate. Since then, the BVNPT has made significant improvements and the authority to appoint its executive officer has returned to the BVNPT.
- **Prior Issue #4: What impediments impact the BVNPT's ability to approve and post its online materials?** AB 434 (Baker), Chapter 780, Statutes of 2017, required 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 website a signed certification that the agency's or entity's website complies with specified accessibility standards. During the early implementation of AB 434, some DCA licensing boards, including the BVNPT, reported difficulty with compliance with the bill.

The BVNPT reports that it has mostly resolved this issue for current and future materials via staff training. A web accessibility certification is available on its front page dated June 30, 2019. However, as of March 2, 2021, the BVNPT's website no longer contains any information or materials for meetings held before 2019.

- **Prior Issue #5: What changes are necessary to improve NEC recruitment and retention?** The BVNPT has historically experienced challenges with recruiting and retaining NECs. The low NEC salary range created a barrier to recruiting candidates, who can often earn substantially more serving as a school director. The NEC salary range is also lower than some state nursing employment classifications. The BVNPT has reported that recent changes to the state employment contracts provided a special salary adjustment that has helped fill and retain the NEC positions.
- **Prior Issue #6: What is the status of the implementation of the OCM recommendations?** The BVNPT’s 2017 sunset bill, 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.”

Under that authority, the DCA executive team asked the SOLID DCA OCM team (now the Organizational Improvement Office) to work with the BVNPT to identify improvement opportunities and changes that would increase efficiencies in its licensing section. Following its last review, the BVNPT reported implementing the majority of the recommendations.

- **Prior Issue #7: Should the BVNPT be granted the authority to require an email address for licensee communication, and would it need a statutory change?** The BVNPT previously requested the authority to require an email address. That authority was granted in the BVNPT’s last sunset bill.
- **Prior Issue #8: Should VNs be authorized to care for ventilated patients and adjust ventilators? Should PTs also be allowed?** The prior review identified concerns regarding the LVNs performing respiratory care functions outside of the LVN scope of practice. Committee staff previously recommended that the BVNPT should continue to work with the Committees, the Respiratory Care Board, and stakeholders to determine the necessary clarifications surrounding the care of ventilated patients. Since then, clarifying statutory language has been included in the Respiratory Care Board’s sunset bill, which is still being implemented. Although BVNPT staff have noted some outstanding differences of opinion between the two boards, BVNPT staff plan to continue to work with the RCB and stakeholders moving forward.
- **Prior Issue #9: What is the status of the BVNPT’s implementation of AB 2138 (Chiu/Low), the Fair Chance Licensing Act, and are any statutory changes needed to enable it to better carry out the intent of the act?** In 2018, AB 2138 (Chiu/Low), Chapter 995, Statutes of 2018 was signed into law, making substantial reforms to the license application process for individuals with criminal records. Because AB 2138 significantly modified current practice for boards in their review of applications for licensure, its implementation required

changes to current regulations for every board impacted by the bill. The BVNPT has since implemented the bill.

- **Prior Issue #11: Should the BVNPT continue to approve VN and PT programs, and if so, are there improvements that should be made?** The BVNPT is one of the few DCA licensing boards statutorily required to inspect and approve educational programs that offer courses of instruction for professional licensure. During the BVNPT's last several sunset reviews, the Committees asked whether the BVNPT's educational approval process could be updated to make it more effective and efficient. The last sunset bill included changes to the approval process that have significantly improved the approval process, such as new approval fees and the implementation of timelines.
- **Prior Issue #12: Should the BVNPT be authorized to charge fees for program approval, and if so, what amounts?** Historically, the BVNPT had no authority to charge educational programs or schools for a fee, despite performing significant amounts of work approving those programs and schools. The BVNPT was provided that authority in the last bill, although there are still discussions around whether the fees are high enough to reflect the workload associated with school approval. The fee discussion is continued on page 26 under Current Sunset Review Issues, Issue #1: Educational Program Approval Fee Increases.
- **Prior Issue #13: What changes are needed to clear the BVNPT's school approval backlog and prevent future backlogs?** During the last review, the BVNPT had a significant backlog of schools awaiting approval on a waitlist with no clear timelines. As noted under Prior Issue #11, the BVNPT's last sunset bill implemented numerous changes to the BVNPT's approval process. The BVNPT no longer has significant approval backlog issues involving waitlists and instead actively works with programs still awaiting full approval.
- **Prior Issue #14: What barriers currently exist to licensure and workforce pathways? Are there BVNPT policies that could address barriers for students?** The BVNPT previously wrote that it "considers cost of and access to the education programs to be the most critical barriers to licensure." While this is still arguably an ongoing issue, there are no clear avenues to address this issue through the BVNPT's sunset review.
- **Prior Issue #17: Should there be standards for the use of clinical simulation?** During the last review, it was noted that the use of simulated clinical experiences was becoming more common, particularly during the COVID-19 pandemic. Due to the variation in the use of simulation, the BVNPT noted that it monitors programs through the NECs working with the schools on a case-by-case basis.
- **Prior Issue #18: What is the status of the enforcement case backlog?** Due to staff turnover, the BVNPT experienced a case backlog. The BVNPT filled those positions and was able to clear the backlog.

- **Prior Issue #21: Are there changes needed to ensure patient safety and the proper delegation of procedures in medical spas?** The BVNPT previously reported an increase in the improper provision of dermatological procedures by VNs in medical spas. The BVNPT previously adopted a Precedential Decision on improper dermatological procedures by LVNs in medical spas, and key aspects of that decision have been codified in SB 994 (Jones), Chapter 713, Statutes of 2022. The BVNPT also reports that in 2023 it started working in partnership with the Barbering and Cosmetology Board to address overlapping practitioner complaints, which grew to include other healing arts boards in discussions of how to ensure that the care and services performed in medical spas and similar facilities are legitimate procedures performed in safe facilities by appropriate personnel.
- **Prior Issue #22: Do any of the COVID-19 waivers authorized under the Governor's executive orders warrant an extension or statutory changes?** In response to the COVID-19 pandemic, the Governor issued executive orders to address the immediate COVID-19 pandemic, including impacts on the state's healthcare workforce stemming from the virus. The BVNPT has not reported any waivers that require an extension or changes.
- **Prior Issue #23: Are there new mental health issues among licensees arising from or, or ongoing issues being worsened by, the extreme conditions of the COVID-19 pandemic?** Throughout the COVID-19 pandemic, frontline healthcare workers and first responders, such as physicians, nurses, respiratory care therapists, paramedics, and more, have been caring for COVID-19 patients through multiple deadly surges, including a record-shattering death toll in December 2020. Although the BVNPT has expressed interest in this issue, it is unclear whether there are avenues to address this problem through the BVNPT's sunset review process.

CURRENT SUNSET REVIEW ISSUES

This section covers new and unresolved issues relating to the BVNPT. It includes background information and committee staff recommendations for each issue. Committee staff has provided this paper to the BVNPT and other interested parties, including the professions, so that they may respond to the issues and recommendations.

BUDGET ISSUES

ISSUE #1: EDUCATIONAL PROGRAM APPROVAL FEE INCREASES. *The BVNPT reports that its statutory fees do not match the actual costs of approving LVN and PT educational programs. Should the BVNPT be authorized to charge additional or increased fees for program approval, and if so, in what amounts?*

Background: This issue is a continuation of Issue #12 from the BVNPT's 2021 sunset review. The BVNPT performs intensive reviews of LVN and PT educational programs seeking initial and ongoing approval but previously charged no fee. As a result, educational programs and schools received the BVNPT's review services at no cost and LVN and PT license fees subsidized the associated workload. To address the imbalance, the BVNPT's previous sunset bill authorized the BVNPT to assess fees on the following schedule, each of which the BVNPT has set to the statutory maximum:

- Initial application fee: up to \$5,000.
- Final approval fee of either:
 - Up to \$15,000.
 - A reduced amount, up to \$5,000 for applicant programs that meet the following:
 - The program is affiliated with an approved school or program that is in good standing.
 - The program utilizes the curriculum and policies approved by the board for the approved school or program.
- Continuing approval fee of either:
 - Up to \$5,000 once every four years.
 - One-half the established amount (currently \$2,500) for programs that experience a reduction in enrollment capacity that directly leads to a reduction in state funding.

The Committees at the time noted that these fees were lower than the actual costs estimated and asked for by the BVNPT. 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 cost between approximately \$5,000 and \$30,000. Substantive change approvals were found to cost around \$5,000 to \$8,000.

By way of comparison, the Board of Registered Nursing's (BRN) program statutory approval fees are as follows:⁴³

- Approval fee: statutory maximum of \$80,000, which the BRN has divided into two fees in its regulations:
 - Application fee: \$40,000.
 - Continuing approval fee: \$15,000.
- Substantive change approval fee: statutory maximum of \$5,000, which the BRN has set at \$2,500 in its regulations.

The BVNPT's combined initial approval fees (\$20,000) and its continuing approval fees (\$5,000) are currently lower than the BRN's, and the BVNPT has no substantive change approval fee (when a program makes changes to its curriculum, syllabus, or other aspects that require board approval). As a result, the BVNPT requests the following statutory increases:

- Initial application fee: from up to \$5,000 to up to \$15,000.
- Final approval fee:
 - Standard: from up to \$15,000 to up to \$25,000.
 - Reduced: from up to \$5,000 to up to \$15,000.
- Continuing approval fee: from up to \$5,000 to up to \$50,000, assessed on a sliding scale:
 - Annual enrollment between 1-35: \$10,000.
 - Annual enrollment between 36-100: \$25,000.
 - Annual enrollment between 101-200: \$35,000.
 - Annual enrollment over 201: \$50,000.
 - A prorated amount for programs that increase their enrollments between cycles.

The BVNPT is also requesting a new fee of up to \$10,000 for programs or schools placed on provisional approval for every 12 months on provisional approval, which would be in addition to the regularly scheduled continuing approval fee. The BVNPT reports that it will seek an in-depth revenue study to determine an appropriate and sustainable revenue structure as soon as there is adequate data regarding the impact of all the recent fee changes.

While the BVNPT's overall budget is currently balanced and generating a small surplus, fees should match the workload they are associated with. Because the majority of the BVNPT's revenue is limited to fees, if fees are too low for educational programs, licensees will continue to bear the cost of the approval process.

Staff Recommendation: *The BVNPT should continue to work with the Committees on ensuring fees are set at the appropriate amounts.*

⁴³ BPC § 2786.5.

ADMINISTRATIVE ISSUES

ISSUE #2: LICENSING DIVISION VACANCIES. *The BVNPT reports an increase in licensing staff turnover. What changes are necessary to improve recruitment and retention?*

Background: As discussed on page 7, the BVNPT reports an increase in the turnover for the Program Technician positions in its licensing division. The primary reasons cited are the lower desirability of the position over other positions and pay. The BVNPT reports that recent changes to state employee contract agreements creating special salary adjustments may alleviate this problem.

Staff Recommendation: *The BVNPT should update the Committees on the status of the vacancies and continue to work with committee staff to determine if there are any legislative solutions.*

ISSUE #3: SALARY COMPACTION ISSUES. *The BVNPT reports differences in salary that prevent proper chain-of-command reporting and communication. What changes are necessary to address the reporting and communication issues?*

Background: As discussed on page 7, the BVNPT reports that it is experiencing a salary compaction issue that is causing an inefficient reporting relationship and possible communication gaps in its enforcement division. The Supervising Special Investigator (SSI) earns a higher pay rate than the enforcement chief, who is classified as a Staff Service Manager II, so the SSI cannot report directly to the division chief. The BVNPT notes that, until it can develop a structural solution, the SSI instead reports to the assistant executive officer, which unnecessarily increases workload.

Staff Recommendation: *The BVNPT should work with committee staff to determine if there are any legislative solutions to the compaction issue.*

ISSUE #4: ALTERNATE PATHWAYS TO LICENSURE. *Both the BVNPT and stakeholders have reported difficulties related to applicants seeking licensure through equivalent experience. What changes are necessary to improve the application process?*

Background: The BVNPT is one of the few boards that offer pathways to licensure through education or experience outside of a typical educational program. Applicants who do not graduate from California-approved pre-licensure training programs have the option of requesting an evaluation of their alternate education and experience (known as “Method 3”) or their experience only (“Method 5”), although both Method 3 and Method 5 applicants must complete a 54-hour pharmacology course. This has resulted in significant processing timelines for these applications.

The BVNPT reports the following equivalency application timelines in days:

	LVNs	PTs
FY 2019-20	232	25
FY 2020-21	209	493
FY 2021-22	87	342
FY 2022-23	79	187

To accommodate as many applicants as possible, the requirements to qualify are relatively open-ended. However, the open-endedness also results in a lack of clarity for applicants as to what might qualify, resulting in larger and more detailed applications. This generates more work for board staff, who may have to go through a significant amount of back-and-forth with the applicant or third parties regarding requirements and application deficiencies.

One stakeholder has complained that the significant timelines and lack of clarity are unfair to applicants. Specifically, they complain that applicants have been unable to qualify because of the following:

- Work experience with a specific employer that may have qualified in the past no longer qualifies.
- In the BVNPT’s regulations (CCR, tit. 16, § 2516(b)(3)) regarding verification of work experience, it is unclear that the “R.N.” (registered nurse) in “R.N. director or supervisor” applies to both directors and supervisors.
- The BVNPT has been sending follow-up verification emails to supervisors who have already signed the application form.
- The BVNPT does not accept employment verification forms that are not in sealed business envelopes, even if the employer does not have letterhead or business envelopes.
- The verification of work form requires “diabetic urine testing,” but the regulations (CCR, tit. 16, § 2516(b)(3)(A)5.) specify “diabetic testing” generally.
- The BVNPT has required work experience to be in a “general acute care facility approved by the Board,” when the regulations (CCR, tit. 16, § 2516(b)(1)) say “clinical facility.”

BVNPT staff acknowledge that the lack of clarity often leads to the need for additional information. However, staff also note that the need for additional information verification does not mean an application is rejected. As noted above, there will continue to be back and forth with the applicant and additional opportunities to correct any deficiencies. Still, BVNPT staff agrees that additional clarifications may be beneficial to both the BVNPT and future applicants.

Staff Recommendation: *The BVNPT should update the Committees on its plans to clarify its regulations and work with committee staff on any potential statutory changes.*

EDUCATION ISSUES

ISSUE #5: PROGRAM HOURS OF INSTRUCTION. *The U.S. Department of Education has issued a final rule amending the eligibility requirements for gainful employment programs under Title IV of the Higher Education Act. How will this impact LVN and PT programs?*

Background: In the October 31, 2023, Federal Register, the U.S. Department of Education promulgated regulations that impact the eligibility requirements for gainful employment programs that receive federal funding under Title IV of the Higher Education Act. The regulations go into effect July 1, 2024.

Stakeholders are specifically concerned about program participation agreement language under § 668.14(b)(26)(ii), which seeks to ensure that gainful employment programs do not engage in “course stretching,” a practice where the program adds education requirements that exceed the state’s minimum requirement for admission into an occupation or profession. While the rule is not intended to include degree programs, many licenses require education that may not confer a degree, including LVN and PT programs.

133 of the 168 BVNPT-approved programs exceed the state minimum requirements of 1,530 hours and would therefore need to obtain approval to change their programs by July 1, 2024, if the effective date is not amended or if the minimum hours are not changed in statute. Stakeholders are concerned that if the programs are not able to obtain approval to change their programs in time, they will lose their Title IV funding.

Staff Recommendation: *The BVNPT should update the Committees on any plans to address this issue, including any recommended alternatives to the minimum number of program hours requirement.*

ISSUE #6: EXAMINATION RETAKE LIMIT. *Should there be a limit on the number of times a student can retake the NCLEX-PN?*

Background: Currently there is no limit on the number of times a student may retake the NCLEX-PN. According to the BVNPT, “an applicant’s skills and knowledge decrease sharply after they complete the training programs, and their possible success taking the NCLEX decreases similarly. Schools and programs are held accountable for the rate of NCLEX passage for their graduates. Many provide assistance but are not always able to contact individuals who graduated more than a few years ago, especially if the program has changed ownership and/or management. Establishing a reasonable time limit for an individual to test before being required to enroll in remedial courses would save the Board staff time and resources.”

Therefore, the BVNPT has suggested requiring applicants who would like to retake the NCLEX-PN five years after their first authorization to complete a remedial course from a board-approved program or CE course provider.

Staff Recommendation: *The BVNPT should provide the Committees with the number of individuals who have applied to retake the NCLEX five years after their first authorization and provide a description of available remedial courses or, if none exist, what the BVNPT would require in a remedial course.*

ISSUE #7: EDUCATION CITE AND FINE. *The Committees have previously recommended against authorizing the BVNPT to cite or fine educational programs due to overlap with the Bureau for Private Postsecondary Education. Should the issue be revisited?*

Background: This is a continuation of Issue # 15 from the BVNPT’s 2021 sunset review. Currently, the BVNPT does not have the authority to issue citations or fines to approved educational programs. Instead, it is authorized to place programs that do not meet the required standards on provisional approval. If a program fails to meet the requirements at the end of the provisional program’s approval period, the BVNPT may either extend the provisional approval period or revoke the provisional approval.

BVNPT staff notes 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 notes that, while it works closely with the BPPE, there are situations where it is unclear where the jurisdictional lines end, such as when there are substantive issues with a program’s curriculum. In addition, the BPPE only oversees private programs.

Staff Recommendation: *The BVNPT should continue to work with the Committees and the BPPE to determine whether cite and fine authority for educational programs is necessary and whether there are alternatives to cite and fine, such as a provisional approval fee.*

ISSUE #8: LACK OF CLINICAL PLACEMENTS. *VN and PT programs are required to ensure that students obtain supervised clinical experiences that correlate to their classroom courses, but clinical placements can be difficult to obtain. Are changes needed to ensure the availability of clinical placements?*

Background: This is a continuation of Issue #16 from the BVNPT’s 2021 sunset review. 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.

The availability of student placements for clinical experiences is dependent on clinical facilities, such as hospitals, clinics, and other facilities, that are willing to accept and teach students. While there are no requirements that facilities accept students, many willingly accept students because it is necessary for the workforce and can help with recruitment. The facilities must have staff that is qualified to teach and supervise students, and often develop contracts with partner educational programs to outline responsibilities, liability, and expectations.

In 2009, the BVNPT surveyed educational programs and found that clinical placement opportunities were decreasing due to the increasing number of VN and other nursing programs. Currently, if students are unable to obtain their clinical experiences, they must repeat their courses or drop out. This issue was significantly amplified as a result of the COVID-19 pandemic, particularly early on, as facilities began closing their doors to students amid fears of further spreading the virus.

While the BVNPT has no control of clinical sites, there have been discussions of alternatives to in-person clinical experiences. For instance, in VN and other nursing programs, the required clinical experience for the introductory course, fundamentals of nursing, is obtained primarily in a “skills laboratory,” using simulated clinical scenarios and patients to learn the basics.

The BVNPT does not currently impose limits or requirements on the amount of simulated clinical experiences that can be used. As a result, programs that are unable to obtain in-person clinical placements, or that lose existing placements, may be able to work with their NEC to substitute simulated clinical hours.

An additional option is the use of live telehealth in place of in-person experiences. Early in the COVID-19 pandemic, the BRN reported that registered nursing programs were able to successfully implement telehealth clinical experiences. The BVNPT has not traditionally recognized telehealth as direct patient care because much of the VN and PT scope of practice is manual and technical skills, with most options for telehealth being centered around assessment and data gathering, monitoring, or patient education.

Some solutions that the BVNPT has suggested include:

- Work in cooperation with the Board of Registered Nursing (BRN) and other healing arts programs that require clinical placements to partner with the California Community Colleges to create a regional system of supply and demand coordination of these resources.
- Work with the Legislature to suggest concepts, such as a tax incentive program, to encourage facilities in underserved areas to accept students.
- Work in partnership with the BRN and the National Council of State Boards of Nursing (NCSBN) to standardize and clarify appropriate experiences that will satisfy clinical requirements and examine potential new experiences to meet requirements.
- Work with The BRN and the California Department of Public Health to suggest new possibilities for placements, especially in underserved areas. Explore creating new partnerships with tribal governments and rural county governments to address the lack of resources in these areas.
- Consider assessing and prioritizing regional needs in the approval of new programs.

- Work in partnership with the BRN and NCSBN to clarify scope-appropriate types of clinical experience utilizing telehealth, and possibly examine the overall scope of practices for possible modification.

Staff Recommendation: *The BVNPT should continue to work with the Committees to determine the clinical placement outlook and determine what steps, if any, are needed to ensure the ongoing availability of clinical placements.*

ENFORCEMENT ISSUES

ISSUE #9: 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 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 or technical, manual skills required for VN or PT practice; related to direct 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, it reports that it does not currently have the staff or resources to audit CE providers. As an alternative, it may be more cost-effective to include some additional review of approved CE providers at the time of renewal.

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

ISSUE #10: FORMAL DISCIPLINE TIMELINES. *The BVNPT is unable to meet its target cycle times for cases referred for formal discipline, also known as Performance Measure 4 (PM4). Can the BVNPT improve its processes to meet its target, and should PM4 be modified to better reflect the different stages of an enforcement case?*

Background: This is a continuation of Issue #20 from the BVNPT's 2021 sunset review. All licensing boards under the DCA have target cycle timelines to ensure the timely resolution of complaints and disciplinary cases. One measure, PM4, looks at the timelines for cases that rise to the level of formal discipline, such as license suspension or revocation. The target timeline is 540 days, and boards aim to resolve cases within 12-18 months.

However, PM4 is a difficult goal because it includes investigation and prosecutorial timelines that are often extended due to the serious nature of cases that are referred to the Attorney General, and PM4 does not distinguish between the amount of time a case spends at the BVNPT, the DCA's Division of Investigation, or the Attorney General's office.

This was also true for BVNPT’s enforcement program, despite recent improvements. The BVNPT has reported consistent statistics that generally meet or exceed its targets for all established performance measures in the past four FYs except for cycle times for formal discipline cases. Because PM4 does not track cases based on the amount of time spent at any given agency, it is difficult to identify the source of potential delays.

Staff Recommendation: *The BVNPT should discuss whether it can work with the DCA to parse out PM4 in a way that allows a better accounting of case timelines.*

PRACTICE ISSUES

ISSUE #11: INDEPENDENT CONTRACTORS. *Does the new test for determining employment status, as prescribed in the court decision *Dynamex Operations West Inc. v. Superior Court*, have any unresolved implications for BVNPT licensees working as independent contractors?*

Background: This is a continuation of Issue #10 from the BVNPT’s 2021 sunset review. In the Spring of 2018, the California Supreme Court issued a decision in *Dynamex Operations West, Inc. v. Superior Court* (4 Cal.5th 903) that significantly changed the factors that determine whether a worker is legally an employee or an independent contractor. In a case involving the classification of delivery drivers, the California Supreme Court adopted a new test comprised of three elements:

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

The test, commonly referred to as the “ABC test,” potentially reaches into numerous fields and industries utilizing workers previously believed to be independent contractors, including occupations regulated by entities under the DCA. In the following year, AB 5 (Gonzalez), Chapter 296, Statutes of 2019 codified the *Dynamex* ABC test while providing for clarifications and carve-outs for certain professions. Specifically, physicians and surgeons, dentists, podiatrists, psychologists, and veterinarians were among those professions that were allowed to continue operating under the previous framework for independent contractors. As a result, the new ABC test must be applied and interpreted for all licensed professionals who are not exempted.

The BVNPT reports that, before this sunset review, this did not appear to be an issue since licensees tend to work as licensees rather than independent contractors. However, it states that recently, “the Board has received reports of temporary job posting services recruiting LVNs and assigning them to shifts without verifying that there is correct supervision onsite and have compensated them as

1099 independent contractors. The Board has started some investigations and had some internal discussions and communications with the Department of Industrial Relations.”

Staff Recommendation: *The BVNPT should inform the Committees of any discussions it has had about the Dynamex decision and AB 5, and whether there is potential to impact the current landscape of the profession unless an exemption is provided.*

COVID-19 ISSUES & RESPONSE

ISSUE #12: COVID-19. *Are any statutory revisions, updates, or changes necessary in the aftermath of the COVID-19 pandemic?*

Background: In response to the COVID-19 pandemic, the Governor declared a state of emergency, issuing numerous executive orders and waivers to address the immediate crisis, including impacts on the state’s healthcare workforce. While the state of emergency ended on February 28, 2023, and the actions and waivers along with it, there may still be an ongoing need for those changes and flexibilities. There may also have been observed benefits that merit keeping the changes in place or making additional changes.

As a result, some of these actions have been extended or codified through statute. For example, SB 189 (Committee on Budget and Fiscal Review), Chapter 28, Statutes of 2022, extended the waiver allowing public meetings subject to the Bagley-Keene Open Meeting Act to be held both in-person and via teleconference until July 1, 2023. AB 269 (Berman), Chapter 1, Statutes of 2023, codified a waiver relating to COVID-19 testing and extended a waiver relating to the distribution of COVID-19 therapeutics until January 1, 2024.

Staff Recommendation: *The BVNPT should advise the Committees on its use of any COVID-19 waivers and whether any statutory changes relating to the COVID-19 pandemic are needed going forward.*

EDITS TO THE PRACTICE ACT

ISSUE #13: 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. For example, the BVNPT has requested technical changes relating to the timing of board member per diem payments, clarification of requirements for inactive education programs, and retired licenses.

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

CONTINUED REGULATION OF THE PROFESSION

ISSUE #14: SUNSET EXTENSION. *Should LVNs and PTs continue to be regulated and licensed under the BVNPT?*

Background: The BVNPT and its staff continue to work well with the Legislature in implementing its consumer protection mission. This is demonstrated by its implementation of prior committee recommendations, including the educational program approval changes, and its proactive efforts to address ongoing issues. While the outstanding issues noted in this background paper still need to be addressed, the BVNPT and its staff are aware and communicating with the Committees and their staff on next steps.

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