



## BVNPT RESPONSE TO THE LEGISLATURE'S SUNSET REVIEW BACKGROUND PAPER

On Tuesday, March 12, 2024, the Joint Committee convened a Sunset Review Hearing for the Board of Vocational Nursing and Psychiatric Technicians (BVNPT). The Joint Committee also published a Background Paper, which posed issues and questions for the Board.

This response to the Background Paper was reviewed and approved by the BVNPT at its board meeting on Wednesday, April 10, 2024.

**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:

- 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.*

**Board Response:** *The BVNPT plans to wait for substantive data from a revenue study for consideration of changes in the existing fees, but respectfully requests that the Committees consider the creation of the new fee to fund the increased workload for programs placed on Provisional Approval and for other substantive program changes, like major curriculum revisions.*

**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.*

**Board Response:** *The Board's licensing staff turnover issues are specific to the Program Technician II (PT II) classification. Since the PT II is an entry-level position, there will always be some staff turnover. The recent higher level of turnover can be attributed to a number of factors, including the pay differential between the PT position and the Staff Services Analyst position, and the inability of the PT positions to work remotely. The Board believes that the special salary adjustment included in the new bargaining agreement may help attract and retain applicants for the PT classification. Additionally, the Governor's directive to reduce teleworking will reduce the appeal to obtain employment outside of the PT classification. Sufficient time has not yet passed to make a definite assessment on whether the special salary adjustment or the adjustment to the telework policy will alleviate the licensing staff turnover issue. The Board will continue to assess the*

**staff turnover rate in the Licensing Division but does not believe that a legislative change is needed to alleviate this issue.**

**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.*

**Board Response:** *The Board is working collaboratively with the DCA to determine the appropriate steps to alleviate the compaction issue. Aside from authorizing the Enforcement Chief to manage the Supervising Special Investigator despite the structural issue, the Board's strongest solution is to create a Staff Services Manager III to oversee both positions. Authorization to create a Staff Services Manager III position would need to be requested in a budget change proposal. Language included in the Board's Sunset bill would allow the Board to recruit for the position sooner than a BCP would allow.*

**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:

	<b>LVNs</b>	<b>PTs</b>
<b>FY 2019-20</b>	232	25
<b>FY 2020-21</b>	209	493
<b>FY 2021-22</b>	87	342
<b>FY 2022-23</b>	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.*

**Board Response:** *The BVNPT is strongly committed to ensuring alternate pathways to licensure, but must be vigilant to prevent fraud, and to ensure that only qualified individuals advance in the processes. In addition to clarifying code and regulations, the BVNPT suggests consideration of statutory and regulatory changes to expand authority to review, approve and regulate teaching and educational materials at programs that offer assistance to prospective Method 3 and Method 5 applicants. This expanded authority would, however, create a significantly increased workload in Education, Licensing and Enforcement.*

**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.*

**Board Response:** *At this writing, the BVNPT has requested that the US Department of Education (USDOE) delay implementation of the regulatory*

***change for 18-months and is awaiting a response to its request. The Board has also been working to communicate with schools, stakeholders, the National Council for State Boards of Nursing (NCSBN), other states similarly impacted, other DCA Boards similarly impacted and elected officials.***

***Several programs whose curriculum hours are only slightly in excess of 1530 hours have already begun to work on changes and reductions with their assigned NECs.***

***The BVNPT hopes for some direction from the USDOE soon and appreciates the support from the DCA and the Committees in discussions for statutory and regulatory changes.***

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**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.*

**Board Response:** *The BVNPT will gather and analyze repeat test-taker information for California and other comparable states and will provide the Committees with findings and recommendations. In addition, staff will research existing assessment and remedial resources in use and recommend best practices to the Board.*

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**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.*

**Board Response:** *The BVNPT believes that cite and fine authority would provide a critical tool to work with programs in resolving serious health and safety issues and other regulatory noncompliance. Most programs cooperate quickly and fully with the notices of violation issued as part of program reviews but there are exceptions. Cite and fine authority would help ensure timely, complete, and cost-effective remediation of violations not warranting programs being placed on provisional approval.*

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**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.*

**Board Response:** *While BVNPT does not regulate the clinical facilities, the BVNPT agrees that it is appropriate and essential to take an active role in the statewide discussion of this matter as long as it is consistent with the Board's regulatory authority. The BVNPT will continue to discuss the possible solutions listed above.*

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**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.*

**Board Response:** *The need for this regulatory authority, plus cite and fine authority is similar to the need for cite and fine authority over the schools and programs. While BVNPT has some authority over CE providers, these would be critical tools to work with programs in resolving serious regulatory noncompliance, before taking action to remove approval.*

*BVNPT also regulates providers of the IV and Blood Withdrawal post licensure certification programs. Auditing these providers would protect consumers by ensuring that programs were thorough, applicable, and legitimate, and that the certificated VNs and PTs were safe practitioners.*

*This expanded authority (audit and cite and fine) would require additional staff.*

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**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.*

**Board Response:** *The BVNPT has no backlog in PM4 cases. We currently only have one case that was transmitted to the Attorney General's Office prior to 2023.*

*BVNPT has reviewed the PM-4 and is able to report sub-performance monitoring points. There are also other data point reports available, such as the [Attorney General's Annual Report](#), from which we can pull data. Moving forward, we will be changing how our data is reported to meet the requests and promote continued transparency.*

*It should be noted that some delays may be outside of the Attorney General Office's and BVNPT's control since licensees subject to discipline may request a delay in scheduling or a continuance of a previously scheduled hearing before the assigned Administrative Law Judge in contested cases.*

**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.*

**Board Response:** *The BVNPT agrees with the Committees’ recommendation and will continue to gather information and provide the Committees with findings and recommendations.*

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**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.*

**Board Response:** *The BVNPT is not currently utilizing any COVID-19 waivers and believes that no further statutory changes are needed in this area.*

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**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.*

**Board Response:** *The BVNPT appreciates the Committees' consideration of the changes suggested in the Report, including those already mentioned in this document. The Board will provide updated proposed bill language to the Committees.*

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**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.*

**Board Response:** *BVNPT thanks the Committees and their staff and looks forward to continuing to work together in the coming years.*