

**Board of Vocational Nursing  
and Psychiatric Technicians**

**Administrative and Enforcement  
Program Monitor**

**Third Report**

**Updated Status of the Enforcement Program and  
Additional Administrative Process Assessments**

*January 30, 2017*





MANAGEMENT  
CONSULTANTS

January 30, 2017

Mr. Awet Kidane, Director  
California Department of Consumer Affairs  
1625 North Market Boulevard  
Sacramento, CA 95834

**Contract No. RFO BVNPT 16-01, Addendum 1**  
**Board of Vocational Nursing and Psychiatric Technicians**  
**Administrative and Enforcement Program Monitor**  
*Third Report*  
*Updated Status of the Enforcement Program and*  
*Additional Administrative Process Assessments*

Dear Mr. Kidane,

This *Third Report* summarizes results of our updated assessment of the status of the Board of Vocational Nursing and Psychiatric Technicians' (BVNPT) Enforcement Program. The report also summarizes results of additional assessments completed of BVNPT's vacant positions and hiring, staff training, and oversight and evaluation of staff performance. Finally, the report identifies several other issues, problems and concerns that surfaced or were brought to our attention by BVNPT staff involving matters not within the scope of the BVNPT Monitor assignment. The report is submitted pursuant to requirements set forth in AB 179 (Bonilla, 2015) which required appointment of an Administrative and Enforcement Program Monitor for BVNPT and completion of assessments in specified areas.

On January 20, 2017, we met with BVNPT's Executive Officer, two (2) representatives of BVNPT's governing Board, and several BVNPT staff to review the draft *Third Report*. This review was intended to provide BVNPT with the opportunity to identify potential needs to correct or supplement the data and information contained in the draft *Third Report* and provide feedback to the Monitor prior to finalizing the report. However, because we were unable to complete the review in the two (2) hours allotted, we provided BVNPT with additional time during the following week to compile and provide additional data or other information to us regarding the draft report. No additional information or other feedback regarding the draft *Third Report* was provided to us by BVNPT's Executive Officer who, on January 26, 2017, advised us that "The Board will respond to the Final Report to the Legislature under separate cover."

This *Third Report* supplements the information provided previously in our *Initial Report* dated June 10, 2016, and our *Second Report* dated October 12, 2016. Below we provide a brief summary of the results of our Phase III assessment efforts.

2386 FAIR OAKS BOULEVARD \* SACRAMENTO, CALIFORNIA 95864  
PHONE: 916.425.1475 \* FAX: 866.216.1785  
EMAIL: BEN@BENJAMINFRANK.COM \* WEB: WWW.BENJAMINFRANK.COM

### *Updated Status of BVNPT's Enforcement Program*

As discussed in the *Initial* and *Second Reports*, BVNPT's complaint intake, screening, investigation and discipline processes were thrown into disarray by the organizational and workflow changes that were implemented by BVNPT during 2011/12 and 2012/13. Subsequently, during BVNPT's 2014/15 Sunset Review, reports surfaced about the resulting organizational and operational problems and the scope and magnitude of these problems became apparent to DCA and the Legislature. Corrective measures taken following BVNPT's March 2015 Sunset Review Hearing and during 2015/16 contained these problems and set into place a foundation for building a sustainable, effective and efficient Enforcement Program. Improvements made during that period included:

- ❖ Completion of significantly larger numbers of licensee arrest/conviction report and complaint investigations
- ❖ Significant reductions in the number of pending investigations along with reductions in the average age of the pending cases
- ❖ Significant increases in the number of cases referred to the Office of the Attorney General and in the number of discipline cases completed along with reductions in the average elapsed time to file pleadings and complete disciplinary actions
- ❖ Significant reductions in the number of pending discipline cases and the average age of the pending discipline cases.

However, during July to October 2016, this turnaround appears to have stalled. During this period there was no further decrease in the number of pending investigation or discipline cases. Additionally, on an annualized basis the number of completed licensee arrest/conviction report investigations decreased and the number of completed non-sworn licensee complaint investigations decreased significantly. Also, the average age of BVNPT's licensee complaint investigations decreased only marginally and this decrease is entirely accounted for by reductions in the average age of the pending licensee complaint cases assigned to DCA's Division of Investigation. Finally, while the average elapsed time to complete non-sworn licensee complaint investigations decreased by three (3) months for investigations completed during the July to October 2016 period, the resulting average elapsed time (22 months) was still very long.

Separately, we recently learned from BVNPT staff that a large-scale audit of licensee compliance with BVNPT's Continuing Education (CE) requirements was launched by BVNPT's Education Division. In late-November BVNPT began mass mailing CE compliance audit letters to about 53,000 Vocational Nurses (VNs) and about 5,000 Psychiatric Technicians (PTs), representing more than 40 percent of all BVNPT licensees. This mass mailing was expected to be completed by mid-December, but some of the audit letters were not mailed until several weeks later (e.g., some letters dated in early-December with a 30-day response due date were not mailed until early-January). It is also our understanding that additional resources needed to support completion of these audits are expected to be provided by various staff that are otherwise assigned other licensing, licensing support, administrative or enforcement responsibilities. The rationale for abruptly launching compliance audits of more

than 40 percent of all BVNPT licensees over a period of just a few weeks, rather than spreading the audits over a longer period of time, is not entirely clear. Additionally, it is unclear how BVNPT plans to absorb increased workloads related to maintaining case tracking and records management systems for all of these additional audits, how workload related to reviewing tens of thousands of Certificates of Completion received by BVNPT will be absorbed, how Enforcement Division staff will absorb related increases in citation issuance, tracking and collections workload, or how BVNPT's already backlogged Cashiering Unit will absorb related citation payment workload. As of early-December, specific staffing resources sufficient to complete reviews of all of the submissions that are received had not been identified and a specific timeline for completing reviews of all of the submissions had not been developed.

As a point of reference, even if only about 15 minutes of staff time is needed to complete each audit, including time to sort and open incoming mail, research and re-send returned mail, maintain case tracking and electronic and physical records management systems, review compliance submittals, answer telephone and email inquiries, and prepare and issue follow-up and closing letters, about nine (9) full-time staff would be needed for a period of a year just to complete all 58,000 audits, excluding time for post-audit enforcement activities (e.g., NOW or citation issuance and collection of fines). In mid-January BVNPT began offering weekday and weekend overtime to all staff to help respond to the increased volumes of CE-related mail and email that were being received.

#### ***Additional Assessments of Targeted Administrative Processes***

**Vacant Positions and Hiring** – During periods prior to BVNPT's 2014/15 Sunset Review, BVNPT experienced especially high vacancy rates, particularly within its Education, Licensing, and Administration business units where permanent and limited term positions vacancy rates regularly exceeded 25 percent. Subsequently, many of BVNPT's vacant positions were filled which reduced total vacancies to 8.5 positions by December 2015, representing an overall vacancy rate of about 13 percent. However, during 2016 staff turnover increased and, as of December 2016, overall vacancy rates rose to about 17 percent. In contrast with December 2015 when the Enforcement Division had only 1.5 vacant positions, as of December 2016 the Division had six (6) vacant positions representing a vacancy rate of 18 percent. While BVNPT is recruiting to fill all of these positions, turnover of existing staff is continuing. Additionally, based on interviews conducted during early-December with about two-thirds of all Enforcement Division staff, the overall work environment and workforce morale appear to have deteriorated since March 2016, at least within the Enforcement Division. Finally, as of December 2016, there were also six (6) vacant positions in BVNPT's Executive Office, Education Division, and Licensing and Administration business units representing a vacancy rate of 14 percent.

**Staff Training** – During the past year BVNPT has significantly boosted the number of staff that are provided with various types of training and the amount of training that is provided to these staff. Additionally, much greater emphasis has been placed on provided more advanced training in such areas as (1) analytical skills developments and (2) supervision, management and leadership development. Previously, much of BVNPT’s staff training emphasized skills development in the use of desktop tools such as Microsoft Word and Excel.

**Oversight of Staff and Evaluation of Staff Performance** – Recently, the level of oversight of Enforcement Division staff was adversely impacted by (1) the separation of the sole supervisor of BVNPT’s Investigation Section and the temporary out-of-class assignment of one of the Section’s Special Investigators to serve as an Acting Supervisor for the Section and (2) an extended leave of absence of the Division’s Chief of Enforcement. With respect to BVNPT’s Licensing and Administration business units, various changes in BVNPT’s organizational structure, position allocations, and staff assignments were initiated to improve workload and workforce oversight and management. However, these changes have not yet been fully implemented. In particular, needs exist for BVNPT to fill currently vacant management positions and avoid needs to temporarily assign supervisors and managers to these positions so that they can consistently supervise and manage their regularly assigned business units. Finally, it is our understanding that annual reviews and evaluations of staff performance in all of the BVNPT’s Enforcement, Education, Licensing and Administration business units have been initiated. During periods immediately prior to 2016/17, annual reviews and evaluations of BVNPT staff were not usually completed except for new staff during their probationary period.

**Oversight of BVNPT’s Executive Officer** - It is evident that the members of BVNPT’s governing Board have been largely dependent on information provided by the Executive Officer for purposes of performing their oversight responsibilities, including responsibilities for overseeing the Executive Officer and evaluating the Executive Officer’s performance. Although such dependency is not unique to BVNPT, several Board members noted during our interviews with them during Phase II of the project that this dependency can result in the Board being unaware of performance or other problems as occurred during the period immediately preceding BVNPT’s 2014/15 Sunset Review. Subsequently, during our presentations to the Board in October and November, some Board members suggested in their public comments that our Phase II recommendations might not sufficiently address improvement needs in this area or that members had limited time available to gather and review supplemental information needed to enable better oversight by the Board.

Oversight of BVNPT’s Executive Officer and, by extension, BVNPT’s programs and operations, could potentially benefit from utilization of a 360 degree, multi-rater assessment process in which feedback regarding the Executive Officer’s performance is solicited from a variety of points of view, including Board members, DCA executives, representatives of external stakeholder organizations such as the Office of the Attorney General and control agencies, peers at other regulatory agencies that interact with BVNPT’s Executive Officer, and subordinate staff. Such information could be utilized exclusively for developmental purposes or for a combination of developmental

and performance assessment purposes. It is our understanding that one of BVNPT's current Board members previously suggested that the Board consider utilizing a 360 degree process as part of the Board's annual Executive Officer review process, but that this suggestion was never further explored.

**Recommendation III-1** – *Establish a multi-agency Work Group comprised of representatives of the Business, Consumer Services and Housing Agency, the Department of Consumer Affairs, the Senate Committee on Business, Professions and Economic Development, the Assembly Committee on Business and Professions, and BVNPT's governing Board to assess needs for development of a 360 degree Executive Officer feedback process and, if needed, the best approach and timeframe for developing and implementing the process.*

#### ***Implementation of Phase II Recommendations for Improvement***

BVNPT has implemented four (4) of the 29 recommendations for improvement presented in our *Second Report* and has partially implemented eight (8) others. As of December 2016, BVNPT had not begun implementing the remaining 17 recommendations for improvements.

#### ***Other Identified Issues***

During the past six (6) months various issues, problems and concerns surfaced or were brought to our attention by BVNPT staff involving matters that were not within the scope of the BVNPT Monitor assignment which focused primarily on BVNPT's Enforcement Program and, secondarily, on the targeted administrative processes delineated in AB 179. As these matters surfaced, and consistent with provisions of AB 179, we relayed the information to DCA's Project Manager and, as appropriate, other members of DCA's Leadership Team.

For example, during July 2016 BVNPT's Executive Officer expressed concerns to us about BVNPT's Licensing and Administration Division and the need for completion of an assessment of the Division. We promptly discussed these concerns with DCA's Project Manager and other members of DCA's Leadership Team. Concurrently, BVNPT's Executive Officer discussed these same concerns with some Legislative staff. However, no decisions were ever made to modify the scope and focus of the Monitor's Phase II and III reviews and assessments to address these concerns. Instead, as mutually agreed during the completion of the Phase I Initial Assessment, our Phase II/III assessments of BVNPT's Licensing Program business processes were limited to areas where there were specific and direct linkages to BVNPT's Enforcement Program business processes, including completing integrated assessments of the processes used for identifying and referring license applicant arrest/conviction report cases, licensee Continuing Education cases, and licensee arrest/conviction report cases to the Enforcement Division.

Subsequently, more specific and detailed additional information regarding various problems involving BVNPT's licensing and licensing support business processes was brought to our attention. While we have not completed any assessment of these problems, we have made very limited efforts to confirm or verify the validity of the information provided to us. In some cases these potential problems have linkages to, or impacts upon, BVNPT's Enforcement Program. Specific problems that were brought to our attention subsequent to completion of our Phase I Initial Assessment include:

- ❖ Delays in cashiering school applications
- ❖ Delays in processing on-line initial license applications
- ❖ Delays in processing license renewal batch mail received from DCA Central Cashiering
- ❖ Delays in processing address changes (in-house)
- ❖ Issuance of a Temporary License to an applicant that was previously denied licensure for a criminal offense.

Consistent with the provisions of AB 179, we relayed the information provided to us regarding these potential problems to DCA's Project Manager and, as appropriate, other members of DCA's Leadership Team for their review and consideration and, as needed, follow-up action.

\* \* \* \* \*

We are especially grateful for all of the assistance provided to us by DCA's Project Manager and other DCA executives, DCA's Office of Information Services, Office of Human Resources, and Division of Investigation, and the Office of the Attorney General. Additionally, we are appreciative of the efforts made by many Enforcement Division staff and others at BVNPT to provide us with information and assistance needed to enable us to complete this assessment. Without this support, completion of this phase of the project would have been substantially more difficult.

We appreciate the opportunity to be of service to the Department of Consumer Affairs and the Board of Vocational Nursing and Psychiatric Technicians. If you have any questions or need additional information, please contact me at 916.425.1475.

Very truly yours,

**BENJAMIN FRANK, LLC**



Benjamin Frank  
Chief Executive Officer

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# I. Introduction

## I. Introduction

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As the California State Legislature was preparing to complete its Sunset Review of the Board of Vocational Nursing and Psychiatric Technicians (BVNPT) during late-2014 and early-2015, reports surfaced concerning (1) mishandling of complaints and investigations and (2) significant internal organizational conflict and staff morale problems within BVNPT. Additionally, it became apparent that there were inconsistencies in BVNPT's reported Enforcement Program workload and performance metrics.

BVNPT also reported that, in 2011, it had established and staffed a new Investigation Section within its Enforcement Division which it claimed had enabled BVNPT to (1) drastically reduce the number of cases referred to DCA's Division of Investigation and (2) complete nearly all of its investigations in-house, "despite understaffing and burdensome caseloads". However, available data showed that a key measure of BVNPT's Enforcement Program performance, the average timeframe needed to complete cases resulting in formal discipline, was 1½ years longer than the 18-month timeframe targeted for this measure. By this measure, BVNPT ranked poorly in comparison to other DCA-affiliated Healing Arts Boards.

In response to these developments, representatives of DCA made efforts to encourage BVNPT to utilize Consumer Protection Enforcement Initiative (CPEI) case prioritization guidelines and the DCA Division of Investigation's services. Members of BVNPT's governing Board also began developing an awareness of these same problems from reviewing discipline packages. In many instances the discipline cases were quite old which heightened concerns that the licensees were continuing to practice for years without discipline. Additionally, some members were dissatisfied with management's responsiveness to their requests for additional Enforcement Program information.

During September 2014, BVNPT's governing Board appointed an Enforcement Task Force to assess BVNPT's enforcement and discipline processes. The formation of the Enforcement Task Force appears to have occurred, in part, because the Board's Standing Enforcement Committee had not met in many years and possibly did not have any appointed members. In November 2014 the Task Force submitted its report to the Board. The Task Force report included six (6) recommendations, including a recommendation that BVNPT begin utilizing CPEI case prioritization guidelines and resume utilizing the Division of Investigation's services. This recommendation, along with most of the Task Force's other recommendations, was approved by the full Board. However, BVNPT continued to assign nearly all licensee complaint cases to the Investigation Section. From December 2014 through March 2015, only about 20 cases were assigned to the Division of Investigation. The Task Force report, which also identified four (4) other areas for further study, can be viewed at [www.bvnpt.ca.gov/about\\_us/meetings/materials/20141120\\_12.pdf](http://www.bvnpt.ca.gov/about_us/meetings/materials/20141120_12.pdf).

BVNPT's Sunset Review Hearing was held on March 23, 2015, but BVNPT's responses to participating members' questions during the Hearing did not allay the above issues and concerns. Subsequently, pursuant to a recommendation of legislative staff set forth in their Background Paper for the Hearing, the Director of DCA directed the Deputy Director of its Division of Investigation and Enforcement Programs to further review and investigate the activities of the Board to determine the need for immediate intervention. Concurrently, DCA began an investigation of the causes of the discrepancies in BVNPT's statistical data.

Over the next two (2) months, five (5) BVNPT executives, managers and supervisors separated from the Board, including:

- ❖ Complaint Unit Supervisor – March 31, 2015
- ❖ Executive Officer (EO) – April 30, 2015
- ❖ Assistant Executive Officer (AEO) – April 30, 2015
- ❖ Chief of Enforcement – April 30, 2015
- ❖ Investigation Section Supervisor – May 29, 2015.

## I. Introduction

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Following the separations of the EO, the AEO and the Chief of Enforcement, the Deputy Director assigned a small team of Division of Investigation investigators and analysts to assist the Board with management of the Enforcement Program and begin reviewing all of BVNPT's pending investigations to identify cases for immediate reassignment to the Division of Investigation. Over a two-month period extending from early-May to late-June 2015, the Division of Investigation team identified and transferred to the Division of Investigation about 100 pending cases, including more than 30 cases that had been assigned to the Investigation Section for more than two (2) years. Concurrently, DCA provided an Acting Executive Officer for the Board. Additionally, a new Chief of Enforcement and new supervisors for the Complaint and Investigation Sections were hired.

As a result of all of the above issues, problems, concerns and events, legislation was adopted (AB 179, Bonilla) which required that the Director of DCA appoint an Administrative and Enforcement Program Monitor for BVNPT. Subsequently, on October 6, 2015, AB 179 was approved by the Governor. AB 179 required that the Monitor appointment be accomplished through a personal services contract no later than March 1, 2016 and continue for a period of up to two (2) years from the date of appointment.

On February 2, 2016, DCA issued a Request for Offers (RFO) to obtain the Administrative and Enforcement Monitor services specified by AB 179. A contract to provide these was issued to Benjamin Frank LLC on February 29, 2016. Work on the project commenced almost immediately following DCA's notification of contract award. The term of the contract extends for 24 months through February 28, 2018.

AB 179 sets forth specific responsibilities of the Administrative and Enforcement Program Monitor, including monitoring and evaluating:

- ❖ Specified BVNPT administrative processes, including staff hiring and training procedures, oversight of staff work, evaluation of staff performance, training of Board members, dissemination of information to Board members, assistance of Board members in performing their duties, communication with legislators and legislative staff, and representation of the Board at legislative meetings and hearings
- ❖ BVNPT's disciplinary systems and procedures, with specific concentration on improving the overall efficiency and consistency of the Enforcement Program, including:
  - The quality and consistency of complaint processing and investigation
  - The appropriate use of licensed professionals to investigate complaints
  - BVNPT's cooperation with other governmental entities charged with enforcing related laws and regulations regarding vocational nurses and psychiatric technicians
  - The accurate and consistent implementation of the laws and rules affecting discipline, including adherence to the *Complaint Prioritization Guidelines for Health Care Agencies* established by the Consumer Protection Enforcement Initiative of 2010 (CPEI)
  - Consistency in the application of sanctions or discipline imposed on licensees
  - Staff concerns regarding disciplinary matters or procedures.

## I. Introduction

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AB 179 also requires submission of (1) an *Initial Report* of findings and conclusions by not later than July 1, 2016, (2) interim reports by not later than November 1, 2016 and February 1, 2017, and (3) a *Final Report*, including final findings and conclusions, by January 1, 2018. Finally, AB 179 requires that the Monitor be available to provide oral reports to DCA, BVNPT and the Legislature, if requested to do so.

DCA's RFO and the contract for Monitor services further define the contents of the four (4) legislatively mandated reports, as follows:

**Report No. 1 (*Initial Report*)** – The scope of the *Initial Report* is expanded to include preliminary recommendations (if any).

**Report No. 2** – AB 179 requirements related to assessment of BVNPT's Enforcement Program and procedures are combined with requirements related to submission of the November 1, 2016 report and the scope of the report is broadened to encompass recommendations for structural or procedural reforms to increase BVNPT's effectiveness.

**Report No. 3** – AB 179 requirements related to assessment of specified BVNPT administrative processes are combined with requirements related to submission of the February 1, 2017 report and the scope of the report is broadened to encompass (1) components of BVNPT's Enforcement Program and investigation regarding disciplinary matters or procedures and (2) monitoring and measurement of any changes implemented by BVNPT subsequent to the Initial Assessment.

**Report No. 4 (*Final Report*)** – The Monitor is required to integrate all of the previously prepared summaries of results of analyses to produce the *Final Report*.

The remainder of this section summarizes our overall technical approach to providing the prescribed Monitor services. Additionally, we summarize and discuss our data gathering, analysis and reporting processes and activities during the first two phases of this project, from March through late-September 2016, when we worked collaboratively with Enforcement Division management and staff to (1) gather record-level Enforcement Program workload, workflow, backlog, and performance data from periods both before and subsequent to BVNPT's conversion from CAS to BreZE at the start of 2016 and (2) identify and correct problems with the data. We also reference summaries provided in our prior reports of significant inconsistencies, anomalies, and constraints with BVNPT's historical data, the effects of these problems on BVNPT's reported Enforcement Program workload, workflow, backlog and performance metrics, and their impacts on the completion of research and analysis of the BVNPT's Enforcement Program.

Subsequent sections of the report are organized as follows:

Section	Title
II.	Updated Status of the Enforcement Program
III.	Targeted Administrative Process Assessments
IV.	Other Issues.

The report also contains two(2) appendices (A and B) that provide time series data summaries for BVNPT's case intake and investigation processes and discipline processes, respectively.

# I. Introduction

## A. Updated Overview of Project Approach and Schedule

Our overall approach to providing the prescribed Monitor services was initially organized into the following four (4) major project phases aligned with each of the four (4) reports delineated in AB 179:

- Phase I – Diagnostic Review and Initial Assessment
- Phase II – In-Depth Research and Assessment of Complaint Intake, Screening and Investigation Processes
- Phase III – Administrative and Disciplinary Process Assessments
- Phase IV – Ongoing Monitoring and Final Project Report.

Our schedule for completing each of the four (4) major project phases contemplated completion of each phase sequentially by the dates set for in AB 179 for submission of the various legislatively-mandated reports. However, following completion of the Phase I Diagnostic Review and Initial Assessment and consideration of the limited 3-month timeframe available to complete Phase III, it was jointly determined that the Phase III assessments should be accelerated as much as possible so that the results of the assessments could be included in the Phase II report submitted to the Legislature on November 1, 2016. Conversely, this modified schedule reduced the scope of the assessments completed subsequent to November 1<sup>st</sup> and included in the Phase III report. **Figure I-1**, below, illustrates this revised overall schedule for completing the project.

**Figure I-1. Revised Project Schedule**

Phase	2016											2017				
	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr to Jun	Jul to Sep	Oct to Dec
Phase I - Diagnostic Review and Initial Assessment	■	■	■	■												
Phase II - In-Depth Research and Assessment of Complaint Intake, Screening and Investigation Processes					■	■	■	■	■							
Phase III - Administrative and Disciplinary Process Assessments					■	■	■	■	■	■	■					
Phase IV - Ongoing Monitoring and Final Project Report												■	■	■	■	■

Below we provide a brief overview of the work performed as part of each of the first three (3) project phases and the work that is expected to be performed during Phase IV of the project.

# I. Introduction

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## Phase I – Diagnostic Review and Initial Assessment

Our Phase I efforts initially focused on meeting with DCA’s Director, Chief Deputy Director, and Project Manager, BVNPT’s former Acting Executive Officer, BVNPT’s current Executive Officer and Chief of Enforcement, and designated others to review our overall approach and schedule for performing the engagement. Additionally, we collected and reviewed available background information, including historical organizational charts and staffing data, and scheduled and conducted interviews with all BVNPT executives, managers and supervisors and all Enforcement Program staff. We also scheduled and conducted interviews with representatives of DCA’s Division of Investigation, legislative oversight committees, and two recently retired DCA executives (the former Director of DCA and the former Deputy Director of DCA’s Division of Investigation and Enforcement Programs). We also conducted a number of follow-up interviews with Enforcement Program management and staff and others, as appropriate.

As part of Phase I we collected and summarized several sets of available Enforcement Program workload, workflow, backlog, performance, and investigation and disciplinary outcome statistical data summaries and recaps. Following review with DCA’s Project Manager and BVNPT’s Executive Officer and Chief of Enforcement, it was determined that none of the available data summaries and recaps could be relied upon for purposes of supporting completion of the Initial Assessment. Instead, we requested and were provided with 18 sets of original data extracts from BVNPT’s Complaint Tracking System, commonly known as CAS (Consumer Affairs System), covering the 5 ½ year period extending from July 2010 through December 2015, that we could utilize to develop a consistent set of initial time series data recaps and summaries for a broad range of core Enforcement Program workload, workflow, backlog, outcome and performance indicators. In total, more than 120,000 CAS data records were obtained, sorted, filtered, compiled and summarized to support completion of the Initial Assessment.

Additionally, as part of Phase I we worked collaboratively with DCA’s Project Manager and BVNPT’s Executive Officer and Chief of Enforcement to identify and frame a set of 10 key issues related to BVNPT’s complaint intake, screening, investigation, and disciplinary action processes, and specified administrative processes as delineated in AB 179. It was anticipated that these issues would be further assessed during subsequent project phases.

As part of Phase I, during March 2016, we prepared and disseminated a confidential survey to all of the members of BVNPT’s governing Board to obtain their input regarding each of the following topics:

- ❖ Governing Board structure, size and composition
- ❖ Committees
- ❖ Board meeting structure and effectiveness
- ❖ Disciplinary decisions
- ❖ Effectiveness of training and support
- ❖ Legislative affairs and relations.

Nine (9) Board members completed the survey. It was anticipated that the survey responses would be compiled, analyzed and summarized for inclusion in a subsequent phase report.



## I. Introduction

A draft of the *Initial Report*, summarizing results of the Initial Assessment, was prepared and submitted to DCA’s Project Manager and BVNPT’s Executive Officer and Chief of Enforcement for their review. Required modifications resulting from this review were then incorporated and the report was prepared in final form. During June 2016, the *Initial Report* was presented to BVNPT’s governing Board and the Board was provided an opportunity to submit comments regarding the report. The *Initial Report*, including the Board’s comments, was submitted to the Legislature on July 1, 2016.

### Phases II/III – Case Intake, Investigation, Discipline and Targeted Administrative Process Assessments

During June 2016, in consultation with DCA’s Project Manager and BVNPT’s Executive Officer and Chief of Enforcement, we prepared an integrated *Work Plan and Schedule* for concurrently completing Phase II and significant portions of Phase III so as to minimize the scope of the reviews and analyses that would need to be completed during November and early-December 2016. **Figure I-2**, below, and **Figure I-3**, on the next page, identifies the major tasks to be completed as part of Phases II and III, respectively, and the initially planned schedules for completing these tasks.

**Figure I-2. Phase II Project Schedule**

Phase II Tasks	2016												2017				
	Jun		Jul			Aug		Sep		Oct		Nov		Dec		Jan	
	30	15	31	15	31	15	30	15	31	15	30	15	31	15	31		
Task II-1 - Phase II Project Management and Administration																	
Task II-2 - Schedule and Conduct Additional Interviews																	
Task II-3 - Conduct Additional Research and Analyses of Case Initiation/Intake, Investigation Assignment and Selected Discipline Processes																	
Task II-4 - Conduct High-Level Integrated Assessment of BVNPT Enforcement Division Workload, Workflow, Staffing and Organization																	
Task II-5 - Collect, Compile, Summarize and Analyze Updated Enforcement Program Workload, Workflow and Performance Data																	
Task II-6 - Complete Phase II Analyses, Develop Recommendations for Improvements, and Prepare Phase II Summary Report and Updated Phase III Work Plan and Schedule																	

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Figure I-3. Phase III Project Schedule

Phase III Tasks	2016												2017			
	Jun		Jul		Aug		Sep		Oct		Nov		Dec		Jan	
	30	15	31	15	31	15	30	15	31	15	30	15	31	15	31	
Task III-1 - Phase III Project Management and Administration																
Task III-2 - Analyze Responses to Survey of Governing Board Members, Complete Related Analyses and Summarize Results																
Task III-3 - Assess Other Specified Administrative Processes																
Task III-4 - Collect, Compile, and Summarize Disciplinary Process and Outcome Data																
Task III-5 - Assess Disciplinary System and Processes																
Task III-6 - Collect, Compile, Summarize and Analyze Updated Enforcement Program Workload, Workflow and Performance Data																
Task III-7 - Complete Phase III Analyses, Develop Recommendations for Improvements, and Prepare Phase III Summary Report and Phase IV Work Plan and Schedule																

 Denotes ongoing task.

On June 28, 2016, we submitted a draft *Summary of Board Member Survey Responses* (Appendix A) to DCA’s Project Manager and BVNPT’s Executive Officer and Chief of Enforcement for review. Subsequently, during the next several months, most Phase II and Phase III tasks were completed consistent with the above schedules, except that some Phase III tasks that were expected to be completed after submission of the *Second Report* were further accelerated and substantially completed concurrent with the completion of Phase II.

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On September 6, 2016, we submitted drafts of Exhibits II-1 through II-6, Exhibits III-1 through III-6 Exhibits IV-1, V-1 and V-2, and the Table of Contents, List of Exhibits and report cover page to DCA's Project Manager and BVNPT's Executive Officer and Chief of Enforcement for review. On September 23, 2016, we submitted a complete *Initial Draft Second Report*, including Appendix A (*Summary of Board Member Survey Responses*) and a *Sample Q4 2015/16 Enforcement Program Workload and Performance Report* to DCA's Project Manager and BVNPT's Executive Officer and Chief of Enforcement for review. An *Initial Draft Executive Summary of the Second Report* was submitted a few days later on September 27, 2016.

On September 29 and 30, 2016, we met with DCA's Project Manager and BVNPT's Executive Officer, Chief of Enforcement and Supervising Nurse Education Consultant to review the *Initial Draft Second Report* and the accompanying *Executive Summary* and *Sample Q4 2015/16 Enforcement Program Workload and Performance Report*. During the September 30, 2016, review meeting, BVNPT's Executive Officer argued strongly that the Board member survey information should be excluded completely from the *Second Report* because the information was incorrect and outdated, and would be confusing to readers because it was not sufficiently clear that the responses did not reflect leadership team and other changes that had occurred during the preceding 6-month period. Additionally, the Executive Officer argued that the survey responses should be replaced with Board member responses to a separate survey that the Executive Officer had more recently completed separate from the Monitor Project. Due to concern that including the Board member survey response summary information could potentially serve as a distraction from the findings, conclusions, recommendations and other information contained in the *Second Report*, we decided to publish the *Second Report* in final form without the accompanying Appendix A.

On October 21, 2016, we presented the *Second Report* to BVNPT's governing Board and provided the Board with an opportunity to ask questions about or provide comments regarding the report. The *Second Report* was submitted to the Legislature on November 1, 2016, without any accompanying comments from the Board which it declined to provide.

Two weeks later, on November 4, 2016, we again appeared before the Board to respond to any additional questions or comments that the members had regarding the *Second Report*. During the meeting, some members asked about the reporting of their responses to the first and second Board member surveys. In response to the members' comments and questions, we advised the Board that we would not publish their responses to the second survey conducted by the Executive Officer separate from the Monitor Project and offered to fulfill our previous commitment to publish a summary of their responses to the confidential survey that we had conducted during Phase I. Several members made comments in support of being provided with a summary of the survey responses and none of the members made comments in opposition to our publication of such a summary.

Subsequently, we modified the previously prepared draft *Summary of Board Member Survey Responses* (Appendix A) to include directly related survey background information contained in Section VII of the *Second Report*. Additionally, in an effort to address BVNPT's concerns related to the publication of the survey response summary information, we modified the summary to further clarify when the survey was conducted and the time periods to which the survey response information was applicable. Finally, we prepared an *Addendum to the Second Report*, dated November 14, 2016, which provided a summary of the Board member responses to the confidential survey and, on November 16, 2016, provided copies of the *Addendum* to BVNPT's Executive Officer, DCA's Contract

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Manager, the Business, Consumer Services and Housing Agency's Director of Legislation, and staff representing the Assembly Speaker's Office, the Assembly Committee on Business and Professions, and the Senate Committee on Business, Professions and Economic Development.

During November and December we substantially completed the few remaining Phase III tasks that were not already substantially completed during Phase II. Initially, our efforts focused on conducting additional targeted assessments in the following three (3) areas specifically referenced in AB 179:

- ❖ Staff hiring and training procedures
- ❖ Oversight of staff work
- ❖ Evaluation of staff performance.

These additional targeted assessments focused primarily on areas other than the Enforcement Division where the assessments of these areas had already been substantially, or fully, completed (e.g., needs for completion of periodic case review meetings with Investigation Section staff and completion of Individual Development Plans and Annual Performance Reviews for all Enforcement Division management and staff during the 2016/17 fiscal year).

A primary focus of our Phase III efforts was expected to involve collecting, compiling, summarizing and analyzing additional case intake, investigation and discipline workload, workflow, backlog and performance data for the 3-month period extending from July 1 through September 30, 2016. We also planned to complete targeted verifications of key workload, workflow, backlog and performance metrics presented previously in the *Second Report* for the 6-month period extending from January 1 through June 30, 2016 to determine whether any BreEZe programming changes or data clean-ups subsequently completed by BVNPT materially impacted the results of our previously completed analyses or any related findings, conclusions, or recommendations for improvements. Results of these data collection and analysis efforts were expected to be used to support further assessment of the impacts of the various changes implemented by BVNPT to improve Enforcement Program performance, including recommendations for improvement presented previously in the *Second Report*.

To support completion of the above analyses, we prepared and submitted an *Initial Phase III Data Request* to BVNPT on October 28, 2016. As directed by BVNPT, the request was submitted to BVNPT's Executive Officer. As part of the request we indicated that, due to the short time frame available to complete Phase III, the requested data needed to be provided to us by not later than November 18, 2016. Subsequently, BVNPT's Executive Officer provided assurances that the requested data would be provided on a timely basis consistent with our request. However, over the next two (2) weeks, almost none of the requested data was provided. Concurrently, Senate Business, Professions and Economic Development Committee staff scheduled a meeting for November 16, 2016, to address various issues and concerns regarding the provisions of AB 179 requiring that the Board cooperate in providing data and information to the Monitor. During this meeting, an agreement was reached whereby:

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- ❖ DCA would assist BVNPT in preparing the requested BreZE data extracts. This assistance did not include providing assistance with preparation of Probation Program data, Continuing Education compliance audit activity reports, or Weekly and Monthly Enforcement Stats Reports that were also requested as part of our Initial Phase III Data Request.
- ❖ The due date for BVNPT's provision of all of *Initial Phase III Data Request* data to the Monitor would be extended by two (2) weeks to December 2, 2016.
- ❖ The due date for DCA's submission of the *Third Report* to the Legislature would be extended by two (2) weeks to February 13, 2017.

DCA's Office of Information Services (OIS) provided BVNPT with all but two (2) of 33 requested BreZE data extracts on or before November 22, 2016, and then provided BVNPT with the remaining BreZE data extracts on December 1, 2016. BVNPT provided all of the requested BreZE data extracts to us during the late-afternoon on Friday, December 2, 2016. Subsequently, due to various deficiencies with the completeness and quality of some of the data contained in some of the BreZE data extracts provided to us, on December 27, 2016 we submitted a *Supplemental Phase III Data Request* for two (2) additional standard BreZE data extracts. The additional data extracts were provided to us on December 29, 2016. Finally, our October 28, 2016 *Initial Phase III Data Request* included a request for a limited set of Probation Program workload and performance data. However, as of late-December 2016, almost none of the Probation Program data that we requested was provided. Consequently, we were unable to complete an updated assessment of BVNPT's Probation Program.

Additionally, to support completion of the above analyses, on November 10, 2016 we submitted a request to BVNPT's Executive Officer to schedule interviews with selected BVNPT managers, supervisors and staff on Monday, November 21, 2016. Subsequently, due to miscommunications regarding the scheduling of these interviews and continuing delays in receiving the requested Phase III data, we elected to reschedule these interviews for a later date. On November 29, 2016, we submitted a request to BVNPT's Executive Officer to schedule interviews with more than 20 selected BVNPT executives, managers, supervisors and staff during the first week December 2016. Subsequently, we completed individual interviews with 18 Enforcement Division managers and staff, four (4) current or former supervisors and managers of BVNPT's Licensing and Administration business units, BVNPT's Executive Officer and Acting Assistant Executive Officer, and three (3) other specialist staff (an Associate Information Systems Analyst that was involved in preparing BVNPT's response to our Initial Phase III Data Request, a Staff Services Analyst that serves as BVNPT's HR Liaison, and a Program Technician II that has been BVNPT's CE Compliance Auditor for the past eight (8) years). With one (1) exception, all of these interviews were conducted at BVNPT's offices on December 7 and 8, 2016. A representative of the Business, Consumer Services and Housing Agency attended all of the interviews as an observer. One (1) interview with the Acting Supervisor of the Licensing Support Unit was subsequently conducted by telephone.

Finally, during Phase III we were unable to complete interviews with representatives of the California Department of Public Health (CDPH) and the California Department of Health Care Services (CDHCS) as had been planned. The purpose of these interviews was to gather additional information related to their enforcement case referrals. We now expect to schedule and complete these interviews as part of Phase IV.

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### Phase IV – Ongoing Monitoring and Final Project Report

Our efforts during Phase IV are expected to initially focus on responding to questions or providing briefings or presentations as part of the Legislature’s 2017 Sunset Review process. Additionally, we expect to:

- ❖ Conduct additional targeted reviews and assessments, as required
- ❖ Interview representatives of CDHP and CDHCS
- ❖ Continue monitoring BVNPT’s Enforcement Program performance, including performance related to intake, screening, and investigation of complaints, disciplinary actions, and the impact of changes implemented by BVNPT
- ❖ Continue monitoring the status of BVNPT’s implementation of the recommendations for improvements made during prior project phases.

Finally, during the latter part of CY2017, we will prepare a *Final Report* summarizing results of analyses completed throughout the project and providing final findings, conclusions and recommendations for improvements pertaining to BVNPT’s Enforcement Program effectiveness and efficiency, disciplinary system and procedures and specified administrative processes. Preliminarily, we expect to deliver the *Final Report* in final form prior to the end of year holiday period.

### B. Data Gathering, Analysis and Reporting

Throughout the first two phases of this project, from March through late-September 2016, we worked collaboratively with Enforcement Division management and staff to (1) gather record-level Enforcement Program workload, workflow, backlog, and performance data from periods both before and subsequent to BVNPT’s conversion from CAS to BreZE at the start of 2016 and (2) identify and correct problems with the data. Collaboration with BVNPT Enforcement Program management and staff was required for all the following reasons.

- ❖ **The purposes for establishing a BVNPT Monitor were not to simply confirm that there were deficiencies with BVNPT’s statistical reporting.** Problems with BVNPT’s reported Enforcement Program statistical measures were initially identified during BVNPT’s 2014/15 Sunset Review. These problems prompted an investigation of BVNPT’s statistical reporting by DCA and were one of the primary reasons why AB 179 was enacted requiring appointment of a BVNPT Administrative and Enforcement Program Monitor. During the first several weeks of the project we compiled and summarized all of BVNPT’s available Enforcement Program statistical data and determined that there were numerous significant discrepancies, anomalies, inconsistencies and gaps in the data that made the data largely meaningless and useless for any sort of program assessment and evaluation purpose. Our assessment of BVNPT’s Enforcement Program could have been completed at that point if that had been all that was required.
- ❖ **AB179 specifically required completion of an assessment of BVNPT’s Enforcement Program, including BVNPT’s complaint intake, investigation and disciplinary processes.** Unlike a compliance audit, completion of a defensible assessment requires collection and analysis of data regarding historical and current workloads, workflows and performance which can be used to examine historical and current business processes and identify and evaluate potential improvement strategies and initiatives. Available statistical

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data can potentially be used to support completion of an assessment, but usually at least some supplemental data is also needed. However, in the case of BVNPT, not only was the available statistical data not usable, but there also were significant problems with the quality and completeness of both the statistical data and with the underlying record-level data. If we had not collaborated with Enforcement Program management and staff to identify and correct problems with BVNPT's Enforcement Program data, then it would not have been possible to produce a defensible assessment of BVNPT's Enforcement Program, which was one of the principle purposes for requiring that a Monitor be appointed.

- ❖ **It would have been irresponsible for us to withhold information from BVNPT Enforcement Program management regarding the data deficiencies that we identified as doing so would have served to perpetuate the already significant problems that BVNPT had with the quality of its statistical data and would have resulted in continued reporting of faulty information to BVNPT's governing Board, DCA, oversight and control agencies, the Legislature and the public.** In many cases the problems we identified with BVNPT's Enforcement Program data were significant and unknown to BVNPT. Throughout the first two phases of the project we promptly disclosed these problems to Enforcement Program management as soon as they were identified and then worked collaboratively with Enforcement Program management and staff to identify the causes of the problems, correct faulty record-level data, and identify and assess alternative corrective measures to prevent recurrence of these same problems during subsequent reporting cycles. At no point did we ever require BVNPT to correct its faulty data. BVNPT's Enforcement Division managers and staff always elected to promptly correct faulty Enforcement Program data because it would have been irresponsible for them not to do so.
- ❖ **The problems that were identified with BVNPT's BreEZe data delayed BVNPT's releases of quarterly Enforcement Program data to BVNPT's governing Board and jeopardized our ability to fulfill requirements of AB 179 as well as BVNPT's ability to complete related sections of its 2016/17 Sunset Review Report.** During July 2016 when BVNPT initially provided us with various BreEZe data extracts for the January through June 2016 period, we began identifying significant discrepancies and anomalies with some of the data. At that time BVNPT had already submitted faulty Q3 2015/16 Enforcement Performance Measures data to DCA. Significant effort was expended at that time researching and further analyzing the underlying BreEZe data to determine the causes of these problems. From these efforts, we jointly identified multiple significant problems with the BreEZe data that were unknown to BVNPT and resulted in significant misstatement of key workload and performance metrics such as (1) the number of investigations completed and (2) the timeframes needed to complete the investigations. For example, we identified cases where:
  - BreEZe data fields were incorrectly populated with CAS data, such as data showing that sworn field investigations had been completed in just one (1) day when, in fact, the investigations were assigned on that date and not completed until many months later, or were still pending.
  - Field investigations were double-counted as both completed non-sworn and sworn investigations when, in fact, the cases had been first assigned to BVNPT's non-sworn Investigation Section where they had languished, in some cases for years, and then were reassigned to DCA's Division of Investigation which actually completed the investigation.

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- Cases counted as completed field investigations were counted again as completed desk investigations rather than being separately tracked as case reviews completed for purposes of determining whether (1) a supplemental investigation or opinion of an outside expert were needed and (2) results of the investigation supported referral of the case to the Office of Attorney General for disciplinary action.
- BreEZe data fields were not populated with CAS data, such as data showing that Petitions for Revocation were filed, resulting in significant undercounting of the number of Petitions for Revocation filed.

We also found inconsistencies in how staff coded cases and various activity tracking fields. Throughout July and August, as we identified these and other problems, we prepared and provided data exception listings to Enforcement Program management that were used by staff as punch lists to further research and correct individual case data. Additionally, throughout this period, Enforcement Program management and staff continued to separately identify other BreEZe data problems that were concurrently cleaned-up on a continuous basis. Enforcement Program workload and performance data was not included in the quarterly Enforcement Report provided to BVNPT's governing Board at its August 2016 meeting and it was not until October 2016 that BVNPT released corrected Q3 2015/16 Enforcement Performance Measures data to DCA along with its Q4 2015/16 Enforcement Measures data. Concurrently, we issued our *Second Report* which, for the most part, utilized the same underlying BreEZe data. The nature and magnitude of BVNPT's BreEZe data problems, the short time frame available to complete Phases II and III, and needs for BVNPT to provide accurate Enforcement Performance Measures data to DCA and accurate Enforcement Program data to the Legislature for its Sunset Review all reinforced the need for BVNPT, DCA and the Monitor to all work together collaboratively to correct any identified BVNPT Enforcement Program data problems as quickly as practicable.

- ❖ **We kept DCA's Contract Manager and BVNPT's Executive Officer and Chief of Enforcement continuously and fully informed regarding the nature and magnitude of the problems that existed with BVNPT's Enforcement Program statistical data and underlying data records.** For example, in late-March, following a review of available historical statistical data, it was mutually agreed that record-level CAS data extracts for all time periods through December 2015 would be prepared by BVNPT and provided to the Monitor for use in developing time series statistical data that could be used for purposes of completing required assessments of BVNPT's Enforcement Program. It was also mutually agreed that BreEZe data would be used for completing required assessments of BVNPT's Enforcement Program for subsequent periods, beginning with the January to June 2016 period. At that time it was expected that any remaining clean-ups of the BreEZe data that were needed following conversion to the new system would be completed by mid-July when this data would be needed. This approach was reaffirmed during late-June when we met with DCA's Contract Manager and BVNPT's Executive Officer and Chief of Enforcement and developed a *Consolidated Phase II/III Work Plan* to guide completion of the next two project phases. Our approach was subsequently further affirmed in mid-July when BVNPT began providing additional CAS data extracts to us for periods prior to 2016 along with BreEZe data extracts for the January through June 2016 period and additional, unanticipated problems were identified with both the CAS and BreEZe data.



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- ❖ **Disclosures regarding the problems with BVNPT's Enforcement Program statistical data and underlying data records were provided in our *Initial Report* and also in the *Second Report*.** The above described problems with BVNPT's historical statistical reporting and CAS data were first disclosed in the *Initial Report* dated June 20, 2016 which was submitted to the Legislature on July 1, 2016. Subsequently, the above described CAS and BreZE data problems were disclosed in the *Second Report* dated October 21, 2016, which was submitted to the Legislature on November 1, 2016. Following release of the *Initial Report*, we interviewed all of the members of BVNPT's governing Board. In each case we specifically asked the member whether they had any issues, problems, questions or concerns regarding the overall Enforcement Monitor Project or the *Initial Report*. None of the members expressed any concerns regarding our technical approach to assessing BVNPT's Enforcement Program. In the case of the *Second Report*, BVNPT's Leadership Team argued strongly during their review of the draft report on September 29 and 30, 2016, that we had over-emphasized the problems with BVNPT's Enforcement Program data and that these disclosures were unnecessary since the data problems had since been corrected. However, we made no modifications to the *Second Report* to address these concerns as doing so would have removed or obscured descriptive information that we believed should not be withheld. We also did not modify the *Second Report* to indicate that the Board's data problems had been resolved as this outcome had not yet been sufficiently or consistently demonstrated to have actually occurred. The statistical data presented in the report was not challenged and no concerns were expressed about the processes used to develop that data.

Finally, in our opinion, Enforcement Program management and staff did not at any time act improperly in working collaboratively with the Monitor to improve the completeness and quality of BVNPT's Enforcement Program data records and related statistical reporting. Such efforts supported fulfillment of the requirements of AB 179 while concurrently enabling BVNPT staff to begin providing BVNPT's governing Board, DCA, oversight and control agencies, the Legislature and the public with valid and reliable workload, backlog and performance data needed for purposes of determining the status of the Enforcement Program and the nature and magnitude of any program performance deficiencies and improvement needs, all of which helps to support fulfillment of the Board's consumer protection mission.

### C. Data Inconsistencies, Anomalies, Constraints and Effects

Summaries of significant inconsistencies, anomalies, and constraints identified with BVNPT's historical CAS and BreZE data during Phases I and II of the project, the effects of these problems on BVNPT's reported Enforcement Program workload, workflow, backlog and performance metrics, and their impacts on the completion of research and analysis of the BVNPT's Enforcement Program were provided previously in the *Initial Report* dated June 10, 2016 (see Section I-E) and the *Second Report* dated October 12, 2016 (see Section I-B).

## II. Updated Status of the Enforcement Program

## II. Updated Status of the Enforcement Program

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This section summarizes recent changes and trends in BVNPT's Enforcement Program workload, workflows, backlogs and performance. Additionally, we summarize the status of BVNPT's implementation of Phase II recommendations. The section is organized as follows:

- | Section | Title                                       |
|---------|---|
| A.      | Case Intake and Investigations              |
| B.      | Discipline Cases                            |
| C.      | Implementation of Phase II Recommendations. |

Most of the exhibits referenced herein can be found in Appendices A and B.

Overall, the workload, workflow, backlog and performance metrics and trends presented herein show that BVNPT's Enforcement Program turnaround has stalled. For example, during the 4-month period from July through October 2016 there was no further decrease in the number of pending investigation or discipline cases. Additionally, on an annualized basis, the number of completed licensee arrest/conviction report investigations decreased and the number of completed non-sworn licensee complaint investigations decreased significantly. Also, the average age of BVNPT's pending licensee complaint investigations decreased only marginally and this decrease is entirely accounted for by reductions in the average age of the pending licensee complaint cases assigned to DCA's Division of Investigation. Finally, while the average elapsed time to complete non-sworn licensee complaint investigations decreased by three (3) months for investigations completed during the July to October 2016 period, the resulting average elapsed time (22 months) was still very long.

### A. Case Intake and Investigations

This section summarizes recent changes and trends in BVNPT's case intake and investigation workload, workflows, backlogs and performance. The section is organized as follows:

- | Section | Title                                       |
|---------|---|
| 1.      | License Applicant Arrest/Conviction Reports |
| 2.      | Continuing Education Compliance Audit Cases |
| 3.      | Licensee Arrest/Conviction Reports          |
| 4.      | Licensee Complaints                         |
| 5.      | Administrative Disciplinary Outcomes        |
| 6.      | Total Pending Investigations.               |

## II. Updated Status of the Enforcement Program

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### 1. License Applicant Arrest/Conviction Reports

As shown by **Exhibit A-1**, BVNPT now opens about 600 license applicant arrest/conviction report cases per year. As discussed previously in the *Initial and Second Reports*, BVNPT restructured the License Applicant Arrest/Conviction Report Process during 2015/16. Prior to the restructuring, BVNPT opened several thousand license applicant arrest/conviction report cases per year. As shown by **Exhibits A-2 and A-3**, nearly all of these cases are handled as desk investigations by Complaint Section analysts. Currently, as shown by **Exhibit A-4**, there are relatively few pending license applicant arrest/conviction report cases. As shown by **Exhibit A-6**, BVNPT issues Notices of Warning (NOWs) for about one-half of these cases. Nearly all of the remaining cases are closed without further action. As shown by **Exhibit B-1**, about 40 to 50 denials of licensure are currently issued per year. These cases currently account for about 10 percent of all cases referred to the Office of the Attorney General (AG).

### 2. Continuing Education Compliance Audit Cases

**Exhibit II-1**, on the next page, provides a summary of BVNPT's Continuing Education compliance audit activity from 2013/14 through October 2016. As discussed previously in the *Second Report*, BVNPT has historically enforced licensee compliance with CE requirements by auditing a sample of licensees following renewal of their license. Available historical data suggests that BVNPT audited up to about 1,500 licensees per year. After selecting renewal files to audit, staff requested documentation from each licensee substantiating their compliance with BVNPT's CE requirements (30 credits per 2-year period). Based on the data presented in Exhibit II-1, only about 75 percent of licensees comply with BVNPT's CE requirements. Additionally, based on BVNPT's citation issuances, about 10 to 15 percent of the licensees are either non-responsive to BVNPT's compliance audit letters or are unable to provide documentation substantiating completion of any CE during the 2-year audit period.

As shown by Exhibit II-1, in recent years CE compliance audit staff were oftentimes redirected to address other Licensing Program business needs and completed fewer CE compliance audits, resulting in referral of fewer cases to Enforcement. For example, as shown by **Exhibit A-1**, during 2014/15 only 13 CE audit failure (Internal – Fraud) cases were referred to Enforcement compared to an average of more than 150 CE audit failure (Internal – Fraud) cases referred to Enforcement per year during the preceding four (4) years. More recently, as shown by Exhibit II-1, since April 2016 there has been a nearly complete cessation of CE compliance auditing activity. As a result, as shown by Exhibit A-1, only four (4) CE audit failure cases were referred to Enforcement from July through October 2016.

As discussed previously in the *Second Report* and shown by Exhibit A-6, during 2011/12 and 2012/13 citations were issued for all (or nearly all) cases involving failure to comply with CE requirements (60 citations were issued during 2011/12 and 101 citations were issued during 2012/13). Notices of Warning (NOWs) were either very rarely issued, or not issued at all. Subsequently, during 2013/14, Complaint Section staff became concerned about potential deficiencies with some of the CE compliance auditing processes, including concerns that some potentially allowable CE courses were being disallowed (e.g., credits for courses in cases where a Certificate of Completion was provided by the licensee, but was incomplete because it did not include a provider or course number, or both, and inconsistent practices for converting college courses to CE credits). Additionally, there were increasing problems related to the age of the cases that were referred to Enforcement which, in some cases, extended into periods that exceeded BVNPT's 4-year CE

Summary of Continuing Education Compliance Audit Activity

Fiscal Year	Period	Continuing Education Compliance Audit Letters							Completion Letters		
		First Letter			Second Letter	Final Letter	Submission Follow-Up Letters	Provider Verification Letters	VN	PT	Total
		VN	PT	Total							
2013/14	First Quarter	0	0	0	0	0	0	0	73	14	87
	Second Quarter	0	0	0	0	45	0	59	78	18	96
	Third Quarter	302	60	362	14	28	39	136	92	22	114
	Fourth Quarter	322	70	392	129	0	44	183	243	46	289
	<b>Total</b>	<b>624</b>	<b>130</b>	<b>754</b>	<b>143</b>	<b>73</b>	<b>83</b>	<b>378</b>	<b>486</b>	<b>100</b>	<b>586</b>
2014/15	First Quarter	312	61	373	0	0	57	178	231	46	277
	Second Quarter	308	70	378	332	0	63	211	185	39	224
	Third Quarter	304	60	364	52	0	58	191	216	36	252
	Fourth Quarter	301	60	361	124	0	40	137	199	29	228
	<b>Total</b>	<b>1,225</b>	<b>251</b>	<b>1,476</b>	<b>508</b>	<b>0</b>	<b>218</b>	<b>717</b>	<b>831</b>	<b>150</b>	<b>981</b>
2015/16	First Quarter	308	60	368	43	153	71	220	206	52	258
	Second Quarter	235	43	278	40	233	39	186	198	46	244
	Third Quarter	89	46	135	148	0	29	165	185	41	226
	April	64	3	67	77		0		0	26	26
	May	0	0	0	0	Discontinued	0	Discontinued	0	0	0
	June	0	0	0	0		3		72	0	72
	<b>Total</b>	<b>696</b>	<b>152</b>	<b>848</b>	<b>308</b>	<b>386</b>	<b>142</b>	<b>571</b>	<b>661</b>	<b>165</b>	<b>826</b>
<b>Total - 2013/14 through 2015/16</b>		<b>2,545</b>	<b>533</b>	<b>3,078</b>	<b>959</b>	<b>459</b>	<b>443</b>	<b>1,666</b>	<b>1,978</b>	<b>415</b>	<b>2,393</b>
<b>Total - January 2014 through June 2016</b>		<b>2,545</b>	<b>533</b>	<b>3,078</b>	<b>959</b>	<b>414</b>	<b>443</b>	<b>1,607</b>	<b>1,827</b>	<b>383</b>	<b>2,210</b>
2016/17	July	0	0	0	0		0		0	0	0
	August	0	0	0	0		0		0	0	0
	September	28	14	42	0	Discontinued	0	Discontinued	0	0	0
	October	0	0	0	0		0		0	0	0

Source: BVNPT Continuing Education audit activity statistical summaries.

## II. Updated Status of the Enforcement Program

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records retention requirement. Finally, technical deficiencies were identified with some of the notices that were sent to the licensees. In response to these circumstances, Complaint Section analysts began issuing NOWs, rather than citations, in nearly all cases. During 2013/14, 40 citations were issued and a similar number of NOWs were issued. Subsequently, during 2014/15, about 120 NOWs were issued and only one (1) citation was issued.

During 2015/16 various changes were made to the CE audit process, including (1) preparation of listings of the cases to be audited, (2) discontinuation of the need to obtain provider verifications of the information submitted by the licensee, (3) modification of the letters that were sent to the licensee, and (4) limitation of the number of requests sent to the licensee to just an initial request and a single follow-up/final request. Additionally, rather than assigning these cases to multiple analysts throughout the Complaint Section, all of the CE audit failure cases were assigned to a single Citation Desk analyst for final review and citation (or NOW) issuance. Also, case-specific determinations began being made as to whether to issue a citation or a NOW, resulting in issuance of 110 citations and about 60 NOWs during 2015/16. Finally, BVNPT established an alternative installment payment process for the payment of fines in cases of financial hardship. Previously, BVNPT sometimes automatically referred cases to the AG whenever a licensee failed to promptly pay their fine in full.

Finally, we recently learned from BVNPT staff that a large-scale audit of licensee compliance with BVNPT's CE requirements was launched by BVNPT's Education Division with some support provided by various staff from other business units. In late-November BVNPT began mass mailing CE compliance audit letters to about **53,000 VNs** and about **5,000 PTs**, representing more than 40 percent of all BVNPT licensees. This mass mailing was expected to be completed by mid-December, but some of the audit letters were not mailed until several weeks later (e.g., some letters dated in early-December with a 30-day response due date were not mailed until early January). It is also our understanding that additional resources needed to support completion of these audits are expected to be provided by various staff that are otherwise assigned other licensing, licensing support, administrative or enforcement responsibilities. We understand that as the daily mass mailings were being completed, BVNPT began receiving significantly larger volumes of returned and incoming mail and that BVNPT's telephone systems, fax machines, and incoming email accounts sometimes overflowed as a result of the higher levels of activity generated from the mailings. The rationale for abruptly launching compliance audits of more than 40 percent of all BVNPT licensees over a period of just a few weeks, rather than spreading the audits over a longer period of time, is not entirely clear. Additionally, it is unclear how BVNPT plans to absorb increased workloads related to maintaining case tracking and records management systems for all of these additional audits, how workload related to reviewing tens of thousands of Certificates of Completion received by BVNPT will be absorbed, how Enforcement Division staff will absorb related increases in citation issuance, tracking and collections workload, or how BVNPT's already backlogged Cashiering Unit will absorb related citation payment workload. As of early-December, specific staffing resources sufficient to complete reviews of all of the submissions that are received had not been identified and a specific timeline for completing reviews of all of the submissions had not been developed.

As a point of reference, even if only about 15 minutes of staff time is needed to complete each audit, including time to sort and open incoming mail, research and re-send returned mail, maintain case tracking and electronic and physical records management systems, review compliance submittals, answer telephone and email inquiries, and prepare and issue follow-up and closing letters, about nine (9) full-time staff would be needed for a period of a year just to complete all 58,000 audits, excluding time for post-audit

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activities (e.g., NOW or citation issuance and collection of fines). In mid-January BVNPT began offering weekday and weekend overtime to all staff to help respond to the increased volumes of CE-related mail and email that were being received.

### 3. Licensee Arrest/Conviction Reports

As shown by **Exhibit A-1**, BVNPT continues to receive an average of about 1,500 licensee arrest/conviction report cases per year. Also, as shown by **Exhibit A-2** and **A-3**, nearly all of these cases continue to be handled as desk investigations by Complaint Section analysts and, as shown by **Exhibit A-4**, the number of pending licensee arrest/conviction report investigations at the end of October (677) was unchanged from the number cases that were pending at the end of June (675). As shown by **Table II-1**, below, available data suggests that there has possibly been some limited additional improvement in the average elapsed time to complete investigations of these cases. As discussed below, BVNPT's current practice of closing many licensee arrest/conviction report cases pending adjudication of the cases makes comparison of elapsed time metrics for these cases to prior periods more difficult.

**Table II-1**  
**Average Elapsed Time to Complete Licensee Arrest/Conviction Report Desk Investigations**

Time Period	Number of Investigations Completed	Average Months
Total 2012/13	1,758	9.9
Total 2013/14	1,496	8.6
Total 2014/15	1,416	7.8
July to December 2015	1,079	7.2
January to June 2016	1,003	5.8
Total 2015/16	2,082	6.5
July to October 2016 <sup>1</sup>	649	5.4 to 5.7

<sup>1</sup> The range shown reflects estimated impacts on the average elapsed time to complete the investigations associated with whether cases that are closed pending adjudication (CLPX) are included or not included in the calculation.

As shown by **Exhibit A-6**, excluding CE audit failure case citations, BVNPT's licensee arrest/conviction report cases account for about 70 to 80 percent of all NOWs and citations issued. Also, as shown by **Exhibit B-1**, historically, BVNPT referred an average of about 200 licensee arrest/conviction report cases to the AG per year for formal disciplinary action. More recently, from July through October 2016, about 50 licensee arrest/conviction report cases were referred to the AG. The recently reduced rate of licensee arrest/conviction report case referrals to the AG most likely reflects the lagged impacts of BVNPT's efforts during 2015/16 to reduce the number of pending licensee arrest/conviction report cases. Licensee arrest/conviction report cases consistently account for more than one-half of all cases that BVNPT refers to the AG for formal disciplinary action.

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Finally, the workload and backlog metrics presented herein related to the number of licensee arrest/conviction report investigations completed and the number of pending licensee arrest/conviction report investigations are significantly different from the metrics that BVNPT produces for internal program management and external reporting purposes. Beginning during 2016 with implementation of BreEZe, BVNPT Complaint Section staff began closing large numbers of licensee arrest/conviction report cases, pending adjudication of the cases, then re-opening the cases following adjudication to complete the investigation, and then closing the case a second time after the investigation is fully completed. Also, during the period that the cases are closed pending adjudication, the elapsed time from the initial case closure to re-opening of the case following adjudication is excluded from some related elapsed time performance measures. While this modified case tracking process is potentially beneficial for various workload and workforce management purposes, it significantly distorts related workload and performance metrics. For example:

- With the prior case tracking process, if a case is received, investigated for a period of three (3) months, held open pending adjudication for a period of six (6) months, and then further investigated and completed during a final three (3) month period, the case would be counted as one (1) closure with a total 12 month elapsed time from receipt to closure.
- With the new case tracking process, if a case is received, investigated for a period of three (3) months, closed pending adjudication (CLPX) for a period of six (6) months, and then re-opened for further investigation and completed during a final three (3) month period, the case would be counted as two (2) case closures, with one case closure having a 3-month elapsed time from receipt to initial closure pending adjudication (CLPX) and a second case closure having a 6-month elapsed time from receipt to final closure, excluding the 6-month period during which the case was closed (CLPX) pending adjudication. This is equivalent to having two (2) case closures with an average elapsed time from receipt to closure of 4.5 months rather than one (1) case closure with an average elapsed time of 12 months from receipt to closure as would previously had been reported.

As is evident from the above example, the new licensee arrest/conviction report case tracking process results in a significant increase in measurements of the number of investigations completed and decreases the average elapsed time to complete licensee arrest/conviction report investigations even where staff productivity or performance are unchanged. Additionally, cases that are closed pending criminal conviction (CLPX) are not included in BVNPT's calculations and reporting of the number of pending licensee arrest/conviction report cases, thereby undercounting the total number of pending cases. Consequently, reporting based on this methodology could suggest to recipients of this information that pending case counts are not increasing when they are or that pending case counts are decreasing when they are not. Workload and performance metrics produced by other DCA boards and bureaus utilizing this same methodology might not be impacted to the same extent as BVNPT in cases where the licensee arrest/conviction report cases account for a relatively small proportion of all of the investigations completed by the agency. However, because BVNPT's licensee arrest/conviction report cases account for such a large proportion of all of its investigations, the above described methodology necessarily impacts and distorts BVNPT's aggregate investigation workload and performance metrics.



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For purposes of preparing this *Third Report*, we excluded cases that were closed pending adjudication from our measures of the number of completed investigations. Additionally, we included cases that were closed pending adjudication in our measures of the number of pending cases. We were not able, as part of Phase III, to obtain data needed to fully assess the impacts of the new licensee arrest/conviction report case tracking process on measures of the average elapsed times to complete licensee arrest/conviction report investigations or on aggregate measures of the average time to complete all case investigations. The new licensee arrest/conviction report tracking process has not been in place for a sufficient period of time to impact aggregate measures of the average elapsed time from receipt to discipline for cases that are referred to the AG for formal discipline.

### 4. Licensee Complaints

As shown by **Exhibit A-1**, since implementation of BreZE in January 2016, BVNPT has been receiving somewhat larger numbers of licensee complaints. This increase in licensee complaints received is largely due to the automatic opening of on-line complaints irrespective of the completeness of the complaint information. Additionally, beginning during late-2015 and early-2016, BVNPT stepped up efforts to clean-up some case intake backlogs and began regularly reviewing NURSYS to identify cases involving discipline by another state or agency. Finally, some of the larger number of licensee complaint cases received during 2016 may be due to inconsistent past practices involving the opening of inmate complaint cases.

Recent historical data show that BVNPT now receives about 950 licensee complaints per year compared to an average of about 500 to 550 licensee complaints per year prior to 2016. However, Complaint Section case intake and screening staff close many of these cases without referral for field investigation and nearly all cases involving discipline by another state or agency are handled as desk investigations by Complaint Section analysts. As a result, as shown by **Exhibit A-2**, on an annualized basis, about 200 licensee complaint cases are currently referred to DCA's Division of Investigation and about 300 licensee complaint cases are currently referred to BVNPT's non-sworn Investigation Section. In summary, in recent years there has not been any significant change in the total number of licensee complaint cases referred for field investigation.

As discussed previously, Complaint Section analysts complete desk investigations of two basic types of licensee complaint cases; cases involving discipline by another state or agency and cases involving failure by the licensee to comply with BVNPT's CE requirements. As shown by **Exhibit A-3**, as a result of the recent cessation of CE compliance auditing activity, significantly fewer of these types of licensee complaint desk investigations were completed. During the 6-month period from January through June 2016, about 200 licensee complaint desk investigations were completed. Subsequently, during the 4-month period from July through October 2016, about 90 licensee complaint desk investigations were completed, including desk investigations of 60 cases involving discipline by another state or agency and about 30 cases involving failure to comply with BVNPT's CE requirements.

Exhibit A-3 also shows a significant decrease in the number of non-sworn licensee complaint investigations completed during the July to October period. During 2015/16 about 500 non-sworn investigations were completed, including more than 300 investigations completed during the 6-month period from January through June 2016. More recently, during the 4-month period from July through October 2016, about 50 non-sworn licensee complaint investigations were completed. Reflecting the lagged impacts of the large number of older cases that were closed during 2015/16, the average elapsed time to complete non-sworn licensee complaint

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investigations decreased from about 25 months for the 500 investigations completed during 2015/16 to about 22 months for the 50 investigations completed during the first four (4) months of 2016/17. However, as shown by **Exhibits A-4** and **A-5**, as of October 31, 2016, there were about 400 pending non-sworn licensee complaint investigations, about the same number as were pending as of June 30, 2016, and there was no change to the 12-month average age of the pending non-sworn licensee complaint investigations.

In contrast to prior years when BVNPT had stopped referring cases to DCA's Division of Investigation, throughout 2016 the Division of Investigation continued to complete significantly larger numbers of sworn investigations, many of which were reassigned to the Division during 2015 after previously being assigned to BVNPT's non-sworn Investigation Section. During the 6-month period from January through June, 2016, the Division of Investigation completed about 130 investigations (an average of 22 cases per month). Subsequently, during the 4-month period from July through October 2016, the Division of Investigation completed more than 90 investigations (an average of 23 cases per month). Concurrently, the number of pending sworn investigations decreased significantly, from about 330 pending cases as of December 31, 2015 to about 235 cases as of October 31, 2016, and the average age of the pending sworn investigations decreased from about 17 months as of December 31, 2015, to about 15 months as of October 31, 2016. About one-third of the licensee complaint cases investigated by the Division of Investigation are referred to the AG for formal disciplinary action and these cases now account for about two-thirds of all licensee complaint cases referred to the AG.

### 5. Administrative Disciplinary Outcomes

As shown by **Exhibit A-6**, on an annualized basis during July to October 2016 period, BVNPT issued about the same number of citations as were issued during the prior 6-month period. During the July to October 2016 period, reductions in the number of citations issued for CE cases due to referral of significantly fewer CE cases to Enforcement were offset by increases in the number of citations issued for licensee complaint cases. However, recent decreases in the number of completed non-sworn licensee complaint investigations will likely lead to issuance of significantly fewer citations for this category cases. For example, only six (6) citations were issued for licensee complaint cases during October 2016 compared to an average of 15 citations issued per month for licensee complaint cases during the preceding 3-month period (July to September).

Additionally, as shown by **Exhibit A-6**, on an annualized basis during the July to October 2016 period, BVNPT issued significantly fewer NOWs due to (1) referral of significantly fewer CE cases to Enforcement, (2) completion of significantly fewer licensee arrest/conviction report cases following prior period reductions of backlogged pending desk investigations of these cases, and (3) completion of significantly fewer non-sworn licensee complaint investigations.

### 6. Total Pending Investigations

As shown by **Exhibit A-4**, including all licensee arrest/conviction report and complaint investigations assigned for desk, non-sworn or sworn investigation, as of October 31, 2016, BVNPT had a total of about 1,400 pending investigations, the same number of licensee enforcement investigations as were pending as of June 30, 2016. During this period the number of pending license applicant investigations was also unchanged.

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### B. Discipline Cases

This section summarizes recent changes and trends in BVNPT's discipline case workload, workflows, backlogs and performance. The section is organized as follows:

- | Section | Title   |
|---------|---|
| 1.      | Discipline Case Referrals and Filings         |
| 2.      | Discipline Cases Completed                    |
| 3.      | Pending Discipline Cases                      |
| 4.      | Discipline Case Outcomes                      |
| 5.      | Disciplinary Process Elapsed Time Performance |
| 6.      | Probation Program.                            |

#### 1. Discipline Case Referrals and Filings

As shown by **Exhibit B-1**, on an annualized basis BVNPT continues to refer about 400 license applicant and licensee cases to the AG. However, the number of subsequent discipline cases referred to the AG recently increased. Over the 4-month period from July through October 2016, about 40 subsequent discipline cases were referred to the AG compared to an average of about 40 cases per year from 2013/14 through 2015/16. This recent increase in the number of subsequent discipline cases referred to the AG likely reflects recent increases in BVNPT's probationer population resulting from accelerated settlements of pending discipline cases in prior periods. As a general rule, newer probationers are more likely to fail a Bodily Fluid Test (BFT) or engage in other activity that can lead to subsequent discipline than licensees that have successfully completed their first year or two of probation. Given recent increases in BVNPT's probationer population, it is likely that this comparatively higher level of subsequent discipline activity will persist for at least another one (1) to two (2) years. Additionally, some of the recent increase in subsequent discipline activity could be due to larger numbers of referrals of other types of probationer cases, such as cases involving inactive probationers (e.g., cases involving probationers that are not practicing but failed to maintain an active license as required by their conditions of probation).

Exhibit B-1 also shows that, on an annualized basis, about 360 accusations and about 30 Statements of Issues (SOIs) were filed during the 4-month period from July through October 2016. This compares to 264 accusations and 30 SOIs filed during FY 2015/16. During 2015/16 the number of accusations and SOIs filed did not fully keep pace with the increased numbers of new case referrals, even after accounting for other types of referred case dispositions, such as withdrawal of the cases by BVNPT following referral. Subsequently, the increased pace of accusation filings during the July to October period enabled the AG to keep pace with the rate of new case referrals during this period.

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During October 2016 BVNPT first learned that it had not been identifying cases for referral to the AG's Fast Track (FT) Program since April 2016 when responsibility for transmitting cases to the AG was transferred from BVNPT's Discipline Section to the Complaint Section. In response to these circumstances, Complaint Section staff were provided with information regarding the criteria for identifying and referring cases to the FT Program. Additionally, a Single Point of Contact (SPOC) within the Discipline Section was identified for transmitting FT cases from BVNPT to the AG and serving as liaison to the AG for ongoing management of these cases. At about this same time, the AG expanded the FT Program from its San Diego office to its San Francisco and Oakland offices. Over the next 6 to 8 weeks, 10 FT cases were referred to the AG's San Diego office, about the same number as were referred to the AG's San Diego office during the entire prior fiscal year. Additionally, 4 FT cases were referred to the AG's San Francisco and Oakland offices. Further review of BVNPT's FT case screening and transmittal processes is possibly needed to assess whether established screening criteria are being properly applied and whether additional modifications to the program are possibly needed to increase the number of BVNPT cases that qualify for the program.

### 2. Discipline Cases Completed

As shown by **Exhibit B-2**, about 125 discipline cases were completed during the 4-month period from July through October 2016. This compares to 195 discipline cases completed during the 6-month period extending from January through June 2016 and to 169 cases referred to the AG during the July to October period, including license applicant, licensee and subsequent discipline cases. However, as shown by Exhibit B-2, in comparison to prior periods, the number of discipline cases completed during 2015/16 was unusually high. During 2015/16 BVNPT aggressively pursued settlements of large numbers of aged pending discipline cases in lieu of carrying the cases through to hearing.

### 3. Pending Discipline Cases

As shown by **Exhibit B-3**, during 2015/16 the number of pending discipline cases, excluding subsequent discipline cases, decreased by more than 30 percent from about 500 pending cases as of June 30, 2015, to about 340 pending cases as of June 30, 2016. This decrease in the number of pending discipline cases during 2015/16, excluding subsequent discipline cases, reflects the impacts of the unusually large number of discipline cases completed during that year. Subsequently, during the July to October 2016 period, there was little change in the number of pending discipline cases, excluding subsequent discipline cases. However, during this same period there was possibly an increase in the number of pending subsequent discipline cases reflecting the relatively large number of subsequent discipline cases that were referred to the AG during this period (see Exhibit B-1).

Reflecting the lagged effects of the 2015/16 reduction in the number of pending discipline cases, Exhibit B-3 also shows that the average age of BVNPT's pending discipline cases continued to decrease. As of October 31, 2016, the average age of BVNPT's pending discipline cases, excluding subsequent discipline cases, was about 25 months. This compares to an average age of about 32 months for discipline cases that were pending as of June 30, 2015.

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### 4. Discipline Case Outcomes

As shown by **Exhibit B-4**, during the July to October 2016 period there has possibly been some reduction in the number and proportion of licensee discipline cases with a probation outcome. However, the proportion of discipline cases resulting in a probation outcome remains relatively high in comparison to periods prior to 2015/16. The reduction in the number and proportion of licensee discipline cases with a probation outcome is likely a reflection of BVNPT's efforts to accelerate the settlement of aged pending discipline cases during 2015/16 which helped to significantly reduce the number of pending discipline cases. About one-third of BVNPT's discipline cases continue to result in revocation of the subject's license. Finally, as shown by Exhibit B-4, a significant downward shift has occurred in the number of other disciplinary case outcomes. This shift likely reflects impacts of changes implemented during 2015/16 to reduce referrals of cases involving various minor offenses to the AG.

### 5. Disciplinary Process Elapsed Time Performance

As shown by **Exhibit B-5**, during the 4-month period from July through October 2016, further decreases were achieved in the average elapsed time from case referral to filing for both accusations and SOIs. During this period the average elapsed time from referral of the cases to the AG to filing of the pleading was about four (4) months compared to an average elapsed time of about six (6) months during 2015/16. Additionally, the average elapsed time from referral of the cases to the AG to BVNPT's adoption of a disciplinary decision decreased to about 13 months from an average elapsed time of about 16 months during 2015/16. However, during this most recent period the average elapsed time from case receipt to decision for formal discipline cases was unchanged (*an average elapsed time of more than 2½ years*).

### 6. Probation Program

Very little of the data that we requested from BVNPT to enable completion of an updated assessment of the status of Probation Program was provided to us. Consequently, we are unable to provide updated Probation Program status information.

Probation Program staff reported to us that they had recently modified their practice for classifying active probationers to include most (or all) probationers that were previously classified as inactive. Consequently, caution should be exercised in interpreting probationer population information reported by BVNPT that is limited to information regarding only active and tolled probationers.

## C. Implementation of Phase II Recommendations

**Exhibit II-2**, on the next three (3) pages, provides a summary of our assessment of the status of BVNPT's implementation of our Phase II recommendations for Enforcement Program organizational and business process improvements. As shown by Exhibit II-2, BVNPT has implemented one (1) recommendation (No. V-2) and has partially implemented seven (7) other recommendations (Nos. IV-2, IV-6, IV-7, IV-8, IV-10, IV-11 and V-7).

Status of BVNPT's Implementation of Recommended Enforcement Program Organizational and Business Process Improvements

Recommended Improvement		Implementation Status Assessment	
Phase II Integrated Assessments of Targeted Business Processes	IV-1	Critically review and overhaul Item No. 9 of the current Record of Convictions form to make it more readable and understandable and reduce the frequency that <b>license applicants</b> misreport or over-report prior convictions (see also Recommendation IV-5).	<b>Not Implemented</b> - As indicated by BVNPT in its Sunset Review Report, BVNPT has not implemented this recommendation. According to BVNPT, implementation of this recommendation has been deferred pending completion of an assessment by the Licensing Division. It is unclear why BVNPT has taken this position as modifying Item No. 9 of the current Record of Convictions form to make it more readable and understandable could help improve license applicant reporting of prior convictions.
	IV-2	Develop and implement procedures to enable case intake staff to exercise judgement in determining whether to request records from law enforcement agencies and the courts for license applicant cases based on minor criminal offenses that occurred in the distant past and screen the cases to identify and close cases that do not require desk investigation.	<b>Partially Implemented</b> - It is our understanding the BVNPT recently began implementing this recommendation. However, the primary staff person responsible for completing case intake reviews of license applicant cases subsequently separated from BVNPT. We have not verified whether, and the extent to which, successor staff exercise judgement in determining whether to request records for these cases and screen the cases to identify and close cases that do not require desk investigation.
	IV-3	Restructure and expand the CE Compliance Audit Program. Issue an initial standard form 30-day audit letter to a sample of at least 5 percent of renewing licensees in conjunction with issuing their license renewal notifications. If the licensee is non-responsive to the initial request, promptly issue a second/final request. If the license is non-responsive to the final request or confirms that they did not complete any (or completed very little) of the required CE, refer the case to Enforcement for issuance of a citation. Streamline the Certificate of Completion review process by limiting reviews of the documents in cases that appear to show full compliance with BVNPT's CE requirements.	<b>Not Implemented</b> - As stated in BVNPT's Sunset Review Report, BVNPT has not implemented changes based on this recommendation. Instead, as discussed in Section II.A.2, BVNPT recently launched a large-scale audit of about 58,000 licensees representing about one-half of all active BVNPT licensees. This effort is fundamentally different from the limited 5 percent sampling of licensees spread out over a period of year that was recommended. It is unclear how BVNPT will track and complete reviews of all of the related documented submissions from licensees or how BVNPT will absorb all of the related workloads associated with this project without adversely impacting other core functions.
	IV-4	Assess the feasibility of imaging CE-related document submissions or enabling submission of the documents electronically.	<b>Not Implemented</b> - BVNPT indicated in its Sunset Review Report that it is already in the process of implementing digital imaging, suggesting that this recommendation is already being implemented. However, the draft scope of work for imaging services provided to us by BVNPT in support of this position, which appears to involve imaging archived files, does not appear to address the specific business needs that this recommendation was intended to address. Also, as of early-October 2016 BVNPT had no active and pending contracts for imaging services.
	IV-5	Critically review and overhaul Item No. 9 of the current Record of Convictions form to make it more readable and understandable and reduce the frequency that <b>licensees</b> misreport or over-report prior convictions when renewing their license (see also Recommendation IV-1) . Develop additional programming for on-line renewals that requires confirmation when the "Yes" box is checked or to prevent further processing of the renewal application until other required fields providing additional information about the self-reported conviction are completed.	<b>Not Implemented</b> - As stated by BVNPT in its Sunset Review Report, this recommendation has not been implemented. According to BVNPT, implementation of this recommendation has been deferred pending completion of an assessment by the Licensing Division. It is unclear why BVNPT has taken this position as modifying Item No. 9 of the current Record of Convictions form to make it more readable and understandable and modifying the programming for on-line renewals to require provision of additional information regarding self-reported convictions could help improve licensee reporting of prior convictions.
	IV-6	Work collaboratively with the AG to identify ways to increase BVNPT's utilization of the current FT Pilot Program for licensee arrest/conviction report cases and other qualifying cases.	<b>Partially Implemented</b> - As discussed in Section II.B.1, during October 2016 BVNPT learned that staff <b>had not</b> been identifying cases for referral to the AG's Fast Track (FT) Program since April 2016 when responsibility for transmitting discipline cases to the AG was transferred from the Discipline Section to the Complaint Section. Subsequently, various changes were made to BVNPT's discipline case screening and FT case referral process to enable identification and referral of FT cases to the AG's San Diego office. Concurrently, the AG expanded the FT Program to its San Francisco and Oakland offices. Over a 6 to 8 week period ending in mid-December 2016, 10 cases were referred to the AG's San Diego office and 4 cases were referred to the AG's San Francisco and Oakland offices. Further review of BVNPT's discipline case review and FT case identification and referral processes is possibly needed to assess whether FT screening criteria are being properly applied and whether additional modifications to the program are needed to increase the number of cases that qualify for the program
	IV-7	Work collaboratively with the AG to identify ways to expand the Fast Track Pilot Program for licensee arrest/conviction report cases and other qualifying cases to other geographic regions of the state.	

Status of BVNPT's Implementation of Recommended Enforcement Program Organizational and Business Process Improvements

Recommended Improvement		Implementation Status Assessment	
Phase II Integrated Assessments of Targeted Business Processes (continued)	IV-8	Develop and propose legislation to specifically provide BVNPT's governing Board with the authority to delegate approval of default decisions to the Executive Officer.	<b>Partially Implemented</b> - When we initiated our Initial Assessment of BVNPT's Enforcement Program during March 2016, BVNPT was not implementing a prior BVNPT Enforcement Task Force recommendation, approved by the Board in November 2014, to modify its governing statutes to provide the Board with the authority to delegate approval of default decisions to the Executive Officer. Instead, BVNPT was attempting to provide this same authority through regulation. More recently, in BVNPT's Sunset Review Report, the Board recommends legislation providing authority to delegate adoption of default decisions to the Executive Officer. To date, legislation providing the Board with this authority has not been introduced.
	IV-9	Develop and implement a structured, sustainable business process for screening licensee complaints to identify cases that do not require field investigation and assign these cases to staff that specialize in completing desk investigations of these types of cases.	<b>Not Implemented</b> - All licensee complaint cases not closed during intake/screening or referred to DCA's Division of Investigation are currently assigned to BVNPT's non-sworn Investigation Section for field investigation without distinguishing cases requiring desk investigation from cases requiring a field investigation. Also, specialized pools of investigators have not been established for conducting desk versus field investigations of licensee complaint cases.
	IV-10	Develop and implement procedures to enable case intake or screening staff (or both) to review and not open new discipline by another state/agency cases or, alternatively, screen and close discipline by another state/agency cases that do not require completion of a desk investigation. Additionally, notify agencies providing "courtesy notices" to stop doing so if the information is available to BVNPT through BreEZe or they routinely post the same information to another professional licensing database that is otherwise queried by BVNPT.	<b>Partially Implemented</b> - BVNPT staff contacted the Board of Registered Nursing (BRN) to request that BRN stop providing BVNPT with discipline courtesy notices. Needs exist to assess impacts of this change on the number of discipline by another state/agency cases that are closed "Redundant" and to determine whether additional steps are needed to further reduce the number of redundant cases that are opened.
	IV-11	Continue to refine licensee complaint case coding procedures and practices and provide training to staff to further improve the consistency and completeness of complaint records and the tracking and reporting of Enforcement Program workload, backlog and performance information.	<b>Partially Implemented</b> - BVNPT's case intake coding practices appear to have improved. However, there are continuing problems with tracking cases through the enforcement process that adversely impact the consistency, completeness and quality of related workload, backlog and performance information. For example, completed field investigation cases continue to sometimes also be coded as completed desk investigation cases. Additionally, there are inconsistencies in how discipline cases are coded and tracked. Workload and performance reports tied to BreEZe source data (i.e. QBIRT Reports/Queries and Business Object Reports) presume case events are coded in a consistent manner according to a standard DCA business process. Also, it is especially important when posting disciplinary outcome information that the referral to the AG, pleading filing, decision type, and closing reason Activity Codes are accurately dated and sequenced. Finally, the closing Activity Code should tie to key dates on the Discipline Code entered on the case record to prevent potential discrepant results between different reports. Additional staff training and oversight is needed to address continuing problems in these and other related areas.

Status of BVNPT's Implementation of Recommended Enforcement Program Organizational and Business Process Improvements

Recommended Improvement		Implementation Status Assessment	
Phase II Enforcement Program Organization and Staffing Assessments	V-1	Continue identifying and assigning licensee complaint cases to the Complaint Intake and Desk Investigation Section for desk investigation pending establishment of a separate business unit that specializes in completing desk investigations of licensee complaint cases (see Recommendation V-6).	<b>Not Implemented</b> - BVNPT continues to assign cases involving discipline by another state/agency and failure to comply with CE requirements for desk investigation, but has discontinued identifying and assigning other types of licensee complaint cases to Complaint Section analysts for desk investigation and has not established a separate business unit that specializes in completing desk investigations of these other types of licensee complaint cases.
	V-2	To better address Probation Program workload demands for the next 2 to 3 years, continue to utilize Temporary Help to augment Probation Unit staffing.	<b>Implemented</b> - It is our understanding that BVNPT is continuing to augment Probation Program support staffing with Retired Annuitants.
	V-3	As Investigation Section case backlogs and new case assignments decrease, redirect vacant positions to address other current and emerging Enforcement Program and BVNPT business needs.	<b>Not Implemented</b> - New case assignments to the Investigation Section have not decreased and case backlogs have grown. BVNPT is currently recruiting to refill two (2) vacant Special Investigator positions.
	V-4	Redirect and consolidate available resources to enable additional screening and completion of desk investigations of on-line public complaints and licensee complaints that do not require field investigation.	<b>Not Implemented</b> - The Complaint Section analyst that had primary responsibility for screening on-line public complaints and other licensee complaints recently separated from BVNPT. Subsequently, this responsibility was reassigned to two (2) other analysts who are also assigned other responsibilities, such as completing desk investigations of licensee arrest/conviction report cases and cases involving discipline by another state/agency. All licensee complaint cases not closed during intake or referred to DCA's Division of Investigation are referred by these analysts to BVNPT's non-sworn Investigation Section.
	V-5	Redirect and consolidate available resources to support expansion of the CE Audit Program, including completing additional case reviews, issuing additional citations, and tracking and collecting fines.	<b>Not Implemented</b> - As discussed in Section I.A.2, BVNPT recently launched a large-scale audit of about one-half of all active licensees. We are not aware of any redirection or consolidation of resources within the Enforcement Division or elsewhere to support this major project. It is our understanding that this workload will be absorbed by staff along with their other duties "like any other project".
	V-6	Establish a new Desk Investigation and Field Investigation Case Review Section.	<b>Not Implemented</b> - BVNPT has not established a new business unit that specializes in completing desk investigations of licensee complaint cases and reviews of completed field investigations.
	V-7	Establish a new Probation Section and, concurrently, reduce the utilization of Temporary Help to provide probation monitoring services.	<b>Partially Implemented</b> - BVNPT recently reassigned the Discipline Section's Staff Services Manager I (SSM I) to serve as manager for a new Probation Section and is reclassifying a vacant Supervising Special Investigator position to SSM I to serve as manager for the Discipline Section.
	V-8	The Chief of Enforcement should maintain open lines of communication and meet periodically with counterparts at the Division of Investigation and the Office of the Attorney General to jointly develop and implement strategies to further reduce BVNPT case backlogs and the amount of time needed to complete investigations and impose discipline when supported by results of the investigations.	<b>Not Implemented</b> - While regular case status review meetings are held between BVNPT's Complaint Section Manager and counterparts at the Division of Investigation, these meeting do not address needs for the types of overall program development referenced in this recommendation which have not occurred due to the unavailability of the Chief of Enforcement since mid-October 2016. BVNPT continues to experience significant problems with completing timely investigations of licensee complaint cases that are not referred to DCA's Division of Investigation. Also, BVNPT's 31-month average elapsed time to impose discipline is quite long. Needs continue to exist to develop and implement additional strategies to reduce the amount of time needed to complete licensee complaint investigations and the amount of time needed to impose discipline when supported by the results of these investigations.
	V-9	Conduct individual case reviews on at least a semi-monthly basis with each of the Investigation Section's investigators. Over time, adjust the frequency and duration of the reviews as appropriate to each investigator's development needs.	<b>Not Implemented</b> - Individual case reviews with the Investigation Section's investigators are currently completed on at least a semi-monthly basis, but the types of reviews completed are qualitatively different from the reviews that were conducted by BVNPT's Chief of Enforcement during April 2016 which was the intent of this recommendation. The current reviews are largely limited to case status assessments rather than substantive reviews that work through the details of the case and specific steps needed to either complete the investigation or disposition the case. As a result, non-sworn licensee complaint cases are again languishing for extended periods of time as previously occurred prior to 2015/16.



### **III. Targeted Administrative Process Assessments**

### III. Targeted Administrative Process Assessments

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This section summarizes the results of our Phase III assessments of targeted administrative process assessments delineated in AB 179. As discussed previously in Section I (*Introduction*), these assessments are supplemental to the targeted administrative process assessments completed previously during Phase II, including assessments of:

- ❖ Governing Board-related administrative processes (e.g., Board member training, provision of information to members, assistance provided to members by Board staff, and representation of the Board to the Legislature)
- ❖ Training provided to Enforcement Division staff
- ❖ Oversight of Enforcement Division staff and evaluation of Enforcement Division staff performance.

We also provide a summary of our assessment of the status of BVNPT’s implementation of Phase II recommendations in the above areas. The section is organized as follows:

Section	Title
A.	Vacant Positions and Hiring
B.	Staff Training
C.	Oversight of Staff and Evaluation of Staff Performance
D.	Implementation of Phase II Recommendations.

#### A. Vacant Positions and Hiring

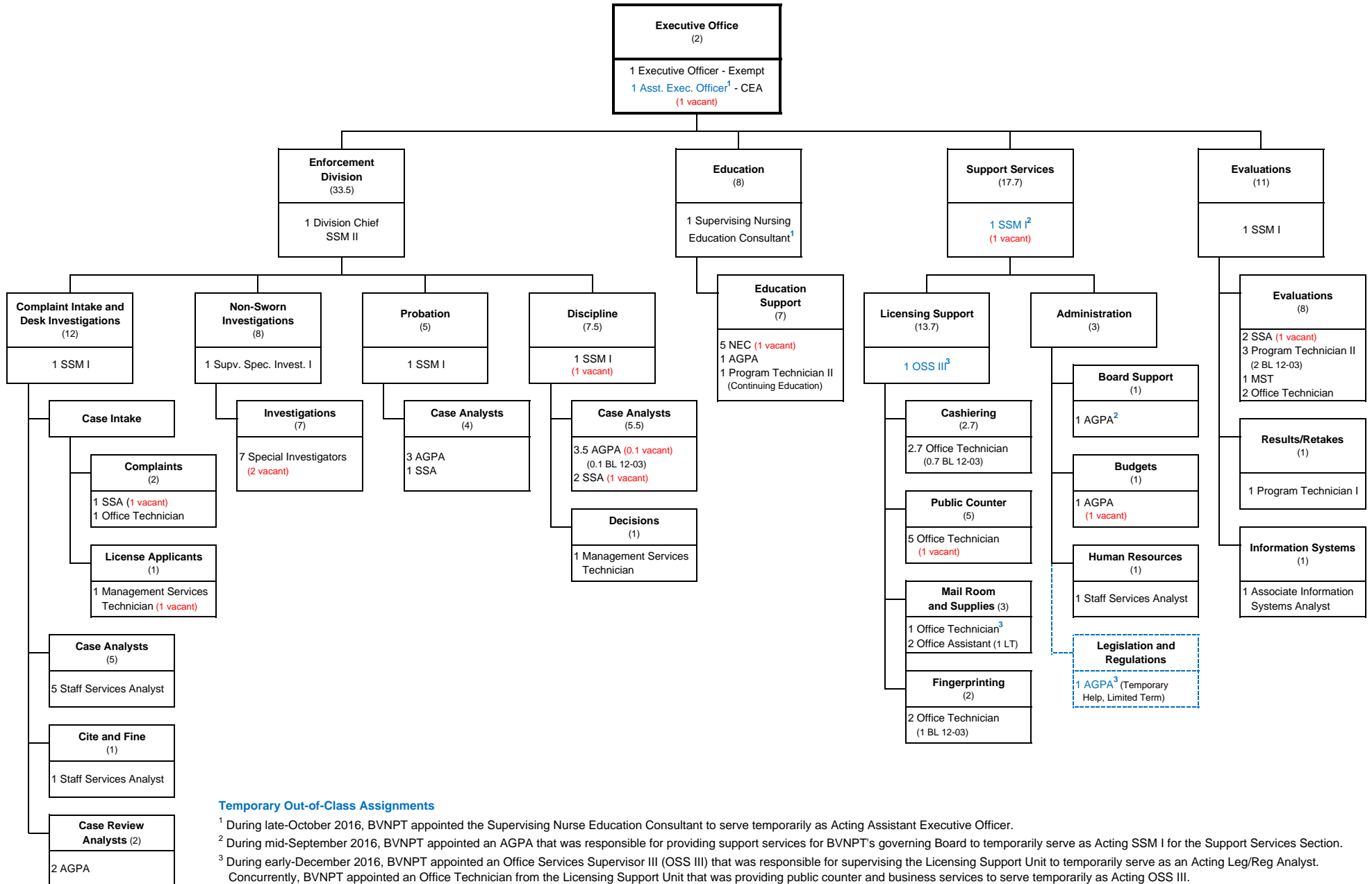
During periods prior to BVNPT’s 2014/15 Sunset Review, BVNPT experienced especially high vacancy rates, particularly within its Education, Licensing, and Administration business units where permanent and limited term position vacancy rates regularly exceeded 25 percent. Subsequently, many of BVNPT’s vacant positions were filled which reduced total vacancies to 8.5 positions by December 2015, including:

- |   |   |
|---|---|
| ❖ 1 Assistant Executive Officer   | ❖ 2 Nurse Education Consultants         |
| ❖ 1 Supervising Special Investigator                                      | ❖ 2 Cashiering Unit Office Technicians  |
| ❖ 1 half-time Special Investigator that BVNPT had never been able to fill | ❖ 2 Licensing Unit Program Technicians. |

As of December 2015, BVNPT’s overall permanent and limited term position vacancy rate was about 13 percent. However, during 2016 staff turnover increased and, as of December 2016, overall vacancy rates rose to about 17 percent. **Exhibit III-1**, on the next page, illustrates BVNPT’s organizational structure and authorized filled and vacant permanent and limited-term positions as of late-December 2016. As shown by Exhibit III-1, during late-December, 12 of BVNPT’s 72 authorized positions were vacant.

## Overview of BVNPT Organization - December 31, 2016

*Total Authorized Permanent and Limited-Term Positions, Excluding Temporary Help Positions = 72.2, Including 12.1 Vacant Positions*



### III. Targeted Administrative Process Assessments

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The remainder of this section provides additional information regarding staff turnover, vacancies and recruiting activity currently underway in each of BVNPT's major business units. The section is organized as follows:

Section	Title
1.	Enforcement Division
2.	Executive Office, Education, and Licensing and Administration Business Units.

#### 1. Enforcement Division

**Exhibit III-2**, on the next page, provides a summary of the Enforcement Division's authorized, filled, and vacant positions from 2012/13 through December 2016. As shown by Exhibit III-2, during the periods prior to BVNPT's 2014/15 Sunset Review, about three (3) of the Division's 34 authorized permanent and limited-term positions were vacant, representing a vacancy rate of less than 10 percent. Subsequently, vacant positions in the Enforcement Division's Complaint Section were filled, which reduced the Division's vacancy rate to less than 5 percent by December 2015. However, during 2016 the number of vacant positions in the Enforcement Division increased. During December 2016, six (6) Enforcement Division positions were vacant, including:

- ❖ **1 Supervising Special Investigator** – BVNPT is reclassifying the vacant Supervising Special Investigator position to Staff Services Manager I (SSM I) I to provide a dedicated first level manager/supervisor for the Discipline Section. The existing Discipline Section SSM I position was recently restructured to provide a dedicated first level manager/supervisor for a new Probation Section. BVNPT is currently recruiting for the Discipline Section SSM I position. In the interim, due to the unavailability of the Chief of Enforcement, Discipline Section staff are reporting to the Acting Assistant Executive Officer. The Supervising Special Investigator position has been vacant since August 2, 2016 when the incumbent separated from BVNPT.
- ❖ **2 Special Investigators** – BVNPT is currently recruiting to refill both of these positions. These positions have been vacant since August 11 and November 5, 2016, respectively, when the incumbents separated from BVNPT.
- ❖ **1 Complaint Section Staff Services Analyst** – BVNPT is currently recruiting to refill the position. This position, which had been responsible for providing licensee complaint screening services, has been vacant since November 11, 2016 when the incumbent separated from BVNPT. Licensee complaint screening responsibilities were subsequently reassigned to other Complaint Section analysts.
- ❖ **1 Complaint Section Management Services Technician** – BVNPT is currently recruiting to refill the position. This position, which had been responsible for license applicant case intake and screening services, has been vacant since October 29, 2016 when the incumbent separated from BVNPT. License applicant case intake and screening responsibilities were subsequently reassigned to other Complaint Section analysts.

### Historical Overview of Enforcement Division Staffing<sup>1</sup>

Business Unit / Positions			Authorized Positions					Filled Positions					Vacant Positions					
			2012/13	2013/14	2014/15	2015/16	Dec-16	07/31/12	07/01/13	09/30/14	12/09/15	Dec-16	07/31/12	07/01/13	09/30/14	12/09/15	Dec-16	
<b>Total Enforcement Program Positions</b>			<b>34.0</b>	<b>34.0</b>	<b>34.0</b>	<b>34.0</b>	<b>33.5</b>	<b>30.7</b>	<b>31.2</b>	<b>30.9</b>	<b>32.5</b>	<b>27.4</b>	<b>2.6</b>	<b>2.8</b>	<b>3.0</b>	<b>1.5</b>	<b>6.1</b>	
<b>Enforcement Program Vacancy Rate</b>												<b>8%</b>	<b>8%</b>	<b>9%</b>	<b>4%</b>	<b>18%</b>		
Enforcement Division Chief - SSM II			1.0	1.0	1.0	1.0	1.0	0.7	0.8	1.0	1.0	1.0	0.3	0.2				
Staff Services Analyst																		
Complaint Section	Permanent	Staff Services Manager I	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0						
		Assoc. Govt. Program Analyst	1.0	2.0	2.0	2.0	2.0	1.0	2.0	2.0	2.0	2.0						
		Staff Services Analyst	5.0	6.0	5.0	7.0	7.0	5.0	6.0	4.0	7.0	6.0			1.0		1.0	
		Management Services Technician	2.0	2.0	2.0	1.0	1.0	2.0	2.0	2.0	1.0							1.0
		Office Technician	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0					
	Limited Term	Assoc. Govt. Program Analyst	1.0					1.0										
		Staff Services Analyst	1.0		1.0								1.0			1.0		
<b>Total Complaint Section</b>			<b>12.0</b>	<b>12.0</b>	<b>12.0</b>	<b>12.0</b>	<b>12.0</b>	<b>11.0</b>	<b>12.0</b>	<b>10.0</b>	<b>12.0</b>	<b>10.0</b>	<b>1.0</b>		<b>2.0</b>		<b>2.0</b>	
Discipline Section	Permanent	Staff Services Manager I	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0						
		Assoc. Govt. Program Analyst	5.5	5.5	5.5	5.5	6.5	5.5	5.5	5.5	5.5	6.4						0.1
		Staff Services Analyst	3.0	3.0	3.0	3.0	3.0	3.0	2.0	3.0	2.5	2.0		1.0		0.5		1.0
		Management Services Technician	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0						
	<b>Total Discipline Section</b>			<b>10.5</b>	<b>10.5</b>	<b>10.5</b>	<b>10.5</b>	<b>11.5</b>	<b>10.5</b>	<b>9.5</b>	<b>10.5</b>	<b>10.0</b>	<b>10.4</b>		<b>1.0</b>		<b>0.5</b>	<b>1.1</b>
<b>Total Enforcement Program Positions, Excluding CPEI Investigation Units</b>			<b>23.5</b>	<b>23.5</b>	<b>23.5</b>	<b>23.5</b>	<b>24.5</b>	<b>22.2</b>	<b>22.3</b>	<b>21.5</b>	<b>23.0</b>	<b>21.4</b>	<b>1.3</b>	<b>1.2</b>	<b>2.0</b>	<b>0.5</b>	<b>3.1</b>	
Business Unit / Positions			Authorized Positions					Filled Positions					Vacant Positions					
			2012/13	2013/14	2014/15	2015/16	Dec-16	2012/13	2013/14	2014/15	2015/16	Dec-16	2012/13	2013/14	2014/15	2015/16	Dec-16	
Consumer Protection Enforcement Initiative	Permanent	Supervising Special Investigator I	2.0	2.0	2.0	2.0	2.0	1.3	1.4	1.9	1.5	1.0		0.6		0.5	1.0	
		Special Investigator	8.5	8.5	8.5	8.5	7.0	7.2	7.5	7.5	8.0	5.0	1.3	1.0	1.0	0.5	2.0	
	<b>Total CPEI Investigation Units</b>			<b>10.5</b>	<b>10.5</b>	<b>10.5</b>	<b>10.5</b>	<b>9.0</b>	<b>8.5</b>	<b>8.9</b>	<b>9.4</b>	<b>9.5</b>	<b>6.0</b>	<b>1.3</b>	<b>1.6</b>	<b>1.0</b>	<b>1.0</b>	<b>3.0</b>

<sup>1</sup> Excludes positions funded from blanket expenditure authorizations, including Temporary Help (e.g., Retired Annuitants).

### III. Targeted Administrative Process Assessments

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- ❖ **1 Discipline Section Staff Services Analyst (SSA)** – BVNPT is currently recruiting to refill this position. This position, which was responsible for Petitions for Reinstatement and a limited discipline case management caseload, has been vacant since August 2, 2016 when the incumbent was promoted to a new Associate Government Program Analyst (AGPA) position within the Discipline Section. BVNPT created the AGPA position by reclassifying and redirecting a vacant Special Investigator position to augment BVNPT’s discipline case management staffing. The incumbent continues to be responsible for Petitions for Reinstatement pending recruitment and training of a successor SSA to provide these services.

During December, 18 percent of the Enforcement Division’s authorized permanent and limited term positions were vacant. While BVNPT is currently recruiting to fill all of these positions, turnover of existing staff is continuing. A Discipline Section SSA, who had primary responsibility for preparing Enforcement Program statistical reports, recently separated from BVNPT effective December 31, 2016. Additionally, BVNPT’s Chief of Enforcement has been away from work on a leave of absence since mid-October 2016 and will not return to work at BVNPT. The Chief of Enforcement position, a Staff Services Manager II (SSM II), will become vacant effective on January 19, 2017. Thus, elevated numbers of vacant Enforcement Division positions could persist for some time. The extended absence of BVNPT’s Chief of Enforcement, turnover of experienced enforcement staff, and higher Enforcement Division vacancy rates appear to be adversely impacting overall Enforcement Program performance.

Finally, as discussed previously, during early-December we conducted individual interviews with 18 Enforcement Division staff, representing about two-thirds of the Division’s filled permanent and limited term positions. We interviewed all of the Division’s managers, all of the Investigation Section’s Special Investigators, all Complaint and Discipline Section AGPAs, and two (2) SSAs that had lead responsibility for preparing the CAS and BreEZe data extracts that were used to support completion of Phases I, II and III of the project. During these interviews some staff indicated that teamwork within their unit was good and a few staff indicated that they were happy with their job. However, nearly all of the remaining staff expressed concerns about poorer communications, higher levels of conflict between management and staff, or lower levels of staff morale within the Division. Several staff specifically commented that the overall work environment had become especially stressful and that staff morale was very poor. Several staff compared the current work environment and staff morale levels with those that existed during the periods prior to BVNPT’s 2014/15 Sunset Review. During these interviews we learned that some staff in all three (3) of the Division’s sections were actively seeking jobs at other agencies. The above comments were markedly different from the sentiments expressed by staff during the individual and small group interviews we conducted with all Enforcement Division staff during March 2016 as part of our Initial Assessment of BVNPT’s Enforcement Program. At that time workforce morale within the Enforcement Division appeared to be much better than was the case prior to 2015/16 (see Section III-G of our *Initial Report*).

### III. Targeted Administrative Process Assessments

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#### 2. Executive Office, Education, and Licensing and Administration Business Units

**Exhibit III-3**, on the next page, provides a summary of authorized, filled, and vacant positions from 2012/13 through December 2016 for BVNPT's Executive Office, Education and Licensing and Administration business units. As shown by Exhibit III-3, during the periods prior to BVNPT's 2014/15 Sunset Review, BVNPT typically had 1 or 2 vacant Nurse Education Consultant (NEC) positions plus about eight (8) vacant analytical and clerical support positions within various Licensing and Administration Division business units. Subsequently, during 2016 BVNPT reduced these vacancies, but overall vacancy rates among all of these business units remained elevated throughout the year (e.g., 14 percent of authorized permanent and limited term positions within BVNPT's Licensing and Administration business units were vacant as of December 2016). As of December 2016, there were six (6) vacant positions within BVNPT's Executive Office, Education Division, and Licensing and Administration business units, including:

- ❖ **1 Assistant Executive Officer (AEO)** – The AEO position has been vacant since May 1, 2015. Initially, this Career Executive Appointment (CEA) position was held vacant pending appointment of a permanent Executive Officer for the Board which occurred on March 2, 2016. Subsequently, BVNPT has been pursuing a restructuring of the AEO position to instead serve as a dedicated CEA-level manager of BVNPT's Licensing and Administration business units. To date, these efforts have not been successful. Two (2) separate meetings scheduled by DCA's Office of Human Resources with CalHR during August and October to further pursue approval of this restructuring were subsequently cancelled at BVNPT's request. BVNPT has since requested that DCA's Office of Human Resources attempt to again schedule a meeting with CalHR. However, BVNPT's recent temporary assignment of its Supervising NEC to serve as an Acting AEO could possibly work at cross-purposes to obtaining CalHR approval for the proposed restructuring because it might be interpreted by CalHR as supporting needs for the currently approved AEO position.
- ❖ **1 Nurse Education Consultant (NEC)** – This is one (1) less NEC vacancy than BVNPT had previously. During the latter half of 2016, BVNPT hired three (3) NECs. Concurrently, two (2) NECs separated from BVNPT. Where supported, BVNPT now attempts to obtain approval of "above minimum" starting salaries for newly hired NECs. Additionally, BVNPT now allows the NECs to work from their homes (referred to as "alternative staff headquarters designations"). These changes appear to have helped BVNPT to successfully recruit new NECs. It is unclear at this time whether these changes will also help to improve NEC retention. BVNPT is currently recruiting to fill the vacant NEC position.
- ❖ **1 Staff Services Manager (SSM I)** – This new management position was recently established to boost management and oversight for a group of licensing support service business units (e.g., public counter, cashiering, and business services, including mail and supplies procurement). The position was created by upgrading and redirecting a vacant Staff Services Analyst (SSA) position that was previously assigned to the Administration Unit. The SSA position became vacant on May 24, 2016 when the incumbent separated from BVNPT. BVNPT is currently recruiting to fill the SSM I position, but has experienced difficulty filling the position during previous recruitment cycles.

## Historical Overview of Executive, Education and Licensing and Administration Business Unit Staffing<sup>1</sup>

Business Unit / Positions			Authorized Positions					Filled Positions					Vacant Positions					
			2012/13	2013/14	2014/15	2015/16	Dec-16	07/31/12	07/01/13	09/30/14	12/09/15	Dec-16	07/31/12	07/01/13	09/30/14	12/09/15	Dec-16	
<b>Total Executive Office, Education, and Licensing and Administration</b>			<b>32.0</b>	<b>32.0</b>	<b>37.5</b>	<b>38.0</b>	<b>38.7</b>	<b>25.0</b>	<b>20.0</b>	<b>27.5</b>	<b>30.0</b>	<b>31.7</b>	<b>7.0</b>	<b>12.0</b>	<b>10.0</b>	<b>8.0</b>	<b>6.0</b>	
<b>Vacancy Rate</b>												<b>22%</b>	<b>38%</b>	<b>27%</b>	<b>21%</b>	<b>16%</b>		
Executive Office	PERM	Executive Officer	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0							
		Assistant Executive Officer	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0					1.0	1.0		
	<b>Total Executive Office</b>		<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>1.0</b>	<b>1.0</b>			<b>1.0</b>	<b>1.0</b>	
Education	PERMANENT	Supervising Nurse Education Consultant	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0							
		Nurse Education Consultant	3.0	3.0	5.0	5.0	5.0	1.0	1.0	4.0	3.0	4.0	2.0	2.0	1.0	2.0	1.0	
		Assoc. Government Program Analyst					1.0					1.0						
		Program Technician II					1.0					1.0						
		Management Services Technician	1.0	1.0	1.0	1.0		1.0		1.0				1.0		1.0		
<b>Total Education</b>		<b>5.0</b>	<b>5.0</b>	<b>7.0</b>	<b>7.0</b>	<b>8.0</b>	<b>3.0</b>	<b>2.0</b>	<b>6.0</b>	<b>4.0</b>	<b>7.0</b>	<b>2.0</b>	<b>3.0</b>	<b>1.0</b>	<b>3.0</b>	<b>1.0</b>		
Licensing and Administration	Management and Supervision	Management - Staff Services Manager I	1.0	1.0	1.0	1.0	2.0			1.0	1.0	1.0	1.0	1.0			1.0	
		Supervision - Office Services Supervisor and Supervising Program Technician	2.0	2.0		1.0	1.0	1.0			1.0	1.0	1.0	2.0				
		<b>Total Management and Supervision</b>	<b>3.0</b>	<b>3.0</b>	<b>1.0</b>	<b>2.0</b>	<b>3.0</b>	<b>1.0</b>	<b>0.0</b>	<b>1.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>3.0</b>				<b>1.0</b>
	Public Counter	PERM	Office Technician	3.0	3.0	3.0	3.0	5.0	1.0		1.0	3.0	4.0	2.0	3.0	2.0		1.0
		<b>Total Public Counter Unit</b>		<b>3.0</b>	<b>3.0</b>	<b>3.0</b>	<b>3.0</b>	<b>5.0</b>	<b>1.0</b>	<b>0.0</b>	<b>1.0</b>	<b>3.0</b>	<b>4.0</b>	<b>2.0</b>	<b>3.0</b>	<b>2.0</b>		<b>1.0</b>
	Mail Room	PERM	Office Technician / Office Assistant	1.0	1.0	1.0	1.0	2.0	1.0		1.0	1.0	2.0		1.0			
		LT	Office Assistant					1.0					1.0					
	<b>Total Mailroom Unit</b>		<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>3.0</b>	<b>1.0</b>	<b>0.0</b>	<b>1.0</b>	<b>1.0</b>	<b>3.0</b>		<b>1.0</b>				
	Cashing	PERM	Office Technician	4.0	4.0	5.5	6.0	2.7	4.0	3.0	3.5	4.0	2.7		1.0	2.0	2.0	
		<b>Total Cashing Unit</b>		<b>4.0</b>	<b>4.0</b>	<b>5.5</b>	<b>6.0</b>	<b>2.7</b>	<b>4.0</b>	<b>3.0</b>	<b>3.5</b>	<b>4.0</b>	<b>2.7</b>		<b>1.0</b>	<b>2.0</b>	<b>2.0</b>	
Results/Retakes	PERM	Program Technician I	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0							
		Office Assistant	1.0	1.0	1.0	1.0		1.0	1.0	1.0					1.0			
	<b>Total Results/Retakes Unit</b>		<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>1.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>1.0</b>	<b>1.0</b>				<b>1.0</b>		



## Historical Overview of Executive, Education and Licensing and Administration Business Unit Staffing<sup>1</sup>

Business Unit / Positions			Authorized Positions					Filled Positions					Vacant Positions							
			2012/13	2013/14	2014/15	2015/16	Dec-16	07/31/12	07/01/13	09/30/14	12/09/15	Dec-16	07/31/12	07/01/13	09/30/14	12/09/15	Dec-16			
Licensing and Administration (continued)	Fingerprints	PERM	Office Technician	1.0	1.0	2.0	2.0	2.0	1.0	1.0	2.0	2.0	2.0							
		<b>Total Fingerprints Unit</b>			<b>1.0</b>	<b>1.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>1.0</b>	<b>1.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>						
	Evaluations and Endorsements	PERM	Staff Services Analyst					2.0					1.0						1.0	
			Program Technician II	3.0	3.0	5.0	5.0	3.0	3.0	2.0	4.0	4.0	3.0		1.0	1.0	1.0			
			Management Services Technician	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0							
			Office Technician	1.0	1.0	2.0	1.0	2.0	1.0	1.0	1.0	1.0	1.0	2.0			1.0			
	<b>Total Evaluations and Endorsements Unit</b>			<b>5.0</b>	<b>5.0</b>	<b>8.0</b>	<b>7.0</b>	<b>8.0</b>	<b>5.0</b>	<b>4.0</b>	<b>6.0</b>	<b>6.0</b>	<b>7.0</b>		<b>1.0</b>	<b>2.0</b>	<b>1.0</b>	<b>1.0</b>		
	Continuing Education	PERM	Program Technician II	1.0	1.0	1.0	1.0	Transfer to Educ.	1.0	1.0	1.0	1.0								
			<b>Total Continuing Education Unit</b>			<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>		<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>						
	Licensing Services	PERM	Assoc. Government Program Analyst	1.0	1.0		1.0	Transfer to Educ.	1.0	1.0		1.0								
			Staff Services Analyst	1.0	1.0	1.0	1.0	Reclass to SSM I	1.0	1.0		1.0				1.0				
		LT	Assoc. Government Program Analyst			1.0										1.0				
		<b>Total Licensing Services Unit</b>			<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>		<b>2.0</b>	<b>2.0</b>	<b>0.0</b>	<b>2.0</b>			<b>2.0</b>				
	Administration	PERM	Assoc. Government Program Analyst	1.0	1.0	1.0	1.0	2.0	1.0	1.0	1.0	1.0	1.0						1.0	
			Staff Services Analyst			1.0	1.0	1.0				1.0	1.0			1.0				
			Management Services Technician	1.0	1.0						1.0				1.0					
		<b>Total Administration Unit</b>			<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>3.0</b>	<b>1.0</b>	<b>2.0</b>	<b>1.0</b>	<b>2.0</b>	<b>2.0</b>	<b>1.0</b>		<b>1.0</b>		<b>1.0</b>	
	Information Systems	PERM	Assoc. Information Systems Analyst	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0							
			<b>Total Information Systems Unit</b>			<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>						
	Total Permanent Positions			25.0	25.0	27.5	29.0	27.7	20.0	16.0	19.5	25.0	23.7	5.0	9.0	8.0	4.0	4.0		
Total Limited Term Positions					1.0		1.0								1.0					
<b>Total Licensing and Administration</b>			<b>25.0</b>	<b>25.0</b>	<b>28.5</b>	<b>29.0</b>	<b>28.7</b>	<b>20.0</b>	<b>16.0</b>	<b>19.5</b>	<b>25.0</b>	<b>23.7</b>	<b>5.0</b>	<b>9.0</b>	<b>9.0</b>	<b>4.0</b>	<b>4.0</b>			
<b>Licensing and Administration Vacancy Rate</b>													<b>20%</b>	<b>36%</b>	<b>32%</b>	<b>14%</b>	<b>14%</b>			

<sup>1</sup> Excludes positions funded from blanket expenditure authorizations, including Temporary Help (e.g., Retired Annuitants).

### III. Targeted Administrative Process Assessments

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- ❖ **1 Associate Government Program Analyst (AGPA)** – This new position was recently established within the Administration Unit to provide budget analysis services. This position was created by upgrading and redirecting a vacant Management Services Technician (MST) position that was previously assigned to the Education Office/Division. The MST position became vacant more than a year ago on December 15, 2015 when the incumbent separated from BVNPT. BVNPT is currently recruiting to fill the AGPA position. Separately, a filled AGPA position previously assigned to the Administration Unit was recently transferred to the Education Office/Division. Thus, there was no net change to the total number of positions authorized for either business unit.
- ❖ **1 Staff Services Analyst (SSA)** – This new position, which is allocated to the License Applications Evaluations Unit, was recently established by upgrading a vacant Program Technician II (PT II) position that was assigned to the same business unit. The PT II position became vacant more than 18 months ago on June 30, 2015 when the incumbent separated from BVNPT. BVNPT is current recruiting to fill the SSA position.
- ❖ **1 Office Technician (OT)** – This position is allocated to the Public Counter Unit. This position has been vacant since July 8, 2016 when the incumbent was appointed to a Staff Services Analyst (SSA) position in the Enforcement Division’s Complaint Section. The delay in filling this position is partially attributable to internal miscommunications. BVNPT is current recruiting to refill the OT position.

In our *Initial Report* we noted that BVNPT’s Licensing and Administration Division had only two (2) authorized management and supervisory positions, both of which were filled. We also noted that these two (2) positions were overseeing and managing the services provided by about 30 subordinate staff and that the spans of control of these positions were larger than what is typically seen in the California State Government environment, or at comparable regulatory control agencies, especially given the Division’s diverse range of Licensing Program and administrative support service responsibilities. Establishing and filling an additional SSM I position for a new Licensing Support Services business unit and reclassifying and filling the AEO position as described above, or filling the existing AEO position and utilizing it primarily to bolster management of BVNPT’s licensing and administration business units, would help to reduce current supervisory and management spans of control and improve oversight and management of staff. However, to date, neither of these positions has been filled on a permanent basis.

In addition to the above organizational changes, since mid-September 2016 BVNPT has made four (4) out-of-class assignments involving positions allocated to the Executive Office, Education, and Licensing and Administration business units. In all cases these temporary assignments are limited to 120 days.

- ❖ **Acting Assistant Executive Officer (AEO)** – During October 2016 BVNPT appointed the Supervising Nurse Education Consultant to serve as Acting Assistant Executive Officer. In this capacity the incumbent continues to manage and supervise a group of about 10 Education Office/Division staff, including four (4) Retired Annuitants, and also provides overall oversight and management of BVNPT’s Evaluations and Support Services business units. Previously, the Evaluations and Support Services business units collectively comprised BVNPT’s Licensing and Administration Division.

### III. Targeted Administrative Process Assessments

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- ❖ **Support Services Section Acting Staff Services Manager I (SSM I)** – As discussed previously, BVNPT has experienced difficulties filling this newly created position. During mid-September an Associate Government Program Analyst (AGPA) that was responsible for providing support services to BVNPT’s governing Board was appointed to serve as an Acting SSM I for the new Support Services Section. The newly created Support Services Section is responsible for BVNPT’s Public Counter, Cashiering, Business Services (e.g., mail and supplies procurement), Fingerprinting, and Administration business units. This out-of-class assignment expired on January 9, 2017.
- ❖ **Acting Legislation/Regulations (Leg/Reg) Analyst and Acting Office Services Supervisor III (OSS III)** – During early-December an OSS III that was responsible for supervising BVNPT’s Public Counter, Cashiering, Business Services and Fingerprinting units was appointed to serve as an Acting Leg/Reg Analyst. The Leg/Reg Analyst position is currently classified as a Limited Term (LT) Associate Government Program Analyst (AGPA), but is funded temporarily through a blanket expenditure authorization. Concurrently, an Office Technician (OT) that was responsible for providing public counter and business services (e.g., mail and supplies procurement) was appointed to serve as Acting OSS III to supervise the Public Counter, Cashiering, Business Services, and Fingerprinting business units.

Collectively, the above temporary assignments boosted the total number of positions involved in managing and supervising staff assigned to BVNPT’s Education, Licensing and Administration business units by one (1) position for a limited period of time. However, potential benefits of these short-term assignments may be partially, or fully, offset by:

- ❖ The temporary nature of the out-of-class assignments
- ❖ Reductions in the number of staff available to provide various licensing and administration services
- ❖ Disruption caused by shifting staff back and forth between various positions.

In summary, the utilization of short-term out-of-class assignments to temporarily fill vacant supervisory and management positions is not a substitute for filling the positions on a permanent basis.

#### B. Staff Training

**Exhibit III-4**, on the next page, provides a summary of the number of training sessions attended by BVNPT managers, supervisors and staff from January 1, 2014 through late-September 2016. As shown by Exhibit III-4, during the past year BVNPT has significantly boosted the number of staff that are provided with various types of training and the amount of training that is provided to these staff. For example, during both 2014 and 2015, about 60 training sessions were attended by about 30 BVNPT staff. Subsequently, during just the first nine (9) months of 2016, about 140 sessions were attended by more than 40 BVNPT staff. Additionally, as shown by Exhibit III-4, much of BVNPT’s staff training previously emphasized training in desktop tools (e.g., Microsoft Word and Excel training). More recently, much greater emphasis has been placed on providing more advanced training in such areas as (1) analytical skills development and (2) supervision, management and leadership development.

**Historical Summary of Training Sessions Attended by BVNPT Staff<sup>1</sup>**  
**January 2014 through September 2016**

**Exhibit III-4**

Year	Division/Section		Positions		Number of Training Sessions Attended by Type of Training							Total	
			Total Filled	Total Receiving Training	Supervision, Management, & Leadership Development	Analyst Skills	Investigation Skills	Program Administration	Business Services	Workplace Safety	Desktop Tools		Other
2014	Enforcement	Complaint Section Staff		6		1					14	3	18
		Investigation Section Staff		4			5				3	1	9
		Discipline Section Staff		4		3			1			1	5
		Supervisors and Managers		4	7		2	1			1		11
		<b>Total</b>		<b>18</b>	<b>7</b>	<b>4</b>	<b>7</b>	<b>1</b>	<b>1</b>		<b>18</b>	<b>5</b>	<b>43</b>
	Licensing & Admin.	Staff		6				1	5		2	2	10
		Supervisors and Managers		1				1	2				3
		<b>Total</b>		<b>7</b>				<b>2</b>	<b>7</b>		<b>2</b>	<b>2</b>	<b>13</b>
	Education	Staff		1							3		3
		Supervisors and Managers											0
		<b>Total</b>		<b>1</b>							<b>3</b>		<b>3</b>
	<b>Total</b>			<b>26</b>	<b>7</b>	<b>4</b>	<b>7</b>	<b>3</b>	<b>8</b>		<b>23</b>	<b>7</b>	<b>59</b>
	2015	Enforcement	Complaint Section Staff		7		7				3		4
Investigation Section Staff				6		2	6			1		1	10
Discipline Section Staff				4		2			1	1	2	2	8
Supervisors and Managers				3	10		1						11
<b>Total</b>				<b>20</b>	<b>10</b>	<b>11</b>	<b>7</b>		<b>1</b>	<b>5</b>	<b>2</b>	<b>7</b>	<b>43</b>
Licensing & Admin.		Staff		6		4		3	2			2	11
		Supervisors and Managers		2	1			1		1			3
		<b>Total</b>		<b>8</b>	<b>1</b>	<b>4</b>		<b>4</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>14</b>
Education		Staff		3							7		7
		Supervisors and Managers		1								1	1
		<b>Total</b>		<b>4</b>							<b>7</b>	<b>1</b>	<b>8</b>
<b>Total</b>				<b>32</b>	<b>11</b>	<b>15</b>	<b>7</b>	<b>4</b>	<b>3</b>	<b>6</b>	<b>9</b>	<b>10</b>	<b>65</b>
2016 (January through September <sup>2</sup> )		Enforcement	Complaint Section Staff		10		24	8				5	10
	Investigation Section Staff			7			10						10
	Discipline Section Staff			5		6					2	8	16
	Supervisors and Managers			5	7	1	2		1	2			13
	<b>Total</b>			<b>27</b>	<b>7</b>	<b>31</b>	<b>20</b>		<b>1</b>	<b>2</b>	<b>7</b>	<b>18</b>	<b>86</b>
	Licensing & Admin.	Staff		11		18					13	8	39
		Supervisors and Managers		1	6	2				2			10
		<b>Total</b>		<b>12</b>	<b>6</b>	<b>20</b>				<b>2</b>	<b>13</b>	<b>8</b>	<b>49</b>
	Education	Staff		2									0
		Supervisors and Managers				1			2				3
		<b>Total</b>		<b>2</b>		<b>1</b>			<b>2</b>				<b>3</b>
	<b>Total (through September 2016<sup>2</sup>)</b>			<b>41</b>	<b>13</b>	<b>52</b>	<b>20</b>		<b>3</b>	<b>4</b>	<b>20</b>	<b>26</b>	<b>138</b>

<sup>1</sup> Excludes all BreZE training.

<sup>2</sup> Additional staff training sessions were scheduled and completed during the remainder of CY2016.

### III. Targeted Administrative Process Assessments

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#### C. Oversight of Staff and Evaluation of Staff Performance

This section summarizes recent changes involving the oversight of BVNPT staff and reviews and evaluations of staff performance. The section is organized as follows:

Section	Title
1.	Enforcement Division
2.	Education and Licensing and Administration Business Units
3.	Executive Officer.

##### 1. Enforcement Division

Recently, the level of oversight of Enforcement Division staff was adversely impacted by:

- ❖ Separation of the sole supervisor of BVNPT's Investigation Section and the temporary out-of-class assignment of one of the Section's Special Investigators to serve as an Acting Supervisor for the Section
- ❖ An extended leave of absence of the Division's Chief of Enforcement.

To mitigate these impacts, the Acting Supervisor out-of-class assignment was extended for several months after a new Supervisor for the Section was appointed. Additionally, BVNPT's Executive Officer absorbed some additional Enforcement Program management responsibilities. The out-of-class Acting Supervisor assignment concluded during December 2016.

It is our understanding that annual reviews and evaluations of staff performance in all of the Enforcement Division's sections have been initiated. During periods immediately prior to 2016/17, reviews and evaluations of Enforcement Division staff were not usually completed except for new staff during their probationary period.

##### 2. Education and Licensing and Administration Business Units

As discussed previously, various efforts are underway to modify BVNPT's organizational structure, position allocations, and staff assignments to improve oversight and management of BVNPT's Licensing and Administration business units. However, these changes have not yet been fully implemented. In particular, needs exist for BVNPT to fill currently vacant management positions and avoid needs to temporarily reassign supervisors and managers so that they can consistently manage and supervise their regularly assigned business units.

It is our understanding that annual reviews and evaluations of staff performance in all of BVNPT's education, licensing and administration business units have been initiated. During periods immediately prior to 2016/17, reviews and evaluations of the staff in these business units were not usually completed except for new staff during their probationary period.

### III. Targeted Administrative Process Assessments

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#### 3. Executive Officer

It is evident that the members of BVNPT's governing Board have been largely dependent on information provided by the Executive Officer for purposes of performing their oversight responsibilities, including responsibilities for overseeing the Executive Officer and evaluating the Executive Officer's performance. Although such dependency is not unique to BVNPT, several Board members noted during our interviews with them during Phase II of the project that this dependency can result in the Board being unaware of performance or other problems as occurred during the period preceding BVNPT's 2014/15 Sunset Review. Subsequently, during our presentations to the Board in October and November, some Board members suggested in their public comments that our Phase II recommendations might not sufficiently address improvement needs in this area or that members had limited time available to gather and review supplemental information needed to enable better oversight by the Board.

Oversight of BVNPT's Executive Officer and, by extension, BVNPT's programs and operations, could potentially benefit from utilization of a 360 degree, multi-rater assessment process in which feedback regarding the Executive Officer's performance is solicited from a variety of points of view, including Board members, DCA executives, representatives of external stakeholder organizations such as the Office of the Attorney General and control agencies, peers at other regulatory agencies that interact with BVNPT's Executive Officer, and subordinate staff. Such information could be utilized exclusively for developmental purposes or for a combination of developmental and performance assessment purposes. It is our understanding that one of BVNPT's current Board members previously suggested that the Board consider utilizing a 360 degree process as part of the Board's annual Executive Officer review process, but that this suggestion was never further explored.

**Recommendation III-1** – Establish a multi-agency Work Group comprised of representatives of the Business, Consumer Services and Housing Agency, the Department of Consumer Affairs, the Senate Committee on Business, Professions and Economic Development, the Assembly Committee on Business and Professions, and BVNPT's governing Board to assess needs for development of a 360 degree Executive Officer feedback process and, if needed, the best approach and timeframe for developing and implementing the process.

#### D. Implementation of Phase II Recommendations

**Exhibit III-5**, on the next page, provides a brief summary of our assessment of the status of BVNPT's implementation of our Phase II recommendations for improvements involving the administrative processes that are specified in AB 179. As shown by Exhibit III-5, BVNPT has implemented three (3) of the recommendations (Nos. V-10, VII-2 and VII-3) and has partially implemented one (1) other recommendation (No. V-13).

Status of BVNPT's Implementation of Recommended Targeted Administrative Process Improvements

Phase II Recommended Improvement			Implementation Status Assessment
Enforcement Division Staff Training	V-10	Continue to provide Enforcement Division staff with formal classroom type training as needed to bolster their knowledge, skills and abilities.	<b>Implemented</b> - BVNPT is continuing to provide Enforcement Division staff with a considerable amount of formal classroom type training.
	V-11	Utilize the Division of Investigation to support initial training of newer investigators.	<b>Not Implemented</b> - BVNPT has not utilized the Division of Investigation to provide training to BVNPT's Special Investigators except as part of DCA's Enforcement Academy Training Program.
	V-12	Consider utilizing AG Liaison services at a higher level for a limited period of time to provide additional on-site applied technical assistance and training to BVNPT's investigators.	<b>Not Implemented</b> - BVNPT has continued to utilize the AG liaison to only a limited extent to provide on-site technical assistance and training to BVNPT's investigators.
	V-13	Assign responsibilities and due dates for completing Annual Performance Reviews and Individual Development Plans during the 2016/17 fiscal year for all Enforcement Division managers and staff.	<b>Partially Implemented</b> - BVNPT has begun the process of completing Individual Development Plans (IDPs) and Annual Performance Reviews for most Enforcement Division staff.
Enforcement Program Reporting	VI-1	Update the Enforcement Program Workload and Performance Executive Summary Report on a quarterly basis within 30 days following the completion of each quarter and provide the report to BVNPT's Enforcement Committee and, through the Enforcement Committee, to BVNPT's governing Board. Also, post the quarterly reports on BVNPT's website.	<b>Not Implemented</b> - BVNPT continues to utilize workload and performance reporting formats that do not differentiate between the major types of cases that are handled by BVNPT (i.e., license applicant, continuing education, licensee arrest/conviction reports, and licensee complaints). Consequently, many of the aggregate statistical measures presented are largely meaningless and obscure important information about BVNPT's Enforcement Program that the Board should be aware of. Additionally, current information is not provided.
	VI-2	On an annual basis, develop goals for each of the key workload and performance measures listed on the Enforcement Program Workload and Performance Executive Summary Report and include the goals in all quarterly reports.	<b>Not Implemented</b> - BVNPT has not developed goals for the key workload and performance measures listed on the Sample Summary Enforcement Program Workload and Performance Report.
Survey of Governing Board	VII-1	Consistently provide all new Board members with substantive New Board Member Orientations and related training and reference materials <u>specific to</u> BVNPT's Enforcement Program, and other BVNPT programs and services provided, as appropriate, that complements the Board Member Orientation Training (BMOT) provided by DCA and helps new members to better understand and fulfill their program oversight, strategic planning, policy development, Executive Officer performance evaluation and other responsibilities. Consider requesting that a representative of DCA participate in these BVNPT-specific orientations to help integrate the training with DCA's BMOT training, particularly with respect to helping the member understand and fulfill their oversight responsibilities. Overhaul the reference materials contained in the two "large binders" to make the information more useful and effective for Board member orientation, training and reference purposes.	<b>Partially Implemented</b> - As stated in BVNPT's Sunset Review Report, BVNPT is in the process of revising the Board's New Board Member Orientation Manual. Implementation of other components of this recommendation is dependent on the appointment of new members to the Board which has not occurred since February 2016.
	VII-2	Develop and adopt a written charter for the Enforcement Committee delineating the Committee's roles and responsibilities, including roles and responsibilities related to (1) overseeing the Board's Enforcement Program and (2) communicating Enforcement Program-related information to the full Board to support fulfillment of the Board's strategic planning, policy development, Executive Officer performance evaluation and other responsibilities. Consider developing similar charters for other Board committees, where appropriate.	<b>Implemented</b> - A Role Statement for BVNPT's Enforcement Committee was submitted to and approved by BVNPT's governing Board during its November meeting. The purposes of the Enforcement Committee include (1) overseeing the functions and performance of the Enforcement Division (2) overseeing, developing and recommending policies, and (3) reviewing and evaluating enforcement statistical reports and monitoring workload trends. Additionally, the Committee is required to prepare a <i>Summary Report</i> for the full Board
	VII-3	Provide briefings to Enforcement Committee members, initially on at least quarterly basis, to provide information regarding case intake, investigation and discipline workloads, backlogs, and performance, performance improvement initiatives underway and planned, policy matters and other information as determined by the Committee.	<b>Implemented</b> - BVNPT appointed members to a 2-member Enforcement Committee. The Committee members initially met by teleconference with BVNPT's EO and Chief of Enforcement on July 29, 2016. Subsequently, on October 7, 2016, the Committee members met by teleconference for one (1) hour with BVNPT's EO, Chief of Enforcement and an Enforcement analyst. Following the July meeting, the Committee prepared a <i>Summary Report</i> for the Board. Between these two meetings, one of the members of the Committee resigned and was replaced by another Board member. Following the October meeting, a copy of the Committee's meeting minutes with various attachments was provided to the Board.

## IV. Other Issues



## IV. Other Issues

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During the past six (6) months various issues, problems and concerns have surfaced or were brought to our attention by BVNPT staff involving matters that were not within the scope of the BVNPT Monitor assignment which focused primarily on BVNPT's Enforcement Program and, secondarily, on the targeted administrative processes delineated in AB 179. As these matters surfaced, and consistent with provisions of AB 179, we relayed the information to DCA's Project Manager and, as appropriate, other members of DCA's Leadership Team. For example, during July 2016 BVNPT's Executive Officer expressed concerns to us about BVNPT's Licensing and Administration Division and the need for completion of an assessment of the Division. We promptly discussed these concerns with both DCA's Project Manager and other members of DCA's Leadership Team. Concurrently, BVNPT's Executive Officer discussed these same concerns with some Legislative staff. However, no decisions were ever made to modify the scope and focus of the Monitor's Phase II and III reviews and assessments to address these concerns. Instead, as mutually agreed during the completion of the Phase I Initial Assessment, our Phase II/III assessments of BVNPT's Licensing Program business processes were limited to areas where there were specific and direct linkages to BVNPT's Enforcement Program business processes, including completing integrated assessments of the processes used for identifying and referring license applicant arrest/conviction report cases, licensee Continuing Education cases, and licensee arrest/conviction report cases to the Enforcement Division.

Subsequently, more specific and detailed additional information regarding various problems involving BVNPT's licensing and licensing support business processes was brought to our attention. While we have not completed any assessment of these problems, we have made very limited efforts to confirm or verify the validity of the information provided to us. In some case the problems have linkages to, or impacts upon, BVNPT's Enforcement Program. Consistent with the provisions of AB 179, we relayed the information provided to us regarding these potential problems to DCA's Project Manager and, as appropriate, other members of DCA's Leadership Team for their review and consideration and, as needed, follow-up action. Specific problems that were brought to our attention subsequent to completion of our Phase I Initial Assessment include:

- ❖ **Delays in Cashiering School Applications** - It is our understanding that, as of mid-December 2016, this category of license applications, which are submitted as a batch by the school that the applicants attended, was not being cashiered by BVNPT's Cashiering Unit for a period of about eight (8) weeks. For example, a mid-December internal status tracking report appears to show that VN school remittances received on October 21<sup>st</sup> were being cashiered. We also understand that the license application documents that accompany these remittances are not referred to BVNPT's Licensing Program staff for review and processing until after the remittances are cashiered by BVNPT's Cashiering Unit.
- ❖ **Delays in Processing On-Line Initial License Applications** – It is our understanding that, as of mid-December, this category of license applications was not being processed by BVNPT's Evaluations Unit for a period of about eight (8) weeks. For example, a mid-December internal status tracking report appears to show that on-line applications received on October 18<sup>th</sup> were being reviewed. It is our understanding that this category of license applicants pays their fees concurrent with submission of their on-line license application.
- ❖ **Delays in Processing License Renewal Batch Mail Received from DCA Central Cashiering** – It is our understanding that, as of mid-December, this category of license renewals was not being processed by BVNPT's Evaluations Unit for a period of about four (4) months. For example, a mid-December internal status tracking report appears to show that Batch Mail for August 5<sup>th</sup> was being processed. Extended delay in processing these renewal applications increases the likelihood that the licensees will be restricted from practicing.

## IV. Other Issues

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- ❖ **Delays in Processing Address Changes (In-House)** – It is our understanding that, as of mid-December, these address change requests were not being processed for a period of about three (3) months. For example, a mid-December internal status tracking report appears to show that Address Changes (In-House) for September 13<sup>th</sup> were being processed. Delays in processing address change requests sometimes make it more difficult for Enforcement Program staff to contact the subjects of cases they are investigating.
- ❖ **Issuance of a Temporary License to an Applicant that Was Previously Denied Licensure** – Documentation was provided to us showing that an applicant was previously denied licensure twice, but was recently issued a Temporary License at the same time that the more recent license denial was pending appeal. The more recent license denial is an active Enforcement Program discipline case and it is possible that this Temporary License was issued in error (e.g., without properly checking to determine whether arrest/conviction notices were previously received by BVNPT for the applicant or whether the applicant had previously been denied licensure). Additionally, it appears that BVNPT does not post Temporary License issuance information on-line so that, in the event that it is determined that that this Temporary License was issued in error, there is no mechanism to notify prospective employers or the public that the Temporary License has been cancelled. It is not known whether this particular case is a one-time event or reflects a larger, recurrent problem. In any event, we forwarded the information about this matter to the Chief of DCA's Division of Investigation for further review and determination of what, if any, additional actions may be needed to protect consumers.

Further assessment of these potential issues was not within the scope of the BVNPT Monitor assignment.

**Appendix A**  
**Updated Case Intake and Investigation**  
**Time Series Date Summaries**

## Appendix A

### Updated Case Intake and Investigation Time Series Data Summaries

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This appendix provides updated case intake and investigation time series data summaries. The summaries are organized as follows:

Exhibit	Title
A-1.	Updated Historical Overview of License Applicant and Licensee Cases Received
A-2.	Updated Historical Overview of Licensee Enforcement Cases Assigned for Investigation
A-3.	Updated Historical Overview of Completed License Applicant and Licensee Enforcement Investigations
A-4.	Updated Historical Overview of Pending License Applicant and Licensee Enforcement Investigations
A-5.	Updated Historical Overview of Pending Licensee Complaint Investigations, by Age
A-6.	Updated Historical Overview of Administrative Disciplinary Outcomes.

Updated Historical Overview of License Applicant and Licensee Enforcement Cases Received

Case Category and Type		2010/11	2011/12	2012/13	2013/14	2014/15	2015/16			2016/17
							Jul-Dec	Jan-Jun	Total	Jul-Oct
Arrest/Conviction Reports	License Applicants	2,447	3,027	2,822	3,790	3,305	502	233	735	264
	Licensees	2,023	1,948	1,485	1,360	1,550	920	736	1,656	481
	<b>Total Arrest/Conviction Reports Received</b>	<b>4,470</b>	<b>4,975</b>	<b>4,307</b>	<b>5,150</b>	<b>4,855</b>	<b>1,422</b>	<b>969</b>	<b>2,391</b>	<b>745</b>
Complaints	Discipline by Another State/Agency	49	40	44	41	52	58	38	96	59
	Employer Reports - All Offense Categories			201	195	176	119	98	217	83
	Public and Other Complaints - All Offense Categories			126	126	157	138	254	392	166
	Public Agency Reports - All Offense Categories	391	488	72	98	115	35	55	90	47
	Internal - Other than Fraud <sup>1</sup>			81	28	45	17	7	24	0
	<b>Total Complaints Received, Excluding Internal - Fraud Cases</b>	<b>440</b>	<b>528</b>	<b>524</b>	<b>488</b>	<b>545</b>	<b>367</b>	<b>452</b>	<b>819</b>	<b>355</b>
	Internal - Fraud Cases (primarily CE Audit Cases) <sup>2</sup>	159	122	189	152	13	130	101	231	4
	<b>Total Complaints Received, Including Internal - Fraud Cases</b>	<b>599</b>	<b>650</b>	<b>713</b>	<b>640</b>	<b>558</b>	<b>497</b>	<b>553</b>	<b>1,050</b>	<b>359</b>
Total Cases Received	Total Arrest/Conviction Reports and Complaints	5,069	5,625	5,020	5,790	5,413	1,919	1,522	3,441	1,104
	Less: License Applicant Arrest/Conviction Reports	(2,447)	(3,027)	(2,822)	(3,790)	(3,305)	(502)	(233)	(735)	(264)
	<b>Total Enforcement and CE Audit Cases Received</b>	<b>2,622</b>	<b>2,598</b>	<b>2,198</b>	<b>2,000</b>	<b>2,108</b>	<b>1,417</b>	<b>1,289</b>	<b>2,706</b>	<b>840</b>

<sup>1</sup> Excludes 32 cases involving non-compliance with Mandatory Employer Reporting requirements.

<sup>2</sup> Also includes license examination fraud (cheating) cases and fraudulent license application (experience) cases, including 18 fraudulent license application cases received on June 10, 2016.

Updated Historical Overview of Licensee Enforcement Cases Assigned for Investigation

Case Category and Type		2010/11	2011/12	2012/13	2013/14	2014/15	2015/16			2016/17
							Jul-Dec	Jan-Jun <sup>4</sup>	Total <sup>4</sup>	Jul-Oct <sup>5</sup>
Licensee Arrest/Conviction Reports	Desk Investigations	1,982	1,761	1,552	1,337	1,560	925	727	1,652	475
	Non-Sworn Investigations	83	165	61	21	52	4	1	5	0
	Sworn Investigations	11	3	0	0	3	31	10	41	2
	<b>Total Licensee Arrest/Conviction Reports Assigned for Investigation</b>	<b>2,076</b>	<b>1,929</b>	<b>1,613</b>	<b>1,358</b>	<b>1,615</b>	<b>960</b>	<b>738</b>	<b>1,698</b>	<b>477</b>
Complaints Assigned for Desk Investigation, Including CE Cases (Imputed Values)		472	142	55	217	43	51	158	209	163
Non-Sworn Complaint Investigations	Discipline by Another State/Agency		34	21	3	3	13	1	14	0
	Employer Reports - All Offense Categories		80	271	181	166	74	54	128	52
	Public and Other Complaints - All Offense Categories	15	153	147	124	104	70	74	144	29
	Public Agency Reports - All Offense Categories		35	84	88	95	24	19	43	7
	Internal - Other than Fraud <sup>1</sup>		97	94	26	17	22	3	25	2
	Internal - Fraud (primarily CE audit cases) <sup>2</sup>	2	36	29	4	4	1	0	1	0
	<b>Total Complaints Assigned for Non-Sworn Investigation</b>	<b>17</b>	<b>435</b>	<b>646</b>	<b>426</b>	<b>389</b>	<b>204</b>	<b>151</b>	<b>355</b>	<b>90</b>
Sworn Complaint Investigations	Discipline by Another State/Agency	2	0	0	None Assigned	2	9	0	9	0
	Substance Abuse, Impairment and Drug-Related Offenses	41	25	0		40	65	26	91	14
	Incompetence/Negligence	43	41	1		27	50	9	59	10
	Unprofessional Conduct	15	14	0		22	56	10	66	22
	Internal - Fraud <sup>2</sup>	4	2	10		0	4	18	22	2
	Sexual Misconduct	3	4	0		5	10	1	11	2
	Other	7	7	4		31	48	24	72	11
	<b>Total Complaints Assigned for Sworn Investigation<sup>3</sup></b>	<b>115</b>	<b>93</b>	<b>15</b>		<b>0</b>	<b>127</b>	<b>242</b>	<b>88</b>	<b>330</b>
<b>Total Complaints Assigned for Investigation</b>		<b>604</b>	<b>670</b>	<b>716</b>	<b>643</b>	<b>559</b>	<b>497</b>	<b>397</b>	<b>894</b>	<b>314</b>
Total Enforcement Cases	Desk Investigations	2,454	1,903	1,607	1,554	1,603	976	885	1,861	638
	Non-Sworn Investigations	100	600	707	447	441	208	152	360	90
	Sworn Investigations	126	96	15	0	130	273	98	371	63
	<b>Total Enforcement Cases Assigned for Investigation</b>	<b>2,680</b>	<b>2,599</b>	<b>2,329</b>	<b>2,001</b>	<b>2,174</b>	<b>1,457</b>	<b>1,135</b>	<b>2,592</b>	<b>791</b>

<sup>1</sup> Excludes 27 cases involving non-compliance with Mandatory Employer Reporting requirements.

<sup>2</sup> Includes failure to comply with CE requirements, license examination fraud (cheating) cases and fraudulent license application cases, including 18 cases assigned during June 2016.

<sup>3</sup> About 65 percent of the 369 cases assigned for sworn investigation during 2014/15 and the first half of 2015/16 were previously assigned for non-sworn investigation during the 4-year period extending from July 2011 through June 2015.

<sup>4</sup> Excludes 118 complaint cases closed during Intake/Screening between January 1 and June 30, 2016, without assignment for investigation.

<sup>5</sup> Excludes 87 cases closed during Intake/Screening between July 1 and October 31, 2016, without assignment for investigation.

Updated Historical Overview of Completed License Applicant and Licensee Enforcement Investigations

Case Category and Type		2010/11	2011/12	2012/13	2013/14	2014/15	2015/16			2016/17	
							Jul-Dec	Jan-Jun	Total	Jul-Oct	
License Applicant Investigations	Arrest/Conviction Report Desk Investigations	2,102	2,772	2,896	3,492	4,676	1,751	401	2,152	242	
	Arrest/Conviction Report Non-Sworn Investigations	1	32	0	0	6	0	0	0	0	
	Sworn Investigations	0	1	0	1	1	3	0	3	0	
	<b>Total Completed License Applicant Investigations</b>	<b>2,103</b>	<b>2,805</b>	<b>2,896</b>	<b>3,493</b>	<b>4,683</b>	<b>1,754</b>	<b>401</b>	<b>2,155</b>	<b>242</b>	
Licensee Arrest/Conviction Reports	Desk Investigations <sup>4 5</sup>	2,383	1,781	1,758	1,496	1,416	1,079	831	1,910	505	
	Non-Sworn Investigations	0	192	31	60	52	39	4	43	0	
	Sworn Investigations	3	13	2	2	1	6	14	20	9	
	<b>Total Completed Arrest/Conviction Report Investigations</b>	<b>2,386</b>	<b>1,986</b>	<b>1,791</b>	<b>1,558</b>	<b>1,469</b>	<b>1,124</b>	<b>849</b>	<b>1,973</b>	<b>514</b>	
Complaint Investigations	Desk Investigations	Discipline by Another State/Agency	66	21	15	40	33	35	79	114	60
		Internal - Fraud (primarily CE)	177	68	125	122	103	62	123	185	29
		All Other Sources and Offense Categories 2010/11 Avg. Elapsed Time = 12.1 Months.	472	129	30	30	23	80	0	80	0
		<b>Total Completed Desk Complaint Investigations</b>	<b>715</b>	<b>218</b>	<b>170</b>	<b>192</b>	<b>159</b>	<b>177</b>	<b>202</b>	<b>379</b>	<b>89</b>
	Non-Sworn Investigations	Discipline by Another State/Agency		5	10	15	13	7	7	14	3
		Employer Reports - All Offense Categories		3	34	102	174	52	163	215	23
		Public and Other Complaints - All Offense Categories	Not Applicable	22	86	170	111	65	80	145	13
		Public Agency Reports - All Offense Categories		5	24	55	81	36	32	68	6
		Internal - Other than Fraud <sup>1</sup>		6	35	80	51	18	35	53	7
		Internal - Fraud (primarily CE)		4	4	6	12	0	0	0	0
		<b>Total Completed Non-Sworn Complaint Investigations</b>	<b>Not Applicable</b>	<b>45</b>	<b>193</b>	<b>428</b>	<b>442</b>	<b>178</b>	<b>317</b>	<b>495</b>	<b>52</b>
	<b>Average Elapsed Time to Complete Non-Sworn Investigations(Months)</b>	<b>Not Applicable</b>	<b>16</b>	<b>16</b>	<b>19</b>	<b>19</b>	<b>25</b>	<b>25</b>	<b>25</b>	<b>22</b>	
	Sworn Investigations	Discipline by Another State/Agency	0	2	1	0	0	0	3	3	2
		Substance Abuse, Impairment and Drug-Related Offenses	63	29	20	20	0	13	46	59	22
		Incompetence/Negligence	53	31	44	23	3	5	23	28	24
		Unprofessional Conduct	44	20	7	6	5	7	29	36	18
		Fraud, Including Internal - Fraud	12	2	7	14	6	0	14	14	17
		Sexual Misconduct	8	4	6	0	1	0	5	5	4
		Unlicensed Practice and Other	20	4	4	3	0	11	10	21	6
		<b>Total Completed Sworn Complaint Investigations</b>	<b>200</b>	<b>92</b>	<b>89</b>	<b>66</b>	<b>15</b>	<b>36</b>	<b>130</b>	<b>166</b>	<b>93</b>
	<b>Total Completed Complaint Investigations<sup>2 3</sup></b>	<b>915</b>	<b>355</b>	<b>452</b>	<b>686</b>	<b>616</b>	<b>391</b>	<b>649</b>	<b>1,040</b>	<b>234</b>	
	Total Completed Enforcement Investigations	Desk Investigations	3,098	1,999	1,928	1,688	1,575	1,256	1,033	2,289	594
		Non-Sworn Investigations	0	237	224	488	494	217	321	538	52
Sworn Investigations		203	105	91	68	16	42	144	186	102	
<b>Total Completed Enforcement Investigations (Unweighted)</b>		<b>3,301</b>	<b>2,341</b>	<b>2,243</b>	<b>2,244</b>	<b>2,085</b>	<b>1,515</b>	<b>1,498</b>	<b>3,013</b>	<b>748</b>	

<sup>1</sup> Excludes 25 cases involving non-compliance with Mandatory Employer Reporting requirements.

<sup>2</sup> Excludes about 118 complaint cases closed during Intake/Screening and 30 arrest/conviction report cases coded as complaints in BreEZe between January 1 and June 30, 2016.

<sup>3</sup> Excludes about 87 complaint cases closed during Intake/Screening and 8 arrest/conviction report cases coded as complaints in BreEZe between July 1 and October 31 2016.

<sup>4</sup> Excludes 168 Closed Pending Criminal Conviction (CLPX) arrest/conviction report cases. Includes 30 arrest/conviction report cases coded as complaints in BreEZe between January 1 and June 30, 2016.

<sup>5</sup> Excludes 144 Closed Pending Criminal Conviction (CLPX) arrest/conviction report cases. Includes 8 arrest/conviction report cases coded as complaints in BreEZe between July 1 and October 31, 2016.

Updated Historical Overview of Pending License Applicant and Licensee Enforcement Investigations

Case Category and Type		06/30/10	06/30/11	06/30/12	06/30/13	06/30/14	06/30/15	2015/16		2016/17	
								12/31/15	06/30/16	10/31/16	
License Applicant Investigations	Desk Arrest/Conviction Report Investigations	2,080	2,391	2,643	2,565	2,870	1,485	244	67	66	
	Non-Sworn Arrest/Conviction Report Investigations	4	31	3	3	4	1	0	0	0	
	Sworn Investigations	4	4	4	4	4	3	0	0	0	
	<b>Total Pending License Applicant Investigations</b>	<b>2,088</b>	<b>2,426</b>	<b>2,650</b>	<b>2,572</b>	<b>2,878</b>	<b>1,489</b>	<b>244</b>	<b>67</b>	<b>66</b>	
Licensee Arrest/Conviction Reports	Desk Investigations <sup>1 2</sup>	1,744	1,334	1,243	1,012	834	925	739	675	677	
	Non-Sworn Investigations	15	91	69	96	52	51	14	0	0	
	Sworn Investigations	5	13	3	1	0	3	28	24	16	
	<b>Total Pending Arrest/Conviction Report Investigations</b>	<b>1,764</b>	<b>1,438</b>	<b>1,315</b>	<b>1,109</b>	<b>886</b>	<b>979</b>	<b>781</b>	<b>699</b>	<b>693</b>	
Pending Complaints	Desk Investigations	Discipline by Another State/Agency	55	33	21	29	26	41	48	22	15
		Internal - Fraud (Primarily CE) <sup>2</sup>	32	14	20	73	97	3	70	33	0
		All Other Sources and Offense Categories	467	267	167	31	29	64	29	6	40
		<b>Total Pending Desk Complaint Investigations</b>	<b>554</b>	<b>314</b>	<b>208</b>	<b>133</b>	<b>152</b>	<b>108</b>	<b>147</b>	<b>61</b>	<b>55</b>
	Non-Sworn Investigations	Discipline by Another State/Agency	1	3	32	43	28	17	19	10	9
		Employer Reports - All Offense Categories				311	390	331	294	177	192
		Public and Other Complaints - All Offense Categories	13	32	359	189	150	113	110	113	121
		Public Agency Reports - All Offense Categories				113	147	144	86	67	61
		Internal - Other than Fraud <sup>4</sup>				156	101	58	51	27	19
		Internal - Fraud <sup>3</sup>	0	2	34	26	24	15	11	1	2
	<b>Total Pending Non-Sworn Complaint Investigations</b>	<b>14</b>	<b>37</b>	<b>425</b>	<b>838</b>	<b>840</b>	<b>678</b>	<b>571</b>	<b>395</b>	<b>404</b>	
	Sworn Investigations	Discipline by Another State/Agency	1	3	1	0	0	2	11	8	6
		Substance Abuse, Impairment and Drug-Related Offenses	68	46	42	22	2	42	94	68	64
		Incompetence/Negligence	67	57	67	24	1	25	70	52	39
		Unprofessional Conduct	53	24	18	11	5	22	71	40	48
		Fraud, Including Internal - Fraud <sup>3</sup>	15	9	11	18	4	16	50	59	56
		Sexual Misconduct	11	6	6	0	0	4	14	10	7
		All Other Offense Categories	21	6	7	3	0	14	21	19	15
		<b>Total Pending Sworn Complaint Investigations</b>	<b>236</b>	<b>151</b>	<b>152</b>	<b>78</b>	<b>12</b>	<b>125</b>	<b>331</b>	<b>256</b>	<b>235</b>
	<b>Total Pending Complaint Investigations</b>	<b>804</b>	<b>502</b>	<b>785</b>	<b>1,049</b>	<b>1,004</b>	<b>911</b>	<b>1,049</b>	<b>712</b>	<b>694</b>	
	Total Pending Enforcement Investigations	Desk Investigations	2,298	1,648	1,451	1,145	986	1,033	886	736	732
		Non-Sworn Investigations	29	128	494	934	892	729	585	395	404
		Sworn Investigations	241	164	155	79	12	128	359	280	251
<b>Total Pending Enforcement Investigations (Unweighted)</b>		<b>2,568</b>	<b>1,940</b>	<b>2,100</b>	<b>2,158</b>	<b>1,890</b>	<b>1,890</b>	<b>1,830</b>	<b>1,411</b>	<b>1,387</b>	

<sup>1</sup> Value shown from June 30, 2016, includes 226 cases Closed Pending Criminal Conviction (CLPX) cases. The investigations will be re-opened and completed after the cases are adjudicated

<sup>2</sup> Value shown for October 31, 2016, includes 291 Closed Pending Criminal Conviction (CLPX) cases. The investigations will be re-opened and completed after the cases are adjudicated.

<sup>3</sup> Includes failure to comply with CE requirements, license examination fraud (cheating) cases and fraudulent license application (experience) cases.

<sup>4</sup> Excludes 25 cases involving non-compliance with Mandatory Employer Reporting requirements.



Updated Historical Overview of Pending Licensee Complaint Investigations, By Age<sup>1</sup>

Investigation and Age Category		06/30/12	06/30/13	06/30/14	06/30/15	12/31/15	06/30/16	10/31/16
Desk Investigations <sup>2</sup>	Less than 1 Year	156	38	43	91	74	28	48
	1 to 2 Years	23	12	8	13	3	0	7
	2 to 3 Years	6	6	2	0	0	0	0
	3 to 4 Years	2	4	2	1	0	0	0
	More than 4 Years	1	0	0	0	0	0	0
	<b>Total Pending Desk Complaint Investigations</b>	<b>188</b>	<b>60</b>	<b>55</b>	<b>105</b>	<b>77</b>	<b>28</b>	<b>55</b>
	<b>Average Age of Pending Complaint Cases (Months)</b>	<b>8</b>	<b>11</b>	<b>7</b>	<b>5</b>	<b>4</b>	<b>5</b>	<b>5</b>
Non-Sworn Investigations	Less than 1 Year	293	417	342	238	257	245	228
	1 to 2 Years	80	331	297	209	140	111	128
	2 to 3 Years	36	63	181	163	101	26	35
	3 to 4 Years	12	23	18	62	62	11	10
	More than 4 Years	4	4	2	6	11	1	3
	<b>Total Pending Non-Sworn Complaint Investigations</b>	<b>425</b>	<b>838</b>	<b>840</b>	<b>678</b>	<b>571</b>	<b>394</b>	<b>404</b>
	<b>Average Age of Pending Complaint Cases (Months)</b>	<b>11</b>	<b>13</b>	<b>16</b>	<b>19</b>	<b>17</b>	<b>12</b>	<b>12</b>
Sworn Investigations <sup>3</sup>	Less than 1 Year	61	10	0	57	152	131	128
	1 to 2 Years	63	35	0	32	82	58	50
	2 to 3 Years	18	21	11	16	59	39	30
	3 to 4 Years	8	9	0	20	24	20	19
	More than 4 Years	2	3	1	0	14	8	8
	<b>Total Pending Sworn Complaint Investigations</b>	<b>152</b>	<b>78</b>	<b>12</b>	<b>125</b>	<b>331</b>	<b>256</b>	<b>235</b>
	<b>Average Age of Pending Complaint Cases (Months)</b>	<b>16</b>	<b>23</b>	<b>29</b>	<b>17</b>	<b>17</b>	<b>16</b>	<b>15</b>
<b>Total Pending Complaint Investigations</b>		<b>765</b>	<b>976</b>	<b>907</b>	<b>908</b>	<b>979</b>	<b>678</b>	<b>694</b>
<b>Weighted Average Age of Pending Complaint Cases (Months)</b>		<b>11</b>	<b>14</b>	<b>15</b>	<b>17</b>	<b>16</b>	<b>13</b>	<b>12</b>

<sup>1</sup> Excludes cases involving non-compliance with Mandatory Employer Reporting requirements.

<sup>2</sup> Excludes cases involving licensee failure to comply with Continuing Education (CE) Program requirements

<sup>3</sup> Ages shown include elapsed time from BVNPT's receipt of the complaint to referral to the Division of Investigation. Between May and December 2015, about 240 aged complaints were reassigned from the Investigation Section to the Division of Investigation.

Updated Historical Overview of Administrative Disciplinary Outcomes

Type of Case	Type of Administrative Discipline	2011/12	2012/13	2013/14	2014/15	2015/16			2016/17
						Jul-Dec	Jan-Jun	Total	Jul-Oct
License Applicant Arrest/Conviction Reports	Notice of Warning (estimated for periods prior to 2016)	1,012	883	990	784	354	340	694	206
	Citation <sup>1</sup>	10	24	18	8	22	3	25	4
	<b>Total - Applicant Arrest/Conviction Reports</b>	<b>1,022</b>	<b>907</b>	<b>1,008</b>	<b>792</b>	<b>376</b>	<b>343</b>	<b>719</b>	<b>210</b>
Continuing Education Failure to Comply	Notice of Warning (estimated for periods prior to 2016)	0	0	40	119	30	26	56	2
	Citation	60	101	42	1	44	66	110	23
	<b>Total - Continuing Education</b>	<b>60</b>	<b>101</b>	<b>82</b>	<b>120</b>	<b>74</b>	<b>92</b>	<b>166</b>	<b>25</b>
Licensee Arrest/Conviction Reports	Notice of Warning (estimated for periods prior to 2016)	624	615	526	368	213	216	429	82
	Citation <sup>1</sup>	155	61	71	81	84	78	162	47
	<b>Total - Licensee Arrest/Conviction Reports</b>	<b>779</b>	<b>676</b>	<b>597</b>	<b>449</b>	<b>297</b>	<b>294</b>	<b>591</b>	<b>129</b>
Licensee Complaints and Other Cases	Notice of Warning (estimated for periods prior to 2016)	40	50	91	109	41	107	148	28
	Citation <sup>1</sup>	27	10	9	12	13	41	54	46
	<b>Total Licensee Complaints and Other Cases</b>	<b>67</b>	<b>60</b>	<b>100</b>	<b>121</b>	<b>54</b>	<b>148</b>	<b>202</b>	<b>74</b>

Type of Discipline	Type of Case (Enforcement Only)	2011/12	2012/13	2013/14	2014/15	2015/16			2016/17
						Jul-Dec	Jan-Jun	Total	Jul-Oct
Notice of Warning	Continuing Education	0	0	40	119	30	26	56	2
	Arrest/Conviction Reports	624	615	526	368	213	216	429	82
	Other Licensee Offenses	40	50	91	109	41	107	148	28
	<b>Total Enforcement Notices of Warning</b>	<b>664</b>	<b>665</b>	<b>657</b>	<b>596</b>	<b>284</b>	<b>349</b>	<b>633</b>	<b>112</b>
Citation <sup>1</sup>	Continuing Education	60	101	42	1	44	66	110	23
	Arrest/Conviction Reports	155	61	71	81	84	77	161	47
	Other Licensee Offenses	27	10	4	12	13	42	55	45
	Non-Licensees	5	2	5	0	1	2	3	1
	<b>Total Enforcement Citations</b>	<b>242</b>	<b>172</b>	<b>117</b>	<b>94</b>	<b>141</b>	<b>185</b>	<b>326</b>	<b>115</b>
<b>Total Amount of Fines Assessed (Licensing and Enforcement cases)</b>		<b>\$129,300</b>	<b>\$116,105</b>	<b>\$102,038</b>	<b>\$70,410</b>	<b>\$87,966</b>	<b>\$101,306</b>	<b>\$189,272</b>	Not Available

<sup>1</sup> Includes citations issued in connection with formal discipline cases (see Exhibit III-4).

**Appendix B**  
**Updated Discipline Case**  
**Time Series Data Summaries**

## Appendix B

### Updated Discipline Case Time Series Data Summaries

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This appendix provides updated discipline case time series data summaries. The summaries are organized as follows:

<b>Exhibit</b>	<b>Title</b>
B-1.	Updated Historical Summary of Discipline Case Referrals and Filings
B-2.	Updated Historical Summary of Discipline Cases Completed
B-3.	Updated Historical Summary of Pending Discipline Cases
B-4.	Updated Historical Summary of Discipline Case Outcomes
B-5.	Updated Historical Summary of Disciplinary Process Elapsed Time Performance
B-6.	Updated Historical Summary of Probation Program Workload and Performance

Historical Summary of Discipline Case Referrals and Filings

License Applicant and Licensee Case Referrals and Filings		2012/13	2013/14	2014/15	2015/16		Total 2015/16	2016/17
					Jul-Dec	Jan-Jun		Jul-Oct
License Applicant Cases	Denials of Licensure Issued	85	95	84	16	22	38	14
	License Applicant Cases Referred to AG (Appeals)	63	60	45	15	15	30	9
	AG Declined to File Statement of Issues (SOI)	0	1	0	0	0	0	0
	Statement of Issues Filed	68	50	71	15	15	30	9
	Statement of Issues Withdrawn	3	7	7	1	4	5	1
Licensee Cases	Arrest/Conviction Reports Referred to AG	175	217	179	107	97	204	52
	Discipline by Another State/Agency Reports Referred to AG	1	13	5	5	17	22	12
	Complaint Cases Referred to AG	46	80	61	33	76	109	54
	Total Licensee Cases Referred to AG	222	310	245	145	190	335	118
	AG Declined to File Accusation	6	5	4	3	2	5	1
	Accusations Filed	215	235	286	106	158	264	119
	Accusations Withdrawn	5	6	11	3	2	5	1
Total License Applicant and Licensee Discipline Cases Referred to AG		285	370	290	160	205	365	127
Total SOIs and Accusations Filed		283	285	357	121	173	294	128

Other Case Referrals and Filings		2012/13	2013/14	2014/15	2015/16		Total 2015/16	2016/17
					Jul-Dec	Jan-Jun		Jul-Oct
Subsequent Discipline Cases Sent to AG		30	37	40	12	25	37	42
Petitions for Reinstatement Filed		22	25	20	6	22	28	4

Historical Summary of Discipline Cases Completed<sup>1</sup>

Discipline Cases Completed by Type of Decision (Based on Decision Adoption Date)		2012/13	2013/14	2014/15	2015/16		Total 2015/16	2016/17
					Jul-Dec	Jan-Jun		Jul-Oct
Default Decisions Adopted	License Applicant Cases	3	0	2	2	1	3	0
	Licensee - Arrest/Conviction Reports	133	86	156	78	55	142	24
	Licensee - Complaints and Other					9		15
	<b>Total Default Decisions Adopted</b>	<b>136</b>	<b>86</b>	<b>158</b>	<b>80</b>	<b>65</b>	<b>145</b>	<b>39</b>
Proposed Stipulations Adopted	License Applicant Cases	28	15	10	19	15	34	5
	Licensee - Arrest/Conviction Reports	91	88	108	90	58	160	31
	Licensee - Complaints and Other					12		7
	<b>Total Proposed Stipulations Adopted</b>	<b>119</b>	<b>103</b>	<b>118</b>	<b>109</b>	<b>85</b>	<b>194</b>	<b>43</b>
Proposed ALJ Decisions Adopted	License Applicant Cases	18	11	15	13	5	18	2
	Licensee - Arrest/Conviction Reports	106	80	95	61	17	83	14
	Licensee - Complaints and Other					5		2
	<b>Total Proposed ALJ Decisions Adopted</b>	<b>124</b>	<b>91</b>	<b>110</b>	<b>74</b>	<b>27</b>	<b>101</b>	<b>18</b>
	Proposed ALJ Decisions Not Adopted	0	2	5	1	3	4	0
Undetermined and Other	Licensee - Arrest/Conviction Reports	Not Applicable	Not Applicable	Not Applicable	Not Applicable	12	12	10
	Licensee - Complaints and Other					6	6	15
	<b>Total Other Orders, Including Other Voluntary Surrenders</b>					<b>18</b>	<b>18</b>	<b>25</b>
Total Final Orders Adopted	License Applicant Cases	49	26	27	34	21	55	7
	Licensee - Arrest/Conviction Reports	330	254	359	229	142	403	79
	Licensee - Complaints and Other					32		39
	<b>Total Final Orders Adopted</b>	<b>379</b>	<b>280</b>	<b>386</b>	<b>263</b>	<b>195</b>	<b>458</b>	<b>125</b>

<sup>1</sup> Includes subsequent discipline cases.

Discipline Cases Completed by Type of Case	2012/13 <sup>1</sup>	2013/14 <sup>1</sup>	2014/15 <sup>1</sup>	2015/16		Total 2015/16	2016/17
				Jul-Dec <sup>1</sup>	Jan-Jun <sup>2</sup>		Jul-Sep <sup>2</sup>
License Applicant Cases	64	54	41	49	21	70	7
Licensee - Arrest/Conviction Reports	160	142	216	152	138	290	81
Licensee - Complaints and Other	96	59	62	50	27	77	25
Licensee - Subsequent Discipline	30	37	44	17	9	26	12
<b>Total Final Orders Adopted</b>	<b>350</b>	<b>292</b>	<b>363</b>	<b>268</b>	<b>195</b>	<b>463</b>	<b>125</b>

<sup>1</sup> Based on Discipline Effective Date.

<sup>2</sup> Based on Discipline Imposed Date.

Historical Summary of Pending Discipline Cases<sup>1</sup>

Case Category and Type		06/30/13	06/30/14	06/30/15	2015/16		2016/17
					12/31/15	06/30/16	10/31/16
License Applicant Cases	Number of Pending Cases	93	82	77	38	21	24
	Average Age of Pending Cases (months)	25	23	23	26	24	22
Licensee Cases	Arrest/Conviction Reports	321	368	298	230	187	169
	Discipline by Another State/Agency	7	11	10	14	24	30
	Complaints	131	134	118	86	110	127
	Total Pending Cases	459	513	426	330	321	326
	Average Age of Pending Cases (months)	38	37	34	28	26	25
Total Pending Discipline Cases		552	595	503	368	342	350
Average Age of Pending Discipline Cases (months)		35	35	32	28	26	25

<sup>1</sup> Excludes subsequent discipline cases. As of October 31, 2016, there were about 45 pending subsequent discipline cases.

Historical Summary of Disciplinary Outcomes

Discipline Case Type and Outcome Category		2012/13 <sup>1</sup>	2013/14 <sup>1</sup>	2014/15 <sup>1</sup>	2015/16		Total 2015/16	2016/17
					Jul-Dec <sup>1</sup>	Jan-Jun <sup>2</sup>		Jul-Oct <sup>1</sup>
License Applicant Cases	Denial of Licensure Upheld	10	15	13	8	4	12	1
	License Granted, Revocation Stayed, Probation (Lic. Granted w/ Conditions)	20	18	17	18	12	30	3
	License Granted with Citation (Other Outcome)	23	15	8	22	5	27	3
Licensee Cases	Revocation	159	100	162	91	69	160	44
	Voluntary Surrender	37	52	35	33	15	48	17
	Revocation Stayed, Probation with Suspension	2	3	2	1	0	1	1
	Revocation Stayed, Probation	61	52	65	75	76	151	41
	Other Outcomes, Including Public Letters of Reprimand and Citations	43	27	14	8	4	12	3
Subsequent Discipline Cases	Revocation	17	15	25	8	4	12	2
	Voluntary Surrender	11	20	16	8	5	13	10
	Revocation Stayed, Probation	2	2	3	1	1	2	1
<b>Total License Applicant, Licensee and Subsequent Discipline Case Outcomes</b>		<b>385</b>	<b>319</b>	<b>360</b>	<b>273</b>	<b>195</b>	<b>468</b>	<b>126</b>
Petition for Reinstatement Denied		14	9	10	6	5	11	See Footnote 3
Petition for Reinstatement Granted, with Probation		10	12	10	11	10	21	See Footnote 3

<sup>1</sup> Based on Discipline Effective Date.

<sup>2</sup> Based on Decision Adoption Date.

<sup>3</sup> Available data, which may not be complete, show that two (2) Petitions for Reinstatement decisions were adopted during the July to October 2016 period (1 granted and 1 denied). It is our understanding that BVNPT now considers a maximum of six (6) Petitions for Reinstatement per quarter. Previously, BVNPT considered a maximum of eight (8) Petitions for Reinstatement per quarter.



Historical Summary of Disciplinary Process Elapsed Time Performance

Elapsed Time Performance Measures (License Applicant and Licensee Cases)		2012/13	2013/14	2014/15	2015/16		2016/17
					Jul-Dec	Jan-Jun	Jul-Oct
Case Referred to AG to Filing (months)	Case Referred to AG to SOI Filed	5.5	6.8	5.2	5.8	4.3	2.9
	Case Referred to AG to Accusation Filed	9.2	7.8	7.4	6.5	6.0	4.4
	Weighted Average Elapsed Time - Case Referred to Filing	8.3	7.6	7.0	6.4	5.9	4.3
Case Referred to AG to Decision Adopted <sup>1</sup> (months)	Case Referred to AG to Decision Adopted - Defaults	17	22	18	14	11	10
	Case Referred to AG to Decision Adopted - Stipulations	16	19	20	17	18	14
	Case Referred to AG to Decision Adopted - ALJ Decisions	20	26	23	20	18	17
	Undetermined and Other Orders, Including Other Voluntary Surrenders	Not Applicable	Not Applicable	Not Applicable	Not Applicable	16	11
	Weighted Average Elapsed Time - Case Referred to AG to Decision Adopted	17	22	20	17	15	13
Case Receipt to Decision <sup>1</sup> (months)	Case Received to Decision - License Applicant Cases	31	30	33	27	25	33
	Case Received to Decision - Licensee Arrest/Conviction Reports	34	36	36	33	30	27
	Case Received to Decision - Licensee Complaints and Other	41	42	43	47	40	43
	Weighted Average Elapsed Time - Case Receipt to Decision	36	36	37	35	31	31

<sup>1</sup> 2012/13, 2013/14 and 2015 values based on Discipline Effective Date. January to October 2016 values based on Discipline Imposed Date. Excludes subsequent discipline cases.

Historical Overview of Probation Program Workload and Performance<sup>1</sup>

Key Program Profile Indicators	2012/13	2013/14	2014/15	2015/16	2016/17
					Jul-Oct
New Probationers	89	86	96	191	Not Available
Bodily Fluid Tests Ordered	2,140	3,256	3,563	5,978	Not Available
Positive Bodily Fluid Tests	313	260	278	601	Not Available
Revocations and Voluntary Surrenders	28	35	41	27	13
Successful Completions	38	38	41	36	Not Available
Total Number of Probationers (End of Period)	297	320	329	429	Not Available
Total Number of Active Probationers (End of Period)	238	256	268	367	Not Available
Probationers Subject to Bodily Fluid Testing (End of Period)	129	132	217	312	Not Available

<sup>1</sup> As of late-December 2016, BVNPT was not responsive to our October 28, 2016 request to provide updated Probation Program data.