December 28, 2017

Assembly Member Evan Low, Chair
Assembly Business and Professions Committee
Capitol Office, Room 4126
Sacramento, CA 95814

Senator Jerry Hill, Chair
Senate Business, Professions and Economic Development Committee
State Capitol, Room 2053
Sacramento, CA 95814

Subject: Response to the Administrative and Enforcement Monitor Final Report

Dear Honorable Members of the Legislature:

The Board of Vocational Nursing and Psychiatric Technicians (Board) has thoroughly reviewed the findings included in the Administrative and Enforcement Monitor Final Report. That report was presented to the Board by Benjamin Frank, Monitor, on December 18, 2017. The Board wishes to express its gratitude to Mr. Frank for his dedication and collaboration throughout this process.

Members of the Board are acutely aware of the historical issues plaguing the Board and the impact of those issues on the Board’s mandate of consumer protection. Mr. Frank listed a series of findings that were found in his subsequent reports as well as supplemental findings through October 2017. An Executive Summary of those findings follows.

Executive Summary

The Monitor’s final report lists 58 final recommendations. The Board agrees with the majority of the recommendations contained in the report.

It is the Board’s intention to implement the recommendations as articulated below. The Board’s responses address each recommendation as well as discuss its plan of action to achieve implementation. A more detailed description of each of the recommendations follows.

Recommendation #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 license applicants misreport or over-
The Board agrees with the “Not Implemented” status. The Board recognizes that its Record of Convictions form, specifically 55A-6 (rev. 10/15) is not as intuitive as it would like. Specifically, the instructions are wordy and lengthy and could confuse a prospective applicant for licensure. Amending the verbiage to a user-friendly level would mitigate the number of license applicants that err in reporting their conviction history on their 55A-6, reducing unnecessary work for the Licensing and Enforcement Divisions. Because the instructions contain legal verbiage, the Board has reached out to DCA’s Division of Legal Affairs for assistance in crafting language that does not put the Board at liability.

Recommendation #2: Develop and implement procedures to enable case intake staff to exercise judgment 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.

The Board agrees with the “Partially Implemented” status. Currently, the assigned applicant technician does exercise judgment in determining whether to request records from law enforcement agencies and courts for license applicants. The assigned technician documents actions taken and recommendation(s) in a short form. The technician’s action and recommendation(s) are then reviewed by a lead analyst. The Complaint Unit is developing procedures to memorialize this process.

Recommendation #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.
The Board agrees with the “Not Implemented” status. The Board discontinued its continuing education audit on April 1, 2017. A thorough assessment of the Continuing Education Compliance Audit Program and revision of the Board’s audit procedures by the Board’s Evaluation Committee is in progress. Revision of the current procedures will ensure maximum licensee compliance with requirements for relicensure. The Board expects to resume its compliance audit program in early 2018.

➢ **Recommendation #4:** Assess the feasibility of imaging CE-related document submissions or enabling submission of the documents electronically.

The Board agrees with the “Not Implemented” status. On behalf of all DCA Boards, a work authorization to allow electronic imaging and uploading of documents regarding continuing education was submitted to the DCA Change Control Board. The Change Control Board denied approval and directed Boards to resubmit the request with additional required information. Additionally, it is noted that the Board is required to preserve any paper documents received, in accordance with the Records Retention Schedule approved by DCA and Secretary of State, even if the document is made electronic and stored. BreEZe does have the capability for a manual scan of documentation.

➢ **Recommendation #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 licensees 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.

The Board agrees with the “Not Implemented” status. As stated in Board Response/Action Plan #1, the Board has begun preliminary work. In addition, the Board has reached out to DCA’s Information Technology Unit to assess the feasibility of adding additional safeguards to address over reporting.

➢ **Recommendation #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.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the “Implemented” status. Board staff is maximizing utilization of the Office of the Attorney General’s Fast Track Pilot Program in all its current geographic regions.

 Recommendation #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.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the “Implemented” status. The Discipline Unit communicates with the Office of the Attorney General regularly to inquire if the agency will expand the Fast Track Pilot Program to additional geographic regions.

 Recommendation #8: 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.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the “Not Implemented” status. The Board does not currently have a physical Intake Unit, and as a result, does not have written procedures documenting a business process for screening and triaging licensee complaints. While the Board’s intake analyst within the Complaint Unit is well versed in the Consumer Protection Enforcement Initiative (CPEI) criteria, additional training will be conducted by the Board’s Enforcement Division Chief as well as the Supervising Investigator from the Division of Investigation’s Enforcement Support Unit, to ensure an informed and documented workflow.

 Recommendation #9: Restore processes for opening and investigating cases involving discipline by another state/agency. 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, from standard BreEZe reports, or the agency routinely posts the information to another professional licensing database that is otherwise queried by BVNPT.

BOARD RESPONSE/ACTION PLAN:

The Board respectfully disagrees with the “Partially Implemented” status. The intake analyst queries NURSYS as required and addresses any cases involving discipline by another state. Additionally, the Complaint Unit Manager conducts a weekly review of NURSYS to ensure that notifications are appropriately addressed. The Board has procedures in place for this task.

Further, the Board is not in agreement relative to the notification of agencies to discontinue providing “courtesy notices.” The Board prefers too much information, some that may be redundant, rather than too little. The Board has fully implemented this recommendation.

> Recommendation #10: 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.

BOARD RESPONSE/ACTION PLAN:

The Board respectfully disagrees with the “Partially Implemented” status. One of the issues identified by the Monitor was the code, CLPX, assigned to cases pending adjudication. In the past, Complaint Unit staff closed cases pending adjudication, re-opened the case following adjudication to finish the investigation, then closed the case a second time after the investigation was fully completed. This distorted production as well as case aging. The Board has since re-opened all these cases and retired the “CLPX” code. Further, procedures have been updated to reflect such. Data cleanups are done, as well as frequent collaboration with Office of Information Services to improve BreEZe.

Additionally, the Board has reached out to DCA’s SOLID Training and Planning Solutions to conduct additional training in BreEZe to assist in the development of staff. Such training will enhance the integrity of statistical data. With any data system, continual improvements are a given, however, the Board has fully implemented this recommendation.

> Recommendation #11: Develop and implemented processes for enhanced screening and completion of licensee complaint cases that do not require field investigation (see also Final Recommendation 36).
BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Partially Implemented" status. This recommendation will be fully implemented upon the formation of the new Intake and Enhanced Screening Unit. Training will be provided by the Supervising Special Investigator from the Division of Investigation's (DOI) Enforcement Support Unit and the Board's Enforcement Division Chief. In addition, the Enforcement management team will work with select staff as well as DOI to revise existing and create new procedures for the unit. As of December 13, 2017, DCA's Office of Human Resources approved the reclassification of a vacant Special Investigator position to a Staff Services Manager I for the new unit. The vacancy is currently advertised.

➤ Recommendation #12: With limited exceptions, stop closing licensee complaint cases during intake without investigation and ensure supervisory reviews are completed of all licensee complaint cases closed during intake without investigation.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Implemented" status.

➤ Recommendation #13: Reopen licensee complaint cases previously closed during intake from February through May 2017 as determined appropriate by the Division of Investigation and assign the re-opened cases to BVNPT's Investigation Section or the Division of Investigation as determined appropriate by the Division of Investigation.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Implemented" status.

➤ Recommendation #14: Complete Division of Investigation reviews of all licensee complaint cases closed during intake from September 2016 through January 2017, re-open any cases previously closed during intake as determined appropriate by the Division of Investigation, and transfer the re-opened cases to the Investigation Section or DOI as determined appropriate by the Division of Investigation.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Implemented" status.

➤ Recommendation #15: Assign currently pending licensee complaint intake
cases to BVNPT's Investigation Section or DOI as determined appropriate by the Division of Investigation.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Implemented" status.

➤ Recommendation #16: Stop Pilot Project 2.0 involving the collection of releases and administrative/personnel records for newly received licensee complaint cases by Intake Unit staff and redirect Intake Unit staff to focus exclusively on completing case reviews, research and triage of newly received license complaint cases.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Implemented" status.

➤ Recommendation #17: Revise BVNPT's licensee complaint intake policies and procedures consistent with the above recommendations, provide training to Complaint Section staff to support implementation of the recommendations, and monitor implementation to assure that all of the recommendations are fully and consistently implemented.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Implemented" status.

➤ Recommendation #18: Locate or account for all cases shown in Breeze as Closed Pending Conviction and assign them for ongoing monitoring.

BOARD RESPONSE/ACTION PLAN:

The Board respectfully disagrees with the "Partially Implemented" status. The CLPX cleanup project was initiated in early November. All CLPX cases were re-opened and assigned back to the respective Complaint Analyst. Many cases have been closed due to follow-up. The Complaint Unit Manager runs weekly reports to monitor progress. All previously assigned CLPX cases are accounted for and internal controls have been developed. The Board has fully implemented this recommendation.

➤ Recommendation #19: Develop and implement positive internal controls to ensure that cases Closed Pending Conviction are monitored and tracked by staff on a continuing basis.
The Board respectfully disagrees with the "Partially Implemented" status. As stated above, the CLPX cleanup project was completed and the "CLPX" activity code retired. Procedures have been updated to reflect the recommendation from the Monitor's previous reports. The Board has fully implemented this recommendation.

➢ Recommendation #20: Reopen and further investigate Investigation Section cases closed with a NOW during early-2017 as determined appropriate by the Division of Investigation.

The Board agrees with the "Implemented" status.

➢ Recommendation #21: Complete Division of Investigation reviews of all Investigation Section cases closed since mid-May 2017.

The Board agrees with the "Implemented" status.

➢ Recommendation #22: Transfer all Citation Program responsibilities to the Discipline Section.

The Board agrees with the "Implemented" status.

➢ Recommendation #23: Temporarily redirect one experienced (1) Special Investigator to complete reviews of pending AS05 cases, triage the cases for discipline, prepare case summaries, and refer the cases for issuance of a NOW, citation or to the AGO, as appropriate. Provide a 2nd level supervisory level reviewer for all closed cases. Utilize Discipline Section staff, as needed, to assist in preparing and submitting discipline packages to the AGO. Improve internal controls and reporting for monitoring the status of these cases and develop procedures for expediting reviews in cases where the responsible investigator believes there is an imminent risk of consumer harm.
BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Partially Implemented" status. The Board currently has a Special Investigator who is providing integrity over statistics to the various units. The Special Investigator is currently training the Complaint Unit Manager as well as the Enforcement Division Chief in pulling specific reports. The Board is improving internal controls and procedures.

Recommendation #24: Modify the Quarterly Enforcement Workload and Performance Report format to more consistently distinguish between license applicant cases, licensee subsequent arrest/conviction report cases, licensee complaint cases, and CE audit failure cases. Additionally, align the Quarterly Report Data with data provided in the Division's Monthly Statistical Reports. Provide both Quarterly and Monthly Reports to the Enforcement Committee within 10 days following each reporting period.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Implemented with Modifications" status.

Recommendation #25: On an annual basis, develop goals for each of the workload and performance measures listed on the Quarterly Enforcement Workload and Performance Report and include the goals in all quarterly reports.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Not Implemented" status. The Board's Enforcement Committee will work with the Enforcement Division management team to develop performance measures and goals.

Recommendation #26: Continue to redirect and consolidate available resources as needed to enable additional screening and completion of on-line public complaints and licensee complaints that do not require field investigation.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Partially Implemented" status. The Board proposed a reorganization of the Enforcement Division with a separation of duties within the Complaint Unit. The reorganization has been approved by DCA's Office of Human Resource. Included therein is the creation of an Intake Unit. The new unit will be assigned intake duties in addition to enhanced screening of cases that do not require field investigations.
Recommendation #27: Continue to utilize available blanket expenditure authorization funding to maintain the availability of a full-time AGPA position to serve as a Lead Analyst for the Intake Unit and provide complaint screening and second level intake and complaint screening review services.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Implemented" status.

Recommendation #28: Modify the classification of the Intake Unit's authorized permanent SSA position to enable the incumbent to transition to the AGPA level as the incumbent gains experience screening licensee complaint cases and takes on responsibility for screening more complex cases and begins providing enhanced screening for those cases.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Not Implemented" status. Under the Board's reorganization of its Enforcement Division, the staff services analyst position will be made interchangeable to allow for expanded workload as well as retention purposes.

Recommendation #29: Reclassify a currently vacant Special Investigator position to SSM I and redirect the position to serve as a Manager for the new Intake, Screening, Discipline Review and Enforcement Support Section (see Final Recommendation 36).

BOARD RESPONSE/ACTION PLAN:

The Board respectfully disagrees with the "Not Implemented" status. The Board is working with DCA's Office of Human Resources and has received approval of this position approved. Recruitment is underway. As a result, the Board has implemented this recommendation.

Recommendation #30: 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.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Not Implemented" status. The Board plans to be proactive and is now triaging the Investigation Section's backlog in anticipation of
the creation of the new Intake Unit. The Board cannot say with certainty that it will redirect Investigation Section's future vacancies; however, it will assess and evaluate through statistics.

- **Recommendation #31**: Transfer the Reinstatement Analyst position and related Petition for Reinstatement responsibilities to the Probation Section and assign the Reinstatement Analyst a limited probation monitoring caseload as a supplement to their Petition for Reinstatement cases (e.g., monitoring of some of the Probation Section's Year 3 probationers) or continue utilizing other Discipline Section staff to monitor some probationers until monitoring caseloads decrease to lower levels.

**BOARD RESPONSE/ACTION PLAN:**

The Board agrees with the "Not Implemented" status.

- **Recommendation #32**: Upgrade the Enforcement Division's Data Quality Control and Statistical Reporting Analyst position to the AGPA level and redirect the position and associated data quality control and reporting responsibilities to the Intake, Screening, Discipline Review and Enforcement Support Section (see Final Recommendation 36).

**BOARD RESPONSE/ACTION PLAN:**

The Board agrees with the "Not Implemented" status. The Board is currently completing documents and actions required to make the Data Quality Control and Statistical Reporting Analyst interchangeable for retention purposes. Development of the required memorandum of justification is in progress. Completion and submission to DCA's Office of Human Resources is anticipated within one (1) week.

- **Recommendation #33**: Redirect and consolidate available resources as needed to support expansion of the CE Audit Program. Consider transferring responsibility for auditing compliance with BVNPT's CE requirements and the CE Compliance Audit Specialist position to the Discipline Section and utilizing Discipline Section staff to provide assistance with completing additional compliance reviews.

**BOARD RESPONSE/ACTION PLAN:**

The Board respectfully disagrees with the "Partially Implemented" status.

- **Recommendation #34**: Assign some probation monitoring cases to the
Section Manager until monitoring caseloads decrease to lower levels.

BOARD RESPONSE/ACTION PLAN:

The Board respectfully disagrees with the “Not Implemented” status. The Probation Unit Manager carries a self-assigned caseload to assist with one (1) vacancy as well as to assist staff. Given workload, the management team has no issues becoming “working managers” on an interim basis to assist with day-to-day case monitoring.

Recommendation #35: To address elevated Probation Program workload demands for the next 12 to 18 months, continue to utilize Temporary Help to augment Probation Section staffing. Subsequently, as probation monitoring caseloads decrease as a result of either a decrease in the probationer population or redistribution of probation monitoring cases among other Probation Section staff, begin reducing the Section’s utilization of Temporary Help services.

BOARD RESPONSE/ACTION PLAN:

The Board respectfully disagrees with the “Partially Implemented” status. The Board has implemented steps to ensure maximum utilization of assigned help. The Probation Unit has begun training of assigned temporary help with caseloads to augment existing Probation Unit monitors. The Monitor and the Board believe that the Probation Unit caseload will decrease in the future. If that decrease materializes, a reassessment of the unit’s need for temporary help will be completed at that time. The Board has fully implemented this recommendation.

Recommendation #36: Establish a new Intake, Screening, Discipline Review and Enforcement Support Section. Transfer all Complaint Section Intake Unit staff and associated responsibilities to the new Section. Transfer one (1) of the Complaint Section’s other Lead Analysts and the Section’s discipline review responsibilities to the new Section. Transfer the Division’s Data Quality Control and Statistical Reporting Analyst position and associated responsibilities to the new Section.

BOARD RESPONSE/ACTION PLAN:

The Board respectfully disagrees with the “Not Implemented” status. The Board agrees with the premise of the Monitor’s restructure of the Complaint Unit. As a result, the Board has met with DCA’s Office of Human Resources to assist with the transition. As of December 13, 2017, the new Staff Services Manager I position has been approved and has been posted. Staff under this new unit will just be redirected. The Board has partially implemented this recommendation.
Recommendation #37: Repeal Section 2847.8(b) requiring that the Board submit a specified report to DCA in advance of each meeting specified in Section 2847.8(a).

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Not Implemented" status. The Board supports the Monitor's recommendation that the Board should provide DCA specific requested data, as opposed to data sets that DCA may or may not need.

Recommendation #38: DCA and the Division of Investigation should continue to provide enforcement-related management, supervisory, technical support and training services for at least the next 3 to 6 months and until BVNPT's Leadership and Enforcement Program Management Teams are fully rebuilt and sufficiently trained to enable more autonomous management of the Enforcement Program. During this transition period, the Enforcement Division's Management Team should seek out and accept direction from the Division of Investigation's more knowledgeable and experienced staff with respect to identifying needs for and implementing changes needed to enable improved Enforcement Program performance.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Partially Implemented" status. The Board and its Enforcement Division management team continue to welcome DOI's assistance relative to technical support and training. Additionally, the Board solicits open dialogue with assigned DOI staff on all enforcement issues. DOI's current role is that of support.

Recommendation #39: BVNPT should request additional support from the Department of Consumer Affairs or through recruitment of a Retired Annuitant with prior executive management experience to bolster BVNPT's Leadership Team capabilities until a permanent Executive Officer and a permanent Assistant Executive Officer are appointed.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Not Implemented" status. The Board is looking to bolster its Executive Management team by filling the remaining vacancies.
Recommendation #40: Appoint a seasoned Executive Officer to the Board that has prior executive-level management experience, preferably with other California State Government regulatory programs, and including demonstrated success turning around other troubled programs or organizations. Additionally, when making this appointment, consider the candidate's management style and willingness and ability to work collaboratively with DCA.

BOARD RESPONSE/ACTION PLAN:

The Board respectfully disagrees with the "Not Implemented" status. The Board appointed a seasoned Executive Officer on November 17, 2017. The new Executive Officer possesses the requisite education and demonstrated experience to assist and enhance all program areas within the Board. AB 1229 removes the hiring of the Executive Officer from the governing Board. As of January 1, 2018, the Executive Officer will be appointed by the Governor. The Board has implemented this recommendation.

Recommendation #41: When appointed, BVNPT’s Executive Officer and Assistant Executive Officer should review the Board's needs for all of the different AGPA positions currently allocated to BVNPT’s Education, Licensing and Administration Business Units.

BOARD RESPONSE/ACTION PLAN:

The Board respectfully disagrees with the "Partially Implemented" status. The Executive Officer has met with respective Division management and a restructure of both the Enforcement Division as well as the Licensing Division is underway. For the purposes of enforcement, staff will be redirected to better achieve efficiency for the Board's Enforcement Program and protection of consumers. That redirection will be in the form of a new unit called the Intake and Enhanced Screening Unit. The Board has fully implemented this recommendation.

Recommendation #42: BVNPT’s Chief of Enforcement should become more actively and directly engaged in addressing issues contributing to poor workforce morale and discontent within the Complaint Section, including needs for additional training and support for the Section Manager targeted to developing (1) more effective working relationships with subordinate staff and (2) a better understanding of the nature of the Section's enforcement cases, how the cases are investigated, the Section's case handling and review processes, and how BreEZe works (e.g., by working some of the licensee arrest/conviction report cases assigned to the Section).
BOARD RESPONSE/ACTION PLAN:

The Board respectfully disagrees with the "Not Implemented" status. The Enforcement Division Chief meets with the Complaint Unit Manager regularly to set goals with attainable milestones as well as request more hands-on activity with the manager's respective staffs' desks. Additionally, the Enforcement Division Chief meets formally at least once each week with the Complaint Unit Manager as well as the DOI's Enforcement Support Unit staff to establish a schedule for that week. All meetings and agenda items are discussed prior to finalization of the schedule. All assignments and recommendations leaving the Complaint Unit must be reviewed by the Complaint Unit Manager. The Board has partially implemented this recommendation.

> Recommendation #43: The Division of Investigation should continue to conduct individual case reviews on at least a semi-monthly basis with each of the Investigation Section's investigators. For training and development purposes, the Chief of Enforcement and the Investigation Section Manager, when appointed, should participate in most (or all) of these reviews for at least the next 6 to 12 months and, over time, Enforcement Division management should assume responsibility for completing these reviews. The frequency and duration of the reviews should be regularly adjusted as appropriate to each investigator's development needs.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Partially Implemented" status.

> Recommendation #44: Continue to provide Enforcement Division staff with formal classroom type training as needed to bolster their knowledge, skills and abilities.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Implemented" status.

> Recommendation #45: Utilize the Division of Investigation to support initial training of newer investigators.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Partially Implemented" status. The Board's Enforcement Division Chief has forged a close partnership with DOI and conducts regular meetings to discuss caseload, issues, as well as management and staff concerns. DOI staff are present for all meetings. Further, training by DOI staff has
been requested to include, but is not limited to, ride-alongs as well as “shadowing” interviews of witnesses.

- **Recommendation #46:** Utilize 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.

**BOARD RESPONSE/ACTION PLAN:**

The Board agrees with the “Not Implemented” status. The Board has directed the Enforcement Division to increase its partnership with the Office of the Attorney General. Regular physical presence and training by the assigned Deputy Attorney General liaison are planned.

- **Recommendation #47:** Establish an Interagency 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.

**BOARD RESPONSE/ACTION PLAN:**

The Board agrees with the “Not Implemented” status. The full Board will be evaluating this finding further.

- **Recommendation #48:** Complete required Probation Reviews for all new or internally promoted staff within the timeframes specified by CalHR and, on an annual basis, complete Annual Performance Reviews and Individual Development Plans for all other BVNPT managers and staff.

**BOARD RESPONSE/ACTION PLAN:**

The Board respectfully disagrees with the “Not Implemented” status. With a past void in management, probation reports as well as individual development plans were completed sporadically. With a new management team in place, formal evaluations were discussed with staff. The Board has partially implemented this recommendation.

- **Recommendation #49:** The Chief of Enforcement should maintain open lines
of communication and meet periodically with counterparts at the Division of Investigation and the Office of 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.

BOARD RESPONSE/ACTION PLAN:

The Board respectfully disagrees with the “Partially Implemented” status. As noted previously, the Board’s Enforcement Division Chief meets daily with DOI staff to discuss recommendations, proposed changes, as well as changes in policy. DOI is also invited to attend every Enforcement Division meeting to discuss workflow strategies and other issues of concern. Further, the Board has directed the establishment of an increased partnership with the Office of the Attorney General. The assigned Deputy Attorney General liaison has appeared at Board meetings to present and discuss pertinent issues that directly impact workflow between the Board’s Enforcement Division and the Office of the Attorney General. The Board has fully implemented this recommendation.

Recommendation #50: BVNPT’s Chief of Enforcement should work collaboratively with DCA and other DCA-affiliated healing arts boards to develop and implement strategies for further improving awareness among OSL TCÖ’s staff and volunteers, and the patients that they serve, regarding their respective Licensing and Enforcement Programs, including participating every few years in an OSLTCO conference.

BOARD RESPONSE/ACTION PLAN:

Board respectfully disagrees with the “Partially Implemented” status. The Board’s Enforcement Division Chief presented alongside DOI staff at the Office of the State Long-Term Care Ombudsman (OSLTCO), encouraging an increased partnership with the Board and the Ombudsman. The Board expects to actively participate at future conferences to provide outreach, and education, as well as resources. The Board has fully implemented this recommendation.

Recommendation #51: Consistently provide all new Board members with substantive New Board Member Orientations and related training and reference materials specific to BVNPT’s Enforcement Program, and other BVNPT programs and services, 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. Require that all
new members attend two (2) days of orientation training and offer an optional follow-up day of training to new members within 3 to 6 months of completion of the initial training. Have a representative of DCA participate in the 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. Update the reference materials provided to Board members to include recently completed reviews, evaluations or audits of BVNPT’s programs or operations that would be beneficial for purposes of better understanding the Board’s historical development and problems currently facing the Board and provide the members with an overview of the information contained in each of these documents.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the “Partially Implemented” status. A new Board member is required to undergo DCA specific training as well as training specific to the Board. The Board’s Executive Officer recently updated the onboarding process. That new process was implemented with the two (2) most recent Board members. Board staff continue to improve that training to assist in a smooth transition to the new role for all Board Members. The Monitor specifies useful historical information that can be incorporated in the onboarding process to further enhance the Board Member’s understanding and fulfillment of oversight responsibilities.

➢ Recommendation #52: In collaboration with DCA, develop and provide BVNPT Board members with a How to Oversee Board Licensing, Education and Enforcement Programs training session and videotape the session so that it can be provided to new Board members on a continuing basis.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the “Not Implemented” status. While the Board has revamped its onboarding of new Board members, it has not taped these sessions. The Board will further assess this recommendation.

➢ Recommendation #53: Better define the Enforcement 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 better defining the roles and responsibilities of other Board committees, where necessary.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Partially Implemented" status. As specified in the Board's 2017 Committee Structure, the Enforcement Committee's focus and purpose is to provide oversight of the functions and performance of the Board's Enforcement Division. The Committee oversees, develops, and recommends policies that advance mission-related goals which are directly guided by the Board's strategic plan. The Committee reviews and evaluates the Board's enforcement statistical reports, while monitoring workload trends to ensure that established goals and guidelines are met. The Committee routinely meets quarterly; however, during 2017, the Committee has met monthly and as needed. As with other Board Committee's, the Enforcement Committee presents a detailed report at each public Board meeting.

Recommendation #54: 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 matters as determined by the Committee. Assist members in understanding the information that is provided by highlighting trends, ongoing and emerging problems, and changes underway and planned to address these problems and improve Enforcement Program performance.

BOARD RESPONSE/ACTION PLAN:

The Board respectfully disagrees with the "Partially Implemented" status. Board staff meets with the Enforcement Committee regularly, creating an agenda with the Committee's input and proactively brings items for discussion along with updates such as statistics, performance improvement initiatives, staffing, policy matters, etc. The Board has fully implemented this recommendation.

Recommendation #55: Pursue enactment of legislation to provide BVNPT's governing Board with the authority to delegate approval of default decisions to the Executive Officer.

BOARD RESPONSE/ACTION PLAN:

The Board agrees with the "Partially Implemented" status. AB 1229 contained verbiage giving the governing Board the authority to delegate approval of default decisions to the Executive Officer. Subsequently, that language was removed. Mr. Frank as well as the Discipline Unit Manager spoke with the bill's author to ascertain
the intent. The Board will pursue legislation to authorize the Board to delegate approval of default decisions to the Executive Officer in the new legislative session.

- **Recommendation #56**: Update the public documents available from BVNPT’s website to include all of the Board’s reports to the Legislature related to its March 2017 Sunset Review, all of the Monitor’s reports, and other publications and information that should be readily available to all Board members and the public such as BVNPT Strategic Plans and Enforcement Program Quarterly Statistical Reports.

**BOARD RESPONSE/ACTION PLAN:**

The Board respectfully disagrees with the “Not Implemented” status. The Board has directed that current documents such as Monitor reports and minutes of all Board meetings be uploaded and readily available to all Board members and the public. The Board has partially implemented this recommendation.

- **Recommendation #57**: To enable prompt identification of emerging problems and potential needs for DCA to conduct more in-depth reviews and evaluations of BVNPT’s licensing processes, DCA should request and review monthly statistical reports from BVNPT regarding BVNPT’s cashiering and licensing workloads, backlogs and processing times. DCA should request that the monthly statistical reports be provided to DCA within five (5) business days of the end of each month.

**BOARD RESPONSE/ACTION PLAN:**

The Board respectfully disagrees with the “Not Implemented” status. The recommendation is directed at DCA.

- **Recommendation #58**: DCA’s Internal Audits Office or the Division of Investigation should conduct a follow-up review of BVNPT’s Temporary License issuance processes to verify that the measures taken during March to prevent improper issuances of Temporary Licenses remain in place.

**BOARD RESPONSE/ACTION PLAN:**

The Board respectfully disagrees with the “Not Implemented” status. The recommendation is directed at DCA. In March 2017, the Board developed new procedures for issuance of temporary licenses. The Board’s Executive Officer and managers of the Board’s Licensing Division developed materials and conducted detailed training of all staff to ensure appropriate issuance of temporary licensees.
Again, the Board appreciates the Monitor's efforts in identifying systemic issues to assist the Board. The Board is actively pursuing and developing strategies, and implementing actions that will ensure sustained resolution for all recommendations agreed upon as well as create a benchmark to gauge future progress.

Board Members and the Executive Officer are readily available for discussion regarding current Board processes. Should additional information or clarification be desired, please contact me at (916) 263-7845.

Sincerely,

TAMMY ENDOZO, L.V.N.
Board President