

## **Regulatory Board Evaluation**

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### **Board of Veterinary Medicine**

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**The Licensure of the Practice of  
Veterinary Medicine Is Needed to  
Protect the Public Interest**

**The Board Complies with the General  
Provisions of Chapter 30 and Other  
Applicable Laws**

**The West Virginia Board of Veterinary  
Medicine Should Adopt a Point System  
for Facility Inspection Forms to Rate the Severity  
of Violations as Well as Amend Its Legislative  
Rules in Order to Treat All Licensees Equally**



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John Sylvia  
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January 7, 2007

The Honorable Edwin J. Bowman  
State Senate  
129 West Circle Drive  
Weirton, West Virginia 26062

The Honorable J.D. Beane  
House of Delegates  
Building 1, Room E-213  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Regulatory Board Evaluation of the Board of Veterinary Medicine, which will be presented to the Joint Committee on Government Operations on Sunday, January 7, 2007. The issues covered herein are "The Licensure of the Practice of Veterinary Medicine Is Needed to Protect the Public Interest," "The Board Complies with the General Provisions of Chapter 30 and Other Applicable Laws," and "The West Virginia Board of Veterinary Medicine Should Adopt a Point System for Facility Inspection Forms to Rate the Severity of Violations as Well as Amend Its Legislative Rules in Order to Treat All Licensees Equally."

We transmitted a draft copy of the report to the Board of Veterinary Medicine on December 18, 2006. We held an exit conference with the Board of Veterinary Medicine on December 22, 2006. We received the agency response on January 3, 2007.

Let me know if you have any questions.

Sincerely,

Handwritten signature of John Sylvia in cursive script.

John Sylvia

JS/jda

*Joint Committee on Government and Finance*



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# Executive Summary

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## **Issue 1: The Licensure of the Practice of Veterinary Medicine Is Needed to Protect the Public Interest.**

The West Virginia Board of Veterinary Medicine was created in 1915. The Board is the licensing and regulatory agency for veterinarians, registered veterinary technicians (RVTs) and certified animal euthanasia technicians (CAETs) in the State of West Virginia. The veterinary practice not only provides health care for animals, but ensures food safety on a global scale. Some veterinarians work to investigate animal and human disease outbreaks such as food-borne illness, influenza, plague, rabies, AIDS, and encephalitis.

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*The West Virginia Board of Veterinary Medicine was created in 1915. The Board is the licensing and regulatory agency for veterinarians, registered veterinary technicians (RVTs) and certified animal euthanasia technicians (CAETs) in the State of West Virginia.*

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As documented in Appendix B, all 50 states and the District of Columbia have a regulatory board for veterinary medicine. By the end of FY 2006, there were 102 licensed RVTs and 55 licensed CAETs in West Virginia. The West Virginia Board of Veterinary Medicine has 541 licensed veterinarians. Veterinarians prevent the transmission of animal disease to people, and advise owners on ways to keep their pets and livestock well nourished and healthy. The Legislative Auditor finds that the licensure of the practice of veterinary medicine is needed to protect the public.

## **Issue 2: The Board Complies With the General Provisions of Chapter 30 and Other Applicable Laws.**

The West Virginia Board of Veterinary Medicine complies with most of the provisions of Chapter 30 of the *West Virginia Code* and other applicable laws. There are some provisions of Chapter 30 that need to be addressed. The Board provides for due process as required in *West Virginia Code* §30-1-5(b) for licensees who have had complaints filed against them and the Board continues to be financially self-sufficient. Since FY 2003, the Board's expenditures have not exceeded revenues, thus ensuring a positive cash balance at the end of each fiscal year.

*West Virginia Code* §30-1-5c, which came into effect on July 6, 2006, sets a standard time frame for the resolution of complaints. Prior to this report, the Executive Director and the Board were unaware of the changes made. The Legislative Auditor recommends that the Board follow *West Virginia Code* §30-1-5c and send a status report to the party filing a complaint within six months of the complaint filing and issue a final ruling within one year of the status report, unless the complainant in a case and the Board agree to extend the time frame for the final ruling.

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*According to the Executive Director, the Board only conducts criminal background checks on CAETs and not on veterinarians or RVTs. The criminal history of an applicant could be a valuable tool for the Board when deciding whether or not to deny an application for a license.*

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*The Board is required by CSR §26-4-5.7 to inspect each facility every two years and before each facility begins operation. On October 31, 2006, the Executive Director confirmed that there has never been an inspection prior to a facility opening.*

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Each veterinarian who desires to continue his or her license is required by legislative rule to take at least 18 fifty-minute periods of continuing education. A minimum of 14 hours is to be in approved classroom courses that are relative to the scientific practice of veterinary medicine. The Legislative Auditor reviewed all continuing education classes taken during the previous fiscal year and noted only one example of classes approved that may not be considered scientific in nature. The Board should follow Recommendation 2 of the May 2004 Regulatory Board Evaluation and adhere to CSR §26-1-7.4, accepting only continuing education classes that are scientific in nature for 14 hours of credit.

According to the Executive Director, the Board only conducts criminal background checks on CAETs and not on veterinarians or RVTs. The criminal history of an applicant could be a valuable tool for the Board when deciding whether or not to deny an application for a license. The Legislative Auditor is concerned that not conducting a criminal background check may allow some previous drug offenders to obtain and prescribe drugs. The Legislative Auditor recommends that the Legislature consider amending the West Virginia Code to enable the Board of Veterinary Medicine to conduct criminal background checks, through both the State Police and the National Criminal Investigative Center, on all applicants for licenses and existing licensees according to a schedule determined by the Board.

Code of State Regulations §26-1-4 specifies each applicant is required to provide a copy of their birth certificate, as well as, written verification of any name change. The Board's application requests the applicant submit proof of a name change in writing. The verification of name changes is then attached by the Executive Director to the individual file of the applicant. Currently, there are ten other Chapter 30 licensure boards that require each applicant to provide all other names that previously have been used. The Legislative Auditor finds that the collection of all names would be beneficial in the verification of an applicant's criminal history. It is the Legislative Auditor's opinion that all other Chapter 30 licensure boards should require each applicant provide written documentation of previous names used in their lifetime.

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**Issue 3:     The West Virginia Board of Veterinary Medicine Should Adopt a Point System for Facility Inspection Forms to Rate the Severity of Violations as Well as Amend Its Legislative Rules in Order to Treat All Licensees Equally.**

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*The current law does not establish a standard by which a facility can be re-inspected, a time frame to correct the violations or empower the Board to close a facility.*

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The Board is required by CSR §26-4-5.7 to inspect each facility every two years and before each facility begins operation. On October 31, 2006, the Executive Director confirmed that there has never been an inspection prior to a facility opening. The Legislative Auditor recommends that the Board follow CSR §26-4-5.7 and inspect each veterinary care facility before it begins operation.

The Code of State Regulations §26-4-5.7 specifies that the Board may require a re-inspection of a facility if the Board determines during a routine inspection that a facility is not meeting all the requirements for that type of facility. The current law does not establish a standard by which a facility can be re-inspected, a time frame to correct the violations or empower the Board to close a facility. Re-inspections are conducted only by Board approval. The Legislative Auditor is concerned that the Board may be subjective in deciding to order a re-inspection. The Legislative Auditor recommends that the Board incorporate a point system in its facility inspection form. The grading system could be used as a basis for scheduling re-inspections.

West Virginia has not passed legislation to specify time frames for correcting violations after facility inspections. The Board has given different time frames to different facilities to correct the same violations. The Board in some instances is not addressing issues that have been raised by the inspector. The Legislative Auditor recommends that the Board address every violation issued by the inspector and amend its legislative rules to give uniform time frames to correct violations.

The West Virginia Board of Veterinary Medicine may revoke or suspend a licensee for noncompliance, but not a facility. Veterinary care facilities and human patient care facilities are all medical facilities that use surgical equipment, draw blood, conduct diagnostic radiology services and provide medical services to living creatures. Veterinary practice should be held to the same standards as human patient care. Therefore, the Legislative Auditor recommends that the Legislature consider amending *West Virginia Code* Chapter 30, Article 10, to empower the Board to suspend or revoke a facility's operating permit if it is found to be in violation of the law.

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## Recommendations

1. *The Legislative Auditor recommends that the Legislature continue the West Virginia Board of Veterinary Medicine.*
2. *The West Virginia Board of Veterinary Medicine should only accept scientifically-oriented continuing education courses for veterinarians for 14 hours of annual credit.*
3. *The West Virginia Board of Veterinary Medicine Board should amend its legislative rules to require a minimum number of annual hours of scientifically-oriented continuing education course work for Registered Veterinary Technicians.*
4. *The West Virginia Board of Veterinary Medicine should continue efforts to develop a web site that can be updated to improve the public's knowledge of the Board's activities.*
5. *The Legislative Auditor recommends that the Board follow West Virginia Code §30-1-5c and send a status report to the party filing a complaint within six months of the complaint's filing and issue a final ruling within one year of the status report, unless the complainant in a case and the Board agree to extend the time frame for the final ruling.*
6. *The Legislative Auditor recommends that the Legislature consider amending the West Virginia Code to enable the Board of Veterinary Medicine to conduct criminal background checks, through both the National Criminal Investigative Center and the State Police, on all applicants for licenses and existing licensees at a schedule determined by the Board.*
7. *The Legislative Auditor recommends the Board of Veterinary Medicine follow CSR §26-4-5.7 and inspect each veterinary care facility before it begins operation.*
8. *The Legislative Auditor recommends that the Board of Veterinary Medicine incorporate a grading system into its facility inspection form.*
9. *The Legislative Auditor recommends that the Board of Veterinary Medicine address every violation issued by its inspector and amend its legislative rules to give each facility one set time frame to correct violations.*
10. *The Legislative Auditor recommends that the Legislature consider amending WVC Chapter 30, Article 10, to empower the Board to suspend or revoke a facility's operating permit if it is found to be in violation of the law.*

# **Review Objective, Scope and Methodology**

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This Regulatory Board Evaluation of the West Virginia Board of Veterinary Medicine is required and authorized by the West Virginia Sunset Law §4-10-5 of the West Virginia Code as amended.

## **Objective**

The objective of this review is to determine if the Board is necessary for the protection of the public health and safety as well as to determine the Board's compliance with Chapter 30 of the West Virginia Code and other applicable laws.

## **Scope**

The scope of this review covers fiscal years 2002-2006 for financial data and calendar years 2002-2006 for complaints data.

## **Methodology**

The Legislative Auditor's Office obtained information from the West Virginia Board of Veterinary Medicine's annual reports and meeting minutes from FY 2002-2006. The Board provided the number, description and disposition of complaints received from CY 2002-2006. The Board also provided the current list of West Virginia Veterinarians and their practice field and the current list of Registered Veterinary Technicians and Certified Animal Euthanasia Technicians.

The Legislative Auditor's staff surveyed the states that require facility inspections and requested facility inspection forms from each. The Legislative Auditor also conducted a survey of veterinarian licensing boards that may close a facility due to a noncompliance. The Legislative Auditor's staff reviewed all reports from facility inspections conducted in West Virginia during CY 2006 in order to evaluate the Board's enforcement of facility standards. All aspects of their review complies with generally accepted Governmental Auditing Standards.



# Issue 1

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## **The Licensure of the Practice of Veterinary Medicine is Needed to Protect the Public Interest.**

The West Virginia Board of Veterinary Medicine was created in 1915. The Board is the licensing and regulatory agency for veterinarians, registered veterinary technicians (RVTs) and certified animal euthanasia technicians (CAETs) in the State of West Virginia. The American Veterinary Medical Association's (AVMA) web site describes the significance of veterinary medicine as follows:

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*Veterinarians work for the U.S. Department of Agriculture's Food Safety, Inspection Service (FSIS) and for state and municipal food inspection services. They ensure that food products are safe and wholesome*

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*In addition to caring for the nation's more than 60 million dogs, nearly 70 million cats, 10 million birds, more than 5 million pet horses, and millions of other companion animals, veterinarians serve in medical research, prevention of bio and agro terrorism, food safety and contribute greatly to scientific breakthroughs throughout the world.*

The AVMA has collected the following data on the practice of veterinary medicine in the United States:

- More than 3,800 veterinarians are engaged in educating future veterinarians at schools and colleges of veterinary medicine. In addition to teaching, veterinary school faculty members conduct clinical research.
- There are presently 28 schools of veterinary medicine in the United States graduating about 2,100 students a year.
- Veterinarians work for the U.S. Department of Agriculture's Food Safety, Inspection Service (FSIS) and for state and municipal food inspection services. They ensure that food products are safe and wholesome.
- The U.S. Food and Drug Administration (FDA) employs veterinarians to determine the safety and the efficacy of medicines and food additives.
- Veterinarians serving as officers in the U.S. Army Veterinary Corps are responsible for biomedical research and development. In the U.S. Air Force, veterinarians serve as public health officers who manage communicable disease control programs at Air Force bases around the world.

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*Veterinarians employed by state and federal regulatory agencies quarantine and inspect animals brought into the United States from other countries. They will test for the presence of diseases, and manage campaigns to prevent and eradicate many diseases, such as tuberculosis or rabies which could threaten animal and human health.*

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- Veterinarians employed by state and federal regulatory agencies quarantine and inspect animals brought into the United States from other countries. They will test for the presence of diseases, and manage campaigns to prevent and eradicate many diseases, such as tuberculosis or rabies which could threaten animal and human health.

Veterinary practice not only provides health care for animals but ensures food safety on a global scale. Veterinarians consistently protect the public safety by working in various job sites. Some veterinarians work to investigate animal and human disease outbreaks such as food-borne illness, influenza, plague, rabies, AIDS, and encephalitis. The Agriculture Research Service, FISH and Wildlife Service and National Institutes of Health also employ veterinarians. Veterinarians prevent the transmission of animal disease to people, and advise owners on ways to keep their pets and livestock well nourished and healthy.

### **All 50 States and the District of Columbia Have a Veterinary Medicine Regulatory Board**

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*Some veterinarians work to investigate animal and human disease outbreaks such as food-borne illness, influenza, plague, rabies, AIDS, and encephalitis.*

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As documented in Appendix B, all 50 states and the District of Columbia have a regulatory board for veterinary medicine. At the time of this report, there were 74,000 members of the AVMA who use their skills to care for animals. This represents 86% of all veterinarians in the United States. According to the AVMA, approximately 75% of all veterinarians are in private clinical practice. Of those, 58% are engaged exclusively in small animal practice, 18% limit their practice to the care of large animals such as horses, and 19% are involved in what is known as mixed animal practice. Their patients include all types of pets or livestock.

The West Virginia Board of Veterinary Medicine has 541 licensed veterinarians. Of these, 516 have listed their practice field. There are 25 licensed veterinarians who are new and have not provided this information. West Virginia's licensed veterinarians belong to the following fields of practice:

- 51%-small animals
- 14%-large animals
- 26%-mixed practice
- 9%-others, which are laboratories, military and academic

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By the end of FY 2006, there were 102 licensed RVTs and 55 licensed CAETs. West Virginia has over 650 individuals licensed in the state whose profession is to provide medical services for animals. **The Legislative Auditor finds that the licensure of the practice of veterinary medicine is needed to protect the public.**

## **Conclusion**

Veterinarians serve to not only provide medical services to animals but prevent the transmission of animal diseases to people and advise owners on ways to keep their pets and livestock well nourished and healthy. The Legislative Auditor finds that continuing to regulate the practice of veterinary medicine is needed to ensure the competence of the medical professionals and protect the safety of the state's animals and citizens. Therefore, the Legislative Auditor recommends the Legislature continue the Board of Veterinary Medicine.

## **Recommendation**

1. *The Legislative Auditor recommends that the Legislature continue the West Virginia Board of Veterinary Medicine.*



## Issue 2

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### **The Board Complies With the General Provisions of Chapter 30 and Other Applicable Laws**

#### **The West Virginia Board of Veterinary Medicine Complies With Most Provisions**

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*The Board provides for due process as required in West Virginia Code §30-1-5(b) for licensees who have had complaints filed against them.*

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The West Virginia Board of Veterinary Medicine complies with most of the provisions of Chapter 30 of the *West Virginia Code* and other applicable laws. There are some provisions of Chapter 30 that need to be addressed. The Board is in compliance with the following Chapter 30 provisions:

- An official seal has been adopted (§30-1-4);
- The Board meets annually (§30-1-5a);
- The Board maintains a register of all applicants for license or registration (§30-1-12);
- The Board maintains a record of its proceedings (§30-1-12a);
- The Board maintains a roster of licensees (§30-1-13);
- The Board submits annual reports to the Governor and the Legislature (§30-1-12b);
- A representative of the Board has attended the orientation session provided by the State Auditor's Office (§30-1-2a(b));
- The Board's address and telephone number are listed in the State Government listing of the Charleston Area telephone book (§30-1-12c);
- The Board has promulgated Legislative Rules specifying its procedure for the investigation and resolution of complaints against licensees (§30-1-8h).

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## The Board Needs to Adhere to Recent Changes in the West Virginia Code Regarding the Resolution of Complaints

The Board provides for due process as required in *West Virginia Code* §30-1-5(b) for licensees who have had complaints filed against them. The Board has a standard complaint form available on its website but a complaint can be filed in any written form, accompanied by a notarized statement from the complainant. The Board then sends a copy of the complaint by certified mail to the licensee in question. The licensee, according to legislative rule, may submit a written response to the Board within 30 days or waive the right to do so. *West Virginia Code* §30-1-5c, which came into effect on July 6, 2005, sets the standard time frame for the resolution of complaints as follows:

*Every board referred to in this chapter has a duty to investigate and resolve complaints which it receives and shall, within six months of the complaint being filed, send a status report to the party filing the complaint by certified mail with a signed return receipt and within one year of the status report's return receipt date issue a final ruling, unless the party filing the complaint and the board agree in writing to extend the time for the final ruling.*

Prior to this report, the Executive Director and the Board were unaware of the changes made to the *Code*. The Executive Director discussed the Board's complaint resolution process:

*I have in the past sent a letter to the complainant with a copy of the response from the veterinarian to the allegations. In this letter I indicate that this complaint will be addressed by the Board at our next meeting, and I indicate the date of the meeting. I attach a form letter that I use for this purpose. Of course, now being aware of the changes you indicated in WVC §30-1-5(c), I will be implementing such actions in the future.*

The Board failed to comply with the recent change in the complaint resolution process in one case filed during CY 2006. This is because at the time of this report, all other cases filed since the passage of legislation establishing time frames for the processing and resolution of complaints were not open for more than six months. **The Legislative Auditor recommends that the Board follow *West Virginia Code* §30-1-5c and send a status report to the party filing a complaint**

**within six months of the complaint's filing and issue a final ruling within one year of the status report, unless the complainant in a case and the Board agree to extend the time frame for the final ruling.**

<b>Table 1</b>					
<b>Board of Veterinary Medicine Complaints and Resolutions: CY 2002-2006</b>					
<b>Calendar Year</b>	<b>Complaints</b>	<b>Consent Agreement</b>	<b>Unsubstantiated</b>	<b>Others</b>	<b>Pending</b>
<b>2002</b>	12	1	7	4	0
<b>2003</b>	11	1	6	3	1
<b>2004</b>	6	0	4	1	1
<b>2005</b>	4	0	3	0	1
<b>2006</b>	12	0	7	2	3

*Source: The West Virginia Board of Veterinary Medicine*

Table 1 documents the number of complaints and the disposition of these complaints since calendar year 2002. There are six cases that are still pending action. Pending cases from CY 2003, 2004 and 2005 have continued to be open for a variety of reasons. The open case from CY 2003 is now in the hands of the county prosecutor and the Board is awaiting a resolution by the county judge regarding a plea agreement. The Board is now preparing for a hearing concerning the CY 2004 file, and the CY 2005 case may be near completion as the licensee's defense attorney has requested an alternate consent decree.

*According to the Executive Director, the Board's goal is to come to a decision on complaints within three to four months. This is due to the fact that the Board attempts to meet three to four times per year.*

According to the Executive Director, the Board's goal is to come to a decision on complaints within three to four months. This is due to the fact that the Board attempts to meet three to four times per year. Table 2 documents the number of days needed to resolve consumer complaint cases during the last five calendar years. The Board resolved 23 cases within the 120-day goal established by the Board and took more than 120 days to resolve 22 cases, while six cases are still pending.

The three pending cases from CY 2006 are all over four months old and are awaiting such things as an investigation, medical information, and a signature on a consent decree. The Board has been advised by legal counsel to wait for legal decisions before making decisions in complaint cases involving litigation against licensees. This has been the source of delay in cases that have remained open for long periods of time.

<b>Table 2</b> <b>Number of Days to Resolve Consumer Complaint Cases:</b> <b>CY 2002-2006</b>						
<b>Calendar Year</b>	<b>0-90 Days</b>	<b>91-120 Days</b>	<b>121-180 Days</b>	<b>181-365 Days</b>	<b>&gt; 1 Year</b>	<b>Still Open</b>
<b>2002</b>	4	3	3	2		
<b>2003</b>	5	2	2		1	1
<b>2004</b>	1	1	2	1		1
<b>2005</b>	2		1			1
<b>2006</b>	5		1	3		3
<b>Total</b>	17	6	9	6	1	6
<i>Source: The West Virginia Board of Veterinary Medicine</i>						

### **The Board Continues to Be Financially Self-Sufficient**

The Board of Veterinary Medicine continues to be financially self-sufficient. Table 3 documents the Board's revenues and expenditures for the last five fiscal years. The May 2004 Regulatory Board Evaluation noted that the Board's expenditures exceeded revenues during FY 2002 and 2003. Since that time, the Board's expenditures have not exceeded revenues, thus the cash balance at the end of each fiscal year has increased.

<b>Table 3</b> <b>Board of Veterinary Medicine Revenues and Expenditures: FY 2002-2006</b>			
<b>Fiscal Year</b>	<b>Actual Revenues</b>	<b>Actual Expenditures</b>	<b>End of Year Cash Balance</b>
<b>2002</b>	\$107,795	\$111,019	\$84,594
<b>2003</b>	\$94,996	\$105,135	\$74,455
<b>2004</b>	\$126,428	\$113,938	\$86,945
<b>2005</b>	\$136,256	\$123,493	\$99,708
<b>2006</b>	\$200,456	\$144,209	\$155,955
<i>Source: Legislative Auditor's Office Budget Division</i>			

### **The Board Still Approves Some Questionable Continuing Education Courses**

According to *West Virginia Code* §30-1-7(a):

*Each board referred to in this chapter shall establish con-*

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*Since the report's release, the Board has seen an improvement in the quality of courses submitted for continuing education credits. During CY 2006, the Board returned 25 veterinarian license renewal forms due to incomplete or inappropriate classes as opposed to 100 that were returned in 2003.*

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*Continuing education classes taken that are not scientific in nature was brought to the Board's attention at its January 22, 2004 meeting. At that time, the Board felt that business classes in practice management were appropriate. The Board's legislative rules (CSR §26-1-7.4) specify that classes need to be scientific in nature:*

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*tinuing education requirements as a prerequisite to license renewal. Each board shall develop continuing education criteria appropriate to its discipline, which shall include, but not limited to, course content, course approval, hours required and reporting periods.*

Continuing education requirements for veterinarians went into effect in 1992 and each veterinarian who desires to continue his or her license is required by legislative rule to take at least 18 fifty-minute periods of continuing education. A minimum of 14 hours is to be in approved classroom courses that are relative to the scientific practice of veterinary medicine. The remaining four hours can be from video devices or journals. Both the RVTs and CAETs must each complete six classroom hours of continuing education approved by the Board.

The May 2004 Regulatory Board Evaluation of the Board of Veterinary Medicine noted that the Board approved continuing education courses taken by veterinarians that were business-oriented instead of scientific in nature. Recommendation 2 from the May 2004 report stated:

*The Legislative Auditor recommends that the Board should only accept continuing education courses that are scientifically relevant to the practice of veterinary medicine.*

Since the report's release, the Board has seen an improvement in the quality of courses submitted for continuing education credits. During CY 2006, the Board returned 25 veterinarian license renewal forms due to incomplete or inappropriate classes as opposed to 100 that were returned in 2003.

The Legislative Auditor reviewed documentation of continuing education classes taken by veterinarian licensees during the previous calendar year and noted one example of classes approved by the Board that may not be considered scientific in nature. The Board approved a veterinarian's license renewal form with all 18 hours of continuing education in practice management.

Continuing education classes taken that are not scientific in nature was brought to the Board's attention at its January 22, 2004 meeting. At that time, the Board felt that business classes in practice management were appropriate. The Board's legislative rules (CSR §26-1-7.4) specify that classes need to be scientific in nature:

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*...A minimum of fourteen (14) hours shall be in Board approved classroom scientific education relative to the practice of veterinary medicine. No periods may be accumulated, carried forward, or held over past the calendar year in which the periods were completed.*

The Board is, therefore, still approving some classes that do not enhance the understanding of veterinary medicine. It is the Legislative Auditor's opinion that the program is in partial compliance with the recommendation made in the May 2004 Regulatory Board Evaluation. **The Board should follow Recommendation 2 of the May 2004 Regulatory Board Evaluation and adhere to CSR §26-1-7.4, accepting only continuing education classes that are scientific in nature for 14 hours of credit.**

### **Current State Law Does Not Require Scientifically-Oriented Continuing Education Courses for Registered Veterinary Technicians**

*The legislative rule specifying continuing education requirements for registered veterinary technicians does not require a minimum number of hours of scientifically-oriented course work.*

As previously mentioned, CSR §26-1-7.4 clearly specifies the annual number of hours of scientifically-oriented continuing education courses that veterinarians must complete. The legislative rule specifying continuing education requirements for registered veterinary technicians does not require a minimum number of hours of scientifically-oriented course work. Code of State Regulations §26-3-13(c) states:

*Certify the renewal form that he or she has completed the required six (6) classroom hours of continuing education during the year ending December thirty one, to renew for the year next beginning January one in a course or courses which have been approved as meeting the continuing education for RVTs by the Board...*

The Board has expressed concern regarding the types of continuing education courses submitted for approval by some technicians. **The Board should address this concern by amending its legislative rules to require a minimum number of annual hours of scientifically-oriented continuing education course work for Registered Veterinary Technicians.**

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## The Board Needs to Have a Web Site With Updated Information

According to *West Virginia Code* §30-1-12(c):

*Every Board shall regularly evaluate the feasibility of adopting additional methods of providing public access, including, but not limited to, listings in additional telephone directories, toll-free telephone numbers, facsimile and computer-based communication.*

The May 2004, Regulatory Board Evaluation commented on the status of the Board's progress in developing a web site:

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*Unfortunately the Board was not aware that the offer from the West Virginia Association of Licensing Boards was a one time offer and they have been unable to modify documents loaded to this site since the beginning of 2006.*

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*The West Virginia Board of Veterinary Medicine had been in the process of developing a web site but never concluded the arrangements. Initially, the State Treasurer's Office offered to assist the Board in setting up one. However, the Board could not get the project going because the Treasurer's Office wanted the Board to utilize a system of direct deposits for licensing fees which would mean quicker deposit into state account funds.*

The Legislative Auditor recommended that the Board develop a web site to improve the public's access to information regarding the Board's activities. A web site was completed with the assistance of the West Virginia Association of Licensing Boards. The Board's Executive Director elaborated how she began the process:

*To expedite getting our website out, there was an offer from the West Virginia Association of Licensing Boards (WVALB) for us to link through their site. I was told to send the files for the site to an individual contracted for the WVALB and our web site could be out of there.*

Unfortunately the Board was not aware that the offer from the West Virginia Association of Licensing Boards was a one time offer and they have been unable to modify documents loaded to this site since the beginning of 2006. Since the current web site has only the roster of licensees for 2005, the Executive Director has continued to try to obtain an individual to construct a web site separate from the WVALB. By March 2006, the Executive Director was informed by the West Virginia Office of Technology (WVOT) that an outside web designer can-

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not be used and that the WVOT would assist her in the process. The Board has hired a secretary in April 2006, and obtained a second computer for its office. This has caused the web site construction to be put on hold as the computer set up is being completed by the WVOT.

As of November 2006 a new web site has not been constructed. The Legislative Auditor is aware of the limitations that have been presented to the Board in constructing the web site. While the Board is in compliance with the last recommendation of constructing a web site, it will need to go through the appropriate steps to annually modify documents loaded to the site. **The Legislative Auditor recommends that the Board develop a web site that can be updated to improve the public's knowledge of the Board's activities.**

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*The last appointment letter presented by the Governor's Office to the Secretary of State's Office to extend terms was dated September 9, 2003.*

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### **Two of the Board's Members Have Continued to Serve After Their Terms Expired Because the Governor Has Not Appointed Replacements**

According to *West Virginia Code* §30-10-3:

*...The West Virginia board of veterinary medicine shall consist of five members, not more than three of whom shall belong to the same political party to be appointed by the governor with the advice and consent of the Senate.*

The Board currently has five members and two lay members which maintain its compliance with *West Virginia Code* §30-1-4a which states:

*Notwithstanding any provisions of this code to the contrary, the governor shall appoint at least one lay person to represent the interests of the public on every health professional licensing board which is referred to in this chapter.*

According to both sections of *Code*, it is the Governor's responsibility to appoint members to the Board when needed. The last appointment letter presented by the Governor's Office to the Secretary of State's Office to extend terms was dated September 9, 2003. Currently, the Board has two members whose terms have ended and two members who need appointment letters from the Governor to legally continue serving. One member has continued to serve for another two years since her term expired in 2004. The Executive Director has stated that she had an opportunity to meet with a representative of the Governor's office regard-

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ing Board appointments at the Board Member Training Meeting held on September 27, 2006. The Board is awaiting the four appointment letters.

## **The West Virginia Board of Veterinary Medicine Does Not Conduct Criminal Background Checks on Veterinarians and Veterinarian Technicians**

When asked if the Board conducts criminal background checks on licensed applicants, the Executive Director replied:

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*Rather than require criminal background checks from veterinarians and veterinarian technicians, the Board relies on the standard verification form which is completed by other state licensing boards and the national examination score report from the Veterinary Information Verification Agency (VIVA).*

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*We do National Criminal Investigative Center (NCIC) criminal background checks on Certified Animal Euthanasia Technicians (CAETs). In the June 2, 2002 minutes, I asked the Board about doing background checks on vets and techs as well. After considerable discussion, as reflected in the minutes, they agreed for this to be done. However, when I informed them that background checks would hinder quick turnaround on approval for temporary permits, the concept was dropped.*

For CAETs the Executive Director takes fingerprint impressions and forwards those to the West Virginia State Police. The State Police then submit the fingerprints to the NCIC for national results. This model could be used by the Board for both veterinarians and veterinarian technicians. The Board has reviewed this issue and felt that the waiting period between fingerprints and the results could be too long and the state could lose the veterinarian in the process.

Rather than require criminal background checks from veterinarians and veterinarian technicians, the Board relies on the standard verification form which is completed by other state licensing boards and the national examination score report from the Veterinary Information Verification Agency (VIVA). If a veterinarian or veterinarian technician comes from another state and requests a West Virginia license he or she must have an official of the previous licensing state's board complete the standard verification form. This releases information regarding past or pending disciplinary action concerning the licensee.

The VIVA also maintains a database of disciplinary actions from the previous licensing state. If the VIVA indicates that disciplinary actions have been taken against a licensee in another state, the West Virginia Board of Veterinary Medicine contacts the disci-

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plining jurisdiction for details of the action. Disciplinary data obtained from the VIVA and the standard verification form does not provide information on the previous criminal history of the applicant.

The criminal history of an applicant could be a valuable tool for the Board to protect the public. The Legislative Auditor is concerned that not conducting a criminal background check may allow some previous drug offenders to obtain and prescribe drugs.

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*The Legislative Auditor is concerned that not conducting a criminal background check may allow some previous drug offenders to obtain and prescribe drugs.*

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It is the Legislative Auditor's opinion that each licensee from another state could simply be given a temporary permit until the results are completed. According to legislative rule, temporary permits can be given for up to 60 consecutive days. The applicants who have recently graduated could be given this permit as well. In the future, the Board of Veterinary Medicine should conduct background checks for new applicants for existing licensees according to a schedule developed by the Board, in order to further protect the public. Failing to use the State Police and the NCIC for the purpose of conducting background checks may permit dishonest veterinarians to practice in this state. **The Legislative Auditor recommends that the Legislature consider amending the West Virginia Code to enable the Board of Veterinary Medicine to conduct criminal background checks, through both the State Police and the National Criminal Investigative Center, on all applicants for licenses and existing licensees according to a schedule determined by the Board.**

### **The Board Requires Applicants to Provide Written Documentation of Previous Names Used in the Applicant's Lifetime.**

Code of State Regulations §26-1-4 requires each applicant to provide a copy of their birth certificate, as well as, written verification of any name changes. The Board's application requests the applicant to submit proof of a name change if the birth name differs from the current name. The verification of name changes provided by the applicant, such as a marriage certificate, is then attached to their individual file. Currently, the Board of Massage Therapy, the Board of Examiners for Registered Professional Nurses, the Board of Optometry, the Board of Law Examiners, the Board of Medicine, the Board of Osteopathy, the Board of Physical Therapy, the Real Estate Commission, the Board of Examiners for Licensed Counselors and the Secretary of State (for Private Investigators) are the only other Chapter 30 licensure boards that require each applicant to provide all other names that previously have been used.

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*It is the Legislative Auditor's opinion that all other Chapter 30 licensure boards should require applicants to provide written documentation of previous names used in their lifetime.*

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The Legislative Auditor finds that requesting the applicant list all the other names or surnames used would be beneficial in verifying the supporting documentation that is required to be submitted along with the application. Supporting documentation could include college transcripts and diplomas, which could reflect alternate names. Additionally, the collection of all names would be beneficial in the verification of an applicant's criminal history as reported on an application. It is the Legislative Auditor's opinion that all other Chapter 30 licensure boards should require applicants to provide written documentation of previous names used in their lifetime.

## **Conclusion**

The West Virginia Board of Veterinary Medicine complies with most provisions of Chapter 30 and other applicable state laws. The Board's complaint process provides for due process. The Board continues to be financially self-sufficient. Since fiscal year 2003, the Board's actual expenditures have not exceeded the actual revenues thus ensuring a positive cash balance.

The Board still approves some questionable continuing education courses for veterinarians and RVTs. The Board should continue to adhere to CSR §26-1-7.4, accepting courses that are scientific in nature for 14 hours of credit for veterinarians. The current legislative rule specifying continuing education requirements for RVTs does not require a minimum number of hours of scientifically-oriented course work. The Board should address this concern and amend its legislative rules to require a minimum number of hours to be scientifically-oriented. The Board does have a web site but due to a misunderstanding in the length of the contractual agreement the web site has not been updated since 2005. The Legislative Auditor recommends the Board develop a web site that can be updated regularly.

The Board has four current members whose terms have ended. According to *West Virginia Code* §30-10-3, it is the Governor's responsibility to appoint members when needed. The Board conducts criminal background checks only on CAETs and not on veterinarians or RVTs. The criminal history of an applicant could serve as a valuable tool. Failing to use the State Police or the NCIC for conducting background checks could permit dishonest individuals to practice in this state. The Legislative Auditor recommends that the Legislature consider amending the West Virginia Code to enable the Board to conduct criminal background checks, through both the State Police and the NCIC, on all applicants for licenses.

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*Inspections are one way of protecting public health and to ensure that each veterinarian is performing in a competent and humane manner.*

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*The Board hired a part-time inspector in CY 2005 who receives \$175 dollars per inspection. The inspector receives a quadrant of counties within the state and the Board selects facilities to inspect each quarter.*

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According to CSR §26-1-4 each applicant is required to provide a copy of their birth certificate, as well as, written verification of any name change. The verification of name changes is then attached to the individual file of the applicant. Currently, there are ten other Chapter 30 licensure boards that require each applicant to provide all other names that previously have been used. The Legislative Auditor finds that the collection of all names would be beneficial in the verification of an applicant's criminal history. It is the Legislative Auditor's opinion that all other Chapter 30 licensure boards should require each applicant provide written documentation of previous names used in their lifetime.

## **Recommendations**

2. *The West Virginia Board of Veterinary Medicine should only accept scientifically-oriented continuing education courses for veterinarians for 14 hours of annual credit.*
3. *The West Virginia Board of Veterinary Medicine Board should amend its legislative rules to require a minimum number of annual hours of scientifically-oriented continuing education course work for Registered Veterinary Technicians.*
4. *The West Virginia Board of Veterinary Medicine should continue efforts to develop a web site that can be updated to improve the public's knowledge of the Board's activities.*
5. *The Legislative Auditor recommends that the Board follow West Virginia Code §30-1-5c and send a status report to the party filing a complaint within six months of the complaint's filing and issue a final ruling within one year of the status report, unless the complainant in a case and the Board agree to extend the time frame for the final ruling.*
6. *The Legislative Auditor recommends that the Legislature consider amending the West Virginia Code to enable the Board of Veterinary Medicine to conduct criminal background checks, through both the National Criminal Investigative Center and the State Police, on all applicants for licenses and existing licensees at a schedule determined by the Board.*

# Issue 3

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## **The West Virginia Board of Veterinary Medicine Should Adopt a Point System for Facility Inspection Forms to Rate the Severity of Violations as Well as Amend Its Legislative Rules in Order to Treat All Licensees Equally.**

*West Virginia is one of 19 states that require veterinary facility inspections by statute or legislative rule.*

### **Issue Summary**

West Virginia is one of 19 states that require veterinary facility inspections by statute or legislative rule. The Board is required by CSR §26-4-5.7 to inspect each facility every two years and before each facility begins operation. On October 31, 2006, the Executive Director confirmed that there has never been an inspection prior to opening. The Legislative Auditor recommends that the Board follow CSR §26-4-5.7 and inspect each veterinary care facility before it begins operation.

*The current law does not establish a standard by which a facility can be re-inspected, a time frame to correct the violations or empower the Board to close a facility.*

Code of State Regulations §26-4-5.7 specifies that the Board may require a re-inspection of a facility if the Board determines during a routine inspection that a facility is not meeting all the requirements for that type of facility. The current law does not establish a standard by which a facility can be re-inspected, a time frame to correct the violations or empower the Board to close a facility. The Board has given different time frames to different facilities to correct the same violations.

A lack of objective standards that can determine when a facility should be re-inspected, how long each should be given to correct its violations and if a facility should be closed, raises concern that some licensees may be given preferential treatment. The Legislative Auditor recommends that the Board consider amending its legislative rules to incorporate a grading system into the facility inspection form, to give each facility a standard time frame to correct violations. The Legislature should consider amending WVC Chapter 30, Article 10, to empower the Board to suspend or revoke a facility's operating permit if it is found to be in violation of the law.

### **West Virginia Is One of 19 States That Mandates Facility Inspections**

Appendix B documents that West Virginia is one of 19 states that require veterinary facility inspections by statute or legislative rule. Code of State Regulations §26-4-5.7 specifies how often the Board conducts inspections:

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*All veterinary facilities shall be inspected by the Board every two years, except when the Board requires a re-inspection due to the facility not meeting all requirements for that type of facility at the routine inspection. Only after the Board determines that the facility meets the respective provisions for operation under this rule may it lawfully operate.*

*Inspections are one way of protecting public health and to ensure that each veterinarian is performing in a competent and humane manner.*

The Board classifies veterinary facilities as veterinary care facilities, secondary outpatient facilities, emergency facilities and mobile care facilities. The Board has inspection criteria for each category of facility. The Board's inspection of facilities began in CY 1997 and continued through CY 2001. From CY 2001 until CY 2005 there were no inspections of the 149 facilities in West Virginia. The Executive Director stated that the contracted inspector resigned and the Board delayed hiring another inspector until modifications were made to Series 4 of the legislative rules regarding inspections. The modifications to the series included inserting a section of definitions. The changes were effective from July 1, 2003. The current inspection fee is set at \$250 per facility.

*The Board hired a part-time inspector in CY 2005 who receives \$175 dollars per inspection. The inspector receives a quadrant of counties within the state and the Board selects facilities to inspect each quarter.*

Inspections are one way of protecting public health and to ensure that each veterinarian is performing in a competent and humane manner. Regularly-scheduled facility inspections avoid reliance solely on consumer complaints as the means of identifying problems with veterinary medical facilities. The complaint process fills a valuable role but facility inspections provide an eyewitness account from a trained inspector who has access to areas of the clinic to which a consumer would not have access.

The Legislative Auditor reviewed 44 facility inspection forms from CY 2006. The Board had reviewed each of them. Violations involving CSR §26-4-4.5g accounted for 31 out of 44 cases. CSR §26-4-4.5g specifies that a veterinarian who maintains Drug Enforcement Administration (DEA) numbers and may use, dispense, or prescribe controlled substances, must maintain a controlled substance register. The register should have at least the number of refills, the name of the medication dispensed, the dosage and each animal and its owner's name. This rule is designed to monitor the prescription and dispensing of controlled substances.

The Board hired a part-time inspector in CY 2005 who receives \$175 dollars per inspection. The inspector receives a quadrant of counties within the state and the Board selects facilities to inspect each quarter. Each facility receives a letter from the Board stating that they are scheduled for inspection during the upcoming quarter. The facility does not know the exact date and time of the inspection.

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The inspection form is two pages long and the inspector indicates if the facility is in compliance with a total of 58 possible requirements. If a facility is not in compliance with a legislative rule, the Board requires changes to be made. When asked what the Board does to confirm if a facility is currently in compliance, the Executive Director replied:

On October 31, 2006, the Executive Director confirmed that there has never been an inspection prior to a facility opening.

*It may be that we require an invoice showing the purchase by the facility of required equipment, or we may require photographs showing modifications to the facility, with a letter indicating the changes have been made. That is determined by the inspection committee on a case by case basis.*

### **The Board Has Never Inspected a Facility Prior to Opening**

CSR §26-4-5.7 specifies that facilities are to be inspected prior to opening:

*...Only after the Board determines that the facility meets the respective provisions for operation under this rule may it lawfully operate.*

On October 31, 2006, the Executive Director confirmed that there has never been an inspection prior to a facility opening. The Board's lack of inspections prior to a facility's opening does not follow the requirement of the legislative rule and could lead to standard facility conditions until the completion of its first inspection. **The Legislative Auditor recommends the Board follow CSR §26-4-5.7 and inspect each veterinary care facility before it begins operation.**

### **The Board Should Incorporate a Point Scale In Its Inspection Forms to Determine the Relative Severity of Violations**

Code of State Regulations §26-4-5.7 specifies that the Board may require a re-inspection of a facility if the Board determines during a routine inspection that a facility is not meeting all the requirements for that type of facility. Re-inspections are conducted only by Board approval. The Legislative Auditor surveyed the states that mandate a facility inspection and requested facility inspection forms from each. Arkansas Veterinary Medical Examining Board is the

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only licensing agency identified that has a formal point system used to determine a passing or failing score for each area of inspection.

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*Arkansas Veterinary Medical Examining Board is the only licensing agency identified that has a formal point system used to determine a passing or failing score for each area of inspection.*

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Each facility in Arkansas must score at least 75 out of 100 to pass inspection. Veterinary establishments receiving 75 points or less will be given 30 days to achieve compliance. After 30 days the Board re-inspects the facility. If the facility again falls below the point scale, the Board convenes a formal hearing for the purpose of closing the facility.

The Arkansas inspection form is four pages long. An infraction considered more serious is worth more points. If the accumulation of points is more than 25, then the facility will have 30 days to correct the violations before the re-inspection.

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*The West Virginia Board of Veterinary Medicine does not have a grade point system to determine re-inspections.*

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The West Virginia Board of Veterinary Medicine does not have a grade point system to determine re-inspections. The lack of an objective scoring system that determines the relative seriousness of violations may lead to the unequal treatment of licensees for the same violations. The Board has reviewed the possibility of establishing a point system. A point system has been brought to the members attention six times during Board meetings since CY 1997. On January 28, 2000, the Board decided that facility inspection reports should be reviewed on a case by case basis instead of using a grade point system.

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*The Legislative Auditor is concerned that the Board may be subjective in deciding to order a re-inspection.*

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The Legislative Auditor is concerned that the Board may be subjective in deciding to order a re-inspection. **The Legislative Auditor recommends that the Board incorporate a point system in its facility inspection form.** The grading system could be used as a basis for scheduling re-inspections. The Board could use as a model either Arkansas' 100-point scale or the West Virginia Division of Health's Food Establishment grading system. The Division's legislative rules (CSR §64-17-2.1.i.1) specify how many violations are needed to suspend a permit to operate:

*...The Director may also summarily suspend a permit to operate a food establishment if the food establishment has five (5) or more immediately uncorrectable critical items in violation at the time of inspection.*

The Board should identify what constitutes a critical violation and how many infractions would warrant a re-inspection. The Board may consider a suspension of the permit to operate the facil-

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ity if it is not in compliance upon re-inspection. Arkansas gives each facility a standard time frame to correct violations found during each inspection. The West Virginia Board of Veterinary Medicine should examine this aspect of the inspection process as well.

### **The Board Is Subjective in Its Determination of Time Frames to Correct Violations**

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*West Virginia has not passed legislation to specify time frames for correcting violations after facility inspections.*

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West Virginia has not passed legislation to specify time frames for correcting violations after facility inspections. Appendix B documents the seven states (Alabama, Arizona, Florida, Maryland, South Carolina, Tennessee, Virginia) that have established a time frame for correcting facility violations. Three states (Alabama, Maryland, Virginia) mandate that the facility has 14 days to correct any violation. Three states ( Florida, South Carolina, Tennessee) provide facilities with 30 days to correct violations. Arizona gives facilities 90 days to correct violations.

The Legislative Auditor's staff reviewed the Board's facility inspection forms from CY 2006. The Board gave different time frames to different facilities to correct the same violation. Two facilities, for example, were given 30 days to correct a violation to CSR §26-4-4.4(b) which states:

*A veterinarian shall store and maintain radiographs for a minimum of three years. All exposed radiographs shall have a permanent identification.*

Six other facilities had the same violation but the Board decided that it should not address the violations and, therefore, never gave time frames for compliance. To cite other examples, the Board gave two facilities 60 days to correct a violation to CSR §26-4-5.2(g) which specifies keeping the diagnostic X-ray machine in compliance with state and federal rules:

*A diagnostic X-ray machine and development equipment area kept in compliance with state and federal rules and regulations, or a written contract with a facility that will provide radiological services to this facility.*

The Board's inspector found six other facilities in violation of this rule. The Board did not give any of these facilities a time frame to correct the violation. The Legislative Auditor's staff also noted 16 other violations on the parts of 18 facilities that the Board never addressed.

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The Legislative Auditor is concerned that the Board is subjective in giving time frames to facilities to correct violations. The Board in some instances is not addressing issues that have been raised by the inspector. **The Legislative Auditor recommends that the Board address every violation issued by the inspector and amend its legislative rules to give uniform time frames to correct violations.**

### **Current Legislation Does Not Address Closing a Facility Due to Non-Compliance**

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*The Legislative Auditor is concerned that the Board is subjective in giving time frames to facilities to correct violations.*

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The Legislative Auditor conducted a survey of states that may close a facility due to the noncompliance. Thirteen states (13) (see Appendix B) have included this provision as part of their statutes or legislative rules. The West Virginia Board of Veterinary Medicine may revoke or suspend a licensee for noncompliance but not a facility. Florida state law (FS § 474.215) specifies when a permit may be revoked:

*The premises permit may be revoked, suspended, or denied when inspection reveals that the establishment does not meet the standards set by rule or when the license of the responsible veterinarian has been suspended or revoked.*

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*The West Virginia Board of Veterinary Medicine may revoke or suspend a licensee for noncompliance but not a facility.*

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Alabama's state law (AL §34-29-88c) also specifies when a veterinary care facility's permit may be revoked:

*The premise may be revoked, suspended, or denied when inspection reveals that the premises do not meet the standards set by the administrative code of the board or when the license of the responsible veterinarian or veterinarians has been suspended or revoked.*

In order to adequately protect the public, the Board needs to incorporate similar language in its legislative rules. Hospitals and extended care facilities for people in the state of West Virginia are inspected by both the Office of Health Facility Licensure and Certification (OHFLAC) and the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). The JCAHO is the nation's leading standards setting and accrediting body in health care. The JCAHO inspects facilities every three years but state inspectors may conduct inspections during the years in between according to CSR §64-12-3.5f, which states:

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*If the accreditation of a hospital is for a period longer than one (1) year, the Department may conduct at least one (1) licensure inspection of the hospital after the first year of accreditation and before the accreditation has expired and may conduct additional licensure inspections as considered necessary.*

Utilizing both the OHFLAC and the JCAHO for inspection purposes helps to ensure the health and safety of all patients treated in West Virginia hospitals. Code of State Regulations §64-12-3.6a specifies that the Director of the OHFLAC may revoke the license of any hospital or extended care facility that is found in violation of legislative rule.

*Veterinary practice should be held to similar standards as human patient care.*

*After notice of an opportunity for a hearing, pursuant to the provisions of W.Va. Code §29-A-5-1, the Director may revoke the license of any hospital or extended care unit operated in conjunction with a hospital found in violation of this rule.*

Veterinary care facilities and human patient care facilities are all medical facilities that use surgical equipment, draw blood, conduct diagnostic radiology services and provide medical services to living creatures. Veterinary practice should be held to similar standards as human patient care. **Therefore, the Legislative Auditor recommends that the Legislature consider amending WVC Chapter 30, Article 10, to empower the Board to suspend or revoke a facility's operating permit if it is found to be in violation of the law.**

## **Conclusion**

West Virginia is one of 19 states to institute veterinary facility inspections as part of statute or legislative rule. Each facility in the state is to be inspected prior to opening and every two years thereafter. The Board's inspection of facilities began in 1997 but from 2001-2005 there were no inspections due to the resignation of the contracted inspector. Since 2005, an inspector has been hired part-time at \$175 dollars per inspection.

The Board has never conducted inspections of a facility prior to its opening. The Legislative Auditor recommends that the Board follow CSR §26-4-5.7 and begin inspecting facilities prior to opening. Current state law does not establish a standard by which a facility can

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be reinspected, a time frame to correct violations or if a facility can be closed. The Board may reinspect a facility or give a time frame to correct violations but it is decided subjectively on a case-by-case basis.

Without having an objective standard that determines the relative severity of violations, how long a facility has to correct its violations and when a facility can be closed, raises the possibility that some licensees will not receive the same treatment as others. The Legislative Auditor recommends the Board consider amending its legislative rules to incorporate a grading system into the facility inspection form and to give each facility one set time frame to correct their violations found, and to allow the Board to suspend or close a facility if it is found to be in violation of a standard. The Legislature should consider empowering the Board to suspend or revoke a veterinary care facility's operating permit if it is in violation of the law.

### **Recommendations**

7. *The Legislative Auditor recommends the Board of Veterinary Medicine follow CSR §26-4-5.7 and inspect each veterinary care facility before it begins operation.*
8. *The Legislative Auditor recommends that the Board of Veterinary Medicine incorporate a grading system into its facility inspection form.*
9. *The Legislative Auditor recommends that the Board of Veterinary Medicine address every violation issued by its inspector and amend its legislative rules to give uniform time frames to correct violations.*
10. *The Legislative Auditor recommends that the Legislature consider amending Chapter 30, Article 10 of the West Virginia Code, to empower the Board to suspend or revoke a facility's operating permit if it is found to be in violation of the law.*

# Appendix A: Transmittal Letter

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## WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0610  
(304) 347-4890  
(304) 347-4939 FAX



John Sylvia  
Director

December 18, 2006

Ms. Wanda Goodwin, Executive Director  
West Virginia Board of Veterinary Medicine  
5509 Big Tyler Road  
Suite 3  
Cross Lanes, WV 25313

Dear Ms. Goodwin:

This is to transmit a draft copy of the Regulatory Board Evaluation of the Board of Veterinary Medicine. This report is scheduled to be presented during the January 7-9, 2007 interim meeting of the Joint Committee on Government Operations. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting between December 21 and 27, 2006. Please notify us to schedule an exact time. In addition, we need your written response by noon on December 29, 2006 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, December 28, 2006 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

Handwritten signature of John Sylvia in cursive script.  
John Sylvia

Enclosure

bb/JS

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*Joint Committee on Government and Finance*

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## Appendix B: State Veterinary Medicine Regulatory Boards

States	Does the State Conduct Facility Inspections by Rule or Statute?	Is a Time Frame Established for Correcting the Violations Found From Inspections?	Can the State Close the Facility Due to the Violations Found From Inspections by Rule or Statute?
<b>Alaska</b>	No	No	No
<b>Alabama</b>	Yes	Yes, 14 days	Yes
<b>Arkansas</b>	Yes	No	Yes
<b>Arizona</b>	Yes	Yes, 90 days	Yes
<b>California</b>	Yes	No	Yes
<b>Colorado</b>	Yes	No	Yes
<b>Connecticut</b>	No	No	No
<b>District of Columbia</b>	No	No	No
<b>Delaware</b>	No	No	No
<b>Florida</b>	Yes	Yes, 30 days	Yes
<b>Georgia</b>	No	No	No
<b>Hawaii</b>	No	No	No
<b>Iowa</b>	No	No	No
<b>Idaho</b>	No	No	No
<b>Illinois</b>	No	No	No
<b>Indiana</b>	No	No	No
<b>Kansas</b>	Yes	No	Yes
<b>Kentucky</b>	No	No	No
<b>Louisiana</b>	No	No	No
<b>Massachusetts</b>	No	No	No
<b>Maryland</b>	Yes	Yes, 14 days	Yes
<b>Maine</b>	No	No	No
<b>Michigan</b>	Yes	No	No
<b>Minnesota</b>	No	No	No
<b>Missouri</b>	Yes	No	No
<b>Mississippi</b>	No	No	No
<b>Montana</b>	Yes	No	No
<b>North Carolina</b>	Yes	No	No
<b>North Dakota</b>	No	No	No

<b>States</b>	<b>Does the State Conduct Facility Inspections by Rule or Statute?</b>	<b>Is a Time Frame Established for Correcting the Violations Found From Inspections?</b>	<b>Can the State Close the Facility Due to the Violations Found From Inspections by Rule or Statute?</b>
<b>Nebraska</b>	No	No	No
<b>New Hampshire</b>	No	No	No
<b>New Jersey</b>	No	No	No
<b>New Mexico</b>	Yes	No	No
<b>Nevada</b>	Yes	No	Yes
<b>New York</b>	No	No	No
<b>Ohio</b>	No	No	No
<b>Oklahoma</b>	No	No	No
<b>Oregon</b>	No	No	No
<b>Pennsylvania</b>	No	No	No
<b>Rhode Island</b>	No	No	No
<b>South Carolina</b>	Yes	Yes, 30 days	No
<b>South Dakota</b>	No	No	No
<b>Tennessee</b>	Yes	Yes, 30 days	No
<b>Texas</b>	No	No	Yes
<b>Utah</b>	Yes	No	No
<b>Virginia</b>	Yes	Yes, 14 days	Yes
<b>Vermont</b>	No	No	No
<b>Washington</b>	No	No	Yes
<b>Wisconsin</b>	No	No	No
<b>West Virginia</b>	Yes	No	No
<b>Wyoming</b>	No	No	No
<b>Totals</b>	<b>19</b>	<b>7</b>	<b>12</b>

*Source: State codes and legislative rules.*

# Appendix C: Agency Response

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## WEST VIRGINIA BOARD OF VETERINARY MEDICINE

Mr. John Sylvia: Director  
West Virginia Legislature  
Performance Evaluation and Research Division  
Building 1, Room W-314  
1900 Kanawha Boulevard, East  
Charleston, WV 25305-0610

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JAN 03 2007

PERFORMANCE EVALUATION AND  
RESEARCH DIVISION

December 28, 2006

Dear Mr. Sylvia:

The West Virginia Board of Veterinary Medicine wishes to express our gratitude to your office and staff for their thorough and fair review of this Board and its procedures. More specifically, we would like to commend the professionalism, efficiency and courtesy of Research Analyst Mr. Brandon Burton in this audit process.

This audit was most beneficial in allowing us the opportunity to evaluate our procedures and ascertain those areas within our control which need modified or corrected. We will attempt to address the specific recommendations as set forth in this evaluation.

Recommendation 1. Thank you for the recommendation to the Legislature to continue the Board of Veterinary Medicine.

Recommendation 2. Of the more than 500 veterinarians who renewed their license for 2006, 1 was renewed based upon continuing education courses in practice management. We acknowledge that his license was renewed based upon continuing education that was not scientifically enhancing to his skills. We wish to assure you that we will do all within our authority to refuse any such renewals for veterinarians in the future.

Recommendation 3. As we stated in our exit conference with Mr. Kitchen and Mr. Burton, we have concerns with RVT's who do not complete scientifically oriented continuing education. As we explained, our legislative rules define the profession as assisting the veterinarian which might encompass almost any area of the practice including office procedures. We could find no authority to reject practice management continuing education for this profession. We welcome legislative definitions specifying mandatory scientific classes for acceptable continuing education of Registered Veterinary Technicians.

Recommendation 4. We continue with attempts to develop a new website. The Board approved acquisition of a specific website for the Board almost a year ago, which could be modified and updated from within the office of the Board of Veterinary Medicine. We heard from other boards that they contracted with outside webmasters for their websites, so we contacted an independent contractor in attempts to move forward on this in the spring of 2006. We were subsequently told that we are required to have the website done by the Office of Technology. We requested their services several months ago in this endeavor and are awaiting their determination of when they can provide such assistance on this.

Recommendation 5. We were unaware that we were not in compliance with requirements on status reports for complaints. We understand that we have one case which is currently open that required a status report. In this case, we contacted the complainant by phone and informed her that her complaint had been carried forward until the January 8, 2007 meeting to allow the Complaint Committee the opportunity to review radiographs submitted by the respondent veterinarian. In the future, we will conform to the requirement to submit such status reports in writing, as specified in §30-1-5c.

Recommendation 6. We currently do not have any language in Code or Rules specifying criminal background checks as a requirement for licensing veterinarians or registration of registered veterinary technicians (RVT's). We will comply with any such recommendations by the Legislature as established in Code or Rules and Regulations.

Recommendation 7. We do not inspect veterinary facilities prior to initial opening. This will be addressed at our January 8, 2007 meeting.

Recommendation 8. Establishment of a standardized system for evaluating compliance with facility requirements and determining when a facility is to be reinspected due to deficiencies is a matter which we have consistently arbitrated since beginning inspections. This recommendation will be brought before the Board at our January 8, 2007 meeting.

Recommendation 9. Compliance with one set time frame for rectifying violations also will be addressed in January at our meeting.

Recommendation 10. Amendments empowering the Board to suspend or revoke a facility's operating permit if in violation would be helpful in addressing deficiencies. Currently, we have no written authority to enforce requirements for veterinary facilities, as the laws specify requirements without specifying actions for failure to comply.

I would like to explain that I certainly am not attempting to be evasive or less than forthcoming in my references to recommendations which I state will be addressed by the Board. However, as Executive Director of the West Virginia Board of Veterinary Medicine, I am reluctant to state the position of the Board on all recommendations without the Board having the opportunity to hear them. It is for that reason alone that I reference review of the recommendations at our next meeting.

The West Virginia Board of Veterinary Medicine is a very proactive board. Having served as administrator of this board in excess of twenty six years, I am aware of the constant struggles of board members to assure public protection; in many cases without language in our laws authorizing enforcement. I believe every attempt will be made to comply with the recommendations as set forth in this legislative audit. I felt this legislative audit was a fair and informative procedure which offers opportunities for increased public protection.

Yours truly,

  
Wanda Goodwin