



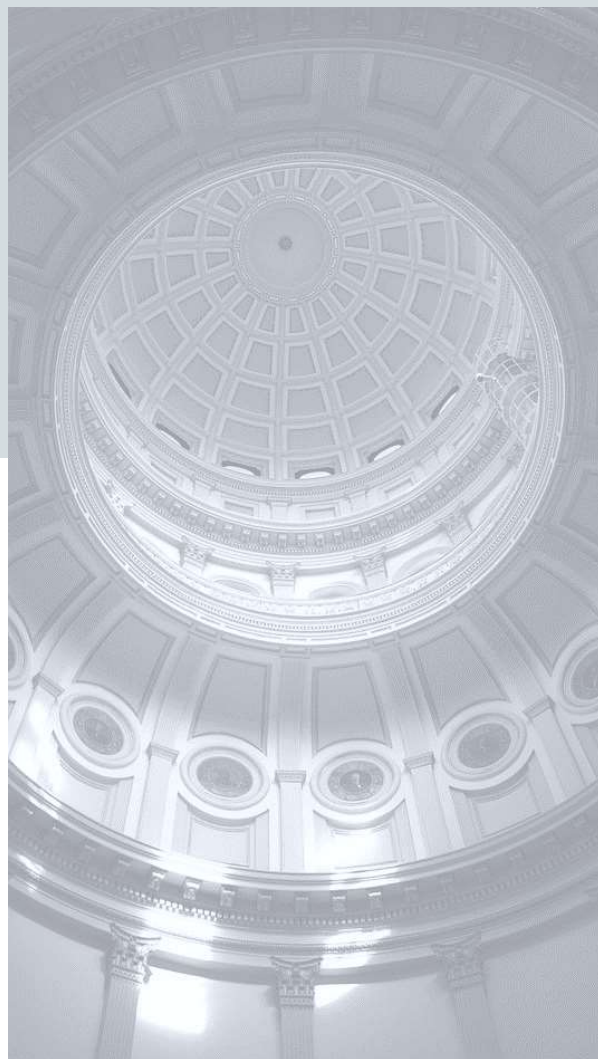
COLORADO

**Department of
Regulatory Agencies**

Colorado Office of Policy, Research &
Regulatory Reform

2021 Sunset Review

Colorado Veterinary Practice Act



October 15, 2021



October 15, 2021

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado General Assembly established the sunset review process in 1976 as a way to analyze and evaluate regulatory programs and determine the least restrictive regulation consistent with the public interest. Pursuant to section 24-34-104(5)(a), Colorado Revised Statutes (C.R.S.), the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) at the Department of Regulatory Agencies (DORA) undertakes a robust review process culminating in the release of multiple reports each year on October 15.

A national leader in regulatory reform, COPRRR takes the vision of their office, DORA and more broadly of our state government seriously. Specifically, COPRRR contributes to the strong economic landscape in Colorado by ensuring that we have thoughtful, efficient and inclusive regulations that reduce barriers to entry into various professions and that open doors of opportunity for all Coloradans.

As part of this year's review, COPRRR has completed an evaluation of the Colorado Veterinary Practice Act. I am pleased to submit this written report, which will be the basis for COPRRR's oral testimony before the 2022 legislative committee of reference.

The report discusses the question of whether there is a need for the regulation provided under Article 315 of Title 12, C.R.S. The report also discusses the effectiveness of the State Board of Veterinary Medicine in carrying out the intent of the statutes and makes recommendations for statutory changes for the review and discussion of the General Assembly.

To learn more about the sunset review process, among COPRRR's other functions, visit coprrr.colorado.gov.

Sincerely,

Patty Salazar
Executive Director



Sunset Review: Colorado Veterinary Practice Act

Background

What is regulated?

In Colorado, the Veterinary Practice Act (Act) provides regulatory oversight of veterinarians. Veterinarians are healthcare professionals who, among other things, diagnose, treat and perform surgery on animals.

Why is it regulated?

The Act was created to promote public health, safety and welfare by safeguarding Coloradans against incompetent, dishonest or unprincipled practitioners.

Who is regulated?

At the end of fiscal year 19-20, the State Board of Veterinary Medicine (Board) licensed 5,189 veterinarians.

How is it regulated?

The Board, which consists of seven members appointed by the Governor, is responsible for regulatory oversight of veterinarians. In order to obtain a veterinarian license, a candidate must be 21 years of age, graduate from a school of veterinary medicine and pass a national examination.

What does it cost?

In fiscal year 19-20, the Director of the Division of Professions and Occupations expended \$315,906 and allotted 1.19 full-time equivalent employees to implement the veterinarian licensing program.

What disciplinary activity is there?

During the period covered for this sunset review, fiscal years 15-16 through 19-20, there were 668 complaints filed, 194 violations were established, and 256 disciplinary actions were taken against veterinarians.

Key Recommendations

- Continue the Act for 11 years, until 2033.
- Amend the Act to authorize veterinarians to delegate the task of administering rabies vaccinations while under their supervision.
- Require veterinarians to create a written plan for the storage, security and disposal of patient records.
- Clarify the requirements concerning confidential agreements.

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Background

Sunset Criteria

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) within the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria¹ and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are guided by statutory criteria and sunset reports are organized so that a reader may consider these criteria while reading. While not all criteria are applicable to all sunset reviews, the various sections of a sunset report generally call attention to the relevant criteria. For example,

- In order to address the first criterion and determine whether a particular regulatory program is necessary to protect the public, it is necessary to understand the details of the profession or industry at issue. The Profile section of a sunset report typically describes the profession or industry at issue and addresses the current environment, which may include economic data, to aid in this analysis.
- To ascertain a second aspect of the first sunset criterion--whether conditions that led to initial regulation have changed--the History of Regulation section of a sunset report explores any relevant changes that have occurred over time in the regulatory environment. The remainder of the Legal Framework section addresses the third sunset criterion by summarizing the organic statute and rules of the program, as well as relevant federal, state and local laws to aid in the exploration of whether the program's operations are impeded or enhanced by existing statutes or rules.
- The Program Description section of a sunset report addresses several of the sunset criteria, including those inquiring whether the agency operates in the public interest and whether its operations are impeded or enhanced by existing statutes, rules, procedures and practices; whether the agency performs efficiently and effectively and whether the board, if applicable, represents the public interest.
- The Analysis and Recommendations section of a sunset report, while generally applying multiple criteria, is specifically designed in response to the tenth criterion, which asks whether administrative or statutory changes are necessary to improve agency operations to enhance the public interest.

¹ Criteria may be found at § 24-34-104, C.R.S

These are but a few examples of how the various sections of a sunset report provide the information and, where appropriate, analysis required by the sunset criteria. Just as not all criteria are applicable to every sunset review, not all criteria are specifically highlighted as they are applied throughout a sunset review. While not necessarily exhaustive, the table below indicates where these criteria are applied in this sunset report.

Sunset Criteria	Where Applied
(I) Whether regulation by the agency is necessary to protect the public health, safety, and welfare; whether the conditions that led to the initial regulation have changed; and whether other conditions have arisen that would warrant more, less, or the same degree of regulation;	<ul style="list-style-type: none"> • Profile of the Profession. • Legal Framework. • Recommendations 1 and 5.
(II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether agency rules enhance the public interest and are within the scope of legislative intent;	<ul style="list-style-type: none"> • Legal Framework. • Program Description. • Recommendations 2 and 3.
(III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters;	<ul style="list-style-type: none"> • Legal Framework. • Program Description. • Recommendation 4.
(IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;	<ul style="list-style-type: none"> • Program Description.
(V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;	<ul style="list-style-type: none"> • Legal Framework. • Program Description.
(VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;	<ul style="list-style-type: none"> • Profile of the Profession.
(VII) Whether complaint, investigation, and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;	<ul style="list-style-type: none"> • Program Description.
(VIII) Whether the scope of practice of the regulated occupation contributes to the optimum use of personnel and whether entry requirements encourage affirmative action;	<ul style="list-style-type: none"> • Program Description.
(IX) Whether the agency through its licensing or certification process imposes any sanctions or disqualifications on applicants based on past criminal history and, if so, whether the sanctions or disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subsection (5)(a) of this section must include data on the number of licenses or certifications that the agency denied based on the applicant's criminal history, the number of conditional licenses or certifications issued based upon the applicant's criminal history, and the number of licenses or certifications revoked or suspended based on an individual's criminal conduct. For each set of data, the analysis must include the criminal offenses that led to the sanction or disqualification.	<ul style="list-style-type: none"> • Program Description.

Sunset Criteria	Where Applied
(X) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.	<ul style="list-style-type: none"> Recommendations 1 - 6.

Sunset Process

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review on COPRRR's website at coprrr.colorado.gov.

The functions of the State Board of Veterinary Medicine (Board), as enumerated in Article 315 of Title 12, Colorado Revised Statutes (C.R.S.), shall terminate on September 1, 2022, unless continued by the General Assembly. During the year prior to this date, it is the duty of COPRRR to conduct an analysis and evaluation of the Board pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed regulation should be continued and to evaluate the performance of the Board. During this review, the Board must demonstrate that the program serves the public interest. COPRRR's findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

Methodology

As part of this review, COPRRR staff attended Board meetings; interviewed stakeholders, officials with state and national professional associations, and staff from other states; and reviewed records, Colorado statutes and rules, and the laws of other states.

The major contacts made during this review include, but are not limited to:

- American Veterinary Medical Association
- Colorado Association of Certified Veterinary Technicians
- Colorado Department of Agriculture
- Colorado Department of Public Health and Environment
- Colorado State University - College of Veterinary Medicine and Biomedical Sciences
- Colorado Veterinary Medical Association
- Division of Professions and Occupations
- Dumb Friends League

In the spring of 2021, COPRRR staff conducted a survey of all veterinarians who are licensed by the Board. The survey was sent to 4,816 veterinarians; 22 emails were

returned as undeliverable. The survey received 625 responses, which is a 13 percent response rate. Survey results may be found in Appendix A.

Profile of the Profession

In a sunset review, COPRRR is guided by the sunset criteria located in section 24-34-104(6)(b), C.R.S. The first criterion asks whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation.

In order to understand the need for regulation, it is first necessary to understand what the profession does, where they work, who they serve and any necessary qualifications.

Veterinarians are health-care professionals who diagnose, treat and perform surgery on animals. The range of services veterinarians provide includes, but is not limited to:²

- Health and wellness evaluations and assessments,
- Preventative medicine (including rabies vaccinations and others),
- Prescribing medications,
- Performing surgery,
- Rehabilitation, and
- Palliative care.

Additionally, veterinarians treat injuries and illnesses of pets and other animals utilizing a variety of medical equipment such as surgical tools, x-ray and ultrasound machines.³

Veterinarians also perform spay and neutering services on cats and dogs for population control purposes.

Often veterinarians perform dentistry on animals as well, which may include cleaning, adjustment, filling, extraction or other tooth repairs.⁴

Veterinarians work in a variety of settings, but most commonly in private clinics and animal hospitals, while some veterinarians work in other settings such as farms, laboratories, classrooms or zoos.⁵ In fact, in 2020, the U.S. Bureau of Labor Statistics' *Occupational Outlook Handbook* stated that nationally, approximately 90 percent work in private clinics and animal hospitals.⁶

² Ross University, School of Veterinary Medicine. *What Do Veterinarians Do?* Retrieved June 3, 2021, from <https://veterinary.rossu.edu/about/news/what-do-veterinarians-do>

³ U.S. Bureau of Labor and Statistics. *Veterinarians*. Retrieved June 3, 2021, from <https://www.bls.gov/ooh/healthcare/veterinarians.htm#tab-2>

⁴ American Veterinary Medical Association. *Pet Dental Care*. Retrieved August 12, 2021, from <https://www.avma.org/resources-tools/pet-owners/petcare/pet-dental-care>

⁵ U.S. Bureau of Labor and Statistics. *Veterinarians*. Retrieved June 3, 2021, from <https://www.bls.gov/ooh/healthcare/veterinarians.htm>

⁶ U.S. Bureau of Labor and Statistics. *Veterinarians*. Retrieved June 3, 2021, from

Veterinarians who work in animal hospitals and clinics perform a variety of tasks such as treat pets, most commonly dogs and cats, but they also treat a variety of other types of pets, including birds, ferrets, and rabbits.⁷

Veterinarians also work with various farm animals that are raised as food sources, such as pigs, cattle and sheep. When working with these animals, veterinarians perform a variety of duties such as treating animals with illnesses and advising farm owners or managers about nutrition, proper housing and general health practices.⁸

Some veterinarians work in the food safety and inspection area, where responsibilities include inspecting and testing livestock and animal products for major diseases. Other duties may require veterinarians to administer vaccines to treat animals for things such as zoonotic disease (rabies), enhance animal welfare, conduct research to improve animal health, and enforce government food safety regulations.⁹

All 50 states and the District of Columbia require veterinarians to obtain a license to practice. The only exemptions are for veterinarians working for some federal agencies and some state governments. Licensing is controlled by the states and is not uniform, although all states require the successful completion of the Doctor of Veterinary Medicine degree (D.V.M. or V.M.D.) or equivalent education, and a passing score on a national examination, the North American Veterinary Licensing Examination. Colorado State University is the only institution in Colorado that offers a doctorate in veterinary medicine.

The sixth sunset criterion requires COPRRR to evaluate the economic impact of regulation. One way this may be accomplished is to review the projected salary and growth of the profession.

The employment of veterinarians is expected to grow 17 percent between 2020 and 2030. One reason for the expected growth is the increase in consumers' pet-related spending.¹⁰ In fact, pet-related spending is expected to be the driving force for the increase in demand for veterinarian services.¹¹ As of May 2020, the median annual wage for veterinarians was \$99,250.¹²

<https://www.bls.gov/ooh/healthcare/veterinarians.htm#tab-3>

⁷ U.S. Bureau of Labor and Statistics. *Occupational Outlook Handbook - Veterinarians*. Retrieved June 3, 2021, from <https://www.bls.gov/ooh/healthcare/veterinarians.htm#tab-2>

⁸ U.S. Bureau of Labor and Statistics. *Occupational Outlook Handbook - Veterinarians*. Retrieved June 3, 2021, from <https://www.bls.gov/ooh/healthcare/veterinarians.htm#tab-2>

⁹ U.S. Bureau of Labor and Statistics. *Occupational Outlook Handbook - Veterinarians*. Retrieved June 3, 2021, from <https://www.bls.gov/ooh/healthcare/veterinarians.htm#tab-2>

¹⁰ U.S. Bureau of Labor and Statistics. *Occupational Outlook Handbook - Veterinarians*. Retrieved June 3, 2021, from <https://www.bls.gov/ooh/healthcare/veterinarians.htm>

¹¹ U.S. Bureau of Labor and Statistics. *Occupational Outlook Handbook - Veterinarians*. Retrieved June 3, 2021, from <https://www.bls.gov/ooh/healthcare/veterinarians.htm#tab-6>

¹² U.S. Bureau of Labor and Statistics. *Occupational Outlook Handbook - Veterinarians*. Retrieved June 3, 2021, from <https://www.bls.gov/ooh/healthcare/veterinarians.htm>

Legal Framework

History of Regulation

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by the sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The first sunset criterion questions whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen that would warrant more, less or the same degree of regulation.

One way that COPRRR addresses this is by examining why the program was established and how it has evolved over time.

The Veterinary Practice Act (Act) was originally created by the General Assembly in 1907. The Act was created to “promote public health, safety and welfare by safeguarding the people in Colorado against incompetent, dishonest or unprincipled practitioners of veterinary medicine.”¹³

The Act has gone through the sunset review process in 1978, 1990, 2000 and 2010. The 2000 sunset review recommended increasing the State Board of Veterinary Medicine (Board) size from five to seven members, to allow non-veterinarians to own practices through public service corporations as long as the majority of owners are veterinarians, and to strengthen veterinarian record-keeping provisions. These recommendations, among others, were adopted in some form by the General Assembly.

Subsequent to the 2000 sunset review, the Act has been amended on multiple occasions. The majority of the changes have been to the administrative system but some have been more substantial, such as:

- During 2006, the provision to issue a confidential letter of concern was added to the disciplinary powers of the Board. This allows the Board to voice displeasure with a practitioner over a minor violation rather than issuing formal public discipline.
- During 2007, several changes occurred, among them:
 - A license exemption for faculty members of a veterinary school was repealed and replaced with an academic license, and
 - A mandate that veterinarians report suspected animal cruelty was added.

¹³ § 12-315-102, C.R.S.

The 2010 sunset review included several recommended changes to the Act. Salient recommendations included:

- Creating an exemption to the veterinarian-client-patient relationship for the dispensing of pharmaceuticals in emergency situations, and
- Requiring that every veterinary clinic has a Colorado-licensed veterinarian scheduled and responsible for all veterinary medical decisions at all times when a patient is in the facility.

The above-referenced recommendations were enacted by the General Assembly.

During the 2019 legislative session, the General Assembly recodified Title 12, C.R.S. At that time, Article 64 was repealed and reenacted as Article 315. Though there were changes in the manner in which the law reads and many provisions of law were combined with common elements of other laws, none of those changes affected the implementation or enforcement of the Act.

Legal Summary

The second and third sunset criteria question

Whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether agency rules enhance the public interest and are within the scope of legislative intent; and

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters.

A summary of the current statutes and rules is necessary to understand whether regulation is set at the appropriate level and whether the current laws are impeding or enhancing the agency's ability to operate in the public interest.

The Act is created in section 12-315-101, *et seq.*, Colorado Revised Statutes (C.R.S.), and provides regulatory oversight of veterinarians.

Licensed veterinarians are responsible for diagnosing, prescribing, performing surgery and initiating treatment on patients (animals).¹⁴ The Act defines the practice of veterinary medicine as,¹⁵

¹⁴ 4 C.C.R. § 727-1.1.6 A, State Board of Veterinary Medicine Rules.

¹⁵ § 12-315-104(14)(a), C.R.S.

The diagnosing, treating, correcting, changing, relieving or preventing animal disease, deformity, defect, injury, or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic or other therapeutic or diagnostic substance or technique and the use of any manual or mechanical procedure for artificial insemination, for ova transplantation, for testing for pregnancy or for correcting sterility, infertility or to render advice or recommendation with regard thereto.

In order to obtain a license to practice veterinary medicine, a candidate must fulfill the following qualifications:¹⁶

- Be 21 years of age or older,¹⁷
- Graduate from an accredited school of veterinary medicine or graduate from a non-accredited school of veterinary medicine and receive a certificate from a national program approved by the Board that assesses educational equivalency of graduates; and
- Pass the North American Veterinary Licensing Examination (NAVLE), which is administered by the National Board of Veterinary Medical Examiners.¹⁸

Once a candidate completes the aforementioned requirements and receives a license to practice, he or she must complete 32 hours of continuing education within a license renewal period, which is biennially.¹⁹ Continuing education courses must be approved by the Registry of Approved Continuing Education. Practitioners are authorized to complete up to six hours that count towards the completion of continuing education related to non-technical competencies such as:²⁰

- Leadership training,
- Personnel management,
- Client relations,
- Communication training, and
- Integrated resource management principles.

A veterinarian who is employed by a school of veterinary medicine in Colorado and who practices veterinary medicine in the course of employment at the school may apply for an academic license.²¹ In order to qualify for an academic license, a person must submit proof to the Board that he or she has:²²

- Graduated from a school of veterinary medicine, and
- Is employed by an accredited school of veterinary medicine.

¹⁶ § 12-315-107(2), C.R.S. and 4 C.C.R. § 727-1.7 B-3, State Board of Veterinary Medicine Rules.

¹⁷ § 12-315-107(1), C.R.S.

¹⁸ 4 C.C.R. § 727-1.7 B-3, State Board of Veterinary Medicine Rules.

¹⁹ § 12-315-110(3)(a), C.R.S.

²⁰ 4 C.C.R. § 727-1.15 D, State Board of Veterinary Medicine Rules.

²¹ § 12-315-108(1), C.R.S.

²² § 12-315-108(2), C.R.S.

Applicants for an academic license are not required to pass an examination.²³

The Board enforces the Act. The Board consists of seven members, all of which are appointed by the Governor, and serve four-year terms.²⁴ The Board contains five members who have graduated from a school of veterinary medicine, who are residents of Colorado and who have been licensed five years preceding the appointment.²⁵ The Board also consists of two public members who have no financial or professional association with the veterinary profession.²⁶

Duties of the Board include, but are not limited to:²⁷

- Examine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine in Colorado;
- Issue, deny, suspend or revoke a practitioner's license to practice;
- Regulate artificial insemination and ova transplantation of cattle or other animal species;
- Adopt, amend or repeal rules;
- Issue cease and desist orders; and
- Impose fines on licensees for violations of the Act or applicable rules.

The Board is also authorized to inspect veterinary premises to ensure that the facilities are clean and sanitary.²⁸

The Board may deny, refuse, suspend, revoke, place on probation or issue a letter of admonition to licensed veterinarians for a variety of reasons, including but not limited to:²⁹

- Fraud, misrepresentation or deception in attempting to obtain or in obtaining a license;
- Fraud, deception, misrepresentation or dishonest or illegal practices in or connected with the practice of veterinary medicine;
- Misrepresentation in the inspection of food for human consumption;
- Fraudulent issuance or use of any health certificate, vaccination certificate, test chart or blank form used in the practice of veterinary medicine to prevent the dissemination of animal disease, transportation of diseased animals or the sale of inedible animal products for human consumption;
- Fraud or dishonesty in the application or reporting of any test for disease in animals;
- Incompetence, negligence or other malpractice in the practice of veterinary

²³ § 12-315-107.5(3), C.R.S.

²⁴ § 12-315-106(1), C.R.S.

²⁵ § 12-315-106(2), C.R.S.

²⁶ § 12-315-106(2), C.R.S.

²⁷ §§ 12-315-106(5)(a)(b)(c)(g) and (h), C.R.S.

²⁸ § 12-315-106(6), C.R.S.

²⁹ §§ 12-315-112(1)(c),(d),(e),(f),(g),(K),(l),(n),(p),(w),(y),(aa),(cc) and (ee), C.R.S.

medicine;

- Unprofessional or unethical conduct or engaging in practices in connection with the practice of veterinary medicine that are in violation of generally accepted standards of practice;
- Conviction of a charge of cruelty to animals;
- Conviction of a crime, including a guilty or *nolo contendere* plea in any state for an offense related to the conduct regulated in the Act;
- Engaging in the practice of veterinary medicine while a veterinarian's license is in inactive status or the license expired;
- Administration, dispensing, distributing or prescribing any prescription drug outside the veterinarian-client patient relationship;
- Practicing or performing services beyond the licensee's scope of competence;
- Failure to respond to the Board regarding a complaint against the licensee; and
- Failure to properly supervise a veterinary student or veterinary staff.

The Board is also authorized to impose fines of \$100 to \$1,000 per violation on licensees for violations of the Act or applicable rules.³⁰ Fines collected by the Board go to the state's General Fund. The Board's rules highlight situations where the Board may impose fines on licensees, which include but are not limited to:³¹

- Substandard recordkeeping;
- Failure to provide records;
- Failure to provide a written prescription;
- Practicing on an expired or inactive license;
- Failure to appropriately supervise veterinary students or personnel;
- Failure to keep veterinary premises clean and sanitary;
- False advertising;
- Administering, distributing, dispensing and prescribing outside of a veterinarian client-patient relationship;
- Failure to respond to a Board complaint;
- Violations of the Pharmacy Act; or
- Other violations.

Additionally, the Board enforces the Veterinary Medical Ethics and Code of Conduct (Code of Conduct), which licensed veterinarians are required to adhere to while practicing in Colorado. Violations of the Code of Conduct are subject to disciplinary action by the Board. The Code of Conduct provisions include:³²

- **Primary consideration** - where the veterinarian places the needs of the patient first;
- **Care** - once the veterinarian accepts a patient for care and establishes a

³⁰ § 12-315-112(6), C.R.S.

³¹ 4 C.C.R. § 727-1. 1.21 A, State Board of Veterinary Medicine Rules.

³² 4 C.C.R. § 727-1. 1.18 A, State Board of Veterinary Medicine Rules.

veterinarian-client-patient relationship (VCPR), the care must be provided as best as possible within the constraints of the agreed upon parameters of the VCPR;

- **Twenty-four hour care** - veterinarians who offer 24 hour care must be available to fulfil the commitment;
- **Emergency care** - in emergency situations, veterinarians should provide essential services to patients when necessary to relieve suffering or to save a life;
- **Representations** - veterinarians should be honest, fair and considerate when interacting with clients and colleagues;
- **Influence on judgement** - in determining the type of treatment or patient care, veterinarians should take into consideration the welfare of the patient, financial resources of the client and the safety of the public;
- **VCPR** - in order to establish a VCPR, veterinarians should have sufficient knowledge of the patient to understand any current health conditions and render at least a preliminary diagnosis. Doing so requires veterinarians to meet with the patient either through office or home visits;
- **Prescription drugs** - veterinarians are authorized to prescribe medication when they have established a relationship with the patient;
- **Medical records** - veterinarians are required to maintain medical records when they have established a VCPR. Veterinarians must also maintain medical records when care has been provided or drugs have been prescribed or dispensed;
- **Communication** - veterinarians are required to communicate with the client regarding procedures, diagnosis, proposed treatments, estimated cost and prognosis for the patient;
- **Advertising** - veterinarians are not authorized to advertise specialty board certifications without certification by the American Veterinary Medical Association;
- **Aiding and abetting** - veterinarians cannot engage in acts that aid and abet the unlicensed practice of veterinary medicine; and
- **Environment** - veterinarians are required to maintain a sanitary environment where they care for patients.

Program Description and Administration

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The third, fourth and fifth sunset criteria question:

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures practices and any other circumstances, including budgetary, resource and personnel matters;

Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively; and

Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates.

In part, COPRRR utilizes this section of the report to evaluate the agency according to these criteria.

The Veterinary Practice Act (Act) is created in section 12-315-101, *et seq.*, C.R.S. The purpose of the Act is to provide regulatory oversight of veterinarians.

The regulation of veterinarians is vested in the State Board of Veterinary Medicine (Board). The Board is a Type 1 board and is comprised of seven members (five members must be licensed veterinarians and two are members of the public) who are appointed by the Governor. The Board is responsible for, among other things, rulemaking, policymaking and, when necessary, imposing formal discipline on practitioners.

The Act requires the Board to meet at least quarterly.³³

The Division of Professions and Occupations (Division), which is located within the Department of Regulatory Agencies (DORA), is responsible for the administrative functions related to the Board. Specifically, Division staff is responsible for a variety of oversight duties, including, issuing licenses, conducting investigations, preparing meeting agendas, taking meeting minutes, and advising Board members on regulatory issues.

³³ § 12-315-106(4), C.R.S.

Table 1 highlights the total expenditures and staff resources dedicated to the regulation of veterinarians in fiscal years 15-16 through 19-20. The regulatory program for veterinarians is cash funded.

Table 1
Total Program Expenditures

Fiscal Year	Total Expenditures	FTE
15-16	\$317,733	1.20
16-17	\$254,632	0.75
17-18	\$318,109	1.35
18-19	\$367,431	1.30
19-20	\$315,906	1.19

The slight fluctuation in total expenditures for administration of the regulatory oversight of veterinarians is attributable to the increase and decrease in staff as well as the increase and decrease in legal expenditures.

In fiscal year 20-21 the Division devoted 1.10 full-time equivalent (FTE) employees to provide administrative functions for the Board. The FTE are as follows:

- Administrative Assistant III—0.40 FTE is responsible for, among other things, receiving complaints, case management, case summary preparation, and researching various cases concerning veterinarians.
- Program Management II—0.25 FTE is responsible for, among other things, the overall management of multiple programs. This position also directs the implementation of policies, rules and regulations and supports the strategic goals and objectives of the Division.
- Technician V—0.25 FTE is responsible for supervising complaint management, correspondence and Board packet preparation.
- Technician III—0.20 FTE is responsible for overseeing practice monitoring, compliance, case management, statute and rule review as well as case summary preparation.

The aforementioned FTE do not include staffing in the centralized offices of the Division, which include the following:

- Director's Office,
- Office of Investigations,
- Office of Expedited Settlement,
- Office of Examination Services, and
- Office of Licensing.

Licensing

In order to practice as a veterinarian, the State of Colorado requires candidates to secure a license from the Board. To be eligible for a veterinarian license, candidates must graduate from a school of veterinary medicine that is accredited by the American Veterinary Medical Association. Applicants are also required to pass the North American Veterinary Licensing Examination (NAVLE), which is administered by the National Board of Veterinary Medical Examiners (NBVME).

In addition to passing the NAVLE, veterinarians must complete 32 hours of continuing education within a license renewal period, which is biennial.³⁴ Continuing education courses must be approved by the Registry of Approved Continuing Education. Practitioners are authorized to complete up to six hours of continuing education related to non-technical competencies such as:³⁵

- Leadership training,
- Personnel management,
- Client relations,
- Communication training, and
- Integrated resource management principles.

Additionally, a veterinarian who is employed by a school of veterinary medicine in Colorado and who practices veterinary medicine in the course of employment at the school may apply for an academic license.³⁶

Table 2 shows the total number of licensed veterinarians, including academic veterinarians, in fiscal years 15-16 through 19-20.

Table 2
Licensed Veterinarians

Fiscal Year	Original	Endorsement	Renewal	Total Number of Licensed Veterinarians
15-16	172	155	0	4,307
16-17	182	159	4,093	4,462
17-18	153	142	0	4,781
18-19	202	201	4,296	4,726
19-20	233	191	0	5,189

³⁴ § 12-315-110(3)(a), C.R.S.

³⁵ 4 C.C.R. § 727-1.15 D, State Board of Veterinary Medicine Rules.

³⁶ § 12-315-108(1), C.R.S.

As Table 2 indicates, the total number of veterinarians has increased in the past five fiscal years. The increase is attributable, at least in part, to the increased demand for veterinary services in Colorado.

In fiscal year 20-21, the fee to obtain an original veterinarian license from the Board was \$110, and the fee for academic veterinarians was \$100. Also, in fiscal year 20-21, the renewal fee for veterinarians was \$135.

Examination

The eighth sunset criterion questions whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

To obtain a license to practice as a veterinarian, a candidate is required, among other things, to pass an examination approved by the Board. Colorado utilizes the NAVLE, which is administered by the NBVME.

The NAVLE is offered at Prometric Testing Centers throughout the country, including those in Colorado Springs, Greenwood Village and Longmont. The fee to take the examination is \$705.³⁷

The NAVLE consists of 360 multiple-choice questions, and a candidate must complete the examination in six and one-half hours.³⁸ The examination consists of four competency domains:³⁹

- Clinical practice
 - Data gathering and Interpretation
 - Health maintenance and prevention
- Communication
 - Communication with clients
 - Communication with veterinary and other professionals
- Professionalism, practice management and wellness
 - Professional development and life-long learning
 - Veterinary practice management
- Prevention medicine and animal welfare

³⁷ North American Veterinary Licensing Examination. *NAVLE Candidate Bulletin*. Retrieved June 24, 2021, from https://www.icva.net/image/cache/ICVA_Bulletin_2021-2022_FIN_links.pdf

³⁸ North American Veterinary Licensing Examination. *NAVLE Candidate Bulletin*. Retrieved June 24, 2021, from https://www.icva.net/image/cache/ICVA_Bulletin_2021-2022_FIN_links.pdf

³⁹ North American Veterinary Licensing Examination. *NAVLE Candidate Bulletin*. Retrieved June 24, 2021, from https://www.icva.net/image/cache/ICVA_Bulletin_2021-2022_FIN_links.pdf

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- Environmental health and safety
 - Veterinary public health
 - Animal welfare issues and concerns

Table 3 highlights the number of NAVLE examinations given in Colorado for fiscal years 15-16 through 19-20, as well as pass rates.

Table 3
Number of NAVLE Examinations and Pass Rates

Fiscal Year	Number of NAVLE Examinations Given	Pass Rate
15-16	245	87%
16-17	304	82%
17-18	298	87%
18-19	343	85%
19-20	413	86%

As Table 3 indicates, the pass rates for the NAVLE examination remained fairly consistent in past five fiscal years.

Compliant and Disciplinary Activity

The seventh sunset criterion requires COPRRR to examine whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

Anyone can file a complaint against veterinarians, including other practitioners and owners of animals.

Table 4 delineates the nature of complaints filed with the Board in fiscal years 15-16 through 19-20.

Table 4
Nature of Complaints

Nature of Complaints	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20
Practicing without a License	12	19	20	29	16
Standard of Practice	72	69	99	114	66
Fee Dispute	0	0	0	1	0
Scope of Practice	5	1	0	0	0
Substance Abuse	3	1	0	1	1
Felony Conviction	1	3	4	1	2
Other	36	18	18	33	23
Total	129	111	141	179	108

As Table 4 indicates, there have been several practice-related complaints filed against veterinarians in the past five fiscal years. Importantly, the vast majority of complaints were against licensed veterinarians, not academic veterinarians.

Only four complaints were filed against academic veterinarians in the past five fiscal years. Two complaints were for practicing on an expired license, and two complaints were related to substandard care.

The substance of “standard of practice” complaints varies. Some examples include substandard care of patients and violating the Veterinary Medical Ethics and Code of Conduct.

The “Other” category in Table 4 consists of various complaints against veterinarians such as improper treatment, inadequate diagnosis and incomplete records.

DPO staff was unable to provide information related to the increase in the number of complaints for practicing without a license in fiscal year 18-19, or standard of practice complaints in fiscal years 17-18 and 18-19.

Additionally, the Act highlights specific violations that could result in formal discipline by the Board. Table 5 shows violations that the Board has found to have occurred from fiscal year 15-16 through fiscal year 19-20 by complaint type.

Table 5
Found Violations

Found Statutory Violations	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20
Failure to complete required continuing education	0	0	0	0	3
Violation of the Act or Board rules	8	2	6	9	15
Administered, dispensed, distributed or prescribed a prescription drug without establishing a veterinarian-client-patient relationship	1	0	0	1	2
Fraudulently attempted to obtain or obtained a license	2	0	0	0	1
Failure to meet generally accepted standards of practice	9	4	4	31	8
Misrepresentation in the inspection of food for human consumption	1	1	1	0	0
Fraud or dishonesty in the application or reporting of tests for disease in animals	0	1	2	2	0
Failure to keep veterinary premises and equipment in clean sanitary condition	0	0	0	1	0
Using false or misleading advertisement or solicitation information	1	0	0	0	0
Incompetence, negligence or other malpractice	0	0	1	1	0
Unprofessional or unethical conduct	1	0	4	4	2
Permitting a person to use the licensed veterinarian's license	0	0	0	1	0
Alcohol or substance abuse	1	0	2	1	2
Practicing on an inactive or expired license	9	0	0	4	1
Failure to report a known violation	0	0	1	0	0
Convicted of a felony	0	1	0	0	0
Discipline in another jurisdiction	0	1	0	0	0
Practicing without a valid license	0	1	0	1	0
Failure to maintain accurate records	6	2	5	24	1
Failure to respond to a complaint	0	0	0	0	1
Total Found Violations	39	13	26	80	36

The table above indicates that the most frequent violations relate to failure to meet generally accepted standards of practice and failure to maintain accurate records.

DPO staff was unable to provide an explanation as to the sharp increase in the number of “found violations” for failure to meet generally accepted standards of practice and failure to maintain accurate records in fiscal year 18-19.

Additionally, Table 6 illustrates the total number of disciplinary actions the Board imposed on veterinarians in fiscal years 15-16 through 19-20.

Table 6
Final Agency Actions

Type of Action	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20
Confidential Agreement	0	0	0	0	1
Suspensions	0	0	0	0	0
Cease and Desist Order	1	3	14	15	5
Letter of Admonition	4	6	3	5	4
Final Agency Order (cases from OAC)	0	0	1	1	0
Revocation	0	0	0	0	0
Stipulation	27	15	14	26	21
Voluntary Surrender/ Relinquishment of License	0	2	1	0	0
Fines	23	9	12	18	23
Injunction	0	0	0	2	0
Total Disciplinary Actions	55	35	45	67	54
Dismissals	29	65	73	81	71
Letters of Concern	7	22	20	31	15
Total Dismissals	36	87	93	112	86

As highlighted in Table 6, the Board most commonly utilized stipulations when imposing discipline on veterinarians in the past five fiscal years. The reasons for the stipulations varied, but some examples include violations for generally accepted standards of practice. Commonly, stipulations included fines, and depending on the violation, a requirement to complete additional continuing education.

The Board, in fiscal years 15-16 through 19-20, utilized cease and desist orders (CDOs). Generally, CDOs were issued to veterinarians for practicing on an expired license.

The Board also issued LOAs to veterinarians for situations including: failing to respond to a 30-day complaint letter, continuing to practice on an expired license after notification and substandard care. LOAs are the lowest form of discipline and are generally imposed on practitioners for minor violations.

Also, there were many dismissals, which include letters of concern, in the past five fiscal years. Letters of concern were issued by the Board for a variety of reasons, such as: practicing on an expired license, lack of detail in the initial medical examination, inadequate review of a patient's medical history, inadequate supervision and communication issues. A letter of concern is not formal discipline and is considered a dismissal.

Table 7 illustrates the average number of days for case processing time during fiscal years 15-16 through 19-20. Each case begins from the filing of the initial complaint through the final agency action taken.

Table 7
Average Case Processing Time

Fiscal Year	Average Case Processing
15-16	325 days
16-17	243 days
17-18	167 days
18-19	139 days
19-20	129 days

Table 7 shows that the average case processing time has decreased in each of the last five fiscal years.

Fining Activity

The seventh sunset criterion requires COPRRR to examine whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

The Board is authorized to impose fines on veterinarians for violations of the Act or applicable rules. Table 8 highlights the fines imposed in fiscal years 15-16 through 19-20.

Table 8
Fining Activity

Fiscal Year	Number of Fines Imposed	Total Fine Surcharges	Total Fines Assessed	Total Fines Paid
15-16	23	\$1,200	\$12,250	\$11,275
16-17	9	\$600	\$7,600	\$4,250
17-18	12	\$1,103	\$7,000	\$7,350
18-19	18	\$1,775	13,500	\$12,000
19-20	23	\$2,738	12,750	\$18,825

As reflected in Table 8, the total fines paid fluctuates from fiscal year to fiscal year. The Board imposed fines on veterinarians for a variety of violations of the statute or rules including, but not limited to: substandard record keeping, substandard practice, and failure to provide a written prescription.

The average fine imposed on veterinarians, which included the surcharge, in the past five fiscal years was approximately \$612. All fines collected go to the state's General Fund.

Importantly, in the past five fiscal years, some of the assessed fines were not paid in the respective fiscal year; instead the fines were paid in the following fiscal year. As a result, Table 6 shows that the total fines paid in some of the fiscal years was higher than the fines assessed in that same fiscal year.

Section 24-34-108, C.R.S., establishes the Consumer Outreach and Education Cash Fund (Outreach Fund) to develop, implement, and maintain the Consumer Outreach and Education Program within DORA. Further, the statute authorizes the Executive Director of DORA to collect a surcharge for fines imposed for violations of various statutes, including the Act, to be credited to the Outreach Fund. It should be noted that the fine surcharge listed in the table above is an additional 15 percent of the total of the fines imposed.

Audits

The seventh sunset criterion requires COPRRR to examine whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

The Board conducts continuing education (CE) audits at the end of each license renewal period (every two years). The Continuing Competency Unit within DPO reviews a random group (approximately two percent) of licensed veterinarians for this audit. Audits are performed at the direction of the Board on a case-by-case basis and referred to DPO's Office of Investigations, which hires an expert consultant to ensure compliance with the current CE requirements.

Collateral Consequences - Criminal Convictions

The ninth sunset criterion requires COPRRR to examine whether the agency under review, through its licensing processes, imposes any sanctions or disqualifications based on past criminal history, and if so, whether the disqualifications serve public safety or commercial or consumer protection interests.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

In fiscal year 19-20, the Board denied a license of an applicant based on past felony and misdemeanor convictions.

COVID -19 Response

The COVID-19 pandemic placed extraordinary pressures on the citizens of Colorado, the Colorado economy and Colorado state government. As a result, COPRRR asked DPO to summarize any measures the agency may have implemented in response to the COVID-19 pandemic, the results of those efforts and any lessons learned. This section of the report is intended to provide a high-level summary of those responses.

The Division of Professions and Occupations took several key steps in responding to the COVID-19 pandemic, including:

- Working with the Governor's Office to issue Executive Order D 2020 038 - Medical Workforce Surge, which included, but was not limited to modifying or suspending numerous aspects of the health-care professions' practice acts, allowing for greater flexibility in delegation and expanded scopes of practice;
- Expanding the use of telehealth;
- Quickly transitioning to near 100 percent work-from-home for Division employees;
- Expanding the scopes of practice for several health-care professions so that they could administer the COVID-19 vaccine; and
- Closely coordinating with other state agencies, such as the Department of Public Health and Environment (CDPHE), in issuing guidance and helping stakeholders navigate the demarcation between the Division and other state agencies.

The COVID-19 pandemic revealed a few regulatory gaps as well, including:

- The relative paucity of regulatory guidance on the use of telehealth;
- The unclear lines between the Division, the Department of Regulatory Agencies and CDPHE, particularly in health-care settings; and
- The need for the Division to be able to act more quickly in the face of another, future event like the COVID-19 pandemic.

While the full impact of many of the changes implemented by the Division are not yet fully understood, some key learning points include:

- Telehealth is here to stay;
- Coordinating efforts with other state agencies was essential to the Division's successful and timely response to the COVID-19 pandemic;
- Utilization of existing statutory authority aided in the Division's successful and timely response to the COVID-19 pandemic;
- Regulatory speed is key to successfully responding to a pandemic; and
- Emergency, remote work has proven efficient and allowed for continuity of services.

Analysis and Recommendations

The final sunset criterion questions whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest. The recommendations that follow are offered in consideration of this criterion, in general, and any criteria specifically referenced in those recommendations.

Recommendation 1 - Continue the Colorado Veterinary Practice Act for 11 years, until 2033

The Colorado Veterinary Practice Act (Act) provides oversight of veterinarians who practice veterinary medicine. The Act defines the practice of veterinary medicine as,

the diagnosis, treating, correcting, changing, relieving or preventing animal disease, deformity, defect, injury, or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic or other therapeutic or diagnostic substance or technique and the use of any manual or mechanical procedure for artificial insemination, for ova transplantation, for testing for pregnancy or for correcting sterility or infertility or to render advice or recommendation...⁴⁰

Veterinarians work in a variety of settings, but most commonly in private clinics and animal hospitals, while some veterinarians work in other settings such as farms, laboratories, classrooms or zoos.⁴¹

The State Board of Veterinary Medicine (Board) provides regulatory oversight of veterinarians. The Board consists of seven members (five professional members and two public members), who are appointed by the Governor.

One of the Board's main duties is to impose discipline on veterinarians for violations of the Act or applicable rules. As evidenced by the number of disciplinary actions imposed in Table 6 of the Program Description Section of this report, the Board has formally disciplined veterinarians. Violations vary, but some examples include failing to meet generally accepted standards of practice and violations of the Veterinary Medical Ethics and Code of Conduct.

The first sunset criterion asks whether regulation is necessary to protect the public health, safety and welfare.

As highlighted above, the Board serves to protect the public by, among other things, imposing discipline on veterinarians for violations of the Act or applicable rules.

⁴⁰ § 12-315-104(14)(a), C.R.S.

⁴¹ U.S. Bureau of Labor and Statistics. *Veterinarians*. Retrieved June 3, 2021, from <https://www.bls.gov/ooh/healthcare/veterinarians.htm>

During the course of this sunset review, the Board demonstrated that there is robust debate and thoughtful discourse related to its duties. As such, the public is protected from the negligent actions of certain veterinarians. Therefore, the General Assembly should continue the Act for 11 years, until 2033.

Recommendation 2 - Amend the Act to authorize veterinarians to delegate the task of administering rabies vaccinations while under their supervision.

During the sunset process, the Colorado Office of Policy, Research and Regulatory Reform staff conducted interviews of stakeholders. Some stakeholders expressed concerns that veterinarians could not delegate certain duties, thereby limiting access to certain services. One avenue to assist veterinarians' workload and increase the availability of care is to expand the duties that other veterinary staff (e.g., veterinary technicians) are able to complete in settings such as veterinary hospitals, clinics and animal shelters.

The Act authorizes only licensed veterinarians to administer rabies vaccinations to animals. That is, other veterinary staff, including trained veterinary technicians, cannot administer the rabies vaccination to animals. Specifically, section 12-315-104(14)(a), C.R.S., defines the practice of veterinary medicine, and includes the administration of biologics, which include the rabies vaccination. Once a rabies vaccine is administered, the licensed veterinarian is required to sign a certificate indicating that he or she administered the vaccination and the date it was administered.

To expand access to rabies vaccinations, the Act should be amended to enable the Board to endorse the guidelines of a national organization, such as the National Association of State Public Health Veterinarians, which publishes a *Compendium of Animal Rabies Prevention and Control, 2016 (Compendium)*. The most recent *Compendium* states that rabies vaccinations should be administered by licensed veterinarians or under the direct supervision of a licensed veterinarian who is on the premises.⁴² The Board of Veterinary Medicine Rules and Regulations defines direct supervision as, "the supervising licensed veterinarian is readily available on the premises where the patient is being treated."⁴³

Also, the *Compendium* states that in animal shelters, rabies vaccinations can be administered under the supervision of a licensed veterinarian.⁴⁴ The Board of Veterinary Medicine Rules and Regulations defines indirect supervision as the licensed veterinarian directing or supervising the authorized delegated treatment of a patient

⁴² National Association of State Public Health Veterinarians. *Compendium of Animal Rabies Prevention and Control, 2016*. Retrieved July 12, 2021, from <http://nasphv.org/Documents/NASPHVRabiesCompendium.pdf>

⁴³ 4 C.C.R. § 727-1.4 B State Board of Veterinary Medicine Rules.

⁴⁴ National Association of State Public Health Veterinarians. *Compendium of Animal Rabies Prevention and Control, 2016*. Retrieved July 12, 2021, from <http://nasphv.org/Documents/NASPHVRabiesCompendium.pdf>

without being on the premises.⁴⁵ While animal shelters work with veterinarians, veterinarians are rarely on-site.

Importantly, the *Compendium* states that the licensed veterinarian who signs the rabies vaccine certification is required to identify the person who administered the vaccine and that the person is identified on the certificate.⁴⁶ The licensed veterinarian must also ensure that the person who administered the rabies vaccination was appropriately trained in the storage, handling, administration and the management of adverse events.⁴⁷

Amending the Act to include guidance of something like the *Compendium* concerning rabies vaccinations is not unprecedented. In fact, there are currently 21 other states that authorize veterinary staff to administer rabies vaccinations under the supervision of a licensed veterinarian.⁴⁸

The second statutory criterion asks whether the current statute and rules are the least restrictive form of regulation consistent with public protection. The *Compendium* requires that a licensed veterinarian provide supervision of the process, and the licensed veterinarian is required to ensure that the person administering the vaccination has been properly trained. Amending the Act to utilize the guidelines outlined in the *Compendium* to administer rabies vaccinations would entail the least restrictive form of regulation without compromising public protection.

As such, the General Assembly should amend the Act to adopt provisions similar to the *Compendium's* regarding rabies vaccinations. Doing so will enable licensed veterinarians to delegate the task of administering rabies vaccinations, which could increase the public's access to care without compromising consumer protection.

Recommendation 3 - Require veterinarians to create a written plan for the storage, security and disposal of patient records.

Currently, the Act, in section 12-315-119(3)(b), Colorado Revised Statutes (C.R.S.), states,

All practicing veterinarians are required to maintain accurate records for every new or existing veterinarian-client-patient relationship. The animal

⁴⁵ 4 C.C.R. § 727-1.4 C, State Board of Veterinary Medicine Rules.

⁴⁶ National Association of State Public Health Veterinarians. *Compendium of Animal Rabies Prevention and Control*, 2016. Retrieved July 12, 2021, from <http://nasphv.org/Documents/NASPHVRabiesCompendium.pdf>

⁴⁷ National Association of State Public Health Veterinarians. *Compendium of Animal Rabies Prevention and Control*, 2016. Retrieved July 12, 2021, from <http://nasphv.org/Documents/NASPHVRabiesCompendium.pdf>

⁴⁸ American Veterinary Medical Association. *AVMA Government Relations*. Retrieved July 11, 2021, from <https://www.avma.org/sites/default/files/2021-01/State-Rabies-Vaccination-Laws-Chart.pdf>

patient records must justify and describe the assessment, diagnosis and treatment administered, or prescribed, of all medications and dosages prescribed. The records must be in a legible, written, printed or electronically prepared document that is unalterable. Further, patient records must be prepared in a manner that allows any subsequent evaluation of the same animal patient record to yield comprehensive medical, patient and veterinarian identifying information. Animal patient records are required to be maintained for three years after the patient's last medical examination.

As highlighted above, the Act delineates the requirements for accurate medical records; however, the Act is silent on the process for the storage, security and disposal of patient medical records. In the recent past, the Board has received complaints where veterinarians relied on the recordkeeping practices of their employer (employing clinic) to maintain patient records, but the clinic unexpectedly and abruptly closed. In these situations, consumers were unable to obtain the medical records of their animals.

As such, the Act should be amended to require a written plan for the storage, security and disposal of patient records. Importantly, this requirement does not prescribe specific requirements; but instead, it would enable veterinarians to develop their own written plan for the storage, security and disposal of patient records.

The second statutory sunset criterion asks whether the existing statutes and regulations establish the least restrictive form of regulation consistent with public protection. Implementation of this Recommendation 3 is consistent with the second statutory sunset criterion as it would provide the flexibility to veterinarians to devise a plan for the proper storage, security and disposal of patient records.

Therefore, the General Assembly should amend the Act to require veterinarians to create a written plan for the storage, security and disposal of patient records. Doing so will enhance consumer protection by ensuring that patient records are properly stored and disposed of when necessary.

Recommendation 4 - Amend section 12-315-124(1), C.R.S., to include the Board's authority to require a physical examination of a licensed veterinarian, and authorize the Board to suspend the licensee for failing to comply with the Board-ordered physical examination until such order is complied with.

Currently, section 12-315-124(1)(a), C.R.S., states that if the Board has reasonable cause to believe that a licensed veterinarian is unable to practice with reasonable skill and safety due to a behavioral, mental health or substance abuse disorder, the Board is authorized to require, in writing, that the licensed veterinarian submit to an examination to evaluate:

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- The existence and extent of the behavioral, mental health or substance abuse disorder; or
 - Any impact the behavioral, mental health or substance abuse disorder has on the licensee's ability to practice veterinary medicine with reasonable skill and safety to clients and patients.

Notably, the Act does not contain a reference to the Board's ability to order an examination for issues related to a physical condition. That is, if the Board has reasonable cause to believe that a licensed veterinarian is unable to practice with reasonable skill and safety due to a physical condition, the Board has no mechanism to require an independent examination.

The intent of the Board ordering a licensed veterinarian to submit to a behavioral, mental health or substance abuse examination is to ensure that the practitioner is fit to practice, and if necessary, to place any restrictions on the licensed veterinarian in order to protect consumers.

As such, amending the Act to authorize the Board, if it has reasonable cause, to require a physical examination to ensure that a practitioner is able to practice with reasonable skill and safety to patients will serve to enhance consumer protection.

Additionally, section 12-315-124(1)(b), C.R.S., authorizes the Board to suspend a veterinarian's license for failing to submit to a behavioral, mental health or substance abuse examination until the mandate is fulfilled. A licensed veterinarian who is ordered to undergo a behavioral, mental health or substance abuse examination and refuses may be unfit to practice, which could compromise consumer protection.

The Act, however, does not currently contain a provision that would authorize the Board, upon reasonable cause, to suspend a veterinarian's license for failing to comply with a Board-ordered physical examination.

The third sunset criterion asks whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures or practices. Allowing a licensed veterinarian to continue to practice if he or she fails to comply with an order to undergo a physical examination could compromise the public interest.

Therefore, the General Assembly should amend section 12-315-124(1), C.R.S., to authorize the Board to require a licensed veterinarian to submit to a physical examination when ordered by the Board to do so. If the licensed veterinarian fails to submit to the examination, the Board should be authorized to suspend the veterinarian's license until the mandate is fulfilled. Doing so will prevent the practitioner from practicing until the evaluation is completed, which could enhance consumer protection.

Recommendation 5 - Clarify the requirements concerning confidential agreements.

Article 30, Title 12, C.R.S., contains the common provisions applicable to all health-care occupations and professions, and section 12-30-108, C.R.S., authorizes regulators to enter into confidential agreements to limit practice with licensees who suffer from a physical illness, physical condition, behavioral or mental health disorder that renders them unable to practice with reasonable skill and safety. Section 12-30-108(1)(a), C.R.S., requires such licensees to notify their respective regulators of such conditions.

However, section 12-30-108(4)(b)(II), C.R.S., exempts veterinarians from the aforementioned notification requirement only, not the remainder of the provision pertaining to confidential agreements.

Additionally, the Act contains a provision, in section 12-315-112(1)(gg), C.R.S., that requires veterinarians to agree to the terms under a confidential agreement entered into under sections 12-30-108 and 12-315-125, C.R.S.

Section 12-315-125, C.R.S., states that confidential agreements to limit a veterinarian's practice applies to the Act.

The referenced statutes appear to be contradictory since it is difficult to see how the Board could enter into a confidential agreement without having been notified of the triggering condition. Therefore, it is unclear whether the Board has the authority to discipline a veterinarian if he or she fails to notify the Board of a physical illness, physical condition, behavioral or mental health disorder that renders a practitioner unable to practice with reasonable skill and safety.

Since the statutes contradict one another, the statutes should be harmonized to clarify that veterinarians who have a physical illness, physical condition, behavioral or mental health disorder that renders them unable to practice with reasonable skill and safety are required to notify the Board.

Absent the notification requirement, a veterinarian could continue to practice even if he or she has a disorder or condition that renders him or her unable to practice with reasonable skill and safety.

The first sunset criterion asks whether regulation is necessary to protect the public. Ambiguity in the statutes provides a potential that veterinarians who have condition or disorder that renders them unable to practice safely may continue to practice because it is unclear whether they are required to report the condition to the Board. This ambiguity could compromise consumer protection.

As a result, the General Assembly should harmonize the existing statutes to clarify that veterinarians who have a physical illness, physical condition, behavioral or mental health disorder should be required to notify the Board. Doing so provides an assurance that veterinarians are safe to practice.

Recommendation 6 - Repeal the requirement that the Board send a letter of admonition by certified mail.

Section 12-315-112(2), C.R.S., requires the Board to send a letter of admonition (LOA) to a licensed veterinarian via certified mail. Certified mail is a service offered by the U.S. Postal Service, and its purpose is to provide a delivery confirmation. For example, when the Board sends an LOA to a licensee via certified mail, the Board receives confirmation that the letter was delivered. However, a certified letter does not guarantee the letter was reviewed by the recipient. Sending a letter via certified mail is more costly than sending a letter via first class priority mail.

LOAs are the only form of discipline that the Act requires to be sent to licensees via certified mail. This process is inconsistent with other practice acts in Colorado as well as more costly.

This recommendation addresses sunset statutory criterion ten, which asks whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

Therefore, the General Assembly should repeal the requirement in section 12-315-112(2), C.R.S., that the Board send an LOA to licensees via certified mail. Doing so removes an unnecessary requirement that is both more costly for the Division and inconsistent with other practice acts.

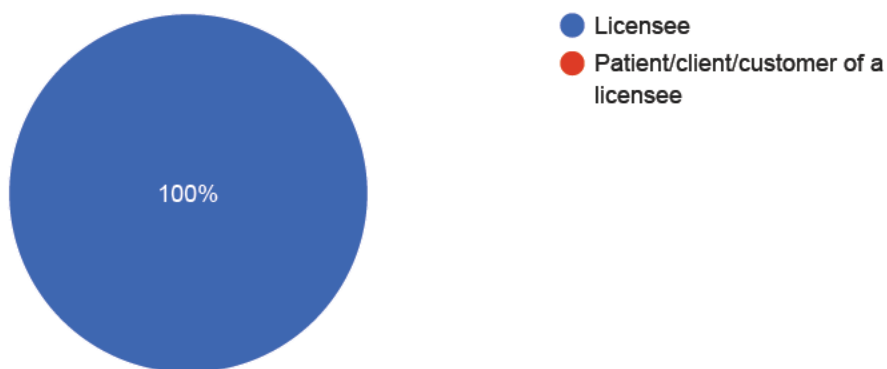
Appendix A - Customer Service Survey

In the spring of 2021, Colorado Office of Policy, Research and Regulatory Reform staff conducted a survey of all veterinarians who are licensed by the State Board of Veterinary Medicine. The survey was sent to 4,816 veterinarians; 22 emails were returned as undeliverable. The survey received 625 responses, which is a 13 percent response rate. Survey results may be found on the pages that follow.

Customer Service Survey for the Board of Veterinary Medicine

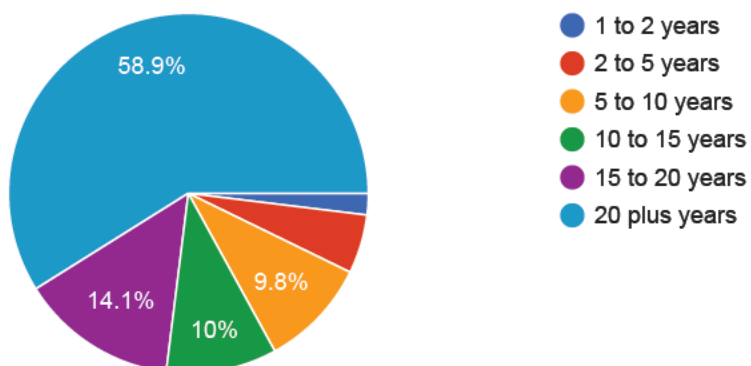
625 responses

What is your relationship to State Board of Veterinary Medicine?



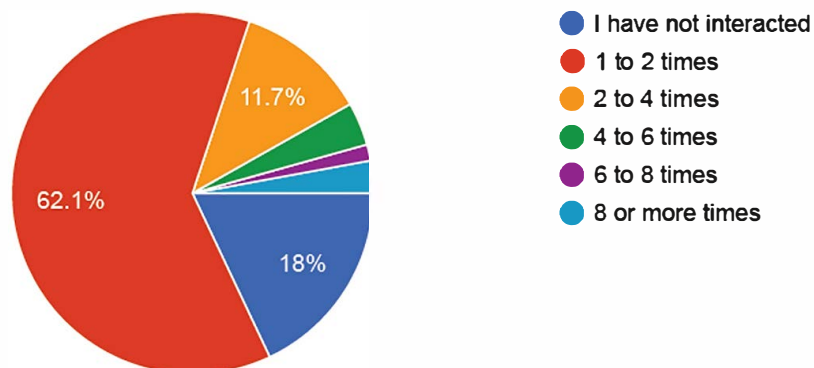
If you are a member of the profession or occupation that is regulated by Board of Veterinary Medicine, please indicate your years of experience.

623 responses



In the past year, how many times have you interacted with Board of Veterinary Medicine. Please count all forms of interaction (telephone, e-mail, internet or website, regular mail, in person).

623 responses



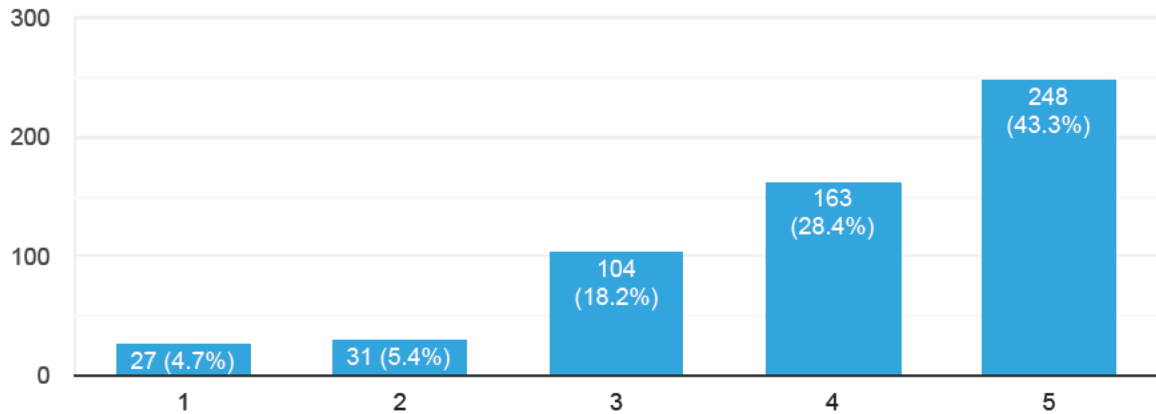
What was your primary purpose in interacting with the board?

547 responses

- licensing or registration – 69.5%
- continuing education requirements – 8.4%
- respond to a complaint – 5.9%
- obtain help with an issue – 3.3%
- learn about existing or proposed legislation – 2.4%
- update my information – 2%
- respond to a request – 2%
- learn about requirements for a profession – 2%
- other issues – 4.5%

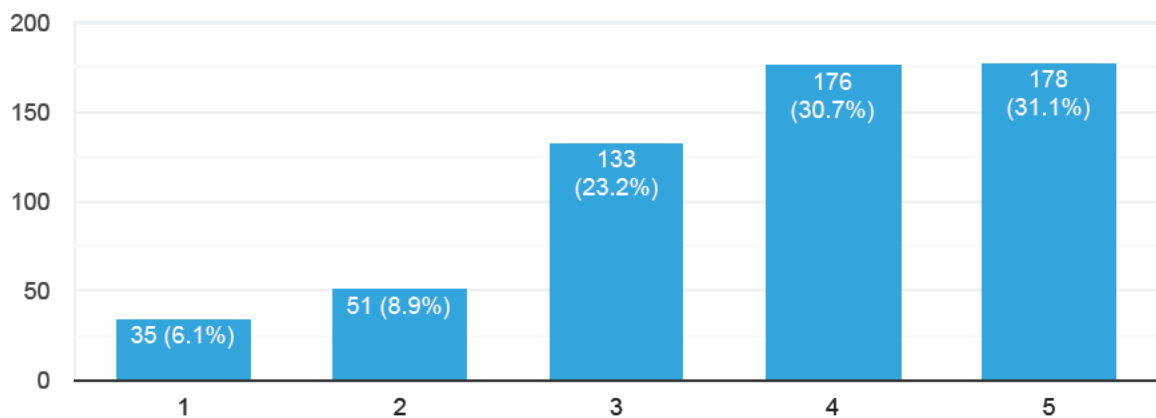
Overall please rate the service provided by the Board of Veterinary Medicine on a scale of 1 to 5 with 1 being unacceptable and 5 being very acceptable.

573 responses



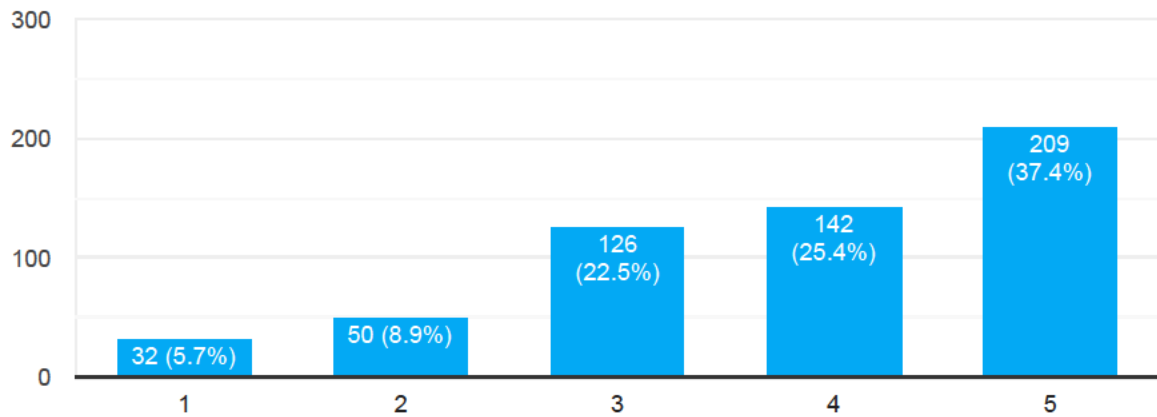
Please rate the the usefulness of the Board of Veterinary Medicine's website in answering your questions or providing needed information on a scale of 1 to 5 with 1 being not very useful and 5 being very useful.

573 responses



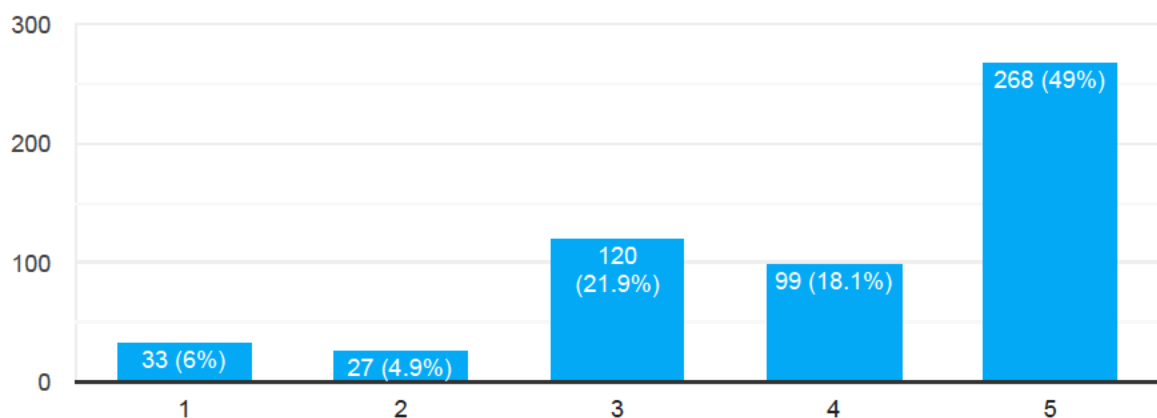
Please rate the usefulness of the Board of Veterinary Medicine's communications in answering your questions or providing needed information on a scale of 1 to 5 with 1 being not very useful and 5 being very useful.

559 responses



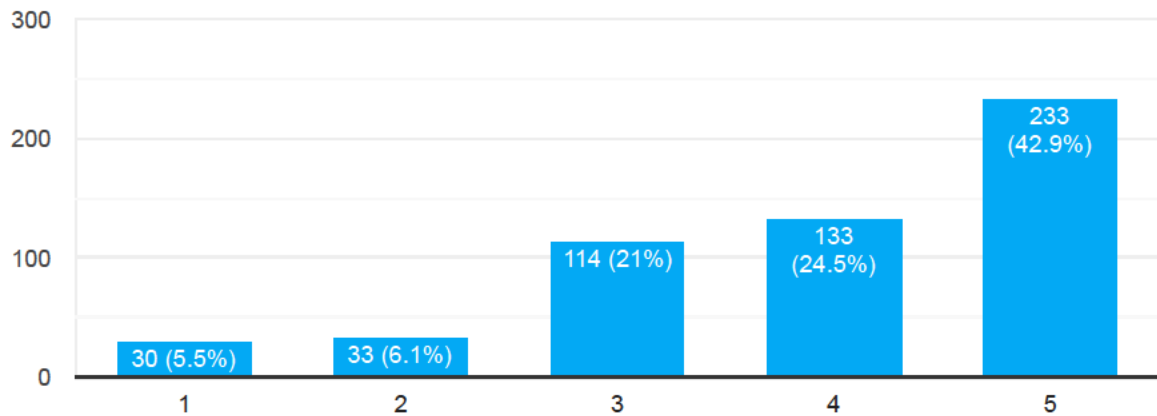
Regardless of the outcome of your most recent issue, do you feel the Board of Veterinary Medicine listened to your concerns? Please use a scale of 1 to 5, with 1 being none of my concerns were heard and 5 being all of my concerns were heard.

547 responses

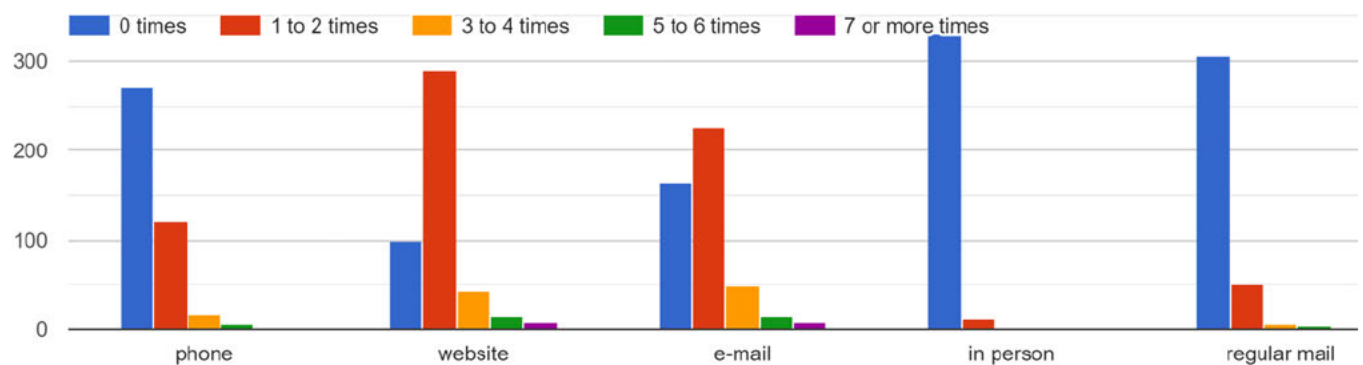


Please rate the timeliness of the Board of Veterinary Medicine in responding to your issues on a scale of 1 to 5 with 1 being very untimely and 5 being very timely.

543 responses

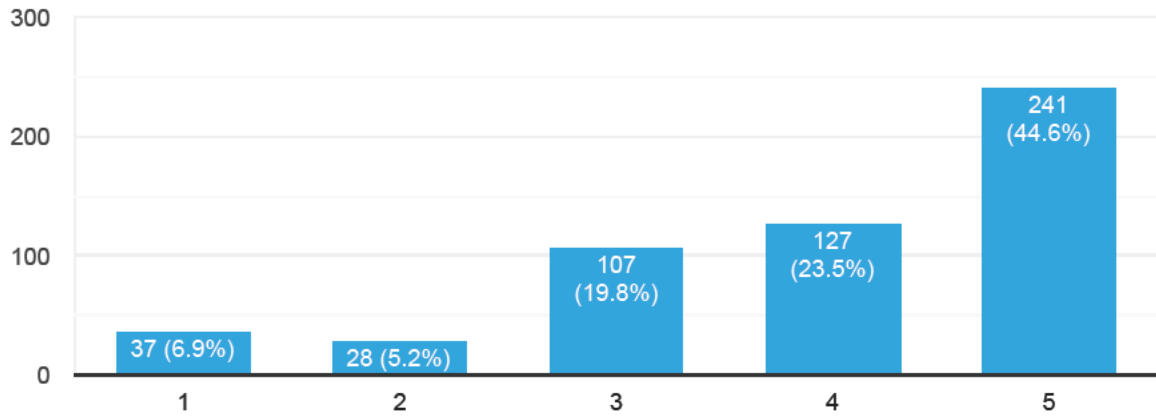


Please provide the number and types of interactions that were required to resolve or address your most recent issue. (Please select all applicable types of interactions used AND the number times for each type interaction selected.)



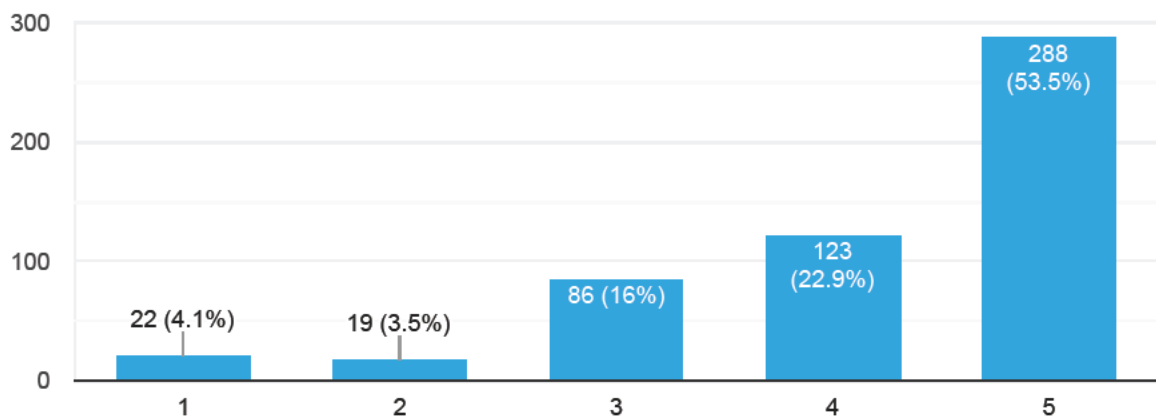
Please rate the helpfulness of the State Board of Veterinary Medicine in resolving your issue or need with 1 being not very helpful and 5 being very helpful.

540 responses



Please rate the professionalism of the Board of Veterinary Medicine's staff on a scale of 1 to 5 with 1 being very unprofessional and 5 being very professional.

538 responses



On a scale of 1 to 5 please rate the accuracy of information provided by the board with 1 being not very accurate and 5 being very accurate.

542 responses

