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# Sunrise Analysis: Regulation of Veterinary Technicians

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A Report to the  
Governor  
and the  
Legislature of  
the State of  
Hawai'i

Report No. 14-15  
December 2014



**THE AUDITOR**  
STATE OF HAWAII

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4. Sunrise analyses are similar to sunset evaluations, but they apply to proposed rather than existing regulatory programs. Before a new professional and occupational licensing program can be enacted, the statutes require that the measure be analyzed by the Office of the Auditor as to its probable effects.
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**“[W]hen states have the power to grant licensure status to individuals, they also have the power to deny individuals the opportunity to earn a living in that profession . . . . This is an impressive power that states possess and one that must be exercised judiciously.”**

**— Council on Licensure, Enforcement and Regulation**

Recommendations

Responses

# Sunrise Analysis: Regulation of Veterinary Technicians

Report No. 14-15, December 2014

## *Regulation of veterinary technicians is not necessary*

Senate Bill No. 2502, Senate Draft 1, of the 2014 Legislature proposes to regulate veterinary technicians and the practice of veterinary technology under Chapter 471, Hawai'i Revised Statutes, *Veterinary Medicine*. The bill would require veterinary technicians to register with the Board of Veterinary Examiners, limit the use of certain titles related to the practice of veterinary technology, and incorporate veterinary technicians into existing disciplinary measures in Chapter 471, HRS.

## **Proposed regulation does not meet “sunrise” criteria**

Statutory criteria for evaluating whether a profession or vocation merits state regulation require that proponents of regulation provide evidence supporting this need to engage the state's police powers. We found no evidence of abuses by veterinary technicians to merit regulation. Other than anecdotal risks of harm, we did not find any evidence to support a need to protect consumers' health, safety, or welfare from the activities of veterinary technicians. Furthermore, these risks are satisfactorily mitigated by existing requirements that veterinary technicians work under the direct supervision of a veterinarian.

Most states regulate veterinary technicians, but we found that the current proposal is motivated primarily by an industry effort to establish national professional standards. We also found that the proposed regulation would restrict certain qualified individuals from entering the field of veterinary technology, and that the effect of regulation on cost to consumers is unknown. On balance, there is no demonstrable need for the State to regulate veterinary technicians in Hawai'i.

## **Proposed regulatory measure is flawed**

SB No. 2502, SD 1 (2014), contains several flaws that would undermine a successful regulatory program. Specifically, the practice definition for veterinary technology is overly broad, making it difficult to enforce the proposed regulation. The bill's educational qualifications for successful registration as a veterinary technician are too narrow and do not provide any alternative avenues for qualification. In addition, the proposed regulation does not address interstate reciprocity and fails to provide veterinary technicians with a representative on their own regulating body. The bill also calls for registration but essentially describes a level of regulation akin to licensure, the strictest form of regulation.

## **Agency response**

The Department of Commerce and Consumer Affairs concurred with our findings regarding the estimated cost of funding a veterinary technician regulatory program and its financial impact on registrants. The department also expressed appreciation for our discussion regarding the difficulty of administering the broad scope of practice as defined in SB No. 2502, SD 1 (2014).

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# Sunrise Analysis: Regulation of Veterinary Technicians

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Submitted by

**THE AUDITOR**  
STATE OF HAWAI'I

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## Foreword

This analysis of the need to regulate veterinary technicians and the practice of veterinary technology was prepared in response to House Concurrent Resolution No. 66 of the 2014 Legislature, which asked the Auditor to examine the regulation of veterinary technicians and the practice of veterinary technology proposed in Senate Bill No. 2502, Senate Draft 1, of the 2014 legislative session. The report presents our findings and recommendations on whether regulating veterinary technicians and the practice of veterinary technology complies with policies in Hawai'i's "sunrise" law (Chapter 26H, Hawai'i Revised Statutes) and the probable effects of the proposed regulation.

We wish to express our appreciation for the cooperation and assistance extended by staff of the Department of Commerce and Consumer Affairs and other organizations and individuals whom we contacted during the course of our evaluation.

Jan K. Yamane  
Acting State Auditor

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# Chapter 1

## Introduction

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This report responds to House Concurrent Resolution No. 66 of the 2014 legislative session, which asks the Auditor to conduct a “sunrise” review of the proposal to regulate veterinary technicians and the practice of veterinary technology in Senate Bill No. 2502, Senate Draft 1 (SB No. 2502, SD 1), of the 2014 legislative session. The bill proposes to regulate veterinary technicians and the practice of veterinary technology under Chapter 471, Hawai‘i Revised Statutes (HRS), *Veterinary Medicine*. The bill would require veterinary technicians to register with the Board of Veterinary Examiners, limit the use of certain titles related to the practice of veterinary technology, and incorporate veterinary technicians into existing disciplinary measures in Chapter 471, HRS.

Section 26H-6, HRS, of the *Hawai‘i Regulatory Licensing Reform Act* requires that bills proposing regulation of previously unregulated professions or vocations be referred to the Auditor for analysis. These analyses are known as sunrise reviews. The Auditor is to assess whether regulation is necessary to protect the health, safety, and welfare of consumers and is consistent with other regulatory policy provisions in Section 26H-2, HRS. In addition, the Auditor must examine the probable effects of proposed regulation and assess alternative forms of regulation.

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## Background on Veterinary Technicians

### *Occupational characteristics*

Veterinary technicians deliver veterinary care services by providing professional support to veterinarians. The practice of veterinary technology encompasses a wide range of services that require a technical understanding of veterinary medicine. Working under the direction, supervision, and oversight of veterinarians, veterinary technicians are utility players on a veterinary team.

In clinics, veterinary technicians act as veterinarians’ nurses, laboratory technicians, radiology technicians, anesthetists, pharmacy technicians, dental hygienists, surgical nurses, and client educators. Veterinary technicians provide support in all aspects of animal care, including administering anesthesia; assisting in surgery; collecting samples and performing laboratory tests; taking and developing x-rays; and administering medication, vaccines, and treatments prescribed by a veterinarian. While veterinary technicians provide a wide range of technical support, they cannot diagnose animals, perform surgery, or prescribe medication.

As of 2012, the U.S. Bureau of Labor Statistics estimated there were at least 84,800 individuals practicing in the field of veterinary technology. Veterinary technicians generally work in private clinical practices but are also employed in other areas such as biomedical research, the pharmaceutical industry, zoo/wildlife medicine, the military, and livestock health management. Veterinary technicians also serve the public in the Hawai‘i Department of Agriculture’s Division of Animal Industry, helping to ensure the state remains free of rabies.

### ***National organizations and examination***

#### **National Association for Veterinary Technicians in America**

The national professional body for veterinary technicians is the National Association for Veterinary Technicians in America (NAVTA). Formed in 1981, NAVTA’s mission is to represent and promote the profession of veterinary technology. NAVTA extends membership to anyone in the veterinary industry, including credentialed veterinary technicians, veterinary assistants, veterinarians, educators, and students. However, voting rights are extended only to veterinary technicians who have graduated from a program accredited by the American Veterinary Medical Association (AVMA) or who are otherwise licensed, certified, or registered as a veterinary technician.

#### **American Veterinary Medical Association**

The AVMA, established in 1863, is the national veterinary organization representing more than 85,000 veterinarians. In addition to advocating for veterinarians, the AVMA offers consultation on the education of veterinary technicians, their use, regulation, and other related matters. The AVMA has a committee on veterinary technician education and activities that provides and monitors the accreditation of veterinary technology programs across the country. All AVMA-accredited programs in veterinary technology must meet the committee’s standards to ensure the quality of veterinary technology education and the assessment of student knowledge and skills. The only AVMA-accredited veterinary technology program in Hawai‘i is at the University of Hawai‘i’s Windward Community College on O‘ahu.

The AVMA also advocates uniformity in veterinary nomenclature, including the term “veterinary technician.” Both the AVMA and NAVTA produced model veterinary practice acts to guide states in creating and amending their respective laws governing the veterinary field, and both organizations promote similar definitions of who is to be considered a veterinary technician: an individual who is a graduate of an AVMA-accredited program in veterinary technology.

### Veterinary Technician National Examination

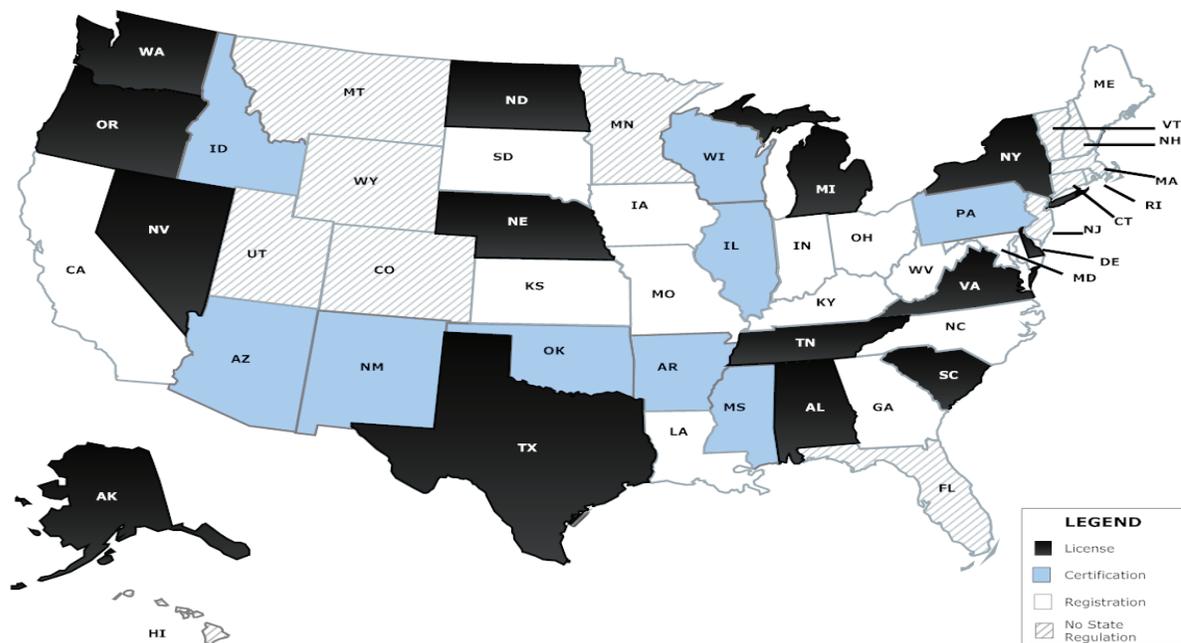
The Veterinary Technician National Examination (VTNE) is a nationally administered test to evaluate entry-level veterinary technicians' competency to practice and be credentialed. In many jurisdictions that regulate veterinary technicians, a passing score on the VTNE serves as one criterion for credentialing. The VTNE consists of 170 multiple-choice questions that cover the major areas of responsibility deemed essential for an entry-level veterinary technician. This score is accepted and transferrable between jurisdictions that use the VTNE as a criterion for credentialing.

#### Regulation in other states

Hawai'i is one of only 13 states that do not regulate veterinary technicians. In 11 of these 13 states, veterinary technicians have access to voluntary credentialing programs. For example, Florida does not regulate veterinary technicians, but veterinary technicians in that state can choose to obtain certification as a veterinary technician from the Florida Veterinary Technician Association, a private non-profit association.

Of the 37 states that do regulate veterinary technicians, 14 require registration, nine require certification, and 14 require licensure. Exhibit 1.1 shows the various states' regulatory programs.

**Exhibit 1.1**  
Regulation of Veterinary Technicians in the U.S.



Source: Office of the Auditor based on information from the AVMA and the American Association of Veterinary State Boards

***Proposal to regulate  
veterinary technicians  
in Hawai'i***

SB No. 2502, SD 1, would establish requirements for regulating veterinary technicians and the practice of veterinary technology under Chapter 471, HRS, *Veterinary Medicine*. The measure contains provisions relating to registration requirements; educational requirements; limitations on the use of titles; grounds for refusal to grant, revoke, or suspend registration; hearings; and criminal penalties. Key provisions of the bill are:

- On July 1, 2018, the Board of Veterinary Examiners would begin issuing certificates of registration to qualified individuals to engage in the practice of veterinary technology as a veterinary technician;
- Definitions for *direct supervision*, *indirect supervision*, *induce*, *practice of veterinary technology*, and *veterinary technician* or *registered veterinary technician* would be added to Section 471-1, HRS;
- No one will be allowed to practice veterinary technology or refer to themselves in such a way as to imply he or she is a practitioner of veterinary technology unless that person has a valid registration as a veterinary technician obtained from the Board of Veterinary Examiners. Exceptions to the registration requirement are also enumerated;
- No one can be registered to practice veterinary technology unless they are at least 18 years old, have successfully completed a veterinary technology program accredited by the AVMA, and successfully passed the VTNE exam;
- The Board of Veterinary Examiners is given the power to refuse to grant, revoke, or suspend a veterinary technician registration; and
- Penalties are imposed for practicing veterinary technology without a valid registration.

The Hawai'i Veterinary Medical Association (HVMA) testified in support of SB No. 2502. HVMA argued that veterinary technicians are key team members in the veterinary profession and regulation would improve the delivery of veterinary services. The Hawai'i Board of Veterinary Examiners recommended deferral of the bill until the completion of a sunrise analysis. The Pacific Pet Alliance, a community organization, supported the purpose and intent of the proposed regulatory measure but expressed reservations that the bill could disenfranchise part-time employees and those individuals currently working as veterinary technicians who lack formal training from an AVMA-

accredited veterinary technology program. The Humane Society of the United States supported the intent of the measure. The Department of Commerce and Consumer Affairs commented that the bill does not adequately establish qualifications or the scope of practice of a veterinary technician, lacks clarity regarding which veterinary technician activities would require supervision by a veterinarian, and fails to enumerate the types of conduct that would give rise to disciplinary action.

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## Objectives of the Analysis

1. Determine whether the regulation of veterinary technicians and the practice of veterinary technology is warranted.
2. Assess the probable effects of the proposed regulation and the appropriateness of alternative forms of regulation.
3. Make recommendations as appropriate.

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## Scope and Methodology

To determine whether the proposal to regulate veterinary technicians and the practice of veterinary technology as proposed in SB No. 2502, SD 1, is consistent with state law, we applied the criteria for regulation set forth in Chapter 26H, HRS, the *Hawai'i Regulatory Licensing Reform Act*. The Legislature established policies in Section 26H-2, HRS, to ensure that regulation of an occupation takes place only for the right reason: to protect consumers. Regulation is an exercise of the State's police power and should not be imposed lightly. Consumers rarely initiate regulation; more often, practitioners themselves request regulation for benefits that go beyond consumer protection. For example, members of a profession sometimes believe regulation will enhance their profession's status or reputation. The policies set forth in Section 26H-2 reinforce that consumer protection is the primary purpose of regulation by stipulating:

- The State should regulate professions and vocations only where reasonably necessary to protect consumers;
- Regulation should protect the health, safety, and welfare of consumers and not the profession;
- Evidence of abuses should be given great weight in determining whether a reasonable need for regulation exists;
- Regulation should be avoided if it artificially increases the costs of goods and services to the consumer, unless the cost is exceeded by potential dangers to the consumer;

- Regulation should be eliminated when it has no further benefit to consumers;
- Regulation should not unreasonably restrict qualified persons from entering the profession; and
- Aggregate fees for regulation and licensure must not be less than the full costs of administering the program.

We were also guided by the publication *Questions a Legislator Should Ask*, published by the Council on Licensure, Enforcement, and Regulation (CLEAR), a national organization. According to CLEAR, the primary guiding principle for legislators should be whether an unregulated profession presents a clear and present danger to the public's health, safety, and welfare. If it does, regulation may be necessary; if not, regulation is probably unnecessary and wastes taxpayers' money.

In addition to the regulatory policies in Chapter 26H, HRS, and the guidance from CLEAR, we considered other criteria, including whether or not:

- The incidence or severity of harm based on documented evidence is sufficiently real or serious to warrant regulation;
- Any other alternatives provide sufficient protection to consumers (such as federal programs, other state laws, marketplace constraints, private action, or supervision); and
- Most other states regulate veterinary technicians for the same reasons.

In assessing the need for regulation and the specific regulatory proposal, we placed the burden of proof on proponents to justify the need for regulation. We evaluated their arguments and data against the criteria stated above. We examined the regulatory proposal and determined whether proponents have made a strong enough case for regulation. It is not enough that regulation *may* have *some* benefits. We recommend regulation only if it is *demonstrably* necessary to protect the public.

We also scrutinized the language of the regulatory proposal, SB No. 2502, SD 1, for appropriateness. We determined whether the proposed legislation appropriately fits one of the three approaches to occupational regulation. These approaches, from most restrictive to least restrictive, are:

- *Licensing.* A licensing law generally gives persons who meet certain qualifications the legal right to deliver services—that is, to practice a profession (for example, social work). Penalties may be imposed on those who practice without a license. To institute and monitor minimum standards of practice, licensing laws usually authorize a board that includes members of the profession to establish and implement rules and standards of practice;
- *Certification.* A certification law usually restricts the use of certain titles (for example, social worker) to persons who meet certain qualifications, but does not bar others who do not use the title from offering such services. This restriction is sometimes called *title protection*. Government certification should not be confused with professional certification, or credentialing, by private organizations. For example, social workers, who must be licensed by the state under Section 467E-5, HRS, may also receive professional certification from the National Association of Social Workers; and
- *Registration.* A registration law simply requires practitioners to enroll with the State so that a roster or registry is created and to enable the State to keep track of practitioners. Registration may be mandatory or voluntary.

## **Methodology**

We reviewed literature on veterinary technicians, their regulation in other states, and practices, including standards promulgated by relevant national bodies. We inquired about enforcement actions filed by the state Office of Consumer Protection and complaints made to the Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs and the Hawai‘i Better Business Bureau.

We interviewed representatives of Hawai‘i’s Board of Veterinary Examiners, the Hawai‘i Veterinary Technician Association, the Hawai‘i Veterinary Medical Association, the Department of Commerce and Consumer Affairs, the Windward Community College veterinary technology program, and a non-profit organization with a vested interest in the issue of regulating veterinary technicians. We attempted to identify the costs and possible impacts of the proposed regulation.

Our work was performed from May 2014 to October 2014 in accordance with the Office of the Auditor’s *Manual of Guides*.

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# Chapter 2

## Regulation of Veterinary Technicians Is Not Necessary

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This chapter presents our findings and recommendations on the proposal to regulate veterinary technicians and the practice of veterinary technology as proposed in Senate Bill No. 2502, Senate Draft 1 (SB No. 2502, SD 1), of the 2014 legislative session. The *Hawai‘i Regulatory Licensing Reform Act*, Chapter 26H, Hawai‘i Revised Statutes (HRS), limits the regulation of certain professions and vocations to situations in which it is reasonably necessary to protect the health, safety, and welfare of consumers. We found that although regulating veterinary technicians would provide some benefits, it is unnecessary to protect the public. We conclude that SB No. 2502, SD 1, should not be enacted.

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### Summary of Findings

1. Regulation of veterinary technicians is not necessary because proponents failed to provide sufficient evidence indicating regulation is demonstrably necessary to protect consumers. Additionally, current alternatives to regulation exist and provide sufficient consumer protection.
2. The proposed regulatory measure is problematic.

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### Regulation of Veterinary Technicians Is Not Necessary

The proposed regulatory measure, SB No. 2502, SD 1, does not meet criteria for the regulation of professions or vocations in Chapter 26H, HRS. We found no evidence of abuses by veterinary technicians to merit regulation. Other than anecdotal risks of harm, we did not find any evidence to support a need to protect consumers' health, safety, or welfare from the activities of veterinary technicians. Furthermore, these risks are satisfactorily mitigated by existing requirements that veterinary technicians work under the direct supervision of a veterinarian. We found that most states regulate veterinary technicians but that the current proposal is motivated primarily by an industry effort to establish national professional standards. We also found that the proposed regulation would restrict certain qualified individuals from entering the field of veterinary technology, and that the effect of regulation on cost to consumers is unknown. On balance, there is no demonstrable need for the State to regulate veterinary technicians in Hawai‘i.

**Absence of abuses weighs heavily against regulation**

Statutory criteria for evaluating whether a profession or vocation merits state regulation require that proponents of regulation provide evidence supporting this need to engage the state's police powers. Evidence must show that serious harm can result to consumers if the profession or vocation remains unregulated. Although veterinary technicians are integral to delivering veterinary care, we found no evidence that through their activities they pose a clear and present danger to consumers—a point that weighs heavily against the need for regulation. We found that although most other states regulate veterinary technicians, the supervisory oversight provided by veterinarians is a sufficient alternative to regulation. We also found the impetus for the regulatory proposal is the result of national professional trends and industry interests.

**No evidence of threat to consumers' health, safety, or welfare**

For a profession or vocation to be regulated, evidence is needed to demonstrate a risk to consumers' health, safety, or welfare from the activity to be regulated. We sought evidence of abuse or threat of harm posed to consumers of veterinary services and the general public. While we found that health risks exist, in the form of diseases that can be transferred from animals to humans, we found no data showing that the unregulated activities of veterinary technicians pose a threat to public health or consumers' (that is, pet owners') welfare.

We researched complaints about veterinary technicians made to the Department of Commerce and Consumer Affairs' (DCCA) Office of Consumer Protection and Regulated Industries Complaints Office, the state Ombudsman, and the Hawai'i Better Business Bureau (BBB) in the last three years. The BBB reported it has 20 complaints related to the veterinary industry since 2011; however, none of these were specifically attributed to veterinary technicians. The other agencies reported they have received no complaints regarding veterinary technicians.

We also asked representatives of the Hawai'i Veterinary Medical Association (HVMA), Hawai'i Veterinary Technician Association (HVTA), and the state Board of Veterinary Examiners (BVE) whether they knew of any evidence of abuse or threat to public or consumer health, safety, or welfare posed by veterinary technicians. Although one proponent pointed out that veterinary technicians play a role in preventing and controlling the spread of zoonotic (of animal origin) diseases<sup>1</sup> from animals to humans, none of these stakeholders was able to provide any evidence showing that the presence, absence, or ability of veterinary technicians has adversely impacted public health.

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<sup>1</sup> Examples of zoonotic diseases are anthrax, dengue, Ebola hemorrhagic fever, *E. coli* and *salmonellosis* infection, Lyme disease, malaria, bubonic plague, and West Nile viral infection.

Both the veterinarians and veterinary technicians we interviewed stressed the strong emotional connection between owners and their pets, arguing that regulation would provide assurance to consumers that their animals are receiving care from qualified providers. We note that the AVMA reports 63 percent of pet owners consider their pets to be part of the family. One proponent opined that currently, consumers are unaware whether or not a veterinary technician is trained and experienced or hired off the street without any training. However, despite the apparent emotional bond between owners and their pets, we could not find any evidence of a threat to consumers' welfare caused by unregulated veterinary technicians.

**Although most states regulate veterinary technicians, supervisory oversight provides sufficient consumer protection**

Hawai'i is in the minority of states (13) that do not regulate veterinary technicians. However, in light of the strict criteria for imposing regulation in Chapter 26H, HRS, we could not find a compelling reason for Hawai'i to join the majority of other states in regulating veterinary technicians. Furthermore, we found that an existing alternative to state regulation is sufficient to protect consumers: namely, supervision by veterinarians.

The purpose of a veterinary technician is to provide ancillary support to a veterinarian. Veterinary technicians cannot, by themselves, deliver the veterinary medical services demanded by consumers because they cannot diagnose, perform surgery, or prescribe medication. A veterinary technician cannot practice veterinary technology without working under the direction and supervision of a veterinarian. The supervisory component built into the relationship between veterinarians and their veterinary technicians sufficiently protects consumers from potential abuses by veterinary technicians.

Hawai'i's veterinary practice act also recognizes the supervisor-subordinate dynamic between veterinarians and their staff. Section 471-2, HRS, provides that employees of a veterinarian working under the direct supervision of a veterinarian are not prohibited by the regulatory requirements for practicing veterinary medicine. The exception allowed in Section 471-2 contemplates the performance of animal health care tasks by veterinary technicians and other veterinary staff under the direct supervision of a veterinarian.

Furthermore, consumers can already seek redress for veterinary technicians' misconduct through their supervising veterinarians because the practice of veterinary medicine is so broadly defined that it encompasses even activities performed by veterinary technicians. Under Section 471-1, HRS, veterinary medicine includes any form

of medical, surgical, or dental care provided to animals. Therefore, any animal health care task—including tasks assigned to veterinary technicians—falls under the practice definition of veterinary medicine. Any misconduct arising from a veterinary technician, therefore, puts the supervising veterinarian at risk of discipline by the BVE. Consequently, Chapter 471, HRS, entitled *Veterinary Medicine*, provides sufficient consumer protection for actions by veterinarians *and* veterinary technicians.

### **Regulatory proposal is fueled by national professional standardization efforts and industry interests**

Increasing the quality of veterinary care is the oft-cited reason for the proposed regulation of veterinary technicians. In addition, representatives from both the veterinarian and veterinary technician communities emphasized that regulation would bring Hawai‘i into line with the majority of states (37) that regulate veterinary technicians. However, proponents expect regulation will provide a means for veterinary technicians to leverage credentials for increased compensation.

According to a representative of HVMA, the language in SB No. 2502 was based on the AVMA Model Veterinary Practice Act. Because the AVMA is an advocate for the veterinary industry, the model practice act is likely designed to benefit the veterinary community. Furthermore, stakeholders acknowledged that regulation could translate into higher pay for veterinary technicians or at least a distinct difference between credentialed and uncredentialed veterinary technicians. Under Hawai‘i regulatory law, the purpose of regulation must be to protect the public, not to benefit the profession.

### ***Other statutory criteria do not warrant regulation***

Hawai‘i’s regulatory law is clear that regulation is only to be undertaken where reasonably necessary to protect the health, safety, or welfare of consumers when it may be jeopardized by the nature of the service offered by the provider; furthermore, evidence of abuses by providers of the service is to be accorded great weight in determining whether regulation is desirable. In addition to an absence of abuses or other threat to the public’s health, safety, or welfare posed by veterinary technicians, we found the proposed regulatory measure does not meet other statutory criteria for regulation as well. Specifically, the bill’s educational requirements and the comparatively high regulatory fees veterinary technicians would need to pay would unreasonably restrict qualified persons from entering the profession. We were also unable to determine the impact regulation would have on costs to consumers.

**SB No. 2502, SD 1, would restrict certain qualified individuals from entering the field**

Section 26H-2, HRS, stipulates that regulation must not unreasonably restrict entry into a profession or vocation by all qualified persons. Stakeholders whom we contacted agreed the professional status and credentials provided by regulation would likely increase interest in entering the field of veterinary technology, but that the bill's narrowly defined educational requirements would preclude current practitioners who lack the requisite veterinary technology degrees from continuing to practice as veterinary technicians.

SB No. 2502, SD 1, overlooks current veterinary technology practitioners who are experienced but may lack formal education in the field of veterinary technology. The bill would prohibit individuals who have not completed an AVMA-accredited program in veterinary technology from registering as veterinary technicians. There are 176 individuals in Hawai'i currently working as veterinary technicians who have more than five years of on-the-job experience but who may not have a degree in veterinary technology. Furthermore, the proposed regulation fails to recognize practicing veterinary technicians who either have a degree that is not in veterinary technology or who do not have a postsecondary degree. It is unlikely that any of those 176 veterinary technicians with more than five years' experience graduated from the single veterinary technology program in state, since Windward Community College's program only received AVMA accreditation in 2013. Admission to the program is capped at 25 students a year; so far, only 28 graduates have received diplomas in veterinary technology. Further, the program's location on the island of O'ahu impedes neighbor island residents who may be interested in becoming veterinary technicians from acquiring a degree in veterinary technology.

Stakeholders agree that on-the-job experience should be given recognition in lieu of formal education. However, SB No. 2502, SD 1, does not offer an alternative means of fulfilling the educational criteria for registration as a veterinary technician. Some stakeholders suggest an alternative to the educational requirement could be a passing score on the Veterinary Technician National Examination (VTNE).

In addition to impeding those who lack degrees in veterinary technology, the comparatively high regulatory fees veterinary technicians will need to pay would further restrict entry into the field. A critical component to Hawai'i's regulatory licensing reform law is that fees for regulation must cover the entire cost of administering the regulatory program. Based on our estimate that there may be between 43 and 219 people who would pursue registration as a veterinary technician, DCCA estimates the regulatory program would cost between \$39,985 and \$72,183 a

year to operate. Accordingly, we calculate that veterinary technicians would need to pay between \$330 and \$930 for their first registration and between \$660 and \$1,860 biennially thereafter.

Exhibit 2.1 shows DCCA’s Professional and Vocational Licensing Division’s estimates for administering and enforcing the proposed regulatory program.

**Exhibit 2.1  
DCCA Cost Estimate of Veterinary Technician Regulatory Program**

<u>Estimated No. Vet Techs</u>	<u>43 Vet Techs</u>	<u>219 Vet Techs</u>
First year startup cost	\$ 39,985	\$ 72,183
First year cost per vet tech	\$ 930	\$ 330
<b>Biennial cost per vet tech</b>	<b>\$ 1,860</b>	<b>\$ 660</b>

Source: Office of the Auditor based on figures from DCCA, Professional and Vocational Licensing Division

These registration fees would be unreasonably high. Veterinarians, who earn significantly more than veterinary technicians—in 2012 the national annual median income of veterinarians was \$84,460 and for veterinary technicians was \$30,290<sup>2</sup>—pay \$331 for their licensure fees every two years. Although veterinary technicians earn a little over a third of what veterinarians earn, veterinary technicians would be expected to pay almost double to more than five times the amount veterinarians do in regulatory fees. Such a burden, on a comparatively modest income, may further restrict entry into the field.

**Effect of regulation on cost to consumers is unknown**

Section 26H-2, HRS, states that regulation must be avoided if it artificially increases the cost of goods and services to consumers, except where increased cost is exceeded by potential danger to consumers posed by the nature of the services offered. Stakeholders whom we contacted had mixed opinions on whether the costs of veterinary services would increase if veterinary technicians were regulated.

Proponents of regulation, including representatives from HVMA and the BVE, claim that costs to consumers for veterinary services would not increase because overhead costs to employ veterinary technicians would not change. According to these stakeholders, Hawai‘i veterinary technicians’ pay is currently determined based on ability and experience, which can be acquired through on-the-job training or formal education.

<sup>2</sup> U.S. Bureau of Labor Statistics

While the credentialing inherent in regulation would help employers identify individuals who possess a baseline veterinary technology skill set, one stakeholder asserted that possessing a credential does not determine rate of pay. There are currently 43 veterinary technicians in Hawai'i who hold credentials to practice veterinary technology in other states; according to the stakeholder, these 43 credentialed veterinary technicians are not necessarily paid more than their uncredentialed but equally experienced colleagues.

The veterinary technology program at Windward Community College reported that individuals hired as veterinary technicians without any training start at minimum wage, whereas a person with a veterinary technology degree may earn an hourly starting wage of \$15 or more. However, we found that this disparity in pay does not indicate whether veterinary technicians in a regulated system would command higher wages. Absent any firm evidence to confirm stakeholders' arguments described above, we cannot determine whether the cost of veterinary services would be impacted if veterinary technicians were to be regulated.

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## **Proposed Regulatory Measure Is Problematic**

Not only is the regulation of veterinary technicians unnecessary, but SB No. 2502, SD 1, contains several flaws that would undermine a successful regulatory program. Specifically, the practice definition for veterinary technology is overly broad, making it difficult to enforce the proposed regulation. And while the practice definition is exceedingly broad, the educational qualifications are far too narrow. In addition, the proposed regulation does not address interstate reciprocity and fails to provide veterinary technicians with a representative on their own regulating body. Finally, the bill calls for "registration" but essentially describes a licensure (that is, practice protection) framework.

### ***Definition of practice is too broad***

DCCA's Regulated Industries Complaints Office (RICO) has expressed concern that the proposed regulation does not adequately define the scope of practice for veterinary technicians. Under SB No. 2502, SD 1, the practice of veterinary technology includes inducing anesthesia, applying casts and splints, extracting teeth, applying stitches, and facilitating the placement of intravenous catheters. However, because veterinary technicians' permitted activities are not limited to these five areas, the proposed regulation is too broad to be effectively enforced. As long as they work under the direct supervision of a veterinarian, veterinary technicians' scope of practice is indeterminate. As the agency charged with regulatory enforcement, RICO said it would have difficulty determining what conduct is permissible. According to RICO, a clear practice definition is necessary to distinguish activities considered to be

within the practice of veterinary technology from those of veterinary medicine. Enforcement of the regulatory proposal would prove difficult as long as the scope of practice remains unclear.

***Alternatives to meet educational requirements are not provided***

To practice veterinary technology, SB No. 2502, SD 1, would require prospective veterinary technicians to successfully complete a course of study in an AVMA-accredited veterinary technology program. The only AVMA-accredited veterinary technology program in Hawai‘i is competitively limited to 25 students a year and is located on the island of O‘ahu. Not only does this educational requirement unreasonably restrict entry into the field generally, it particularly impedes neighbor island residents from access to an accredited program in veterinary technology. The requirement also ignores the value of on-the-job training and experience gained by practicing veterinary technicians who have not completed an AVMA-accredited program.

Furthermore, the bill does not provide the BVE with an option to determine whether alternative programs of study in related animal health care fields could satisfy educational criteria for registration as a veterinary technician. For example, the bill would prohibit a person from registering as a veterinary technician if the person graduated from an AVMA-accredited veterinary medicine college rather than an AVMA-accredited veterinary technology program. This would be an absurd restriction, since anyone trained as a veterinarian certainly has the academic credentials to act as a veterinary technician.

***Interstate reciprocity is not addressed***

SB No. 2502, SD 1, does not provide reciprocal recognition for individuals who hold veterinary technician credentials from other states. This lack of interstate reciprocity for veterinary technicians contrasts with the reciprocity provided to out-of-state veterinarians, who are not required to be licensed in Hawai‘i if they are licensed in another state, working in conjunction with a Hawai‘i veterinarian, and do not open an office in Hawai‘i. According to a 2013 HVTA survey, there are 43 veterinary technicians in Hawai‘i who maintain credentials from other states. Under the bill as currently proposed, all 43 of these veterinary technicians would be required to re-register with Hawai‘i.

***Veterinary technicians are not represented on regulating board***

SB No. 2502, SD 1, places the authority for regulating veterinary technicians under the existing Board of Veterinary Examiners. However, it does not amend the composition of the BVE to include representatives of the veterinary technician profession. The BVE comprises seven board members, two of whom are from the general public and five of whom are currently or formerly licensed veterinarians. Without veterinary technicians on the BVE, the regulated profession will not

have a voice in its own regulation. Under the bill, the BVE would be authorized to discipline veterinary technicians for conduct contrary to the ethical principles adopted by the Hawai‘i Veterinary Technician Association; however, no veterinary technician would sit on the BVE to aid in interpreting those principles. Including a representative on the regulating board from the regulated profession would add insight as the board institutes and monitors the minimum standards of the profession’s regulation.

**Level of regulation is mischaracterized as registration**

Although SB No. 2502, SD 1, calls for veterinary technicians to be *registered*, the bill actually describes a regulatory framework more appropriately characterized as *licensure*. *Registration* is the lowest level of regulation; it usually requires no pre-entry screening, doing little more than providing a roster of practitioners. In its simplest form, registration requires an individual to file his or her name and address with a designated regulating body. *Licensure*, on the other hand, is the highest level of regulation and prohibits anyone who is not appropriately licensed from engaging in a specified scope of practice. SB No. 2502, SD 1, would prohibit anyone who is not regulated under the act from engaging in the practice of veterinary technology. Accordingly, SB No. 2502, SD 1, essentially describes a licensure program rather than a registration program.

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**Conclusion**

The proposed regulation of veterinary technicians in SB No. 2502, SD 1 (2014), does not meet Hawai‘i’s sunrise criteria in Chapter 26H, HRS. We found no evidence to support a need to protect consumers’ or the public’s health, safety, or welfare from the activities of veterinary technicians. Proponents of the regulation failed to provide any demonstrable evidence showing harm or abusive practices by veterinary technicians in Hawai‘i or elsewhere, and consumers are sufficiently protected by veterinarians’ supervision as required in existing law. We also found that the proposed regulatory measure would unnecessarily restrict certain qualified individuals from entering the field of veterinary technology. In addition to unnecessarily burdening the profession with state regulation, the bill contains several flaws relating to scope of practice, alternatives to educational requirements, interstate reciprocity, representation on the governing board, and appropriate characterization of the level of regulation described.

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**Recommendation**

SB 2502, SD 1, of the 2014 legislative session should not be enacted.

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## Response of the Affected Agency

### Comments on Agency Response

We transmitted a draft of this report to the Department of Commerce and Consumer Affairs on December 15, 2014. A copy of the transmittal letter to the department is included as Attachment 1. The department's response, dated December 18, 2014, is included as Attachment 2.

The department concurred with our findings regarding the estimated cost of funding a veterinary technician regulatory program and its financial impact on registrants. The department also expressed appreciation for our discussion of the regulatory challenge of enforcing the broad scope of practice defined in SB No. 2502, SD1 (2014).

We made minor technical corrections for clarity and style prior to publication.

**ATTACHMENT 1**

**STATE OF HAWAII  
OFFICE OF THE AUDITOR**

465 S. King Street, Room 500  
Honolulu, Hawai'i 96813-2917



**JAN K. YAMANE**  
Acting State Auditor

(808) 587-0800  
FAX: (808) 587-0830

December 15, 2014

***COPY***

The Honorable Keali'i S. Lopez  
Director  
Department of Commerce and Consumer Affairs  
335 Merchant Street  
Honolulu, Hawaii 96813

Dear Ms. Lopez:

Enclosed for your information are three copies, numbered 6 to 8, of our confidential draft report, *Sunrise Analysis: Regulation of Veterinary Technicians*. We ask that you telephone us by Wednesday, December 17, 2014, on whether or not you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit your hard copy response to our office no later than 4:30 p.m., Friday, December 19, 2014.

The Governor and presiding officers of the two houses of the Legislature have also been provided copies of this confidential draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

*For* Jan K. Yamane  
Acting State Auditor

Enclosures



DAVID Y. IGE  
GOVERNOR

SHAN S. TSUTSUI  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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KEALI'I S. LOPEZ  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

December 18, 2014

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OFC. OF THE AUDITOR  
STATE OF HAWAII

Ms. Jan K. Yamane  
Acting State Auditor  
Office of the Auditor  
465 S. King Street, Room 500  
Honolulu, Hawaii 96813-2917

Dear Ms. Yamane:

Thank you for the opportunity to provide comments on the draft report, **Sunrise Analysis: Regulation of Veterinary Technicians.**

The Department of Commerce and Consumer Affairs (Department) concurs with the findings on page 14 of the draft report regarding the cost estimate of a Veterinary Technician regulatory program and the impact these costs will have on a relatively small pool of registrants. In addition, the Department appreciates the Auditor's discussion of the lack of a scope of practice definition in S.B. No. 2502, SD1, and the regulatory challenge this would pose for the Department.

Thank you for the opportunity to offer comments.

Sincerely,

Keali'i S. Lopez  
Director

c: Celia Suzuki, Licensing Administrator