



# Board of Animal Health's Oversight of Deer and Elk Farms

The Board of Animal Health has failed to enforce some deer and elk regulations.

## Key Facts and Findings:

- The Board of Animal Health (BAH) is responsible for protecting the health of Minnesota's domestic animals, including deer and elk.
- The board has five members, but not one who represents the general public.
- As of April 2018, Minnesota had 398 registered herds, consisting of about 9,300 deer, elk, and other similar species.
- Minnesota law does not require that deer and elk identification tags be read and recorded when completing an animal inventory.
- Chronic wasting disease (CWD) is an always fatal, neurodegenerative disease found in both farmed and wild deer and elk.
- Since 2002, CWD has been identified on eight Minnesota deer and elk farms and in wild deer in two Minnesota counties.
- BAH staff do not systematically analyze whether deer and elk producers submit tissue samples for CWD testing for all deceased animals.
- From 2014 to 2017, about one-third of producers that reported dead deer or elk failed to submit tissues from at least one of those animals for CWD testing.
- BAH has, in some instances, failed to enforce deer and elk regulations. However, the board has improved its deer and elk program over the past several months.
- BAH and the Department of Natural Resources (DNR) have struggled to appropriately share the information they both require to respond to CWD outbreaks.

- While Minnesota's CWD regulations are among the most rigorous in the nation, there are some areas where other states' policies better protect deer and elk against the disease.

## Key Recommendations:

- The Legislature should consider expanding the number of board members and adding at least one member of the general public.
- BAH should clarify expectations of whether and how often producers must verify their herd inventory on an animal-by-animal basis.
- BAH should (1) systematically analyze CWD-testing compliance, and (2) appropriately penalize those producers who fail to submit CWD-testing samples.
- BAH should develop an approval program for deer and elk producers who wish to collect their own CWD test samples.
- BAH should (1) ensure producers follow Minnesota deer and elk laws, (2) strengthen consequences for producers, and (3) monitor field staff performance.
- BAH and DNR should draft a memorandum of understanding outlining each agencies' responsibilities with respect to data sharing.
- The Legislature should convene an advisory task force to evaluate the state's regulations related to deer feeding and live-animal imports.

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**BAH is smaller than other states' animal health boards and does not include a public member.**

## Report Summary

Minnesota statutes charge the Board of Animal Health (BAH) with protecting the health of Minnesota's domestic animals, including members of the family *cervidae*.<sup>1</sup> The *cervidae* family includes deer, elk, and similar species, which may be collectively referred to as "cervids." As of April 2018, Minnesota producers were raising more than 9,300 cervids in 398 registered herds.

Deer and elk health is threatened by chronic wasting disease (CWD), an always fatal, neurodegenerative disease found among wild and farmed cervids. CWD is difficult to manage because there is no live-animal diagnostic test approved for routine herd monitoring. Further, infected animals may not show clinical signs until the disease is quite advanced. The only way to definitively diagnose CWD is to analyze specific tissues from a *dead* deer or elk. CWD has been found on eight Minnesota deer and elk farms since 2002. It has also been detected in wild deer in two Minnesota counties.

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### **BAH is smaller than other states' animal health boards.**

The board is made up of three livestock producers and two veterinarians practicing in Minnesota. Members are appointed by the governor. BAH's day-to-day work is performed by 41 staff members.

Minnesota's structure for overseeing farmed deer and elk is unlike those in most other states. Only six states give the responsibility to an entity like BAH. In most states, farmed deer and elk oversight falls to a natural resources department, an agriculture department, or a combination of the two.

BAH is smaller than other state's animal health boards, which range in size from 7 to 16 members. BAH is also smaller than other Minnesota boards that license,

permit, or register professions or entities. While BAH's composition (three livestock producers and two veterinarians) is similar to other states' boards, BAH is unlike most *Minnesota* boards in that it lacks a public member. We recommend expanding the size of the board and adding a member of the general public, in order to diversify the perspectives represented.

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### **The law does not require that deer and elk identification tags be read regularly, calling into question the accuracy of cervid farm inventories.**

Annual inventories are an important tool for BAH. In the event that CWD is detected on a deer or elk farm, BAH uses the inventories that producers submit to track animal locations and movements and determine which other farms to investigate for possible CWD exposure.

By law, producers must submit annually to the board inventories that are verified by an accredited veterinarian.<sup>2</sup> However, the law does not require that the producers or their veterinarians physically read the tags on their deer and elk in order to complete these inventories. As such, the inventories producers submit may not accurately reflect the animals on the farm, which could complicate the investigation that BAH must conduct if CWD is discovered among farmed cervids.

We recommend that BAH clarify its expectations for how often deer and elk identification tags are read. For example, the United States Department of Agriculture requires that deer and elk producers who move animals to other states read and record identification tags once every three years.

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### **BAH does not systematically analyze whether producers submit CWD testing samples for all deer and elk that they report as deceased, and many do not.**

Deer and elk producers are required by law to submit specific tissues for CWD

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<sup>1</sup> *Minnesota Statutes* 2017, 35.03.

<sup>2</sup> *Minnesota Statutes* 2017, 35.155, subd. 11(a).

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## Tension between BAH and DNR has led to problems with data sharing.

testing for all deer and elk that die at age 12 months or older.<sup>3</sup> BAH staff do not currently analyze CWD-testing compliance, unless they have a specific reason to manually evaluate the records associated with a particular herd. We analyzed BAH data and found that an estimated one-third of deer and elk producers failed to submit tissue samples for CWD testing from 2014 to 2017. We recommend that BAH create a report that identifies producers that have missed CWD tests. Further, we recommend that BAH penalize producers who do not submit the required samples.

Another issue with respect to CWD sample submission is sample quality. If producers submit the wrong type of tissue or a sample that is otherwise unreadable, the deer or elk in question will not be tested for CWD. From 2014 to 2017, the percentage of unreadable samples increased from 2 percent to 11 percent. In 2017, BAH began retraining producers who had submitted poor-quality samples. As a result, sample quality began to improve during the latter half of 2017. We recommend that BAH develop a standardized training and approval program for deer and elk producers who wish to collect their own CWD test samples.

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### **While BAH has had some issues enforcing cervid regulations in the past, its deer and elk program has improved over the past several months.**

It was recently reported that a Winona County cervid farm that tested positive for CWD also had fences in poor repair.<sup>4</sup> Despite the fact that the fences (by the owner's own admission) had been sagging for years, BAH had never

mentioned fence issues on the farm's annual inspection reports.

We do not know the degree to which this type of apparent enforcement error has occurred, and this lapse in oversight is concerning. However, the new director of the deer and elk program has made numerous changes over the past several months that will hopefully improve BAH's enforcement of deer and elk regulations going forward.

Recent BAH changes include improved communication, through the development of a cervid-farming handbook and a CWD-testing guide. The new director has also placed a renewed emphasis on enforcement, putting in place the expectation that the field staff inspecting cervid farms give warnings and reinspect farms when they note violations. We recommend that the board fully enforce Minnesota cervid laws and that they consider strengthening the penalties for producers who fail to comply. Further, the board should monitor the performance of field staff conducting inspections.

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### **The strained relationship between BAH and DNR has led to problems with data sharing.**

BAH responds when CWD is detected on deer or elk farms; DNR leads the response when the disease is found in the wild. Both agencies, however, take certain actions when CWD is detected in the other agency's jurisdiction, which means that the two must coordinate to a certain extent.

In order to respond to CWD outbreaks, each agency, at a minimum, must know the precise location where the infected animal was found. The tension between the two agencies, however, has resulted in poor

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<sup>3</sup> *Minnesota Rules*, 1721.0420, subp. 1(D), published electronically April 4, 2013. Producers must submit part of the brainstem and lymph nodes from the head of a dead deer or elk.

<sup>4</sup> Tony Kennedy, "'Hunters should be...afraid,'" *Star Tribune*, March 7, 2018.

There are some areas in which Minnesota's deer and elk policies are less rigorous than those in other states.

communication and complaints from both sides with respect to sharing information.

DNR staff have complained that BAH refuses to share information about infected farms in a timely fashion. BAH staff allege that DNR has not adequately protected producer contact information, which is classified by law as not public data.<sup>5</sup> We recommend that the two agencies draft a memorandum of understanding making clear what information should be shared between agencies in the event of CWD outbreak, in what timeframe, and the measures the receiving agency should take to protect the data. BAH and DNR finalized an agreement on April 10, 2018, which focuses on protecting not public data. We think this is a good first step.

**There are some states with policies for managing farmed deer and elk that may better protect their animals from CWD.**

We compared several of Minnesota's cervid regulations to those from other U.S. states. We found that some Minnesota policies—such as its statewide deer-baiting ban, whole-carass importation ban, and mandatory CWD testing of farmed cervids—are among the most rigorous in the nation.

In other areas, however, Minnesota policies were less rigorous than those of other states. Deer feeding encourages animals to congregate artificially, facilitating disease transmission. Minnesota currently allows deer feeding, unless DNR has banned feeding in a particular area as part of its CWD response. Thirty-two percent of states also ban deer feeding only in certain parts of the state, but 18 percent of states ban deer feeding statewide.

The movement of live deer and elk from one place to another may facilitate the spread of CWD if one of the animals being moved happens to be infected. Minnesota bans live-cervid imports from counties in other states where CWD has been found in the wild. Half the states, however, have stricter standards for live-cervid imports. Forty percent of states do not allow the importation of any live deer or elk. An additional 10 percent of states ban imports from entire states in which CWD has been detected.

We recommend that the Legislature establish an advisory task force to evaluate Minnesota's policies related to deer feeding and live-cervid imports.

## Summary of Agencies' Responses

*In a letter dated April 16, 2018, the Board of Animal Health Executive Director Beth Thompson said, "While some of the recommendations were already on our radar and being remedied at the time of the audit, other valuable issues were brought to light by this report." The letter addressed each of OLA's recommendations and the measures that the board is taking in response. The executive director said that the board is "dedicated to using this report to guide our continued improvements in this program." In a letter dated April 16, 2018, Department of Natural Resources Commissioner Tom Landwehr said, "...we believe the evaluation identified many of the key issues related to farmed cervid management and oversight as well as the intersections between BAH and DNR responsibilities." In his letter, the commissioner indicated that the department agreed with the two report recommendations (related to data sharing) directed at DNR.*

The full evaluation report, *Report Title*, is available at 651-296-4708 or:  
[www.auditor.leg.state.mn.us/ped/2018/deerfarms.htm](http://www.auditor.leg.state.mn.us/ped/2018/deerfarms.htm)

<sup>5</sup> Minnesota Statutes 2017, 13.643, subd. 6.