

Board of Podiatric Medicine

Executive Officer: James H. Rathlesberger ♦ (916) 263-2647 ♦ Internet: www.dca.ca.gov/bpm/



The Board of Podiatric Medicine (BPM) regulates the practice of podiatry in California pursuant to Business and Professions Code section 2460 *et seq.* and Article 12 of the Medical Practice Act (Business and Professions Code section 2220 *et seq.*). BPM's regulations appear in Division 13.9, Title 16 of the California Code of Regulations (CCR).

The mission of the Board of Podiatric Medicine is to ensure the protection of consumers through proper use of the licensing and enforcement authorities delegated to it by the legislature. BPM is a consumer protection agency within the Department of Consumer Affairs (DCA) and its Medical Board of California (MBC). BPM consists of four licensed podiatrists and three public members.

The Board licenses doctors of podiatric medicine (DPMs), administers two licensing tests per year, approves colleges of podiatric medicine, and enforces professional standards by initiating investigations and taking disciplinary action where appropriate. In this regard, BPM—through its use of Medical Board enforcement staff—receives and evaluates complaints and reports of misconduct and negligence against DPMs; investigates them where there is reason to suspect a violation of the Medical Practice Act, BPM's enabling act, or BPM's regulations; files charges against alleged violators; and prosecutes the charges at an evidentiary hearing before an administrative law judge (ALJ) from the special Medical Quality Hearing Panel within the Office of Administrative Hearings. In enforcement actions, BPM is represented by legal counsel from the Health Quality Enforcement Section (HQES) of the Attorney General's Office. Created in 1991, HQES is a unit of deputy attorneys general who specialize in medical discipline cases. Following the hearing, BPM reviews the ALJ's proposed decision and takes final disciplinary action to revoke, suspend, or restrict the license or take other appropriate administrative action.

In early 1999, Joseph M. Girard was appointed as the Board's newest public member, and Paul J. Califano, DPM, joined the Board as its newest podiatrist member. Mr. Girard will chair the Board's Legislation Committee, and Dr. Califano will chair BPM's Medical Education Committee.

MAJOR PROJECTS

BPM Recommends Ban on DPM Advertising of "Free Foot Exams"

At its April 30 meeting, BPM approved the final report to the legislature on its study of a proposal to prohibit the

advertising of "free foot exams" by podiatrists. In its report, the Board recommended that the legislature pass a bill clarifying that the advertisement by a podiatrist of an examination or treatment of the foot and ankle as being free or without cost is unprofessional conduct. Additionally, any DPM who authorizes a person or organization to include his/her name in any such advertisement would also be guilty of unprofessional conduct, "unless such free services are provided under the auspices of a charitable, religious, educational, professional, service, fraternal, civic, government or other similar nonprofit organization or are provided in conjunction with a program publicly sponsored by such an organization."

The report and recommendation follow a November 1998 public hearing on the issue; the hearing drew written and oral testimony from consumers, attorneys, doctors, law enforcement officers (federal, state, and local), the Center for Public Interest Law, the American Diabetes Association, the California College of Podiatric Medicine, the California Podiatric Medical Association, and an insurance company. Most

of those who submitted testimony support the Board's proposal to ban the advertising of "free foot exams" by podiatrists. These witnesses testified that such advertising is inherently misleading in that podiatrists often bill patients and insurance for the "free" exam or for additional, unexpected services. Additionally, these ads can attract consumers to questionable doctors and lead to fraud (overbilling and charges for unprovided services) and overutilization (unnecessary procedures), to the detriment of consumers, taxpayers, and the ethical majority of DPMs. [16:1 CRLR 78]

In its report, BPM found that podiatrists who advertise "free" foot exams, through telephone directory and newspaper ads, junk mail coupons, and the Internet, "do so to attract new patients to their practices, not to provide charity....The fine print, or agreements patients are given to sign once they are in the doctor's office, often specify that only a cursory 'exam' is free and that x-rays and/or other unexpected and unnecessary services are not." The Board stated that "bills from 'free' exams are routinely sent to patients, or their insurance providers, and the patients who balk at paying sometimes find themselves referred to collection agencies and their credit rating at risk." Further, "free" foot exam ads are often targeted at elderly, low-income, and non-English-speaking Californians. According to Jim McMaken of the U.S. Department of Health and Human Services' Inspector General's Office, "we have these traveling podiatrists out there

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soliciting business from retirement centers and putting up posters offering foot care: 'Medicare pays. Free.' These are misleading advertisements because the services aren't free. There is a co-insurance payment of 20 percent. A lot of times there is misrepresentation—they inform the patient they will secretly waive the co-payment."

In its report, BPM noted that not one podiatrist who advertises free foot exams submitted written or oral testimony in support of the practice; not one consumer testified that he/she benefitted from seeing a podiatrist in response to such an ad; and not one ad has been presented that anyone claims is beneficial and would be prohibited. BPM also observed that its proposed legislation would not ban free foot examinations; it would only ban the advertising of free foot exams by podiatrists. Further, and in response to testimony, the proposal would permit free exams provided for charity. The proposed ban is modeled after a similar statutory ban administered by the Board of Optometry.

The Board and several witnesses noted that BPM could simply investigate each complaint about DPMs who bill for a "free" foot exam and take disciplinary action against them. However, BPM lacks the resources to take this approach and prefers a preventive strategy which will spare consumers, insurers, and the health care system the cost of paying for the fraud that is often associated with "free foot exam" advertising.

At this writing, the Board's proposal has not yet been incorporated into pending legislation.

BPM Addresses Ongoing Fiscal Crisis

At BPM's February and April meetings, staff analyst JoAnn Bodnaras submitted reports concerning the continuing financial crisis facing the Board. BPM's fiscal problem stems from its historically small base of licensees (approximately 1,800) and a recent decline in the number of license renewals (from 888 in 1994-95 to 824 in 1997-98). [16:1 CRLR 78-79] In the face of declining revenue, enforcement costs have soared in recent years—from \$134,270 in 1996-97 to \$216,408 in 1997-98. BPM's enforcement costs against one licensee alone (Garey Lee Weber) total \$146,719 over the past three years (see LITIGATION for additional information).

To alleviate the Board's fiscal problem, BPM staff initiated several cost-cutting measures which saved the Board \$72,900 through April 20. These measures include leaving a part-time office position vacant, terminating the use of temporary help, reducing the number of public meetings, reducing the frequency of expert witness training sessions, and discontinuing its newsletter to licensees. Additionally, Board members have agreed not to seek their \$100-per-day per diem, BPM Executive Officer Jim Rathlesberger has declined a 3% pay increase, and the Board has reinstated a 5% reduction in consultants' and experts' reimbursements. Further, the podiatrist members of the Board have been reviewing complaints and investigative reports to save money. Finally, at its April

30 meeting, the Board agreed to request that its 59 expert consultants agree to review and provide reports on no more than one complaint per quarter (four per year) at no cost to the Board. These actions will generate additional but undetermined savings.

However, Executive Officer Rathlesberger continues to believe that cost-cutting measures can ameliorate the Board's fund condition for no more than one or two years, and that—absent a fee increase—BPM may have to face merger into the Medical Board of California, of which it is now a part. According to Rathlesberger, it will be increasingly more difficult to maintain BPM as a semi-independent board while maintaining a level of consumer-protective enforcement that is consistent with what is now expected of the Medical Board.

At its November 1998 meeting, the Board voted to seek a fee increase of \$50 per year, which would raise BPM's biennial renewal fees from \$800 to \$900. [16:1 CRLR 78-79] The increase would permit BPM to remain separate from the Medical Board. On January 11, BPM forwarded a request to the legislature for inclusion of a fee increase amendment in pending legislation.

However, the California Podiatric Medical Association (CPMA) expressed concerns about the proposed fee increase in a March 9 memo. The trade association urged BPM to "investigate all potential solutions, rather than only suggesting a fee increase or disbanding the board," and stated that the Board may not be operating efficiently. Referring to the Board's recent initiatives to ban free foot exam advertising by podiatrists (see above) and to seek legislative conversion of its composition to a public member majority during its 1997-98 sunset review [16:1 CRLR 76-77], CPMA alleged that BPM spent "costly staff time on free foot exams and public member majorities." CPMA further noted that it has not raised member dues in 15 years because "we stick to our mission and we force ourselves to be selective in what we do."

In a response dated March 24, BPM refuted the suggestion that it has not considered all options, noted that it operates with fewer staff per licensee than does the Medical Board, and expressed frustration over legislative proposals and other actions of CPMA that would or have cost the Board considerable money. BPM noted that, in 1998, the Joint Legislative Sunset Review Committee stated that "BPM is operating efficiently and is carrying out its mandate for public protection effectively." In fact, in opposition to the Board's proposal to convert its composition to a public member majority, CPMA itself stated that "the Board of Podiatric Medicine is fulfilling its public protection role in an exemplary fashion." BPM also observed that it has not increased its license renewal fee in ten years, and that CPMA's membership dues are twice as high as BPM's renewal fee.

The fee increase issue has strained the already fragile relations between BPM and CPMA. BPM plans to negotiate with CPMA to secure its support for a fee increase; however, at this writing, no legislator has incorporated a BPM renewal fee increase into any pending legislation.

Board to Seek Reinstatement of Limited License for Podiatric Medical Residents

At its February 5 meeting, BPM voted to seek legislation reinstating the requirement that podiatric medical residents secure a "limited license" from BPM; effective July 1, 2000, the limited license requirement was sunsetted in SB 1981 (Greene) (Chapter 736, Statutes of 1998). [16:1 CRLR 80]

The limited license requirement (which still appears in Business and Professions Code section 2475 until July 1, 2000) was added in 1983. BPM issues one-year limited licenses for residents to participate in specific residency programs. The license may be renewed annually, for a maximum of four years. The limited license allows the resident to practice medicine in rotations going beyond the podiatric scope, under the supervision of a licensed physician. The Joint Legislative Sunset Review Committee originally proposed sunset of the requirement because the Medical Board lacks a similar limited license requirement for medical residents, and BPM agreed because it generally seeks to conform its requirements and programs with those of the Medical Board.

However, BPM has changed its mind and now hopes to rescind the sunset of the limited license requirement for residents. The Board notes a growing body of thought in the national licensing community that all practicing medical school graduates should be state-licensed. An April 1996 report adopted by the Federation of State Medical Boards indicates that 35 state medical boards now regulate postgraduate medical trainees through a limited license or permit requirement. Further, the Federation of Podiatric Medical Boards is in the process of adopting a model licensing law using California's current statute as a national standard.

Throughout the spring, BPM attempted to convince the legislature to add an amendment reinstating the limited license requirement for podiatric residents into section 2475; at this writing, however, no such provision has yet been incorporated into any pending legislation.

Specialty Board Approval Regulations

On March 12, BPM published notice of its intent to adopt sections 1399.663 and 1399.681, Title 16 of the CCR, to implement SB 1981 (Greene) (Chapter 736, Statutes of 1998) which, in pertinent part, permits BPM to approve specialty boards and associations whose certificants may advertise the term "board certified" in California, and allows the Board to establish and collect a reasonable fee from each specialty board and association applying for recognition. [16:1 CRLR 80] This new program is based upon a similar process whereby the Medical Board's Division of Licensing approves national specialty boards whose certificants may then advertise that they are "board certified" in California. MBC has been reviewing specialty board applications since 1994.

Pursuant to the Permit Reform Act of 1981, section 1399.663 would establish the timeframe within which BPM will review specialty board or association applications and

the minimum, median, and maximum time periods for notifying the applicant whether its completed application is approved or disapproved for specialty board advertising. BPM's proposed timelines reflect the Medical Board's actual processing times involved in reviewing and either approving or disapproving applications received from specialty board organizations. Section 1399.681 would establish the fee for specialty boards or associations seeking recognition at \$4,030, which is equal to the fee charged by the Medical Board.

At its April 30 meeting, BPM held a public hearing on the proposed regulatory changes. The Board noted the receipt of several letters during the written comment period. A. James Fisher, III, DPM, commented that the application fee is too high, the timelines are too long, and the proposed regulations set no standards for approval or disapproval. Noting that the fee and timelines are identical to those utilized by the Medical Board, BPM disagreed with Dr. Fisher, and further noted that the statute requires BPM to determine "equivalency" between an applicant's qualifications and the criteria of the Council on Podiatric Medical Education (CPME)—therefore, the standards for the review process are established in statute. Following the hearing, BPM adopted the proposed regulations as published. At this writing, Board staff is preparing the rulemaking file on these regulatory changes for submission to DCA and the Office of Administrative Law (OAL).

In a related matter, on March 30 OAL issued a regulatory determination concerning a June 1, 1990 policy decision by BPM that it is "inherently misleading" to consumers for podiatrists to advertise specialty board certification unless the certification is issued by a board or other organization approved by CPME. OAL concluded that this policy was a "regulation" as defined in Government Code section 11342, and thus should have been adopted in accordance with the rulemaking procedures of the Administrative Procedure Act (APA). James J. Milam challenged the policy decision as being "underground rulemaking" in October 1996. The Board rescinded the policy decision in January 1997, and the policy was codified in 1998 when the legislature passed SB 1981 (Greene), which now requires BPM approval of specialty boards prior to "board certified" advertising by their certificants.

OAL rejected the Board's argument that the policy decision was a "mere advisory statement to the professional community and to the general public regarding advertising practices." Under current law, advisory statements which interpret statutes are considered "regulations" under the APA, and must be adopted via the APA's rulemaking procedures.

OAL Disapproves Technical Amendment to BPM Public Disclosure Regulation

On January 12, BPM submitted proposed "changes without regulatory effect" to sections 1399.653, 1399.660, 1399.680, 1399.689, and 1399.700, Title 16 of the CCR, to OAL for review. The proposed amendments update BPM's regulations by deleting provisions that no longer conform with applicable statutes, or have become obsolete. Under section

100, Title 1 of the CCR, licensing agencies subject to the APA may promulgate "changes without regulatory effect" through a simplified procedure that does not require the formal rulemaking process.

On February 26, OAL approved all of the Board's amendments except the change to section 1399.700, finding that BPM's amendment to that provision has regulatory effect as an interpretation of Business and Professions Code section 803.1, which sets forth categories of information about licensees which BPM and MBC must disclose to inquiring members of the public. Section 1399.700 lists the types of information concerning licensed podiatrists that BPM will disclose upon request (if known). Subsection (c) of the regulation currently describes the information related to medical malpractice judgments in excess of \$30,000 that BPM will release. The proposed amendment to section 1399.700 would add language from Business and Professions Code section 803.1(b), describing additional information to be disclosed to an inquiring consumer.

OAL found that section 803.1 is divided into three subsections, and that subsection (a) is applicable to BPM, subsection (b) is applicable to MBC, and subsection (c) is applicable to both BPM and MBC. The information required to be disclosed by MBC in subsection (b) is different from the information required to be disclosed by BPM in subsection (a). According to OAL, "it is apparent that the Board of Podiatric Medicine's duty to disclose information concerning its licensees is not the same as the duty of the Medical Board of California to disclose information concerning licensees. Although the Board of Podiatric Medicine is within the jurisdiction of the Medical Board of California, ... it is not the Medical Board.... Because subdivision (b) does not apply to the Board of Podiatric Medicine, adding the language from subdivision (b) to the Board of Podiatric Medicine's regulation would extend the application of its provisions. Such an interpretation constitutes an interpretation of law and is a 'regulation,' as defined in Government Code section 11342, subdivision (g)." Thus, BPM may amend section 1399.700 to include language from Business and Professions Code section 803.1, but only after complying with the formal rulemaking process required by the APA.

Update on Other Board Rulemaking Proceedings

The following is an update on recent BPM rulemaking proceedings described in detail in Volume 16, No. 1 (Winter 1999) of the *California Regulatory Law Reporter*:

◆ **Citation and Fine Regulations.** On February 5, BPM held a public hearing on its proposed amendments to section 1399.696, Title 16 of the CCR, which establishes the Board's citation and fine system and sets forth the statutory and regulatory sections whose violation justifies a citation and/or fine. Section 1399.696 authorizes BPM's Executive Officer to issue citations containing orders of abatement and fines for violations by a licensed DPM of the provisions of law referred

to within the section. BPM's proposed amendments would add violations of Business and Professions Code sections 2068 (nutritional advice—notice required) and 2234 (unprofessional conduct) to the list of offenses whose violation justifies the issuance of a citation and fine by BPM. [16:1 CRLR 79]

At the hearing, Robert Walters of California Advocates, representing CPMA, suggested the addition of specific language to section 1399.696 that would include Board members in the decisionmaking process to review the Executive Officer's decisions regarding citations and fines. He also argued in favor of restricting the Executive Officer's authority to issue citations for violations of section 2234 (unprofessional conduct) to "repeated negligent acts" under section 2234(c). BPM also heard comments from Matt Rifat, a defense attorney from the law firm of Colton & Roesser, who urged greater Board involvement and oversight of staff enforcement actions. He added that Board members should involve themselves in the disciplinary process as a jury in order to provide more licensee oversight.

Following these comments, BPM postponed a vote on this proposal until its April 30 meeting; on April 30, the Board voted to adopt the addition of section 2234 to section 1399.696 (as published), but rejected the addition of section 2068. At this writing, staff is preparing the rulemaking file on these changes for submission to DCA and OAL.

◆ **Disciplinary Guidelines.** On February 5, BPM held a public hearing on its proposed amendments to section 1399.710, Title 16 of the CCR, which currently requires the Board to consider the November 1, 1996 version of its disciplinary guidelines in reaching a decision on a disciplinary action. Section 1399.710 does not contain the Board's disciplinary guidelines, but rather incorporates them by reference. At its November 1998 meeting, BPM adopted changes to the November 1, 1996 version of its disciplinary guidelines. The Board's proposed amendments to section 1399.710 would incorporate by reference the November 1998 version of its disciplinary guidelines. [16:1 CRLR 79-80]

At the February hearing, no one presented comments on the proposal. BPM unanimously adopted the proposed change at its April 30 meeting; at this writing, Board staff is preparing the rulemaking file for submission to DCA and OAL.

◆ **Immigrant Verification Rules.** In December 1998, OAL rejected BPM's emergency adoption of sections 1399.715-.718, Title 16 of the CCR, which would implement the federal Personal Responsibility and Work Opportunity Act of 1996 by establishing procedures for verifying the immigration status of persons applying for DPM licensure. [16:1 CRLR 79] BPM has decided not to resubmit these regulations until it receives further guidance from both the state and federal governments on the appropriate implementation of the federal welfare reform act.

LEGISLATION

SB 1308 (Committee on Business and Professions), as amended April 14, would eliminate the Board's fee for an

ankle surgery certificate; the requirement to obtain the certificate was repealed by SB 1981 (Greene) (Chapter 736, Statutes of 1998). [16:1 CRLR 80] SB 1308 would also make technical revisions to the Board's enabling act by deleting several obsolete titles. [S. Appr]

AB 1252 (Wildman), as introduced February 26, would change the composition of the Industrial Medical Council (IMC), which—among other things—administers the program for the qualified medical evaluators who do the medical legal evaluations used to resolve disputes regarding the impairment of an injured worker and recommends reasonable levels of fees for physicians participating in the workers' compensation system. The IMC currently consists of nine physicians, two osteopathic physicians, two chiropractors, one physical therapist, and one psychologist. This bill would additionally require that a DPM serve on the Council. [A. Appr]

AB 794 (Corbett), as amended April 27, would add podiatrists to Code of Civil Procedure section 1985.3, and establish requirements for Board licensees whose clients' records are subpoenaed in civil litigation. Among other things, the bill would: (1) prohibit a licensee from restricting the hours for copying records during normal business hours or requiring that specific appointments be made to copy records; (2) provide an exemption for organizations with ten or fewer employees, which may limit the hours for inspection or copying to any continuous four-hour period on each business day; (3) provide that a client waives the right to object to the release of personal or employment records when his/her attorney signs a written authorization, on the client's behalf, providing for the release of the records; and (4) provide that deposition officers are not liable for the release of a consumer's personal or employment records if such officers do not receive proper notice of the consumer's motion to quash a subpoena duces tecum, as required by law. [A. Floor]

LITIGATION

At its April 30 meeting, BPM announced the results of a long-simmering disciplinary action against Garey Lee Weber, DPM. On April 26, the Board adopted a decision placing Weber's license on probation for five years, effective May 26. The probation decision followed the Board's nonadoption of the proposed decision of Administrative Law Judge Leslie H. Greenfield, who recommended dismissal of the accusation against Weber; and oral argument before the Board by counsel for Weber and the Attorney General's Office on February 5.

Weber operates three ambulatory surgical centers under the name "Doctor's Foot Care Center" in Los Angeles. In 1990, he was the subject of a civil prosecution by the Attorney General's Office for unfair business practices and false and misleading advertising. A stipulated judgment was en-

tered in the case, in which Weber and other defendants agreed to be bound by a series of permanent injunctions concerning numerous quality of care and billing practices; in addition, Weber was placed in a three-year monitoring and review program. BPM assisted the AG's Office in that matter, and was awarded \$420,000 to reimburse its investigative costs—at that time, the largest amount ever recovered by an administrative agency. [10:2&3 CRLR 109]

BPM's April 26 decision resulted from an accusation alleging gross negligence, repeated negligent acts, and incompetence in Weber's treatment of four separate patients. In the four cases, Weber performed bunionectomies involving osteotomies; his post-surgical treatment included strapping, taping, splinting, and placement of the foot in a firm-soled post-surgery shoe, and failed to include rigid internal fixation (e.g., the use of screws, wires or other devices to fix the opposite ends of cut bone together) or immobilization (casting). Further, he advised the patients to bear weight on the surgical sites immediately after surgery. Weber testified that he follows the practice guidelines of the Academy of Ambulatory Foot Surgery (AAFS). According to the decision, the AAFS is not a section of the American Board of Podiatric Surgery, and its guidelines are not nationally recognized; instead, the American College of Foot and Ankle Surgeons (ACFAS) publishes nationally recognized Preferred Practice Guidelines. Based upon expert testimony presented at the hearing, BPM found that the applicable community standard of care in California calls for internal fixation of the surgical sites, postoperative immobilization of the surgical sites, and instructions to the patients to refrain from weight bearing immediately after surgery. Essentially, BPM found that Weber's course of surgical and post-surgical treatment was incompetent and grossly negligent.

BPM revoked Weber's license, stayed the revocation, and placed his license on probation for five years under several terms and conditions, including the following: (1) within 60 days of the decision, Weber must enroll in the Physician Assessment and Clinical Education (PACE) program at the University of California at San Diego at his own expense, to undergo assessment and clinical training as recommended by PACE; (2) Weber must conform his practice standards to the Preferred Practice Guidelines established by ACFAS; (3) Weber must pay the Board's administrative costs associated with monitoring his probation agreement; and (4)

Weber must reimburse the Board for its investigative and administrative costs as determined by ALJ Greenfield upon remand. Finally, the order states that "[r]espondent is prohibited from practicing except under the following conditions: Within thirty (30) days of the effective date of this decision, respondent shall submit to the Board or its designee, and receive its prior approval, a plan of practice in which

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respondent's activities shall be monitored by one of the Board's podiatric medical consultants. The monitor shall provide podiatric reports to the Board."

On April 30, Weber filed a class action suit against the Board in the U.S. District Court for the Southern District of California. In *Weber v. Rathlesberger, et al.*, No. 99-CV-0900JM-RBB, Weber purports to represent all licensed podiatrists in the state, and alleges that BPM's disciplinary proceeding and order violate the civil rights of all California podiatrists by mandating that they "literally and blindly follow the Preferred Practice Guidelines published by the American College of Foot and Ankle Surgeons." Weber alleges that the defendants—including all Board members and Executive Officer Jim Rathlesberger—"spent several years and several thousand dollars" prosecuting him. He further contends that defendants "bear personal animosity" toward him, and that the Board's decision to nonadopt the ALJ's proposed decision is unlawful ("in contumacious disregard for the law") and was made in "secret meetings" in violation of the Bagley-

Keene Open Meeting Act. In addition to his civil rights act claim, Weber alleges causes of action based upon negligence, defamation, illegal restraint of trade, abuse of legal process, and tortious interference with prospective economic advantage. Weber seeks \$15 million in lost business revenue and loss of reputation, an order requiring the Board to withdraw its disciplinary decision, punitive damages, and attorneys' fees and costs. At this writing, the Attorney General's Office has not yet filed a responsive pleading on behalf of the Board.

RECENT MEETINGS

At its February 5 meeting, BPM elected Kenneth K. Phillips Jr., DPM, as its Vice-President. Dr. Phillips replaces former Vice-President Michael A. DiGiacomo, DPM, whose term expired. Public member Iva P. Greene continues to serve as Board President.

FUTURE MEETINGS

- November 5, 1999 in Los Angeles.

Board of Psychology

Executive Officer: Thomas O'Connor ♦ (916) 263-2699 ♦ Toll-Free Consumer Complaint Line: (800) 633-2322 ♦
Internet: www.dca.ca.gov/psych/

The Board of Psychology (BOP) regulates licensed psychologists, registered psychologists, and psychological assistants under Business and Professions Code section 2900 *et seq.* BOP sets standards for education and experience required for licensure, administers licensing examinations, issues licenses, promulgates rules of professional conduct, regulates the use of psychological assistants, investigates consumer complaints, and takes disciplinary action against licensees. BOP's regulations are located in Division 13.1, Title 16 of the California Code of Regulations (CCR).

BOP is a consumer protection agency located within the Department of Consumer Affairs (DCA). The Board is composed of nine members—five psychologists and four public members. Each member of the Board is appointed to a term of four years, and no member may serve for more than two consecutive terms.

On January 1, psychologist Pamela Harmell, Ph.D., and public member Lisa Kalustian were appointed to the Board.

MAJOR PROJECTS

Board Develops Proposed Revisions to Supervision Regulations

On March 5, BOP held a second informational hearing on its proposed overhaul of sections 1387–1387.5, Title 16 of the CCR, its supervised professional experience (SPE) regulations. [16:1 CRLR 82–83] Business and Professions Code section 2914(c) requires any applicant for a psychologist

license to complete two years (3,000 hours) of SPE "under the direction of a licensed psychologist, the specific requirements of which shall be defined by the board in its regulations." Sections 1387–1387.5 are detailed regulations which flesh out the precise parameters of the SPE requirement. For the past several months, BOP has been engaged in a project to substantially reorganize these regulations, and to amend several of their substantive provisions. The Board held an initial informational hearing on some of its proposed changes in November 1998. [16:1 CRLR 82–83]

In preparation for the March 5 hearing, Board staff prepared a revised draft of its proposed changes to the SPE regulations which incorporates suggestions made at the first informational hearing last November. The revised draft deletes two existing requirements that have caused some concern: (1) a requirement that primary supervisors of trainees have at least three years of post-licensure experience, and (2) a requirement that primary supervisors be onsite and available to trainees for at least 50% of the supervisee's work schedule ("a minimum of one-half time in the same work setting at the same time as the person supervised").

In place of the requirement that primary supervisors have three years of experience, the revised draft would require primary supervisors to have a current license in good standing; the supervisor would be required to notify the supervisee of

