LEGISLATION

The following is a status update on bills reported in detail in CRLR Vol. 14, Nos. 2 & 3 (Spring/Summer 1994) at pages 93–94:

SB 2036 (McCorquodale), as amended August 26, creates a "sunset" review process for occupational licensing boards within DCA, requiring each to be comprehensively reviewed every four years. SB 2036 imposes an initial "sunset" date of July 1, 1999 for the Board; creates a Joint Legislative Sunset Review Committee which will review the Board's performance approximately one year prior to its sunset date; and specifies 11 categories of criteria under which the Board's performance will be evaluated. Following review of the agency and a public hearing, the Committee will make recommendations to the legislature on whether the Board should be abolished, restructured, or redirected in terms of its statutory authority and priorities. The legislature may then either allow the sunset date to pass (in which case the Board would cease to exist and its powers and duties would transfer to DCA) or pass legislation extending the sunset date for another four years. This bill was signed by the Governor on September 26 (Chapter 908, Statutes of 1994).

AB 2943 (Hauser). Under existing law, the Board is required to adopt regulations requiring that licensees submit proof of continuing education as a condition of renewal of licensure. As amended June 29, this bill authorizes the Board to adopt regulations to require licensees to maintain current certification in cardiopulmonary resuscitation. *[14:2&3 CRLR 93; 12:2&3 CRLR 133]* This bill was signed by the Governor on September 15 (Chapter 578, Statutes of 1994).

SB 1399 (Lewis), as amended April 13, authorizes the Board, notwithstanding any other provision of law relating to optometry, to issue a certificate of registration to persons licensed in another state who meet certain other qualifications. This bill was signed by the Governor on August 31 (Chapter 403, Statutes of 1994).

The following bills died in committee: **AB 2020 (Isenberg)**, which would have, among other things, authorized optometrists to use specified diagnostic and therapeutic pharmaceutical agents; **AB 1894 (Polanco)**, which would have authorized ancillary personnel who work under the supervision of an optometrist to assist in the preparation of the patient and the preliminary collection of data that does not require the exercise of professional judgment or the skill of an optometrist; and **SB 908 (Calderon)**, which would have provided that the terms "license" and "certificate of registration" are deemed to be synonymous for the purposes of the provisions of law regarding the licensure and regulation of optometry.

LITIGATION

In compliance with the court's April 25 order in ***Engineers and Scientists of California (ESC), et al. v. Division of Allied Health Professions***, No. 532588 (Sacramento County Superior Court), the Medical Board published an August 19 notice in the *California Regulatory Notice Register* stating that section 1366(b)(4), Title 16 of the CCR, is invalid in its entirety. The section which permitted unlicensed medical assistants to perform "automated visual field testing, tonometry, or other simple or automated ophthalmic testing" under certain conditions, was invalidated by the court due to procedural irregularities in the rulemaking process. *[14:2&3 CRLR 94; 14:1 CRLR 72; 13:2&3 CRLR 100]* At the Board's August meeting, Executive Officer Karen Ollinger noted that the Medical Board plans to convene a factfinding session including optometry representatives before it redrafts that provision of its medical assistant regulations.

RECENT MEETINGS

At its August 18–19 meeting, the Board discussed IAB's creation of the Council on Optometric Practitioner Education (COPE), a centralized approval process for optometric continuing education (CE) courses. According to IAB, of which the Board is a member, COPE serves as a national clearinghouse for all CE courses on a statewide, regional, or national scope, and was created to eliminate duplicative efforts to approve CE courses by state boards, instructors, and program administrators. State boards do not have to pay a fee to participate in COPE, as it is an IAB service to its member state boards. At the meeting, the Board reviewed the materials provided by IAB explaining how COPE reviews and approves CE courses, criteria for course qualification, and criteria for administrator qualification, among other things. Following discussion, the Board unanimously agreed to utilize COPE for the approval of CE courses.

Also at the August meeting, the Board agreed to meet on October 14 in Monterey for a strategic planning meeting.

FUTURE MEETINGS

October 14 in Monterey
(strategic planning session).
December 1–2 in San Diego.

BOARD OF PHARMACY

Executive Officer: Patricia Harris
(916) 445-5014

Pursuant to Business and Professions Code section 4000 *et seq.*, the Board of Pharmacy grants licenses and permits to pharmacists, pharmacies, drug manufacturers, wholesalers, and sellers of hypodermic needles. It regulates all sales of dangerous drugs, controlled substances, and poisons. The Board is authorized to adopt regulations, which are codified in Division 17, Title 16 of the California Code of Regulations (CCR). To enforce its regulations, the Board employs full-time inspectors who investigate complaints received by the Board. Investigations may be conducted openly or covertly as the situation demands.

The Board conducts fact-finding and disciplinary hearings and is authorized by law to suspend or revoke licenses or permits for a variety of reasons, including professional misconduct and any acts substantially related to the practice of pharmacy.

The Board consists of ten members, three of whom are nonlicensees. The remaining members are pharmacists, five of whom must be active practitioners. All are appointed for four-year terms.

In January 1994, public member Herb Stoecklein resigned from the Board; at this writing, he has not yet been replaced.

MAJOR PROJECTS

Electronic Transmission of Prescriptions. AB 1807 (Bronshvag) (Chapter 26, Statutes of 1994) revised the definition of the term "prescription" to include prescriptions for controlled substances that are electronically transmitted; AB 1807 also amended Health and Safety Code section 11167.5 to provide that an order for a Schedule II controlled substance in a licensed skilled nursing facility, an intermediate care facility, or a licensed home health care agency providing hospice care may be dispensed upon an oral or electronically transmitted prescription, subject to specified conditions. *[14:2&3 CRLR 98]*

At its May 25–26 meeting, the Board reviewed draft regulatory language to implement AB 1807. Among other things, the proposed language would provide that, except as otherwise prohibited by law, prescriptions may be transmitted by electronic means from the prescriber to the pharmacy. An electronically transmitted prescription order must include the name and address of the prescriber, a phone number for verbal confirmation, date of

transmission, and the identity of the recipient, as well as other information required by state and federal law. An electronically transmitted prescription shall be transmitted only to the pharmacy of the patient's choice; the pharmacy receiving the electronic transmission must either receive or have the capacity to retrieve the prescription in hard copy form. The regulatory language also provides for an "interim storage device," which is an electronic file into which a prescription is entered for later retrieval by an authorized individual; any interim storage device shall, in addition to specified information, record and maintain the date of entry and/or receipt of the prescription order, date of transmission by the interim storage device, and identity of the recipient of such transmission. The interim storage device must be maintained to prevent unauthorized access and use of prescription information, including dispensing information. The proposed language would also require any person who transmits, maintains, or receives any prescription or prescription refill, orally, in writing, or electronically, to ensure the security, integrity, and confidentiality of the prescription and any information contained therein. The Board agreed to pursue this regulatory language; at this writing, however, notice of the Board's intent to adopt this proposal has not been published in the *California Regulatory Notice Register.*

Also at its May meeting, the Board noted that state and federal law may conflict on the issue of the electronic transmission of controlled substance prescriptions; the Board asked Deputy Attorney General William Marcus to analyze current law and present his findings to the Board. At the Board's July meeting, Marcus reported that federal law and state law are not currently consistent. In general, federal statutes and regulations require that a Schedule II prescription must be in writing and personally signed by the prescriber, except in an emergency. However, recent amendments to federal regulations, effective May 19, 1994, authorize the use of facsimile prescriptions for Schedule II controlled substances, provided the original written prescription is presented before the prescription is actually dispensed; those amendments also authorize the use of a facsimile prescription in lieu of a written prescription for home infusion/IV therapy for patients at home, in a hospice, or at a long-term care facility, or for patients in long-term care facilities where the drugs are delivered to the facility. According to Marcus, federal regulations do not currently recognize data electronic transmissions of Schedule II prescriptions, and do not authorize an oral prescription for a Schedule II substance except in an emergency.

Marcus further noted that California law generally requires a Schedule II prescription to be written on a triplicate form, except in an emergency or for patients of certain facilities under AB 1807. In an emergency, California law authorizes the use of an oral or electronically transmitted prescription in lieu of a physician's triplicate; alternatively, the physician may issue a written prescription on a non-triplicate form in an emergency. In either case, the pharmacist must reduce the prescription to writing and the physician must, within 72 hours, issue the usual triplicate to cover the drugs dispensed on an emergency basis. Also, as noted above, California law now authorizes an order for a Schedule II drug in a licensed skilled nursing facility, an intermediate care facility, or a licensed home health agency providing hospice care to be dispensed upon either an oral or electronically transmitted prescription, provided that it is reduced to writing on a pharmacy triplicate prior to dispensing; the physician need not sign this form, although the facility is required to provide the pharmacy with a copy of the original order.

At the July meeting, the Board discussed Marcus' findings, and raised additional questions stemming from the inconsistencies between federal and state law in this area; the Board will continue to address this matter at a future meeting.

Automation of the Triplicate Program. At its May 25–26 meeting, the Board agreed to contribute $136,506 to fund a study to develop a model for automating the triplicate prescription program for controlled substances. California law currently requires that Schedule II prescriptions be ordered on a triplicate form; the goal of the study is to identify a way to implement an automated statewide monitoring system for tracking controlled substances in order to replace and modernize the current paper-intensive triplicate system. At the meeting, Medical Board of California (MBC) Executive Director Dixon Arnett announced that MBC would contribute at least one-quarter of the study's cost; other interested boards are expected to eventually contribute to the cost as well.

At its May meeting, the Board also decided to form a steering committee to oversee the study; that committee held its first meeting on July 18. At the Board's July 29 meeting, Committee Chair Kent Wilcox reported on the study's progress; among other things, Wilcox estimated that the study would be complete by December 1.

Oral Consultation Regulations. At its July 28 meeting, the Board held a public hearing on its proposed amendments to section 1707.2, Title 16 of the CCR, which would apply the same requirements or standards for oral consultation to out-of-state pharmacies that ship, mail, or deliver prescriptions as are applied to in-state pharmacies. As proposed, the rule would provide that any resident or non-resident pharmacy that ships, mails, or delivers any controlled substances or dangerous drugs or devices shall make a reasonable attempt to contact the patient or his/her agent and provide oral consultation over the telephone. If the pharmacy is unable to provide oral consultation and further attempts would result in unnecessary delay in the patient receiving the medication, then the pharmacy shall document the attempts made to contact the patient or agent; ensure that the patient receives written notice of his/her right to consultation; provide the patient or agent with a written consultation that includes directions for use and storage and any precautions and relevant warnings; and provide written notice of a telephone number from which the patient may obtain oral consultation. *[14:2&3 CRLR 95]*

At the hearing, the Board considered comments received during the 45-day comment period as well as oral testimony and several articles discussing the matter. Those in favor of the regulation stated that standards of practice should be uniform wherever pharmacy is practiced and that the interests of patients are better served when they are informed about their prescriptions. Opponents argued that the regulation would impose unnecessary costs on mail order pharmacies without achieving much benefit, reduce the cost-effectiveness of mail order pharmacies by increasing costs to consumers, possibly compromise patient confidentiality, and excessively impact interstate commerce.

Following the discussion, the Board modified the proposed language to require that pharmacies make a reasonable attempt to contact the patient or patient's agent and provide oral consultation within twelve hours of anticipated receipt of the prescription. The modifications also define the terms "reasonable attempt," "patient's agent," "ancillary staff," and "automated dialing device"; permit ancillary staff or an automatic dialing device to initiate the telephone call, provided that the patient is clearly advised that a pharmacist is available to provide oral consultation; and require that all documentation of consultation and attempts to provide consultation be maintained and accessible for three years and provided to the Board upon request. The Board adopted the changes subject to these modifications, and released the re-

vised text for an additional 15-day comment period which ended on August 25. At this writing, the Board is scheduled to consider any new comments received during the comment period and to make any other necessary adjustments at its October meeting.

At its May and July meetings, the Board heard reports regarding the enforcement of its oral consultation regulations by Board inspectors. *[14:2&3 CRLR 94–95]* Board member Raffi Simonian explained that Board inspectors simply observe what is occurring in the pharmacy during inspections; if the pharmacist does not directly communicate with the patient when required, the pharmacist receives a violation notice. The Board will continue to hear reports on the enforcement of its oral consultation regulations at future meetings in order to ensure compliance.

Kaiser's Shot Card Policy. Also at the May meeting, the Board heard a presentation from the Kaiser Permanente Group regarding its shot card policy and modifications thereto made in response to a patient complaint lodged earlier this year. Shot cards are orders for injections, issued by a primary care physician, that may be used at various locations of the same health care entity; under a shot card program, a patient may receive injections from a registered nurse when needed. The modifications were spurred by a medical malpractice complaint against Kaiser in which the patient complained that she became addicted to Demerol by repeatedly using the shot card in her possession. The patient was often able to get more than six shots in six days of potent painkillers. In addition to making internal modifications to its shot card program, Kaiser also participated with the Medical Board, the Attorney General's Office, and the Board of Pharmacy in drafting legislation to require health care facilities to implement more stringent protocols and procedures when administering dangerous drugs via a shot card system (*see* LEGISLATION for a summary of AB 3260).

Kaiser's representatives described some of the changes and new strategies being pursued in its facilities to better protect patients and prevent possible abuse of the system. According to Kaiser, its policy is to minimize the use of shot cards; it now prohibits multiple injections via a single shot card, prohibits patients from personally transmitting a shot card order, and requires close monitoring of patient and drug records. Also, its existing immunization tracking system is being modified to become the core of a regionwide computerized master file to track injections and Kaiser is implementing a pilot program to test the system; the system would permit physicians throughout the region to access patient drug profiles. The Board stated that the new system is an improvement and noted that shot card programs must be carefully administered and monitored.

Rulemaking Update. The following is a status report on Board rulemaking proposals discussed in previous issues of the *Reporter*:

• At its May 26 meeting, the Board modified and adopted proposed new sections 1751.11 and 1751.12, Title 16 of the CCR. Section 1751.11 would establish a list of dangerous drugs which may be furnished by a pharmacist to a home health agency or licensed hospice and stored in transportable, tamper-proof, sealed storage containers, and create inventory and recordkeeping requirements for the pharmacy and home health agency or licensed hospice. Section 1751.12 would provide that a pharmacy shall not issue portable containers unless the home health agency or licensed hospice complies with the provisions of section 1751.11. *[14:2&3 CRLR 95–96; 14:1 CRLR 73; 13:4 CRLR 82]* The Board modified proposed section 1751.11 by increasing the allowable amounts of 0.9% sodium chloride and 5% dextrose in water injection from 500 milliliters to 1,000 milliliters. In late June, the Board released the modified language for the required 15-day comment period; at this writing, the rulemaking file awaits approval by the Department of Consumer Affairs (DCA) and the Office of Administrative Law (OAL).

• On May 26, the Board held a public hearing on its proposed amendments to section 1724, Title 16 of the CCR, which would provide that the California pharmacist licensure examination consists of two sections, one multiple choice and one essay, both of which must be passed; any candidate failing the multiple choice section shall be given a failing grade for the entire exam without regard to the essay section. As a result, candidates who fail the multiple choice section will not receive a score for the essay section and will be required to take the entire exam again. The purpose of this change is to streamline the examination and grading process by reducing the time and cost for expert graders and related travel expenses. Currently, the regulation provides that a candidate must achieve a score of 75 or more on each section of the exam, and that a candidate who receives less than 75 on one section may retake that one section only at the next scheduled examination. *[14:2&3 CRLR 96; 14:1 CRLR 74]*

At the hearing, the Board heard testimony from Dr. John Cronin of the California Pharmacists Association (CPhA) on behalf of pharmacy student members of the CPhA who were concerned about the regulation. The Board also discussed the value of giving a diagnostic report to the candidate in addition to a score, a provision that was not included in the language of the regulation but was mentioned in the Board's initial statement of reasons. After discussion, the Board adopted a revised version of the proposed regulation; as modified, section 1724 would provide that a score of 75 or more on both sections is required to pass the exam, and that a candidate who fails the multiple-choice section will be given a failing grade for the entire exam. The Board also determined that a diagnostic report will not be provided to an applicant. In late June, the Board released the modified language for the required 15-day comment period; at this writing, staff is preparing the rulemaking file for submission to DCA and OAL for review and approval.

• At its May 26 meeting, the Board again discussed its proposed citation and fine regulations; among other things, the proposed regulations would authorize the Executive Officer, a Board committee, and the Board's Northern and Southern Interim Committees to issue citations and fines. Following the Board's March meeting, at which time the Board unanimously agreed to the concept of a citation and fine program, the Board released the proposed language for an additional 15-day public comment period. *[14:2&3 CRLR 95; 14:1 CRLR 73]* At its May meeting, the Board heard testimony from representatives of the California Retailers Association's chain drug committee, who were critical of the proposed program. The Board also discussed the possibility of a written appeals process that would not require a licensee to take time off from work to appear before a committee; the effectiveness of using an appearance before a committee as a form of discipline; the possibility that pharmacists may refuse to pay a fine and appeal the decision, thereby causing greater delays; and the need to allow for extenuating circumstances which may affect compliance. The Board also discussed the probable benefits of the program, such as easier detection of fraudulent activity, the ability to discipline unlicensed individuals, an increased awareness regarding the seriousness of violations, and providing a means of cost recovery for inspectors' time through fines. Following discussion, the Board rejected the citation and fine program as proposed and established a committee to review the program in order to determine its necessity.

At its July 28 meeting, the Board continued its discussion, with some Board members expressing reservations about implementing a broad citation and fine program; instead, those members felt that the Board's citation and fine program should take a more narrow focus. Following discussion, the Board unanimously agreed to establish a citation and fine program that would authorize inspectors to cite and fine for unlicensed activity and for violations of the Board's oral consultation regulations; at this writing, notice of the new proposed language has not yet been published in the *California Regulatory Notice Register.*

LEGISLATION

SB 2101 (McCorquodale), as amended July 7, revises the requirements for renewal of a pharmacist's license. This bill was signed by the Governor on September 30 (Chapter 1275, Statutes of 1994).

AB 3260 (Bornstein), as amended August 24, authorizes health facilities, as defined, to establish and maintain injection card systems ("shot cards") for controlled substances that allow an outpatient to receive injections at the facility pursuant to a prior written order by a physician. It requires such facilities to develop a written protocol including certain information regarding the use of the injection card system prior to its implementation (*see* MAJOR PROJECTS). This bill was signed by the Governor on September 19 (Chapter 653, Statutes of 1994).

The following is a status update on bills reported in detail in CRLR Vol. 14, Nos. 2 & 3 (Spring/Summer 1994) at pages 96–98:

SB 2036 (McCorquodale), as amended August 26, creates a "sunset" review process for occupational licensing boards within DCA, requiring each to be comprehensively reviewed every four years. SB 2036 imposes an initial "sunset" date of July 1, 1998 for the Board; creates a Joint Legislative Sunset Review Committee which will review the Board's performance approximately one year prior to its sunset date; and specifies 11 categories of criteria under which the Board's performance will be evaluated. Following review of the agency and a public hearing, the Committee will make recommendations to the legislature on whether the Board should be abolished, restructured, or redirected in terms of its statutory authority and priorities. The legislature may then either allow the sunset date to pass (in which case the Board would cease to exist and its powers and duties would transfer to DCA) or pass legislation extending the sunset date for another four years. This bill was signed by the Governor on September 26 (Chapter 908, Statutes of 1994).

AB 2973 (Aguiar), as amended August 25, would have created a new certification program within the Board to regulate "veterinary food-animal retailers," defined as a place, other than a pharmacy, that holds a valid wholesaler certificate, license, permit, or registration, from which veterinary drugs for food-producing animals are dispensed pursuant to a prescription from a licensed veterinarian, and which is issued a permit for that location by the Board. Governor Wilson vetoed this bill on September 30. According to Wilson, the new licensure program should be self-supporting through the imposition of licensure and renewal fees; under the bill as written, Wilson contended that the estimated revenue that would be generated by those fees is substantially less than the costs associated with implementing the program.

AB 3173 (Snyder). Existing law permits pharmacists practicing in hospitals to perform four specified functions which may not be performed by pharmacists in non-hospital settings. As amended August 23, this bill would have provided that these four functions may also be performed by pharmacists as part of the care provided by certain unlicensed facilities operated by a health care service plan, or by a licensed clinic, a home health agency, or a provider who contracts with a licensed health care service plan in accordance with policies, procedures, or protocols of that facility, clinic, home health agency, or health care service plan developed by health professionals. Under the bill, the policies, procedures, or protocols must require that pharmacists may perform these functions only as part of a multidisciplinary group that includes physicians and surgeons and direct care registered nurses; and pharmacists who perform these functions must have certain training and experience prior to performing them. On September 30, Governor Wilson vetoed this bill, expressing concern over the provision which permits pharmacists to adjust a drug therapy in the home. According to Wilson, the major distinction between a home and a clinic is the presence of a physician; although AB 3173 attempted to ensure quality of care by requiring a physician to refer each patient to the pharmacist, and subjecting all medication management to physician-approved protocols, Wilson concluded that "these protocols cannot substitute for the physician."

SB 1759 (Kopp) is similar to AB 3173, but omits references to home health agencies (*see above*). As amended August 23, this bill provides that a registered pharmacist is not prohibited from performing the four specified functions as part of the care provided by certain unlicensed facilities operated by a health care service plan, a licensed clinic, or a provider who contracts with a licensed health care service plan, in accordance with policies, procedures, or protocols of that facility, clinic, or health care service plan developed by health professionals, provided that the pharmacist has successfully completed clinical residency training or demonstrated clinical experience in direct patient care delivery. It requires that these policies, procedures, or protocols include requirements that the medical records of the patient be available to both the patient's prescriber and the licensed pharmacist, that the procedures to be performed by a licensed physician relate to a condition for which the patient has already seen a physician, and that in certain instances the pharmacist function as part of a multidisciplinary group that includes physicians and direct care registered nurses. This bill was signed by the Governor on September 29 (Chapter 1161, Statutes of 1994).

AB 3388 (Harvey). Existing law provides that no provision of law shall be construed to prohibit a pharmacy from furnishing a prescription drug or device to a licensed health care facility for storage in a prescribed manner. As amended August 18, this bill requires that these supplies furnished by a pharmacy to licensed health facilities for storage in a prescribed manner be approved by the facility's patient care policy committee or pharmaceutical service committee and be readily available to each nursing station. Notwithstanding the Department of Health Services' (DHS) regulation at section 72377, Title 22 of the CCR, the bill provides that a total of 24 oral dosage form or suppository form drugs may be furnished by a pharmacy to certain health facilities as described above and provides that DHS may limit the number of doses of any separate drug dosage form in each emergency supply to four. *[14:2&3 CRLR 98; 14:1 CRLR 75]* This bill was signed by the Governor on September 28 (Chapter 1060, Statutes of 1994).

SB 1364 (Marks). Under existing law, controlled substances that are classified as Schedule I substances are not authorized to be used for legitimate medical purposes. As introduced February 1, this bill would have made legislative findings and declarations and provided that marijuana is deemed a Schedule II substance for use for legitimate medical purposes. This bill was vetoed by Governor Wilson on September 30; according to Wilson, the provisions of SB 1427 are preempted by fed-

eral controlled substances law, which prohibits the use of marijuana for medical reasons.

SB 1427 (Mello). Existing law authorizes a pharmacist, when filling a prescription drug order, to select another drug product with the same active chemical ingredients of the same strength, quantity, and dosage form, and of the same generic drug type, as defined, under certain circumstances. As amended May 16, this bill would have defined the term "dosage form" and authorized a pharmacist—notwithstanding that definition and except when the prescriber indicates no substitutions may be made—to substitute one drug product for another drug product if the drug products are classified as both pharmaceutically equivalent and therapeutically equivalent in the U.S. Food and Drug Administration's *Approved Drug Products with Therapeutic Equivalence Evaluations*. This bill was vetoed by Governor Wilson on September 15. According to Wilson, SB 1427 would have the practical effect of precluding pharmacists from substituting drugs that utilize different delivery mechanisms, even if such drugs have identical therapeutic outcomes; Wilson opined that such a result would increase the costs of drug prescriptions.

SB 1642 (Craven), as amended August 11, authorizes a licensed physician approved to supervise a physician assistant (PA) to delegate to a PA under his/her supervision, and in a manner determined by the supervising physician (SP), the authority to administer or provide medication to a patient or transmit a prescription from the SP to a person who may lawfully furnish the medication or medical device to the patient. It requires the SP, prior to delegating prescription transmittal authority to a PA, to adopt a written, practice-specific formulary and protocols that specify all criteria to be considered for use of a particular drug or device, and any contraindications for the drug or device. The bill requires any SP's prescription that is transmitted by the PA to be based on either the physician's order for the particular patient or for a drug listed in the formulary. It prohibits a PA from administering, providing, or transmitting a prescription for Schedule II through Schedule V controlled substances without an order from the SP. The bill imposes other requirements regarding the content of the prescription transmittal order. It provides that when transmitting a prescription the PA is acting on behalf of and as an agent for the SP.

Existing law authorizes a licensed pharmacist to dispense drugs or devices upon the order of a nurse practitioner with certain authority. This bill authorizes a licensed pharmacist to also dispense drugs or devices upon a transmittal order of a PA with certain authority. This bill was signed by the Governor on September 27 (Chapter 968, Statutes of 1994).

AB 2610 (Bronshvag), as amended May 27, would have established the Clean Needle and Syringe Exchange Program, and authorized pharmacists, physicians, and certain persons authorized under the pilot project to furnish hypodermic needles and syringes without a prescription or permit as prescribed through the program. On September 30, Governor Wilson vetoed this bill, questioning whether it is "worth reducing the risk of infection to intravenous drug users at the potential for greater cost of undermining all other preventive anti-drug efforts and suffering as a result an enormous increase in the number of young people who make a wrong choice that leads to an enormous increase in addicts."

SB 849 (Bergeson). Under the Pharmacy Law, a "hospital pharmacy" means and includes a pharmacy licensed by the Board of Pharmacy located within any hospital, institution, or establishment that maintains and operates organized inpatient facilities for the diagnosis, care, and treatment of human illnesses in accordance with certain requirements. Existing law requires DHS to issue a single consolidated license to a general acute care hospital that meets certain requirements. As amended May 11, this bill permits, under certain conditions, a hospital pharmacy to be located outside of the hospital in a physical plant that is regulated under a hospital's consolidated license. This bill was signed by the Governor on July 15 (Chapter 218, Statutes of 1994).

The following bills died in committee: **SB 2045 (Petris)**, which would have specified that a pharmacist is liable to a parent, guardian, or other legal custodian of a patient under the age of 14 years, if the pharmacist knows, or should know, this fact and the fact that the medication is to be administered by the parent, guardian, or other legal custodian and mislabels the dosage of a prescription medication or otherwise incorrectly fills or mislabels a prescription; **SB 2087 (Mello)**, which would have repealed a requirement that the Board adopt regulations that apply the same requirements or standards for oral consultation to an out-of-state pharmacy that ships, mails, or delivers controlled substances or dangerous drugs or devices to a resident of this state, as are applied to an in-state pharmacy when the pharmacy ships, mails, or delivers any controlled substances or dangerous drugs or devices to a resident of this state, and instead required any pharmacy, whether located in this state or outside this state, that ships, mails, or delivers a prescription medication to a resident of this state to provide a toll-free telephone service during normal business hours for patients to receive oral consultation from a pharmacist who has access to the patient's records; **SB 1048 (Watson)**, which would have established the Clean Needle and Syringe Exchange Pilot Project, and authorized pharmacists, physicians, and certain other persons to furnish hypodermic needles and syringes without a prescription or permit as prescribed through the pilot project; and **AB 2020 (Isenberg)**, which would have, among other things, authorized optometrists to use, prescribe, and dispense specified pharmaceutical compounds to a patient.

RECENT MEETINGS

At its May 25–26 meeting, the Board worked with facilitator Michael Dues to plan new strategies for the Board's future. The planning session produced a mission statement that describes the duties of the Board, a vision statement that defines the stakeholders in the Board's actions, and a set of "headlines" that reflect the Board's general goals.

Also at its May meeting, the Board heard a request from Dr. Eileen Goodis, president of Patient Care Pharmacy, for approval to perform a study with the USC School of Pharmacy on the use of an automated dispensing machine in long-term care settings; the goal of the study is to improve the delivery of medications in the long-term care setting while providing adequate review by a pharmacist. The Board determined that the matter falls under DHS' jurisdiction; however, the Board agreed to write a letter to DHS supporting and requesting approval for the study.

Also at its May meeting, the Board elected Janeen McBride to serve as President, Marilyn Shreve to serve as Vice-President, and Kent Wilcox to serve as Treasurer. The Board also created the office of parliamentarian, to be filled by the outgoing Board President.

At its July 27–28 meeting, the Board discussed the issue of prescription drug sample distribution in order to compare federal and California law on the issue. Deputy Attorney General William Marcus submitted an analysis which determined that state and federal law permits samples to be furnished to a hospital pharmacy or other health care entity by a drug manufacturer only at the written request of a licensed practitioner and according to specific distribution requirements. Federal

law goes further, however, to establish additional requirements for storage, distribution, and annual audits; there are also pending changes in federal statutes and regulations that would ban the practice of furnishing samples to physicians and other health care providers and restrict a community pharmacy from possessing drug samples. The Board agreed to continue its discussion of this topic at a future meeting.

Also in July, the Board approved a budget change proposal to finance a public education program to inform consumers about the benefits associated with the new oral consultation opportunity. The Board hopes to reach consumers about the pharmacist consultation program through editorials, television and radio announcements, and by serving as a resource to statewide media.

FUTURE MEETINGS

October 24–25 in Sacramento.
January 25–26, 1995 in Los Angeles.
March 29–30, 1995 in Sacramento.
May 24–25, 1995 in Sacramento.
July 26–27, 1995 in San Diego.
October 25–26, 1995 in San Francisco.

BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Executive Officer:
Harold L. Turner
(916) 263-2222

The Board of Registration for Professional Engineers and Land Surveyors (PELS) regulates the practice of engineering and land surveying through its administration of the Professional Engineers Act, sections 6700 through 6799 of the Business and Professions Code, and the Professional Land Surveyors Act, sections 8700 through 8806 of the Business and Professions Code. The Board's regulations are found in Division 5, Title 16 of the California Code of Regulations (CCR), sections 400 through 471.

The basic functions of the Board are to conduct examinations, issue certificates, registrations, and/or licenses, and appropriately channel complaints against registrants/licensees. The Board is additionally empowered to suspend or revoke registrations/licenses. The Board considers the proposed decisions of administrative law judges who hear appeals of applicants who are denied a registration/license, and those who have had their registration/license suspended or revoked for violations.

The Board consists of thirteen members: seven public members, one licensed land surveyor, four registered Practice Act engineers and one Title Act engineer. The Governor appoints eleven of the members for four-year terms that expire on a staggered basis. Additionally, both the Assembly Speaker and the Senate Rules Committee appoint one public member each.

The Board has established four standing committees and appoints other special committees as needed. The four standing committees are Administration, Enforcement, Examination/Qualifications, and Legislation. Committees function in an advisory capacity unless specifically authorized by the Board to make binding decisions.

Professional engineers are registered through the three Practice Act categories of civil, electrical, and mechanical engineering under section 6730 of the Business and Professions Code. Land surveyors, another Practice Act category, are registered through section 8725 of the Business and Professions Code. The Title Act categories of agricultural, chemical, control system, corrosion, fire protection, industrial, manufacturing, metallurgical, nuclear, petroleum, quality, safety, and traffic engineering are registered under section 6732 of the Business and Professions Code.

Structural engineering and geotechnical engineering are "title authorities" linked to the civil Practice Act and require an additional examination after qualification as a civil engineer.

During the summer, Governor Wilson appointed public members Eugenie Thomson and Chip Mamiya to the Board. Thomson is president of Thomson Transportation Engineers, Inc. in Alameda, and Mamiya is regional sales manager of Barclays American Mortgage Corporation in Los Angeles. They attended their first Board meetings on July 8 and August 19, respectively.

MAJOR PROJECTS

Strategic Planning Process Update. In response to criticism levied at PELS during the November 1993 oversight hearing conducted by the Senate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions, the Board has been formulating a "strategic plan" designed to clarify its role, functions, and constituencies. *[14:2&3 CRLR 99]* To that end, PELS adopted the following mission statement at its June 17 meeting: "The mission of the Board of Registration for Professional Engineers and Land Surveyors is to safeguard the life, health, property, and public welfare by regulating the practice of professional engineering and professional land surveying. We qualify and license individuals; establish regulations; enforce laws and regulations; [and] provide information so that the public can make informed decisions." PELS also adopted a "vision statement" of its future goals, which states as follows: PELS assures that qualified applicants are licensed as quickly as possible; registrants maintain continuing competency; disputes are resolved for consumers and registrants promptly and impartially; adequate information is available to all through a high-profile comprehensive information program; violations of the law are discouraged before they happen and are investigated and adjudicated promptly when committed; the Board is managed strategically and its budget is performance-based; legislative changes are approached proactively; its performance is measured against defined standards and it periodically evaluates its programs and policies in light of emerging trends, practices, and technologies; the professional engineering and professional land surveying laws and regulations are clear, relevant, unambiguous, and functional; and PELS attracts highly competent staff who contribute to the integral success of the Board, and maintains a work environment where employees are satisfied and productive because they feel valued and challenged.

Also at its June meeting, the Board approved a preliminary schedule to adopt the final version of its strategic plan by March 1995; the strategic plan will lay out a process that identifies issues and major activities and directs them to the appropriate standing Board committees for further investigation. At its September 9 meeting, PELS established the following issues and major activities to be explored in conjunction with the formulation of the strategic plan: operational support systems, regulation modernization, consumer and public communications, emergency preparedness, mechanized testing, code of ethics, continuing competency, and the North American Free Trade Agreement. The Board directed its various committees to discuss the topics applicable to them, and submit an analysis of each topic for use in the strategic plan at PELS' November 18 meeting.

One major goal which the Board hopes to accomplish through its strategic planning process is a comprehensive overhaul of the Professional Engineers Act, the Board's regulations in Title 16 of the CCR, and the way the state of California licenses