



boards in March 1990. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 117-18 for background information.)

FUTURE MEETINGS:

April 10 in Sacramento.
June 5 in San Diego.
July 31 in Sacramento.

BOARD OF REGISTERED NURSING

Executive Officer: Catherine Puri
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Pursuant to the Nursing Practice Act, Business and Professions Code section 2700, *et seq.*, the Board of Registered Nursing (BRN) licenses qualified RNs, certifies qualified nurse midwifery applicants, establishes accreditation requirements for California nursing schools, and reviews nursing school curricula. A major Board responsibility involves taking disciplinary action against licensed RNs. BRN's regulations implementing the Nursing Practice Act are codified in Division 14, Title 16 of the California Code of Regulations (CCR).

The nine-member Board consists of three public members, three registered nurses actively engaged in patient care, one licensed RN administrator of a nursing service, one nurse educator, and one licensed physician. All serve four-year terms.

The Board is financed by licensing fees, and receives no allocation from the general fund. The Board is currently staffed by 60 people.

MAJOR PROJECTS:

Proposed Regulatory Action. In August, BRN announced its intention to amend section 1443.5(4), Division 14, Title 16 of the CCR, to authorize RNs to assign nursing tasks according to a specific protocol to subordinates, including unlicensed personnel. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 106 and Vol. 11, No. 1 (Winter 1991) p. 87 for background information.) Although the registered nurse would be able to assign tasks to a subordinate, he/she would retain responsibility for the tasks assigned. Pursuant to BRN's proposed language, the specific protocol would be "a written plan developed by a registered nurse(s) including but not limited to: the nursing task to be assigned; circumstances under which the registered nurse may assign the task; the registered nurse's initial and ongoing assessment of the patient; degree of registered nurse supervision required; education and training required to prepare the sub-

ordinate to safely and competently perform the task; the method of initial and ongoing evaluation of the subordinate in the performance of the task; signs and symptoms for which the registered nurse must be notified." Public hearings on the proposed revisions began on September 25 and were scheduled to continue through October 16.

Computer Adaptive Testing. The National Council of State Boards of Nursing (NCSBN), the national organization which provides the standardized licensing examination for registered nurses (NCLEX-RN), has agreed to implement computer adaptive testing (CAT) as the only test available in all states at the same time as early as November 1993. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 106 and Vol. 10, No. 1 (Winter 1990) p. 93 for background information.) At its September meeting, BRN discussed the magnitude of the project, and is requesting that NCSBN reanalyze its data and push back its proposed date of program implementation. The Board also discussed the need to introduce legislation to modify existing law concerning BRN's written exams to reflect the new CAT system.

English as a Second Language Issue. On April 30, BRN submitted a resolution to NCSBN, requesting that NCSBN conduct a study to determine whether the time allotted to complete the NCLEX-RN is a factor in a candidate's performance and, if so, whether it is a more significant factor for students who speak English as a second language (ESL) than for native English-speaking candidates. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 106 for background information.) At its September meeting, BRN announced that it was successful in its request, and that the study's results will be presented at the NCLEX Delegate Assembly in August 1992. The Board may continue to request that the time allowed per item on the NCLEX-RN be increased as necessary for all candidates so that time is not a barrier to success on the exam.

BRN Revises Nurse-Midwifery Advisory Committee. At its September meeting, the Board unanimously approved changes to its Nurse-Midwifery Advisory Committee (NMWAC), which is appointed to advise the Board on matters relating to nurse-midwifery, develop standards related to educational requirements, and provide such assistance as may be required in the evaluation of applications for nurse-midwifery certification. The Board increased the number of committee members from five to nine (six certified nurse-midwives, one physician, one RN, and one public mem-

ber), and increased the term served from two to three years; term expiration dates will be staggered to ensure continuity. The Board believes that allowing members to serve for a period of three years will enable NMWAC to remain consistent in its approach to midwifery issues.

Recommended Guidelines for Disciplinary Orders and Conditions for Probation. At its July meeting, the Board was presented with the Diversion-Discipline Committee's recommended Guidelines for Disciplinary Orders and Conditions of Probation. According to BRN, these guidelines are intended to protect the consumer of nursing services from the unsafe, incompetent, and/or negligent registered nurse. These guidelines provide that if at the time of the disciplinary hearing the administrative law judge finds that the respondent for any reason is not capable of safe practice, the Board favors revocation of the license. If the respondent demonstrates the capacity to practice safe nursing, a stayed revocation order with probation is recommended. Suspension of a license may also be appropriate where the public may be better protected if the RN's practice is suspended in order to correct deficiencies in skills, education, or personal rehabilitation. At its July meeting, BRN discussed additional revisions to be made to the guidelines. At its September meeting, the Board approved the guidelines.

Diversion-Discipline Committee Enforcement Program Goals. At its September meeting, the Board agreed that the goal of its Diversion-Discipline Committee is to ensure consumer protection by restricting, monitoring, and rehabilitating the practice of registered nurses who have violated the Nursing Practice Act and related laws. The Committee will attempt to achieve this goal by exploring options and developing a plan for more timely action on disciplinary matters; reviewing and approving a plan for implementation of SB 2335 (Montoya) (Chapter 1379, Statutes of 1986), which authorized the Board to promulgate regulations for the issuance of citations or fines for violations of the Nursing Practice Act and BRN's regulations; reviewing and approving a plan for the use and payment of expert witnesses; increasing the level of monitoring of RNs who are on probation; updating and developing written policies and procedures for the enforcement program; conducting a study to evaluate the quality and cost-effectiveness of investigative reports and techniques; and completing a joint Enforcement/Diversion statistical and analytical study of RNs to identify,



REGULATORY AGENCY ACTION

compare, and quantify pertinent program information.

Also in September, BRN Enforcement Manager Sonja Merold presented a summary of the Board's disciplinary statistics during fiscal year 1990-91, which ended on June 30, 1991. During that period, BRN received 781 complaints, opened 539 investigations against licensees and 73 investigations against unlicensed individuals, filed 104 accusations (formal disciplinary charges), revoked 61 licenses, and formally disciplined 38 other individuals (37 of whom were given straight probation). In addition, the Board referred 92 cases to prosecutors for criminal action and referred 96 cases to its Diversion Program for substance-abusing RNs.

LEGISLATION:

SB 1070 (Thompson), as amended September 9, requires the Department of Health Services to promulgate guidelines and regulations to minimize the risk of transmission of blood-borne infectious diseases in the health care setting by January 1993. It further requires BRN, in addition to the Board of Dental Examiners, the Medical Board of California, and the Board of Vocational Nurse and Psychiatric Technician Examiners, to seek to ensure that licentiates and others regulated by the agencies are informed of their responsibility to minimize the risk of transmission of blood-borne infectious diseases from health care provider to patient, from patient to patient, and from patient to health care provider, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission. This bill was signed by the Governor on October 14 (Chapter 1180, Statutes of 1991).

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at page 107:

AB 1224 (Hunter), as amended August 20, requires that services provided by a certified nurse practitioner shall be covered under the Medi-Cal program to the extent mandated by federal law, and authorizes independent billing by specified certified nurse practitioners. This bill was signed by the Governor on October 7 (Chapter 702, Statutes of 1991).

AB 485 (Hunter). As amended July 1, this BRN-sponsored bill, among other things, increases and revises the fee schedules for RN licenses and nurse-midwife certificates, and authorizes BRN to fix a new fee to be paid for applications by RNs for licensure by endorsement. This bill was signed by the Governor on August 29 (Chapter 352, Statutes of 1991).

AB 1350 (Vasconcellos), as amended September 6, permits certified nurse-midwives to furnish drugs and devices under prescribed conditions, and requires BRN to charge a certified nurse-midwife a fee to cover the costs associated with issuing a number to be included on all orders for drugs or devices furnished by the midwife. This bill also requires every policy of disability insurance and nonprofit hospital service plan contract issued, amended, or renewed on or after January 1, 1992, that offers coverage for perinatal services to contain a provision providing for direct reimbursement to certified nurse-midwives and nurse practitioners for perinatal services. This bill was signed by the Governor on October 11 (Chapter 870, Statutes of 1991).

SB 54 (Lockyer), as amended August 26, would have provided that any disease, illness, syndrome, or condition requiring treatment pursuant to prescribed provisions resulting from blood-borne pathogens which occurs, develops, or manifests itself in certain health care workers shall constitute an injury presumed to arise out of and in the course of employment for workers' compensation purposes; this rebuttable presumption would have applied only if the worker consents to an HIV or hepatitis B test within 100 hours of the potential exposure. This bill was vetoed by the Governor on October 12.

SB 664 (Calderon), as introduced March 5, would prohibit RNs, among others, from charging, billing, or otherwise soliciting payment from any patient, client, customer, or third-party payor for any clinical laboratory test or service if the test or service was not actually rendered by that person or under his/her direct supervision, except as specified. This two-year bill is pending in the Senate Business and Professions Committee.

AB 819 (Speier). Existing law provides that it is not unlawful for prescribed health professionals to refer a person to a laboratory, pharmacy, clinic, or health care facility solely because the licensee has a proprietary interest or coownership in the facility. As introduced February 27, this bill would instead provide that, subject to specified exceptions, it is unlawful for these licensed health professionals to refer a person to any laboratory, pharmacy, clinic, or health care facility which is owned in whole or in part by the licensee or in which the licensee has a proprietary interest; the bill would also provide that disclosure of the ownership or proprietary interest would not exempt the licensee from the prohibi-

tion. This two-year bill is pending in the Assembly Health Committee.

SB 1190 (Killea), as amended July 17, would enact the Licensed Midwifery Practice Act of 1991, establishing a seven-member Licensed Midwifery Examining Committee within the Medical Board's Division of Allied Health Professions. This two-year bill is pending in the Senate Appropriations Committee.

AB 14 (Margolin), as amended June 19, would enact the Health Insurance Act of 1991 for the purpose of ensuring basic health care coverage for all persons in California. This two-year bill is pending in the Senate Rules Committee.

AB 95 (Friedman), as amended May 15, would prohibit, except in emergency situations, a long-term health care facility from using a physical restraint on a resident unless the facility has obtained the informed consent of the patient, as specified. This two-year bill, which is pending in the Assembly Ways and Means Committee, is supported in concept by BRN.

AB 127 (Frizzelle), as amended June 25, would require the California Commission on Health Care Policy and Financing to establish a cost-effective ranking within surgical, medical, and preventive health care procedures or courses of treatment, and to report its findings to the legislature no later than January 1, 1993. This two-year bill is pending in the Senate Health and Human Services Committee.

AB 2186 (Floyd), as amended June 19, would require the legislature to establish a Task Force on Registered Nursing to develop recommendations on effectively utilizing RNs in state government. This two-year bill is pending in the Senate Business and Professions Committee.

RECENT MEETINGS:

At its September 27 meeting in Bakersfield, the Board reviewed the results of a study conducted by MGT Consultants regarding BRN's staffing needs. The study concluded that the Board is severely understaffed in its Licensing/Renewals Unit. For example, MGT found backlogs of six to ten weeks in processing applications. As a result of the study, the Board submitted a budget change proposal (BCP) requesting that 34.5 permanent positions be added to the Board staff and that additional part-time or limited-term staff be provided on a temporary basis. At this writing, BRN is awaiting approval of the BCP by the Department of Finance.

Also at its September meeting, the Board voted against approving a con-



tinuing education course for RNs which would prepare them to practice dermatology, a procedure involving the penetration of skin to introduce pigmentation into the upper layer of the dermis to provide permanent cosmetic make-up and camouflaging of skin problems such as scarring. According to Department of Consumer Affairs legal counsel Gregory Gorges, such a procedure, in many cases, would constitute the practice of medicine. Based on staff's conclusion that dermatology is not within the scope of RN practice, the Board agreed that the proposed course would not meet the requirements for continuing education courses specified in section 1456, Title 16 of the CCR.

FUTURE MEETINGS:

January 23-24 in Los Angeles.

March 26-27 in Sacramento.

May 28-29 in San Diego.

BOARD OF CERTIFIED SHORTHAND REPORTERS

Executive Officer: Richard Black
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The Board of Certified Shorthand Reporters (BCSR) is authorized pursuant to Business and Professions Code section 8000 *et seq.* The Board's regulations are found in Division 24, Title 16 of the California Code of Regulations (CCR).

BCSR licenses and disciplines shorthand reporters; recognizes court reporting schools; and administers the Transcript Reimbursement Fund, which provides shorthand reporting services to low-income litigants otherwise unable to afford such services.

The Board consists of five members—three public and two from the industry—who serve four-year terms. The two industry members must have been actively engaged as shorthand reporters in California for at least five years immediately preceding their appointment.

MAJOR PROJECTS:

OAL Rejects Proposed Rulemaking.

On July 31, BCSR submitted proposed new sections 2480 and 2481, Title 16 of the CCR, for review and approval by Office of Administrative Law (OAL). The sections would implement a citation and fine program to remedy consumer complaints and discipline licensees. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 108; Vol. 11, No. 2 (Spring 1991) p. 105; and Vol. 11, No. 1 (Winter 1991) p. 87 for background information.) On August 23, OAL rejected the

proposed sections, based on its findings that the provisions fail to comply with the Administrative Procedure Act's standards of necessity, clarity, and authority as stated in Government Code section 11349.1, and for failure to include all the required documents in the rulemaking file. BCSR plans to correct these deficiencies and resubmit the proposed rules to OAL.

Update on Other Regulatory Changes. On August 30, OAL approved BCSR's adoption of new sections 2407, 2408, and 2409, Title 16 of the CCR. These sections specify BCSR's processing times for considering and issuing permits pursuant to the Permit Reform Act of 1981. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 108; Vol. 11, No. 2 (Spring 1991) pp. 104-05; and Vol. 11, No. 1 (Winter 1991) p. 87 for background information.)

The Board still has not commenced the formal regulatory process to revise its school curriculum regulations. At its August 24 meeting, BCSR provided an opportunity for further suggestions regarding changes to section 2411, Title 16 of the CCR; no suggestions were made. The Board hoped to publish the proposed revisions by the end of the year.

BCSR Budget Problems. The Board is experiencing budget problems, even though it ended fiscal year 1990-91 close to budget. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 107 for background information.) The Board may seek to supplement its 1991-92 budget by requesting an augmentation from the Department of Finance. Although the Board has no plans at this time to increase licensing fees to alleviate its budget problems, it expects to review this possibility around the first of the year.

LEGISLATION:

AB 2002 (Horcher), as amended June 20, makes numerous changes in BCSR's enabling act. Among other things, this bill provides that all BCSR certificates expire on the last day of the birth month of the licensee, instead of on April 30 of each year; provides that gross negligence or incompetence in practice are grounds for discipline or denial of certification; and sets forth additional grounds for discipline or denial of certification, including physical or mental incapacity to perform the duties of a CSR. This bill was signed by the Governor on October 14 (Chapter 1097, Statutes of 1991).

RECENT MEETINGS:

At BCSR's August 24 meeting, Jim Conran, new Director of the Depart-

ment of Consumer Affairs, and Karen McGagin, Special Assistant to the Director, were in attendance. Mr. Conran commented that he wants BCSR to be a proactive rather than a reactive board.

Also at the August meeting, the Board stated that volunteers are needed to write new items for its test bank; the Board will solicit both professional licensees and shorthand reporting school employees to write test items.

Also at its August 24 meeting, the Board agreed to grant full recognition to San Diego City College and provisional recognition to Humphrey's College in Sacramento and Watterson College Pacific in San Marcos. Provisional recognition allows a school to operate for three years. Within the three-year period, the school must pass at least one individual through its program; if that individual passes BCSR's licensing exam, the school is eligible for full recognition.

FUTURE MEETINGS:

February 22 (location undecided).

May 7 (location undecided).

STRUCTURAL PEST CONTROL BOARD

Registrar: Mary Lynn Ferreira
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The Structural Pest Control Board (SPCB) is a seven-member board functioning within the Department of Consumer Affairs. The SPCB is comprised of four public and three industry representatives. SPCB's enabling statute is Business and Professions Code section 8500 *et seq.*; its regulations are codified in Division 19, Title 16 of the California Code of Regulations (CCR).

SPCB licenses structural pest control operators and their field representatives. Field representatives are allowed to work only for licensed operators and are limited to soliciting business for that operator. Each structural pest control firm is required to have at least one licensed operator, regardless of the number of branches the firm operates. A licensed field representative may also hold an operator's license.

Licensees are classified as: (1) Branch 1, Fumigation, the control of household and wood-destroying pests by fumigants (tenting); (2) Branch 2, General Pest, the control of general pests without fumigants; (3) Branch 3, Termite, the control of wood-destroying organisms with insecticides, but not with the use of fumigants, and including authority to perform structural repairs and corrections; and (4) Branch