



FUTURE MEETINGS:

September 13-14 in Sacramento.

BOARD OF VOCATIONAL NURSE AND PSYCHIATRIC TECHNICIAN EXAMINERS

*Executive Officer: Billie Haynes
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This agency regulates two professions: vocational nurses and psychiatric technicians. Its general purpose is to administer and enforce the provisions of Chapters 6.5 and 10, Division 2, of the Business and Professions Code. A licensed practitioner is referred to as either an "LVN" or a "psych tech."

The Board consists of five public members, three LVNs, two psych techs, and one LVN with an administrative or teaching background. At least one of the Board's LVNs must have had at least three years' experience working in skilled nursing facilities.

The Board's authority vests under the Department of Consumer Affairs as an arm of the executive branch. It licenses prospective practitioners, conducts and sets standards for licensing examinations, and has the authority to grant adjudicatory hearings. Certain provisions allow the Board to revoke or reinstate licenses. The Board is authorized to adopt regulations, which are codified in Chapter 25, Title 16 of the California Code of Regulations (CCR). The Board currently licenses approximately 65,795 LVNs with active licenses, 27,000 LVNs with delinquent active licenses, and 11,000 LVNs with inactive licenses, for a total LVN population of 103,795. The Board's psych tech population includes 13,400 with active licenses and 4,000 with delinquent and inactive licenses, for a total of 17,400 psych tech practitioners.

Current Board members include Kathleen Fazzini Barr, LVN (President), E. Charles Connor (Vice-President), Frances Junilla, LVN, Gwendolyn Hinchey, RN, Bruce Hines, PT, Kenneth G. Audibert, PT, and public members Betty Fenton, Patricia A. Lang, Helen Lee, and Manuel Val. Charles L. Bennett, the Board's newest appointee, was sworn in during the Board's May 11 meeting. Bennett is an LVN and a medical-technical assistant for the state Department of Corrections. His term will expire on June 1, 1991.

MAJOR PROJECTS:

Fee Increase Legislation. Debbie Ochoa, budget analyst for the Department of Consumer Affairs

(DCA), presented a detailed packet delineating eight separate fee structures, as well as the impact that each would have on the Vocational Nurse Fund, to the Board during its January 19 meeting. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 99 and Vol. 9, No. 4 (Fall 1989) p. 85 for background information.) After careful scrutiny and discussion, the Board decided to pursue legislation to increase LVN fees. (See *infra* LEGISLATION.)

Management Study Completed. The accounting firm of Ernst and Young has completed its management study of the Board. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 96 for background information.) Among its recommendations are the following: 43.8 staff positions are needed; the PT and LVN components of the Board should be separate organizational units; task completion standards should be devised for all clerical staff; an improved telephone system is needed; and a manager should be hired to oversee the functioning of the PT organizational unit of the Board. The Board plans to use the recommendations to validate its budget change proposals.

Computer Aided Testing Rated Successful. In April, the first computerized testing sessions for PTs were completed in Los Angeles and Sacramento. To ensure accuracy of results, the first 386 exams will be analyzed by McGraw Hill. This first cycle of testing was scheduled to be completed by June 1. With this review completed, the Board will be able to give students immediate computerized results as of the July 1 testing sessions. The students have thus far expressed a satisfaction rate of 99%. At present, eight tests can be administered per day in Los Angeles and six per day in Sacramento, including morning and afternoon sessions at each facility. The problems noted to date are the need for more computers at each site to enable more tests to be given per day, more proctors for the testing centers, and "down" time for the computers to facilitate proper maintenance of the units.

Privacy Interest of Licensees. By law, all licensing boards are required to surrender the name, license number, and address of record to anyone who requests it. As a result, LVN and PT licensees receive mail with their license numbers exposed to the public, and have expressed concern to the Board in regard to their personal safety as well as the potential for fraudulent use of such information. After discussion with legal counsel, the Board plans to contact the Board of Registered Nursing in pursuit of sponsoring joint legislation during the

1991 legislative sessions, to protect the privacy interest that a licensee has in his/her address of record, as well as the license number itself.

LEGISLATION:

AB 4349 (Filante), as amended June 4, would amend sections 2892.6 and 2895 of the Business and Professions Code, increasing the fees relating to the practice of vocational nursing, and adding fees for a duplicate license and for endorsement of a license. The bill would also require the Auditor General to review and report to the legislature by January 1, 1993, concerning the operation of the Board. This bill is pending in the Senate Business and Professions Committee.

AB 3306 (Lancaster), as amended April 4, would affect LVN applicants by increasing the education requirement to twelfth grade. This bill is pending in the Senate Business and Professions Committee.

SB 2481 (Hart), as amended April 30, would prohibit any person or public agency from operating, conducting, or maintaining a temporary nursing service, after January 1, 1992, unless it has applied for and been approved by the state Department of Health Services (DHS). The bill would also specify procedures for the annual registration of temporary nursing services, specify standards an applicant would be required to satisfy to be approved by DHS, and require DHS to establish a fee for the initial registration and renewal of a registration. Unlicensed individuals placed as nurse assistants in skilled nursing facilities would have to complete specified requirements for certification as a nurse assistant within six months from the date of employment with the temporary nursing service. The bill would prohibit a health facility from using unregistered services; require the facility to maintain a list of temporary nursing services it utilizes; and require the facility to perform certain duties with regard to nursing personnel which it utilizes. Under the bill, DHS would be authorized to periodically inspect temporary nursing services, and to deny any initial application or renewal application or suspend or revoke any registration which it has approved, for specified reasons. The bill would also disclaim authority of DHS to determine the scope of practice of RNs or LVNs, or to relieve a licensed health facility of its responsibilities for patient care under existing law. Any person in violation of these provisions shall be guilty of a misdemeanor. This bill is pending in the Assembly Health Committee.



REGULATORY AGENCY ACTION

SB 2509 (Lockyer), as amended May 1, would provide 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 to arise out of and in the course of employment for workers' compensation purposes. This bill is pending in the Assembly Finance and Insurance Committee.

RECENT MEETINGS:

During the May 11 Board meeting, staff announced that six of the eleven vacancies in Board staff positions have been filled. In addition, two new staff positions—Assistant Executive Officer and Area Supervisor—were announced, both of which have been filled.

The role of the LVN in the private doctor's office was discussed in conjunction with an incident surrounding a physician in the private sector who encouraged LVNs to perform procedures on patients

which were outside the LVN's scope of practice and could cause irreparable harm. LVNs were admonished by the Board to stop such practices or face suspension of their licenses.

The President of the California Association of Psychiatric Technicians addressed the Board as to the concern of his constituents that their fees might also be raised. The Board responded that it actually has little control over its budget, and that DCA tells it when a fee increase is warranted. Since the Board has not been told to increase PT fees, it has no plans to do so at the present time.

During the May 11 Board meeting, it was announced that the summer July meeting would not be held. The Board will assess the impact of this decision at its September meeting, and determine whether this will be a permanent schedule change.

FUTURE MEETINGS:

September 21 in San Diego.
November 16 in Los Angeles.

signatures to the Secretary of State, in hopes of qualifying the measure for the November ballot. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 100 for background information.) The so-called "nickel-a-drink" initiative, authored by Assemblymember Lloyd Connelly, would raise the tax on wine (which has not been raised in fifty years) from one cent per gallon to \$1.29; the beer tax from four cents per gallon to 57.3 cents; and the tax on hard liquor from \$2 per gallon to \$8.40. This initiative would raise more than \$700 million per year, and allocate it to programs designed to treat social problems caused by alcohol, including emergency and trauma care; programs for the prevention and treatment of alcohol abuse; law enforcement; community mental health programs; and services for innocent victims of alcohol abuse, particularly infants and children. The measure later qualified easily and will appear as Proposition 134 on the November ballot.

The alcohol industry vociferously opposes the measure, and has sponsored its own measure, ACA 48 (Cortese), which would also raise alcohol taxes, but not nearly to the levels in Proposition 134. The industry's measure would raise beer and wine taxes to twenty cents per gallon, \$3.30 per gallon for liquor of 100 proof or less, and \$6.60 per gallon for liquor that is more than 100 proof. This proposal would raise \$200 million per year, all of which would go unearmarked into the state's general fund.

In early June, the Senate passed ACA 48 easily, and sent it to the Assembly. On June 25, the Assembly passed the measure by 26-19 vote—but far short of the two-thirds majority (54 votes) needed. The industry went to work, lobbying the Assembly with unprecedented intensity. On reconsideration only three days later, and with the strong support of Assembly Speaker Willie Brown and all but two Republicans, ACA 48 barely passed by a 54-18 vote, thus placing it on the November ballot as Proposition 126.

The industry also supports another initiative which—if enacted in November—would likely override both Propositions 134 and 126. Proposition 136, dubbed the Taxpayers' Right to Vote Act, would require a two-thirds public vote, instead of the current majority, to approve any ballot measure raising statewide taxes for a particular purpose. Any measure which does not meet Proposition 136's standards—including measures on the same November 1990 ballot—would be voided. Proposition 136 stands to wipe out



BUSINESS, TRANSPORTATION AND HOUSING AGENCY

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

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The Department of Alcoholic Beverage Control (ABC) is a constitutionally-authorized state department established in 1955 (section 22 of Article XX, California Constitution). The Alcoholic Beverage Control Act, Business and Professions Code sections 23000 *et seq.*, vests the Department with the exclusive power to regulate the manufacture, sale, purchase, possession, and transportation of alcoholic beverages in California. In addition, the Act vests the Department with authority, subject to certain federal laws, to regulate the importation and exportation of alcoholic beverages across state lines. ABC also has the exclusive authority to issue, deny, suspend, and revoke alcoholic beverage licenses. ABC's regulations are codified in Chapter 1 and 1.1, Title 4 of the California Code of Regulations (CCR). ABC's decisions are appealable to the Alcoholic Beverage Control Appeals Board. Further, ABC has the power to investigate violations of the Business and Professions Code and

other criminal acts which occur on premises where alcohol is sold. Many of the disciplinary actions taken by ABC, along with other information concerning the Department, are printed in liquor industry trade publications such as the *Beverage Bulletin*.

The Director of ABC is appointed by, and serves at the pleasure of, the Governor. ABC divides the state into two divisions (northern and southern) with assistant directors in charge of each division. The state is further subdivided into 21 districts, with two districts maintaining branch offices.

ABC dispenses various types of licenses. "On-sale" refers to a license to sell alcoholic beverages which will be bought and consumed on the same premises. "Off-sale" means that the licensee sells alcoholic beverages which will not be consumed on the premises. Population-based quotas determine the number of general licenses issued each year per county.

MAJOR PROJECTS:

Competing Alcohol Tax Initiatives to Appear on November Ballot. On May 17, supporters of the citizens' Alcohol Tax Initiative submitted over 1.1 million