



REGULATORY AGENCY ACTION

BUREAU OF PERSONNEL SERVICES

Chief: Jean Orr
(916) 920-6311

The Bureau of Personnel Services was established within the Department of Consumer Affairs (DCA) to regulate those businesses which secure employment or engagements for others for a fee. The Bureau regulates both employment agencies and nurses' registries. Businesses which place applicants in temporary positions or positions which command annual gross salaries in excess of \$25,000 are exempt from Bureau regulation; similarly, employer-retained agencies are also exempt from Bureau oversight.

The Bureau's primary objective is to limit abuses among those firms which place individuals in a variety of employment positions. It prepares and administers a licensing examination and issues several types of licenses upon fulfillment of the Bureau's requirements. Approximately 900 agencies are now licensed by the Bureau.

The Bureau is assisted by an Advisory Board created by the Employment Agency Act. This seven-member Board consists of three representatives from the employment agency industry and four public members. All members are appointed for a term of four years. As of this writing, seats for one public and two industry members remain vacant.

MAJOR PROJECTS:

Chief Orr Announces Retirement. Bureau Chief Jean Orr has announced her retirement effective June 30, 1989. In addition to being the only Bureau Chief to come from within the personnel services industry, Chief Orr's service since her appointment six years ago makes her the longest-serving Chief the Bureau has had. Chief Orr began her tenure with the Bureau in July 1983 as an appointee of Governor Deukmejian. She continues to voice her opposition to the ongoing dismantling of the Bureau, and states that she is proud of her staff's accomplishments. Specifically, she believes the Bureau's efforts in securing the closure of several large illegitimate employment agencies has protected many California consumers.

LEGISLATION:

The following is a status update on bills discussed in detail in CRLR Vol. 9, No. 2 (Spring 1989) at page 70:

AB 2113 (Johnson), as amended May 17, is entitled the "Personnel and Employment Agency Services Act." It would

repeal the entire Employment Agency Act of the Business and Professions Code, including all provisions which provide for the Bureau's funding, examining, licensing, and regulatory functions. The bill would also reenact certain provisions of the Act as part of the Civil Code so that the contents of employment agency contracts, advertising, and fees of such agencies would be regulated by statute, not by the Bureau.

Specifically, AB 2113 proposes to: (1) delete licensing and regulation by the Bureau; (2) provide for a three-day cancellation period during which a job seeker may cancel a contract with an employment agency; (3) eliminate the bond requirement for certain employment agencies; (4) require the filing of the bond with the Secretary of State rather than with the Bureau; (5) revise standards of conduct for employment agencies; (6) make specified violations of those provisions also a violation of unfair trade practices law, as specified; (7) make certain contracts entered into by reason of fraud or misrepresentation void and unenforceable; and (8) provide for a civil penalty and a cause of action for damages by any person injured by reason of a violation of those provisions. Additionally, the DCA must submit to the legislature a preliminary report regarding the implementation of this bill by March 31, 1990; and a final report by June 30, 1991.

According to DCA staff counsel Jay DeFuria, the Bureau's licensure requirement helps promote competence, but most problems in the personnel services industry relate to fraud, not incompetence. He states that the Bureau, with its revenue base limited by the partial industry deregulation under AB 2929, cannot effectively protect consumers from fraud. AB 2929 (Chapter 912, Statutes of 1986) removed employer-retained agencies from the Bureau's oversight as of July 1, 1987. The Bureau suffered a 60% decline in its funding as a result of this decrease in the number of its licensees. (For more information on the effects of AB 2929, see CRLR Vol. 9, No. 1 (Winter 1989) p. 59 and Vol. 8, No. 4 (Fall 1988) p. 68.)

According to DeFuria, AB 2113 would provide enforcement remedies which will protect consumers from fraud, and may be further amended to include enhanced recovery of costs for the Attorney General and for local district attorneys who bring actions against employment agencies under the new Act. He says the substantive law requirements for employment agencies will remain

mostly unchanged.

AB 2113 has survived a policy analysis by the Assembly Governmental Efficiency and Consumer Protection Committee and is pending in the Assembly Ways and Means Committee at this writing. Bureau Chief Orr is dissatisfied with AB 2113, as amended. She believes the Attorney General and local district attorneys do not want the added workload of conducting initial investigations of consumer fraud complaints. She believes many consumers, particularly minorities, will be victims of defrauding specialists, and will have no realistic means of redress.

AB 2469 (Johnston) would continue the present deregulation of employer-paid agencies which occurred under AB 2929 beyond the January 1, 1991 sunset date. This bill passed the Assembly on June 7 and is awaiting committee assignment in the Senate at this writing.

SB 1673 (Montoya), which would add an applicant's complaint history to the Bureau's criteria for evaluating possible restrictions on an applicant's license, is a two-year bill pending in the Senate Business and Professions Committee.

FUTURE MEETINGS:

To be announced.

BOARD OF PHARMACY

Executive Officer: Lorie G. Rice
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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. To enforce its regulations, the Board employs full-time inspectors who investigate accusations and 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 public. The remaining members are pharmacists, five of whom must be active practitioners. All are appointed for four-year terms.

MAJOR PROJECTS:

Examination Changes. On April 10,