



## LEGISLATION:

*SB 61 (Craven)* clarifies the bonding requirements set forth by AB 183. (See CRLR Vol. 6, No. 4 (Fall 1986) pp. 35, 38 for complete background information on AB 183.) AB 183 increased the amount of bonds required to be posted by all dry cleaning establishments from \$1,000 to \$5,000. AB 183 also allows for waiver of bond requirements by the Bureau of Home Furnishings, but does not set forth guidelines upon which the Bureau may base a waiver determination. SB 61 requires the Bureau to waive the filing of a bond if the registrant has a net worth of at least \$20,000, or if the registrant's financial responsibility is guaranteed by a third party who has a net worth of at least \$100,000. The bill has been introduced as urgency legislation.

## FUTURE MEETINGS:

To be announced.

## BOARD OF LANDSCAPE ARCHITECTS

*Executive Officer: Joe Heath*  
(916) 445-4954

The Board of Landscape Architects (BLA) licenses those who design landscapes and supervise implementation of design plans. To qualify for a license, an applicant must successfully pass the written exam of the national Council of Landscape Architectural Registration Boards (CLARB), an additional section covering landscape architecture in California, and an oral examination given by the Board. In addition, an applicant must have the equivalent of six years of landscape architectural experience. This may be a combination of education from a school with a Board-approved program in landscape architecture and field experience.

The Board investigates verified complaints against any landscape architect and prosecutes violations of the Practice Act. The Board also governs the examination of applicants for certificates to practice landscape architecture and establishes criteria for approving schools of landscape architecture.

BLA consists of seven members. One of the members must be a resident of and practice landscape architecture in southern California, and one member must be a resident of and practice landscape architecture in northern California. Three members of the Board must be licensed to practice landscape architecture in the state of California. The

other four members are public members and must not be licentiates of the Board. Board members are appointed to four-year terms. At this time there is one vacancy on the Board. BLA is awaiting the appointment of a public member by the Governor.

## MAJOR PROJECTS:

*Oral Commissioner's Manual.* The Board plans to develop an Oral Commissioner's Manual, which would be updated periodically for use during oral examinations.

*Landscape Irrigation Consultants.* Members of the Board have met with the California Council of Landscape Architects and the American Society of Irrigation Consultants. The three groups are still in the process of developing an agreement on possible legislation to provide for the licensing of irrigation consultants. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 39 for background information.)

*Public Survey.* The Board undertook a study regarding the public's concept of the landscape architect. The Board is in the process of compiling the results and preparing recommendations.

## LEGISLATION:

*SB 87 (Boatwright)* would repeal existing law which provides for the licensing and regulation of persons who engage in the practice of landscape architecture.

## RECENT MEETINGS:

The Board called a special meeting on January 20 to consider SB 87 and the effect it would have on the public health, safety, and welfare. The Board also heard from the public and members of the profession regarding the proposed legislation. The Board reviewed its activities and the effect of the Board's existence on the practice of landscape architecture and the manner in which these site design professionals interface with the other licensed design and construction professionals in California.

In 1981, the Board prepared a report for the California legislature detailing its activities. During the 1983 session, the report was subjected to hearings in both the Senate and Assembly. As a result of these hearings, the legislature did not "sunset" the Board of Landscape Architects at that time. The Board has been preparing an update of the 1981 report, anticipating its completion by April 1. This report will try to demonstrate the continuing need for

licensing of landscape architects as site design professionals.

With the help of a professional facilitator, the Board has planned an aggressive campaign to counter SB 87. Members of the Board and members of the California Council on Landscape Architects will contact newspapers, state and local officials, and other associations to stress the importance of licensing landscape architects.

## FUTURE MEETINGS:

To be announced.

## BOARD OF MEDICAL QUALITY ASSURANCE

*Executive Director: Ken Wagstaff*  
(916) 920-6393

BMQA is an administrative agency within the state Department of Consumer Affairs. The Board, which consists of twelve physicians and seven lay persons appointed to four-year terms, is divided into three autonomous divisions: Allied Health, Licensing and Medical Quality.

The purpose of BMQA and its three divisions is to protect the consumer from incompetent, grossly negligent, unlicensed or unethical practitioners; to enforce provisions of the Medical Practice Act (California Business and Professions Code sections 2000 *et seq.*); and to educate healing arts licensees and the public on health quality issues.

The functions of the individual divisions are as follows:

The Division of Allied Health Professions (DAHP) directly regulates five non-physician health occupations and oversees the activities of seven other examining committees which license non-physician certificate holders under the jurisdiction of the Board. The following allied health professionals are subject to the jurisdiction of the Division of Allied Health: acupuncturists, audiologists, drugless practitioners, hearing aid dispensers, lay midwives, medical assistants, physical therapists, physical therapist assistants, physician's assistants, podiatrists, psychologists, psychological assistants, registered dispensing opticians, research psychoanalysts and speech pathologists.

The Division of Medical Quality (DMQ) reviews the quality of medical practice carried out by physicians and surgeons. This responsibility includes enforcing the disciplinary and criminal provisions of the Medical Practice Act. The division operates in conjunction



with fourteen Medical Quality Review Committees (MQRC) established on a geographic basis throughout the state. Committee members are physicians, allied health professionals and lay persons appointed to investigate matters assigned by the Division of Medical Quality, hear disciplinary charges against physicians and receive input from consumers and health care providers in the community.

Responsibilities of the Division of Licensing (DOL) include issuing licenses and certificates under the Board's jurisdiction, administering the Board's continuing medical education program, suspending, revoking or limiting licenses upon order of the Division of Medical Quality, approving undergraduate and graduate medical education programs for physicians, and developing and administering physician and surgeon examinations.

BMQA's three divisions meet together approximately four times per year, in Los Angeles, San Diego, San Francisco and Sacramento. Individual divisions and subcommittees also hold additional separate meetings as the need arises.

## MAJOR PROJECTS:

*Division of Allied Health Professions.* In response to the Division's request, Carol Sigmann, Executive Officer of the California Board of Podiatric Medicine (CBPM), provided a written statement with questions and suggestions regarding the functioning and efficacy of DAHP. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 48.) Her memorandum addressed such issues as the philosophical commitment of BMQA to its allied health committees and the need for communication among the three Divisions of the Board in areas of common concern for consumer protection. Dr. Unatin responded to the memorandum by stating that he did not understand the questions posed and thus could not respond. Ms. Sigmann explained her position and provided some examples of CBPM's experiences with BMQA, but Dr. Unatin was still unable to respond. Mr. Camacho, a public member of DAHP, concluded the discussion by stating that Ms. Sigmann's "issue-raising document" is precisely what the Division had requested at its last meeting. This topic will surely be raised at future meetings.

*Enforcement.* The evaluation of DMQ's enforcement program recently conducted by Arthur Young and Company recommended that the program

either substantially improve services to BMQA's allied health committees, or help the committees find an appropriate replacement organization. The DMQ program staff has responded by requesting funds for increased staff and changing the way disciplinary cases are prioritized, assigned, and tracked. The Executive Officers of BMQA's allied health committees met with DMQ enforcement program staff to review the impact of these changes. Mr. Wagstaff has suggested that the DAHP perform an oversight function to maintain an ongoing knowledge of DMQ's enforcement program as applied to the allied health professions within BMQA. The goal is to provide the committees with "a sense that the Board is concerned about their needs and wants to make good faith efforts to meet them as much as possible."

*Site Visits.* At the January meeting, the Division of Licensing heard a formal report from the site visit team on its recent trip to England. The team met with representatives from the General Medical Council of England, visited six medical schools across the country, and learned first-hand about the training of English medical students. The second of three site visits, as mandated by AB 1859 (see CRLR Vol. 6, No. 2 (Spring 1986) p. 46), is scheduled for the Philippines in March or April. The DOL will send two Board members, one staff member, and one outside expert. The DOL will complete its obligation under AB 1859 by sending a site visit team to Mexico in the fall of 1987.

*Diversion Program.* The program for impaired physicians currently has 206 participants, 132 of whom were Board-referred. Program Manager Chet Pelton said that this relatively quiet period has provided time to focus on new issues, including the problem of relapse and the encouragement of family participation in the recovery process.

In a related matter, Steve Wilford, Assistant Executive Director of BMQA, has requested a legal opinion from the Department of Consumer Affairs (DCA) regarding the ability of licensees from the Board of Podiatric Medicine and the Physician's Assistant Examining Committee to participate in BMQA's diversion program. This subject was discussed briefly at the DMQ meeting in January. Board staff counsel Foone Louie said that because the statute establishing the diversion program (section 2340 of the Business and Professions Code) limits participation to "physicians and surgeons," it would

have to be amended before other professions could be officially included. Dr. Ellis expressed concern that if the law were changed, the BMQA diversion program would have to start including everyone, even dentists.

*Senate Committee Hearing.* In January, BMQA Executive Director Ken Wagstaff forwarded the Board's formal response to statements and testimony presented to the Senate Business and Professions Committee during a recent hearing held in Palm Springs in December 1986. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 48.) Senator Joseph Montoya, Chair of the Committee, presided over the hearing and expressed concern over the policies and procedures used by the Division of Licensing in applicant evaluation and licensure of foreign medical graduates. In his response, Mr. Wagstaff recalled that BMQA is charged with protecting the health and safety of the public and that the evaluation of the educational credentials of those who apply for licensure is one important task necessary to carry out this charge. The act of issuing a medical license is first and foremost an act of public protection.

A recurring theme through the Senate Committee hearing concerned the Division's lack of awareness of what is being done by Board staff and what decisions are being made with respect to procedures and individual applicants. The Division and its staff were charged by the Committee with improperly applying unauthorized standards to foreign medical graduates, and with making licensing decisions on an ad hoc and arbitrary basis. (For further information on the Committee's contentions, see *supra* FEATURE ARTICLE AT 1.) Mr. Wagstaff responded that these assertions are "inaccurate" and that a well-defined process for the review of applications is presently in operation. According to Wagstaff, "One cannot gain a meaningful understanding of the process by which applications are reviewed by reading statements taken out of context from depositions, or by simply accepting the often self-serving representations of applicants rejected for licensure." In response to the Committee's assertion that the DOL illegally uses guidelines not contained in statute or regulation and not published to medical schools or applicants, Wagstaff described these guidelines as "nothing more than an internal tool used in screening files."

Wagstaff went on to express the Division's concerns over the propriety of the Committee's December hearing



agenda, which included applicants and their attorneys who have cases against BMQA pending in the courts. "The presentation of such testimony serves little purpose in fact-finding, as members of the staff and of the Division are unable to comment on pending cases." Wagstaff also stated concern for the privacy of applicants.

BMQA's formal response also specifically addressed the issue of Vietnamese physician applications. (See CRLR Vol. 7, No. 1 (Winter 1987) pp. 47-48 and CRLR Vol. 6, No. 4 (Fall 1986) p. 40.) "The applications of these persons [who allegedly received a substantial portion of their education after the fall of the Saigon government in 1975] are now being afforded an opportunity for an individual file review. The unilateral acceptance of formal credentials review by a new 'faculty in exile' has been explored by the Division. The Division determined that this would not be in the best interests of the public health and safety."

In conclusion, Wagstaff admitted that "there have been moments of confusion in the processing of applications since April of 1983," and that it has been difficult to "balance the dictates of public protection with flexibility and compassion," yet maintained that the Division has "acted in good faith and with the interests of the public in mind."

#### LEGISLATION:

*SB 1116 (Montoya)*, as amended, contains eleven provisions which would make sweeping changes in the authority and procedures of the Division of Licensing. Among other things, SB 1116 would amend section 2018 of the Business and Professions Code to prohibit the Division from denying licensure or admission to any examination, unless the specific deficiency which is the basis for the denial is clearly set forth in the Code or in a regulation duly adopted by the Division in accordance with the Administrative Procedure Act. SB 1116 would also add new section 2097 to the Code, to require BMQA, when denying a license or a request for permission to take an examination, to specifically notify the applicant of the statutory or regulatory provision which contains the requirements which the applicant does not meet. In addition, the Board must inform the applicant of the specific actions required to render the application acceptable.

The bill would amend section 2099 of the Code to more clearly define the role and responsibilities of the Program

Manager of the Division of Licensing.

*SB 1116* also contains three provisions requiring BMQA to apply the same licensing standards to all applicants. Section 2089.5 of the Business and Professions Code, which sets forth core clinical rotation standards, would be amended to provide that no applicant shall be granted a license unless he/she has demonstrated full compliance with the requirements of the section and has submitted detailed documentation proving such compliance. Further, section 2084 of the Code would be amended to preclude the Division's approval of U.S. and Canadian medical schools unless those schools demonstrate that the minimum graduation standards actually comply with the requirements of California licensing statutes. Finally, new section 2089.1 would be added to the Code, and would expressly provide that no requirements may be applied to graduates of medical schools outside the United States unless those requirements are also applied to graduates of medical schools in the United States.

*SB 858 (Montoya)* would amend section 2104 of the Business and Professions Code to provide that the fact that an applicant for a hospital's core clinical training program or residency is not a student at the medical school with which the hospital is affiliated shall not be a reason for the hospital to refuse to accept the applicant.

*SB 859 (Montoya)* would provide that any hospital which excludes any person from participation in a post-graduate training program solely because the person has received his/her medical education outside the United States shall not receive any state funding in any form.

*SB 857 (Montoya)* would amend section 2184 of the Business and Professions Code, which currently limits the validity of written federal licensing examinations (FLEX) scores to four years. SB 857 would extend the four-year period on a year-for-year basis for each full year during which the applicant maintains a pending application with an approved postgraduate training program and is awaiting acceptance.

*SB 1358 (Royce)* would require BMQA to appoint a faculty council-in-exile to review the applications of individuals who attended the University of Saigon between 1975 and 1980 to determine their eligibility for licensure. The council, which would consist of five former faculty members from the University of Saigon and one member of the Division of Licensing, would make

licensure recommendations to the Division, which in turn must act upon the recommendation within ninety days after receipt.

*SB 1358's* principal co-author is Senator Montoya; other co-authors include Senators Roberti, Doolittle, McCorquodale, and Watson, and Assemblymembers Isenberg and Mojonier.

*SB 741 (Montoya)* would prohibit renewal of a physician's or surgeon's license unless the licensee has passed an examination within six years from the date of the application for renewal.

*SB 306 (Montoya)* would prohibit health care service plans, nonprofit hospital service plans, disability insurance policies, and self-insured employer welfare benefit plans from discriminating with respect to the provision of professional services against a licensed physician or surgeon on the basis of whether the physician or surgeon holds an M.D. or D.O. degree.

*AB 783 (Tucker)*, introduced February 23, would provide that the currently-required one year of post-graduate training in an approved hospital shall include at least four months of general medicine, and shall be completed in an approved post-graduate training program rather than in an approved hospital. The bill also specifies that this requirement would apply to foreign medical graduates as well as other applicants.

*AB 214 (Margolin)* and *SB 12 (Maddy)* would require hospitals, as a condition of licensure by the Department of Health Services (DHS), to adopt policies and protocols for the treatment and transfer of emergency patients. Hospitals found by DHS to have committed a violation would be subject to a civil penalty in an amount not to exceed \$25,000. Physicians found by BMQA to have committed a violation would be subject to a civil penalty by the Board in an amount not to exceed \$5,000 (SB 12) or \$10,000 in addition to any other penalties which the Board may lawfully impose (AB 214). SB 12 would also create an Emergency Medical Services Fund to reimburse physicians and hospitals for a percentage of the losses they incur in providing emergency medical services. Monies in the fund would come from a percentage of the fines, penalties, and forfeitures imposed and collected by the courts. The Board decided that a more in-depth legislative analysis is required before it can take a stand on either of these bills.

*AB 62 (Grisham)* would authorize



DAHP to collect registration fees from spectacle lens dispensers prior to January 1988, when AB 4379 (Statutes of 1986, Chapter 773) requires registration of dispensers with the Division of Licensing. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 49.) DAHP supports the emergency legislation.

SB 231 (Montoya) would provide for the issuance of a physician and surgeon's certificate on reciprocity, without written examination, to a person who (1) is a graduate of an accredited medical school, as specified; (2) holds an unlimited license as a physician and surgeon in at least one other state; (3) takes and passes an oral examination administered by the Division; and (4) has not had any disciplinary action taken against him/her and has not been the subject of any adverse judgments or settlements involving the practice of medicine, as specified.

#### LITIGATION:

In *California Pharmacists Association v. BMQA*, the court of appeals has ruled that the case between the California Pharmacists Association and BMQA is moot and has ordered the superior court to dismiss the entire action. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 48.)

#### RECENT MEETINGS:

At the January meeting in Los Angeles, the DAHP briefly reviewed draft legislation to recodify the Hearing Aid Dispensers Act (Business and Professions Code section 3300 *et seq.*) and reviewed the California Medical Assistants' proposed legislation regarding scope of practice, training, and supervision of medical assistants. Staff recommendations regarding AB 4379 (Statutes of 1986, Chapter 773) were also reviewed, including a suggested fee schedule for registered dispensing opticians, forms for applicants, and staggered renewal of certificates. The Division discussed the implementation of SB 2335 (Statutes of 1986, Chapter 1379), which enables boards within the DCA to assess fines or issue citations to licensees who violate the applicable licensing act. Various approaches were discussed and a decision will be made at a later meeting.

Conflicts between the Board of Registered Nurses (BRN) and the Physician's Assistant Examining Committee (PAEC) were discussed at some length at the January DAHP meeting. PAEC's Executive Officer Ray Dale provided the DAHP with an historical overview of the issue, which involves a BRN

policy statement regarding nurses' implementation of orders given by physicians and mid-level practitioners, including PAs. (For more information see *infra* agency reports on PAEC and BRN.) Linda McCreedy, DAHP Coordinator, said that the public is receiving conflicting messages from the two professions and that they should stop "taking potshots" at one another. Because the PAEC has sought assistance and clarification regarding scope of practice from the DCA without success, it was decided that a letter from the Division to the Director of DCA would be the next appropriate step.

In January, Mr. Leeper of the DMQ enforcement program suggested that the Division consider upgrading the current class of medical investigator, since the program is unable to recruit and retain the most qualified investigators. This problem is compounded by the fact that a number of investigators are retiring and a serious backlog exists in some areas. The Board is currently negotiating with the Department of Finance to address this problem.

The District 11 (Los Angeles) MQRC has implemented its proposal to allow MQRC members to assist in monitoring probationers. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 49.)

A BMQA representative attended the January meeting of the AIDS Advisory Committee of the Department of Health Services in Sacramento. The Committee discussed the possibility of requiring continuing medical education (CME) for all physicians on the subject of AIDS. BMQA stated that forcing physicians to take specific CME courses probably would not lead to the Committee's desired result, but assured the Committee of its willingness to cooperate in educational efforts. BMQA staff has recommended that it work with the Committee to draw up a proposal for a cooperative educational program as an alternative to any legislative mandate.

In November, Mr. Wagstaff reported that the Department of Finance (DOF) has recommended against some of BMQA's budget change proposals for fiscal year 1987-88. In the Division of Medical Quality, the DOF concluded that the additional staff recommended by the Arthur Young report be hired on a one-year limited-term basis only. BMQA is hopeful that these positions will become permanent. The DOF did not accept the report's recommendations regarding the need for word processors to assist investigators in developing

their reports. In the Division of Licensing, the DOF noted that the number of license applications has decreased and as a result recommended that DOL staff be reduced. The DOL expressed its need to keep these positions based on the fact that the time needed for more intensive review of applications offsets the time savings due to the fewer number of applications.

The Board has received over eighty applications from candidates for BMQA's Chief Medical Consultant position. After scoring each of these individual applicants, the Board will be selecting candidates for a series of final interviews.

At the full Board meeting in January, Board members reacted to the recent Senate Committee Hearing on foreign medical graduate licensing held in Palm Springs. Members characterized the charges as being "out of line" and "scurrilous." Ken Wagstaff suggested the possibility of discussing the hearing from BMQA's perspective with several major newspaper editors.

Several members have expressed an interest in simplifying the Board's name by dropping the term "Assurance." Dr. Galal Gough cautioned the Board to seriously consider the ramifications of such a change, suggesting that changing BMQA's name could give the legislature the opportunity to change BMQA's purpose, its role, and its responsibilities.

Mr. Marc Grimm, Program Manager for the Division of Licensing, announced his resignation from the BMQA staff at the January DOL meeting. The members of the DOL expressed their appreciation for Mr. Grimm's assistance over the years.

#### FUTURE MEETINGS:

June 25-26 in San Francisco.

October 8-9 in Sacramento.

#### ACUPUNCTURE EXAMINING COMMITTEE

*Executive Officer: Jonathan Diamond*  
(916) 924-2642

The Acupuncture Examining Committee was created in July 1982 by the legislature as an autonomous rulemaking body. It had previously been an advisory committee to the Division of Allied Health Professionals of the Board of Medical Quality Assurance.

The Committee prepares and administers the licensing exam, sets standards



for acupuncture schools, and handles complaints against schools and practitioners. The Committee consists of four public members and seven acupuncturists, five of whom must have at least ten years of acupuncture experience. The others must have two years of acupuncture experience and a physicians and surgeons certificate.

#### MAJOR PROJECTS:

**Licensure of Foreign-Trained Acupuncturists.** The Committee is considering the provision of a third avenue of licensure for foreign-trained acupuncturists. Currently, a person may become licensed only by attending an accredited California school or by attending a school which has been approved by the Acupuncture Examining Committee. The Committee is now examining the education provided at foreign schools, including entry requirements and the degree of similarity between the foreign curricula and those of California-approved schools. The Committee requests that foreign graduates submit their foreign credentials for review; those whose credentials pass muster with the Committee will be permitted to take the California examination.

**Examination.** On the November-December 1986 examination, 53% of the examinees passed the written portion and 64% passed the practical portion. Applicants must pass the written portion before they are allowed to take the practical portion. The written examination is offered in Chinese, Korean, Japanese, and English. The next examination will be held on August 23 (written) and September 19 and 20 (practical).

**Regulatory Changes.** The package of regulations governing continuing education and transfer credit has been approved by the Office of Administrative Law. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 42 for details on these regulations.)

#### RECENT MEETINGS:

At its January 24 meeting, the Committee discussed the problems involved in receiving privately-owned computer equipment. The issue is whether receiving computer equipment from private donors violates state law. Department of Consumer Affairs legal counsel suggested that while acceptance of donations of equipment does not violate state law, acceptance of money donations would violate applicable statutes.

#### FUTURE MEETINGS:

To be announced.

### HEARING AID DISPENSERS EXAMINING COMMITTEE

*Executive Officer: Margaret J.*

*McNally*

(916) 920-6377

The Board of Medical Quality Assurance's Hearing Aid Dispensers Examining Committee (HADEC) prepares, approves, conducts, and grades examinations of applicants for a hearing aid dispenser's license. The Committee also reviews qualifications of exam applicants. Actual licensing is performed by the Board of Medical Quality Assurance. The Committee is further empowered to hear all disciplinary matters assigned to it by the Board.

The Committee consists of seven members, including four public members. One public member must be a licensed physician and surgeon specializing in treatment of disorders of the ear and certified by the American Board of Otolaryngology. Another public member must be a licensed audiologist. The other three members are licensed hearing aid dispensers.

#### MAJOR PROJECTS:

**1987 Goals.** For the next year, the Hearing Aid Dispensers Examining Committee (HADEC) will be focusing on recodification of sections 3322, 3328, 3329(b), 3357, 3359, 3401 of the Business and Professions Code. Also, HADEC plans to change the focus of its meetings. Instead of month-to-month housekeeping, the Committee will consider policy issues which will affect hearing aid dispensing for the next five years. Examples of these policy issues include licensing of hearing aid dispensers, continuing education for dispensers, and consumer education about the dispensing of hearing aids.

**Revised Training Regulations.** HADEC has begun to implement revised training regulations which became effective in October 1986 (see CRLR Vol. 6, No. 4 (Fall 1986) p. 43 and CRLR Vol. 6, No. 1 (Winter 1986) p. 35 for details). These regulations give the Committee authority to more closely monitor trainees holding temporary licenses and their supervisors.

#### RECENT MEETINGS:

On February 28 in Sacramento, HADEC introduced two new Committee members. David Green of the National Cash Register Company was appointed by the Governor to a public member position. Robert Gillette, a hearing aid dispenser, has recently been selected to fill an industry position.

Present HADEC members James McCartney and Knox Brooks have been reappointed.

The Committee again discussed its serious budgetary problems (see CRLR Vol. 7 No. 1 (Winter 1987) p. 50). Some relief appears in sight, as the Committee was granted permission to put 9% of its surplus funds toward its operating budget. This transfer will see HADEC through the second quarter, and enable it to hire a staff member once again. It is possible, however, that one meeting may have to be cancelled because of inadequate funding.

#### FUTURE MEETINGS:

To be announced.

### PHYSICAL THERAPY EXAMINING COMMITTEE

*Executive Officer: Don Wheeler*

(916) 920-6373

The Physical Therapy Examining Committee (PTEC) is a six-member board responsible for examining, licensing, and disciplining approximately 8,600 physical therapists. The Committee is comprised of three public and three physical therapist members.

Committee licensees presently fall into one of three categories: physical therapists, physical therapist assistants, and physical therapists certified to practice electromyography or the more rigorous clinical electroneuromyography.

The Committee also approves physical therapy schools. An exam applicant must have graduated from a Committee-approved school before being permitted to take the licensing exam. There is at least one school in each of the 50 states and Puerto Rico whose graduates are permitted to apply for licensure in California.

#### MAJOR PROJECTS:

**Task Force on Non-PT Ownership of PT Facilities.** In recent years, the number of physical therapists employed by private corporations as opposed to health care facilities such as hospitals has greatly increased. PTEC is concerned that control of such a facility by a non-licensee may be detrimental to the consumer. Because no specific legislation regarding the problem exists, PTEC decided to solicit an opinion from the Attorney General. (See CRLR Vol. 6, No. 3 (Summer 1986) p. 35.)

Greg Gorges, Department of Consumer Affairs counsel for PTEC,



prepared a list of six questions regarding the legality of non-licensee ownership of PT facilities for submission to the Attorney General's office. (As of this writing, the exact list of questions had yet to be released to the public.) During discussion of the questions, Committee member Schulman pointed out that the implications of all possible responses from the Attorney General should be explored. The Committee charged Mr. Sibbet with creating a task force to explore the ramifications of both positive and negative responses from the Attorney General.

The task force will consist of ten physical therapists employed in a variety of situations. Some will be employees of health care institutions, some employees of non-licensee owners, and others in private practice. The findings of the task force will be reported to PTEC as background information. In the event of the need for decisionmaking resulting from the Attorney General's response, each Committee member will then be able to make an informed decision. The Committee requested that Mr. Sibbet present an update on the task force's progress in March, and a final report in May.

**Federation of State PT Licensing Boards.** PTEC will proceed with its plans to join the federation of state physical therapy licensing boards. The \$2500 dues were recently approved for the 1987 budget. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 50.) The federation is a national organization which may work toward the implementation of a national computer data base containing information on physical therapists. Such a networking process will, PTEC believes, facilitate the resolution of problems arising when out-of-state-trained PTs apply for licensure in California.

At its January 23 meeting, PTEC discussed the federation's proposed bylaws. Some concern was expressed about the voting structure, which provides for one vote per state, though the dues are calculated and paid per licensee. Thus California, having more licensees, pays more dues than other states with fewer licensees, but still has the same voting power. No changes to the proposed bylaws will be recommended by PTEC at this time, however.

**Adoption of Protocols for Clinical Service Waiver Requests.** At the January 23 meeting, Committee member Schulman presented the new procedures for staff to use in handling requests from out-of-state applicants for waiver

of clinical training requirements. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 50.) The new procedure is as follows: (1) staff should call or write the applicant's current state of residency and verify that the applicant is licensed; (2) call the out-of-state facility where the clinical training was completed, verify employment, and send a facility profile questionnaire to the facility; (3) the credential subcommittee will then review the facility profile and determine whether it provides what California requires for clinical training. PTEC counsel Gorges stated that staff could inquire of the out-of-state facility as to any performance problems so long as the information is kept confidential.

#### LEGISLATION:

**AB 4169 (Bane).** Existing law prohibits certain licensed healing arts practitioners (including physical therapists) from charging a patient on behalf of or referring a patient to an organization in which the licensee has a significant beneficial interest unless the licensee discloses the interest in writing and advises the patient regarding other alternative services, if available. AB 4169, now signed and chaptered, requires, after July 1, 1987, disclosure of that information to any third-party payor for the patient when requested by the payor. The new law prohibits the payor from making such a request more than once per year.

#### RECENT MEETINGS:

At its January 23 meeting, PTEC discussed the statistical review of physical therapy aide (PTA) examination results. Currently, PTEC's regulations allow PTAs to complete a two-year junior college program prior to taking the licensing exam or to complete the equivalent in clinical training. PTAs who elect to enroll in the college program feel that the clinical program provides inadequate training. Accordingly, PTEC annually reviews a statistical report to determine whether significant numbers of "equivalency" candidates are failing the licensing examination or are generating complaints from employers after passing the exam. PTEC reviewed this report and determined that the statistics did not demonstrate a need to make a regulation change.

The Committee directed Mr. Sibbet to testify at the State Compensation Fee Committee in February. PTEC is concerned about allegations regarding excessive treatment by physical therapists, and would like to know of any specific

incidents. Mr. Sibbet plans to testify on the issue at the hearing, and also plans to inform the Committee on the rules and regulations governing the practice of physical therapy.

Mr. Sibbet reported on the preliminary draft of the electromyography exam release form. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 51.) He stated that he plans to obtain a copy of the form currently used by the Board of Dental Examiners. The form will be signed by both the subject and the examinee, but the exact language of the form has not yet been finalized.

#### FUTURE MEETINGS:

May 29 in Sacramento.

July 24 in San Diego.

#### PHYSICIAN'S ASSISTANT EXAMINING COMMITTEE

*Executive Officer: Ray Dale  
(916) 924-2626*

The legislature established the Physician's Assistant Examining Committee (PAEC) to "establish a framework for development of a new category of health manpower—the physician assistant." Citing public concern over the continuing shortage of primary health care providers and the "geographic maldistribution of health care service," the legislature created the PA license category to "encourage the more effective utilization of the skills of physicians by enabling physicians to delegate health care tasks...."

PAEC certifies individuals as PAs, allowing them to perform certain medical procedures under the physician's supervision, such as drawing blood, giving injections, ordering routine diagnostic tests, performing pelvic examinations and assisting in surgery. PAEC's objective is to ensure the public that the incidents and impact of "unqualified, incompetent, fraudulent, negligent and deceptive licensees of the Committee or others who hold themselves out as PAs [are] reduced."

PAEC's nine members include one member of the Board of Medical Quality Assurance, a physician representative of a California medical school, an educator participating in an approved program for the training of PAs, one physician who is an approved supervising physician of PAs and who is not a member of any Division of BMQA, three PAs and two public members.





## MAJOR PROJECTS:

*Orders Transmitted by PAs to Registered Nurses.* The Board of Registered Nursing (BRN) adopted a policy statement at its November meeting regarding the implementation of orders given by physicians and mid-level practitioners, including PAs, to registered nurses (see CRLR Vol. 7, No. 1 (Winter 1987) p. 59). The document states that RNs must determine whether orders are in the client's best interest, initiated by an authorized party, and in accordance with applicable statutes and regulations. An addition to the policy was adopted by BRN at its January meeting which recommends that health care facilities review the legal basis for transmission of orders, develop appropriate guidelines and procedures, and promote collaborative relationships between RNs and physicians to ensure that patients' needs are met. (See *infra* agency report on BRN.) The PAEC expressed concern because the addition addresses only a minor aspect of the interface between PAs and RNs, and fails to address the instances when PAs are authorized to initiate orders. Ray Dale presented the Committee's concerns to BRN at its January meeting, but the addition was adopted by BRN without change.

## LITIGATION:

In *California Pharmacists Association v. BMQA*, the court of appeals held that the controversy between the California Pharmacists Association and BMQA/PAEC is moot, and has ordered the Sacramento Superior Court to dismiss the entire action. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 52.) The Association had originally sought declaratory and injunctive relief to prevent the Board from adopting regulations which would permit PAs to dispense prescription drugs. The court of appeals found the issue moot because there is currently no such regulation nor any present proposal to promulgate one. The decision has no effect on the practice of PAs as authorized by current regulations.

## RECENT MEETINGS:

At the January 15 meeting in Palm Springs, Nancy Kluth presented the Committee with a final copy of the PAEC newsletter. A draft copy of the informational booklet "What is a Physician's Assistant?" was also distributed by Ms. Kluth for comments and suggestions. Some possibilities for funding the project were discussed, including seeking a budget change proposal; obtaining outside funding; and

working cooperatively with an outside agency, such as a professional organization.

Glenn Mitchell, a staff member of PAEC, presented the Committee with an informational memorandum on AIDS. The document, which will be distributed to all licensees, includes current findings and resources for further information.

Dr. Morgan, Vice-Chair, informed the Committee that an agent of the state Department of Health Services had allegedly taken the position that initial physicals required for all new members of health maintenance organizations (HMOs) may not be performed by nurse practitioners. Dr. Morgan believes this policy is inappropriate and could be extended to exclude PAs as well. Ray Dale was directed to write to Kenneth Kizer, Director of the Department of Health Services, to express the Committee's concerns.

## FUTURE MEETINGS:

June 12 in Los Angeles.

September 11 in South Lake Tahoe.

November 6 in San Diego.

## CALIFORNIA BOARD OF PODIATRIC MEDICINE

*Executive Officer: Carol Sigmann*  
(916) 920-6347

The California Board of Podiatric Medicine (CBPM) of the Board of Medical Quality Assurance (BMQA) regulates the practice of podiatric medicine in California. The Board licenses doctors of podiatric medicine (DPMs), administers examinations, approves colleges of podiatric medicine (including resident and preceptorial training), and enforces professional standards by disciplining its licensees. CBPM is also authorized to inspect hospital records pertaining to the practice of podiatric medicine.

The Board consists of four licensed podiatrists and two public members.

## MAJOR PROJECTS:

*Relationship Between BMQA And Its Allied Health Committees.* In response to a request by the Division of Allied Health Professions (DAHP) of BMQA, CBPM Executive Officer Carol Sigmann submitted a letter to DAHP expressing concern about the relationship of BMQA/DAHP to the allied health committees (including CBPM) under their jurisdiction. Based on the premise that BMQA should serve as an umbrella agency for its allied health

committees, Sigmann questioned BMQA's overall philosophy regarding the committees; BMQA's level of communication among its three Divisions and with the allied health committees relating to areas of common concern; and the existence, if any, of a commitment by BMQA to positively assist *all* health care providers to assure consumer protection. Ms. Sigmann suggested that if there is a natural resistance to integrating concerns for non-physician allied health professions into decisionmaking by BMQA's Divisions of Medical Quality and Licensing, then perhaps alternative organizational or administrative structures should be considered which would be more responsive to the concerns and needs of the allied health professions.

Ms. Sigmann related specific instances of BMQA's failure or refusal to consider or further the interests of non-physician allied health professionals. For example, in December 1986, the Division of Medical Quality President rejected a proposal from the California Medical Association to establish a private corporation to provide a diversion program for all health care providers with substance abuse problems, stating that the proposal was "too global" in nature because it would serve providers other than MDs. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 53.) Ms. Sigmann took the position that this view is extremely narrow, in light of the fact that BMQA should function as an umbrella organization to serve all health professionals, and that consumers need protection from all health care providers who are impaired.

Linda McCready, Coordinator of the DAHP, forwarded a general response to these and other concerns. She pointed out four areas in which DAHP can be of assistance to the Committees: legislative advocacy; consumer group relations; promotion and recognition of the legitimacy of the allied health professions and occupations which the legislature has placed under BMQA's jurisdiction; and increased sensitivity to issues which overlap between BMQA and allied health committees. She suggested that an agenda item be included for future Division meetings, at which time the Committees may raise issues and concerns. She also suggested that Division members periodically attend Committee meetings.

CBPM continues to be concerned with bettering relations in this area, and will be watching for future developments.



**Diversion Program.** Steve Wilford, Assistant Executive Director of BMQA, is researching whether further legal authority is necessary to enable licensees of CBPM and other allied health committees to participate in BMQA's diversion program for physician licensees with alcohol or drug abuse problems. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 53.) He has contacted the Chief of Legal Affairs within the Department of Consumer Affairs. CBPM awaits the results of this investigation.

**Proposed Regulations.** Board legal counsel Greg Gorges and the CBPM Rules and Regulations Committee are drafting regulations to implement the recent amendment to the Business and Professions Code which changed the Board's name from the "Podiatry Examining Committee" to the "California Board of Podiatric Medicine." (See SB 1879, CRLR Vol. 6, No. 4 (Fall 1986) p. 45.)

**Regulations.** CBPM has adopted new section 1399.661 of Title 16 of the California Administrative Code, and has submitted it to the Division of Allied Health for approval. The proposed regulation sets forth the conditions and procedures for the appeal of a failed oral examination (see CRLR Vol. 7, No. 1 (Winter 1987) p. 52). Thus, CBPM hopes to implement it before the May exam.

#### LEGISLATION:

**SB 201 (Montoya)** is a reintroduction of last year's SB 1880 (Montoya) dealing with enforcement funding. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 45.)

**SB 645 (Royce)** would add additional supportive services to the authorized duties of a medical assistant working under the supervision of a licensed physician or podiatrist.

**AB 2176 (Polanco)** would authorize the Division of Allied Health Professions of the Board of Medical Quality Assurance to adopt emergency regulations which establish standards for additional technical support services to be performed by medical assistants.

#### RECENT MEETINGS:

At its February 6 meeting in Sacramento, Board President Dennis Gumm, DPM, reviewed the November 1986 oral examination statistics.

CBPM also reviewed its goals and objectives for the 1987 calendar year, which include the following:

-To assure that the fiscal and organizational structure of the Board promotes

effective and efficient administration of the Board's programs;

-To assure that patients have access to podiatric services in health care facilities, including hospitals and closed panel provider systems, and that DPMs are able to provide complete podiatric care without unnecessary encumbrances;

-To assure that only those persons who possess the necessary qualifications, skills, knowledge, and abilities are licensed to practice podiatric medicine in California; and

-To provide educational material to consumers and podiatric practitioners to promote consumer protection.

Each goal includes specific objectives and target dates for implementation of those objectives. CBPM also maintains a narrative history as to actual progress toward the goals and action which remains to be taken.

Board member Steven Brown has completed a series of consumer articles on podiatric medicine. They are presently being reviewed by the Department of Consumer Affairs for final approval and may be published in early 1987.

#### FUTURE MEETINGS:

June 5 in San Francisco.

#### PSYCHOLOGY EXAMINING COMMITTEE

*Executive Officer: Vacant*  
(916) 920-6383

The Psychology Examining Committee (PEC) is the state licensing agency for psychologists. PEC sets standards for education and experience required for licensing, administers licensing examinations, promulgates rules of professional conduct, regulates the use of psychological assistants, conducts disciplinary hearings, and suspends and revokes licenses. PEC is composed of eight members, three of whom are public members.

#### MAJOR PROJECTS:

*Executive Officer Resigns.* Howard Levy resigned from his position as Executive Officer of the PEC, effective February 6, 1987. Mr. Levy had held the position for the past seven years. The resignation followed a political struggle among the Committee members. Leda de Young, Office Services Supervisor, is serving as Acting Executive Officer.

The PEC is presently interviewing for a new Executive Officer, and is searching for someone with knowledge of the licensing and regulatory process, good administrative skills, and who is

preferably not a psychologist. The Committee hopes to select a new officer by May 1987.

*Hearing on Regulations Governing Psychological Assistants.* On February 7, the PEC held a hearing concerning proposed changes in the regulations governing psychological assistants. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 53 for a discussion of the proposed changes.)

The hearing was characterized by a tremendous amount of confusion. Psychologists who were scheduled to testify had prepared their comments based on the Notice of Proposed Regulations issued by the PEC; however, the Committee distributed new changes to the proposed regulations as people entered the hearing. The hearing atmosphere was very tense because each participant was limited to five minutes of testimony and no questions were allowed. The PEC members appeared to be unclear about the language of the proposed changes and refused to comment on the meaning of those changes.

The PEC had proposed to revise section 1387, Title 16, California Administrative Code, requiring that supervising psychologists work at least half-time in the same work setting as the assistants they supervise. Numerous public agency representatives were troubled by this requirement because the supervisors at public clinics are often volunteer psychologists who have their own private practices and supervise as a means of helping the profession and the public. If this half-time requirement were imposed, volunteer supervisors could not be used, assistants could not work unsupervised, and many public agencies would thus be forced out of existence. As a result, the PEC eliminated this proposed requirement in its revised regulations distributed at the hearing.

Another problem area is the proposed requirement that a supervisor be in the same work setting during the entire time the supervisee is present. Again, such a requirement would place a tremendous burden on public agencies. Training hospitals also objected to the proposal because the supervisor cannot work the same hours as the assistant. Assistants often see patients in the evening and on weekends, whereas the supervisor is usually on the premises during weekdays. To require that the two be at the facility at the same time would reduce the ability of these facilities to serve a wide variety of patients at all times.

PEC has also proposed that a super-





visor be a practicing licensed psychologist for a minimum of three years instead of the current requirement of five years. Several individuals who testified objected to the five-year requirement, but seemed to support a prerequisite of three years' experience. Some psychologists argued that such a requirement would have a discriminatory impact because members of minority groups who have recently received doctorates will be unable to supervise others in counseling minorities.

Numerous objections to proposed changes in section 1392.6 were also voiced. Psychologists who testified argued that it is not the supervisor's responsibility to inform each patient in writing that services are being rendered by an assistant under the supervision of a psychologist. The witnesses stated that this disclosure could harm the patient-therapist relationship, and argued that it is the assistant's duty to inform the patient that the assistant is an employee of the psychologist.

Because PEC had revised many of its proposed regulations just prior to the hearing, it reopened the public comment period on the regulations until March 18.

#### RECENT MEETINGS:

At the February 7 meeting, the PEC elected new officers. Dr. Powell is the new Chairperson; Dr. Crawford is the Vice-Chairperson; and Linda Lucks is Secretary.

The acting Executive Officer informed the Committee that the Deputy Chief of Enforcement for the Department of Consumer Affairs was willing to delay billing the PEC for investigative services because of the current fiscal problems faced by the PEC. Under this procedure the Department of Consumer Affairs will bill the PEC if the Committee obtains additional money this fiscal year. Investigations will continue despite the lack of money.

#### FUTURE MEETINGS:

To be announced.

### SPEECH PATHOLOGY AND AUDIOLOGY EXAMINING COMMITTEE

*Executive Officer: Carol Richards  
(916) 920-6388*

The Board of Medical Quality Assurance's Speech Pathology and Audiology Examining Committee (SPAEC) consists of nine members: three speech

pathologists, three audiologists and three public members (one of whom is a physician).

The Committee registers speech pathology and audiology aides and examines applicants for licensure. The Committee hears all matters assigned to it by the Board, including, but not limited to, any contested case or any petition for reinstatement, restoration, or modification of probation. Decisions of the Committee are forwarded to the Board for final adoption.

#### MAJOR PROJECTS:

*Aide Task Force Reports.* A SPAEC survey of audiology licensees representing a variety of establishments ranging from private practice to hospitals and state organizations has confirmed SPAEC's belief in the need for competency standards for audiology aides (also called audiology technicians or assistants) and their subsequent certification by the Council of Accreditation and Occupational Hearing Conservation. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 54.) Present Cal-OSHA regulations do not require certification of technicians, contrary to certification requirements set forth in the Business and Professions Code (see CRLR Vol. 6, No. 4 (Fall 1986) p. 47). SPAEC staff considers the survey results as a confirmation of industry's need to amend Cal-OSHA regulations to require certification of audiology technicians. Staff has decided to meet with Cal-OSHA to discuss possible amendment of its regulations.

#### FUTURE MEETINGS:

To be announced.

### BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

*Executive Officer: Hal E. Tindall  
(916) 445-8435*

The Board of Examiners of Nursing Home Administrators (BENHA) develops, imposes, and enforces standards for individuals desiring to receive and maintain a license as a nursing home administrator. The Board may revoke or suspend a license after an administrative hearing on findings of gross negligence, incompetence relevant to performance in the trade, fraud or deception in applying for a license, treating any mental or physical condition without a license, or violation of any rules adopted by the Board.

The Board consists of nine members. Four of the Board members must be actively engaged in the administration of nursing homes at the time of their appointment. Of these, two licensee members must be from proprietary nursing homes; two others must come from nonprofit, charitable nursing homes. Five Board members must represent the general public. One of the five public members is required to be actively engaged in the practice of medicine; a second public member must be an educator in health care administration. Board members are normally appointed for three-year terms. However, a member holds office until a successor is appointed or until one year has passed since the expiration of the term for which he/she was appointed, whichever occurs first. A member may serve for no more than two consecutive terms.

#### MAJOR PROJECTS:

*Education, Training, and Examinations.* The Board has received from selected universities and colleges a listing and description of courses and degree programs in gerontology, long-term care administration, and related fields. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 47.) The Education, Training, and Examinations Committee will now review the material received and formulate conclusions and recommendations.

The Board's State Examination Task Force met to revise and delete a number of test items and to prepare new test questions. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 54.) This revised test item bank will be used in the preparation of the state exams in the future.

The Board reaffirmed its policy that administrators who serve as preceptors to an administrator-in-training must: (1) have a current, active license; (2) have no disciplinary actions pending; and (3) not be on probation. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 54.) Pursuant to this policy, those nursing home administrators still on probation have been denied preceptor certification.

The Executive Officer randomly selected twenty approved administrator-in-training applications to be reviewed by the Education Committee. The purpose of the review is to determine whether the applications are being processed promptly by Board staff and whether the applicants who have been approved for the administrator-in-training program meet the Board's requirements.

*Regulations.* The Board is considering changes in several of its rules