



of this writing, seats for one public and two industry members remain vacant.

MAJOR PROJECTS:

The Bureau Struggles for Survival. The number of employment agencies regulated by the Bureau decreased drastically as a result of AB 2929 (Chapter 912, Statutes of 1986). That bill, which became effective on July 1, 1987, exempts employer-retained agencies from the Bureau's oversight. The number of licensees regulated by the Bureau has decreased as a result, with a major decline occurring in April 1988, which was the renewal month for many now-exempt licenseholders. In April 1988, the number of Bureau licensees dropped 58% to approximately 800. (For more information on the effects of AB 2929, see CRLR Vol. 7, No. 2 (Spring 1987) p. 64 and Vol. 7, No. 1 (Winter 1987) p. 56.)

Under the Employment Agency Act, licensing fees constitute the Bureau's sole source of funding. Consequently, AB 2929 caused a significant drop in the Bureau's funding. But because 90% of the complaints received by the Bureau concern applicant-retained agencies and not employer-retained agencies, AB 2929 did not correspondingly reduce the Bureau's workload. In June, the Department of Consumer Affairs, citing the Bureau's inability to fulfill its mandate, unsuccessfully attempted to abolish the Bureau through amendments to AB 4145 (Wright) (see CRLR Vol. 8, No. 3 (Summer 1988) p. 72 for background information).

Assemblymember Wright originally drafted AB 4145 to exempt from the Bureau's control all "employment counseling services" which charge fees strictly on an hourly basis. The original version also would have declared that prepaid employment agencies are against public policy. Bureau Chief Jean Orr favors the latter provision because, although prepaid agencies constitute only 7% of the Bureau's licenses, their misconduct creates a disproportionately large share of the complaints received by the Bureau. AB 4145 was amended on April 25, however, to drop the prohibition against prepaid employment agencies.

In June, the DCA worked with Assemblymember Wright to draft an amendment to AB 4145 which would have formally abolished the Bureau. The amendment was put before the Assembly on June 20 and rejected by a 32-18 vote. The rest of the bill passed the Assembly and was sent to the Senate. Upon adjournment of the legislature, the issues

raised by AB 4145 were referred for interim study by the Senate Business and Professions Committee. The Committee scheduled a public hearing on the future of the Bureau for November 2 at Alhambra City Hall.

Bureau Chief Orr states that the Bureau, despite its reduced funding, is fully able to serve the public during the upcoming fiscal year. She cites the success of the Bureau's enforcement program in collecting more than \$110,000 in refunds for consumers during the last fiscal year (see CRLR Vol. 8, No. 3 (Summer 1988) p. 73 and Vol. 8, No. 2 (Spring 1988) p. 72 for more information), and notes the Bureau's handling of 2,000 formal written complaints with its staff of only four individuals. At the November 2 hearing, Orr will argue for measures to ensure the Bureau's effectiveness beyond June 30, 1989.

The DCA states that the Bureau, at its present level of funding, cannot effectively serve the public beyond November 1988. DCA Deputy Director Michael Vader sees three alternatives to remedy this problem: (1) increase Bureau licensing fees; (2) seek legislation to expand the Bureau's jurisdiction to undo the effects of AB 2929; or (3) abolish the Bureau. The Department has no stated preference for any of these alternatives, but Vader says the Department is prepared to draft and promote legislation which would protect consumers if the Bureau is abolished. Also, the Department hopes to have legislation reintroduced which would abolish prepaid employment agencies.

Assemblymember Wright's office is refraining from taking a position on the future of the Bureau. According to Legislative Consultant Jamie Khan, Assemblymember Wright will monitor the testimony at the Senate Committee's November 2 hearing before she takes an official position on the Bureau's status.

LEGISLATION:

The following is a status update on measures reported in detail in CRLR Vol. 8, No. 3 (Summer 1988) at page 73:

AB 4554 (Roybal-Allard) was amended on August 16. The amended version no longer requires foreign labor agents to be licensed by the Bureau. The Bureau is not affected by any other portion of the bill, which was signed on September 27 (Chapter 1450, Statutes of 1988).

SB 2471 (Montoya), which would have allowed the award of attorneys' fees and costs for certain court actions against nurses' registries, died in committee.

AB 4007 (Lancaster), the Department of Consumer Affairs' omnibus bill, was amended on June 30 to delete all references to the Bureau.

AB 4145 (Wright) was amended to delete most references to the Bureau. An interim hearing on the bill was scheduled for November 2 (see *supra* MAJOR PROJECTS).

FUTURE MEETINGS:

To be announced.

BOARD OF PHARMACY

Executive Officer: Lorie G. Rice
(916) 445-5014

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:

Continuing Education Regulations. In May, the Board approved several changes to its continuing education (CE) regulations, including consolidating CE course descriptions into one category and delegating the approval of CE providers to accreditation agencies. These changes were the third revision of the Board's CE regulations, necessary because of two past disapprovals by the Office of Administrative Law (OAL). (See CRLR Vol. 8, No. 3 (Summer 1988) p. 73; Vol. 8, No. 2 (Spring 1988) p. 73; and Vol. 8, No. 1 (Winter 1988) pp. 68-69 for background information.)

The Board submitted these changes, which amend sections 1732 through 1732.7, Chapter 17, Title 16 of the California Code of Regulations (CCR), to the OAL for review on May 27. In July, the OAL once again disapproved the



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amendments because the proposed language failed to meet the required clarity and necessity standards. The amendments were revised for the fourth time and resubmitted to OAL on August 10. At this writing, OAL has not issued a decision on the resubmitted regulations.

Fee Increases. The Board recently approved amendments to section 1749, Chapter 17, Title 16 of the California Code of Regulations, which increase licensing fees. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 74.) The higher fees are already being collected pursuant to the statutory authority created in SB 79 (Chapter 657, Statutes of 1987). The approved regulatory amendments were scheduled for submission to OAL in September.

Other Proposed Regulatory Changes. In late August, the Board published its intent to amend section 1717(a) of its regulations, regarding reuse of clean containers in a licensed health care facility and licensed community care facility for non-liquid oral products. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 73 and Vol. 8, No. 1 (Winter 1988) p. 69 for background information.) The proposed amendment would authorize the reuse of clean multiple-drug patient medication packages ("med paks") for the same patient, and would also authorize pharmacists to dispense and refill clean patient med paks provided by a patient or his/her agent, not to exceed a one-month supply for nonliquid oral products. The Board scheduled an October 13 public hearing on the proposed amendment.

Pharmacy Technician Legislation. At its May 24-25 meeting, the Board approved draft language for proposed pharmacy technician legislation, which would add section 4008.5 to the Business and Professions Code. This section would permit the Board to issue authorizations to pharmacy technicians, maintain a list of pharmacy technicians, and define the functions that a pharmacist may not delegate.

At the present time, non-licensed personnel in community pharmacies may only type medication labels, while pharmacies in acute care facilities may employ assistants to pharmacists with varying functions for dispensing medications. The Board believes that the proposed legislation would promote functional uniformity and quality of pharmacy technicians.

The proposed legislation would enable background checks on technicians, including fingerprinting. The Board will develop guidelines for approval of phar-

macist technician training programs and create a challenge system including an examination to grandfather authority for those currently working in acute care settings as technicians.

The Board hopes to have this legislation sponsored and introduced in January 1989.

LEGISLATION:

The following is a status update on bills discussed in detail in CRLR Vol. 8, No. 3 (Summer 1988) at page 74:

SB 2731 (Campbell), which would have exempted from the definition of "manufacturer" a pharmacy compounding a drug for parenteral therapy for delivery to another person licensed to possess that drug, died in the Assembly Health Committee.

AB 513 (Hill) exempts from the definition of "manufacturer" a pharmacy compounding parenteral therapy prescriptions which will be delivered to another pharmacy. This bill also requires pharmacies compounding a drug pursuant to that provision to report that information to the Board within thirty days of commencing that compounding. The Governor signed the bill on June 23 (Chapter 202, Statutes of 1988).

SB 2469 (Dills) prohibits disposal of a hypodermic needle or syringe unless in a safe container, with specified exceptions. This bill was signed by the Governor on August 30 (Chapter 736, Statutes of 1988).

SB 2213 (Craven) requires an out-of-state pharmacy shipping into California to meet certain conditions, including registration with the Board. The bill also authorizes the Board to deny, suspend, or revoke a nonresident pharmacy registration for specified offenses; and prohibits certain advertisements with regard to unregistered, nonresident pharmacies. This bill was signed by the Governor on September 26 (Chapter 1424, Statutes of 1988).

AB 3578 (Moore) allows licensed drug wholesalers to sell hypodermic syringes and needles without a permit. The bill adds licensee incompetence, fraud, and deceit as grounds for discipline by the Board. The bill also specifies that existing law shall not require a common carrier to label pharmacy merchandise in a manner contrary to any federal law or regulation. AB 3578 was signed by the Governor on September 15 (Chapter 918, Statutes of 1988).

AB 2683 (Hughes), requiring certain Department of Health Services standards for prophylactics, died in the Senate Appropriations Committee.

AB 2374 (Statham), as amended August 26, authorizes a judge to assess, for purposes of an AIDS education program, a fine up to \$70 in addition to any other fine imposed for offenses related to possession, use, or being under the influence of specified controlled substances, possession or sale of hypodermic needles or syringes, rape, and sodomy. Out of these funds, \$50 will be used for an AIDS education program for those pleading or found guilty of controlled substance offenses. This bill was signed by the Governor on September 26 (Chapter 1243, Statutes of 1988).

AB 3127 (Areias) requires the federal registry number for controlled substances to be preprinted on triplicate prescription blanks and amends the routing process of certain controlled prescriptions. This bill was signed by the Governor on August 11 (Chapter 398, Statutes of 1988).

AB 3766 (Connelly), authorizing courts to order medical practitioners charged with violating certain felony controlled substance laws to surrender triplicate prescription blanks, was signed by the Governor on August 29 (Chapter 639, Statutes of 1988).

AB 4499 (Felando), which would have authorized substitution of certain generic-equivalent prescription drugs by pharmacists, died in the Assembly Health Committee.

AB 1732 (Isenberg) was amended to eliminate provisions which would have imposed cost limits on prescribers dispensing from their offices. As signed by the Governor on September 30 (Chapter 1600, Statutes of 1988), the bill requires a prescriber who also dispenses to maintain a "secure" area for drugs and to offer the patient a written prescription which can be filled at a pharmacy.

RECENT MEETINGS:

At the May meeting, Board member Mary Runge and Executive Officer Lorie Rice reported on the National Association of Board of Pharmacy (NABP) meeting in Texas. At the NABP meeting, SB 2213 (Craven), which increases controls on out-of-state pharmacies, was praised as a model bill for all states. (See *supra* LEGISLATION for information on SB 2213.)

Also at the May meeting, counsel for the Attorney General discussed the proposed amendment of section 4080.5 of the Business and Professions Code. The proposed changes would increase the restrictions on financial interests in a pharmacy by persons who are also authorized to write prescriptions.



At its May meeting, the Board elected Glenn Yokoyama as its President, William Tan as Vice-President, and Mary Runge as Treasurer.

FUTURE MEETINGS:

January 12-13 in San Diego.
March 15-16 in Sacramento.
May 24-25 in Los Angeles.

POLYGRAPH EXAMINERS BOARD

Executive Officer: Dia Goode
(916) 739-3855

The Polygraph Examiners Board operates within the Department of Consumer Affairs. The Board has authority to issue new licenses and to regulate the activities of an estimated 655 examiners currently licensed in California under Business and Professions Code section 9300 *et seq.* The Board has no jurisdiction over federally-employed polygraph examiners.

The Polygraph Examiners Board consists of two industry representatives and three public members, all appointed to four-year terms. The Board has a sunset date of January 1, 1990.

LEGISLATION:

SB 2219 (Dills) was signed by the Governor on August 29 (Chapter 681, Statutes of 1988). The bill provides that if a license is renewed more than thirty days after its expiration, the licenseholder, as a condition precedent to renewal, shall also pay a specified delinquency fee. SB 2219 also permits the Board to recover the costs of investigating and prosecuting disciplinary matters, and to prorate the costs of license upgrading.

Federal Legislation. On June 27, President Reagan signed Public Law 100-347, restricting the use of polygraph tests by businesses to screen job applicants or employees. (For further background information, see CRLR Vol. 8, No. 3 (Summer 1988) p. 76.) Employers exempt from this ban include federal, state, and local governments, drug companies, and security firms. A limited exemption is also provided for ongoing investigations. All other employers are subject to the ban, which will become effective six months after the date of enactment of the act. This bill will not seriously affect polygraph examiners in California. State law already prohibits private employers from requesting polygraph tests "as a condition of employment or condition for future employment."

RECENT MEETINGS:

The Board has not held a meeting since October 1987.

FUTURE MEETINGS:

To be announced.

BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Executive Officer: Darlene Stroup
(916) 920-7466

The Board of Registration for Professional Engineers and Land Surveyors regulates the practice of engineering and land surveying through its administration of the Professional Engineers Act and the Professional Land Surveyors' Act.

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

The Board consists of thirteen members: seven public members, one licensed land surveyor, four registered practice act engineers and one title act engineer. Eleven of the members are appointed by the Governor for four-year terms which expire on a staggered basis. One public member is appointed by the Speaker of the Assembly and one by the Senate President pro Tempore.

The Board has established seven standing committees dealing with land surveying and the various branches of engineering. These committees, each composed of three Board members, approve or deny applications for examinations and register applicants who pass the examinations. Their actions must have the approval of the entire Board, which is routinely forthcoming.

Professional engineers are now licensed through the three Practice Act categories of civil, electrical and mechanical engineering under section 6730 of the Business and Professions Code, and the Title Act categories of agricultural, chemical, control system, corrosion, fire protection, industrial, manufacturing, metallurgical, nuclear, petroleum, quality, safety, and traffic engineering.

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

In August, the Governor appointed Sacramento business owner Lynn D. Morris and reappointed William C. Rupp and Robert Young to the Board.

MAJOR PROJECTS:

Regulatory Action. On June 15, the Office of Administrative Law (OAL) again disapproved the Board's proposal to change its regulations, which appear in Title 16 of the California Code of Regulations. The proposed changes, which were previously adopted by the Board in November 1987, rejected by OAL in December 1987, and resubmitted to OAL by the Board in May 1988, would have set forth the procedure for registered civil engineers to obtain authorization to use the title "structural engineer", and Permit Reform Act timeframes for processing applications for registration. OAL rejected the proposed regulations on grounds that they failed to satisfy the necessity, clarity, and reference standards in Government Code section 11349.1; the Board failed to adequately respond to public comments on the proposed regulations; and the rule-making file lacked all required documents. OAL also ruled that the Board is precluded from resubmitting these regulations.

Thus, on October 3, the Board renounced its intent to adopt several new sections and to amend or repeal numerous existing sections of its regulation. New sections 470 and 471 would be adopted to implement the Permit Reform Act. Existing section 426 regarding the structural engineering program would be renumbered to section 426.10; and new sections 426.11, 426.12, 426.13, and 426.14 would be adopted to establish a detailed definition of the qualifying experience required for the structural engineering program; provide that such experience must be performed at the professional level under the supervision of a structural engineer; establish and define supplemental experience which shall be considered in making a final decision on an application for the authority to use the title "structural engineer"; and provide that applicants seeking special consideration pursuant to existing reciprocity regulations may be required to submit additional information or appear for an interview. New section 427.30 would be adopted to address exclusively the number and type of references which structural engineer-