



each other and there is no or a low correlative relationship in section scores. Evaluation of the UNE shows opposite results. Also, the number of performance problems should be reduced. Because the sections do not evaluate separate content domains, a candidate who does well on one section will generally do well on all. The opposite is also true. Finally, more time to complete performance problems should be allowed.

On the issue of test scoring, CTU found that evaluator guides for the performance problems must be improved; they are presently difficult to use. Evaluators should and can be trained to reliably score the performance problems. Also, scoring standards for performance problems must be rational. Many are presently arbitrary at best, and some even appear illogical.

In addition, the CTU reported concerns over the fact that, despite BLA's submission of its concerns to CLARB over the past six years, CLARB has taken little action to address California's recommendations. CLARB's inaction is especially disconcerting because CTU/BLA's suggestions are based on widely-accepted procedures for validating, improving, and ultimately defending exam programs, and because California is one of the largest users of the UNE. The CTU is further concerned because, despite the fact that most candidates have completed graduate training and extensive work requirement experience, UNE passing rates are lower than those of almost any other licensing examination in the country.

The CTU believes that much of a landscape architect's required knowledge and abilities can be tested reliably and efficiently by a single, objectively-scored test. Demonstrating ability to develop graphic designs and knowledge in a few remaining areas could be left for performance problems. Overall, the expensive three-day exam now given could be condensed into, at most, an exam which takes half that time.

The CTU agreed with the BLA that its concerns and recommendations would most likely be unacceptable to CLARB once again. As an alternative, CTU suggested investigating the possibility of developing a separate exam. Other states reportedly share California's concerns and frustrations with CLARB. If California were to take this independent action, some of the development costs might be defrayed through the sale of the new exam to other states which may also abandon CLARB's UNE.

After CTU's presentation, the BLA

voted to send a carefully-worded cover letter to CLARB, once more expressing its displeasure with the UNE and transmitting CTU's findings and suggestions.

Study of Landscape Design Requirements for the Purpose of Developing Guidelines. Lois Mihelic has proposed that she conduct a follow-up to the study she completed on "The Role of the Landscape Architecture Profession in Local Governments." (See CRLR Vol. 8, No. 1 (Winter 1988) p. 57 for background information.) Mihelic's second report will focus on developing landscape design guidelines for city planning officials, which those planners may adapt to their particular city's needs. The compilation will provide cities with information on the guidelines followed by other cities, and how such guidelines may enhance a city's development process. At its March 18 meeting in Pomona, the BLA was scheduled to vote whether to go forward with this study.

LEGISLATION:

SB 87 (Boatwright), as amended in the Senate on January 12, would have repealed the laws which provide for the licensing and regulation of persons who engage in the practice of landscape architecture, geology, and geophysics. The Board of Registration for Geologists and Geophysicists would have been abolished and its licensing functions would have been transferred to the BLA, which would have been renamed as the State Board of Landscape Architects, Geologists, and Geophysicists; the expanded board would have seated a representative from the latter groups. Disciplinary functions of all three groups were to have been transferred to the DCA, but the newly-constituted board would have been responsible for budgeting the funds necessary for discipline functions. The bill would also have required each licensee of the new board to complete fifteen hours of continuing education as a condition for license renewal. However, the bill died in committee.

SB 2810 (Rosenthal) would change the fee for the landscape architecture examination from \$225 to an amount fixed by the Board not to exceed \$325, and would change the renewal fee from \$200 to an amount not to exceed \$300. This bill is pending in the Senate Business and Professions Committee.

RECENT MEETINGS:

At its February 4 meeting in Sacramento, the BLA elected professional member Bob Hablitzel as president, and public member Juanita Raven as vice president for 1988.

FUTURE MEETINGS:

To be announced.

BOARD OF MEDICAL QUALITY ASSURANCE

*Executive Director: Ken Wagstaff
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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:

Post-1975 Vietnamese Medical Graduates. The advisory Faculty Council-in-Exile (FCIE), appointed by the Board in December as required by SB 1358 (Royce), met for the first time on February 2. The FCIE, composed of five former faculty members of the University of Saigon and one member of the DOL, is charged with evaluating the license applications of post-1975 Vietnamese medical graduates and making recommendations to the DOL regarding the applicants' eligibility for licensure. (For background information on the FCIE and the post-1975 Vietnamese medical graduate issue, see CRLR Vol. 8, No. 1 (Winter 1988) p. 58; Vol. 7, No. 4 (Fall 1987) pp. 53-54; and Vol. 7, No. 2 (Spring 1987) p. 1.)

At its February 2 meeting, the FCIE made findings of fact on the post-1975 curriculum at the University of Saigon, based upon documents and testimony presented by post-1975 graduates and on the personal knowledge of the five former faculty members. The council then evaluated the application files of four post-1975 Vietnamese graduates, who are also the named plaintiffs in a class action lawsuit pending against BMQA entitled *Le Bup Thi Dao, et al. v. BMQA* (see *infra* LITIGATION and CRLR Vol. 7, No. 4 (Fall 1987) p. 54 for background information). The FCIE determined that two of the applicants were eligible for immediate licensure; one applicant was eligible to take the oral examination; and one applicant was eligible for a postgraduate residency.

Also on February 2, the DOL's Credentials Committee reviewed the recommendations of the FCIE, determined they were based upon substantial evidence, and adopted them. Post-1975 graduates Dr. Le Bup Thi Dao and Dr. Tao Trung Nguyen received their licenses on February 20.

The FCIE met again on March 14, and reviewed the applications of 21 other post-1975 Vietnamese medical graduates. At this writing, the FCIE's recommendations on these applicants are awaiting review by the Credentials Committee.

Credentials Committee Procedures Review. At its March meeting, the DOL reviewed a revised version of the staff's recommendations regarding the role and function of the Division's Credentials Committee. (See CRLR Vol. 8, No. 1 (Winter 1988) pp. 58-59 for background information.)

DOL staff and legal counsel recommended the creation of two standing committees of the DOL: a Licensing Committee, which would review applications for licensure which are not routine and raise a substantial question as to the applicant's qualifications for licensure; and a Special Programs Committee, which would review all applications for fellowships, registration of faculty members, special clinical training programs, and hospitals for undergraduate clinical training.

Three members of the Division may be appointed to each committee, and the Division President is an *ex officio* member of both committees. The decision on any application made by the Licensing Committee will be final; the entire Division need not approve or ratify the decision. Whenever an application is rejected or deferred by the Licensing Committee, it will document and advise the applicant of any specific requirements which are not met in the application, of the statutes or regulations which contain any requirement which is not met in the application, and how the applicant may comply with any requirement which is not met.

The DOL adopted the staff's recommendations on March 3.

Mexico Site Visit Report. At its March meeting, the DOL reviewed another "preliminary report" of a report on its site visit to Mexican medical schools, as required by AB 1859. (See CRLR Vol. 8, No. 1 (Winter 1988) pp. 59-60; Vol. 6, No. 4 (Fall 1986) p. 40; and Vol. 6, No. 2 (Spring 1986) p. 46 for background information.)

According to the preliminary report, "in general, we found medical education there to be at a level not equivalent to that found in accredited U.S. and Canadian medical schools, and that there were serious shortcomings in both the preclinical and clinical phases of the curricula." The specific findings of the site visit team include the following: no

reliable system for accrediting medical schools exists; student selection and preparation for medical school curriculum are inadequate; the preclinical curriculum is "rudimentary and abbreviated"; the faculty/student and student/patient ratios are extremely low; the third-year curriculum is excessively didactic; and the quality of third-year instruction is poorly controlled.

Regulatory Changes. At its March meeting, the DOL approved draft language for two changes to its regulations, which appear in chapter 13, Title 16 of the California Code of Regulations. Section 1321 would define approved postgraduate training programs as those which meet the standards of the AMA's Accreditation Committee on Graduate Medical Education or the Coordinating Council on Medical Education of the Canadian Medical Association, and would require that an applicant complete one continuous year of approved postgraduate training in order to qualify for licensure as a physician.

The DOL also agreed to propose new section 1315, which would require that the minimum weeks of core clinical training (required by section 2089.5 of the Business and Professions Code), in the subjects of surgery, medicine, pediatrics, obstetrics and gynecology, and psychiatry, shall be contiguous. The DOL would have discretion to waive this requirement in certain cases.

The Division plans to hold public hearings on these proposed regulations in June.

MQRC Probationer Pilot Project. At its March meeting, the DMQ reviewed a report from the Los Angeles MQRC on a pilot project to determine whether MQRCs should be involved in the probation monitoring process. The pilot project was approved by the DMQ in November 1986, and put into effect in Los Angeles MQRC District 11. The goals of the project were to decrease the workload of the investigators, and increase the level of involvement of practicing physicians in the probationer's community in the probation monitoring process. MQRC Program Manager Susan Wogoman believes these goals have been achieved.

Routine probation activity involves an initial meeting between the probationer, the regional medical consultant, and the probation surveillance officer (PSO). All terms of probation are explained. Subsequently, the probationer meets as often as needed with the PSO and annually with the regional medical consultant.



In the pilot project, probationers with minimal conditions of probation and no compliance problems were identified and referred to the MQRC for monitoring. Panels of three MQRC members (two physicians and one public member) were each assigned five probationers. Each panel had two meetings with the individual probationers at six-month intervals. The medical consultant and the PSO participated in the first meeting for training purposes. The MQRC completed a checksheet after the meetings, which was sent to the Supervising Investigator. After the second meeting, Wogoman prepared a memo regarding each probationer to be sent to the Supervising Investigator along with the checksheet.

According to Wogoman, all organization of the meetings, review and updates of materials, and meeting follow-ups were performed by the MQRC staff, thus freeing the time of the PSO. Also, the peer pressure exerted by the panel improved compliance with the conditions of probation, especially continuing education requirements.

Although Enforcement Program Chief Vern Leeper expressed doubt that the pilot project actually saved staff time, and in fact might create more work, he supported extension of the project for one more year. The DMQ extended the District 11 project for another year, and included San Mateo Districts 4, 5, and 7 in the project as well.

Russian Medical Schools. At its March meeting, DOL members reviewed two analyses of the curriculum of Russian medical schools, as compared with California licensing requirements. DOL Program Manager Diane Ford's report described her staff's analysis of the two types of curricula at Russian medical schools: the therapeutic specialty curriculum and the pediatric specialty curriculum. DOL staff has analyzed the therapeutic curriculum, and has concluded that its core clinical training is deficient in the three subject areas of obstetrics/gynecology, pediatrics, and psychiatry. The pediatric specialty curriculum is still being translated, and will be analyzed and compared with California licensure requirements at a later date.

Ford's conclusions are at odds with those of former DOL Program Manager Marc Grimm, whose private consulting group, Marc Grimm and Associates, obtained the curriculum documents from the Ministry of Higher and Secondary Special Education of the U.S.S.R. and analyzed them. Grimm concluded that the Russian curriculum is deficient only in psychiatry.

LEGISLATION:

AB 1164 (Speier) would require BMQA to establish and maintain a toll-free telephone number to receive inquiries and complaints from the public. It would also require notice of that number to be posted in the place of business of licensees. The Board has adopted a watch position on this bill, which passed the Assembly on January 28 and is pending in the Senate Business and Professions Committee.

AB 2948 (Floyd) would provide that testimony under oath in any judicial proceeding may be used by DMQ to initiate or substantiate a disciplinary action against a physician. The Board supports this bill, which is pending in the Assembly Health Committee.

AB 2949 (Floyd) would require DMQ to submit annual reports to the legislature on the time required to process disciplinary complaints, the current backlog of complaints, and the changes made to reduce the backlog of complaints. The bill would also require DMQ to establish a system for prioritizing complaints. The Board has adopted a watch position on AB 2949, which is pending in the Assembly Health Committee.

AB 2951 (Floyd) would require physicians to pay the costs of disciplinary actions taken against them. This bill is pending in the Assembly Health Committee.

AB 2952 (Floyd) would require a physician to report any disciplinary action taken against him/her within thirty days after he/she has knowledge of the action. This bill would also require the DMQ to include in its annual report to the legislature the number of injunctions sought under circumstances where allowing a physician to practice would endanger public health, safety, or welfare. This bill is pending in the Assembly Health Committee.

AB 2953 (Floyd) would authorize DMQ to order an immediate suspension of a physician's license for up to fourteen days, under specified circumstances. The Board supports this bill, which is pending in the Assembly Health Committee.

SB 395 (Ayala) would authorize reconsideration of any decision by a MQRC, the DMQ, or a panel thereof rendered between July 1, 1982 and July 1, 1988, whenever good cause is shown. SB 395 is pending in the Assembly Health Committee.

AB 3473 (Filante) would extend "good samaritan" immunity from civil damages liability to physicians who serve

on an "on-call" basis, as defined, to a hospital medical staff. Existing immunity extends to specified physicians who in good faith render emergency care in a hospital emergency room in the event of a medical disaster. This bill is pending in the Assembly Judiciary Committee.

SB 645 (Royce) would add additional supportive services to the functions performed by medical assistants, and require the DAHP to adopt regulations establishing standards for those services. The Board has adopted an approve position on this bill, which is pending in the Assembly Health Committee.

SB 2078 (Kopp) would create a Dietetic Practice Examining Committee under the DAHP. The Committee would set the qualifications for licensure and rights and duties of dietitian licensees and provide for the imposition of unspecified fees relating to the licensing of those persons. This bill is essentially the same as AB 2369 (Felando), which failed passage last year. SB 2078 is pending in the Senate Business and Professions Committee, and was scheduled for an April 11 hearing.

AB 4387 (Bronzan) would increase the fine against any physician who is guilty of engaging in excessive prescribing or administering of drugs or treatment to not less than \$200 nor more than \$1,200. This bill is pending in the Assembly Health Committee.

AB 4276 (Bronzan) would prohibit a surgical procedure utilizing conscious sedation or general anesthesia outside the auspices of a peer review body, as defined, unless the physician holds staff privileges at a health facility which is served by at least one peer review body. This bill is pending in the Assembly Health Committee.

AB 4277 (Bronzan), also pending in the Assembly Health Committee, would require the chief of the medical staff of a certified Medicare ambulatory surgical center to report to the appropriate licensing authority when specified licensed healing arts practitioners have been denied staff privileges, been removed from the medical staff, or had their staff privileges restricted. Failure to make the required report would be a misdemeanor.

AB 3034 (Roos) would require every licensee whose practice may include AIDS patients to take continuing education courses on AIDS. The Board disapproves this bill, which is pending in the Assembly Health Committee.

SB 1552 (Kopp), as amended January 4, would require BMQA to consider including training in the characteristics, methods of assessment, and treatment



of AIDS in its continuing education requirements. The Board approves this bill, since it only requires BMQA to "consider" requiring these courses. This bill is pending in the Assembly Health Committee.

AB 784 (Tucker) was amended on January 21. As of July 1, 1989, this bill would eliminate the existing option of completing core clinical rotations required for licensure in a hospital which has an approved residency program in family practice.

With regard to foreign medical graduates seeking California licensure, the DOL is required to accept specified post-graduate training in lieu of specified undergraduate work. *AB 784* would specify that the "in lieu of" post-graduate training is in addition to the one year of postgraduate training already required by sections 2101, 2102, or 2103 of the Business and Professions Code.

AB 784 is pending in the Senate Business and Professions Committee.

AB 2681 (Bane) is pending in the Senate Business and Professions Committee; *SB 1116 (Montoya)* and *SB 1653 (Seymour)* died in committee. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 60 for details on these bills.)

LITIGATION:

California Chapter of the American Physical Therapy Ass'n v. California, et al. is a consolidated action pending in Sacramento Superior Court, in which BMQA and its Physical Therapy Examining Committee have intervened as plaintiffs. Plaintiffs challenge the validity of section 302 of the regulations of the Board of Chiropractic Examiners (BCE), which defines the scope of chiropractic practice. BMQA is represented by private attorneys in the action. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 60 for background information.) At BMQA's March meeting, Board staff counsel Foone Louie reported that the BCE has filed a motion objecting to BMQA's intervention in the case, and that all sides are preparing for extensive discovery. A status conference in the case was scheduled for March 14.

Le Bup Thi Dao, et al. v. BMQA, No. 876321 (San Francisco Superior Court), is still pending in the discovery phase. Plaintiffs, a class of over thirty post-1975 Vietnamese medical graduates, challenge the DOL's two-year refusal to license them. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 54 and Vol. 7, No. 2 (Spring 1987) p. 1 for background information.)

RECENT MEETINGS:

At BMQA's March meeting, the Board introduced Thomas Heerhartz, who has been hired as Assistant Executive Director, a post formerly held by Steve Wilford. Mr. Heerhartz comes to BMQA from the California Medical Assistance Commission, where he was a senior negotiator. He has 23 years of state service; he was formerly chief of statewide field services for Medi-Cal; and chief of the health facilities licensing, hospital construction, prepaid health plans, state medical services, and quality evaluation sections of the Department of Health Services. For three years, he was Vice-President and Chief of Operations Officer at Northwest Americare Health Plan, a health maintenance organization in Portland.

Also at the March 4 meeting, Mr. Frank Albino was introduced as the newest member of the DAHP. Mr. Albino is a partner in the Los Angeles law firm of Parker, Milliken, Clark, O'Hara and Samuelian. He replaces the late Dr. Richard D. Andrews of Fresno.

The DAHP discussed *SB 2078 (Kopp)* at length. This bill would create a Dietetic Practice Examining Committee under DAHP, and is essentially the same as *AB 2369 (Felando)*, which failed passage last year. Despite a support position on *AB 2369* taken at the December 1987 meeting, DAHP members present at the March meeting were unable to come to a consensus vote on *SB 2078*.

At DOL's March meeting, the Division discussed *AB 3034 (Roos)*, which would compel BMQA to require physicians whose practice may involve patients with AIDS, particularly primary care physicians, to take a mandatory continuing education course on AIDS. Division members expressed outrage at the legislature's frequent practice of identifying what DOL members characterized as "fashionable diseases" and requiring physicians to take courses on them. Dr. J. Alfred Rider opined that he wouldn't be opposed to requiring such a course in medical school, but "those of us who are practicing just don't need it; everybody knows how AIDS is transmitted." Dr. Galal Gough complained that "we're intelligent people and the legislature doesn't need to tell us how to educate our people." Dr. Jerome Unatin stated that both *AB 3034* and *SB 1552 (Kopp)* (see *supra* LEGISLATION) are "foolish laws"; Division President Dr. John Lungren agreed that the bill would be "unnecessary." The Division adopted an oppose position on *AB 3034 (Roos)*.

The DOL also discussed a proposed policy change regarding the submission of original diplomas by license applicants. Although the Division currently requires all applicants to present an original diploma for validation by a licensing technician, the Division recognizes that this causes hardship for some applicants. DOL staff recommended that applicants be presented with three options: (1) the original diploma may be mailed or delivered to BMQA; (2) the applicant could send the original diploma to the issuing medical school, which would in turn send BMQA a letter on official medical school letterhead certifying that the diploma is valid; or (3) U.S. and Canadian graduates could take their original diploma and a photocopy thereof to any U.S. medical school's registrar's office; a school official could compare the original with the photocopy, certify the photocopy, and mail it to BMQA. The Division will discuss this proposed policy change at its June meeting.

FUTURE MEETINGS:

June 2-3 in San Francisco.

September 15-16 in Sacramento.

December 1-2 in San Diego.

ACUPUNCTURE EXAMINING COMMITTEE

Executive Officer:

Jonathan Diamond

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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 Professions 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:

Computerized Exam Questions. At the Committee's January 16 meeting, Mr. Diamond reported that the computerized exam questions were still being entered into the computer. This could lead to more frequent exams, and he requested the Exam Subcommittee



to plan accordingly. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 61 and Vol. 7, No. 3 (Summer 1987) p. 78 for background information.)

Regulations. At a public hearing on January 16 in San Francisco, amendments to sections 1399.425, 1399.426, and 1399.436, Title 16 of the California Code of Regulations (CCR), were adopted. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 61 for details on these amendments.)

At its January 16 meeting, the Committee reviewed the Enforcement Subcommittee's draft amendments to sections 1399.450 and 1399.451, Title 16 of the CCR. The language was approved for formal notice, with a public hearing scheduled to occur in conjunction with the Committee's April 30 meeting in San Diego. If adopted, these amendments would require that in all offices where non-disposable needles are used, there shall be functioning sterilization equipment; the acupuncturist's hands shall be washed before examining patients or handling needles; and all needle trays which contain sterile needles shall also be sterile. Each time needles or other instruments are sterilized, the acupuncturist shall use a tape or strip indicator which shows that sterilization is complete. Acupuncture shall not be performed using hypodermic needles; and all acupuncture needles and instruments to be discarded shall be safely disposed of by being sterilized and discarded in a sealed container, or placed in a sealed, unbreakable container marked "hazardous waste" and disposed of in a manner consistent with the Health and Safety Code. Language to amend subsection (d) of section 2-705 of chapter 27, Title 24 of the CCR, to require a sink with hot and cold running water in or near each treatment room, was also approved for formal notice.

The language for proposed regulations which would add a new article 8 to chapter 13.7, regarding continuing education, was reviewed again at the January 16 meeting. These proposed regulations would establish criteria for the approval of continuing education providers; set a fee for course provider approval; and authorize the Committee to audit compliance with the continuing education requirements. A public hearing on the proposed regulations was scheduled for April 30 in San Diego.

Public Hearings. At the January 17 meeting, Dr. Eckman began his School Subcommittee Report with a report from the Blueprint Committee on the practical exam. At this point in the meeting, sev-

eral members of the audience began to address the Committee with complaints about the examination. One member of the audience presented the Committee with signed petitions for public hearings regarding the Committee's licensing exam. Ms. Joanne Hickey of the Santa Barbara College of Oriental Medicine informed the Committee that an informal study had been conducted on the identity of individuals who passed the written and practical portions of the exam. The study showed that the top students from the acupuncture schools had passed the written exam, but students from this group did not similarly pass the practical exam. In other words, according to the schools, the practical exam results were subjective and were not based on the qualifications of the students sitting for the exam.

As a result of these complaints, the Committee scheduled public hearings in San Francisco on January 30 and in Los Angeles on February 11. The Examination Procedures Task Force conducted these public hearings on the general content, administration, and scoring procedures of the August-September 1987 written and practical examination. Testimony was taken on the strengths and weaknesses of the examination, ideas for improvement, and suggestions for review procedures of exam scoring. The Task Force members are Joel Edelman, Chair; Lindsey Cahill, Chair of the Acupuncture Examining Committee; and Lam Kong, C.A. The Task Force will evaluate the testimony it received at the public hearings and report to the Exam Subcommittee. This report will also be submitted to the full Committee for evaluation.

LEGISLATION:

SB 840 (Torres) would include acupuncturists as physicians for purposes of treating injured employees entitled to workers' compensation medical benefits. This bill is pending in the Assembly Finance and Insurance Committee.

SB 1046 (Montoya) would grant the Committee the authority to establish by regulation a system for the issuance to a licensee of a citation, which may include an order of abatement or an order to pay an administrative fine, pursuant to Business and Professions Code section 125.9. SB 1046 is pending in the Assembly Health Committee.

AB 4671 (Elder) would revise the requirements necessary for licensure as an acupuncturist by authorizing licensure of the possessor of an earned graduate degree in the field of traditional oriental

medicine, or an earned degree that is equivalent, as specified. This bill would also expand the definition of the practice of acupuncture to include the undertaking of an oriental medical diagnosis, thus making the Acupuncture Licensure Act applicable to persons not currently covered by the Act. AB 4671 is pending in the Assembly Health Committee.

RECENT MEETINGS:

At its January 16 meeting in San Francisco, the Committee elected a new Chair. Ms. Lindsey Cahill was elected Chair with seven votes. Four votes went to Benjamin Liu. Members of the audience voiced hope that this change would create a Committee which is more responsive to their continuing request for two licensing exams per year. (See CRLR Vol. 7, No. 3 (Summer 1987) p. 78 for background information.)

Dr. Chae Lew reported on a request by the government of Alberta, Canada for examination assistance. Mr. Diamond explained that he received a letter from the government of Alberta requesting Committee administration of its written and practical exam (without the herbology contents) to approximately forty applicants in Alberta; the letter also discussed a possible contractual arrangement whereby the Committee would be paid to administer its exam in Alberta. This request sparked heated debate among various Committee and audience members on how the Committee could consider this request, when it claims to be unable to administer its exam twice per year in California. Board member Joel Edelman requested that the Executive Officer review the minutes of the Committee's December 3 meeting, at which time the Committee decided it would assist Alberta, but did not decide to actually administer its exam there. Mr. Diamond stated that the administration of the exam would not consume a lot of resources, and suggested that the Exam Subcommittee address this request at a later date. Mr. Edelman requested that Mr. Diamond record the time spent by the staff on the request.

Also at the January 16 meeting, Dr. Eckman reported that a Committee staff person and four Committee members and their spouses travelled to Japan for fourteen days in order to review the Meiji School of Oriental Medicine and the Meiji College of Oriental Medicine for Committee approval as a qualified acupuncture school. Heated debate again followed; audience members questioned how the Committee could spend re-



sources to approve a school outside California when it cannot administer two licensing exams per year in California. Dr. Loisanne Keller, former president of the California Acupuncture Alliance, inquired whether the trip to Japan and the school approval was funded by the state of California. Mr. Diamond responded that the state did not fund the trip or the approval; rather, the Japanese schools covered these costs.

FUTURE MEETINGS:

September 10 in Monterey.
December 3 in Los Angeles.

HEARING AID DISPENSERS EXAMINING COMMITTEE

Executive Officer:

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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. HADEC has the authority to issue citations and fines to licensees who have engaged in misconduct.

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.

Governor Deukmejian recently reappointed J. Byron Burton to the Committee.

MAJOR PROJECTS:

Examination Revisions. At its January 23 meeting in San Diego, the Committee approved a proposal to include impedance testing on examinations. The April 23 exam included impedance testing. In response to public request, the Committee agreed to distribute impedance testing information to educators in time for the examination.

The Board has proposed to eliminate true-false questions from the examination, add more questions concerning the law, and expand the question sections

to afford a greater range for passing. A subcommittee continues to study suggested revisions to the examination.

Also at its January 23 meeting, the Committee approved future examination dates. Examinations are scheduled for April 23 and October 22 of 1988, and April 22 and October 21 of 1989.

Regulatory Changes. On March 26 in San Francisco, the Board was scheduled to hear public comment on proposed changes to section 1399.141 of chapter 13.3, Title 16 of the California Code of Regulations, regarding continuing education (CE). (See CRLR Vol. 8, No. 1 (Winter 1988) pp. 61-62 and Vol. 7, No. 4 (Fall 1987) p. 55 for background information.)

The amendments would require CE courses to include information relating to the fitting of hearing aids which is at a level above that required for licensure. Existing regulations do not limit the location of approved CE courses, nor do they require that they be open to all licensees. A new subsection (a)(6) to section 1399.141 would limit the Board's approval of CE courses to those offered in California and the Lake Tahoe Basin, and would require all approved courses to be open to all licensed hearing aid dispensers. Existing regulations provide that applications for approval of a CE provider shall be submitted to the Committee at least ninety days before the date of the first course. The proposed amendment would reduce the time limit to 45 days.

LEGISLATION:

AB 3845 (Frizzelle), introduced February 18, would require hearing aid dispenser licensees, upon consummation of a sale of any new or used assistive device, to deliver a written receipt evidencing the terms of any guarantee or written warranty made to the purchaser with respect to the hearing aid. The bill is pending in the Assembly Health Committee.

SB 2250 (Rosenthal), introduced February 17, would transfer the power and duty to prosecute and hear disciplinary matters against hearing aid dispensers from BMQA's Division of Allied Health Professions to the Committee. This bill is pending in the Senate Business and Professions Committee.

RECENT MEETINGS:

At its January 23 meeting, the Committee reported that it has received complaints about hearing aid advertisements. Certain hearing aid dispensers, who may not be licensed audiologists, are advertising free hearing tests. The

Committee plans to research whether it has jurisdiction over the issue. In the meantime, it will send a notice to the yellow pages stating that hearing aid dispensers are not audiologists, and therefore should not be listed under "audiologists."

FUTURE MEETINGS:

June 15 in Sacramento.
August 20 in Irvine.
November 5 in Monterey.

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 (PTs), physical therapy aides (PTAs), and physical therapists certified to practice electromyography or the more rigorous clinical electroneuro-myography.

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:

Regulations. On January 29, the Committee held a public hearing and adopted proposed regulations implementing PTEC's citation and fine authority, as provided under SB 2335 (Montoya). Article 8 (commencing with section 1399.25) of chapter 13.2, Title 16 of the California Code of Regulations, was amended to create a system for the issuance of such citations and fines. If approved by the Office of Administrative Law, these regulations will authorize the Executive Office of the Committee to issue citations containing orders of abatement; assess fines for violations of specified provisions of law; and under certain conditions, grant extensions of time for compliance with an order of abatement.

These regulations also authorize the Executive Officer to issue citations and



orders of abatement against unlicensed persons who perform services for which licensure as a physical therapist is required. These regulations also set forth a procedure for the contest of any citation, order of abatement, or fine, including an informal conference with the Executive Officer. At the conclusion of the informal conference, the Executive Officer is empowered to affirm, modify, or dismiss the action taken.

A hearing was scheduled for March 25 in Millbrae on several other proposed regulatory changes. These proposed regulations would amend section 1399.54 to provide a specified reexamination fee which may be charged to physical therapists applying to perform electromyography. Section 1399.55, which applied to the 1985-87 license renewal cycle, would be repealed. Finally, subsection (c) would be added to section 1399.61, which would allow a physical therapist who has failed the certification examination not more than three times to perform tissue penetration for the sole purpose of undertaking remedial training. Such tissue penetration training shall be under the direct and immediate supervision of a certified physical therapist.

LEGISLATION:

SB 645 (Royce), which was scheduled for a March 8 hearing in the Assembly Health Committee, is opposed by PTEC. The measure would expand the authority of the Board of Medical Quality Assurance's Division of Allied Health Professions to adopt regulations which establish standards for services performed by medical assistants.

SB 2468 (Maddy) would create a new health facility licensing category entitled "hospice acute inpatient facility." The bill was previously SB 309 (Maddy), which was vetoed by the Governor. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 56 and Vol. 7, No. 3 (Summer 1987) p. 80 for background information.) PTEC supported this bill as SB 309 (Maddy).

LITIGATION:

On January 6, a status conference was held in *California Chapter of the American Physical Therapy Association v. California, et al.*, a recently-consolidated action pending in Sacramento Superior Court. PTEC and the Board of Medical Quality Assurance have joined as plaintiffs in this action against the Board of Chiropractic Examiners (BCE) and the Office of Administrative Law, in which plaintiffs challenge the validity of section 302 of BCE's regula-

tions. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 63 for background information.) Defendants were scheduled to respond to the complaints by February 5, and another status conference was set for March 14. At a recent Committee meeting, PTEC's legal counsel Greg Gorges advised PTEC regarding the cost of this litigation. Legal fees and costs are now estimated at \$30,000 without going to trial.

RECENT MEETINGS:

At PTEC's January meeting, a discussion of the Subcommittee Procedure Manual (see CRLR Vol. 8, No. 1 (Winter 1988) p. 62 for background information) led to a restructuring of the subcommittees as one-person subcommittees, except the Legislation Subcommittee which will have two members (one public and one professional).

Committee member Norma Shanbour delivered an update on PTEC's oral examination. The exam questions are being reviewed for rewording and updating. Oral exam administrators will be provided with suggested answers in writing. Suggestions are also being solicited from the Department of Consumer Affairs' Central Testing Unit and PTEC members regarding guidelines for the administration of the oral exam.

FUTURE MEETINGS:

June 10 in Sacramento.
August 5 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 (BMQA), 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:

Diversion. Assemblymember Maxine Waters has introduced AB 4510, which would authorize the PAEC to establish and administer a diversion program for the rehabilitation of physician's assistants whose competency is impaired due to the abuse of drugs or alcohol. (See *infra* LEGISLATION.) Executive Director Ray Dale estimates an average of twenty participants in the program at an administrative cost of \$2,000 per year for each participant. Additional cost for therapy will be borne by the participants. The proposed legislation became necessary when PAs were denied access to BMQA's diversion program. (See CRLR Vol. 8, No. 1 (Winter 1988) pp. 59 and 63; Vol. 7, No. 4 (Fall 1987) pp. 53 and 57 for background information.)

Scope of Practice. The Committee requested a formal Attorney General's opinion to answer the question: "May the PA, in the scope of practice, initiate orders to a nurse without first having the written signature of the supervising physician?" (For background information, see CRLR Vol. 7, No. 2 (Spring 1987) p. 59.)

LEGISLATION:

AB 4510 (Waters), a PAEC-sponsored bill, would require the PAEC to create a diversion program for PAs and would amend section 3513 of the Business and Professions Code to authorize the PAEC to require that PAEC-approved PA training programs offer full credit for prior health care education and experience. AB 4510 is pending in the Assembly Health Committee.

SB 645 (Royce), as amended in January, would give BMQA's Division of Allied Health Professions (DAHP) the authority to adopt regulations establishing standards for services which may be performed by a medical assistant. The PAEC opposes this bill. This bill was scheduled for hearing in the Assembly Health Committee on March 8.



AB 249 (Margolin), regarding Medical eligibility for health care services provided outside a hospital or long-term care facility, is still pending in the Senate Appropriations Committee. No hearing date has been set. (For background information, see CRLR Vol. 7, No. 4 (Fall 1987) p. 57.)

SB 185 (Watson), regarding "clinic" representation, has been dropped. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 57 for details on this bill.)

SB 548 (Watson), which would establish an Advisory Committee on Bioethics, is in the Assembly inactive file.

RECENT MEETINGS:

At its January 8 meeting in San Francisco, the PAEC discussed the conversion to the Department of Consumer Affairs' central automated cashing system for licensing renewals. The implementation of the automated system will result in faster turnaround times for issuance of renewals.

The annual survey of approved programs was sent to the 55 currently approved physician's assistant training programs on December 7, 1987 with a return date of January 19, 1988. A summary of the survey results will be presented to the Committee for review and discussion at a future meeting.

FUTURE MEETINGS:

June 24 in Long Beach.

October 7 in Sacramento.

BOARD OF PODIATRIC MEDICINE

Executive Officer: Carol Sigmann
(916) 920-6347

The Board of Podiatric Medicine (BPM) 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. BPM 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:

Strategic Planning Workshop. At the Board's December 4 meeting in Los Angeles, Executive Officer Carol Sigmann reported on a workshop she attended with all the executive officers of boards within the Department of Con-

sumer Affairs (DCA). The purpose of the workshop was to develop a departmental mission statement for the DCA. The workshop resulted in the adoption of the following mission statement: "The mission of the DCA is to protect the consumer by promoting and advocating the delivery of quality goods and services, fostering fair competition and informing and involving the public."

Ms. Sigmann recommended that the BPM have a strategic planning workshop this year and that a professional planning consultant be hired to coordinate the workshop. The BPM adopted Ms. Sigmann's recommendation.

Proposed Policy on Use of Laser on the Lower Leg. At BPM's December meeting, Board President Dr. Green reported that a podiatrist had asked whether he/she could use a laser for the removal of superficial veins on the lower leg. The BPM's Rules and Regulations Committee determined that this would be an invasive procedure and that it is not within the scope of podiatric practice to perform surgery on the leg. The Board concurred in the Committee's determination.

Update on the Status of Residency Approvals. Board member Dr. Chan presented an update on the residency approval program at the California College of Podiatric Medicine, Southern Campus. (See CRLR Vol. 8, No. 1 (Winter 1988) pp. 64-65 for background information.) Dr. Chan reported that the program had been granted candidate status retroactive to August 1, 1987, and that limited licenses were issued to podiatrists in that program retroactive to August.

Examining Committee Report. Also in December, Dr. Chan reported that the Examining Committee had reviewed and selected potential questions for future examinations. Dr. Chan stated that there is a continual need to increase BPM's pool of expert examiners and question writers. As a result, questionnaires will be sent to newly certified Diplomates of the American Board of Podiatric Surgery.

LEGISLATION:

AB 2422 (Allen, Bradley) would provide that the Board has the authority to enforce and carry out the Medical Practice Act as to podiatrists in the same manner as it is enforced and carried out as to physicians and surgeons. This bill would also require notice of BPM meetings to be published in accordance with the Bagley-Keene Open Meetings Act. At this writing, AB 2422 is pending in the Senate Business and Professions Committee.

AB 645 (Royce), which would authorize BMQA's Division of Allied Health Professions to adopt regulations establishing standards for services performed by medical assistants, is pending in the Assembly Health Committee at this writing.

RECENT MEETINGS:

At BPM's December meeting, staff analyst Pamela Ramsey-Kurre presented an overview of the November examination statistics. These statistics reflected that 78% of the applicants passed and 22% failed. These figures may change after exam appeals are received and reviewed.

Also at its December meeting, the Board decided to change the name of its Rules and Regulations Committee to the "Professional Practice Committee."

At BPM's February meeting in Sacramento, the Board discussed whether to charge a fee to those who wish to appeal the results of the podiatric licensing examination. Several Board members stated that a person appealing the exam should pay the entire cost of the appeals process, which could amount to \$500.

Department of Consumer Affairs legal counsel Greg Gorges recommended that the BPM reject an appeals fee for two reasons. First, it may result in a "chilling effect" on applicants who might not exercise their right to appeal because of the cost involved. Second, the funding bill in which the appeals fee would be included will not likely pass the legislature.

After discussing this issue and Gorges' recommendations, the BPM decided not to charge a fee for the appeals process. However, the Board did recommend that the examination fee paid by all applicants be raised to cover the cost of appeals. The total exam fee is not to exceed \$725.

Also at the February 4 meeting, the BPM approved a new evaluation form, which will be distributed to each BPM member to evaluate the performance of the Executive Officer. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 64 for background information.)

FUTURE MEETINGS:

To be announced.

PSYCHOLOGY EXAMINING COMMITTEE

Executive Officer: Thomas O'Connor
(916) 920-6383

The Psychology Examining Committee (PEC) is the state licensing agency



REGULATORY AGENCY ACTION

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:

Regulation Development. At the PEC's February meeting, Executive Officer Thomas O'Connor brought to the Committee's attention two statutes which have been enacted by the legislature, and which probably require the adoption of regulations prior to PEC implementation. One of the bills is SB 1796 (Rosenthal) (Chapter 1149, Statutes of 1984), which amended sections 2089, 2914, 4980.41, and 9042 of and added sections 2091.1 and 2736.1 to the Business and Professions Code. The statute requires any person applying for a license as a marriage, family and child counselor, clinical social worker, or psychologist to have received instruction in alcoholism and drug dependence. The other statute is section 2988 of the Business and Professions Code (Chapter 462, Statutes of 1982), which provides for inactive license status for psychologists. Although the statutes have been technically enforceable without approved regulations, the PEC needs more specific guidelines in order to fairly implement them. The PEC is currently drafting regulations to implement the two statutes.

LEGISLATION:

AB 3322 (Duplissea), which would increase examination fees from \$100 to \$150 as of October 1, 1988, is pending in the Assembly Health Committee. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 65 for background information.) The bill authorizes PEC to raise the exam fee to \$175 for exams after October 1, 1989. The exam fee has not been increased since January 1979.

AB 2872 (Jones), introduced January 28, concerns waiver of licensure requirements for persons employed to provide mental health services under the Short-Doyle Act. This bill would permit the state Department of Mental Health to grant a waiver of the licensure requirement of up to three years for a psychologist; the waiver shall not exceed five years for psychologists employed on a less-than-full-time basis. AB 2872 passed the Assembly Health Committee on March 9, and is pending in the

Assembly Ways and Means Committee at this writing.

AB 3768 (Chacon) would include as "psychotherapists," for purposes of the existing privilege to refuse to disclose confidential communications between patient and psychotherapist, persons exempt from the Psychology Licensing Law pursuant to Business and Professions Code section 2909, and psychological interns as defined in Business and Professions Code section 2911. This bill is pending in the Assembly Judiciary Committee.

AB 4016 (Filante), introduced February 18, authorizes the issuance of a fictitious name permit by the PEC under specified conditions; prohibits a psychologist from practicing under a fictitious name without a permit; and specifies the fee for that permit. This bill is pending in the Assembly Health Committee.

RECENT MEETINGS:

At its February meeting, the PEC elected its officers for fiscal year 1988-98. Frank Powell was selected Committee Chair for a second term, subject to a four-year reappointment by the Governor; Vice Chair is Louis Jenkins, who replaces William Crawford; and Secretary is Robert Kiley, who replaces Linda Lucks.

Also at its February meeting, the Committee was notified of a problem regarding SB 1277 (Watson) (Chapter 1448, Statutes of 1987), which added sections 337 and 728 to the Business and Professions Code. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 59 for background information.) The bill became effective on January 1, 1988, and requires any psychotherapist to provide a specified brochure to a patient when the therapist becomes aware that another psychotherapist had sexual contact with the patient during the course of treatment. The Department of Consumer Affairs, however, will not have the brochure ready until July 1988 for financial reasons. Therefore, the statute cannot be enforced until the brochure becomes available to psychotherapists.

The Legislative Subcommittee continued discussions in February concerning changing the PEC's name from "Committee" to "Board." (See CRLR Vol. 7, No. 4 (Fall 1987) p. 60 for further information.) The Subcommittee will explore whether any legal issues arise if a state board is located within another board (in this case, the "Psychology Examining Board" would be located within the Board of Medical Quality Assurance). The Subcommittee

will also investigate how the Board of Podiatric Medicine changed its name from the Podiatry Examining Committee.

FUTURE MEETINGS:

July 22-23 in San Diego.

November 4-5 in Monterey.

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:

Audiology Aides. The Subcommittee on Audiology Aides has submitted a proposal for new regulations to the Committee which, if adopted, will clarify and limit the permissible scope of aides' involvement in assisting licensed audiologists. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 60 and Vol. 7, No. 2 (Spring 1987) p. 61 for background information.) Representatives of the American Speech-Language-Hearing Association (ASHA) and the California Speech-Language-Hearing Association (CSHA) present at both the Subcommittee meeting on January 22 and SPAEC's March 11 public meeting continued to advocate more stringent regulations than have presently been recommended. SPAEC expects to file a final draft of the proposed regulations with the Office of Administrative Law in May. The public will have an opportunity to comment during a hearing scheduled to occur in conjunction with the Committee's public meeting on July 8 in San Diego.

LEGISLATION:

SB 645 (Royce) is pending in the Assembly Health Committee at this writing. The Board of Medical Quality Assurance (BMQA) actively supports this bill, which expands the authority of



BMQA's Division of Allied Health Professions to adopt, amend, and repeal regulations which establish standards for services performed by medical assistants. SPAEC opposes this bill.

RECENT MEETINGS:

At the Committee's January 22 meeting in Los Angeles, Dr. Phil Reid was reelected Committee Chair and Ellen Rosenblum-Mosher was elected Vice-Chair.

The Committee heard a report from Dr. Don Morgan of the UCLA Clinic that several audiologists in private practice have recently used sedatives to calm infants during screening. Legal counsel Greg Gorges confirmed the view that such practice by audiologists calls for disciplinary action. By consensus, Committee members agreed that an article informing audiologists of their roles and responsibilities in conducting audiologic evaluations should appear in a future SPAEC newsletter.

The Committee also discussed the procedure of nasal-endoscopy (an exam of nasal passageways). Mr. Gorges informed the Committee that the Medical Practice Act permits only licensed physicians to perform this procedure. Executive Office Carol Richards will contact BMQA for guidance as to the permissibility of different endoscopy procedures.

FUTURE MEETINGS:

- July 8 in San Diego.
- September 9 in San Francisco.
- November 4 in Monterey.

BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

Executive Officer: Ray F. Nikkel (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. Board committees include the Administrative, Disciplinary, and Education, Training and Examination Committees.

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. Seven of the nine members of the Board are appointed by the Governor. The Speaker of the Assembly and the Senate Rules Committee each appoint one member. A member may serve for no more than two consecutive terms.

BENHA's budget increased \$15,000 over last year's allocation. The 1987-88 budget is \$315,000.

MAJOR PROJECTS:

Implementation of AB 1834. BENHA is beginning to take steps to comply with the requirements of AB 1834 (Connelly). (For details on AB 1834, see CRLR Vol. 8, No. 1 (Winter 1988) pp. 66-67.) BENHA allocated \$3,000 of its budget to obtain a computer system which will be used for word processing and to track the following statistics and events: where licensees are employed; when their employment is terminated; complaints lodged against a licensee; citations received by a nursing home administrator; and disciplinary actions taken against a licensee. BENHA is currently in the process of determining the type of computer system needed to compile these statistics.

BENHA will also hire a half-time Disciplinary Action Coordinator to assist in handling the development of disciplinary cases. The person in this position will review and monitor all facility license revocation actions, temporary suspension orders, and decertification actions taken by the Department of Health Services (DHS), and make recommendations to assist the Executive Officer in filing accusations for disciplinary action; monitor all "A" and "AA" citations received from the DHS, make recommendations, and initiate remedial or disciplinary action against licensees; assist in the compilation of studies and legislative reports based upon BENHA's enforcement activities; develop and maintain reports of remedial and disciplinary actions taken by BENHA and provide the reports to the DHS, health facility providers, and

consumers; and coordinate BENHA disciplinary activities with the Department of Consumer Affairs' Office of Legal Affairs and its Investigation Division, the DHS, the Office of the Attorney General, and other agencies involved in making disciplinary determinations. BENHA has decided not to fill the position until AB 1834 actually takes effect in July.

AB 1834 requires BENHA to develop policies and procedures for the bill's implementation. The bill further instructs BENHA to develop these policies and procedures with input from long-term care provider associations, the DHS Licensing and Certification Division, the Office of the Attorney General, nursing home administrators who are not facility owners, and consumer representatives. Executive Officer Ray Nikkel has formed a committee which includes representatives of the groups specified in the bill, and the first meeting was scheduled for February 23 in Sacramento. The Board requested that at least one of its members be appointed to the committee, and Board member Martha Lang volunteered to serve on the committee.

BENHA plans to draft a fee bill during the summer which would increase the licensing fee structure so as to enable BENHA to finance the reforms required by AB 1834. Although the fee bill would be requested this year, the increases would not take effect until 1992.

Regulatory Changes. The rule-making package containing proposed changes to sections 3116, 3117.5, 3180, and 3130, chapter 39, Title 16 of the California Code of Regulations, has been examined by the Office of Administrative Law (OAL). (See CRLR Vol. 8, No. 1 (Winter 1988) p. 67 for details on these proposed changes.) OAL approved the amendments, with the exception of the change to section 3117.5. Section 3117.5, regarding the time between filing an application to take the licensing exam and the date of the exam, was rejected by OAL on grounds that it failed to meet OAL's necessity and clarity standards. BENHA does not plan to resubmit the proposed rule change to OAL at this time, although it may be resubmitted along with future rulemaking.

LEGISLATION:

AB 3624 (Hannigan) would require a residential care facility for the elderly which fails to make reasonable efforts to safeguard patient property to reimburse the patient for, or to replace, stolen property or lost patient property