



LITIGATION:

In *Americana Termite Co. Inc. v. Structural Pest Control Board*, No. B020747 (February 4, 1988), the California Court of Appeal (Second District) upheld the Board's Active Enforcement Program (AEP), which resulted in the suspension of four operators' licenses.

In 1982, the Board changed AEP's focus from fraud detection to administrative action against negligent and incompetent inspectors and termite companies. After SPCB's deputy registrar identified companies with the highest number of complaints within a geographic region, a Board investigator solicited the cooperation of area residents. Investigators inspected the residents' homes, after which the residents contacted companies on the SPCB's high-complaint list, requesting inspections. Following completion of these inspections, the companies filed reports with the Board.

After comparing the termite company reports with the investigators' reports, the SPCB suspended the licenses of four operators. The four petitioned the suspension to the trial court, which upheld the administrative actions.

The court of appeal affirmed, holding that the AEP did not deprive licensees of their statutory rights under the Structural Pest Control Act, because that Act allows the Board to impose discipline upon its own motion—not only in cases initiated through a consumer complaint. The court further held that AEP did not violate the licensees' right to equal protection because the Board's method (selecting the companies about which the most complaints had been received) was rationally related to a legitimate state interest in protecting the public. Finally, the court ruled that AEP was not a "regulation" and therefore did not have to meet the rulemaking requirements of the Administrative Procedure Act.

FUTURE MEETINGS:

To be announced.

TAX PREPARER PROGRAM

Administrator: Don Procida
(916) 324-4977

Enacted in 1973, abolished in 1982, and reenacted by SB 1453 (Presley) effective January 31, 1983, the Tax Preparer Program registers commercial tax preparers and tax interviewers in California.

Registrants must be at least eighteen

years old, have a high school diploma or pass an equivalency exam, have completed sixty hours of instruction in basic personal income tax law, theory and practice within the previous eighteen months or have at least two years' experience equivalent to that instruction. Twenty hours of continuing education are required each year.

Prior to registration, tax preparers must deposit a bond or cash in the amount of \$2,000 with the Department of Consumer Affairs.

Members of the State Bar of California, accountants regulated by the state or federal government, and those authorized to practice before the Internal Revenue Service are exempt from registration.

An Administrator, appointed by the Governor and confirmed by the Senate, enforces the provisions of the Tax Preparer Act. He/she is assisted by a nine-member State Preparer Advisory Committee which consists of three registrants, three persons exempt from registration, and three public members. All members are appointed to four-year terms.

MAJOR PROJECTS:

Regulatory Change. The Program held a public hearing on May 17 concerning a proposed amendment to section 3230, Chapter 32, Title 16 of the California Code of Regulations. The proposal, which would double the registration fee for tax preparers and tax interviewers from \$25 to \$50 and increase the renewal fee from \$10 to \$40, was sent to the Office of Administrative Law for approval.

The increases are needed for the Program's enforcement budget. The Division of Investigation of the Department of Consumer Affairs handles the Program's enforcement investigations, such as complaints about fraudulent activities or preparers who take consumer funds but neglect to complete tax forms. The registration and renewal fee increases would add \$200,000 to the Program's enforcement budget, up from its current \$31,000 budget allocation. For the past two years, the Program has spent approximately \$230,000 per year for enforcement; the \$400,000 spent over budget was taken out of the Program's reserves.

LEGISLATION:

SB 91 (Boatwright), which would establish a Tax Practitioner Program as part of the Franchise Tax Board on January 1, 1989, remains pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

(See CRLR Vol. 8, No. 2 (Spring 1988) p. 78 for details.)

RECENT MEETINGS:

The Program has held no public meetings since December 17 due to scarce budget resources.

FUTURE MEETINGS:

To be announced.

BOARD OF EXAMINERS IN VETERINARY MEDICINE

Executive Officer: Gary K. Hill
(916) 920-7662

The Board of Examiners in Veterinary Medicine (BEVM) licenses all veterinarians, veterinary hospitals, animal health facilities, and animal health technicians (AHTs). All applicants for veterinary licenses are evaluated through a written and practical examination. The Board determines through its regulatory power the degree of discretion that veterinarians, animal health technicians, and unregistered assistants have in administering animal health care. All veterinary medical, surgical, and dental facilities must be registered with the Board and must conform to minimum standards. These facilities may be inspected at any time, and their registration is subject to revocation or suspension if, following a proper hearing, a facility is deemed to have fallen short of these standards.

The Board is comprised of six members, including two public members. The Animal Health Technician Examining Committee consists of three licensed veterinarians, one of whom must be involved in AHT education, three public members and one AHT.

MAJOR PROJECTS:

Regulation Changes. At its May 13 meeting, the Board conducted a lengthy public hearing to discuss the proposed adoption of section 2037, Chapter 20, Title 16 of the California Code of Regulations, which would clarify the term "dental operation" as it relates to the practice of veterinary medicine. The Board has been concerned about the increasing number of unlicensed individuals providing teeth cleaning services without any formal training in animal dentistry. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 79 for background information.)

The Board has listed a number of concerns regarding the use of manual and ultrasonic scaling devices by untrained individuals, noting that such use