

## Board of Psychology

Executive Officer: Thomas O'Connor ♦ (916) 263-2699 ♦ Toll-Free Consumer Complaint Line: (800) 633-2322 ♦  
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The Board of Psychology (BOP) regulates licensed psychologists, registered psychologists, and psychological assistants under Business and Professions Code section 2900 *et seq.* BOP sets standards for education and experience required for licensure, administers licensing examinations, issues licenses, promulgates rules of professional conduct, regulates the use of psychological assistants, investigates consumer complaints, and takes disciplinary action against licensees. BOP's regulations are located in Division 13.1, Title 16 of the California Code of Regulations (CCR).

BOP is a consumer protection agency located within the Department of Consumer Affairs (DCA). The Board is composed of nine members—five psychologists and four public members. Each member of the Board is appointed to a term of four years, and no member may serve for more than two consecutive terms.

### MAJOR PROJECTS

#### **Informational Hearing on Child Custody Evaluations in Family Court**

At its August 13 meeting, BOP invited representatives of the Judicial Council of California to testify at an informational hearing on child custody evaluations provided by psychologists and other mental health professionals in family court proceedings. The Judicial Council is the state constitutional agency that provides policy direction to the courts, the Governor, and the legislature concerning court practice, procedure, and administration. The Statewide Office of Family Court Services (SOFCS) is a unit within the Judicial Council that supports family, juvenile, and probate courts through direct support and community partnerships. In family court, SOFCS focuses on child custody mediation, evaluation, and investigation services. SOFCS has developed, and the Judicial Council has adopted, Standards of Practice and Rules of Court for court-connected or court-ordered services, including supervised visitation, child custody mediation, and child custody evaluation/investigation. Under these rules, a family court presiding over a marital dissolution often appoints a mental health professional to perform a child custody evaluation—an expert investigation and analysis of the health, safety, welfare, and best interest of children with regard to disputed custody and visitation issues. The evaluator must analyze specified issues and submit a written report to the court, which ultimately rules on the disputed issues. Some counties permit the evaluator to make a recom-

mendation to the court, while others do not; specific procedures vary by county.

In recent years, the number of complaints filed with BOP regarding psychologists serving as child custody evaluators in family court increased from 39 in 1995, to 87 in 1996, to 93 in 1997 (the number has abated somewhat in subsequent years). In heated custody disputes, a parent who does not get what he/she wants in terms of custody may simply be seeking to retaliate against the evaluator by filing a complaint with the Board, or may have a legitimate complaint. To review these sometimes-complex complaints, the Board has contracted with an expert reviewer, Eugene Roeder, Ph.D. Further, in 1996, BOP formed a task force to investigate issues connected with complaints about psychologists assisting family courts.

At its August meeting, Dr. Isa Ricci and Dr. Susan Hanks of the SOFCS described the family court process to Board members, and noted the need for high-quality child custody evaluators and for the mental health professions to assist in developing a standardized format for all child custody evaluations. Dr. Hanks, who has been appointed by California Supreme Court Chief Justice Ronald George to be the Judicial

Council's liaison to the California Psychological Association, explained that the state currently lacks statewide standards on required qualifications for child custody evaluators, but noted that SB 433 (Johnson)—then pending in the legislature (see LEGISLA-

TION)—would require the Judicial Council to formulate a statewide rule of court by January 1, 2002, that establishes education, training, and licensure requirements for court-connected and private child custody evaluators.

Board members agreed that the Judicial Council's presentation was very helpful, and Executive Officer Tom O'Connor suggested that the Board and the Council maintain an ongoing liaison to discuss these issues.

#### **Board Still Mulling Proposed Revisions to Supervision Regulations**

Following two informational hearings in 1998–99, BOP again reviewed at its August meeting draft changes to sections 1387–1387.5, Title 16 of the CCR, its supervised professional experience (SPE) regulations. Business and Professions Code section 2914(c) requires any applicant for a psychologist license to complete two years (3,000 hours) of SPE “under the direction of a licensed psychologist, the specific

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requirements of which shall be defined by the board in its regulations." Sections 1387-1387.5 are detailed regulations which flesh out the precise parameters of the SPE requirement. For the past year, BOP has been engaged in a project to substantially redraft and reorganize these regulations, and to amend several of their substantive provisions. Among other things, the draft deletes two existing requirements that have caused some concern: (1) a requirement that primary supervisors of trainees have at least three years of post-licensure experience, and (2) a requirement that primary supervisors be onsite and available to trainees for at least 50% of the supervisee's work schedule ("a minimum of one-half time in the same work setting at the same time as the person supervised"). [16:2 CRLR 61-62; 16:1 CRLR 82-83]

In place of the requirement that primary supervisors have three years of experience, the revised draft reviewed in August would require primary supervisors to have a current license in good standing; the supervisor would be required to notify the supervisee of any disciplinary action that affects the primary supervisor's ability or right to supervise. Further, primary supervisors would have to certify under penalty of perjury, when verifying SPE, that they are qualified to supervise psychology trainees and that they have completed at least six hours of formal training in supervision. This training must include "the processes, procedures and theories of supervision needed to prepare trainees for independent practice of psychology with safety to the public," and must include training in the laws and regulations applicable to the practice of psychology. The revised draft also specifies that the primary supervisor (or a qualified delegated supervisor) must be "employed in the same setting at least half time and be available to the supervisee 100% of the time the supervisee is accruing SPE." This availability may be in-person, by telephone, by beeper, or by other appropriate technology. BOP believes that this change will provide more flexibility for the supervisor and, at the same time, increase access for the supervisee.

The revised draft also describes the qualifications and expectations of a "delegated supervisor" to whom a primary supervisor may delegate his/her supervision responsibility. The draft provides that primary supervisors of psychologist trainees may delegate supervision to other qualified licensed psychologists or to other qualified mental health professionals, including marriage and family therapists, licensed educational psychologists, licensed clinical social workers, and board-certified psychiatrists who have completed six hours of formal training in supervision. "Delegated supervisors" must have the same qualifications and assume the same responsibilities as primary supervisors (except that the pri-

mary supervisor remains responsible for providing one hour per week of direct, individual, face-to-face supervision and for ensuring the overall quality of the supervised experience). The revised draft specifies that neither primary nor delegated supervisors may exploit or engage in sexual relationships with supervisees; further, the draft regulations specify that no SPE credit will be awarded for experience obtained from a supervisor who has received payment, monetary or otherwise, from the supervisee for the purpose of providing the supervision.

At the Board's August meeting, Dr. Terry Marks-Tarlow of the Los Angeles County Psychological Association suggested that the Board revise draft section 1387(b)(13), which currently reads as follows: "Supervisors, primary and delegated, shall ensure that all laws and regulations regarding the accrual of SPE are being complied with at all times." Dr. Marks-Tarlow recommended that the Board delete the word "ensure"

and replace it with "take reasonable and professionally appropriate steps to ensure." The Board took the suggestion under advisement. At this writing, the Board is expected to wrap up its redrafting of these regulations and publish them for public comment and hearing by the end of the year.

## Implementation of SB 983 (Polanco and Rainey)

At its May 15 and August 14 meetings, the Board continued its discussion of the implementation of SB 983 (Polanco and Rainey) (Chapter 822, Statutes of 1998). SB 983 added sections 2914.2 and 2914.3 to the Business and Professions Code. Section 2914.2 requires BOP to encourage licensees to take continuing education courses in psychopharmacology and the biological bases of behavior. Section 2914.3(a) requires the Board to encourage institutions offering doctorate degree programs in psychology to include education and training in psychopharmacology and related topics, including pharmacology and

clinical pharmacology. SB 983 does not authorize psychologists to prescribe drugs or in any way expand the scope of practice of psychologists, but it is intended to "improve the ability of clinical psychologists to collaborate with physicians." Further, section 2914.3(b) requires BOP to "develop guidelines for the basic education and training of psychologists whose practices include patients with medical conditions and patients with mental and emotional disorders, who may require psychopharmacological treatment and whose management may require collaboration with physicians and other licensed prescribers." In developing these guidelines for training, the Board is required to consider a number of

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specific factors and subjects for inclusion in the training; these factors and subjects are specified in Business and Professions Code section 2914.3(b). [16:2 CRLR 62; 16:1 CRLR 84]

At BOP's May meeting, Board President Judith Janaro Fabian, Ph.D., noted that—in developing the training guidelines required by section 2914.3(b)—BOP is considering the education guidelines already established by the American Psychological Association (APA). At its August meeting, BOP reviewed draft guidelines stating that “a program of didactic courses to prepare psychologists mentioned in section 2914.3(a) of the Business and Professions Code should be an organized program of instruction. The program should have appropriate faculty and facilities for the didactic training. The didactic training should be from a regionally accredited institution of higher learning. Finally, the program should include coursework from the following core content areas: (1) neurosciences; (2) pharmacology and psychopharmacology; (3) physiology and pathophysiology; (4) physical and laboratory assessment; and (5) clinical pharmacotherapeutics.”

The draft guidelines also contained a final paragraph: “If an individual chooses to engage in a more intensive program of study beyond the board's guidelines, such an individual should refer to the ‘Recommended Postdoctoral Training in Psychopharmacology for Prescription Privileges’ developed and published by the American Psychological Association.” Both the California Psychiatric Association and the California Medical Association submitted letters objecting to the final paragraph as being inconsistent with the intent language in SB 983 stating that the bill “is not intended to provide for training psychologists to prescribe medication.” CMA interpreted the final paragraph as “asserting that the emphasis of SB 983 was to increase training by encouraging ‘a more intensive program of study’ to achieve ‘prescription privileges.’” Both organizations also objected to the inclusion of “physical and laboratory assessment” in the list of courses included in the guidelines.

In response to the letters, the Board agreed to delete the last paragraph of its draft guidelines and substitute the following paragraph: “While suggesting coursework to meet basic education requirements, we recognize that training in collaborative consultation with physicians, including indicators for referral, educational consultation with patients and families, including information on drugs that are commonly abused that may or may not have therapeutic uses, risks, benefits and treatment alternatives to medication, and indications for physician referral are an implicit part of the practice of psychology.” However, the Board left the list of courses as drafted. At this writing, the Board is scheduled to consider the revised draft guidelines at its November meeting.

## **Spousal/Partner Abuse Detection Coursework**

Business and Professions Code section 2914(f) requires individuals who began graduate training for psychologist licensure after January 1, 1995 to complete coursework in spousal or partner abuse assessment, detection, and intervention

as a requirement for licensure. On September 17, BOP published notice of its intent to adopt new section 1387.8, Title 16 of the CCR, to specify the requirements for this coursework and to set forth various options for satisfying it. As published, new section 1387.8 would require licensure applicants to submit documentation of completion of two classroom hours focused on spousal/partner abuse assessment, detection, and intervention. The coursework must be completed after January 1, 1995, and may be taken in fulfillment of other educational requirements in the applicant's graduate and/or doctoral training, in a separate course approved by BOP's recognized continuing education accrediting agency, or in a separate course provided by a sponsor approved by the American Psychological Association.

At this writing, the Board is scheduled to hold a public hearing on this proposal at its November 5 meeting.

## **BOP Proposes to Reduce Renewal Fees**

On September 17, the Board published notice of its intent to amend section 1392(c), Title 16 of the CCR, to reduce the biennial renewal licensing fee for psychologists from \$475 to \$400, effective July 1, 2000. The fee reduction, which is authorized by Business and Professions Code section 2987, is necessary to reduce the Board's reserve fund. According to a recent analysis, BOP's reserve fund will increase to 12.8 months' worth of operating expenses by fiscal year 2002–03 if it maintains its current renewal fees. If renewal fees are reduced to \$400, BOP's reserve fund will contain only 8.6 months of operating expenses by 2002–03. Most other occupational licensing agencies within DCA maintain a three-month reserve fund.

At this writing, the Board is scheduled to hold a public hearing on this proposal at its November 5 meeting.

## **Update on Other BOP Rulemaking Proceedings**

The following is an update on recent BOP rulemaking proceedings described in detail in Volume 16, No. 2 (Summer 1999) of the *California Regulatory Law Reporter*:

◆ **Passage Standards for BOP Licensing Exams.** On June 14, the Office of Administrative Law (OAL) approved BOP's permanent amendments to sections 1388(b) and 1388.5, Title 16 of the CCR. The amendments implement a provision of SB 1983 (Greene) (Chapter 589, Statutes of 1998), which requires the Board to establish, by regulation, passing grades for its written and oral licensing examinations. The amendment to section 1388(b) specifies that BOP will apply the national passing grade of 140 to the written Examination for Professional Practice in Psychology, as recommended by the Association of State and Provincial Psychology Boards. The Board's amendments to section 1388.5 address the pass point for its oral examination. The process to determine the pass point on the oral exam will be overseen by DCA's Office of Examination Resources. Subsection 1388.5(d) provides that the pass point on the oral exam shall

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be at a level of minimally acceptable competence, which shall be established by developing performance standards expected of candidates ready for independent practice. Candidates' responses will be given a numerical value by examiners and arrayed along a rating scale continuum; to achieve a passing score, candidates must earn a score equivalent to minimal acceptable competence on the rating scale. The oral exam scoring format is designed such that a candidate must earn 24 points out of the 40 possible. [16:2 CRLR 63; 16:1 CRLR 81-82]

◆ **Continuing Education Regulations.** At its November 1998 meeting, BOP adopted several amendments to sections 1397.60-.65 and 1397.68, Title 16 of the CCR, which implement the Board's continuing education (CE) requirements under Business and Professions Code section 2915. Current law requires licensees to complete 36 hours of approved CE during each two-year renewal cycle. BOP's amendments are intended to define certain terms in the regulations, adjust CE fees, address emerging technology issues, and clarify the Board's intent regarding the content of acceptable CE courses and the methods used to evaluate a licensee's participation in a CE course.

Among other things, the Board's amendments (1) define the terms "conferences," "grand rounds," and "in-service training programs" for purposes of CE credit; (2) authorize licensees who qualify for a reasonable accommodation under the Americans with Disabilities Act to complete all or part of their CE requirement through a "distance learning program" (including courses delivered via the Internet, CD-ROM, satellite downlink, correspondence courses, and home study) approved by an accrediting agency, and permit other licensees to take advantage of distance learning programs to satisfy up to 20% of the CE required in each renewal cycle; (3) specify that acceptable CE courses must be "pertinent to the practice of psychology" at a post-licensure level, and clarify that courses focused on business, marketing, or that are predominantly designed to explore opportunities for personal growth are not eligible for credit; (4) state that the required evaluation mechanism used to assess the achievement of CE course participants "shall be appropriate to the length of the course and complexity of the material being presented and in accordance with generally accepted adult education evaluation models"; (5) increase the course attendee fee which CE providers must pay to the course accrediting agency from \$5 to \$7 per licensee; and (6) establish a CE conference fee of \$100 to be paid by the CE provider to the accrediting agency. [16:2 CRLR 63; 16:1 CRLR 82]

On October 12, the Board submitted these regulatory changes to OAL for review and approval; at this writing, OAL has 30 working days in which to approve or reject them.

◆ **Declaratory Decision Regulation.** On July 2, OAL approved BOP's adoption of section 1380.7, Title 16 of the

CCR, entitled "Declaratory Decisions." Government Code section 11465.10 *et seq.*, part of the state's Administrative Procedure Act, permits BOP to issue a declaratory decision, in effect an advisory opinion concerning assumed facts submitted by an interested party. Section 1380.7 states that no decision or opinion issued by BOP is a declaratory decision unless the decision or opinion specifically states that it is a "declaratory decision." [16:2 CRLR 63; 16:1 CRLR 83]

◆ **Citation and Fine Regulation.** Also on July 2, OAL approved the Board's amendment of section 1397.51, Title 16 of the CCR, which identifies all statutes and regulations the violation of which is grounds for a citation and fine under Business and Professions Code section 125.3. The amendment to section 1397.51 allows the Board to issue a citation and fine to supervisors who fail to supervise as required by the Board's statute and regulations, and to licensees for failure to complete CE requirements. [16:2 CRLR 63; 16:1 CRLR 83]

◆ **Disciplinary Guidelines.** On July 9, BOP published notice of its intent to amend section 1397.12, Title 16 of the CCR, which currently requires the Board—in reaching a decision in a disciplinary matter—to rely on the July 1, 1996 version of its disciplinary guidelines. The Board formulated its disciplinary guidelines to inform its licensees, the deputy attorneys general who prosecute its disciplinary cases, the administrative law judges who preside over its disciplinary hearings, and the Board itself on the type and range of penalties considered appropriate for given violations of BOP's practice act or regulations. The disciplinary guidelines also include standard terms and conditions of probation. The guidelines themselves are not included in section 1397.12, but are incorporated by reference within the regulation.

In March 1999, the Board revised its disciplinary guidelines in several respects [16:2 CRLR 63-64], and its proposed changes to section 1397.12 would require reliance on the April 1, 1999 revised version of the disciplinary guidelines. The Board scheduled no public hearing on this proposed regulatory change, but accepted public comment on the proposal until August 23. At this writing, the Board is scheduled to vote on the proposed change at its November 6 meeting.

## LEGISLATION

**SB 809 (O'Connell)**, as amended August 17, establishes a statute of limitations on accusations filed by the Board against licensees. The bill requires the Board to file an accusation against a licensee within three years from the date the

Board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years of the date the alleged act or omission that is the basis for disciplinary action occurred,

whichever is first. These requirements do not apply if the accusation alleges the procurement of a license by fraud or misrepresentation. Governor Davis signed SB 809 on September 21 (Chapter 459, Statutes of 1999).

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**SB 1308 (Committee on Business and Professions)**, as amended September 2, amends section 27 of the Business and Professions Code and specifically requires BOP to provide information concerning the status of its licensees on the Internet, including information on license suspensions, revocations, and other related enforcement action taken by the Board. The disclosed information would not include personal information (such as home address and home telephone number of the practitioner).

SB 1308 also includes BOP within Business and Professions Code section 800, and requires BOP to maintain a "central file" with information on its licensees. The "central file" must contain an individual historical record for each licensee with respect to criminal convictions, malpractice judgments or settlements requiring the licensee or his/her insurer to pay any amount of damages in excess of \$3,000, any consumer complaints (except those which are found to be without merit), and any disciplinary information reported to BOP by psychologist peer review bodies. The contents of a licensee's central file which are not public records under any other provision of law must be kept confidential, except that a licensee (or his/her counsel or representative) has the right to inspect and copy his/her complete file except for records that may disclose the identity of an information source.

Finally, SB 1308 provides that attorneys from the Health Quality Enforcement Section of the Attorney General's Office will continue to represent the Board in disciplinary actions. The Governor signed this bill on October 6 (Chapter 655, Statutes of 1999).

**AB 606 (Jackson)**. Existing law creates the Victims of Crime Program, administered by the State Board of Control, to reimburse victims of crime for pecuniary losses they suffer as a direct result of criminal acts. The Program reimburses victims—both direct victims and specified derivative victims—of specified types of crimes for specified types of expenses with limits on those expenses (both dollar amounts and time limits on treatment). Included are expenses for outpatient psychiatric, psychological, or other mental health counseling-related expenses which become necessary as a direct result of the crime. These counseling services may be reimbursed only if provided by specified individuals (including psychologists). Payments may also be made to private nonprofit agencies and for rape crisis center peer counseling.

As amended September 3, this bill expands the category of health professionals whose services are reimbursable by the Victims of Crime Program to include "child life specialists" (CLS) certified by the Child Life Council. A CLS is not licensed by the State of California, nor does a CLS have to be supervised by a person licensed by the state. All other categories of professions whose services are reimbursable are either licensed by the state or supervised by a licensee. AB

606 was signed by the Governor on October 2 (Chapter 584, Statutes of 1999).

**AB 88 (Thomson)**, as amended September 8, requires health care service plan contracts and disability insurance policies issued, amended, or renewed on or after July 1, 2000, to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses, as defined, of a person of any age, and of serious emotional disturbances of a child, under the same terms and conditions applied to other medical conditions. Health plans and disability insurers may provide the required mental health coverage through a separate specialized health care service plan or mental health plan, subject to certain conditions. Governor Davis signed AB 88 into law on September 27 (Chapter 534, Statutes of 1999).

**SB 433 (Johnson)**, as amended August 26, requires court-connected and private child custody evaluators to complete a described domestic violence training program and comply with other requirements. It also requires the Judicial Council to formulate a statewide rule of court by January 1, 2002, that establishes education, training, and licensure requirements for court-connected and private child custody evaluators and requires child custody evaluators to declare under penalty of perjury that they are currently licensed and meet all other requirements of the rule. Finally, the bill requires, on and after January 1, 2005, that each child custody evaluator be a licensed physician who devotes a substantial portion of his/her time to the practice of psychiatry, a psychologist, a marriage and family therapist, or a licensed clinical social worker, or to be proposed by or stipulated to by the parties and consented to by the court.

According to the author, many child custody evaluators are not licensed professionals. This anomaly, the author and proponents of the bill state, has wreaked havoc in

the lives of many families who have used private child custody evaluators who have never trained in the field, who are not held accountable for incompetent handling of a case, or who are not disciplined for unprofessional

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conduct. This bill, it is hoped, will rein in all the unlicensed and inexperienced private child custody evaluators by prescribing and mandating their training and, in time, requiring them to have a professional license related to the issues prevalent in child custody cases (see MAJOR PROJECTS). SB 433 was signed by the Governor on October 10 (Chapter 932, Statutes of 1999).

**AB 416 (Machado)**, as amended September 9, makes a number of legislative findings and declarations regarding the importance of maintaining confidentiality of information on patients undergoing mental health treatment. The bill adds section 56.104 to the Civil Code, which prohibits health care providers (including psychologists) from releasing specified medical information created regarding an individual as a result of that person's participation in outpatient treatment with

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a psychotherapist, unless the person or entity requesting the information ("requester") submits a written request to both the patient and the health care provider. The written request must be signed by the requester, and must include (1) the specific information relating to a patient's participation in outpatient treatment with a psychotherapist being requested and its specific intended use or uses; (2) the length of time during which the requester will keep the information before destroying or disposing of it (a requester may extend that timeframe, provided that the requester notifies the provider of the extension and explains the specific reason for the extension, the intended use(s) of the information during the extended time, and the expected date of the destruction of the information); (3) a statement that the information will not be used for any purpose other than its intended use; and (4) a statement that the requester will destroy the information and all copies in the requester's possession or control, will cause it to be destroyed, or will return the information and all copies of it before or immediately after the length of time specified in section (2) above has expired. The bill also extends this prohibition to health care service plans and their contractors.

The bill also amends Civil Code section 56.35, to provide that a patient whose medical information has been used or disclosed in violation of Civil Code section 56.104 and who has sustained economic loss or personal injury therefrom may recover compensatory damages, punitive damages not to exceed \$3,000, attorneys' fees not to exceed \$1,000, and the costs of litigation.

The Governor signed this bill on September 27 (Chapter 527, Statutes of 1999).

**AB 794 (Corbett)**, as amended August 16, clarifies the requirements for Board licensees whose patients' records are subpoenaed in civil litigation. Among other things, the bill expands the definition of "personal records" to include electronic data; conforms the time for production of documents under Code of Civil Procedure sections 1985.3 and 1985.6 to that in Code of Civil Procedure section 2020 (no earlier than 20 days after the issuance, or 15 days after the service, of the subpoena duces tecum, whichever is later); requires that when provided with advance notice of at least five business days, the witness must designate at least a six-hour block of time on a date certain for the deposition officer to copy records subject to the subpoena; adds a presumption that any objection to release of records is waived by a party when his/her attorney signs an authorization for the release; and raises the maximum amount the party serving the subpoena may be charged for clerical costs associated with making the records available, from \$16 to \$24 per person per hour, computed on the basis of \$6 per quarter hour. Governor Davis signed AB 794 on September 21 (Chapter 444, Statutes of 1999).

**AB 400 (Lempert)**, as amended July 6, would require DCA's Bureau of Postsecondary and Vocational Education (BPPVE) to conduct a study evaluating whether accredited and approved academic institutions offer part-time, evening, or weekend doctoral programs, and the extent to which these programs meet the needs of students who are working, generally older than the median age for full-time students, and other students who are underserved. The bill would require BPPVE to report its findings in writing to the legislature by January 1, 2006. AB 400 would also, after January 1, 2008, eliminate the authority of the Board to accept a doctoral degree from a BPPVE-approved institution in satisfaction of the licensing requirement, and generally require applicants to have attended an accredited institution; and further eliminate BOP's authority to deem a doctoral program in a field other than psychology, education psychology, or education with a specialization in psychology, equivalent to those. [S. *Appr*]

The California Psychological Association (CPA) is sponsoring AB 400. According to CPA, California is the only state in the United States that allows graduates of unaccredited doctoral programs to be licensed as psychologists. CPA believes AB 400 is a first step toward bringing California into conformance with the rest of the nation and preventing discrimination against California-licensed psychologists who are graduates of BPPVE-approved but unaccredited schools. The California Association of Private Postsecondary Schools (CAPPS) and several other groups

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oppose the bill because of the "harsh effect" of eliminating unaccredited psychology school graduates from licensure eligibility. CAPPS states that many unaccredited institutions are small, single-subject area schools that cater to adults who are pursuing alternative careers, reentering the labor market, or pursuing a career later in life. Approved schools can meet these needs without being accredited, and CAPPS sees little public benefit to eliminating educational choices for working adults. In regard to interstate reciprocity, CAPPS asserts that its graduates are able to practice in other states (apparently through an exemption procedure). CAPPS argues that without a factual determination of whether reciprocity is a real problem, proceeding with this bill at this time is inappropriate. Also in opposition to AB 400, the Alliance for Private Postsecondary Academic Institutions argues this bill reflects a trend of educational segregation and elitism that amounts to protectionism, and makes education accessible to only those with financial resources. At its June 18 meeting, BOP decided to support this two-year bill. [S. *Appr*]

**AB 1144 (Aanestad)**, as introduced in February 1999, would require BOP to encourage institutions offering doctoral programs in psychology to include education and

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training in geriatric pharmacology. The bill would also require the Board to encourage licensed psychologists to take continuing education courses in geriatric pharmacology. The bill is intended to clean up confusion created by SB 983 (Polanco and Rainey) (Chapter 822, Statutes of 1998) (see MAJOR PROJECTS). [S. B&P]

**SB 125 (Haynes)**, as amended March 17, would prohibit the Board of Behavioral Sciences from utilizing any type of oral examination as a condition of licensure as a clinical social worker or marriage and family therapist, except as specified, and delete the prescribed fees for the oral examination. Although this bill does not directly affect BOP or its licensees and applicants, the Board is closely monitoring the progress of the bill. BOP is opposed to the elimination of its oral examination as a requirement for licensure of psychologists in California. [S. B&P]

## LITIGATION

On May 12, the California Supreme Court declined to review the Fourth District Court of Appeal's decision in *Trear v. Sills*, 69 Cal. App. 4th 1341 (Feb. 16, 1999), a case of first impression. In that case, a stepfather sought damages against a therapist for allegedly implanting the idea in his stepdaughter's head that he had sexually abused her when she was a child. The Fourth District affirmed the superior court's dismissal of the matter, holding that the professional duty of a therapist does not extend beyond an adult patient to the patient's parent. [16:2 CRLR 66]

## RECENT MEETINGS

At BOP's May meeting, staff announced that an automated online consumer complaint form is now available via the Board's webpage. Consumers who have complaints against Board licensees or who wish to report the unlicensed practice of psychology may now complete and file those complaints online. Staff also noted that it hopes to add a "licensee look-up" feature to its webpage by the end of the year; this feature will enable consumers to immediately verify whether an

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individual holding him/herself out as a Board licensee is in fact licensed.

At its August meeting, the Board reviewed its enforcement statistics for fiscal year 1998-99 (July 1, 1998 through June 30, 1999). During this period, BOP received 520 complaints, opened 122 investigations, filed 40 accusations, and took a total of 44 disciplinary decisions (including ten revocations, twelve stayed revocations with probation, and eleven voluntary surrenders).

## FUTURE MEETINGS

- November 4-6, 1999 in San Diego.
- March 3-4, 2000 in Monterey.
- May 12-13, 2000 in Riverside.
- August 18-19, 2000 in Sacramento.
- November 3-4, 2000 in Fresno.

## Respiratory Care Board

Executive Officer: Cathleen A. McCoy ♦ (916) 263-2626 ♦ Internet: [www.dca.ca.gov/r\\_r/respcare.htm](http://www.dca.ca.gov/r_r/respcare.htm)

The Respiratory Care Board (RCB) is a consumer protection agency within the state Department of Consumer Affairs (DCA). Pursuant to the Respiratory Care Practice Act, Business and Professions Code section 3700 *et seq.*, and its regulations in Division 13.6, Title 16 of the California Code of Regulations (CCR), RCB licenses and regulates respiratory care practitioners (RCPs). These health care professionals regularly perform critical lifesaving and life support procedures prescribed by physicians that directly affect major organs of the body. RCPs provide direct patient care in the hospital or home care setting; their patients may be suffering from lung cancer, emphysema, asthma, or cystic fibrosis, or may be premature infants whose lungs have not fully developed.

RCB is charged with examining and licensing qualified RCPs, setting standards for the practice of respiratory care in California, inspecting hospitals and other facilities in which respiratory care is delivered, investigating alleged wrongdoing by

licensees, and taking appropriate disciplinary action, including license suspension or revocation, in order to ensure public health and safety.

The nine-member Board consists of four RCPs, four public members, and one physician. Three members are appointed by the Governor, three are appointed by the Senate Rules Committee, and three by the Assembly Speaker. RCB is staffed by 14 people. RCB is financed by licensing fees and receives no allocation from the state general fund.

## MAJOR PROJECTS

### RCB's Continued Use of National Licensing Exam In Question

At the Board's July 16 meeting, representatives of the National Board for Respiratory Care (NBRC)—the vendor

