



## STATE & CONSUMER SERVICES AGENCY

(Department of Consumer Affairs)

### BOARD OF ACCOUNTANCY

*Executive Officer: Carol Sigmann*  
(916) 263-3680

The Board of Accountancy (BOA) licenses, regulates, and disciplines certified public accountants (CPAs) and public accounting firms and corporations. The Board also regulates and disciplines existing members of an additional classification of licensees, public accountants (PAs); the PA license was granted only during a short period after World War II. BOA currently regulates over 73,000 individual licensees and 4,200 corporations and partnerships. The Board establishes and maintains standards of qualification and conduct within the accounting profession, primarily through its power to license. The Board's enabling act is found at section 5000 *et seq.* of the Business and Professions Code; the Board's regulations appear in Title 16, Division 1 of the California Code of Regulations (CCR).

The Board consists of twelve members: eight BOA licensees (seven CPAs and one PA), and four public members. Each Board member serves a four-year term and receives no compensation other than expenses incurred for Board activities.

The operations of the Board are conducted through various standing committees and, for specific projects, task forces which are sunsetted at project completion. The Board's major committees include the following:

- The Qualifications Committee, among other things, reviews all applications for licensure, reviews workpapers to determine qualifications if it is unable to do so based on a file review, and considers all policy and/or procedural issues related to licensure.

- The Legislative Committee reviews legislation and recommends a position to the Board; reviews and/or edits proposed statutory language and regulatory language developed by other committees before it is presented to the Board; and serves

as an arena for the various trade associations to express their concerns on issues.

- The Committee on Professional Conduct considers all issues related to the professional and ethical conduct of CPAs and PAs.

- The Administrative Committee is responsible for handling disciplinary matters concerning licensees.

The Board's staff administers and processes the nationally standardized CPA examination, currently a four-part exam encompassing the categories of business law and professional responsibility, auditing, accounting and reporting, and financial accounting and reporting. Generally, in order to be licensed, applicants must successfully complete all parts of the exam and three or more years of qualifying accounting experience (including experience in applying a variety of auditing procedures); one year of the experience requirement may be waived with college credit. Under certain circumstances, an applicant may repeat only the failed sections of the exam rather than the entire exam.

The current members of BOA are CPAs Avedick Poladian, Victor Calderon, Eileen Duddy, Ira Landis, Diane Rubin, Robert Shackleton, and Harry Mikkelsen; PA Walter Finch; and public members Robert Badham, Karen Mier, Baxter Rice, and Joseph Tambe.

### MAJOR PROJECTS

**BOA Continues to Analyze Enforcement Program.** At a special meeting on November 3, the Board continued its comprehensive review of its enforcement program, which has recently been criticized by the Senate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions and the Center for Public Interest Law. [14:2&3 CRLR 31-32; 13:4 CRLR 5] BOA commenced the analysis at a special September 14 meeting, during which it reviewed the role of the numerous participants in its complex, two-tiered case investigation process, the adjudicative phase (which generally makes use of private outside counsel to represent the Board instead of lawyers from the Attor-

ney General's Office), and settlement negotiation procedures and prefiling conferences. [14:4 CRLR 32-34] Because BOA failed to complete its exhaustive review on September 14, it scheduled another session for November 3.

Before continuing on its lengthy agenda on November 3, however, the Board spent a considerable amount of time clarifying the policy it adopted on September 14 regarding stipulated settlements, prefiling conferences, and the filing of accusations. Currently, complaints against CPAs are preliminarily investigated by one of six Board employee CPA investigators or by a member of the Board's Technical Review Panel (TRP), a group of volunteer CPAs which assists the Board. The CPA investigator or the TRP member prepares an investigative report which is forwarded to the Board's Administrative Committee (AC), a 17-member committee consisting entirely of non-Board-member CPAs. Two AC members review the investigative report and, according to BOA documents, "decide on what further action is appropriate." The AC may require the accused licensee to attend an Administrative Committee Investigative Hearing (ACIH) before three or four AC members. Again, "the AC members decide on what further action is appropriate." If violations are confirmed, the AC will either (1) issue a citation and/or fine pursuant to section 95, Title 16 of the CCR; (2) order the licensee to engage in specified continuing education; or (3) ask BOA's Executive Officer to refer serious cases to the Attorney General's Office for preparation and filing of a formal accusation against the licensee.

At the Board's September 14 session, several members expressed concern that the first communication from the Board received by a licensee who has been compelled to attend an ACIH may be the accusation, thus precluding the licensee to engage in settlement negotiations at the AC stage. The Board adopted a policy in this regard at its September 14 meeting, which was further clarified as follows at the November 3 meeting:

- Licensees are invited to initiate settlement discussions at any stage of the enforcement process, and representatives of the Board may enter into settlement agreements without holding an ACIH. However, if the enforcement process evolves without settlement prior to an ACIH, the following paragraphs set forth Board policy for these situations.

- With or without an ACIH, a draft accusation shall be prepared and made available to the licensee, who will then have an opportunity to comment as to the



factual accuracy of the document during a pre-accusation filing communication or conference.

• Following an ACIH, representatives of the Board may initiate settlement discussions and/or enter into settlement agreements after the completion of a draft accusation. Representatives of the Board will not enter into a settlement agreement following an ACIH without first having reviewed the draft accusation.

After clarifying this matter, the Board discussed the issue of confidentiality of the information gathered in ongoing BOA investigations and disciplinary matters. Because BOA uses non-Board members to investigate cases and non-Attorney General's Office counsel to prosecute its cases, it risks the potential of leaks and misuse of confidential information. This problem was illustrated in 1994 when Arthur Andersen, a CPA firm against whom BOA was proceeding in a disciplinary matter, filed a lawsuit against the Board, alleging misconduct and contending that the Board leaked confidential information to private attorneys involved in a class action against Andersen. [14:4 CRLR 35] Board members noted that the confidentiality problem occurs largely when both a Board disciplinary action and a related civil action are pending, and Board representatives (including outside TRP members and other consultants) attempt to share information with plaintiffs' counsel in the civil matter. Board President Dick Poladian stated his view that some limited cooperation with a civil plaintiff may be beneficial to the Board's disciplinary process in that BOA investigators will have the benefit of private discovery, and questioned whether the Board and/or the Attorney General's Office has ever instituted procedures to guide the exchange of information between Board representatives and civil action counsel. Deputy Attorney General Mike Granen replied in the negative, and reminded Board members that the burdens of proof differ substantially between a civil negligence action and a public disciplinary action. In civil cases, the plaintiff need only prove simple negligence by a preponderance of the evidence; in a Board disciplinary proceeding, the Board must prove gross negligence, or a severe departure from the applicable standards, by clear and convincing evidence.

Following discussion, the Board directed its Enforcement Program Management Committee (EPMC) to review in detail and in depth the Board's current policy on and process of sharing information with and seeking of information from counsel in civil litigation involving licen-

sees of the Board. The EPMC was also charged with ensuring that the Board's policy is being followed in its investigation of so-called "major cases" [14:4 CRLR 32-33], and with drafting any necessary recommendations to the Board regarding appropriate control of confidential information.

The next subject on the agenda was conflicts of interest, a potentially serious problem for the Board as the decisionmakers at many levels of its enforcement process are practicing CPAs who may be asked to sit in judgment of their colleagues and/or competitors. BOA Secretary-Treasurer Jeffery Martin noted that BOA and the AC drafted a disclosure statement form and adopted a conflict of interest policy in 1989 to deal with the problem and ensure the independence of its TRP members, AC members, Board consultants, and Board member liaisons to the Major Case Advisory Committee (MCAC). The intent was that anyone who might be involved in the processing of a case would sign the form. However, some Board members stated they have never seen such a form, in spite of having served as a Board member liaison to the MCAC.

Following discussion, the Board reaffirmed its 1989 policy, and stated that its policy embodies not only actual conflicts as a matter of law or fact but also the appearance of a conflict of interest. In other words, if a reasonable person outside the Board might believe, knowing all the facts, that there would not be adequate opportunity for an impartial judgment to be made by a particular Board member or other appointee or employee of the Board, then that member, appointee, or employee should recuse him/herself from the proceeding. The Board also reaffirmed the disclosure form, and directed staff to develop an implementation plan for full use of the form.

The Board then turned to cost management, a thorny issue because of BOA's frequent use of outside counsel and outside investigators (as opposed to staff investigators and AG's Office counsel) and the ability of BOA licensees to mount a substantial defense. Board President Poladian noted that, although statute entitles BOA to request reimbursement of its investigative costs from a disciplined licensee, it has "prudence obligations." On the other side of the coin, some critics argue that the Board's frequent decisions to settle (or not pursue) disciplinary cases are driven by cost considerations. Poladian noted that the Board's Outside Counsel Advisory Committee has established guidelines and protocols which enable the Board to track and limit costs spent by

outside counsel and/or the Attorney General's Office. However, he questioned who should be responsible for the overall management of a case from the cost standpoint. Board Vice-President Walter Finch opined that Board members should not get involved in tracking the costs of ongoing investigations, as this is part of the Enforcement Chief's job.

According to Executive Officer Carol Sigmann, a law firm which is interested in taking a case proposes a contract and prepares a budget, which is based on likelihood of going to trial, the firm's experience in handling similar matters, and projected costs; based on the proposed contract, the Board can then go to other firms and see if they can do the work more economically. Problems occur after a proposal is accepted, circumstances and/or necessary tasks change, and the firm fails to bill BOA in an itemized format which enables the Board to determine whether the firm is sticking to the budget. After considerable discussion, the Board decided that when a budget is developed for a specific major enforcement case, the Board liaison on the case will receive a copy of the budget and the subsequent billings.

Because the Board did not complete its entire agenda, it intends to schedule another special session in the near future.

**CPIL Presents Its Perspective to the Board.** At the Board's September 30 meeting, Center for Public Interest Law (CPIL) Director Robert Fellmeth and Supervising Attorney Julie D'Angelo were on hand to present their views of the Board's structure and performance. After CPIL expressed concerns about BOA in 1993 written testimony to the Senate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions [13:4 CRLR 5], BOA invited CPIL to discuss its problems with the Board in hopes of developing a fruitful dialogue and heading off potential problems at its "sunset" review hearing which is scheduled for September 1995. [14:4 CRLR 31-32]

Julie D'Angelo summarized several recent BOA actions which have concerned CPIL. First, she noted that CPIL disagreed with the Board's role and position in *Bonnie Moore v. State Board of Accountancy*, a five-year-long litigation which was eventually decided by the California Supreme Court in 1992 [12:4 CRLR 52-53]; in the action, CPIL filed several *amicus curiae* briefs on behalf of Bonnie Moore. The *Moore* case concerned BOA's "Rule 2" (section 2, Title 16 of the CCR), which prohibits anyone but a CPA from using the terms "accountant" or "accounting" in their advertising or other public commu-



nications. In the case, CPIL took the position that the rule violates both the first amendment commercial speech rights of non-CPA accountants who have never been prohibited by the legislature from using those terms, and their fourteenth amendment due process rights in that the Board—consisting in majority of CPAs—improperly adopted the rule to protect the CPA profession from lawful competition. D'Angelo noted that the California Supreme Court issued a split decision: The court found that the Board was authorized to adopt the rule because there was some evidence of consumer confusion surrounding the use of the terms; however, the court expressly invalidated the rule under the first amendment as overly broad, ruling that the Board may not prohibit the use of the terms altogether. The court stated that non-CPA accountants must be permitted to use the terms so long as they include an explanation that they are not licensed by the state and/or that the work they perform does not require a state license. D'Angelo noted that the Board has never repealed or amended Rule 2, and urged BOA to address this issue before its sunset review hearing.

Secondly, D'Angelo expressed problems with two aspects of the Board's entry barrier into the CPA profession. She noted that the pass rate on the CPA exam is one of the lowest in the nation for occupational licensing exams. She also argued that BOA has never defined, either in statute or regulation, the precise length and character of experience required for licensure. Specifically, she stated that the Board's Rule 11.5, which purports to define the character of the required experience, is insufficient as it does not even permit the Board's Qualifications Committee—much less licensure candidates—to determine whether specific types of experience qualify toward the licensing requirement. She also noted that Rule 11.5 does not include the Board's so-called "500-hour rule," which is routinely applied to licensure candidates and which has never been codified in any statute or regulation. D'Angelo urged the Board to amend section 11.5 to clarify its experience requirements promptly.

Next, D'Angelo criticized the Board's heavy use of non-Board member licensees on its 17-member Administrative Committee to investigate complaints and on its 26-member Qualifications Committee (QC) to review qualifications for licensure. She noted that most other Department of Consumer Affairs (DCA) occupational licensing agencies which formerly maintained such committees composed of non-Board member licensees to make licensing and enforcement decisions have

now abolished them due to inefficiency, blatant conflict of interest problems, and the extraordinary cost of maintaining these committees. She stated CPIL's preference for the use of professional licensing staff, investigators, and in-house prosecutors (as opposed to volunteer practitioners) in licensing and adjudicative enforcement proceedings where an occupational licensing agency is exercising the police power of the state. D'Angelo noted that the Board is not authorized to delegate its police power enforcement authority to private parties, and expressed CPIL's view that the AC's decisionmaking crosses that line. She noted that SB 2038 (McCorquodale) (Chapter 1273, Statutes of 1994) cuts the size of both the AC and QC in half as of July 1997, and stated her belief that SB 2038 is the legislature's first step toward eliminating these committees and their unusual roles altogether. She urged the Board to address the continuing need for these committees as part of its sunset review process.

Professor Fellmeth discussed the Board's enforcement process. He noted that CPIL has recently been involved in investigating and drafting legislation to reform the enforcement programs at the State Bar and the Medical Board; in both areas, CPIL urged the agencies to professionalize their investigative, prosecutorial, and judicial staffs and to abandon the use of volunteer practitioners at any of these levels. Although volunteers can serve their profession and their regulatory boards in many valuable ways, decision-making in the board's licensing or enforcement processes is not an appropriate role, according to Fellmeth.

Fellmeth criticized the number of steps in the Administrative Procedure Act (APA) disciplinary process, which is used by the Board and other DCA agencies, as compared with the criminal justice process. While a defendant accused of a violent crime is afforded a three-step process (superior court, court of appeal, and discretionary Supreme Court review) before he/she is deprived of substantial liberty and property rights, an agency licensee involved in an APA disciplinary proceeding is entitled to five steps (hearing before an administrative law judge (ALJ), review by the board, de novo review by the superior court, appeal as of right to the appellate court, and discretionary review by the Supreme Court) before his/her license to practice a trade or profession may be revoked. He noted that BOA has added several steps to the usual disciplinary process (e.g., Administrative Committee, Major Case Advisory Committee) which further complicates the process and provides a

large number of opportunities for dismissal of the case.

Professor Fellmeth noted that CPIL has long urged a different process which utilizes different decisionmakers who are more likely to have knowledge of the facts, expertise in the relevant law and procedure, and independence from the regulated trade or profession. He suggested the following procedure: (1) an evidentiary hearing before an ALJ who has knowledge of the applicable law and procedures, expertise in the board's particular subject matter (if possible), and a panel of experts upon whom the ALJ can call if the expert testimony presented by the parties conflicts; (2) elimination of both board review and the superior court steps, with the case going directly to the court of appeal for independent judgment review; and (3) discretionary review by the Supreme Court.

CPIL objects to board review of ALJ decisions (by BOA and all other occupational licensing agencies) because board members are not present at the evidentiary hearing and thus lack direct knowledge of the facts; they are not trained as judges and do not necessarily have knowledge of the applicable rules of law and procedure; they do not necessarily have knowledge of prior board decisions in similar cases and thus may not render consistent decisions; and because their professional ties to the respondent may cause them to exhibit bias which—in either direction—is improper. [14:4 CRLR 1] Fellmeth urged the Board (and all occupational licensing boards consisting of volunteers who meet once every three months) to take on the role of "physicist rather than plumber"—that is, instead of spending its limited time reviewing the detailed facts of each individual discipline case, a board can make a better contribution to consumers and to the profession by tracking discipline cases and adopting rules of professional conduct to curb prevalent abuses. As opposed to an individual disciplinary decision which affects only one licensee, rules are binding profession-wide and the Board's actions would have a more significant effect.

With respect to the Board of Accountancy, Professor Fellmeth suggested that it abandon the use of volunteer CPA licensees to conduct disciplinary investigations, hire professional investigative staff to handle all case investigations, and reformulate the Administrative Committee into two expert panels of volunteer practitioners—one available to staff investigators as expert consultants if needed, and the other available to ALJs as expert witnesses if needed.

Following an extensive question-and-answer session, Board members agreed



that CPIL had raised several important issues, and referred them to its Long-Range Planning Committee (LRPC) for consideration in preparation for the Board's sunset review. BOA public member Baxter Rice will chair the LRPC; other committee members include CPAs Diane Rubin, Robert Shackleton, and Ira Landis, and PA Walter Finch.

**Amendments to Continuing Education Regulation Stalled.** At its July 1994 meeting, BOA heard public testimony on and adopted several proposed changes to section 87, Title 16 of the CCR, which sets forth continuing education (CE) requirements for its licensees. Section 87 generally requires all BOA licensees to complete 80 hours of qualifying CE during each two-year renewal period.

First, BOA amended section 87(b) to specify that licensees who are engaged in planning, directing, conducting substantial portions of field work, or reporting on financial or compliance audits of a governmental agency at any time during the preceding license period are required to have completed 24 of the 80 hours in the areas of governmental accounting, auditing, or related subjects. Under the proposed language, "related subjects" include those which maintain or enhance the licensee's knowledge of governmental operations, laws, regulations, or reports; any special requirements of governmental agencies; and any other topics related to the environment in which governmental agencies operate.

Next, BOA amended section 87(c) to specify that new licensees receiving their initial CPA license from the Board must, as a condition of the first license renewal, complete during the initial license period 20 hours of CE for each full six-month interval in the initial license period. A licensee engaged in governmental auditing as described in section 87(b) at any time during the initial license period must complete six hours of governmental CE as described above as part of each 20 hours of CE required for license renewal. If the initial license period is less than six full months, no CE is required for license renewal.

Finally, BOA amended section 87(d), regarding out-of-state licensees, to specify that any person who applies to BOA for a CPA certificate under the provisions of Business and Professions Code section 5087 may obtain BOA's approval to engage in the practice of public accountancy under the provisions of section 5088, subject to the applicant having completed 80 hours of qualifying CE within the preceding two years. If a CPA certificate is granted by BOA, then the licensee must

satisfy the provisions of section 87(c) above. [14:4 CRLR 34]

At its September 30 meeting, BOA revisited the proposed changes to subsection 87(b) at the request of the California Society of Certified Public Accountants. The trade association suggested that the Board modify the language of subsection 87(b) to clarify that it applies to licensees who are engaged in planning, directing, conducting substantial portions of field work, or reporting on financial or compliance audits of a governmental agency, "or for any entity in which government auditing standards are required." The Board adopted this proposed modification, and released the modified language for an additional 15-day public comment period on October 4. At the Board's November meeting, however, the Continuing Education Committee (CEC) expressed reservations about the language of section 87(b); accordingly, BOA referred the matter back to the CEC and postponed action on the proposed regulatory changes until its March 25 meeting.

**Amendments to Rules of Professional Conduct.** Also at its July 1994 meeting, the Board adopted proposed changes to several sections in Article 9, Division 1, Title 16 of the CCR, which prescribes rules of professional conduct for BOA licensees. Specifically, the Board amended sections 53 (confidential information), 54.1 (prohibition on disclosure of confidential information), 52 (response to Board inquiry), 54.2 (recipients of confidential information), 55 (permission to use name), 56 (commissions), 58 (compliance with standards), 58.1 (accountant's report on the examination of financial statements), 58.2 (accountant's report on unaudited financial information of a public entity), 58.3 (compilation and review of financial statements), 60 (discreditable acts), 63 (advertising), 64 (use of name with estimate of earnings), 65 (independence), 68 (retention of client's records), and 52.1 (failure to appear before BOA or one of its committees). Most of these proposed changes are technical and involve renumbering existing sections for greater clarity and consistency. [14:4 CRLR 34] At this writing, the rulemaking package on these proposed regulatory changes still awaits review and approval by the Office of Administrative Law (OAL).

**Other BOA Rulemaking.** On October 5, OAL approved BOA's proposed amendments to section 87.1, Title 16 of the CCR, to OAL. As amended, section 87.1 requires licensees reentering public practice to complete 40 hours of CE in the 24 months prior to reentry; once reentered, the licensee must complete 20 hours of CE

for each full six-month period from the date of reentry until the next renewal date, but if the time period between the reentry date and the next renewal date is less than six full months, no additional CE is required for license renewal. Amended section 87.1 also specifies the number of hours of CE in governmental accounting and auditing required between the reentry date and the next renewal date for licensees auditing government agencies. [14:4 CRLR 34-35; 14:2&3 CRLR 34]

## LEGISLATION

The Board of Accountancy may sponsor several legislative proposals during the 1995-96 session:

- First, BOA may act upon its May 1994 decision to seek substantial revision of Business and Professions Code section 5081.1, to more clearly set forth the educational requirements which must be satisfied by licensure candidates before they are permitted to sit for the CPA exam. [14:2&3 CRLR 32-33]

- The Board may also sponsor legislation to adjust several of its licensing fees. Existing law requires the Board to be self-supporting, and to charge a sufficient fee for each service to cover its costs. A recent study by MGT Consultants indicated that several BOA fees require adjustment [14:1 CRLR 29], so BOA may seek legislative changes to amend its fee structure.

- BOA may also seek changes to section 5050, which permits out-of-state CPAs to temporarily practice in California on professional business incident to their regular practice in another state or country. The Board will seek an amendment authorizing it to revoke the privilege of temporary practice for actions which would justify discipline against its own licensees.

## LITIGATION

In *Carberry v. California State Board of Accountancy*, No. A064735 (Sept. 28, 1994), the First District Court of Appeal affirmed the trial court's dismissal of Shaun Carberry's complaint against BOA. Carberry is an enrolled agent (EA) admitted to practice before the Internal Revenue Service by the U.S. Treasury Department; additionally, he is admitted to practice before the United States Tax Court by virtue of a status granted by that court to examine non-attorneys. Since 1987, Carberry—who is not a CPA—has operated a business called Citizens Accounting & Tax Service, and uses the business name in conjunction with his own name and professional designation, i.e., "Shaun Carberry, EA."

In this case, Carberry challenged BOA's March 1993 cease and desist letter



ordering him to change the name of his business. The Board claimed that the name violates the California Supreme Court's ruling in *Bonnie Moore, et al. v. State Board of Accountancy*, 2 Cal. 4th 999 (1992), in which the Supreme Court struck down the Board's Rule 2, Title 16 of the CCR, as unconstitutional; the rule prohibits anyone but a CPA from using the words "accountant" or "accounting" in advertising. The Court held that BOA must permit non-CPAs to use those words in advertising, so long as their use is accompanied by a disclaimer or explanation that the practitioner is not licensed by the state or the services provided do not require a state license. Carberry and the Board disagreed as to whether his use of the acronym "EA" provides a sufficient explanation in compliance with *Moore*. In February 1994, the San Francisco Superior Court sustained BOA's demurrer without explanation. [14:2&3 CRLR 35; 14:1 CRLR 29]

The First District affirmed, finding that "[i]n *Moore*..., the Supreme Court rejected the constitutional argument raised by plaintiff here." The court disagreed with Carberry that his use of the acronym "EA" provides an adequate explanation of his status as required by the Supreme Court. "The mere insertion of the designation 'EA' does not adequately eliminate potential confusion from the term 'accounting.' It does not alert the consuming public that the advertiser is not a licensed accountant."

Carberry declined to appeal the First District's decision to the California Supreme Court; instead, he plans to file a similar action in federal court.

## RECENT MEETINGS

At its September meeting, BOA discussed a problem with the implementation of its retired status designation; the Board had planned to grant licensees who so applied a "retired" seal for their certificates as a sort of "honorable discharge." Although official Board policy is that retired status is not a settlement option for disciplinary purposes, the Board has experienced more than one instance in which a licensee has applied for retired status in order to avoid disciplinary action. To clarify Board policy, staff suggested that the Board adopt a regulation stating that retired status is not available when there is a pending disciplinary matter, including an unresolved complaint. However, the Board declined to proceed with regulatory action, finding that if disciplinary action is necessary against a licensee in retired status, it can be taken against the expired license.

At its November meeting, BOA considered a recommendation of the AC on the issue whether CPAs who have had their licenses suspended should be required to notify clients of that fact. At its October meeting, the AC had adopted a resolution that the licensee not be required to disclose suspension status to clients "unless the facts indicate reasons to do otherwise." With little discussion, the Board adopted the AC's recommendation.

Also in November, the Board reelected Dick Poladian as BOA President for 1995. CPA Robert Shackleton was elected Vice-President, and Jeffery Martin was reelected Secretary-Treasurer. Poladian thanked PA Walter Finch, who served as Vice-President during 1994 and stepped in as President during much of the year; Poladian had to recuse himself from all Board activity during 1994 because of pendency of the Board's disciplinary action against Arthur Andersen (Poladian's employer) and Andersen's simultaneous lawsuit against the Board. [14:4 CRLR 33, 35]

## FUTURE MEETINGS

January 20-21 in San Francisco.  
March 25 in Los Angeles.  
May 12-13 in San Francisco.  
July 21-22 in Los Angeles.  
September 22-23 in Sacramento.  
November 17-18 in San Diego.

## BOARD OF ARCHITECTURAL EXAMINERS

*Executive Officer:*  
*Stephen P. Sands*  
(916) 445-3393

The Board of Architectural Examiners (BAE) was established by the legislature in 1901. BAE establishes minimum professional qualifications and performance standards for admission to and practice of the profession of architecture through its administration of the Architects Practice Act, Business and Professions Code section 5500 *et seq.* The Board's regulations are found in Division 2, Title 16 of the California Code of Regulations (CCR). Duties of the Board include administration of the Architect Registration Examination (ARE) of the National Council of Architectural Registration Boards (NCARB), and enforcement of the Board's statutes and regulations. To become licensed as an architect, a candidate must successfully complete a written and oral examination, and provide evi-

dence of at least eight years of relevant education and experience. BAE is a ten-member body evenly divided between architects and public members. Three public members and the five architects are appointed by the Governor. The Senate Rules Committee and the Speaker of the Assembly each appoint a public member.

On December 6, the Senate Rules Committee appointed new public member Lynn Morris to BAE; Morris, who replaces Robert De Pietro, was sworn in at the Board's December 12 meeting in Burlingame. Morris is a former executive officer of both BAE and the Acupuncture Committee, and is currently the Assistant Director of Planning for the Contra Costa County Health Services Department. While there are no vacancies on the Board at this writing, the terms of three members—Dick Wong, Betty Landess, and Peter Chan—have ended, and they can be replaced by the Governor at any time.

## MAJOR PROJECTS

**BAE to Pursue Written Contract Requirement.** During the course of October 1993 interim hearings conducted by the Senate Subcommittee on Efficiency and Effectiveness of State Boards and Commissions, the Center for Public Interest Law suggested that BAE adopt a written contract requirement for architectural services; further, a recent review of BAE's disciplinary complaints and investigations suggested that widespread use of oral contracts in the industry has resulted in enforcement difficulties for both consumers and architects. Thus, BAE's Special Practice Committee, chaired by Board member Peter Chan, has been studying the proposed written contract requirement since December 1993. [14:2&3 CRLR 36-37; 14:1 CRLR 30] In August 1994, after gaining the support of the American Institute of Architects, California Council (AIACC), the Committee approved a motion to recommend to the full Board that it sponsor legislation to require written contracts for architectural services and direct the Special Practice Committee to explore any outstanding issues and work with the AIACC on developing specific legislative language.

At BAE's September 1994 meeting, the Special Practice Committee presented these recommendations to the full Board, along with a draft version of proposed legislative language, which was based on the written contract requirement already in place for landscape architects. After a discussion of the specific language, the Board raised a number of concerns, including the level of detail and/or vagueness in parts of the proposed language;