



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
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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;



whether a written contract requirement would impede relationships between architects and their clients; whether sufficient opportunity for public comments had been given to consumer groups that might be affected by a written contract requirement; and whether the implications on enforcement and alternatives to legislation had been adequately studied to enable the Board to reach a decision. Some Board members who are not on the Special Practice Committee expressed interest in joining the Committee to analyze these issues. The Board referred the written contract requirement proposal back to a reconstituted Special Practice Committee for additional study prior to Board consideration of a motion to sponsor legislation requiring written contracts for architectural services. [14:4 CRLR 37]

On November 30, the Special Practice Committee met in South San Francisco; at that time, the Committee noted the following justifications for a written contract requirement: the Board's enforcement unit has difficulty mediating or investigating complaints when there is no contract; consumers often say that they are unfamiliar with what architects do, and a written contract provides basic information which protects consumers more than they are being protected now; a substantial amount of work is currently being performed without contracts; and requiring written contracts would reduce the number of complaints, lawsuits, disputes, and liens. Following discussion, the Committee unanimously agreed to recommend that the Board seek legislation requiring a written contract for architectural services.

At its December 12 meeting, BAE discussed the Committee's recommendation. Acknowledging that the deadline for introducing legislation was approaching perhaps more quickly than specific language could be drafted, the Board agreed to have a spot bill introduced which will be amended at a later time to include language requiring a written contract; the Board also referred the matter to its Executive Committee and Enforcement Committee to develop and review proposed language. At this writing, the Board is expected to review the committees' proposals at its February 10 meeting.

Intern Development Program Update. Over the past several months, BAE members have been considering a proposal to require completion of a structured internship program as a requirement for licensure as an architect in California. At BAE's May 1994 meeting, the Internship and Oral Examination Committee presented to the full Board its recommendation that BAE approve the concept of re-

quiring candidates for licensure in California to complete supervised training which meets the standards of NCARB's Intern Development Program (IDP). The Board adopted this recommendation, and directed the Internship and Oral Examination Committee to develop regulations and an implementation plan in consultation with the AIACC. [14:2&3 CRLR 36; 14:1 CRLR 30] Since that time, the BAE/AIACC task force—now called the IDP Implementation Task Force—has identified several concerns with NCARB's current IDP standards, and agreed that they should be made more flexible and easier for candidates to satisfy in several respects. Among other things, the Task Force would like NCARB to expand the definition of acceptable training activities, and expressed concerns about existing IDP rules which specify when IDP value units may be earned and the overall cost of the recordkeeping involved to the candidates, the firms for which they are working, and the Board. [14:4 CRLR 37-38]

At its November 5 meeting, the Task Force agreed that its focus until June 1995 should be concentrated on communicating with various constituent groups for the purpose of providing accurate information about IDP and the role and activities of BAE and AIACC, and to hear the concerns of students, candidates, licensees, and firms on the proposal for implementing IDP in California. The Task Force also agreed to identify those IDP training requirements and conditions that it recommends be changed and communicate those concerns to NCARB.

At its December 12 meeting, BAE approved the Task Force's plan; the Board also agreed that it would take whatever action is necessary to effectuate the Task Force's final recommendations.

Oral Examination Appeals Process. On September 7, BAE held a public hearing on its proposal to adopt a regulation establishing an appeals process for its oral examination; proposed new section 124.5, Title 16 of the CCR, would allow a candidate who has failed the oral examination to apply for Board review when the candidate alleges that he/she was significantly disadvantaged due to a significant procedural error or adverse environmental conditions during exam administration. [14:4 CRLR 37; 14:2&3 CRLR 37; 14:1 CRLR 31] At its December 12 meeting, BAE adopted the proposed regulation, which awaits review and approval by the Office of Administrative Law (OAL).

Repeal of Appeal Procedure for Graphic Building Design Division of Exam. On November 9, OAL approved BAE's repeal of section 125, Title 16 of

the CCR, which previously provided that a candidate may appeal in writing to BAE his/her failing score on the graphic building design portion of the ARE, provided that four evaluations comprising his/her failing score on the graphic portion contain at least one passing evaluation. In June 1994, however, the format of the exam changed from a single, twelve-hour design problem to a series of six separate vignettes with shorter and more detailed problems; because the new vignettes will receive a maximum of three grades each, appeals cannot be administered under the Board's current regulation. Accordingly, BAE repealed section 125, on the grounds that the new grading procedure does not meet the criteria for the appeal process set forth in section 125; there is no appeal process for other divisions of the written examination; given the new grading process, a new appeal process would require time and expenditure to develop; no other jurisdiction provides an appeal process for the ARE; the grading of the vignettes should be much more objective and structural than the grading of the single design problem; less than 1% of the original grading results are changed annually through the existing appeal process; and passing scores granted through the appeal process are only valid in California, and are not transferrable to other jurisdictions. [14:4 CRLR 38; 14:2&3 CRLR 37]

Amendments to Table of Equivalents. On September 23, BAE published notice of its intent to amend section 117, Title 16 of the CCR, which contains the Table of Equivalents used by the Board in evaluating a candidate's training and educational experience for purposes of licensure eligibility. The proposed changes would define more precisely the types of degrees that will be considered as degrees in a field related to architecture and which qualify toward BAE's licensure requirement; allow credit for experience gained under the supervision of a licensed architect; and eliminate a requirement that such experience would qualify only if gained while the candidate is working as an architectural employee. In addition, the proposed changes would eliminate the requirement that each licensure candidate applying for credit for courses taken at a foreign college or university provide an original certified translation of the transcript along with his/her transcript; eliminate confusing language and/or unnecessary licensing requirements; and expand the equivalent educational opportunities for architecture students, a goal also being stressed in the IDP proposal (see above). [14:4 CRLR 38] On November 8, BAE held a public hearing on the proposed changes;



at its December 12 meeting, the Board unanimously adopted the amendments, which await review and approval by OAL.

Reciprocity With Canada. An Interrecognition Agreement between the Committee of Canadian Architectural Councils (CCAC) and NCARB became effective on July 1, 1994; this agreement provides for reciprocal architectural registration and permission to practice by qualified architects within participating jurisdictions in both countries. The Agreement also requires that each NCARB member board execute a Letter of Undertaking stating its intent to register Canadian architects who apply for licensure, based on meeting NCARB's certification requirements; California must also execute this letter in order to enable California licensees to practice in Canadian provinces. At its November 21 meeting, BAE's Written Examination Committee reviewed and discussed the Interrecognition Agreement and reciprocity with Canada, and reviewed four options for proposed regulatory changes to allow reciprocity with Canada. The Committee agreed to recommend that BAE allow Canadian licensees to be eligible for reciprocity licensure by either (1) obtaining a NCARB certificate or (2) establishing equivalent qualifications.

At its December meeting, BAE discussed the reciprocity issue; Department of Consumer Affairs (DCA) legal counsel Don Chang advised that the Board approve (1) above only, and require NCARB certification for Canadian architects seeking reciprocity licensure. According to Chang, this is the most uniform and efficient way to implement the Interrecognition Agreement. Committee member Raymond Cheng advised the Board that the Committee would support the revision. Following discussion, BAE approved the Committee's recommendation, and directed staff to commence the rulemaking process to amend the Board's regulations to permit Canadian architects who are NCARB-certified to be eligible for California licensure by passing the oral examination only.

BAE Holds Strategic Planning Session. On October 17-19, BAE conducted a strategic planning session in Newport Beach; the purpose of the session was to identify the Board's mission, goals, and objectives, and develop a strategic plan with steps to improve the Board's performance. [14:4 CRLR 38; 14:2&3 CRLR 37] Those in attendance at the session included BAE members, senior staff, DCA legal counsel, and the Board's architect consultant; the session was facilitated by Daniel Iacofano of Moore Iacofano Goltsman, Inc. At its December 12 meeting, BAE conducted an initial review of the

session's summary report, which was prepared by Iacofano; the Board directed staff to make further revisions and submit the report to the Executive Committee for additional review and editing. The Board is expected to review the final version of the report at its February meeting.

LEGISLATION

Future Legislation. During the 1995-96 legislative session, BAE plans to sponsor legislation to require a written contract for architectural services. [14:4 CRLR 37] At its December meeting, the Board approved a motion to have a spot bill introduced during January, and directed its Executive Committee and Enforcement Committee to develop and review the exact language (see MAJOR PROJECTS).

RECENT MEETINGS

At its December 12 meeting, BAE discussed the Written Examination Committee's recommendation that all applicants for relicensure be required to take the oral examination; according to BAE Executive Officer Steve Sands, the decision whether to require an examination for relicensure applicants has been made administratively on a case-by-case basis, and the Board has never developed a uniform policy relating to relicensure procedures. DCA legal counsel Don Chang explained the difference between a delinquent license, which can be renewed, and a lapsed license (one which has not been renewed for five years) which is in fact expired and cannot be renewed; in the case of a lapsed license, an architect has to reapply to re-establish qualifications for a new license, and the Board may either require the individual to take its examinations or otherwise demonstrate that he/she can safely practice. The Board took no action at the December meeting; BAE is expected to consider a proposal for regulatory language at a future Board meeting.

At the recommendation of its Executive Committee, the Board reviewed and unanimously approved a request for proposals (RFP) for an architect consultant for fiscal years 1995-96, 1996-97, and 1997-98 at its December 12 meeting; BAE's current architect consultant contract with Larry Segre is due to expire on June 30. BAE will place an advertisement in the *State Contracts Register* to publicize the RFP. The Board also approved the Executive Committee's recommendation to appoint an Evaluation Committee to review the submitted proposals; this Committee will comprise one architect Board member, one public Board member, a member of the Enforcement Committee, and the enforcement officer.

At its December 12 meeting, the Board elected the following 1995 officers: Edward Orem as President; Betsy Weisman as Vice-President; and Raymond Cheng as Secretary. The new officers assumed their offices on January 1.

FUTURE MEETINGS

February 10 in Sacramento.
May 30 in Sacramento (tentative).

ATHLETIC COMMISSION

Executive Officer:
Richard DeCuir
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The Athletic Commission is empowered to regulate amateur and professional boxing and contact karate under the Boxing Act, Business and Professions Code section 18600 *et seq.* The Commission's regulations are found in Division 2, Title 4 of the California Code of Regulations (CCR). The Commission consists of eight members each serving four-year terms. All eight members are "public" as opposed to industry representatives.

The Commission has sweeping powers to license and discipline those within its jurisdiction. The Commission licenses promoters, booking agents, matchmakers, referees, judges, managers, boxers, and martial arts competitors. The Commission places primary emphasis on boxing, where regulation extends beyond licensing and includes the establishment of equipment, weight, and medical requirements. Further, the Commission's power to regulate boxing extends to the separate approval of each contest to preclude mismatches. Commission inspectors attend all professional boxing contests.

The Commission's goals are to ensure the health, safety, and welfare of boxers, and the integrity of the sport of boxing in the interest of the general public and the participating athletes.

On August 17, Commissioner Jerome "Jerry" Nathanson passed away at age 83; Nathanson had served on the Commission for ten years. In September, Assembly Speaker Willie Brown appointed Manuel "Cal" Soto to the Commission. Soto, co-owner of La Quebradita Market in East Los Angeles, has a longstanding background and association with boxing.

MAJOR PROJECTS

Strategic Planning Update. At the Commission's November 18 meeting, Executive Officer Richard DeCuir reported on the progress made toward achieving the Commission's seven goals identified