



authorizes the Secretary of the U.S. Department of Health and Human Services to establish, either by regulation or order, a safe level for residues of that animal drug. The Secretary may also require the development of a method to detect residues above the safe level. Other key provisions of the Act call for the drug to be prescribed within the context of the veterinarian-client-patient relationship, and then only when there are no existing drugs available with the necessary ingredient, dosage, and concentration; the Act also vests the Secretary with broad power to prohibit particular uses of a drug.

The FDA-CVM, which has two years in which to promulgate the regulations, has asked the veterinary profession to provide comments regarding the precise regulatory language; the first set of regulations is expected to be based on compliance policy guides already in existence on extra-label drug use, use of human-label drugs in animals, and drug compounding by veterinarians.

## ■ LEGISLATION

**SB 42 (Kelley)**, as introduced December 16, would change BEVM's name to the "Veterinary Medical Board"; rename AHTEC to the "Registered Veterinary Technician Examining Committee" and revise certain requirements to be a member of the Committee; and define various terms related to veterinary medicine, including the terms "diagnosis," "animal," "food animal," and "livestock."

Existing law provides exemptions from the licensure requirements for a veterinarian who is employed as the official veterinarian for local or state government. This bill would eliminate this exemption, but would provide that the laws regulating the practice of veterinary medicine do not apply to unlicensed personnel employed by the Department of Food and Agriculture or the U.S. Department of Agriculture for performance of prescribed duties.

Existing law requires BEVM to ascertain the professional qualifications of applicants for licensure by means of examination, and requires the examination to consist of a national examination and a California state board examination. This bill would eliminate the reference to a national examination and instead require that the examination consist of a licensing examination, including an examination in basic veterinary science and an examination in clinical competency, and the California state board examination.

Existing law provides BEVM with the discretion to revoke, suspend, or impose a fine against a licensee based on a specified reason, including the revocation of a li-

cense to practice veterinary medicine by a sister state or territory. This bill would instead provide that the Board may take this action based on the revocation, suspension, or other disciplinary action taken against the licensee by another state or territory.

**SB 42** is a revised version of **SB 1821 (Kelley)**, which was vetoed by the Governor in September 1994. [14:4 CRLR 105] In addition to the above language, **SB 1821** would have reduced the number of members on AHTEC; Governor Wilson vetoed the entire bill because the change to the composition of AHTEC would have deprived him of two political appointments. [S. B&P]

**Future Legislation.** BEVM is expected to pursue legislation similar to **AB 2973 (Aguiar)**, which was also vetoed by the Governor in September 1994; that bill would have created a new certification program within the Board of Pharmacy to regulate "veterinary food-animal retailers," defined as a place, other than a pharmacy, that holds a valid wholesaler certificate, license, permit, or registration, from which veterinary drugs for food-producing animals are dispensed pursuant to a prescription from a licensed veterinarian, and which is issued a permit for that location by the Board of Pharmacy. [14:4 CRLR 105]

## ■ RECENT MEETINGS

At its November 17-18 meeting, BEVM noted that veterinarians are required to keep a controlled substance log; if a veterinarian wishes to keep the log on computer, he/she must send a letter to the U.S. Drug Enforcement Agency (DEA) asking for approval of the particular computer system involved. Veterinarians will be required to demonstrate to DEA that adequate security measures are part of the system.

Also at BEVM's November meeting, DCA legal counsel Don Chang reported that the Board is now authorized to direct the Public Utilities Commission (PUC) to disconnect the telephone service of unlicensed persons who advertise veterinary services in telephone directories. BEVM may issue citations ordering disconnection; if the person fails to appeal or if the appeal is unsuccessful, BEVM will notify the PUC to order the local phone company to disconnect the service.

At its January 5-6 meeting, BEVM discussed issues regarding license reciprocity; specifically, the Board's current reciprocity policy is that veterinarians who want to practice in California must take and pass the CCT in California. Executive Officer Gary Hill queried whether the Board would allow reciprocity candidates to take the CCT examination in an-

other state. Following discussion, the Board unanimously agreed to allow reciprocity candidates to take the CCT in another state if they so choose.

Also at the January meeting, BEVM re-elected Nancy Collins, DVM, to serve as President and public member Jean Guyer to serve as Vice-President for 1995.

## ■ FUTURE MEETINGS

March 9-10 in Davis.

May 11-12 in Sacramento.

July 6-7 in Sacramento.

September 14-15 (location to be announced).

## BOARD OF VOCATIONAL NURSE AND PSYCHIATRIC TECHNICIAN EXAMINERS

*Executive Officer:*

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As its name suggests, the Board of Vocational Nurse and Psychiatric Technician Examiners (VNPTE) regulates two professions: licensed vocational nurses and psychiatric technicians. Its general purpose is to administer and enforce the provisions of Chapters 6.5 and 10, Division 2, of the Business and Professions Code. A licensed practitioner is referred to as either an "LVN" or a "psych tech."

The Board consists of five public members, three LVNs, two psych techs, and one LVN or registered nurse (RN) with an administrative or teaching background. At least one of the Board's LVNs must have had at least three years' experience working in skilled nursing facilities.

The Board's authority vests under the Department of Consumer Affairs (DCA) as an arm of the executive branch. It licenses prospective practitioners, conducts and sets standards for licensing examinations, investigates complaints against licensees, and may revoke, suspend, and reinstate licenses. The Board is authorized to adopt regulations, which are codified in Division 25, Title 16 of the California Code of Regulations (CCR).

At its November 18 meeting, VNPTE welcomed new public member Elinor Glenn.

## ■ MAJOR PROJECTS

**Psychiatric Technician Task Force Report.** In November 1993, the Board



created a short-term task force of volunteers to study the future trends and practices of psychiatric technicians in California. This recommendation was based on the facts that in 1993, four psych tech programs were either terminated or in danger of termination from a decrease in student enrollment, and state hospital budget reductions have led to the layoff or termination of a large number of psych techs. [14:4 CRLR 106; 14:2&3 CRLR 112; 14:1 CRLR 88]

Since January 1994, the Task Force—a collaboration of licensees, educators, employers, and representatives of the Board and other agencies and organizations—has been gathering information and compiling data to formulate a plan to increase the utilization of psych techs in health care facilities. At the Board's November meeting, the Task Force presented its final report on seven issues which, if advanced, could help psych techs fulfill their roles as licensed professionals. After considering those seven issues, the Board decided that psych tech trade associations are in a better position to address four of them, but directed its Education and Practice Committee to evaluate three issues of relevance to VNPTE: (1) methods by which psych techs could more effectively market themselves and their services (e.g., a change of professional title); (2) whether psych techs could be better utilized with more specialized licensure; and (3) curriculum revisions that would improve the employability of psych techs in the future.

**Citation and Fine Regulations.** At its November meeting, the Board unanimously agreed to pursue proposed regulatory language creating a citation and fine system; the proposed regulations would implement the Board's authority under Business and Professions Code section 125.9 by establishing an administrative system for the issuance of citations and fines for minor violations of the Board's statutes or regulations and for unlicensed practice. [14:4 CRLR 106] At this writing, VNPTE is scheduled to conduct a public hearing on the proposed regulations at its March 15 meeting in Los Angeles.

**NCLEX-CAT Implementation Update.** In April 1994, the National Council of State Boards of Nursing (NCSBN), which oversees LVN and RN exams nationwide, implemented computer adaptive testing (CAT) in lieu of "paper and pencil" tests. Under the new process, licensure candidates who have completed their educational program are tested by computer at a testing center convenient to their location. [14:4 CRLR 106; 14:2&3 CRLR 112; 14:1 CRLR 88]

At the Board's November 18 meeting, staff reported that NCLEX-CAT applica-

tion procedures have been revised. Directors of vocational nursing programs will no longer be responsible for submitting the NCLEX-PN registration forms to the Board on behalf of their students; instead, Board staff will mail registration forms directly to the students, making each student responsible for returning his/her own registration form to the NCLEX Data Center.

In addition, the Board released the second quarterly statistics from the test contractor, Educational Testing Service; the statistical reports indicate that 91.4% of all U.S.-educated candidates who were tested between July 1 and September 30, 1994 passed the exam their first time on the NCLEX-CAT system. Graduates of California accredited programs had an 81.8% pass rate. In November, some Board members participated in an NCLEX item review and provided comments on the comfort and convenience of computer testing.

**Education and Practice Committee Activities.** At its November 18 meeting, the Board approved several recommendations submitted by its Education and Practice Committee regarding LVN practice. The Board agreed that LVNs may perform the following tasks, provided they receive instruction in proper procedure, have demonstrated the requisite knowledge, skills, and ability prior to the performance of the procedure, and perform the procedure in accordance with a licensed physician's orders: clip and abrade toenails if the patient does not have diabetes, an infection, or any condition that impairs circulation; perform peripheral arterial blood withdrawal via peripheral arterial lines, provided that the LVN is certified by the Board in blood withdrawal; instill dimethyl sulfoxide (DMSO) or Bacillus Calmette and Gierin (BCG) into the bladder; and perform deep wound irrigation and packing if the LVN has received additional training in the assessment of wound appearance, approximation, and quality of tissue perfusion.

The Committee recommended, and the Board agreed, that LVNs are not allowed to pare and freeze warts or perform the IVY Bleeding Time test; according to the Board, these procedures are invasive, potentially hazardous, and are not covered in the basic vocational nursing curriculum.

Regarding the psych tech scope of practice, the Committee recommended, and the Board agreed, that licensed psych techs are not permitted to perform peritoneal dialysis; the Board considers this procedure to be hazardous and possibly life-threatening if not accompanied by adequate assessment of body fluid and electrolyte balance.

### Enforcement Remediation Program.

At its November 18 meeting, the Board announced that it would implement an enforcement remediation program in December 1994. Business and Professions Code section 2876(e) authorizes VNPTE to take whatever disciplinary action against an LVN that the Board, in its discretion, deems proper; according to staff, the Board receives numerous complaints each year against licensees who are negligent or incompetent but not to the extent that their license should be revoked, suspended, or placed on probation. These complaints have prompted the Board to design a remedial educational program to correct such licensees' deficient area(s) of practice. [14:4 CRLR 106]

VNPTE will permit licensees to participate in the remediation program under the following conditions: the licensee's conduct did not result in patient harm; the error was not the result of gross negligence; the licensee demonstrated insensitivity to the feelings of consumers or their families; the licensee demonstrated ignorance of his/her scope of practice; the substandard behavior was an isolated incident by an otherwise competent LVN; or the licensee's behavior was not related to a lack of knowledge of basic vocational nursing principles or the ability to apply those principles.

Licensees whose conduct meet these criteria will be invited to the Board's office to establish a remediation plan with one of the Board's nursing education consultants. At this writing, seven licensees have agreed to participate in the program; Board staff has already met with one licensee and the remaining six have scheduled appointments. The Board anticipates that approximately 20-30 licensees will participate in the program each year.

### RECENT MEETINGS

At the Board's November 18 meeting, staff noted that NCSBN and the Board of Registered Nursing (BRN) have recently expressed concern over the dramatic increase in the use of unlicensed assistive personnel to perform functions that normally require a license or strict supervision by a licensed nurse (see agency report on BRN for related discussion). Board staff reported that health facility administrators have been labeling such personnel as "caregivers" in order to provide patient care at reduced costs. In addition, the Board considers unlicensed providers to be a threat to safe, competent patient care. To address this issue, Board representatives attended an October meeting sponsored by the Department of Health Services (DHS) to discuss licensing and certification issues.



DHS suggested the drafting of a unified document regarding the unlicensed personnel issue that would represent the views of several state agencies which regulate health care facilities and practitioners in California. The Board indicated that it would support and actively participate in the development of such a collaborative document and referred the issue to its Education and Practice Committee for further consideration. At this writing, the Board plans to host the next meeting on this topic in Sacramento during January or February 1995.

Also at the November meeting, Board staff reported on recent attempts to promote the occupation of vocational nursing. Staff attended the first Hispanic Nurses Seminar organized by the *La Opinion* newspaper to speak on the opportunities in vocational nursing and requirements for licensure. The Board's *Licensed Vocational Nurse Fact Sheet* was available in Spanish and English for interested participants. Board staff also attended a career seminar at Castle Air Force Base to provide information on educational and career alternatives for military and civilian employees in preparation for the base's closure.

Also at the November meeting, Board staff reported that several candidates were recently observed sharing examination questions immediately after taking the psych tech licensure examination. To increase awareness of examination confidentiality, staff developed a statement which will be included with the oral instructions given to candidates prior to testing. The statement informs candidates that the unauthorized use of examination materials before, during, or after the examination violates the law and may be grounds for denial of licensure. The Board also plans to ask the directors of psych tech programs to emphasize examination confidentiality to their students.

## ■ FUTURE MEETINGS

January 20 in San Diego.  
March 16-17 in Los Angeles.  
May 19 in San Diego.



## BUSINESS, TRANSPORTATION AND HOUSING AGENCY

### DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

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The Department of Alcoholic Beverage Control (ABC) is a constitutionally-authorized state department established in 1955 (section 22 of Article XX, California Constitution). The Alcoholic Beverage Control Act, Business and Professions Code sections 23000 *et seq.*, vests the Department with the exclusive power to regulate the manufacture, sale, purchase, possession, and transportation of alcoholic beverages in California. In addition, the Act vests the Department with authority, subject to certain federal laws, to regulate the importation and exportation of alcoholic beverages across state lines. ABC also has the exclusive authority to issue, deny, suspend, and revoke alcoholic beverage licenses. Approximately 68,000 retail licensees operate under this authority. ABC's regulations are codified in Divisions 1 and 1.1, Title 4 of the California Code of Regulations (CCR). ABC's decisions are appealable to the Alcoholic Beverage Control Appeals Board. Further, ABC has the power to investigate violations of the Business and Professions Code and other criminal acts which occur on premises where alcohol is sold. Many of the disciplinary actions taken by ABC, along with other information concerning the Department, are printed in liquor industry trade publications such as the *Beverage Bulletin* and *Beverage Industry News*.

The Director of ABC is appointed by, and serves at the pleasure of, the Governor. ABC divides the state into two divisions (northern and southern) with assistant directors in charge of each division; ABC maintains 26 field offices.

ABC dispenses various types of licenses. "On-sale" refers to a license to sell alcoholic beverages which will be bought and consumed on the same premises. "Off-sale" means that the licensee sells alcoholic beverages which will not be consumed on the premises. Population-based quotas determine the number of general liquor licenses issued each year per county; in 1995, the legislature applied

similar quotas to beer and wine licenses for a three-year period.

## ■ MAJOR PROJECTS

**Regulating Decoy Programs May Take Awhile.** ABC's use of minors for decoy operations was upheld last year by the California Supreme Court in *Proviso Corporation v. Alcoholic Beverage Control Appeals Board*, 7 Cal. 4th 562 (Apr. 7, 1994); legislation requiring ABC to develop and administer regulations governing the use of minors as police decoys—AB 3805 (Richter) (Chapter 1205, Statutes of 1994)—took effect on January 1, 1995. [14:4 CRLR 108-09] ABC intends to hold workshops and invite representatives of the beverage industry, law enforcement agencies, and communities in order to develop a consensus on the regulatory language, if possible. At this writing, these meetings are expected take place in early 1995 as ABC plans to begin the formal rulemaking process in March.

**ABC Establishes Moratorium on New Licenses.** As a result of AB 463 (Tucker) (Chapter 627, Statutes of 1994), several cities and counties are now subject to a three-year moratorium on original "type 20" beer and wine licenses. [14:4 CRLR 110] Among other things, AB 463 provides that no application for an original retail off-sale beer and wine license may be made nor any original retail off-sale beer and wine license issued until January 1, 1998, for any premises where any of the following conditions exist at the time this section takes effect: the applicant premises are located in an incorporated city where the number of retail off-sale beer and wine licenses issued exceeds one license for each 2,500 inhabitants of the incorporated city; the applicant premises are located in a county where the number of retail off-sale beer and wine licenses issued exceeds one license for each 2,500 inhabitants of the county; or the applicant premises are located in a city and county where the total number of retail off-sale beer and wine licenses and off-sale general licenses issued exceeds one license for each 1,250 inhabitants of the city and county.

On January 3, ABC issued its final list of the counties and cities included in the moratorium. According to the list, 48 of the state's 58 counties are subject to the countywide moratorium; the ten counties