or documents for the design and construction of all architectural, geological, or engineering work related by building standards, prior to agency approval of this work. The bill would also provide that, notwithstanding existing law, all state and local enforcement agencies shall return any incomplete building plans, specifications, reports, or documents, accompanied by a statement to the applicant identifying the part or parts of the plans that are incomplete, and specifying the actions required to be taken by the architect, engineer, geologist, or building designer to complete the plans, specifications, reports, or documents prior to any resubmission. *[S. H&LU]*

RECENT MEETINGS

At its February 10 meeting in San Diego, PELS unanimously approved new operating procedures that clarify the parliamentary procedures which will be used at Board meetings, define how to conduct public meetings, and enumerate the Board's committees and the procedures they must follow.

At PELS' April 28 meeting in San Francisco, its Administrative Committee suggested that staff compile an "opinion manual" on past Board decisions and resolutions that would provide an easy way to reference past Board actions. The Board is expected to act on this suggestion after the Committee and the Board determine what constitutes a "Board opinion."

FUTURE MEETINGS

June 9 in Sacramento.
July 14 in Los Angeles.
August 25 in San Jose.
November 17 in Sacramento.

BOARD OF REGISTERED NURSING

Executive Officer:
Ruth Ann Terry
(916) 324-2715

Pursuant to the Nursing Practice Act, Business and Professions Code section 2700 *et seq.*, the Board of Registered Nursing (BRN) licenses qualified RNs, establishes accreditation requirements for California nursing schools, and reviews nursing school curricula. In addition, BRN certifies nurse-midwives (CNM), nurse practitioners (NP), and nurse anesthetists (CRNA). A major Board responsibility involves taking disciplinary action against licensees. BRN's regulations implementing the Nursing Practice Act are codified in Division 14, Title 16 of the California Code of Regulations (CCR).

The nine-member Board consists of three public members, three registered nurses actively engaged in patient care, one licensed RN administrator of a nursing service, one nurse educator, and one licensed physician. All serve four-year terms.

The Board is financed by licensing fees, and receives no allocation from the general fund. The Board is currently staffed by 90 people.

MAJOR PROJECTS

Citation and Fine Regulations Awaiting OAL Approval. On January 20, BRN published notice of its intent to adopt section 1435–1435.7, Title 16 of the CCR, which would permit it to levy citations and fines against RNs and unlicensed persons for violations of the Nursing Practice Act and its corresponding regulations. The citation and fine regulations would authorize BRN's Executive Officer to issue citations and/or fines ranging from $100 to $2,500 for minor violations such as practicing with a suspended license and knowingly failing to protect patients by failing to follow infection control guidelines. *[15:1 CRLR 91; 14:4 CRLR 97]* The Board held a formal public hearing on these proposed regulatory changes on March 7 in Sacramento. At its April 7 meeting, BRN reviewed the comments received, and adopted the proposed citation and fine regulations without change. At this writing, BRN plans to finish its preparation of the final rulemaking file and submit the package to the Office of Administrative Law (OAL) for review and approval by the end of May. BRN also plans to send informational reports to members of the public who submitted comments on the proposed regulations, in order to respond to what the Board considers to be misconceptions about the proposed rules.

BRN Considers Draft Regulatory Proposals. At its April 7 meeting, BRN approved in concept the following proposed regulatory changes regarding its Diversion Program for substance-abusing licensees *[13:2&3 CRLR 106–07]*:

• BRN's proposed change to existing section 1447, Title 16 of the CCR, would add to the criteria for admission to the Diversion Program a requirement that BRN has not yet filed an accusation to take disciplinary action against the license of the RN seeking admission. The Diversion and Discipline Committee reported that some RNs continue working until an accusation has been filed against them, at which point they seek entrance into the Diversion Program in order to protect their licenses. The Committee noted that this practice harms public safety and increases the cost of enforcement to BRN, and believes this regulatory change would curtail this pattern of behavior.

• In addition to making nonsubstantive changes, BRN's proposed amendments to section 1448 would specify that the Diversion Evaluation Committee's decision on termination of a nurse's participation in the Diversion Program shall be final.

• BRN's proposed addition of new section 1448.2 would authorize the Diversion Evaluation Committee to permit an RN in BRN's Diversion Program to transfer to another state's diversion program under certain circumstances. Current regulations allow an RN to transfer from another state's rehabilitation or diversion program into BRN's program, but do not permit BRN's participants to do the same. According to Board staff, this has caused hardship to some participants, who either must continue in the program or face possible commencement of disciplinary action against them.

• BRN's proposed change to section 1449 would provide that an RN who has participated in the Diversion Program shall be deemed to have waived the confidentiality of the record pertaining to his/her participation in the program if the RN presents information relative to that participation at any disciplinary proceeding or settlement discussions. Currently, the Deputy Attorney General representing the Board in an enforcement proceeding may not access the participant's diversion record to present confirming or contradictory evidence even if the participant admits the record into evidence, because the participant has not been deemed to waive the confidentiality of the record.

At this writing, BRN has not yet published notice of these proposals in the *California Regulatory Notice Register*; nor has it taken further action on the regulatory proposals approved in concept at its September 1994 meeting. *[15:1 CRLR 91]*

Scope of RN Practice Regarding Laboratory Testing. In September 1994, Governor Wilson vetoed SB 1834 (Campbell); the bill, which was supported by BRN and opposed by the Department of Health Services (DHS), would have expressly permitted RNs to perform diagnostic testing, including the use of point-of-care laboratory testing devices. In his veto message, Governor Wilson declared support for the bill's intent to allow RNs to use point-of-care laboratory testing devices, but found that the bill's use of the phrase "perform diagnostic testing" was overly broad and could be interpreted in a manner that would expand the existing scope of RN practice.

Governor Wilson instructed DHS to adopt emergency regulations permitting RNs to use point-of-care testing devices. On December 27, DHS—on an emergency basis—amended section 1053 and adopted new sections 1054.1, 1054.2, 1054.5, and 1054.6, Title 17 of the CCR, authorizing RNs to use certain point-of-care laboratory testing devices if specified conditions are satisfied. *[15:1 CRLR 91–92; 14:4 CRLR 97]* On March 1, DHS held a formal public hearing on the permanent adoption of these provisions; on May 9, OAL approved the readoption of the emergency regulatory action, which continues to be in effect at this writing.

Two pending bills would further clarify RN authority to perform point-of-care and other types of laboratory tests. SB 113 (Maddy) would state the intent of the legislature to, among other things, enact state laws regarding licensure and regulation of various clinical laboratory health care professionals which would be consistent with the federal Clinical Laboratory Improvement Act (CLIA). While DHS has made past attempts to implement CLIA by proposing draft state statutory language which would severely limit RN ability to perform laboratory testing, BRN maintains that CLIA specifically allows RNs to perform point-of-care tests. *[15:1 CRLR 92]* Also, SB 638 (Alquist) would specifically declare that it is within the existing scope of RN practice to use point-of-care testing devices, and that such use is in compliance with CLIA (*see* LEGISLATION).

Pending Bill Would Implement Clinical Nurse Specialist Task Force Report. AB 518 (Woodruff) (Chapter 77, Statutes of 1993) directed BRN to conduct a study of clinical nurse specialists (CNS) and the use of the title "clinical nurse specialist" in California; the bill further required BRN to report the results of the study to the legislature by January 1, 1995, and to determine the appropriate level of education for CNSs. Accordingly, a BRN task force conducted a statewide survey and compiled information from 925 of the approximately 1,075 survey responses it received and made written recommendations to BRN. In November 1994, BRN approved the Clinical Nurse Specialist Study Report, and forwarded it to the legislature in February. *[15:1 CRLR 92; 14:4 CRLR 97]*

Legislation has now been introduced to implement the recommendations in the report. AB 1176 (Cunneen) would prohibit anyone from holding him/herself out as a CNS unless he/she is licensed by BRN and can show him/herself to be qualified to use the CNS title according to standards set by BRN; this bill relies upon the findings documented by BRN's Clinical Nurse Specialist Study Report, and cites protection of the public from harm due to confusing and conflicting usage of the term "clinical nurse specialist" as the principal reason for its mandate (*see* LEGISLATION).

BRN Strategic Planning Project Update. At its February 2–3 meeting, BRN adopted its strategic plan, which was developed with the assistance of The Results Group; as part of the plan's development, BRN reviewed stakeholder satisfaction surveys completed by BRN staff members, licensure applicants, legislators, RNs, the Department of Consumer Affairs, and other interested parties. *[15:1 CRLR 92; 14:4 CRLR 97]* The plan articulates four broad goals: maximizing external effectiveness in consumer protection and customer service; making BRN a more effective organization and a more rewarding place to work; taking a proactive role in structuring 21st century health care; and evaluating nursing trends in order to make sound policy decisions. Regarding its goal to maximize consumer protection, BRN set forth several objectives, including the implementation of citation and fine regulations, education of consumers and patients on how to file complaints, increased communication with other state agencies, exploration of the feasibility of providing public service announcements, and continued evaluation of the licensure exam.

Another objective cited in the plan is to initiate BRN-sponsored forums to discuss concerns RNs may have about nursing care issues. At its February meeting, BRN approved the scheduling of these forums for summer and early fall in various geographic areas throughout the state.

Also at its February meeting, BRN approved the charges and directives to all of its standing committees. BRN reviews its committee charges approximately every two years; this year, the only major substantive change made was the relocation of the Nurse Midwifery Advisory Committee from the Nursing Practice Committee to the Education and Licensing Committee.

LEGISLATION

SB 113 (Maddy). Existing law provides for the licensure and regulation of clinical laboratories and various clinical laboratory health care professionals by DHS. As amended May 10, this bill would state the intent of the legislature in revising these provisions to enact state laws consistent with CLIA (*see* MAJOR PROJECTS). Among other things, SB 113 would revise the scope of the clinical laboratory tests which may be performed by various individual licensees and by unlicensed laboratory personnel. It would classify laboratories and clinical tests into several categories depending upon complexity, including waived (simple), moderate complexity, and high complexity. Under the bill, RNs who meet minimum education and training requirements established in DHS regulations may perform laboratory tests falling into the waived or moderate complexity categories; only certified nurse-midwives, certified nurse-anesthetists, and nurse practitioners may perform tests of high complexity. SB 113 would also invalidate DHS' regulations relating to the use of point-of-care clinical laboratory testing devices by RNs on January 1, 1996. *[S. Floor]*

SB 638 (Alquist), as amended April 18, would declare that it is within the existing scope of practice of RNs to use point-of-care laboratory testing devices; require any individual who is licensed, certified, or titled as a health care provider, and who uses point-of-care laboratory testing devices within his/her existing scope of practice in a health facility, to demonstrate competency in this testing; and require the laboratory director of a health facility where point-of-care laboratory testing devices are used to establish protocols for the use of these devices (*see* MAJOR PROJECTS). *[A. Health]*

SB 255 (Killea). Existing law provides for the licensure and regulation of certified nurse-midwives (CNMs) by BRN, and provides that the certificate to practice nurse-midwifery authorizes the holder to perform certain functions under the supervision of a licensed physician with certain experience. As amended May 11, this bill would delete the requirements relating to supervision and instead require collaboration, as defined, by the CNM with a licensed physician.

Existing law also provides for the use of, or medical staff privileges in, health facilities by podiatrists and clinical psychologists subject to the rules of the health facility. This bill would similarly authorize the rules of a health facility to enable the appointment of CNMs to the medical staff on terms and conditions established by the facility.

This bill would provide that when a licensed physician or CNM is authorized by law to perform a health service offered by that facility, that service may be performed by either the physician or the CNM, without discrimination. The bill would also require that the health facility staff that determines the qualifications for medical staff privileges include, if possible, CNMs as staff members. This bill would require the collaborating physician and CNM to ensure that their individual and shared responsibilities provide for physician coverage in certain circumstances. *[S. H&HS]*

AB 1163 (V. Brown). Existing law provides that an RN who is authorized by administrative regulations and is employed by or serves as a consultant for a licensed skilled nursing, intermediate care, or other health care facility may orally or electronically transmit to the furnisher a prescription lawfully ordered by a person authorized to prescribe drugs or devices, and requires the furnisher to record the name of the person who transmits the order. As introduced February 23, this bill would similarly permit an RN who is employed by a home health agency to orally transmit a prescription and would require the furnisher to record the name of the person who transmits the order. *[A. HumS]*

AB 1176 (Cunneen), as amended May 9, would prohibit any person from holding herself/himself out as a clinical nurse specialist unless he/she is a nurse licensed by BRN and also meets the standards for a clinical nurse specialist to be established by BRN (*see* MAJOR PROJECTS). *[A. Appr]*

AB 1077 (Hannigan), as amended March 29, would authorize nurse practitioners (NPs) to furnish drugs and devices in accordance with protocols developed by the NP and his/her supervising physician pursuant to standardized procedures. This bill would also specify that no physician may supervise more than four NPs at one time. *[A. Floor]*

RECENT MEETINGS

At its February 2–3 meeting, BRN approved a November 1994 report written by Michael King of the Survey Research Center at Chico State University (CSU) entitled *Changes in Nursing Practice Between 1990 and 1993: A Panel Survey*. This report follows an earlier report by King entitled *Survey of Registered Nurses in California: 1993*, which uses information from a different sample of the same survey performed by CSU in 1993. *[14:4 CRLR 98]* The new report compares repeated survey results of a panel of nurses. While the earlier cross-sectional report shows how nursing has changed as a result of a variety of factors (such as changes in the characteristics and choices of working nurses), the new report shows how the experience of individual nurses has changed as a result of changes in the workplace and individual choices of the RNs on the panel. Among other things, the report revealed that 93.1% of the RNs were working in 1993 for the same type of organization that employed them in 1990, and approximately two-thirds of RNs had the same position in 1993 as in 1990. Satisfaction with nursing work increased modestly from 1990 to 1993.

At its April 6–7 meeting, BRN approved the submission of a resolution to the National Council of State Boards of Nursing (NCSBN) Delegate Assembly urging NCSBN's Administration of Exam Committee to conduct a study to determine the effects of time limits and other factors resulting from computer adaptive testing (CAT) on passing rates for diverse groups, including candidates whose first language is not English. In 1991, BRN submitted a similar resolution requesting NCSBN's Administration of Exam Committee to conduct a study to determine the effect of extending the time period for taking the exam; as a result, ten minutes were added to the exam time. BRN maintains that this additional time was not taken into account when the five-hour time limit was established for the CAT exam. Statistics reviewed by BRN at its February meeting indicate that the overall pass rate has increased since implementation of the CAT exam; however, BRN feels that it is important to determine the effect of CAT's implementation on foreign candidates and candidates whose first language is not English.

FUTURE MEETINGS

June 8–9 in San Diego.
September 14–15 in Sacramento.
December 7–8 in Los Angeles.

STRUCTURAL PEST CONTROL BOARD

Registrar: Mary Lynn Ferreira
(916) 263-2540 or
(800)-PEST-188

The Structural Pest Control Board (SPCB) is a seven-member board functioning within the Department of Consumer Affairs (DCA). SPCB's enabling statute is Business and Professions Code section 8500 *et seq.*; its regulations are codified in Division 19, Title 16 of the California Code of Regulations (CCR).

Licensees are classified as: (1) Branch 1, Fumigation, the control of household and wood-destroying pests by fumigants (tenting); (2) Branch 2, General Pest, the control of general pests without fumigants; (3) Branch 3, Termite, the control of wood-destroying organisms with insecticides, but not with the use of fumigants, and including authority to perform structural repairs and corrections; and (4) Branch 4, Wood Roof Cleaning and Treatment, the application of wood preservatives to roofs by roof restorers. Effective July 1, 1993, all Branch 4 licensees must be licensed contractors. An operator may be licensed in all four branches, but will usually specialize in one branch and subcontract out to other firms.

SPCB licenses structural pest control operators and their field representatives. Field representatives are allowed to work only for licensed operators and are limited to soliciting business for that operator. Each structural pest control firm is required to have at least one licensed operator, regardless of the number of branches the firm operates. A licensed field representative may also hold an operator's license. SPCB also licenses structural pest control applicators, defined as any individual licensed by SPCB to apply a pesticide, rodenticide, allied chemicals, or substances for the purpose of eliminating, exterminating, controlling, or preventing infestation or infections of pests or organisms included in Branches 2, 3, or 4 on behalf of a registered company. Such applicators must meet specified examination, application, and renewal requirements to receive a license.

SPCB is comprised of four public and three industry members. Industry members are required to be licensed pest control operators and to have practiced in the field at least five years preceding their appointment. Public members may not be licensed operators. All Board members are appointed for four-year terms. The Governor appoints the three industry representatives and two of the public members. The Senate Rules Committee and the Speaker of the Assembly each appoint one of the remaining two public members.

MAJOR PROJECTS

SPCB Criticized by Legislative Budget Subcommittee. During the spring, the Board came under fire by the legislative subcommittee chaired by Senator Dan Boatwright which is examining SPCB's proposed 1995–96 budget. Testifying at the Board's budget hearings was SPCB licensee Dale Luger, whose company performs inspections but not repairs. Luger presented photographic documentation of numerous instances in which SPCB licensee companies had inspected a structure, made recommendations for extensive repair or replacement, and then bid on the repair job; Luger contended that the repair recommendations were excessive and that this problem is endemic within the structural pest control industry. Senator Boatwright found fault with the overall performance of the Board in failing to detect and police this type of activity; he also discovered that SPCB has never adopted citation and fine regulations because it lacks citation and fine authority. A citation and fine system provides an occupational licensing board with intermediate sanctions for intermediate violations which,