



BOARD OF NURSING HOME ADMINISTRATORS

*Executive Officer: Kim Smith
(916) 263-2685*

Pursuant to Business and Professions Code section 3901 *et seq.*, the Board of Nursing Home Administrators (BNHA), formerly the Board of Examiners of Nursing Home Administrators, develops, imposes, and enforces standards for individuals desiring to receive and maintain a license as a nursing home administrator (NHA). The Board may revoke or suspend a license after an administrative hearing on findings of gross negligence, incompetence relevant to performance in the trade, fraud or deception in applying for a license, treating any mental or physical condition without a license, or violation of any rules adopted by the Board. BNHA's regulations are codified in Division 31, Title 16 of the California Code of Regulations (CCR). Board committees include the Administrative, Disciplinary, and Education, Training and Examination committees.

The Board consists of nine members. Four of the Board members must be actively engaged in the administration of nursing homes at the time of their appointment. Of these, two licensee members must be from proprietary nursing homes; two others must come from nonprofit, charitable nursing homes. Five BNHA members must represent the general public. One of the five public members is required to be actively engaged in the practice of medicine; a second public member must be an educator in health care administration. Seven of the nine members of the Board are appointed by the Governor. The Speaker of the Assembly and the Senate Rules Committee each appoint one member. A member may serve for no more than two consecutive terms.

MAJOR PROJECTS

BNHA Addresses Projected Budget Shortfall. At BNHA's August 17 meeting, Department of Consumer Affairs (DCA) budget analyst Janice Shintaku briefed members on the Board's fiscal difficulties. Although it ended fiscal year 1994-95 in the black, BNHA expects to run a projected deficit of \$85,000 by fiscal year 1996-97 unless it cuts costs or increases licensing fees. [15:2&3 CRLR 83] Further, it must find a way to permanently fund three temporary positions to handle its administrative workload, and come up with at least \$20,000 for automation of its records.

In response to Shintaku's report, the Board discussed several ways to save money suggested by staff. Among other things, the Board considered proposals to hold fewer meetings each year, meet only in Los Angeles or Sacramento, have fewer staff attend Board meetings, and use free state facilities for Board meetings. BNHA instructed staff to research the potential savings that would accrue from holding fewer licensing examinations each year, changing the location of the exams, and vendoring out the preceptor training to one of the professional associations. BNHA member Sheldon Blumenthal opined that the Board must ultimately consider a fee increase as a means to adequately address its budget problems; accordingly, the Board discussed a proposal to raise renewal fees from the current \$190 biennial fee to \$255-\$350 biennially.

At its November 30 meeting, the Board continued to discuss its fiscal situation, reiterating that it will experience a deficit beginning in 1997 if no corrective action is taken. Following discussion, the Board unanimously agreed to seek legislative and regulatory changes to increase the biennial license renewal fee maximum to \$350 for initial licenses, \$310 for active renewals, and \$280 for inactive licenses. This fee level would permit the Board to permanently increase its staffing level, move ahead with office automation, and maintain a reserve fund.

BNHA Memorandum of Understanding With Department of Health Services. For almost one year, BNHA has been negotiating a memorandum of understanding (MOU) with the Department of Health Services (DHS)—which licenses and inspects nursing home facilities—regarding the transmission of complaint and enforcement information between the two agencies. Among other things, the MOU would provide that both BNHA and DHS will designate one staff member to be the primary ongoing liaison with responsibility for the activities called for under the MOU; set timeframes for the exchange of citations, orders, and other enforcement information; and specify the documents that DHS will provide to BNHA when notifying BNHA of the enumerated enforcement actions. [15:2&3 CRLR 83; 15:1 CRLR 82]

At BNHA's August 17 meeting, Executive Officer Kim Smith reported that the Board was sent a fully executed copy of the MOU from DHS; however, Smith noted that amendments may be required once staff has determined how new federal regulations will impact the Board's enforcement program. [15:2&3 CRLR 84] At the Board's November 30 meeting, Smith re-

ported that she would meet with DHS officials to address BNHA staff's access to DHS files, and to discuss problems relating to the MOU.

Examination and Enforcement Statistics. The overall pass rate for the April 1995 state NHA exam was 37%; the national exam pass rate was 60%. The overall pass rate for the July 1995 state NHA exam was 41%; the national exam pass rate was 61%. The overall pass rate for the October 1995 state NHA exam was 40%; the national exam pass rate was 66%. At its August 17 meeting, BNHA discussed its concern with the consistently low state exam pass rate, and adopted a recommendation of its Education Committee to seek legislative changes limiting the number of times that an applicant may take and fail the required examinations for an NHA license without being required to complete additional training or education.

From May 1 to September 15, 1995, DHS referred to BNHA two citations for "AA" violations (those violations which result in the death of a patient) and 41 citations for "A" violations. During the same period, BNHA conducted no telephone counseling sessions, issued no letters of warning, and issued one letter to appear before the Board. Further, BNHA revoked no licenses during this time period, but placed one license on probation for a year. At this writing, three cases are pending at the Attorney General's Office.

New Rulemaking Proposals. At its November 30 meeting, BNHA agreed to pursue several rulemaking proposals. Among other things, the Board directed staff to prepare regulatory changes which ensure that reciprocity candidates have training which is equivalent to that required of California candidates; extend the examination application filing deadline from 21 to 30 days prior to the exam; require notification of nonappearance, in writing, two days prior to a scheduled examination to be eligible for a refund of exam fees; clarify language regarding the time period within which an applicant may apply for the examination; and require applications for continuing education (CE) course approval to be submitted 30 days, rather than 15 days, prior to the start date of the course. At this writing, the Board has not yet published notice of these proposed changes in the *California Regulatory Notice Register*.

Rulemaking Update. At this writing, BNHA's proposed changes to section 3120, Title 16 of the CCR, await review and approval by the Office of Administrative Law (OAL). The changes would specify that the Board's licensing examination shall cover the broad aspects of nursing home



REGULATORY AGENCY ACTION

administration and may consist of a national exam, a state exam, or both. [15:2&3 CRLR 84; 15:1 CRLR 82]

As proposed in December 1994, BNHA's proposed changes to sections 3116, 3151, 3152, 3160, and 3162, Title 16 of the CCR, would, among other things, provide that two hours of CE credit shall be given for attending a public meeting of BNHA, and eight hours of CE credit will be given for participating in a Board-sponsored state licensing examination item writing session; BNHA may, in lieu of conducting its own investigation, accept the findings of the National Association of Boards of Nursing Home Administrators regarding CE courses and providers, and adopt those findings as its own; any licensed NHA may be approved to serve as a preceptor if the individual, among other things, has an active NHA license and is not on probation by the Board; and sixty hours is the maximum number of hours an administrator-in-training may work and train each week. [15:2&3 CRLR 84; 15:1 CRLR 81-82] At its August 17 meeting, BNHA modified its proposed changes to section 3116 (regarding applicant qualifications) and deleted all proposed amendments to section 3160 (regarding preceptor qualifications). On August 23, BNHA released the modified text of section 3116 for an additional 15-day public comment period; at this writing, the proposed changes to sections 3116, 3151, 3152, and 3162 are being reviewed by OAL.

LEGISLATION

SB 472 (Petris). Existing law expresses legislative findings regarding Alzheimer's disease and states that existing diagnostic and treatment centers have improved the quality of care of patients with this disease. Existing law provides that the functions of these centers shall be designed to serve certain prescribed purposes, including to increase the training of health care professionals with respect to Alzheimer's disease. As amended July 19, this bill amends existing law to provide that the purpose is to increase the training of health care professionals with respect to Huntington's disease also. It authorizes these centers to develop and approve curricula regarding certain aspects of other acquired brain impairments. The bill provides that health care facilities, adult day health care centers, residential care facilities for the elderly, and other providers of health care or personal care services to children with disabilities, adults, or older adults may offer the curricula to employees and it may satisfy up to four hours annually of any in-service training requirement.

Existing law requires the Director of Mental Health to contract with a nonprofit agency meeting prescribed criteria to act as the Statewide Resources Consultant and prescribes the duties of the consultant to include, but not be limited to, serving as an information and technical assistance clearinghouse for brain-impaired adults, as defined, and their families, and caregivers, and to develop and conduct related training. This bill specifies that the duties of the consultant may include reviewing proposed training curricula regarding individuals with brain damage, as defined, assisting organizations that serve families with adults with Huntington's disease and Alzheimer's disease in reviewing data, and forwarding this information to the appropriate state departments for consideration. This bill was signed by the Governor on October 4 (Chapter 551, Statutes of 1995).

Future Legislation. At its August 17 and November 30 meetings, BNHA agreed to pursue several legislative changes. In addition to a bill increasing the statutory cap on BNHA licensing fees (*see* MAJOR PROJECTS), the Board also intends to pursue legislation amending Business and Professions Code section 3905 to clarify its position regarding the absence of NHAs for more than thirty consecutive days, the appointment of acting NHAs, and the deadlines for Board notification; proposed changes to Business and Professions Code sections 3924.7 and 3924.8 regarding criminal background checks for applicants and licensees; and several technical or clean-up changes.

RECENT MEETINGS

At BNHA's August meeting, Executive Officer Kim Smith reported that she and Board member Dr. Orrin Cook are continuing to meet with various officials from the Department of Social Services (DSS) to discuss the future of the residential care facilities for the elderly (RCFE) administrator certification program; for many years, BNHA has been considering assuming RCFE certification responsibilities, which are currently carried out by DSS' Community Care Licensing Division. [13:2&3 CRLR 98; 13:1 CRLR 58; 12:4 CRLR 111-12] Smith also noted that the Community Residential Care Association of California has already stated its opposition to BNHA's efforts to take over the certification of RCFE administrators.

Also at BNHA's August meeting, Executive Officer Smith reported that DCA's Office of Examination Resources had agreed to conduct an occupational analysis of the NHA profession. Smith expects that the survey will be completed in Au-

gust 1996; the \$10,000 cost for the analysis will be divided between fiscal years 1995-96 and 1996-97.

Also in August, BNHA discussed staff's proposal to implement Business and Professions Code section 125.9 by creating a citation and fine system; such a system would give staff a means to deal with minor administrative violations, and would have the potential to raise additional funding for the Board's operations. Following discussion, the Board directed staff to further develop the proposal and present its findings and recommendations to the Board. However, at its November meeting, BNHA tabled the citation and fine proposal, and directed the Disciplinary Committee to readdress the issue prior to the Board's next meeting.

At its November 30 meeting, the Board discussed the upcoming sunset review process. [14:4 CRLR 20, 87] Executive Officer Smith urged the Board to immediately begin preparing for the review process; she requested that the Board appoint a two-member sunset review subcommittee to work with staff in preparing BNHA's report to the legislature, which is due in October. Board members Dr. Orrin Cook and Marilyn Jesswein volunteered to serve on the subcommittee; Gloria Johnson will serve as an alternate.

FUTURE MEETINGS

February 15 in Sacramento.

August 15 in Sacramento.

BOARD OF OPTOMETRY

Executive Officer: Karen Ollinger
(916) 323-8720

Pursuant to Business and Professions Code section 3000 *et seq.*, the Board of Optometry is responsible for licensing qualified optometrists and disciplining malfeasant practitioners. The Board establishes and enforces regulations pertaining to the practice of optometry, which are codified in Division 15, Title 16 of the California Code of Regulations (CCR). The Board's goal is to protect the consumer patient who might be subjected to injury resulting from unsatisfactory eye care by inept or untrustworthy practitioners. The Board consists of nine members—six licensed optometrists and three public members.

MAJOR PROJECTS

Board and COA At Stalemate Over Independent Practice Association Issue. For over one year, the Board has been considering two applications for reg-