



provide oral consultation to ensure patient compliance in the proper use of drugs is equally indispensable.

## ■ FUTURE MEETINGS

January 24–25 in Los Angeles.  
March 27–28 in Sacramento.  
May 29–30 in San Diego.  
July 24–25 in San Francisco.  
October 23–24 in Sacramento.

## BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

*Executive Officer:*  
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The Board of Registration for Professional Engineers and Land Surveyors (PELS) regulates the practice of engineering and land surveying through its administration of the Professional Engineers Act, sections 6700 through 6799 of the Business and Professions Code, and the Professional Land Surveyors Act, sections 8700 through 8806 of the Business and Professions Code. The Board's regulations are found in Division 5, Title 16 of the California Code of Regulations (CCR), sections 400 through 471.

The basic functions of the Board are to conduct examinations, issue certificates, registrations, and/or licenses, and appropriately channel complaints against registrants/licensees. The Board is additionally empowered to suspend or revoke registrations/licenses. The Board considers the proposed decisions of administrative law judges who hear appeals of applicants who are denied a registration/license, and those who have had their registration/license suspended or revoked for violations.

Professional engineers are registered through the three Practice Act categories of civil, electrical, and mechanical engineering under section 6730 of the Business and Professions Code. Land surveyors, another Practice Act category, are registered through section 8725 of the Business and Professions Code. The Title Act categories of agricultural, chemical, control system, corrosion, fire protection, industrial, manufacturing, metallurgical, nuclear, petroleum, quality, safety, and traffic engineering are registered under section 6732 of the Business and Professions Code.

Structural engineering and geotechnical engineering are "title authorities" linked to the civil Practice Act and require an

additional examination after qualification as a civil engineer.

The Board consists of thirteen members: seven public members, one licensed land surveyor, four registered Practice Act engineers and one Title Act engineer. The Governor appoints eleven of the members for four-year terms that expire on a staggered basis. Additionally, both the Assembly Speaker and the Senate Rules Committee appoint one public member each.

The Board has established four standing committees and appoints other special committees as needed. The four standing committees are Administration, Enforcement, Examination/Qualifications, and Legislation. Committees function in an advisory capacity unless specifically authorized by the Board to make binding decisions.

PELS is subject to a "sunset" provision. Section 8710 Business and Professions Code, which vests power in the Board, will "become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999 deletes or extends the dates on which it becomes inoperative and is repealed."

At its July 14 meeting, PELS welcomed new public member Millicent Safran. In November, public member Megan Matthews resigned from the Board.

## ■ MAJOR PROJECTS

**Executive Officer Resigns.** At a special December 15 PELS meeting, Executive Officer (EO) Harold Turner tendered his resignation; Turner, who served as the Board's EO for three years, has taken a position with the Bureau of State Audits. Following a closed session, the Board announced the appointment of Cindi Christenson as Interim EO; Christenson is a registered mechanical engineer who has worked at PELS since 1989. PELS also established a Special Committee for the Recruitment of an Executive Officer, comprised of the Board president, vice-president, and chair of the Administrative Committee, appointed the Board president to serve as the Committee chair, and authorized the Committee chair to undertake any actions on behalf of the Board which are necessary to recruit highly qualified candidates for the EO position, and to report to the Board at each meeting on the processes that have been implemented and the progress of the recruitment process. PELS also decided that the Board itself should interview highly qualified candidates and make the final hiring decision by vote, as required by statute.

**Professional Engineers Act Rewrite Goes to Public Forum.** PELS is currently

in the midst of a comprehensive review and rewrite of the Professional Engineers (PE) Act, its regulations, and the way the state of California licenses and classifies various engineering disciplines; this effort has resulted largely from November 1993 criticism by the Center for Public Interest Law (CPIL) that PELS' engineering statutes and regulations are extremely vague and in need of major restructuring and modernization, and former Board President Rich Johnson's "white paper" entitled *Confronting the Issues of Engineering Discipline Definitions*, in which Johnson agreed with CPIL that the Board's statutes are internally inconsistent and lack clarity. [14:4 CRLR 95; 14:2&3 CRLR 99; 14:1 CRLR 77]

Significantly, the Board wants to implement "generic registration," under which it would grant only one generic PE license instead of the three Practice Act registrations, thirteen Title Act registrations, and two "title authority" registrations currently offered. Generic registration would conform California's licensing system with those in most other states. The Board feels the current system's complexity serves no purpose and only confuses the consumer. The highlights of PELS' draft PE rewrite are as follows:

- All registrants would be registered generically as PEs, with designations as to areas of practice in which they have been "deemed qualified" by testing, rather than being registered in specific branches of engineering. All registrants would be required to provide engineering services in a competent manner, and their registration would be at risk if they fail to do so.

- Traditional Title Act categories would be eliminated and essentially converted to practice acts because generic PE registration would be required in order to perform prior Title Act work. In other words, all engineering practice would be regulated by the Board.

- The rewrite of the PE Act would allow applicants to test in any of seventeen areas in which the National Council of Examiners for Engineering and Surveying (NCEES) offers an exam. It would eliminate PELS' current registrations in quality, safety, traffic, and corrosion engineering, because NCEES does not offer exams in these disciplines; and add aeronautical, ceramic, environmental, mining/materials, and structural engineering exams (as NCEES has developed exams in those areas). When an applicant passes any exam, he/she would receive a professional engineering license and would be "deemed qualified" in the area tested, but could practice in any area of engineering. For example, a PE who has tested in agricul-



tural engineering could perform the work of a nuclear engineer. If the Board attempts to discipline that engineer for shoddy nuclear engineering work, he/she would not be "deemed qualified" in nuclear engineering and the burden would shift to the registrant to prove that, through training or experience, he/she was qualified to do nuclear engineering work.

- Although all registered PEs would be allowed to practice engineering in any area in which he/she is competent, it is the duty and obligation of a PE to develop (through education and/or experience) competency in an area prior to independently practicing in that area.

- Rather than defining areas of practice for testing and enforcement purposes in the Business and Professions Code, PELS would rely on NCEES test plans to provide these definitions.

- The PE Act rewrite would eliminate many exemptions in the present Act and broaden the definition of those who need a license to do engineering work. With generic registration, unlicensed people who practice in one of the Title Act categories would need a license to continue working in that area. For example, a fire protection contractor who designs and installs fire systems may have to get a license as a PE, and preferably take the fire protection test, before that person could continue working in that area. Additionally, the new act would require a California PE registrant to sign and stamp all pre-designed engineering components manufactured out-of-state; require registration of independent contractors who do engineering work for the communications industry; and require registration of independent contractors to businesses which currently qualify for the industry exemption. In essence, the new PE Act would require the licensure of anyone who does engineering work except industry and government employees—both longstanding and politically powerful exemptions. [15:2&3 CRLR 93]

From May through August, the Board held eleven public forums at ten locations across the state in order to communicate the highlights of the draft PE Act rewrite to its current licensees and other interested parties. As a result of the comments received at the public forums, PELS adopted a number of changes and additions to its draft PE Act at its November 3-4 meeting, including the following:

- The statute will include language allowing for a two-year transition period during which individuals who have been practicing Title Act disciplines will be allowed to continue practicing without generic PE registration; these individuals

must obtain PE registration during the two-year period or discontinue practicing engineering.

- Government agencies (excluding federal agencies) will be added to the definition of the term "entity" used in the Act; this change will require non-federal agencies to file annual organization records with the Board, which must be approved by the Board.

- All engineering "entities" (including non-federal agencies) must report judgments, settlements, and arbitration awards to the Board on an annual basis when filing their organization records.

- With regard to qualification for generic PE registration, the draft Act would allow a master's degree or Ph.D. to cure the absence of a bachelor's degree from a Board-approved program; further, two graduate degrees may be used for qualifying experience. However, no more than three years of education qualifying experience may be granted for the combination of a master's degree and a Ph.D. degree.

At PELS' November 16-17 meeting, Board President Ted Fairfield stated his intention to schedule a one-day workshop in January for the purpose of discussing these and other changes to the PE Act rewrite.

**Board Reconsiders Comity Registration Policy.** In January 1995, the Board decided to tighten its comity standards by granting comity registration in Practice Act disciplines only to applicants who have passed a Practice Act examination similar to the one administered in California; "comity registration" refers to the Board's issuance of a certificate of registration to practice professional engineering to a person authorized to practice professional engineering under the laws of another state or a foreign country, and the Board's discretion in this area is limited by Business and Professions Code section 6759. Under the Board's January policy, an applicant must show proof of passing a NCEES-produced exam in civil, electrical, or mechanical engineering in order to receive comity registration in that branch. Engineer member Ted Fairfield expressed concern that some comity applicants may make an "end run" around PELS' licensure requirements by going to another state, taking a NCEES examination in any subject, and then applying for California comity registration in one of the Practice Act categories of civil, electrical, or mechanical engineering without having been tested in that subject. [15:1 CRLR 89]

The problem arises when the Practice Act comity applicant cannot show proof of taking a NCEES exam in one of the California Practice Act branches. In the

past, many states offered a combined branch NCEES examination that contained problems in chemical, civil, mechanical, and electrical engineering from which the examinee would choose a subset of the available questions to answer; to further complicate matters, some states do not even maintain records on the type of exam an individual took. At its February 1995 meeting, PELS' first application of its new policy produced an incongruous result. One comity registration applicant had a master's degree in mechanical engineering, a Ph.D. in mechanical/chemical engineering, passed a combined branch licensing exam in New York in 1972, and has more than twenty years' of relevant experience. However, because the exam was a combined branch exam, PELS denied the applicant California comity registration as a mechanical engineer and instead approved him as a chemical engineer. At its March 1995 meeting, the Board decided to revise its new policy to make it more discretionary; when an applicant does not appear to qualify for comity under the above criteria, the information will be forwarded to the Practice Act Board member registered in that branch and a public member for recommendations. [15:2&3 CRLR 94]

At its June 9 meeting, PELS revisited this matter; specifically, it considered the Examinations/Qualifications Committee's recommendation that the staff engineer forward eligible applications to a review team consisting of that Practice Act Board member and a public Board member. The review team will review the staff engineer's recommendation and forward its recommendations to the full Board for approval. Following discussion, PELS adopted this new procedure.

**Rulemaking Update.** The following is a status update on PELS rulemaking proposals discussed in detail in recent issues of the *Reporter*:

- **Combined Exam Review and Appeal.** On May 26, PELS published notice of its proposed amendments to sections 407, 443, and 444, Title 16 of the CCR, relating to the exam review and question appeal process. The changes to section 407 would provide that the fee for an examination appeal is \$98, regardless of the type of examination involved. Section 444 currently provides that within sixty days after the date on which notice of the results of his/her examination was mailed to him/her, an applicant who was unsuccessful in the examination may appeal to PELS for a review/appeal of his/her examination papers. The Board's changes to sections 443 and 444 would provide that applicants who are unsuccessful in the examination



will be notified by mail of the date and time in which they may attend a review/appeal session; at that session, the applicant would be granted eight hours in which to review and/or write an appeal for an essay-type problem or problems attended during the written examination. [15:2&3 CRLR 95]

On July 14, PELS held a public hearing on these proposed changes; following the hearing, the Board adopted the changes, which were approved by the Office of Administrative Law (OAL) on November 16.

• **Little Brooks Act Rulemaking.** On September 18, OAL approved PELS' adoption of sections 474, 474.1, 474.2, 474.3, 474.4, and 474.5, Title 16 of the CCR, which implement the Little Brooks Act, Government Code section 4525 *et seq.*; specifically, these regulations define the procedures the Board must follow when soliciting bids from and awarding contracts to private engineering and land surveying firms. [15:2&3 CRLR 95]

• **Definition of Electrical Engineering.** In May 1995, OAL disapproved PELS' proposed amendments to section 404 and adoption of new section 426.70, Title 16 of the CCR, regarding the practice of electrical engineering. Since 1992, PELS has been discussing the adoption of regulatory language to clarify the scope of practice of electrical engineers and to specify what constitutes qualifying experience for registration as an electrical engineer. [15:2&3 CRLR 95; 15:1 CRLR 89; 14:4 CRLR 96] At its August 25 meeting, PELS unanimously agreed to let the regulatory package expire and take no further action on this proposal at this time.

• **Delinquent Registrants.** On May 23, OAL approved PELS' adoption of new section 424.5, Title 16 of the CCR, which removes some of the discretion the Board wanted when deciding whether to reinstate a delinquent registrant; the changes were required because of OAL's 1994 rejection of the section for lack of clarity. [15:2&3 CRLR 95; 15:1 CRLR 89] The revised regulation defines requirements and conditions for renewal, restoration, reinstatement, or reissuance of a delinquent license or registration. Among other things, section 424.5 requires a person seeking reinstatement of an expired license or registration to submit evidence satisfactory to PELS that he/she is qualified in the branch for which he/she applied, successfully complete the specified examination(s), and pay all accrued and unpaid renewal fees. [14:4 CRLR 95; 14:2&3 CRLR 100; 14:1 CRLR 78]

• **Citation and Fine Program.** On August 16, following a March 1995 dis-

approval, OAL approved PELS' adoption of new sections 472, 472.1, 472.2, 472.3, 472.4, 473, 473.1, 473.2, 473.3, 473.4, and 473.5, Title 16 of the CCR, which at long last implement PELS' authority to issue citations, orders of abatement, and fines against unregistered or unlicensed individuals who are performing services for which registration or licensure is required, and against registered or licensed individuals who violate the Professional Engineers Act, the Professional Land Surveyors Act, or PELS' regulations. [15:2&3 CRLR 96]

#### Board Addresses NAFTA Concerns.

In furtherance of the North American Free Trade Agreement (NAFTA), the United States Council for International Engineering Practice, along with its Canadian and Mexican counterparts, jointly developed the Mutual Recognition Document (MRD); among other things, the MRD provides for temporary licensure of engineers with both a minimum of twelve years of acceptable engineering experience and an accredited university degree. At the May 24 Examination/Qualifications Committee meeting, PELS member Ted Fairfield expressed his concerns regarding NAFTA's impact on the Board's jurisdiction and control; specifically, Fairfield objected to the possibility that the Board might be required to grant temporary licenses to foreign engineers without examination. Accordingly, the Committee recommended to the full Board at its June 9 meeting that PELS urge NCEES not to ratify the MRD; ultimately, however, NCEES did ratify the MRD.

To better understand NAFTA and its implications on the Board, PELS invited Department of Consumer Affairs legal counsel Virginia Taylor to attend its August 25 meeting to clarify the law and respond to questions. Taylor explained that NAFTA is an executive agreement which supersedes inconsistent provisions of state law. If there are inconsistencies between state law and NAFTA, an extensive dispute resolution process (established in Chapter 20 of NAFTA) follows. If the resolution panel and the Free Trade Commission decide that a state's statutes fail to comply with NAFTA, the federal government may sue the state to have the state law declared invalid.

However, NAFTA permits states, by December 31, 1995, to declare that certain sections of current law are immune from attempts at federal invalidation. In other words, a state may "reserve" certain provisions of existing law from coverage by NAFTA or the MRD. Taylor noted that the Wyoming engineers board has attempted to "reserve" its entire statute, a position not favored by the U.S. Trade Representa-

tive. Following discussion, the Board postponed action until its October meeting.

On October 6, the Board unanimously approved a motion to seek reservation of all of its statutes under NAFTA. Further, the Board approved a resolution criticizing the MRD because it "allows engineers from Canada and Mexico to practice engineering in the United States without having demonstrated through examination that they have the competency to practice," and "dramatically undermines the basic licensure concepts accepted in the United States." The resolution reiterates the Board's continuing opposition to the MRD, and stated that PELS does not intend to adopt the MRD unless it is revised to include an examination requirement.

#### LEGISLATION

**AB 717 (Ducheny).** Existing law provides for the establishment and enforcement of state building standards; these provisions include oversight of matters relating to these standards by state and local entities, including cities, counties, and the State Building Standards Commission. As amended August 22, this bill establishes specific certification, training, and continuing education requirements for construction inspectors, plans examiners, and building officials who are employed by a local agency in a temporary or permanent capacity. The bill exempts from its training and certification requirements any person currently and continuously employed by a local agency as a construction inspector, plans examiner, or building official for not less than two years prior to the effective date of the bill, until that person obtains new employment.

The bill provides that it is not intended to prohibit any local agency from prescribing additional criteria for the certification of construction inspectors, plans examiners, or building officials, and sets forth other powers and duties of the local agency, including the power of the local agency to impose fees to cover the cost of compliance with the bill's provisions. It further provides that its provisions shall not be construed to alter licensure requirements, or the jurisdiction, authority, or scope of practice, of architects, professional engineers, or land surveyors.

The bill exempts registered professional engineers, licensed land surveyors, and licensed architects who contract with a local agency from the requirements of the bill, but continues to make the requirements of the bill applicable to professional engineers, licensed land surveyors, and licensed architects employed by a local agency. The bill also exempts construction



inspectors or plans examiners employed by any city or county fire department or district providing fire protection services from the requirements of the bill.

This bill also sets forth examples of actual costs that a local agency could incur in compliance with the bill, and provides that fees to cover the costs of compliance shall reflect these actual costs, as specified. This bill was signed by the Governor on October 4 (Chapter 623, Statutes of 1995).

**AB 778 (Aguiar)**, as amended July 14, reinstates PELS' July 1, 1997 sunset date (which was inadvertently chapered out due to the passage of other legislation in 1994), thus making PELS subject to review by the Joint Legislative Sunset Review Committee and to repeal. This bill was signed by the Governor on October 4 (Chapter 599, Statutes of 1995).

**AB 1566 (Rainey)**, as amended September 8, defines geodetic surveying within the definition of land surveying.

The Professional Land Surveyors Act specifies the physical characteristics of the map that is the record of a survey. This bill revises those characteristics, as specified, and makes conforming changes. This bill was signed by the Governor on October 4 (Chapter 579, Statutes of 1995).

**SB 560 (Haynes)**. The existing Subdivision Map Act generally regulates the division of land for purposes of sale, lease, and financing. Under the Act, persons proposing to subdivide land for these purposes are required to prepare and file final or parcel maps, under appropriate circumstances, before commencing development of the property in question. Existing law provides that these maps may be amended or corrected in a specified manner, and includes several purposes for which a map may be amended by a certificate of correction or an amending map. As amended May 23, this bill would add to the purposes for which a map may be amended the correction or modification of any change in the information filed as part of a final or parcel map, or recorded simultaneously with a final parcel map, as specified. [A. LGov]

**SB 495 (Alquist)**. Existing law provides that the term "earthquake hazard mitigation technologies" includes technologies that endeavor to reasonably protect buildings and nonstructural components, building contents, and functional capability from earthquake damage, and excludes technologies with detailed code provisions in the 1988 edition of the Model Codes, as defined. Existing law requires the State Architect to adopt regulations for the application of earthquake hazard mitigation technologies for build-

ings. As introduced February 17, this bill would delete the exclusion of technologies with detailed code provisions in the 1988 edition of the Model Codes, as defined, and would require the State Architect to develop by January 1, 1997, and thereafter to update as needed, a list of new and emerging technologies for earthquake hazard mitigation technologies.

This bill would require any architect, civil engineer, or structural engineer, when hired or employed to provide services relating to the design, development, construction, retrofitting, repair, or renovation of any facility, building, structure, or other improvement to real property, to advise the owner regarding the standards contained in the California Building Standards Code as they relate to earthquake hazards, and regarding available earthquake hazard mitigating technology. The bill would permit an architect, civil engineer, or structural engineer to comply with this requirement by providing the owner with a copy of the list of new and emerging technologies developed by the State Architect pursuant to the bill. [S. H&LU]

**SB 914 (Alquist)**, as amended April 6, would require PELS, the Board of Architectural Examiners, and the Board of Registration for Geologists and Geophysicists to develop, adopt, and enforce regulations on or before July 1, 1996, applicable to the state and local enforcement agencies that regulate building standards and that, pursuant to the bill, have, on staff or under contract, appropriately licensed architects, registered geologists, and registered professional engineers with demonstrated competence to review plans, specifications, reports, or documents for the design and construction of all architectural, engineering, and geological work regulated by building standards.

This bill would also provide that, notwithstanding existing law, every state and local enforcement agency shall have, on staff or under contract, appropriately licensed architects, registered professional geologists, and registered professional engineers with demonstrated competence to review the plans, specifications, reports, 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, ge-

ologist, or building designer to complete the plans, specifications, reports, or documents prior to any resubmission. [S. H&LU]

## LITIGATION

In *Lawrence Karp v. Board of Registration for Professional Engineers and Land Surveyors, et al.*, No. 95-CS02722, filed on October 25 in Sacramento County Superior Court, petitioner—a registered civil and geotechnical engineer—is seeking judicial review of PELS' grading of his April 1995 structural engineer examination; among other things, Karp alleges that the Board failed to perform its mandatory duties and abused its discretion by using incorrect answers to grade and score his exam and consider his appeal. At this writing, a hearing is set for February 2.

## RECENT MEETINGS

At its June 9 meeting, PELS elected Ted Fairfield to serve as Board president and Steve Lazarian to serve as vice-president.

At its November 16-17 meeting, PELS directed staff to decline a request from Bechtel Corporation to administer the state's licensing examination in Saudi Arabia.

## FUTURE MEETINGS

February 9 in Oakland.  
 March 29 in San Diego.  
 April 12 in Sacramento.  
 May 5 in Sacramento.  
 May 31 in Eureka.  
 July 12 in Sacramento.  
 September 6 in Burbank.  
 November 1 in San Jose.  
 December 13 in Sacramento.

## BOARD OF REGISTERED NURSING

*Executive Officer:*  
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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).