



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:
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.

Myrna Allen, an RN member of the Board, resigned at the Board's September meeting as she has taken a position in New Mexico. At this writing, Governor Wilson has yet to name Allen's replacement and the Board is functioning with one vacancy.

MAJOR PROJECTS

Revision to Furnishing Number Policy for Nurse-Midwives and Nurse Practitioners. BRN has received numerous requests from certified nurse-midwives and nurse practitioners applying for furnishing numbers that the time period for physician supervision of furnishing experience be changed. "Furnishing" is defined in Business and Professions Code sections 2746.51 and 2836.1 as "the act of making a pharmaceutical agent or agents available to the patient in strict accordance with a standardized procedure"; a furnishing number, which is issued by BRN and may be renewed at the time of RN license renewal, is used by CNMs and NPs to furnish drugs and devices by writing an order which must be filled by a licensed pharmacist.

Currently, physician supervision of drug furnishing must take place over a six-month continuous period with a minimum of 20 hours per week after an applicant for a furnishing number has successfully completed a Board-approved pharmacology course; this policy was implemented by BRN in order to provide workable guidelines for those advanced practitioners not working full-time who want a furnishing number. Under the current policy, however, some NPs have not been able to qualify for a furnishing number within the prescribed timeframe. Accordingly, the Board's Education and Licensing Committee recommended that BRN change this policy to require 520 hours of physician supervision within twelve months following certification as a CNM or NP. At its June 8-9 meeting, the Board approved the recommended revision; at this time, staff is preparing to notify the public of BRN's decision.

BRN to Pursue Nurse Anesthetist Education Regulations. At its December 8 meeting, BRN agreed to propose nurse anesthetist education regulations which

have been developed in conjunction with the California Association of Nurse Anesthetists and the directors of the four nurse anesthetist programs in the state. The primary goal of these proposed regulations is to identify in regulation the minimum content required for nurse anesthetist education in the state. BRN currently certifies NAs based on their receiving national certification by the Council on Certification of Nurse Anesthetists following completion of a program approved by the Council on Accreditation of Nurse Anesthesia Programs.

Among other things, the proposed regulations would require national certification and recertification for individuals seeking NA certification in California; allow the Board to appoint a nurse anesthetist advisory committee if the need arises; clarify the requirements needed to use the title "Graduate Registered Nurse Anesthetist"; and specify curriculum contents for NA educational programs (which are based on the national standards).

At this writing, BRN has not yet published notice of its intent to pursue this rulemaking package in the *California Regulatory Notice Register*.

Citation and Fine Regulations. At its April 1995 meeting, BRN adopted sections 1435-1435.7, Title 16 of the CCR, to implement its citation and fine authority under Business and Professions Code section 125.9. The new regulations would authorize BRN's Executive Officer to issue citations and/or fines against RNs and unlicensed persons for minor violations of the Nursing Practice Act and its implementing regulations. [15:2&3 CRLR 97] At this writing, the rulemaking file is undergoing review by the Office of Administrative Law (OAL).

BRN Strategic Planning Project Update. At BRN's June 8-9 meeting, its Strategic Plan Oversight Task Force (SPOT) reported that staff is actively working to develop plans to implement the strategies and objectives identified in the strategic plan adopted by BRN at its February 2-3 meeting. [15:2&3 CRLR 98] Five committees have been formed to work on priority areas identified by SPOT and members of the Board; these areas include consumer protection and consumer service, increasing BRN's efficiency and effectiveness, taking a proactive role in restructuring 21st century health care, and evaluating nursing trends to better implement policy changes. In addition, BRN sponsored four forums across the state to gather information on the concerns expressed by RNs and other persons about nursing practice issues. Foremost among the issues raised was the use by health care and acute

care institutions of unlicensed staff or nurse assistants to do the work normally delegated to licensed RNs in order to cut costs at the expense of public safety, as well as the scarcity of resources and high patient-to-nurse ratios experienced by nurses employed at educational institutions. [15:2&3 CRLR 107; 15:1 CRLR 99-100] At its December 8 meeting, the Board noted that the forums were especially meaningful as information-gathering mechanisms and as opportunities to inform the public of the Board's activities.

LEGISLATION

SB 113 (Maddy). Existing law provides for the licensure and regulation of clinical laboratories and various clinical laboratory health care professionals by the state Department of Health Services (DHS). As amended July 19, this bill states the intent of the legislature in revising these provisions to enact state laws consistent with the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA). [15:2&3 CRLR 97-98; 15:1 CRLR 91-92; 14:4 CRLR 97] Among other things, SB 113 revises the scope of the clinical laboratory tests which may be performed by various individual licensees and by unlicensed laboratory personnel. It classifies laboratories and clinical tests into several categories depending upon complexity, including waived (simple), moderate complexity, and high complexity. Under the bill as enacted, RNs (including CNMs, NAs, and NPs) may perform laboratory tests falling into the waived or moderate complexity categories, but are not permitted to perform clinical tests of high complexity. SB 113 also invalidates DHS' regulations relating to the use of point-of-care clinical laboratory testing devices by RNs on January 1, 1996. This bill was signed by the Governor on October 3 (Chapter 510, Statutes of 1995).

SB 638 (Alquist), as amended July 5, would declare that registered nurses may use point-of-care laboratory testing devices, as defined. It would also authorize health care personnel, as defined, to use point-of-care laboratory testing devices in a health facility or other site if the test is performed under the overall operation and administration of the laboratory director, and the health care personnel demonstrate competency in utilizing those devices, as determined by the laboratory director. The bill would require the laboratory director to establish protocols for the use of these devices. [A. Health]

AB 1077 (Hannigan). The Nursing Practice Act provides for the certification of NPs and authorizes them to furnish drugs and devices incidental to the provi-



sion of family planning services and to essentially healthy persons in certain listed health facilities, among others, pursuant to a standardized procedure. Existing law provides that the furnishing of drugs or devices by NPs is conditional on the issuance of a number to the NP by BRN that indicates that the NP has completed certain requirements (see MAJOR PROJECTS). As amended July 3, this bill would instead authorize NPs to furnish drugs and devices in certain circumstances, in accordance with protocols developed by the NP and his/her supervising physician, and pursuant to a standardized procedure that shall include a requirement that a written treatment plan be provided by either the supervising physician or the NP. The bill would also revise the definition of "physician supervision" for the purposes of the furnishing of drugs or devices by a nurse practitioner, and define the term "furnishing." It would also require the NP to be employed by, or have a contract with, a physician, professional medical group, or health care facility, with certain exceptions. The bill would provide that these provisions and other provisions of law do not authorize an NP in solo practice to furnish drugs or devices.

Under existing law, NPs are prohibited from furnishing controlled substances under the Uniform Controlled Substances Act. This bill would authorize NPs to furnish Schedule III through Schedule V controlled substances under the Uniform Controlled Substances Act. [S. B&P]

SB 255 (Killea). Existing law 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 [15:2&3 CRLR 98; 15:1 CRLR 92]. [S. B&P]

Future Legislation. In 1996, BRN is expected to pursue legislative changes to Business and Professions Code section 2760.1(a)(1) to provide that an RN whose license has been revoked may not petition for reinstatement for at least three years, regardless of the reason for revocation.

■ LITIGATION

On July 31, the Attorney General's Office issued *Opinion No. 94-1011*, which states that certified nurse-midwives may not perform episiotomies pursuant to a standardized procedure; the opinion further states that the performance of an episiotomy is not within the current scope of practice of a CNM. Historically, BRN has supported the full scope of practice of CNMs, including the performance of episiotomies. However, the Attorney General found that "the practice of midwifery does not include the assisting of childbirth by any artificial, forcible, or mechanical means," and that the statutory language of Business and Professions Code section 2746.5 is unambiguous in this respect. BRN is seeking reconsideration of the opinion and remedial legislation; until such change occurs, however, it is advising its CNM licensees of the opinion and their option to seek additional guidance from personal legal counsel on how to proceed.

■ RECENT MEETINGS

At BRN's September 13-15 meeting, the Administrative Committee recom-

mended that BRN form a nurse practitioner advisory committee to review existing standards of nurse practitioner education against national standards for consistency and currency and to advise the Board on matters related to nurse practitioner practice and education. The Committee also recommended that the advisory committee be comprised of representatives from the three major types of nurse practitioner education programs, as well as an RN familiar with NP education, and a representative from the professional association. Following discussion, the Board approved the Committee's proposal.

Also at its September meeting, BRN considered revisions to its conscious sedation (CS) policy. According to BRN, since 1989 there has been a dramatic increase in the use of CS in hospital and outpatient settings, including ambulatory care settings. Given the wide use of CS and the number of calls received by BRN staff from licensees with specific practice questions regarding administrative of intravenous sedation, BRN agreed that revisions to its CS policy were in order. Among other things, the revised policy, as adopted by BRN in September, states that it is within the scope of practice of RNs to administer intravenous medications for the purpose of induction of CS for short-term therapeutic, diagnostic, or surgical procedures; in administering medications to induce CS, the RN is required to have the same knowledge and skills as for any other medication the nurse administers; the RN administering agents to render CS shall conduct a nursing assessment to determine that administration of the drug is in the patient's best interest; and the RN is held accountable for any act of nursing provided to a client.

At its December 7-8 meeting, BRN rescinded its clinical experience guidelines regarding the minimum number of clinical hours mandated for RN educational programs. According to BRN, a 1986 statewide survey of nursing programs found that the majority of programs required more than 60 hours of clinical experience in each of the required practice areas (such as medical/surgical, obstetrics, psych/mental health, and geriatrics); accordingly, BRN approved a 60-hour minimum guideline. However, BRN's Education and Licensing Committee has determined that changing practice patterns and the shift in health care from an acute care inpatient model to a community-based prevention and wellness model has made the 60-hour guideline unnecessary and restrictive. Following discussion, BRN rescinded the 60-hour minimum, and directed staff to notify nursing programs of its action.



■ FUTURE MEETINGS

February 8-9 in Oakland.
April 18-19 in San Diego.
June 13-14 in Sacramento.
September 12-13 in Los Angeles.
December 5-6 in San Francisco.

STRUCTURAL PEST CONTROL BOARD

Registrar: Donna J. Kingwell
(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 con-

trol 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.

On August 11, the Board held a special meeting at the Department of Consumer Affairs (DCA) to select a new Registrar to replace Mary Lynn Ferreira, who resigned from her position effective July 1. [15:2&3 CRLR 102] After conducting interviews, SPCB chose Donna J. Kingwell to fill the position.

■ MAJOR PROJECTS

Legislature Slashes Board's Budget to Compel Enhanced Performance. During the spring of 1995, SPCB's performance was harshly criticized by a legislative budget subcommittee chaired by Senator Dan Boatwright. [15:2&3 CRLR 99-100] Following debate by the budget conference committee, the legislature passed a budget bill which allocated the Board only six months' worth of its annual funding (which will carry it to January 1, 1996). In Item 1530-001-0775, the legislature specified that the remainder of the Board's 1995-96 funding is contingent upon its fulfillment of four conditions:

(a) The Board must act to restrain licensees from excessively pricing services and requiring unneeded work to be done; it must establish guidelines for the adoption of regulations that establish standards as to how much material is to be removed when replacing wood weakened by fungus or wood-destroying pests or organisms.

(b) SPCB must establish guidelines for the adoption of regulations to allow the consumer the option to independently contract with a company for any pest control work that the licensee otherwise would subcontract out.

(c) SPCB must establish guidelines for the adoption of regulations relative to a system of citations and fines pursuant to sections 125.9 and 148 of the Business and Professions Code, and shall implement those regulations by July 1, 1996.

(d) SPCB must provide written status reports on the actions prescribed in this provision by October 1, 1995, and by December 31, 1995, to the Department of Consumer Affairs, the Department of Finance, the Secretary of the State and Consumer Services Agency, and the Joint Legislative Budget Committee.

When presented with the Budget Act including these conditions, Governor Wil-

son approved them with one exception: He deleted the language in condition (a) requiring the Board to restrain excessive pricing of services by its licensees, stating that "[t]he Board has no statutory authority to implement or enforce cost controls. Therefore, the language represents a substantive change of law which can only be included within a single subject bill, not the Budget Act." The Governor approved the remainder of condition (a) and the other conditions.

The four conditions are also incorporated into a budget trailer bill, AB 910 (Speier) (Chapter 381, Statutes of 1995). Among other things, AB 910 provides that if SPCB does not comply with the four conditions set forth in the Budget Act by January 1, 1996, as determined by the Department of Consumer Affairs (DCA), then DCA may succeed to and is vested with all the duties, powers, purpose, responsibilities, and jurisdiction of the Board. If DCA elects not to exercise control over SPCB after January 1, 1996, it must monitor the Board on a monthly basis and the State Controller must, on a monthly basis, transfer one month's worth of funding to SPCB for the first six months of 1996. AB 910 also amends Business and Professions Code section 125.9 to permit SPCB to adopt citation and fine regulations, and substantively amends several provisions of the Structural Pest Control Act to further the legislative intent behind the Budget Act (*see* LEGISLATION).

To implement the requirements of the Budget Act and AB 910, SPCB has proposed citation and fine regulations (*see below*), proposed regulatory changes which will set standards for the removal of wood which has been weakened by fungus or wood-destroying pests (*see below*), and filed status reports in September and December on its progress in fulfilling the four conditions.

Citation and Fine Regulations. On August 18, SPCB acted to implement one of the requirements of the Budget Act and AB 910 (Speier) (*see above*) by proposing to adopt new section 1920, Title 16 of the CCR, to establish a citation and fine program to address minor violations of the Structural Pest Control Act which may not be serious enough to warrant license revocation but which should not be ignored by the Board. Among other things, section 1920 would authorize the Board's Registrar or Deputy Registrar to issue a citation against a structural pest control licensee who violates the Structural Pest Control Act and/or the Board's regulations; specify that a citation must be in writing and served upon the individual personally or by certified mail; specify violations for