



retailers, and requires them to establish written policies and procedures regarding certain information. The bill also requires a consulting pharmacist to be retained to review these policies and procedures, and to certify at least twice a year whether the retailer is in compliance with the requirements of the Pharmacy Law. The bill also establishes the initial fee for a veterinary food-animal drug retailer certificate, license, permit, or registration at \$400, and establishes the renewal fee at \$250. This bill was signed by the Governor on August 3 (Chapter 350, Statutes of 1995).

**SB 55 (Kopp).** Existing law prohibits the importation into this state of those wild animals specified on a list published from time to time by the state Department of Health Services without a permit issued by that department. In addition, existing law prohibits the importation, transportation, possession, or release into this state of certain wild animals without a permit issued by the Department of Fish and Game. As amended March 2, this bill would allow domestic ferrets to be imported for, and owned as, pets without a permit if the owner of a ferret maintains, and can produce, documentation showing that the ferret has been vaccinated against rabies with a vaccine approved for use in ferrets by the U.S. Department of Agriculture and administered in accordance with the recommendations of the vaccine manufacturer and if the ferret is spayed or neutered. [S. NR&W]

**Future Legislation.** On August 8, DCA approved VMB's proposal to seek amendments to Business and Professions Code sections 4905 and 4842.5. The existing language of section 4905 limits the amount VMB may charge for the veterinary licensing and state Board exams to \$250 each. VMB has been advised by the exam vendor that commencing in December 1995, the fee for purchasing the licensing examination will be increased to \$305. When the vendor increases its price above the statutory limit, the Board is not authorized to pass on its actual costs to licensure candidates. The existing language of section 4842.5 limits the amount VMB may charge for the RVT exam to \$100, which is much less than the cost of developing, purchasing, grading, and administering the exam. The proposed amendments to section 4905 would allow VMB to fix in regulation the fee for filing an application for the examination in an amount it determines is reasonably necessary to provide sufficient funds to carry out its purpose; the fee for the examination would be the actual cost to the Board of developing, purchasing, administering, and grading the examination. The proposed amend-

ments to section 4842.5 would similarly provide that the fees for filing an application and exam fees for the RVT examination are to be set by VMB by regulation to meet the costs that the Board incurs.

At its November 8-9 meeting, VMB agreed to revise the proposal to specify reasonable ceilings instead of allowing the ceiling to be variable as previously proposed; VMB based its action on the concern that examination vendors would have no incentive to keep their bids down without a specified ceiling.

## RECENT MEETINGS

At its September 14-15 meeting, VMB discussed an enforcement program workshop held on August 16 in Sacramento; the goal of the workshop was to share Board policy on enforcement procedures. Participants went through a simple hypothetical case with members of VMB, reviewed the complaint review process, and discussed the citation and fine process.

At its September 14-15 and November 8-9 meetings, VMB discussed the ongoing sunset review process; VMB is scheduled to come up for review by the Joint Legislative Sunset Review Committee in late 1996. [14:4 CRLR 20, 105] As such, its sunset review report must be submitted to the legislature by October 6. VMB agreed to appoint all of its members to its Sunset Committee in order to facilitate the completion of the report.

At its November 8-9 meeting, VMB discussed the possibility of creating limited licensure for "poultry practitioners," veterinarians whose practices deal solely with poultry. The Board noted that out-of-state poultry practitioners are needed to come into California to practice, but often are not able to pass the CCT due to their limited practice. The Board discussed the possibility of creating such a limited licensure program, noting that this may lead to a flood of similar requests by other specialty practitioners. However, following discussion, VMB unanimously agreed to support a legislative proposal which would allow for limited licensure for poultry veterinarians.

Also at its November meeting, VMB reelected Nancy Collins, DVM, to serve as Board President, and selected Ellen O'Connor to serve as Vice-President for 1996.

## FUTURE MEETINGS

January 8-9 in Sacramento.  
March 7-8 in Sacramento.  
May 9-10 in Sacramento.

## BOARD OF VOCATIONAL NURSE AND PSYCHIATRIC TECHNICIAN EXAMINERS

*Executive Officer:*

*Teresa Bello-Jones*

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

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

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

## MAJOR PROJECTS

**Citation and Fine Regulations Approved.** On July 27, the Office of Administrative Law approved the Board's adoption of new sections 2523, 2523.1, 2523.2, 2523.3, 2523.4, 2523.5, 2523.6, 2523.7, 2579.2, 2579.3, 2579.4, 2579.5, 2579.6, 2579.7, 2579.8, and 2579.9, Title 16 of the CCR, which implement an administrative citation and fine program for LVNs and psych techs. [15:2&3 CRLR 106; 15:1 CRLR 99] Among other things, the regulations authorize the Board's Executive Officer to issue citations for any violation of law or regulation which would be grounds for discipline by the Board; specify the format of the citations, the range of fines for violation of specified provisions, the factors to be considered in assessing the amount of an administrative fine, the consequences of failure to comply with the order, and the method by which citations may be contested; and authorize the Board



to issue citations and fines against unlicensed persons for unauthorized practice.

**Board Issues Enforcement Program Report.** In addition to its new citation and fine program, the Board has made additional changes to improve the effectiveness of its disciplinary program while lowering costs. In the past, the Attorney General's Office has prepared and served all default decisions on behalf of VNPTE when a licensee fails to respond to the filing of an accusation; under recent changes, the Board will monitor whether and when a notice of defense requesting a hearing is received. If the Board does not receive a notice of defense within the time prescribed by law, Board staff will prepare and serve the default decision. This will enable staff to prepare and serve timely default decisions to anyone who fails to request a hearing, while at the same time lowering costs.

The Board has also begun a pilot program using outside contractors to perform random drug screens. VNPTE currently has approximately 221 licensees on probation; over half stem from criminal convictions involving alcohol or drug abuse. Licensees on probation for substance abuse violations are required, as a term of their probation, to participate in random drug screens. Under the pilot project, probationers will be tested monthly during the probation term and are required to pay for lab and collection costs at the time of testing. Notification of positive test results will be made to the Board within 24 hours so that immediate disciplinary action may be taken.

**Strategic Planning Project.** At the Board's March 1995 meeting, staff reported on its strategic planning project—a process designed to develop a clear mission and vision for the Board; identify and assess the internal and external factors which impact the Board; identify issues, goals, and strategies; and develop objectives that will guide the Board in years to come. At the Board's May 19 meeting, staff reported that The Results Group, a consulting firm assisting the Board in the strategic planning process, met with VNPTE members and staff on May 17 to discuss the results of internal and external surveys and develop goals and objectives based on those findings. [15:2&3 CRLR 106]

At its September 22 meeting, the Board reviewed and adopted the final strategic planning report, which identifies six key issues to be addressed by the Board to effectively meet the needs of its licensees and the demands of the evolving health care environment. These issues are the increased demand from Board stakehold-

ers for information and guidance about the Board's role, function, and services; the need to ensure that the educational structure for LVNs and psych techs is effective, appropriate, and flexible enough to accommodate changing health care practices and demands; recognition of an increased need for review of the scope of practice of LVNs and psych techs; the Board's need to ensure that the public is protected—in a timely and effective manner—from unprofessional, incompetent, and grossly negligent practitioners; the Board's need to develop an internal environment which fosters optimum use of human and technical resources; and the increased demand for services which require the Board to develop income-generating and income-saving practices. The Board established six subcommittees, composed of members of the strategic planning task force and other Board staff, to develop an action plan which prioritizes goals and objectives for each strategic issue and sets timelines for accomplishing them.

**Implementation of New Psych Tech Test Plan.** For the past several years, VNPTE and DCA's Office of Examination Resources have been involved in an occupational analysis of the psych tech profession. The occupational analysis was completed in November 1993, and led to a reevaluation of the Board's psych tech licensing exam and adoption of a new testing program for psych techs. [14:2&3 CRLR 113; 14:1 CRLR 88]

At its January 1995 meeting, the Board formally approved a new psych tech test plan which will be implemented in 1996. In preparation for the new exam, the Board held two educational conferences to inform psych tech educational program directors, faculty, and students about the organizational structure and specific content in the new test plan. Thereafter, VNPTE scheduled four practice test sessions throughout the summer and fall, to enable psych tech students and candidates who have taken but failed a previous psych tech exam to complete a practice exam with real test items in a setting that simulates actual testing. [15:2&3 CRLR 106] The practice tests were conducted to expand the Psychiatric Technician Item Bank, in order to ensure that the item bank is representative of the new test plan. Furthermore, Board members reviewed items on the practice tests to ensure they cover areas which are within the psych tech scope of practice in California, and to eliminate potentially discriminatory language.

The Board convened a Psychiatric Technician Item Development Conference on

July 10–14, in order to develop 650 new examination items; two Board members and seven item writers representing both the education and clinical arenas participated. Thereafter, Board members were provided with an overview of the item writing process, which included exam construction, administration and scoring, item analysis, and item storage. At the Board's September 22 meeting, members expressed approval of the efficiency of the new program.

**Psych Tech Task Force Update.** At the Board's direction, its Psych Tech Task Force held public hearings on June 22 and June 29 in order to receive testimony on post-licensure practice issues for psych techs. [15:1 CRLR 98–99; 14:4 CRLR 106] Specific content areas recommended as options for psych tech post-licensure certifications include general psychiatric care; respiratory care for ventilator-dependent clients with mental disorders and/or developmental disabilities; substance abuse education; HIV education; residential care facility management; and criminal justice and probation. However, no statutory authority currently exists for post-licensure certification for psych techs; staff is expected to conduct a comprehensive study of the issues raised by post-licensure certification and present its report at an upcoming meeting of the Board's Education and Practice Committee.

**Recommended Regulatory Changes.** The Board's Education and Practice Committee has formulated several proposed changes to VNPTE's regulations implementing the Vocational Nurse Practice Act and the Psychiatric Technician Law; the proposed changes are intended to update language and clarify application, examination, and curriculum requirements. The Committee presented the proposed changes for preliminary approval at the Board's November 17 meeting. Among other things, the proposed changes to the Board's LVN regulations relate to examination procedures, eligibility for licensure, program requirements, and approval of courses and course requirements. The proposed changes to VNPTE's psych tech regulations relate to examination procedures, faculty qualifications, general requirements, and program requirements. The Board agreed to pursue the proposed changes; at this writing, it has not yet published notice of its intent to adopt these changes in the *California Regulatory Notice Register*.

## LEGISLATION

**AB 245 (Battin).** Existing law authorizes a five-year pilot program in Napa County and Riverside County to establish,



on a voluntary basis, a fifteen-bed locked community care facility; specifies that the staff of each facility shall include (but need not be limited to) a licensed psychiatrist, a psychologist, a social worker, and a psych tech or LVN; and further specifies that at least one of these professionals, with the exception of the LVN, must be on the premises at all times. As amended May 4, this bill specifies that the staff of each facility shall include (but need not be limited to) a licensed psychiatrist, a psychologist, a social worker, and a psych tech, specifies that the staff may also include a LVN, and requires that at least one of these professionals be on the premises at all times. The bill also requires protocols and training to be established for LVNs employed in these facilities. This bill was signed by the Governor on July 31 (Chapter 223, Statutes of 1995).

**AB 1409 (V. Brown)**, as amended July 3, states the findings and declarations of the legislature regarding the need for adequately trained personnel to meet the needs of residents in long-term health care facilities. This bill authorizes the extension for four additional years of a particular health manpower pilot project involving the use of geriatric technicians in long-term health care facilities, and authorizes an increase in the number of participating sponsors in the pilot project to five. The bill requires the Office of Statewide Health Planning and Development to issue a report, by December 1, 1996, on the existing health manpower pilot project that evaluates Sonoma County's experience with the project and includes certain prescribed information, and additional follow-up reports that evaluate additional geriatric technician pilot projects approved by the Office and include certain information. This bill was signed by the Governor on August 3 (Chapter 324, Statutes of 1995).

**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, LVNs and psych techs who meet minimum education and training requirements established in DHS regulations may perform laboratory tests falling into the waived or moderate complexity categories. This bill was signed by the Governor on October 3 (Chapter 510, Statutes of 1995).

**AB 1508 (V. Brown)**. Existing law provides that if adequate medical and nursing supervision by a professional nurse or nurses is provided, nursing service may be given by attendants, psychiatric technicians, or psychiatric technician interim permittees in institutions under the jurisdiction of certain state entities; and requires the director of the state entity to determine what constitutes adequate supervision. As amended July 3, this bill would instead authorize attendants, psychiatric technicians, and psychiatric technician interim permittees who are under the jurisdiction of certain state entities, including the state Department of Social Services (DSS), to provide nursing services to patients or clients provided there is adequate medical and nursing supervision by a licensed physician or registered nurse.

Existing law provides that no provision of law prevents the utilization of a licensed psychiatric technician in performing services used in the care, treatment, and rehabilitation of mentally ill, emotionally disturbed, or developmentally disabled persons in institutions under the jurisdiction of certain state institutions. This bill would instead permit this utilization for persons with mental disorders or developmental disabilities in institution under the jurisdiction of certain state entities, including DSS. [S. B&P]

## RECENT MEETINGS

Several times throughout the summer and fall, VNPTE staff attended tri-agency meetings with the Board of Registered Nursing (BRN) and the Department of Health Services regarding emergency regulations for home health agencies; representatives also discussed AB 1508 (V. Brown) (*see* LEGISLATION) and the expansion of the use of medical assistants in workplaces beyond the physician's office. Medical assistants are increasingly performing duties in areas beyond the physician's office; there is concern that medical assistants will move into acute care facilities and begin to provide patient care, raising the issue of unlicensed practice by unlicensed personnel. [15:2&3 CRLR 107; 15:1 CRLR 99-100]

In response to numerous questions by health care employers and providers, VNPTE members attended a September 21 meeting with the Medical Board of

California and BRN to discuss the propriety and legality of LVNs performing small-scale skin suturing; all boards agreed that LVNs should be directly supervised by a licensed physician or registered nurse if they are allowed to perform suturing.

At the Board's September 22 meeting, Executive Officer Teresa Bello-Jones reported that the LVN and PT programs are facing projected fund deficits for the 1996-97 fiscal year; the Board is working closely with DCA's budget staff to analyze proposed options, and may have to consider program cuts and/or fee increases to remain solvent. Bello-Jones also provided statistics from the NCLEX-PN examination for the current fiscal year to date, which reflect an overall passage rate of 72% and 85% passage rate for first-time candidates.

Also at the September 22 meeting, the Board's Education and Practice Committee recommended that LVNs be approved to administer Zoladex, a prescription medication for prostate cancer patients. The Committee recommended that the Board approve a policy permitting administration by LVNs, provided they receive education in the proper procedure for administration, demonstrate the requisite knowledge, skill, and ability prior to being allowed to perform the procedure, and perform the procedure in compliance with an order by a licensed physician. Following discussion, the Board approved the Committee's recommendation.

At the Board's November 17 meeting, Executive Officer Bello-Jones reported a strong positive response by nursing boards of other states to VNPTE's brochures entitled *For Your Health Care: Know Your Rights* and *The Disciplinary Process: Know Your Rights*.

## FUTURE MEETINGS

January 26 in San Diego.  
March 21-22 in South San Francisco.  
May 23-24 in Los Angeles.  
September 19-20 in Sacramento.  
November 14-15 in Los Angeles.

