



FUTURE MEETINGS

June 3 in San Diego.
August 4 in San Diego.

BOARD OF LANDSCAPE ARCHITECTS

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Authorized in Business and Professions Code section 5615 *et seq.*, the Board of Landscape Architects (BLA) licenses those who design landscapes and supervise implementation of design plans. Prior to 1993, applicants were required to pass the written examination of the national Council of Landscape Architectural Registration Boards (CLARB) in order to qualify for licensure. However, following years of dissatisfaction, BLA decided in May 1992 to discontinue its use of CLARB's exam; commencing in 1993, applicants must instead pass the Board's own Professional Examination for Landscape Architects (PELA) in order to qualify for licensure. [12:4 CRLR 86] In addition, an applicant must have the equivalent of six years of landscape architectural experience. This requirement may be satisfied by a combination of education at a school with a Board-approved program in landscape architecture and field experience.

In addition to licensing landscape architects, the Board investigates verified complaints against landscape architects, prosecutes violations of the Practice Act, and establishes criteria for approving schools of landscape architecture. BLA's regulations are codified in Division 26, Title 16 of the California Code of Regulations (CCR).

BLA consists of seven members who serve four-year terms. One of the members must be a resident of and practice landscape architecture in southern California, and one member must be a resident of and practice landscape architecture in northern California. Three members of the Board must be licensed to practice landscape architecture in the state of California. The other four members are public members and must not be licentiates of the Board.

MAJOR PROJECTS

Oversight Hearing and Resulting Legislation Prompt BLA Strategic Planning Workshops. Following the October 1993 oversight hearing on BLA's performance by the Senate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions [14:1 CRLR 47-

48], Senator Dan McCorquodale introduced SB 2036, which would establish a "sunset" review process for all occupational licensing agencies within the Department of Consumer Affairs (DCA). At its March 11 meeting, BLA members expressed serious concerns about the criteria and procedures of the sunset process set forth in SB 2036. Although the Board took no formal position on the bill, BLA President Marian Marum asked DCA legal counsel to assist the Board in drafting amendments which would "rip the bill apart."

However, several weeks later, Senator McCorquodale amended another bill, SB 2038, to include a provision abolishing BLA. This proposal was based on the Subcommittee's final report released on April 11, in which the Subcommittee recommended that BLA and its licensing program be abolished and replaced with a certification program (which would protect the title "landscape architect") and a bond requirement. The Subcommittee made several findings, including the following: (1) "the Board has operated to bar qualified landscape architects from entry into the field"; (2) "the Board does not set standards for the profession"; and (3) "there is little, if any, enforcement activity by the Board." The Subcommittee concluded that "no serious public harm...would result if Landscape Architects were deregulated."

Following Senator McCorquodale's amendment of SB 2038, BLA took a different approach to SB 2036 at its May 6 meeting. The Board decided to oppose SB 2038 but to embrace SB 2036 and its sunset process, arguing that if SB 2038 were passed BLA would be deprived of the opportunity to participate in the SB 2036 sunset process. In anticipation of a May 9 hearing on both bills, Board and landscape architect trade association representatives intensely lobbied Senator McCorquodale and the members of the Senate Business and Professions Committee against SB 2038 and in favor of SB 2036. At the May 9 hearing, Committee members agreed to postpone abolition of the Board in favor of permitting it to participate in the sunset process on an expedited basis (*see* LEGISLATION).

In the meantime, the Board—unhappy with the legislature's repeated attempts to abolish it—decided to schedule a series of "strategic planning sessions" designed to clarify its role, function, and constituencies, and to improve its communication both internally and with external forces which impact it (such as the legislature and the Department of Consumer Affairs). BLA's first strategic planning session, held on March 10, was facilitated by Hoy

Steele, Ph.D., senior partner of The Results Group. Workshop attendees included Board members and staff, representatives of landscape architect trade associations, and many members of the profession.

After numerous brainstorming sessions on various issues, workshop participants identified six goals for the Board: (1) to effectively and successfully address the sunset legislation by establishing a database which would constantly update evidence of BLA's effectiveness in meeting its statutory responsibilities; (2) to improve communication with the legislature, DCA, and the profession; (3) to fairly test candidates for landscape architect licensure; (4) to obtain accurate and complete information about the profession; (5) to define the Board's role in all aspects of its operation and develop internal definitions of rules and procedures for operations as needed; and (6) to effectively address sunset legislation and other challenges to the legitimacy of the Board.

At this writing, BLA has tentatively scheduled follow-up strategic planning sessions for June 10 and August 4.

Results of December PELA Administration. At its March 11 meeting, BLA reviewed the results of the second administration of the PELA, which was held on December 12-13 in Buena Park. A total of 80 candidates took the exam. Of 40 candidates who sat for all three sections (objective, design, and construction documents), only ten passed, for a 25% pass rate—down considerably from the 42% pass rate for those who took all three sections on the June 1993 administration of the PELA. [13:4 CRLR 51] Nine people took only Section IV (the reciprocity section); eight of them passed, for an 89% pass rate on the reciprocity section only.

At its May 6 meeting, the Board received comment from exam candidate Margie Ingvalson, who expressed concern over the Candidate's Preparation Handbook given to exam candidates before they take the PELA. Among other things, Ingvalson claimed that candidates had not received the handbook from HRStrategies (BLA's exam vendor) in a timely manner, nor did the handbook provide them with an adequate overview of the exam. She suggested that the booklet give suggested time limits for problems, so candidates can pace themselves. Mary Schratz from HRStrategies said that she would look into the matter.

At this writing, the next administration of the PELA is scheduled for June 13-14 in Sacramento. At its August meeting, the Board is scheduled to consider whether, due to the cost of administering the PELA, to hold it once a year in June instead of



REGULATORY AGENCY ACTION

twice a year in June and December, as is presently done, beginning in 1995.

BLA to Modify Educational Requirement for Licensure. At its March meeting, BLA held a public hearing on its proposed amendments to section 2620, Title 16 of the CCR, which sets forth the maximum credits for various types and amounts of education and experience which may be allowed toward the six years of experience required for licensure. At the request of the California Landscape Contractors Association (CLCA), the Board proposed to amend the section to permit experienced landscape contractors to more easily qualify to sit for BLA's exam. Under the Board's existing regulations, a person who has no formal education in landscape architecture but has six years of experience as a landscape architectural employee under the direct supervision of a licensed landscape architect may sit for the exam; but a person with a similar educational background and twice that amount of actual design/build work experience as a licensed landscape contractor is not permitted to sit for the exam.

Under the proposed amendments, an individual who is self-employed as a licensed landscape contractor may be granted credit on a 50% basis for that experience up to a maximum of three years of educational credit and three years of training credit. In other words, under the proposed regulations, an individual with twelve years of experience as a licensed landscape contractor could qualify to sit for the PELA without any formal education in landscape architecture, and without working under the supervision of a licensed landscape architect as otherwise required by section 2620(c)(1). However, the proposed regulations also stated that a candidate seeking to qualify for the exam solely through experience as a landscape contractor must submit samples of his/her landscape design work for review by the Board, to enable the Board to determine whether the candidate has sufficient experience and knowledge to qualify for the exam; the rules also set forth criteria which the Board must consider in evaluating the candidate's work. [14:1 CRLR 48; 13:4 CRLR 52]

As expected, most of the landscape architects in attendance at the hearing testified in opposition to the proposal, arguing that formal education is essential and urging the Board to uphold the "highest standards" for licensure as a landscape architect. CLCA representatives noted that very few schools in California offer educational programs in landscape architecture, and argued that mandatory educational requirements impose a severe bur-

den on experienced landscape contractors who cannot afford to abandon their businesses and relocate to attend school or work under the supervision of a licensed landscape architect. CLCA also argued that if the PELA is a valid instrument which adequately tests the knowledge, skills, and abilities of an entry-level landscape architect, and if a landscape contractor can pass the test, he/she should be licensed as a landscape architect.

Following the hearing, several Board members expressed concerns about the proposal. A few wanted to require some formal education for licensure candidates; others were concerned about the subjective nature of the Board's review of the work of a landscape contractor. Board member Michal Moore reiterated his position that it is unwise to alter the licensure requirements for a landscape architect until the term "landscape architect" is adequately defined (*see below*), and urged the Board to postpone action on the proposed regulatory changes. The Board ultimately decided to send the proposal back to committee for further refinement and inclusion of a required educational component for both landscape architects and landscape contractors.

On May 5, the Board's Committee on Eligibility Requirements met in Sacramento. Following discussion and consideration of a suggestion that a bachelor's degree in landscape architecture be required for licensure, the Committee agreed to recommend that candidates must have some formal educational training in landscape architecture in order to qualify to sit for the exam, and that qualifying work experience (of which all candidates must have at least two years, under current regulations) is limited to (1) experience gained under the direct supervision of a licensed landscape architect, architect, or engineer, and one of the two required years of experience must be under the supervision of a licensed landscape architect; or (2) experience as a licensed landscape contractor.

The Committee identified the following combinations as possible pathways to licensure: (1) a bachelor of science degree in landscape architecture from a Board-approved school (equivalent to four years of educational credit), plus two years of qualifying experience; (2) a master's degree in landscape architecture (equivalent to four years of educational credit), plus two years of qualifying experience; (3) a certificate in landscape architecture (equivalent to two years of educational credit), plus four years of qualifying experience; and (4) a certificate in landscape architecture plus a bachelor's degree in another field (equivalent to four years of educa-

tional credit), plus two years of qualifying experience.

Additionally, the Committee agreed to recommend that the full Board amend section 2620 to define one year of work experience as 1,500 hours; permit candidates to accrue up to one year of work experience prior to graduation from an educational program, and require candidates to accrue at least one year of the required work experience after graduation; and eliminate the granting of partial credit for incomplete degrees.

At its May 6 meeting, the full Board approved the Committee's recommendations. At this writing, the Board is expected to republish its proposed amendments to section 2620 for another 45-day public comment period, and hold a public hearing at its November meeting.

Other BLA Rulemaking. Also at its March meeting, BLA held a public hearing on its proposal to repeal section 2614 and amend section 2615, Title 16 of the CCR, relating to its new licensing exam.

In 1993, BLA began to administer its own PELA instead of CLARB's national examination. Also in 1993, the Board adopted section 2614, a transition procedure which enables California candidates who have passed certain sections of CLARB's exam to transfer those passing scores to the PELA (thereby requiring them to take only unpassed portions of the PELA), and section 2615, which specifies the procedure whereby the Board will recognize CLARB's exam for purposes of licensing out-of-state landscape architects. In originally proposing the repeal of section 2614 and the amendment of section 2615, the Board sought to require, effective July 1, 1994, all unlicensed candidates to take and pass all portions of the PELA in order to be licensed in California; section 2615 would continue to allow candidates who are licensed as landscape architects in other states by having passed an exam substantially equivalent in scope and subject matter to the exam last given in California to be eligible for licensure upon passing the reciprocity portion of the PELA. [14:1 CRLR 48]

Following the hearing in March, the Board decided not to adopt the regulatory changes as proposed. DCA legal counsel Don Chang stated that the Board is not authorized to repeal section 2614 and deprive those who have already begun the CLARB exam process of credit for sections passed; thus, the Board agreed not to repeal section 2614. BLA also modified its proposed changes to section 2615 as follows: Candidates who are not licensed landscape architects and who have received credit from a state licensing author-



ity for sections of a written examination other than the PELA will be entitled to receive credit for those passed sections provided the exam is administered prior to December 31, 1994 and the Board determines that the exam is equivalent in scope and subject matter to the written exam last given in California. The modified version of section 2615 retains the provision allowing candidates who are licensed as landscape architects in other states by having passed an exam substantially equivalent in scope and subject matter to the exam last given in California to be eligible for licensure upon passing the reciprocity portion of the PELA. Thus, candidates who begin the exam process by taking CLARB's exam after January 1, 1995 must either take the PELA in its entirety in order to be licensed in California, or become fully licensed in another state and apply to qualify for California licensure under section 2615 by taking the reciprocity section of the PELA only.

On April 8, the Board released these modifications to the regulatory proposal for an additional comment period ending on April 29. BLA approved the modified version of the regulatory changes at its May 6 meeting; at this writing, the rule-making file is being prepared for submission to the Office of Administrative Law.

■ LEGISLATION

SB 2036 (McCorquodale), as amended May 18, would create a "sunset" review process for occupational licensing agencies within DCA, requiring each to be comprehensively reviewed every four years. SB 2036 would impose an initial "sunset" date of July 1, 1997 for BLA; create a Joint Legislative Sunset Review Committee within the legislature, which would review BLA's performance approximately one year prior to its sunset date; and specify 11 categories of criteria under which BLA's performance will be evaluated. Following review of the agency and a public hearing, the Committee would make recommendations to the legislature on whether BLA should be abolished, restructured, or redirected in terms of its statutory authority and priorities. The legislature may then either allow the sunset date to pass (in which case BLA would cease to exist and its powers and duties would transfer to DCA) or pass legislation extending the sunset date for another four years. (See agency report on DCA for related discussion of the "sunset" concept.) [S. Appr]

SB 2038 (McCorquodale), as amended April 5, would have abolished BLA; the provision was a direct result of the November 1993 oversight hearing of the Sen-

ate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions. [14:1 CRLR 47-48; 13:4 CRLR 5] At a May 9 hearing of the Senate Business and Professions Committee, representatives of BLA and the California Chapter of the American Society of Landscape Architects expressed support for SB 2036 (see above) and lobbied tenaciously against SB 2038, urging Senator McCorquodale to delete the abolition provision and allow the board to participate in the SB 2036 sunset process on an expedited basis. Senator McCorquodale agreed to delete the abolition provision in SB 2038 and amend SB 2036 to establish a sunset date of July 1, 1997 for BLA; that language appears in the May 18 version of the bills. [S. Appr]

The following is a status update on bills reported in detail in CRLR Vol. 14, No. 1 (Winter 1994) at page 49:

AB 1392 (Speier), as amended July 1, 1993, would—among other things—provide that BLA's executive officer is to be appointed by the Governor, subject to Senate confirmation, and that the Board's executive officer and employees are under the control of the Director of the Department of Consumer Affairs. [S. B&P]

AB 1807 (Bronshvag), as amended March 23, reduces the time within which a landscape architect may renew his/her expired license from five to three years. This bill was signed by the Governor on March 30 (Chapter 26, Statutes of 1994).

■ RECENT MEETINGS

The Board's scheduled February 4-5 meeting was cancelled and rescheduled to March 10-11.

At its March 11 meeting, BLA reconsidered the election of its 1994 officers conducted at its November 1993 meeting. [14:1 CRLR 49] The Board elected landscape architect Marian Marum as its 1994 President and Greg Burgener, a public member who is a landscape contractor, as its Vice-President.

Also in March, Executive Officer Jeanne Brode informed the Board that the landscape architect boards in three other states (Michigan, Florida, and Georgia) are interested in scheduling presentations on the PELA by BLA and HRStrategies representatives.

At BLA's May 6 meeting, public member Michal Moore was appointed to chair the Board's Enforcement Committee. One of his goals is to more precisely define the term "landscape architect" so the Board can better detect unlicensed practice. [14:1 CRLR 48-49] Moore also stated that he plans to revamp the Board's current disciplinary system from one which is "too complicated" to one which would be

"more public, with swift enforcement to deter negligent behavior, without having to involve the Attorney General."

■ FUTURE MEETINGS

August 5 in Sacramento.

MEDICAL BOARD OF CALIFORNIA

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The Medical Board of California (MBC) is an administrative agency within the state Department of Consumer Affairs (DCA). The Board, which consists of twelve physicians and seven non-physicians appointed to four-year terms, is currently divided into three autonomous divisions: Licensing, Medical Quality, and Allied Health Professions.

The purpose of MBC and its three divisions is to protect the consumer from incompetent, grossly negligent, unlicensed, or unethical practitioners; to enforce provisions of the Medical Practice Act (California Business and Professions Code section 2000 *et seq.*); and to educate healing arts licensees and the public on health quality issues. The Board's regulations are codified in Division 13, Title 16 of the California Code of Regulations (CCR).

The functions of the individual divisions are as follows:

MBC's Division of Licensing (DOL) is responsible for issuing regular and probationary licenses and certificates under the Board's jurisdiction; administering the Board's continuing medical education program; and administering physician and surgeon examinations for some license applicants.

In response to complaints from the public and reports from health care facilities, the Division of Medical Quality (DMQ) reviews the quality of medical practice carried out by physicians and surgeons. This responsibility includes enforcement of the disciplinary and criminal provisions of the Medical Practice Act. It also includes the suspension, revocation, or limitation of licenses after the conclusion of disciplinary actions.

Until July 1, 1994, the Division of Allied Health Professions (DAHP) directly regulates five non-physician health occupations and oversees the activities of eight other examining committees and boards which license podiatrists and non-physician certificate holders under the ju-