



11, this bill would permit an applicant for licensing or certification as a qualified applicator to elect to be trained in the handling, control, and techniques of removal of Africanized honey bees. The bill would authorize the Director of Pesticide Regulation to develop or approve a program to train applicants in this specialty. The bill would also permit an applicant for a Branch 2 license from SPCB to be certified in the handling, control, and techniques of removal of Africanized honey bees, and require the Board to develop or approve such a program. Finally, SB 250 would provide that any hive or comparable apparatus that is not occupied by a live bee colony, and that is accessible to bees, is a public nuisance. [A. W&M]

AB 2780 (O'Connell), as amended May 18, would create the California Certified Home Inspectors Board to certify home inspectors. The bill would exempt certified home inspectors from the Architects Practice Act, the Professional Engineers Act, the Contractors State License Law, the Real Estate Appraisers' Licensing and Certification Law, and provisions governing structural pest control operators. [A. Floor]

The following is a status update on bills reported in detail in CRLR Vol. 14, No. 1 (Winter 1994) at page 85:

AB 1807 (Bronshvag), as amended March 23, authorizes SPCB to issue a citation if, upon investigation, it has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services without being properly licensed, and to require the violator to cease the unlawful advertising. This bill was signed by the Governor on March 30 (Chapter 26, Statutes of 1994).

AB 1392 (Speier), as amended July 1, 1993, would—among other things—provide that SPCB'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 DCA Director. [S. B&P]

AB 1851 (Connolly). Existing law sets forth a list of lethal fumigants, including chloropicrin, and a list of simple asphyxiants. As amended April 28, this bill would remove chloropicrin from the list of lethal fumigants, define the term "warning agent" as any agent used in combination with any fumigant that lacks warning properties, and include chloropicrin as a warning agent. The bill would authorize SPCB to adopt and amend, by regulation, a list of warning agents; and authorize, instead of require, SPCB to adopt, by regulation, a list of simple asphyxiants.

Existing law specifies conduct that constitutes a ground for disciplinary ac-

tion by the Board. This bill would additionally provide that furnishing a notice of work completed prior to the completion of the work specified in the report is a ground for disciplinary action.

Existing law authorizes SPCB or county commissioners to levy a fine against a registered company acting as a prime contractor for any major violation committed by any licensee with whom the prime contractor has subcontracted, as specified. This bill would, instead, make that authorization applicable to the Board or county agricultural commissioners. [S. B&P]

AB 520 (Knight), which would have repealed the Structural Pest Control Act and its provisions creating the Board, died in committee.

RECENT MEETINGS

At its February 24-25 meeting, SPCB agreed to form a committee to draft a vision statement for the Board; DCA requested that SPCB adopt a vision statement which will be used as part of the Department's evaluation of SPCB for a performance-based budgeting program. Also, the Board noted that \$90,000 is available for technical research, and directed staff to survey all registered companies to determine desired areas of pest control research and to notify California researchers, especially at the major California universities, that funds are available for research projects in pest control.

Also at its February meeting, SPCB agreed to inform the Department of Pesticide Regulation that SPCB supports the issuance of citations and fines to individual employees and/or licensees instead of the registered companies they work for when appropriate; currently, an agricultural commissioner normally fines the pest control company rather than the employee and/or licensee who actually violated the pesticide regulations. SPCB believes that fining the individual responsible for the violation will increase overall compliance with the state's pesticide regulations.

Also in February, SPCB directed legal counsel to issue an opinion regarding licensure requirements for the removal of swarms of bees. The Board has received complaints that beekeepers are taking business away from structural pest control operators; SPCB has also received reports that consumers are improperly having beekeepers remove Africanized honey bees (killer bees) from structures. At SPCB's April 22 meeting, DCA legal counsel Don Chang presented his opinion regarding whether the removal of bees from structures constitutes the practice of structural pest control and must be licensed. Chang opined that under Business and Professions Code

sections 8505 and 8550(a), the removal of bees from structures constitutes the practice of structural pest control and requires licensure when a fee is charged; however, SPCB has no jurisdiction over bee removal where no structure is involved. SPCB unanimously adopted the legal opinion and noted that the danger to the general public of killer bee removal is increasing as they migrate into California.

At SPCB's February meeting, researchers reported on the status of their project to determine the best control method for drywood termites, noting that the final report on the research will be submitted after June. Another group of researchers reported on the efficacy of chloropicrin as a warning agent to prevent unauthorized entry during structural fumigations; based on the researchers' conclusion, the Board directed staff to draft a proposed regulation to require a minimum standard of 1.5 ounces of chloropicrin per 1,000 cubic feet fumigated.

At its April meeting, SPCB discussed staff's proposed regulation on the minimum standard of chloropicrin to be used as a warning agent; following discussion, the Board referred the proposal to its Technical Advisory Committee (TAC) for further analysis. The Board also referred to TAC for further discussion proposed amendments to section 1970(a), Title 16 of the CCR (making changes to the structural fumigation log) and Business and Professions Code section 8505.6 (addressing the sealing of structures attached to a structure being fumigated prior to fumigation).

Also at its April meeting, SPCB explored the idea of establishing a recovery fund for consumers to use when structural pest control operators go out of business. The Board directed staff to survey other state agencies to see how such recovery funds are operated and report back to the Board with its findings.

FUTURE MEETINGS

July 28 in San Jose.

October 20 in San Diego.

BOARD OF EXAMINERS IN VETERINARY MEDICINE

Executive Officer: Gary K. Hill
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Pursuant to Business and Professions Code section 4800 *et seq.*, the Board of Examiners in Veterinary Medicine (BEVM) licenses all doctors of veterinary medicine (DVMs), veterinary hospitals,



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animal health facilities, and animal health technicians (AHTs). The Board evaluates applicants for veterinary licenses through three written examinations: the National Board Examination, the Clinical Competency Test, and the California State Board Examination.

The Board determines through its regulatory power the degree of discretion that veterinarians, AHTs, and unregistered assistants have in administering animal health care. BEVM's regulations are codified in Division 20, Title 16 of the California Code of Regulations (CCR). All veterinary medical, surgical, and dental facilities must be registered with the Board and must conform to minimum standards. These facilities may be inspected at any time, and their registration is subject to revocation or suspension if, following a proper hearing, a facility is deemed to have fallen short of these standards.

The Board is comprised of six members—four licensees and two public members. The Governor appoints all of the Board's DVM members; the Senate Rules Committee and the Assembly Speaker each appoint one public member. Board members serve four-year terms. The Board has eleven committees which focus on the following BEVM functions: continuing education, citations and fines, inspection program, legend drugs, minimum standards, examinations, administration, enforcement review, peer review, public relations, and legislation. The Board's Animal Health Technician Examining Committee (AHTEC) consists of the following political appointees: three licensed veterinarians, three AHTs, and two public members.

MAJOR PROJECTS

BEVM Continues to Develop Practice Act Definition. California's definition of the practice of veterinary medicine was established in the late 1930s and has remained substantially unchanged since that date; based on recommendations from its legal counsel, BEVM recently formed a subcommittee to review the current practice act definition and develop one that will address current issues and emerging practice areas in veterinary medicine, such as chiropractic medicine and acupuncture. [13:4 CRLR 92; 13:2&3 CRLR 113]

The subcommittee, which held six public meetings during 1993, includes members of the public, humane societies, animal control representatives, dog and cat breeders, zoo representatives, the California Thoroughbred Horse Breeders Association, the California Veterinary Medical Association, the University of California at Davis, the California Department of

Food and Agriculture, and the Department of Consumer Affairs (DCA). The subcommittee worked closely with these groups in developing proposed amendments to BEVM's practice act, which included redefining the practice of veterinary medicine to include activities such as acupuncture, chiropractic, and other procedures performed on an animal. Although these proposals were part of SB 1821 (Kelley) as it was originally introduced on February 24, subsequent revisions to the bill have deleted these and other proposed changes to the practice act definition (*see* LEGISLATION).

At this writing, it is not known if the subcommittee's proposed changes will be amended into another bill during the current legislative session.

Update on PES Conflict of Interest. Discussions continue regarding the potential conflict of interest that may exist in BEVM's contract with Professional Examination Service (PES), which develops and prepares the National Board Examination and the Clinical Competency Test. The conflict concerns a clause in the contract which authorizes the American Veterinary Medical Association (AVMA), a national trade association, to set the pass point for the examinations. According to DCA's Office of Examination Resources, no state licensing board should allow, or appear to allow, a professional association such as AVMA to control a passing score for a test that is part of the board's licensing process. [14:1 CRLR 86; 13:4 CRLR 91]

BEVM supports a transfer of authority for examination preparation from AVMA to the American Association of Veterinary State Boards (AAVSB). On April 7, BEVM President Nancy Collins met with representatives of the AVMA's National Board Examination Committee (NBEC) to present several options from the AAVSB Executive Board for NBEC's consideration. Following discussion, NBEC agreed that it should be incorporated as a separate entity from AVMA (but would continue to use AVMA administrative services); NBEC should accept three additional members representing the AAVSB (although it was not guaranteed that they would be voting members); NBEC and AAVSB should jointly sign the contract with PES; and candidates' fees should be increased to fund the AAVSB. The proposal is expected to be presented to AVMA's Executive Board at its June meeting.

Board to Increase Licensing Fees. On March 25, BEVM published notice of its intent to amend sections 2011.5, 2019, 2020, and 2070, Title 16 of the CCR. The

changes to sections 2011.5, 2019, and 2020 are all nonsubstantive, grammatical revisions changing the title of "executive secretary" to "executive officer." BEVM's proposed changes to section 2070 would increase the Board's initial and biennial renewal fees from \$150 to \$200.

The Board conducted a public hearing on these proposals on May 13; following the hearing, BEVM unanimously adopted all of the proposed amendments, which await review and approval by the Office of Administrative Law.

AHT Eligibility Requirements. At its March 11 meeting, BEVM continued to discuss its current AHT eligibility requirements. Business and Professions Code section 4841.5 describes the eligibility requirements for taking the written and practical examination for registration as an AHT; the section generally requires that applicants be at least eighteen years of age and furnish satisfactory evidence of graduation from a two-year curriculum in animal health technology, or the equivalent thereof as determined by the Board, in a college or other institution approved by BEVM. AHTEC president Harold Davis reported that AHTEC will be proposing amendments to section 2068.5, Title 16 of the CCR, to allow applicants to establish eligibility for the AHT examination by combining their practical experience with postsecondary coursework hours obtained from either college units or continuing education sources. [14:1 CRLR 85-86; 13:2&3 CRLR 114] At this writing, BEVM has not yet published notice of its intent to pursue this regulatory amendment.

Disciplinary Program Update. At its January 6-7 meeting, the Board noted that there will be an increase in the number of informal conferences on violations which are disciplined through section 2043, Title 16 of the CCR, the Board's citation and fine program [9:2 CRLR 77]; according to BEVM, the increase reflects the Board's policy of using its cite and fine authority rather than admonishment letters, which many thought to be ineffective. The informal conferences allow the veterinarian an opportunity to present his/her perspective as to what happened, and allow the Board's Executive Officer to confirm, modify, or dismiss the original citation.

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, 1998 for BEVM; create a Joint Legislative Sunset Review Commit-



tee within the legislature, which would review BEVM's performance approximately one year prior to its sunset date; and specify 11 categories of criteria under which BEVM's performance will be evaluated. Following review of the agency and a public hearing, the Committee would make recommendations to the legislature on whether BEVM 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 BEVM 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 1821 (Kelley), as amended April 18, would rename BEVM as the "Veterinary Medical Board"; rename AHTEC as the "Registered Veterinary Technician Examining Committee" and revise the composition of the Committee; and define various terms related to veterinary medicine, including the terms "diagnosis," "animal," "food animal," and "livestock."

Existing law provides exemptions from BEVM's licensure requirements for a veterinarian who is employed as a full-time meat inspector for the California Department of Food and Agriculture (CDFA) or as the official veterinarian for local or state government. This bill would eliminate these exemptions, but would provide that the laws regulating the practice of veterinary medicine do not apply to a person who is employed as a veterinarian by CDFA for prescribed services, or to unlicensed personnel employed by CDFA or the U.S. Department of Agriculture for performance of prescribed duties.

Existing law requires BEVM to ascertain the professional qualifications of applicants for licensure by means of examination, and requires the examination to consist of a national examination and a California State Board examination. This bill would eliminate the reference to a national examination and would instead require that the examination consist of a licensing examination, including an examination in basic veterinary science and an examination in clinical competency, and the California state Board examination.

Existing law provides BEVM with the discretion to revoke, suspend, or impose a fine against a licensee based on a specified reason, including the revocation of a license to practice veterinary medicine by a sister state or territory. This bill would instead provide that the Board may take this action based on the revocation, sus-

pension, or other disciplinary action taken against the licensee by another state or territory. [A. Agri]

AB 2973 (Aguiar). The Pharmacy Law regulates the licensure of pharmacies and medical device retailers and includes, among other things, provisions requiring that certificates, licenses, permits, or registrations for these businesses be obtained by, and renewed by persons conducting these businesses in compliance with certain application procedures. Existing law requires the Board of Pharmacy to issue temporary permits upon conditions determined by the Board when the ownership of these businesses is transferred and authorizes the Board, under certain circumstances, to void the licenses of these businesses and obtain a court order authorizing the Board to enter the premises of these businesses and arrange for the transfer or sale of dangerous drugs, controlled substances, or dangerous devices found therein. As amended April 25, this bill would expand the jurisdiction of the Board of Pharmacy by making several of these provisions regulating pharmacies and medical device retailers also applicable to veterinary food-animal drug retailers.

Existing law provides that a dangerous drug, as defined, does not include a veterinary drug that is labeled as a veterinary drug. This bill would, notwithstanding this provision, provide that veterinary food-animal drugs include any dangerous drug intended for use in food-producing animals that by federal or state law can be lawfully dispensed only by prescription or furnished pursuant to certain requirements. [A. Floor]

The following is a status update on bills reported in detail in CRLR Vol. 14, No. 1 (Winter 1994) at pages 86-87:

AB 1209 (Tucker). Existing regulations adopted by the California Horse Racing Board (CHRB) provide for an official veterinarian whose duty it is to supervise practicing licensed veterinarians at horse racing meetings, and to enforce CHRB's rules and regulations relating to veterinary practices. As introduced March 2, this bill would require every veterinarian who treats a horse within a racing inclosure to report to the official veterinarian in a manner prescribed by him/her, in writing and on a form prescribed by CHRB, the name of the horse treated, the name of the trainer of the horse, the time of treatment, any medication administered to the horse, and any other information requested by the official veterinarian. [S. Inactive File]

AB 1807 (Bronshvag) was amended on March 23 to delete provisions changing the titles of AHTEC and AHTs; those pro-

visions have been amended into SB 1821 (Kelley) (see above). Thus, AB 1807 is no longer relevant to BEVM.

AB 302 (Horcher), which would have required an owner of a cat over the age of six months to have the cat sterilized by a veterinarian if the cat is permitted outdoors without supervision, died in committee.

RECENT MEETINGS

At its January 6-7 meeting, BEVM directed staff to critically evaluate the Board's Diversion Program for substance-abusing licensees and determine the viability of transferring the program to CVMA's Wellness Committee; for the past two years, BEVM has contracted with the Medical Board of California (MBC) for use of MBC's in-house Diversion Program by impaired veterinarians [12:2&3 CRLR 151], and participation has been declining. The Board noted that where there is some immediate urgency to get a respondent into a program, it is authorized to require treatment in private programs via stipulated agreements. Executive Officer Gary Hill reported that the program graduated four veterinarians, and one was temporarily removed from the program, leaving seven Board-referred veterinarians in the program.

Also in January, the Board noted that many of the consumer complaints it receives evolve from communication problems and unrealistic expectations by all parties involved. The Board discussed the possibility of publishing a "consumers' bill of rights" or an informational pamphlet that would outline the types of questions consumers should ask when visiting a veterinary clinic and the types of remedies available to the consumer if a problem arises. However, the Board took no specific action on this matter.

Also at its January meeting, BEVM re-elected Nancy Collins, DVM, to serve as president and elected Jean Guyer to serve as vice-president.

At its March meeting, BEVM made several changes to its disciplinary guidelines, which are designed to assist the Attorney General's Office, the Office of Administrative Hearings (OAH), and the Board itself in deciding disciplinary cases. Among other things, BEVM added language to reflect the use of the Board's citation and fine program; request the OAH administrative law judge (ALJ) to include explanatory information when charges are sustained but the penalty suggested in BEVM's disciplinary guidelines is not included in the ALJ's proposed decision; and reflect that a premise permit and a veterinary license may be disciplined separately.



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At its March 11 meeting, BEVM reviewed a DCA legal opinion on the expungement of prior disciplinary action; according to DCA legal counsel Don Chang, in the absence of specific statutory authority to expunge disciplinary action taken against a veterinarian, BEVM is prohibited from deleting such information from its official records. Chang concluded that "it would be prudent for [BEVM] to retain Accusations, Statements of Issues, Citations and Decisions rendered thereto for the life of the licensee file." The Board concurred with Chang's opinion.

At its March 11 meeting, the Board announced the results of the December 1993 California State Board examination, which revealed that 54% of the 136 UC Davis students who took the test passed; the overall pass rate for the exam was 38%. According to UC Davis Associate Dean of Instruction George Cardinet, UC Davis students have experienced a declining pass rate; Cardinet asked that BEVM research the statistics on the examination for possible solutions to this apparent problem. BEVM and university representatives discussed possible problem areas such as the university's core curriculum, the exam grading system, and the exam dates. The Board is expected to continue its discussion of this matter at a future meeting.

At the Board's May 12-13 meeting, staff announced that DCA's Office of Examination Resources will present its report to the Board in July on the final results of BEVM's three-year occupational analysis of the practice of veterinary medicine, along with the suggested blueprint for future California State Board Examinations. [11:3 CRLR 112; 11:2 CRLR 108; 10:4 CRLR 109]

■ FUTURE MEETINGS

July 7-8 in Sacramento.
September 15-16 in San Diego.
November 17-18 in Sacramento.

BOARD OF VOCATIONAL NURSE AND PSYCHIATRIC TECHNICIAN EXAMINERS

Executive Officer:
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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). The Board currently regulates 76,722 LVNs with active or inactive licenses, and 35,215 LVNs with delinquent active licenses, for a total LVN population of 111,937. The Board's psych tech population includes 12,987 with active or inactive licenses and 4,471 with delinquent active licenses, for a total of 17,458 psych tech practitioners. Inactive licensees include those who have paid their license fees but have not yet completed thirty units of continuing education within two years of reactivation.

■ MAJOR PROJECTS

NCLEX-CAT Implementation Update. Last October, the National Council of State Boards of Nursing (NCSBN), which oversees LVN and RN exams nationwide, announced its decision to implement computer adaptive testing (CAT) on April 1, in lieu of "paper and pencil" tests. [14:1 CRLR 88; 13:4 CRLR 94; 13:2&3 CRLR 115] In February and March, Board staff attended two educational conferences to acquaint LVN program directors, faculty, and students with the revised examination process. Under the new process, licensure candidates who have completed their educational program may be tested by computer at a testing center convenient to their location. Each testing center will have the ability to test candidates six days per week; three testing sessions per day are available for scheduling. Candidates will receive their examination results within two weeks of the test.

At the conference, VNPTE staff presented several revisions to the Board's application submission process which are necessary due to the new exam format. For

example, the Board's filing deadlines for submission of applications to take the exam have been eliminated; applications will be processed on a first-come, first-served basis. Once VNPTE has determined that a candidate is eligible to take the test, the candidate will be issued an "authorization to test" (ATT) document, which is valid for six months. During that period, the candidate may register to take the test directly with the Board's exam vendor, Educational Testing Service, by mail or by telephone. If the candidate does not take the exam during that period, the ATT will expire and the candidate must reapply to the Board and pay a retake fee of \$75. VNPTE will continue to issue interim permits, which allow graduates of California-accredited LVN programs to work for a nine-month period while they are taking the exam; this time period permits eligible candidates to schedule an appointment to test at any time prior to the expiration of the ATT, and allows an additional three months for receipt of results and processing of the initial license.

Board to Explore VNPTE/BRN Diversion Program. In November 1993, VNPTE and the Board of Registered Nursing (BRN) presented testimony to the Senate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions, chaired by Senator Dan McCorquodale, on several issues related to restructuring of the boards. [14:1 CRLR 87-88] During the hearing, both boards expressed opposition to a proposal to merge the boards entirely, but noted that some services offered by both boards could conceivably be consolidated for greater efficiency. After that hearing, outgoing Executive Officer Billie Haynes encouraged the Board to consider the possibility of contracting with BRN such that LVNs could participate in BRN's diversion program for substance-abusing licensees. After it determined that it lacks the statutory authority to implement such an arrangement, the Board put the proposal on hold, but may sponsor legislation to secure such authority.

Psychiatric Technician Task Force. In November 1993, the Board adopted the Executive Officer's recommendation that a short-term task force of volunteers be appointed to study the future trends and practices of psychiatric technicians in California. [14:1 CRLR 88] This recommendation was based on the facts that four psychiatric technician programs ceased or significantly decreased student enrollment during the past year, and state hospital reductions have led to the lay-off or termination of a large number of psychiatric technicians.