



## BOARD OF ARCHITECTURAL EXAMINERS

Executive Officer:  
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The Board of Architectural Examiners (BAE) was established by the legislature in 1901. BAE establishes minimum professional qualifications and performance standards for admission to and practice of the profession of architecture through its administration of the Architects Practice Act, Business and Professions Code section 5500 *et seq.* The Board's regulations are found in Division 2, Title 16 of the California Code of Regulations (CCR). Duties of the Board include administration of the Architect Registration Examination (ARE) of the National Council of Architectural Registration Boards (NCARB), and enforcement of the Board's statutes and regulations. To become licensed as an architect, a candidate must successfully complete a written and oral examination, and provide evidence of at least eight years of relevant education and experience. BAE is a ten-member body evenly divided between architects and public members. Three public members and the five architects are appointed by the Governor. The Senate Rules Committee and the Speaker of the Assembly each appoint a public member.

### MAJOR PROJECTS

**Written Contract Requirement.** During the course of October 1993 interim hearings conducted by the Senate Subcommittee on Efficiency and Effectiveness of State Boards and Commissions, the Center for Public Interest Law suggested that BAE adopt a written contract requirement for architectural services, and a recent review of BAE's disciplinary complaints and investigations suggested that widespread use of oral contracts in the industry can result in enforcement difficulties for both consumers and architects. In December 1993, BAE established a Special Practice Committee, chaired by Board member Peter Chan, to study the proposed written contract requirement and make a recommendation to the Board. [14:2&3 CRLR 36-37; 14:1 CRLR 30]

The Special Practice Committee met on May 24 to develop a list of questions and issues involved in such a proposal. The Committee subsequently prepared an issue paper and provided it to the American Institute of Architects, California Council (AIACC), asking for comments.

In July, the AIACC Board of Directors discussed the proposed written contract requirement and, while some concerns surfaced regarding how such a requirement should be drafted given business realities, the majority of the AIACC Board favored a written contract requirement. On August 12, the AIACC Legislative Committee discussed co-sponsorship with BAE of 1995 legislation to require a written contract for architectural services, and recommended that the Council's Executive Committee discuss the proposal at its September 23 meeting. The key concerns expressed by AIACC's Board of Directors and Legislative Committee were that in certain situations, work should be able to proceed while a written contract is being reviewed; pro bono work should be exempt; and the requirement should be drafted generally to encompass all of the services an architect may provide.

On August 23, BAE's Special Practice Committee met in South San Francisco with representatives of the AIACC and key Board personnel to discuss the written contract proposal from the enforcement, insurance, regulatory, and political perspectives, as well as from an architect's perspective. The Committee and meeting participants agreed that requiring a written contract is a good idea, would be helpful both to clients and architects, and would assist the Board's enforcement program by eliminating a key area of conflict. The Committee approved a motion to recommend to the full Board that it sponsor legislation to require written contracts for architectural services and direct the Special Practice Committee to explore any outstanding issues and work with the AIACC on developing specific legislative language.

At BAE's September 9 meeting, the Special Practice Committee presented these recommendations to the full Board, along with a draft version of proposed legislative language, which was based on the written contract requirement already in place for landscape architects. After a discussion of the specific language, the Board raised a number of concerns, including the level of detail and/or vagueness in parts of the proposed language; whether a written contract requirement would impede relationships between architects and their clients; whether sufficient opportunity for public comments had been given to consumer groups that might be affected by a written contract requirement; and whether the implications on enforcement and alternatives to legislation had been adequately studied to enable the Board to reach a decision. Some Board members who are not on the Special

Practice Committee expressed interest in joining the Committee to analyze these issues. The Board approved a motion to refer the written contract requirement proposal back to a reconstituted Special Practice Committee for additional study prior to Board consideration of a motion to sponsor legislation requiring written contracts for architectural services.

### Oral Examination Appeals Process.

At BAE's May 13 meeting, the Internship and Oral Examination Committee recommended that the Board adopt a regulation establishing an appeals process for its oral examination; proposed new section 124.5, Title 16 of the CCR, would allow a candidate who has failed the oral examination to apply for Board review when the candidate alleges that he/she was significantly disadvantaged due to a significant procedural error or adverse environmental conditions during exam administration. [14:2&3 CRLR 37; 14:1 CRLR 31; 13:2&3 CRLR 47] The Board adopted the Committee's recommendation, and on July 22 published notice of its intent to adopt new section 124.5. On September 7, BAE held a public hearing on the proposed action; the Board received no oral or written public comments during the comment period. At this writing, BAE is tentatively scheduled to adopt the proposed rule at its October meeting.

### Intern Development Program Update.

Over the past several months, BAE members have been considering a proposal to require completion of a structured internship program as a requirement for licensure as an architect in California. At BAE's May 13 meeting, the Internship and Oral Examination Committee presented to the full Board its recommendation that BAE approve the concept of requiring candidates for licensure in California to complete supervised training which meets the standards of NCARB's Intern Development Program (IDP). The Board adopted this recommendation, and directed the Internship and Oral Examination Committee to develop regulations and an implementation plan in consultation with the AIACC. [14:2&3 CRLR 36; 14:1 CRLR 30]

The BAE/AIACC task force—now called the IDP Implementation Task Force—held a preliminary meeting in July, and a follow-up meeting on August 12. At the August 12 meeting, BAE Executive Officer Steve Sands reported that staff has been analyzing the existing experience eligibility requirements contained in the Board's regulations and comparing them with the current IDP requirements to identify similarities and differences, and had written to all other state architectural licensing boards and requested copies of all



IDP-related statutes and regulations applicable in those states. The Task Force identified several concerns with NCARB's current IDP standards, and agreed that they should be made more flexible and easier for candidates to satisfy in several respects. Among other things, the Task Force would like NCARB to expand the definition of acceptable training activities, and expressed concerns about existing IDP rules which specify when IDP value units may be earned and the overall cost of the recordkeeping involved to the candidates, the firms for which they are working, and the Board. The Task Force also noted that NCARB's IDP Coordinating Committee would be meeting on August 19-20 in San Francisco, and decided to propose changes to NCARB's IDP standards to the Coordinating Committee to satisfy BAE's concerns.

Executive Officer Sands also reminded Task Force members that any IDP requirement would have to be accomplished through the rulemaking process, which includes public notice and hearings, approval by BAE, and review and approval by both the Department of Consumer Affairs (DCA) and the Office of Administrative Law (OAL).

**Repeal of Appeal Procedure for Graphic Building Design Division of Exam.** Section 125, Title 16 of the CCR, currently provides that a candidate may appeal in writing to BAE his/her failing score on the graphic building design portion of the ARE, provided that four evaluations comprising his/her failing score on the graphic portion contain at least one passing evaluation. In June, however, the format of the exam changed from a single, twelve-hour design problem to a series of six separate vignettes with shorter and more detailed problems; because the new vignettes will receive a maximum of three grades each, appeals cannot be administered under the Board's current regulation. Thus, on June 20, BAE held a public hearing on its proposal to repeal section 125, on the basis that the new grading procedure does not meet the criteria for the appeal process set forth in section 125. BAE also noted that there is no appeal process for other divisions of the written examination; given the new grading process, a new appeal process would require time and expenditure to develop; no other jurisdiction provides an appeal process for the ARE; the grading of the vignettes should be much more objective and structural than the grading of the single design problem; less than 1% of the original grading results are changed annually through the existing appeal process; and passing scores granted through the appeal process

are only valid in California, and are not transferrable to other jurisdictions. [14:2&3 CRLR 37] The Board received no oral or written comments on its proposal. At its September 9 meeting, the Board adopted the proposed regulatory change, which now awaits approval by DCA and OAL.

#### **Amendments to Table of Equivalents.**

At its June 2 meeting, BAE's Written Examination Committee reviewed and discussed proposed changes to section 117, Title 16 of the CCR, which contains the Table of Equivalents used by the Board in evaluating a candidate's training and educational experience for purposes of licensure eligibility. The proposed changes would define more precisely the types of degrees that will be considered as degrees in a field related to architecture and which qualify toward BAE's licensure requirement; allow credit for experience gained under the supervision of a licensed architect; and eliminate a requirement that such experience would qualify only if gained while the candidate is working as an architectural employee. In addition, the proposed changes would eliminate the requirement that each licensure candidate applying for credit for courses taken at a foreign college or university provide an original certified translation of the transcript along with his/her transcript; eliminate confusing language and/or unnecessary licensing requirements; and expand the equivalent educational opportunities for architecture students, a goal also being stressed in the IDP proposal (*see above*). At its September 9 meeting, BAE agreed to pursue the changes; at this writing, a public hearing on the proposal is tentatively scheduled for November 8.

#### **Strategic Planning Session for BAE.**

Last March, BAE unanimously approved a motion to designate a five-member committee to plan a strategic planning session. [14:2&3 CRLR 37] The committee recommended that BAE contract with Moore Iacofano Goltsman, Inc. (MIG) to provide training and facilitation for the Board's strategic planning session; BAE approved a motion ratifying the Committee's decision to award the contract to MIG at its September 9 meeting. A representative from MIG attended the September 9 meeting to explain the strategic planning process, answer questions, and schedule interviews with Board members and key staff. During September and early October, MIG will conduct a series of interviews with all the Board members, key staff members, the Board's legal counsel, and representatives of certain legislative committees and trade groups with an interest in BAE's activities. The purpose of the interviews is to identify potential or-

ganizational needs, issues, and trends in order to prepare for the planning session. At this writing, the strategic planning meeting is scheduled for October 17-18 in Newport Beach.

## ■ LEGISLATION

The following is a status update on bills reported in detail in CRLR Vol. 14, Nos. 2 & 3 (Spring/Summer 1994) at page 37:

**AB 2702 (Frazee)**, as introduced February 7, increases the penalty for various violations of the Architects Practice Act from imprisonment in the county jail not exceeding six months to a period not to exceed one year. The bill also provides that the fact that a licensee has had disciplinary action taken by any public agency for any act relating to the qualifications, functions, or duties of an architect constitutes grounds for disciplinary action. The bill was signed by the Governor on July 20 (Chapter 258, Statutes of 1994).

**SB 2036 (McCorquodale)**, as amended August 26, creates a "sunset" review process for occupational licensing boards within DCA, requiring each to be comprehensively reviewed every four years. [14:2&3 CRLR 37; 14:1 CRLR 30; 13:4 CRLR 5] SB 2036 imposes an initial "sunset" date of July 1, 1998 for BAE, creates a Joint Legislative Sunset Review Committee which will review BAE's performance approximately one year prior to its sunset date, and specifies the categories of criteria under which BAE's performance will be evaluated. The bill was signed by the Governor on September 26 (Chapter 908, Statutes of 1994).

**AB 1392 (Speier)**, as amended August 17, is no longer relevant to BAE.

## ■ RECENT MEETINGS

At its September 9 meeting, BAE discussed the Internship and Oral Examination Committee's recommendation that the Board approve a proposed oral examination acknowledgement form. Over the past few months, the Committee has been considering ways to address oral exam security concerns raised by the possibility that candidates might discuss the contents of the examination with other candidates or with other individuals for the purpose of educating candidates about likely oral exam test questions or format; this is a concern because the same oral examination test questions are used three years in a row. The Committee proposed that oral examination candidates be given a copy of the Business and Professions Code provisions enacted to help state agencies maintain the security of their exams; these sections make it a misdemeanor to subvert or attempt to subvert a licensing examina-



tion, and provide for penalties. The Committee proposed that candidates be asked to acknowledge these sections by signing an affidavit stating that they have read and understand the consequences of discussing the exam with others. DCA legal counsel Don Chang advised that candidates may not be legally required to sign an affidavit of this type in order to take the oral examination. After discussion, the Board decided not to distribute to oral examination candidates an affidavit to sign, but agreed instead to provide copies of the relevant Code provisions in each candidate's information package sent in advance of the oral examination.

Also at its September 9 meeting, BAE discussed a suggestion to hold elections for new Board officers prior to the end of the calendar year so that each new Board officer can serve for a full year term. At this writing, elections are tentatively scheduled to be held at Board's December 12 meeting in San Francisco.

### ■ FUTURE MEETINGS

October 17-18 in Newport Beach.  
December 12 in San Francisco.

## ATHLETIC COMMISSION

*Executive Officer:*  
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The Athletic Commission is empowered to regulate amateur and professional boxing and contact karate under the Boxing Act, Business and Professions Code section 18600 *et seq.* The Commission's regulations are found in Division 2, Title 4 of the California Code of Regulations (CCR). The Commission consists of eight members each serving four-year terms. All eight members are "public" as opposed to industry representatives. The current Commission members are Willie Buchanan, William Eastman, H. Andrew Kim, Jerry Nathanson, Carlos Palomino, Kim Welshons, and Robert Wilson. The term of Ara Hairabedian recently expired and no replacement has been named at this writing.

The Commission has sweeping powers to license and discipline those within its jurisdiction. The Commission licenses promoters, booking agents, matchmakers, referees, judges, managers, boxers, and martial arts competitors. The Commission places primary emphasis on boxing, where regulation extends beyond licensing and includes the establishment of equipment, weight, and medical requirements. Further, the Commission's power to regulate boxing extends to the separate approval of

each contest to preclude mismatches. Commission inspectors attend all professional boxing contests.

The Commission's goals are to ensure the health, safety, and welfare of boxers, and the integrity of the sport of boxing in the interest of the general public and the participating athletes.

### ■ MAJOR PROJECTS

**Pension Plan Update.** The Commission is continuing its efforts to revise various aspects of its Professional Boxers' Pension Plan. On July 11, the Office of Administrative Law (OAL) approved the Commission's amendments to section 401, Title 4 of the CCR, which sets forth pension fund contribution requirements and specifies a schedule of contributions to finance the pension plan to be paid by professional boxers, managers, and promoters. These amendments specify that (1) the manager's contributions shall not be assessed for the boxer's first and second bouts in a calendar year; (2) a professional boxer's contribution shall not be assessed until after the boxer's first and second bouts in a calendar year and after the boxer's total purses in a calendar year exceed \$1,500 less the manager's share; (3) a promoter's contribution shall be capped at \$1,000 per event; and (4) all contributions shall be deposited in and credited to the Boxers' Pension Account. [14:2&3 CRLR 38-39; 14:1 CRLR 32-33]

Despite these recent changes, however, the Commission has agreed that more comprehensive reforms to its pension fund program are warranted. Prompting this reform movement is Center for Public Interest Law Director Robert C. Fellmeth, who chaired the Athletic Commission at the time the pension plan was established, and who has submitted a proposal which revises many aspects of the pension plan. Among other things, Professor Fellmeth's proposal would establish a sliding scale to determine promoter contributions; cap promoter contributions at \$10,000 per event; provide that boxers would not contribute at all to the pension plan until they "vest" (have enough rounds and years to receive benefits); allow the Commission to approve early withdrawal of a boxer's own contributions for the limited purpose of vocational training, education, or apprenticeship; require the last California-licensed manager of a boxer to exercise due diligence in maintaining contact with that boxer; and authorize the Commission to use up to 20% of the pension fund's annual receipts for the monitoring and tracking of potentially eligible boxers and for fund education, outreach, and administrative costs directly related thereto, to ensure the

receipt of benefits by those who are eligible for them. Another proposal was submitted to the Commission by attorney Kevin Long, the Commission's consultant on pension plan issues; Long's proposal incorporates many of Professor Fellmeth's recommendations. Additionally, Long's proposal would convert the defined benefits plan to a defined contribution plan; also, there would only be one assessment on the boxer's purse and the disability payments would be converted to a disability retirement type of plan.

At the Commission's July 15 meeting, Commissioner Kim Welshons reported that the Pension Plan Review Committee was in the process of reviewing and merging the two proposals, and had scheduled a September 5 meeting with Professor Fellmeth, Kevin Long, and top officials of the Department of Consumer Affairs to hammer out an agreement. When that process is complete, the Committee is expected to present a formal reform proposal at a future Commission meeting.

**Commission to Update Numerous Regulations.** At the Commission's July 15 meeting, Executive Officer Richard DeCuir reported that staff was in the process of reviewing all of the Commission's regulations in Title 4 of the CCR, and drafting proposed changes as necessary to reflect changes in law and practice. On September 2, Assistant Executive Officer Rob Lynch circulated a draft of those changes to all interested parties for their review and comment. Among other things, the draft changes would:

- amend section 216 to require boxers and managers licensed in other jurisdictions, before signing a contract with a promoter to box in this state, to have made application for a license with the Commission;

- repeal section 223, which provides that managers shall not have more than three boxers under their management in any one show without written permission from the Commission;

- repeal section 214, which provides that no referee, timekeeper, or matchmaker may perform any services for or on behalf of any club unless licensed by the Commission;

- amend its vision requirements in section 282 to provide that the Commission may deny, suspend, revoke, or place restrictions on the license of a professional or amateur boxer if it determines that the applicant or licensee cannot safely engage in boxing activities because of a visual condition, including but not limited to uncorrected visual acuity of less than 20/200 in either eye or 20/60 with both eyes; a visual field of 60 degrees or less extending