



law goes further, however, to establish additional requirements for storage, distribution, and annual audits; there are also pending changes in federal statutes and regulations that would ban the practice of furnishing samples to physicians and other health care providers and restrict a community pharmacy from possessing drug samples. The Board agreed to continue its discussion of this topic at a future meeting.

Also in July, the Board approved a budget change proposal to finance a public education program to inform consumers about the benefits associated with the new oral consultation opportunity. The Board hopes to reach consumers about the pharmacist consultation program through editorials, television and radio announcements, and by serving as a resource to statewide media.

## ■ FUTURE MEETINGS

October 24–25 in Sacramento.  
January 25–26, 1995 in Los Angeles.  
March 29–30, 1995 in Sacramento.  
May 24–25, 1995 in Sacramento.  
July 26–27, 1995 in San Diego.  
October 25–26, 1995 in San Francisco.

## BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

*Executive Officer:*  
*Harold L. Turner*  
*(916) 263-2222*

The Board of Registration for Professional Engineers and Land Surveyors (PELS) regulates the practice of engineering and land surveying through its administration of the Professional Engineers Act, sections 6700 through 6799 of the Business and Professions Code, and the Professional Land Surveyors Act, sections 8700 through 8806 of the Business and Professions Code. The Board's regulations are found in Division 5, Title 16 of the California Code of Regulations (CCR), sections 400 through 471.

The basic functions of the Board are to conduct examinations, issue certificates, registrations, and/or licenses, and appropriately channel complaints against registrants/licensees. The Board is additionally empowered to suspend or revoke registrations/licenses. The Board considers the proposed decisions of administrative law judges who hear appeals of applicants who

are denied a registration/license, and those who have had their registration/license suspended or revoked for violations.

The Board consists of thirteen members: seven public members, one licensed land surveyor, four registered Practice Act engineers and one Title Act engineer. The Governor appoints eleven of the members for four-year terms that expire on a staggered basis. Additionally, both the Assembly Speaker and the Senate Rules Committee appoint one public member each.

The Board has established four standing committees and appoints other special committees as needed. The four standing committees are Administration, Enforcement, Examination/Qualifications, and Legislation. Committees function in an advisory capacity unless specifically authorized by the Board to make binding decisions.

Professional engineers are registered through the three Practice Act categories of civil, electrical, and mechanical engineering under section 6730 of the Business and Professions Code. Land surveyors, another Practice Act category, are registered through section 8725 of the Business and Professions Code. The Title Act categories of agricultural, chemical, control system, corrosion, fire protection, industrial, manufacturing, metallurgical, nuclear, petroleum, quality, safety, and traffic engineering are registered under section 6732 of the Business and Professions Code.

Structural engineering and geotechnical engineering are "title authorities" linked to the civil Practice Act and require an additional examination after qualification as a civil engineer.

During the summer, Governor Wilson appointed public members Eugenie Thomson and Chip Mamiya to the Board. Thomson is president of Thomson Transportation Engineers, Inc. in Alameda, and Mamiya is regional sales manager of Barclays American Mortgage Corporation in Los Angeles. They attended their first Board meetings on July 8 and August 19, respectively.

## ■ MAJOR PROJECTS

**Strategic Planning Process Update.** In response to criticism levied at PELS during the November 1993 oversight hearing conducted by the Senate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions, the Board has been formulating a "strategic plan" designed to clarify its role, functions, and constituencies. [14:2&3 CRLR 99] To that end, PELS adopted the following mission statement at its June 17 meeting: "The mission of the Board of Registration for

Professional Engineers and Land Surveyors is to safeguard the life, health, property, and public welfare by regulating the practice of professional engineering and professional land surveying. We qualify and license individuals; establish regulations; enforce laws and regulations; [and] provide information so that the public can make informed decisions." PELS also adopted a "vision statement" of its future goals, which states as follows: PELS assures that qualified applicants are licensed as quickly as possible; registrants maintain continuing competency; disputes are resolved for consumers and registrants promptly and impartially; adequate information is available to all through a high-profile comprehensive information program; violations of the law are discouraged before they happen and are investigated and adjudicated promptly when committed; the Board is managed strategically and its budget is performance-based; legislative changes are approached proactively; its performance is measured against defined standards and it periodically evaluates its programs and policies in light of emerging trends, practices, and technologies; the professional engineering and professional land surveying laws and regulations are clear, relevant, unambiguous, and functional; and PELS attracts highly competent staff who contribute to the integral success of the Board, and maintains a work environment where employees are satisfied and productive because they feel valued and challenged.

Also at its June meeting, the Board approved a preliminary schedule to adopt the final version of its strategic plan by March 1995; the strategic plan will lay out a process that identifies issues and major activities and directs them to the appropriate standing Board committees for further investigation. At its September 9 meeting, PELS established the following issues and major activities to be explored in conjunction with the formulation of the strategic plan: operational support systems, regulation modernization, consumer and public communications, emergency preparedness, mechanized testing, code of ethics, continuing competency, and the North American Free Trade Agreement. The Board directed its various committees to discuss the topics applicable to them, and submit an analysis of each topic for use in the strategic plan at PELS' November 18 meeting.

One major goal which the Board hopes to accomplish through its strategic planning process is a comprehensive overhaul of the Professional Engineers Act, the Board's regulations in Title 16 of the CCR, and the way the state of California licenses



and classifies various engineering disciplines. This effort has resulted largely from November 1993 criticism by the Center for Public Interest Law that PELS' engineering statutes and regulations are extremely vague and in need of major restructuring and modernization, and former Board President Rich Johnson's "white paper" entitled *Confronting the Issues of Engineering Discipline Definitions*, in which Johnson agreed with CPIL that the Board's statutes are internally inconsistent and lack clarity. [14:2&3 CRLR 99; 14:1 CRLR 77] Toward this end, PELS decided on June 17 to grant the request of Executive Officer Hal Turner to hire an attorney to help rewrite the Board's statute and regulations; the cost is not to exceed \$50,000. At PELS' September 9 meeting, Turner reported that he had hired attorney Jimmie Wing to assist in developing the legislative language; a retired annuitant, Wing worked for the Legislative Counsel's Office for twenty years and is a registered civil engineer.

**PELS Adopts Public Disclosure Policy.** At its July 8 meeting, PELS unanimously adopted a policy recommended by its Enforcement Committee regarding the public disclosure of complaints, disciplinary actions, and citations and/or fines against Board licensees and registrants. According to the document, it is PELS' policy to provide information to the consuming public regarding complaints and disciplinary actions resulting from violations of the Professional Engineers Act, the Professional Land Surveyors Act, and/or the Board's regulations.

Pursuant to the policy, PELS will keep records of complaints against registrants/licensees and non-registrants/non-licensees for five years. If, after investigation, it is determined that a probable violation of the law has occurred, the following information concerning the complaint shall be disclosed: the number of complaints; the date the complaint was received; and the disposition of the complaint (compliance obtained, complaint mediated/resolved, complaint referred for formal legal and/or disciplinary action, citation and/or fine issued, or any other action taken, formal or informal). If, after investigation, it is determined that no violation of the law has occurred, no information concerning the complaint shall be disclosed.

Regarding disciplinary actions, PELS' policy states that it will keep records of formal disciplinary actions taken against registrants/licensees as required by law. PELS will disclose information regarding formal disciplinary action taken against registrants/licensees, including the reason for and date of the action. The accusation

and final decision are matters of public record, and copies will be released upon written request.

Regarding citations and/or fines, the Board's policy provides that it will keep records of citations and/or fines issued to registrants/licensees and non-registrants/non-licensees permanently. The Board will disclose information regarding citations and/or fines only after the citation and/or fine has become final, and then will disclose the reason(s) for and resolution of the citation and/or fine. Abatement of the citation and/or payment of the fine shall be represented as satisfactory resolution. A citation and/or fine shall be considered final if it is not appealed or if the Board issued a final decision upholding the citation and/or fine. If a citation is appealed, the appealed citation and the final decision are matters of public record and copies will be released upon written request.

**PELS Committee Considers Continuing Education Program.** On July 29, the PELS' Examination/Qualification Committee again discussed the need for a mandatory continuing education (CE) program for engineers and land surveyors. [14:2&3 CRLR 100] Among other things, the Committee discussed whether a PELS CE requirement should focus on technical competency, ethical considerations, or a combination of both, and whether statutory language is needed or if a regulatory action would suffice. The Committee directed staff to continue to research the issues raised and present their findings at a future Committee meeting.

**Rulemaking Update.** The following is a status update on other rulemaking proposals discussed in detail in previous issues of the *Reporter*:

• **Change to Effective Date of Curriculum Accreditation.** On June 17, the Board adopted its proposed amendment to section 460, Title 16 of the CCR, which currently defines a curriculum approved by the Board as any engineering curriculum leading to a first degree in engineering accredited by the Accreditation Board for Engineering and Technology (ABET). The Board's amendment to section 460 defines the effective date of accreditation as one year prior to that specified in the ABET yearbook. [14:2&3 CRLR 100] Essentially, this change allows an applicant who has graduated from a school that received ABET accreditation one year in which to have his/her education recognized by the Board. At this writing, staff is preparing the rulemaking package for submission to the Office of Administrative Law (OAL) for approval.

• **Three-Year Delinquent Registrants.** On July 8, the Board adopted, with minor

modifications and subject to a 15-day comment period, new section 424.5, Title 16 of the CCR, which would define requirements and conditions for renewal, restoration, reinstatement, or reissuance of a delinquent license or registration. Among other things, section 424.5 would require a person seeking reinstatement of an expired license or registration to submit evidence satisfactory to PELS that he/she is qualified in the branch for which he/she is applying; successfully complete the specified examination(s); and pay all accrued and unpaid renewal fees. [14:2&3 CRLR 100; 14:1 CRLR 78; 13:4 CRLR 83] PELS received no comments during the 15-day comment period; at this writing, staff is preparing the rulemaking file for submission to OAL for approval.

• **Citation and Fine Program.** On June 17, the Board adopted, with minor modifications and subject to a 15-day comment period, new sections 472, 472.1, 472.2, 472.3, 472.4, 473, 473.1, 473.2, 473.3, 473.4, and 473.5, Title 16 of the CCR, to implement a citation and fine system for use against unregistered or unlicensed individuals who are performing services for which registration or licensure is required, and registered or licensed individuals who violate the Professional Engineers Act and/or the Professional Land Surveyors Act. According to PELS, this program will serve as an enforcement tool to address violations of the Board's enabling acts and regulations that do not merit full-fledged disciplinary action but should not be ignored. [14:2&3 CRLR 100; 14:1 CRLR 78; 13:4 CRLR 83]

At two public hearings on the cite and fine rules, many engineers voiced concerns about the proposed regulatory language, claiming that it delegates too much authority to the Board's Executive Officer, deprives licensees of due process, does not contain provisions for expungement, and does not provide for peer review in each case. [14:2&3 CRLR 100] In response to these concerns, Board member Ted Fairfield proposed modifications which addressed some of the concerns raised at the public hearings. For example, a modification to sections 472.5 and 473.6 would have given the Board the power to review and investigate the final citation decisions of the Executive Officer, but the Board rejected this proposal at its June 17 meeting. However, the Board did adopt by a 7-3 vote changes to section 473 which provide that, before a citation may be issued, the Executive Officer shall submit the alleged violation for review to at least one registrant or licensee of the Board; upon conclusion of the review, the reviewer shall prepare findings of fact and a recommen-



dation to which the Executive Officer shall give "due consideration" in determining whether cause exists to issue a citation.

Following its June meeting, the Board released the modified language for an additional 15-day public comment period ending on July 28. At this writing, staff is preparing the rulemaking file for submission to OAL for review and approval.

• **Definition of Electrical Engineering.** On July 8, PELS revised the language of proposed new section 426.70 and amendments to section 404, Title 16 of the CCR, regarding the practice of electrical engineering; since 1992, PELS has been discussing the adoption of regulatory language to clarify the scope of practice of electrical engineers and specify what constitutes qualifying experience for registration as an electrical engineer. [14:2&3 CRLR 100-01; 14:1 CRLR 78; 13:1 CRLR 66]

Among other things, the proposed amendments to section 404 would provide that electrical engineering is that branch of professional engineering which involves the use of engineering judgment, the application of engineering principles, engineering analysis, the review of engineering work, and/or the assumption of responsible charge of design or development of electrical devices, electrical equipment, electrical systems, or electrical processes whose functioning depends primarily on electrical, electronic, magnetic, or electromagnetic effects and/or phenomena. Clarifying modifications added on July 8 exclude the development or production of commercial software from the definition of electrical engineering, but provide that the development of software for electrical engineering design products may constitute qualifying experience for electrical engineering registration under specified conditions. Proposed new section 426.70 would provide, among other things, that experience which qualifies an applicant for registration as an electrical engineer shall be work that conforms with the definition of the term electrical engineering as specified in section 404.

At this writing, PELS is expected to consider the adoption of these proposals at a future Board meeting.

• **Registration of Engineering Professors.** On July 8, PELS adopted its proposed amendments to sections 424 and 438, Title 16 of the CCR, which would allow engineering professors to waive the engineering-in-training examination and qualify for the professional engineering examinations. [14:2&3 CRLR 101; 14:1 CRLR 79]

Section 424 defines qualifying experience as experience gained under the direction of a professional engineer. The Board's

proposed amendments would provide that qualifying experience may be gained under the direction of any person legally qualified to practice in the applicant's branch of professional engineering, define what constitutes legal authorization to practice, and add applied engineering research as work that may be considered as qualifying experience.

Section 438 currently provides that an applicant for registration as a professional engineer whose qualifications meet all applicable statutory and regulatory requirements will be allowed to appear for only the second division of the written examination prescribed by Business and Professions Code section 6755 if he/she meets one of several specified requirements. The Board's proposed changes to section 438 would specify that a person could obtain a waiver for a period of five years from the effective date of the amendments, if he/she either serves in a tenure-track faculty position in a Board-approved engineering curriculum at a level of at least Assistant Professor, or holds an earned doctorate in engineering.

At this writing, the rulemaking file is being reviewed by the Interim Director of the Department of Consumer Affairs (DCA); if approved, it will be submitted to OAL for review and approval.

## ■ LEGISLATION

**SB 2101 (McCorquodale)**, as amended July 7, revises the time period within which renewals of certificates to use certain titles may be made. This bill was signed by the Governor on September 30 (Chapter 1275, Statutes of 1994).

The following is a status update on bills reported in detail in CRLR Vol. 14, Nos. 2 & 3 (Spring/Summer 1994) at pages 101-02:

**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. SB 2036 imposes an initial "sunset" date of July 1, 1998 for PELS; creates a Joint Legislative Sunset Review Committee which will review PELS' performance approximately one year prior to its sunset date; and specifies 11 categories of criteria under which PELS' performance will be evaluated. Following review of the agency and a public hearing, the Committee will make recommendations to the legislature on whether PELS 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 PELS would cease to exist and its powers and duties

would transfer to DCA) or pass legislation extending the sunset date for another four years. This 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 PELS.

The following bills died or failed passage: **AB 1363 (Lee)**, regarding the filing of records of survey with the county surveyor; and **AB 2780 (O'Connell)**, which would have established the California Certified Home Inspectors Board to certify home inspectors.

## ■ RECENT MEETINGS

At its May 27 meeting, PELS unanimously elected public member Sharon Reid to serve as president and engineer Ted Fairfield to serve as vice-president; their terms began on July 1.

At its July 8 meeting in San Diego, the Board approved in concept a new *Consumer Guide to Professional Engineering and Land Surveying* and authorized staff to prepare the guide for publication; the guide is directed at consumers who have little experience in dealing with a professional engineer or land surveyor but may require the expertise of one.

At its August 19 meeting in Sacramento, PELS directed its Strategic Planning and Professional Engineers Reform committees to draft statutory and/or regulatory changes that would allow the registration of applicants who are either "eminently qualified" or who have taken and passed the state-required, four-hour, second division examination.

## ■ FUTURE MEETINGS

September 30 in San Francisco.  
November 18 in Sacramento.  
January 6, 1995 in Orange.  
February 10, 1995 in San Diego.  
March 24, 1995 in Sacramento.  
April 28, 1995 in San Francisco.

## BOARD OF REGISTERED NURSING

*Executive Officer:*  
**Ruth Ann Terry**  
(916) 324-2715

**P**ursuant to the Nursing Practice Act, Business and Professions Code section 2700 *et seq.*, the Board of Registered Nursing (BRN) licenses qualified RNs, establishes accreditation requirements for California nursing schools, and reviews nursing school curricula. In addition, BRN certifies nurse-midwives (CNM), nurse