



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
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Pursuant 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



practitioners (NP), and nurse anesthetists (CRNA). A major Board responsibility involving disciplinary action against licensees. BRN's regulations implementing the Nursing Practice Act are codified in Division 14, Title 16 of the California Code of Regulations (CCR).

The nine-member Board consists of three public members, three registered nurses actively engaged in patient care, one licensed RN administrator of a nursing service, one nurse educator, and one licensed physician. All serve four-year terms.

The Board is financed by licensing fees, and receives no allocation from the general fund. The Board is currently staffed by 90 people.

On August 1, Governor Wilson appointed Nina M. Hoagland, RN, BSN, to the Board; Hoagland, who replaces Joyce Boone, RN, will serve on the Nursing Practice Committee.

MAJOR PROJECTS

Governor's Veto Clouds RN Scope of Practice Regarding Laboratory Tests. At its June meeting, BRN reaffirmed support for its longstanding position that registered nurses may perform laboratory tests under Business and Professions Code section 2725. The Board also voted to support SB 1834 (Campbell), a then-pending bill which would clarify an apparent conflict in existing law relating to the performance of clinical laboratory tests by registered nurses licensed by BRN and clinical laboratory personnel licensed by the Department of Health Services (DHS); the bill would have expressly declared that RNs may perform diagnostic testing. However, Governor Wilson vetoed SB 1834 on September 30, implying that it is overly broad and expands the existing scope of RN practice.

Currently, Business and Professions Code section 1206, relating to DHS' regulation of clinical laboratories and clinical laboratory personnel, states that "[n]othing in this chapter shall restrict, limit, or prevent any person licensed to provide health care services under the laws of this state, including, but not limited to, licensed physicians and surgeons, and registered nurses, from practicing the profession or occupation for which he or she is licensed." However, Business and Professions Code sections 1282 and 1285 appear to restrict "clinical laboratory practice" to DHS-licensed clinical laboratory personnel or persons functioning under the direct and constant supervision of a licensed medical technologist or a physician.

The recent passage of federal legislation, the Clinical Laboratory Improvement Act (CLIA), Public Law No. 100-

578, has further complicated state law. Over the past few years, DHS has convened several task forces to draft state statutory language to implement CLIA; much to BRN's consternation, DHS' Personnel Task Force has consistently proposed language which would severely limit the role of RNs in performing laboratory testing. DHS claims that nurses do not have the appropriate authority nor license to perform laboratory tests, while BRN maintains that registered nurses may perform laboratory tests, including so-called "point-of-care" tests which are performed at the patient's bedside. A "point-of-care" test utilizes a portable laboratory device which is approved by the U.S. Food and Drug Administration and intended for use at the bedside or other location of the patient to detect certain substances or entities; such a test does not require processing by the operator and automatic results are provided. While BRN argues that state law permits RNs to perform laboratory testing generally and that CLIA specifically permits RNs to perform point-of-care tests, DHS' task force sought to implement CLIA in California to preclude RNs from performing such tests.

SB 1834 would have amended section 1206 to expressly declare that "[i]t is within the existing scope of practice of a registered nurse to perform diagnostic testing, including the use of point-of-care laboratory testing devices." In vetoing the bill, the Governor stated that he supports the intent of the bill ("which is to permit the use of point-of-care devices by registered nurses") but noted "a reasonable legal difference of opinion" with respect to whether the bill's use of the phrase "perform diagnostic testing" could be construed to mean all diagnostic testing and thereby expand the existing scope of RN practice. In his veto message, the Governor instructed the DHS Director to adopt emergency regulations permitting RNs to use point-of-care devices, and encouraged Senator Campbell to reintroduce the bill absent the broad "perform diagnostic testing" language.

Citation and Fine Regulations. At its February 1994 meeting, BRN agreed to pursue proposed regulatory changes which would implement its authority to assess fines and citations against RNs and unlicensed persons performing services for which an RN license is required; on March 18, BRN published notice of its intent to adopt the citation and fine system, which would allow the Board's Executive Officer to issue citations for one of two categories (either class "A" or class "B") of minor violations of the Nursing Practice Act. [14:2&3 CRLR 102-03; 13:2&3 CRLR 106]

On May 5, BRN held a public hearing on the proposed regulations. Hearing participants expressed concern about the clarity and effectiveness of the proposed language. Among other things, some participants commented that the proposed regulations are not sufficiently clear in defining what constitutes a "minor offense." Also, RNs who work in the home health care setting expressed concern that the proposed rules would impose on them an unfair "double fine." RNs who work for home health care agencies are licensed by both BRN and DHS, which already disciplines minor violations by imposing a fine on the agency; these RNs expressed concern that under the proposed regulations, they would be subject to the citation and fine systems of both DHS and BRN. At this writing, BRN's Diversion/Discipline Committee is addressing these concerns by reviewing and modifying the proposed language, after which the Board will release the modified language for a 15-day comment period; after that, the proposal will be presented to the full Board for adoption.

Clinical Nurse Specialist Task Force Update. AB 518 (Woodruff) (Chapter 77, Statutes of 1993) added section 2718(a) to the Business and Professions Code, directing BRN to conduct a study of clinical nurse specialists (CNS) in California; AB 518 requires BRN to determine the appropriate educational level for CNSs, including clinical and didactic education and experience, and requires BRN to recommend ways to protect the public from confusion regarding the use of the CNS title. At its April meeting, BRN approved the creation of a task force to conduct the study and report its findings to the legislature by January 1, 1995. [14:2&3 CRLR 103; 14:1 CRLR 81]

At its June 9-10 meeting, the Board ratified the candidates nominated to serve on this task force by the Administrative Committee, in consultation with the Chairs of BRN's Nursing Practice and Education/Licensing committees. The task force is composed of two RN administrators, two practicing CNSs, two CNS educators, two nurse practitioners, one nominee from the California Nursing Association, one representative of the School Nurses Association, and one public member. BRN Vice-President Genevieve Deutsch chairs the task force.

The task force met in Sacramento on July 8, at which time it reviewed and approved a survey to be sent to nurses statewide. The survey was published in the September 5 issue of *NURSEweek*, a statewide magazine sent to all nurses licensed to practice in California. At this writing,



the deadline for completing and returning the surveys is September 30; the task force plans to meet in Sacramento on October 27, at which time it will review the survey results and formulate preliminary recommendations.

BRN Formulates Strategic Planning Project. At BRN's June 9-10 meeting, Executive Officer (EO) Ruth Ann Terry reported that she and Assistant EO Susan Brank had appointed a task force consisting of eleven BRN staff members to draft a Board mission statement, survey and determine the level of satisfaction of BRN stakeholders with BRN's performance, and work on other special projects. In order to determine stakeholder satisfaction level with BRN services, the task force developed a series of surveys requesting an assessment of BRN services; the surveys were sent to legislators, staff members, licensure applicants, RNs, the Department of Consumer Affairs (DCA), and other interested persons. The Results Group, a private consulting agency recommended by DCA, is providing guidance to BRN in its survey process and all other aspects of strategic planning.

On August 16, the Board met with The Results Group to conduct preliminary brainstorming on the major issues BRN expects to face during the next five years and to discuss the overall process of strategic planning. Also at the August meeting, BRN Assistant EO Brank and Nursing Education Consultant Jean Harlow described the selection, composition, and role of the staff task force and presented the task force's first major product, a document entitled "External Trends and Key Environmental Factors."

At this writing, BRN is scheduled to hold a full-day strategic planning session on November 16 in Sacramento, in conjunction with its November 17-18 meeting; at that time, the Board will discuss the stakeholder satisfaction survey results.

■ LEGISLATION

The following is a status update on bills reported in detail in CRLR Vol. 14, Nos. 2 & 3 (Spring/Summer 1994) at pages 103-04:

SB 2036 (McCorquodale), as amended August 26, creates a "sunset" review process for occupational licensing agencies within DCA, requiring each to be comprehensively reviewed every four years. This bill is a direct result of the Fall 1993 oversight hearings by the Senate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions, in which BRN participated. [14:1 CRLR 80] SB 2036 imposes an initial "sunset" date of July 1, 1998 for BRN; creates a Joint Legislative

Sunset Review Committee which will review BRN's performance approximately one year prior to its sunset date; and specifies 11 categories of criteria under which BRN's performance will be evaluated. Following review of the agency and a public hearing, the Committee will make recommendations to the legislature on whether BRN 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 BRN 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 2839 (Solis). Existing law requires DHS to establish certain standards and regulations for health facilities, including staffing with duly qualified licensed personnel based on the type of health facility and the needs of the persons served by those facilities. As amended April 6, this bill prohibits those standards and regulations from requiring the use during the evening and night shifts of an RN for the performance of any service or staffing of any position in skilled nursing facilities that may be lawfully performed or staffed by a licensed vocational nurse if the facility is unable to obtain a RN. It requires the facility to make a good faith effort to obtain an RN, and if it is unable to do so, to document this effort in its records. The bill authorizes DHS to require the facility to provide additional staffing if the level of care is determined to be inadequate. This bill was signed by the Governor on September 19 (Chapter 645, Statutes of 1994).

SB 1834 (Campbell), as amended August 19, would have provided that it is within the existing scope of practice of RNs to perform diagnostic testing, including the use of point-of-care laboratory testing devices, and required any health facility where point-of-care diagnostic devices are used to establish protocols for the use of these devices. Governor Wilson vetoed this bill on September 30 (see MAJOR PROJECTS).

SB 2101 (McCorquodale), as amended July 7, deletes an existing provision requiring BRN to elect its officers at the first meeting in each year.

Existing law authorizes BRN to take disciplinary action against a person possessing a certificate as a nurse-midwife for specific acts of unprofessional conduct. This bill repeals that authority and instead subjects those persons and other persons whose practice is regulated under the Nursing Practice Act to discipline under that Act; the bill also revises the various

procedures and grounds for discipline applicable to certain persons regulated by that Act. This bill was signed by the Governor on September 30 (Chapter 1275, Statutes of 1994).

The following bills died in committee: **AB 3386 (Burton)**, which would have authorized RNs to assign simple, routine tasks to medical assistants, and to supervise the performance of those tasks, under described circumstances [14:1 CRLR 81]; and **AB 1445 (Speier)**, which would have required DHS to review data compiled by the Office of Statewide Health Planning and Development on the ratio of licensed nurse and unlicensed direct care personnel to patients, collate and adjust the data in a prescribed manner, compare the data to nationally recognized standards, and make recommendations to the legislature by July 1, 1997, regarding standards for these staffing ratios.

■ RECENT MEETINGS

At BRN's June meeting in Oakland, Michael King from the Survey Research Center at Chico State University (CSU) presented findings from a July 1993 survey of RNs; CSU's survey was very similar to one conducted in 1990 by BRN's Special Advisory Committee on the Nursing Shortage. [10:4 CRLR 103; 10:2&3 CRLR 120; 9:4 CRLR 78] BRN engaged King to perform this survey in order to obtain updated information on changes which have occurred in the workplace, in nursing practice, and in the characteristics of the nursing workforce. CSU randomly mailed the survey to 3,685 RNs in California, and received 2,476 responses. The results of the survey indicate that 77%-85% of RNs are currently working; the average age of working RNs is 44.6 years; over 60% of RNs work in the acute care hospital setting; 59.9% of RNs work in direct patient care; and 60% of RNs provide at least half of their household income. This survey indicates that RNs work more hours, earn more money, and experience a higher level of satisfaction with most aspects of nursing than they did when surveyed in 1990. At this writing, BRN plans to publish a final report of the survey results by its November meeting.

Also in June, BRN selected Board President Harriett Clark and Executive Officer Ruth Ann Terry to serve as its delegates to the National Council of State Boards of Nursing (NCSBN) Delegate Assembly, held in Chicago on August 3-6. The Board also directed its delegates to support several proposed NCSBN bylaws changes, which include updating all of its articles to reflect computer adaptive testing and eliminating all standing commit-



tees except the Examination and Finance committees.

■ FUTURE MEETINGS

November 17-18 in Sacramento.
February 2-3, 1995 in Ontario/Riverside.
April 6-7, 1995 in Oakland.
June 8-9, 1995 in San Diego.

COURT REPORTERS BOARD OF CALIFORNIA

*Executive Officer: Richard Black
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The Court Reporters Board of California (CRB) is authorized pursuant to Business and Professions Code section 8000 *et seq.* The Board's regulations are found in Division 24, Title 16 of the California Code of Regulations (CCR).

CRB licenses and disciplines certified shorthand reporters (CSRs); recognizes court reporting schools; and administers the Transcript Reimbursement Fund, which provides shorthand reporting services to low-income litigants otherwise unable to afford such services.

The Board consists of five members—three public and two from the industry—who serve four-year terms. The two industry members must have been actively engaged as shorthand reporters in California for at least five years immediately preceding their appointment. The Governor appoints one public member and the two industry members; the Senate Rules Committee and the Speaker of the Assembly each appoint one public member.

■ MAJOR PROJECTS

Board Rejects Permanent Examination Reciprocity With Idaho. For the past several months, CRB has been tackling the issue of examination reciprocity with other states. In determining whether it should permit a CSR licensee from another state to sit for the California exam, CRB requires either that the licensee have passed the national Registered Professional Reporter (RPR) exam or that the licensing requirements of and the exam administered by the other state be "substantially the same" as those of California. Staff considers the following three criteria to determine whether another state's exam is substantially the same as California's exam: whether the examination has a written knowledge test; the speed of the machine portion of the test; and the percentage of accuracy required to pass the examination.

At its November 1993 meeting, CRB concurred with staff's recommendation

that Idaho's test meets the criteria established by the Board in order to be accepted as a satisfactory method of qualification for admission to California's exam. However, at CRB's December 1993 meeting, staff reported that the Idaho exam was approved based upon representations by Idaho officials that they would be increasing both the percentage of accuracy required to pass the test and the speed requirements; by the time of CRB's December meeting, however, those changes had not been implemented by the Idaho officials. Therefore, CRB agreed to discontinue accepting the Idaho test as a satisfactory means to qualify for the California exam; however, the Board agreed that applicants who passed the Idaho exam between January 1, 1992 and September 30, 1993 would still be able to use it as a method of qualifying for the California CSR exam. [14:1 CRLR 82-83] Additionally, at a January 1994 special meeting, CRB agreed to also accept the Idaho exam as a satisfactory method of qualifying for the May 1994 California exam; thereafter, the Board agreed to withhold further approval until it conducts a comprehensive review of each state's examination and licensing requirements. [14:2&3 CRLR 105]

At CRB's July 23 meeting, however, Executive Officer Richard Black reported that his staff had been erroneously informing inquiring callers that successful completion of the Idaho exam would qualify applicants to sit for future administrations of the California CSR exam, despite CRB's decision not to grant it reciprocity beyond the May 1994 administration of California's exam. As a result, staff believed that several people had registered for and were preparing to take the Idaho exam under the mistaken belief that passing it would qualify them to sit for California's exam. Following discussion, CRB directed staff to contact everyone who had registered to take the Idaho exam and inform them that successful completion of that test will no longer enable them to sit for the California exam.

CRB Adopts One-Time Policy for Exam Errors. At its July 23 meeting, staff reported that licensure applicants had apparently received contradictory information from Board staff regarding the proper way to identify speakers in their transcripts, whether certain words are to be capitalized, and how many points will be deducted from their exams for mistakes in these areas. Accordingly, CRB adopted a one-time policy dealing with the deduction of points for speaker identification and capitalization errors on its last exam only. The Board then directed its Examination Committee to find a suitable style

manual which it could permanently adopt and enforce.

■ LEGISLATION

Future Legislation. At its July 23 meeting, CRB agreed to pursue future legislation which would require each licensee, during license renewal, to inform the Board of any criminal convictions he/she has suffered; and to require licensees to pay all accrued and due licensing fees, when renewing a delinquent but not revoked license.

The following is a status update on bills reported in detail in CRLR Vol. 14, Nos. 2 & 3 (Spring/Summer 1994) at pages 105-06:

SB 2036 (McCorquodale), as amended August 26, creates a "sunset" review process for occupational licensing boards within the Department of Consumer Affairs (DCA), requiring each to be comprehensively reviewed every four years. SB 2036 imposes an initial "sunset" date of July 1, 1998 for CRB; creates a Joint Legislative Sunset Review Committee which will review CRB's performance approximately one year prior to its sunset date; and specifies 11 categories of criteria under which CRB's performance will be evaluated. Following review of the agency and a public hearing, the Committee will make recommendations to the legislature on whether CRB 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 CRB 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 3670 (Horcher), as amended August 26, requires CRB to establish an inactive category of licensure; adds as a cause for suspension, revocation, or denial of CSR certification the loss or destruction of stenographic notes, whether on paper or electronic media, which prevents the production of a transcript, due to negligence of the licensee; and requires court reporting schools intending to offer a court reporting program to notify CRB, as specified, with respect to approval and recognition.

Existing law provides that CRB may grant recognition to a provisionally recognized court reporting school that has been in continuous operation for no less than three, and no more than five, consecutive years from the date provisional recognition was granted, and requires the Board to deny recognition after the five-year pe-