



constituting a violation of a provision of the Business and Professions Code, or has been convicted of a crime substantially related to the practice of the licensee's profession or occupation, and that permitting the licensee to continue to engage in practice will endanger the public health, safety, or welfare. DCA is proposing this legislation to address the problem of lengthy investigations and administrative proceedings which take from two to four years to complete, during which time the accused licensee is usually free to engage in unrestricted practice (even in egregious cases).

DCA may also propose legislation which would provide that an applicant for license renewal who received his/her license through tender of payment by a check which was subsequently dishonored shall not be granted a renewal until the applicant pays the amount outstanding from the dishonored check, the applicable dishonored check fee, together with the applicable fee including any delinquency fee for the pending renewal. BEVM agreed to support this legislative proposal.

## RECENT MEETINGS

At BEVM's October 14-15 meeting, Board member Nancy Collins, DVM, reported on the results of a survey she sent to veterinary universities nationwide asking about alternative surgical programs for veterinary students opposed to traditional surgical courses which frequently require the euthanasia of healthy animals for research purposes. These programs have been the source of some controversy for BEVM. [12:2&3 CRLR 153] Dr. Collins received a 100% response to her survey, and the respondent universities which have alternative surgical programs stated they are pleased with the quality and motivation of the student participants. One such university compared the surgical skills of students participating in the traditional program with those of students participating in the alternative program, and found no significant difference. Dr. Collins also reported that many universities have implemented a spay/neuter program to offer surgical training for students, as an alternative to surgical programs in which the subject animals are killed; in addition to providing surgical training, these programs offer students an opportunity to watch the recovery responses of anesthetized animals.

Also at its October meeting, BEVM discussed the appropriate role veterinarians should play in treating wolf hybrids. The Board noted that a veterinarian faces a dilemma each time an animal with both wolf and dog genes is presented for vacci-

nation against rabies, since no rabies vaccine is approved for use in wolf hybrids. Further, no vaccines are approved for use in wolf hybrids against any of the other canine diseases that may affect these animals. As a result, questions arise whether veterinarians will be subject to disciplinary action if they decide to vaccinate such animals. DCA legal counsel Greg Gorges opined that BEVM is not obligated to cite or fine a veterinarian who treats a wolf hybrid in a life-threatening situation. Although some members suggested that the issue be referred to the University of California for further study, or that the Board prepare a newsletter article about the current laws regarding wolf hybrids for consumer information, BEVM took no action on this matter.

Also in October, BEVM discussed whether to propose minimum standards of equine practice, since the Board currently has minimum standards only for the practice of veterinary medicine on small animals. The Board discussed incorporating the California Veterinary Medical Association's (CVMA) proposed standards for equine practices into BEVM's regulations; however, members noted that CVMA's standards exceed minimum standards. DCA legal counsel Greg Gorges stated that BEVM should determine whether it has the statutory authority to incorporate the standards into its regulations, or whether the Veterinary Practice Act should be amended to delegate such authority to BEVM; Board member Jean Guyer suggested that BEVM have legal counsel review the statute and report to the Board at its January meeting.

## FUTURE MEETINGS

May 6-7 in Sacramento.

July 7-8 in Sacramento.

September 9-10 in Sacramento.

November 18-19 in Sacramento.

## BOARD OF VOCATIONAL NURSE AND PSYCHIATRIC TECHNICIAN EXAMINERS

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This agency regulates two professions: 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 li-

censed 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 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, and has the authority to grant adjudicatory hearings. Certain provisions allow the Board to revoke or 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 65,630 LVNs with active licenses, 27,262 LVNs with delinquent active licenses, and 10,539 with inactive licenses, for a total LVN population of 103,431. The Board's psych tech population includes 13,728 with active licenses and 5,159 with delinquent active licenses, for a total of 18,887 psych tech practitioners.

## MAJOR PROJECTS

**Regulatory Action to Set Processing Times for Psych Tech CE Provider Applications.** On May 29, the Board closed the public comment period on its proposed amendment to section 2567, Chapter 25, Title 16 of the CCR, which would specify thirty days as the maximum period of time in which the Board will notify an applicant that his/her application to be a psych tech continuing education (CE) provider is complete or deficient, and identify specific information which is required. [12:4 CRLR 133] Thereafter, the Board submitted the regulatory change to the Office of Administrative Law (OAL) and OAL approved it on December 11. However, the Board has never formally adopted the regulatory change at a public meeting, as required by the Administrative Procedure Act. The Board is expected to adopt the amendment at its March meeting, over two months after the regulatory revision takes effect.

**Psychiatric Technician Occupational Analysis.** At its September meeting, the Board heard an update from DCA's Central Testing Unit (CTU) on the occupational analysis being conducted of the psychiatric technician population to assess the validity of the California Psychiatric Technician Licensure Examination; CTU reported that it had interviewed psych techs to identify the tasks of each



job category and the knowledge, skills, and abilities (KSAs) required to complete each task. [12:4 CRLR 133] At the Board's November 20 meeting, staff reported that the Psychiatric Technician Professional Validation Panel met at Board headquarters on October 6-7 to conduct the final critique of the KSAs; this information will be used to refine a draft questionnaire developed by CTU. The Board expects to distribute the questionnaire to 2,000 licensees in February; CTU will then analyze the questionnaire responses and use the data to revise the current examination plan.

**Psychiatric Technician Program Fees.** At the Board's November 20 meeting, staff announced that the psychiatric technician program will incur a fund deficit beginning in fiscal year 1993-94 if fees remain at their current level. Staff worked closely with DCA's Budget Office to prepare revenue and expenditure projections and fund conditions for the next several fiscal years, and determined that without a fee adjustment, the psych tech program will not generate enough revenue to continue service at the current level. To avoid this impending fiscal crisis, the Board will propose for inclusion in DCA's omnibus bill language which would adjust fees effective January 1, 1994. The proposal would increase the two-year initial license and two-year renewal fee from \$90 to \$160; increase the application fee from \$25 to \$50; increase the reexamination fee from \$35 to \$50; and establish new duplicate license and endorsement fees of \$20 each. In addition, the Board decided to fix the above fee amounts in statute without the establishment of a ceiling, which would have allowed the Board to establish its fees thereafter, by regulation, up to the ceiling limit. The amended language has been submitted to DCA for inclusion in the omnibus bill.

## LEGISLATION

**Future Legislation.** At its November 20 meeting, the Board agreed to pursue legislative changes which would add language to both the LVN and the psych tech enabling statutes allowing the Board to withhold renewal of a license due to dishonored checks until all applicable fees are collected; add language allowing the Board to issue a temporary license to psych tech candidates who pass the examination and pay the initial license fee; increase psych tech licensing fees to cover costs related to examination, licensing, and enforcement (*see supra*); and add enforcement language to allow the psych tech program to discipline licensees who fail to follow infection control guidelines.

## RECENT MEETINGS

At the Board's November 20 meeting, staff reported on the federal Americans with Disabilities Act (ADA) as it relates to Board activities. Passed by Congress in 1990, the ADA generally prohibits discrimination in employment and in access to public services based on disability. The Board is required to provide reasonable accommodations to all examination candidates with physical or mental disabilities, at no cost to the individual. According to staff, reasonable accommodations may include any accommodation requested by the examination candidate if his/her disability is verified by the appropriate medical authority; an exception to this policy may be made if the Board determines that the accommodation would fundamentally alter the nature of the examination and the knowledge it tests. In order to determine whether the Board meets the ADA guidelines, staff explained that it must conduct a self-evaluation of all services, policies, procedures, and practices and the effects thereof by January 26; if the evaluation finds that the Board does not meet the requirements of the ADA, it will be required to modify its activities and requirements for licensees. These modifications could affect the Board's examination program, licensing requirements, continuing education requirements, standards of practice, enforcement program, and school accreditation requirements, among other things. The Board will provide interested parties, individuals, or organizations the opportunity to participate in the self-evaluation by submitting comments.

Also at its November meeting, the Board discussed a former LVN's request to have his expired license reinstated. At issue was Business and Professions Code section 2892.4, which states that a license which is not renewed within four years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, but the holder of the license may apply for a new license if no fact, circumstance, or condition exists which, if the license were issued, would justify its revocation or suspension; the applicant pays all fees that would be required of an applicant for a new license; and the applicant retakes and passes the examination required of an applicant for a new license. Section 2892.4(c) also provides that the examination may be waived if the applicant can establish, to the Board's satisfaction, that he/she is qualified to engage in the practice of vocational nursing; the Board noted that acceptable proof has traditionally been evidence that the applicant has maintained an active license in another state.

In this particular instance, the former LVN had permitted his license to lapse rather than request that it be placed on inactive status; maintaining one's license on inactive status requires payment of applicable license fees. He argued that the only difference between an individual who has allowed his license to lapse and one who places his license on inactive status is the payment of fees; thus, he claimed he should be permitted to pay the fees and be relicensed without retaking the exam. DCA legal counsel Bob Miller responded that the Board is following the statute governing the reinstatement of expired licenses and that it has no authority to reinstate a license in any other way. Executive Officer Haynes stated that the petitioner had not provided any information regarding the nature of the work in which he has been involved since his license expired, to enable the Board to determine if he is "qualified to engage in the practice of vocational nursing" under section 2892.4(c). Thus, the Board denied his petition. Mr. Miller also announced that other DCA boards are currently reviewing their re-entry criteria for expired licenses; the Board may commence such a discussion at a future meeting.

## FUTURE MEETINGS

May 13-14 in Sacramento.

September 16-17 in San Diego.