



ing Official Information Bulletin No. 86-03, adopted by the Board in 1986, states that "[a]ll plans, specifications, and other instruments of service for non-exempt structures which are used (a) for submission resulting in construction authorization or issuance of a building permit, or (b) for review before any person, body or agency having legal authority for the project approval during any phase associated with the planning or construction of the building or structure, shall be signed by an architect prior to their presentation." The Board unanimously agreed to create a special committee consisting of architect members of the Board and other professional architects, as determined by the Board, to develop recommendations on this issue, including whether use of the term "preliminary plans" is necessary; if so, how the term should be defined; and whether the Board's adoption of regulations regarding this issue is warranted.

At BAE's September 8 meeting, the committee presented its findings to the full Board. The committee explained that—based on the ALJ's proposed decision and committee and board discussion—an entry in the Building Official Information Guide dealing with preliminary plans was deleted and staff had discontinued distributing and referring to Information Bulletin 86-03. The committee also noted that it had surveyed all California building officials requesting information relating to their interpretation of relevant statutory provisions, any problems they have with the interpretation, and the stage of a project at which they require stamp and signature. As a result of its review, the committee reported that there is no problem with the current statutory provisions; building officials and architects have no problem complying with or understanding the statutes; there is no justification for taking any action which would limit local control in this area; and there is no legal basis or need for Building Official Information Bulletin 86-03. Therefore, the committee recommended that BAE rescind Bulletin 86-03; following discussion, the Board approved the committee's recommendation.

## ■ LEGISLATION

**SB 842 (Presley)**, as amended July 14, permits BAE to issue interim orders of suspension and other license restrictions against architects; the bill requires notice and hearing on the proposed issuance of an interim order, except where it appears that serious injury would result to the public before the matter is heard on notice. This bill was signed by the Governor on October 5 (Chapter 840, Statutes of 1993).

**AB 295 (Eastin)**, as amended September 2, would have—among other things—specified that architects and other design professionals contracting on or after January 1, 1994, for public or private works of improvement, are entitled to any progress payments due under the contract from the project owner within thirty days, and to the final retention payment within 45 days, after receipt of a written demand for payment, except as to amounts in good faith dispute. This bill was vetoed by the Governor on October 11.

**AB 1807 (Bronshvag)**, as amended September 8, would authorize BAE to establish by regulation a category of inactive licensure. [*A. Inactive File*]

**AB 1392 (Speier)**, as amended July 1, would—among other things—provide that BAE'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 Director of the Department of Consumer Affairs. [*S. B&P*]

## ■ RECENT MEETINGS

At BAE's September 8 meeting, NCARB Second Vice-President Richard Quinn and Director of Examination Development Jeff Kenney addressed the Board to discuss NCARB's organization, services, and goals, as well as the future of architecture. One topic discussed in detail was NCARB's Intern Development Program (IDP), which was established to provide a formal means of evaluating interns' training; enable interns to better prepare themselves for their careers as architects; recognize interns' professional development by compiling a continuing, comprehensive record of internship activities; and present interns with information on the training and experience required for them to qualify for registration.

Quinn explained that NCARB voted at its annual meeting to require applicants for NCARB certification, after July 1, 1996, to have satisfied the IDP's criteria, with few exemptions. BAE members generally responded favorably to the program and its goals, but noted that completion of IDP is not a requirement for licensure in California.

Also on September 8, BAE welcomed members of the Nevada State Board of Architecture for a roundtable discussion regarding the differences and similarities in the two states' regulation of the profession. Some of the discussion focused on problems dealing with violations of the states' practice acts and reciprocity; the boards agreed to communicate further regarding these issues.

## ■ FUTURE MEETINGS

December 9–10 in Sacramento.

## ATHLETIC COMMISSION

*Executive Officer:*  
**Richard DeCuir**  
(916) 263-2195

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 Buchanon, William Eastman, H. Andrew Kim, Jerry Nathanson, Carlos Palomino, Kim Welshons, and Robert Wilson. The term of Ara Hairbedian 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

**Commission Suspends Administration of Current Neurological Examination.** At its June 4 meeting, the Commission engaged in a lengthy discussion of ways to reduce the cost and complexity of administering its neurological examination. [*13:2&3 CRLR 48; 12:4 CRLR 56*] Business and Professions Code section 18711 provides that as a condition of licensure and annual licensure renewal, every boxer in California must be examined by a licensed physician who specializes in neurology or neurosurgery. Since the enactment of section 18711, the Commission has implemented an examination which is initially administered by a licensed neurologist; the examination, which costs approximately \$175, is comprised of two sections and takes approximately 45 minutes to administer. The first section is



similar to a standard neurological examination in that a boxer is tested in the areas of cranial nerves, motor functions, sensory, cerebellar, gait, and praxis. The second phase of the examination, called a mental status test, is a neuropsychological examination which tests areas including attention and concentration, sequencing, visuospatial and memory, trails and reproduction drawings. If the boxer fails the mental status examination, a follow-up examination is administered; this exam takes approximately three hours and must be given by a neuropsychologist. Boxers must pass either the first exam or the follow-up exam before they are allowed to be licensed.

At the Commission's June 4 meeting, its Neurological Program Review Committee reported that Commission staff had attempted to cut the cost of the neurological exam program by amending AB 2275 (Tucker), a Commission-sponsored bill (*see* LEGISLATION), to require the exam on a biennial basis instead of annually. However, intense opposition to this provision by the California Medical Association (CMA) resulted in its deletion from the bill. CMA has raised a number of concerns about the Commission's exam, and is apparently unable to reach internal consensus about whether it may be performed by a neurologist/neurosurgeon or whether its second phase must be performed by a neuropsychologist.

Also on June 4, the Committee reported that after seven years of its administration, the Commission has yet to definitively determine the accuracy and validity of the examination. Notably, the Commission recently suffered a \$1.2 million court judgment in a civil suit by a boxer challenging the administration and validity of the neurological exam. [13:1 CRLR 22] The Commission noted that although the proposed joint neurological study involving the Commission and Johns Hopkins University (which would involve the University's review and evaluation of the Commission's neurological data on approximately 300 California professional boxers collected over the next four to five years [13:2&3 CRLR 48]) may provide the Commission with additional information in the future, the cost of the examination and the uncertainty surrounding its validity require immediate action.

Therefore, the Committee presented four recommendations for the Commission's consideration:

- continue the administration of the examination as it is currently being conducted; however, increase the per ticket assessment which pays for the program from \$2.00 to at least \$2.25 per ticket;

- move to an abbreviated neurological examination which could be administered by any licensed neurologist or neurosurgeon without the need for additional training;

- move closer to the letter of the law, which requires only that, as a condition of licensure, a boxer must be examined by a licensed physician who specializes in neurology or neurosurgery, and simply require this certification to accompany the license application, physical, and eye exam; or

- suspend the administration of the current examination and move to a certification process only until the validity of the existing exam can be determined and, if necessary, a modified version developed.

Following much discussion, the Commission agreed to suspend the administration of the current neurological examination and move to a certification process under which any licensed physician who specializes in neurology or neurosurgery could administer an examination which includes a neuropsychological/mental status component. The Commission also agreed to pay a maximum of \$100 per examination and reduce the per ticket assessment from \$2.00 to \$1.50. The Commission agreed that these changes would be effective from July 1, 1993 to September 1, 1993 or the next Commission meeting thereafter (which is scheduled for September 27) and that staff should report back with recommendations on examination fee caps and per ticket assessments for the Commission's guidance and action.

At the Commission's August 20 meeting, Executive Officer Richard DeCuir reported that, since the Commission's June 4 decision, he has been working with CMA and the Commission's neuropsychologist to devise an exam which may be consistently administered by any neurologist or neurosurgeon and which provides the necessary level of protection to boxers. Staff mailed letters to over 1,600 neurologists and neurosurgeons asking whether they would be interested in administering the exam; 115 responded positively. DeCuir reported that he hoped a modified exam could be developed by the end of September, and promised an update at the Commission's September 27 meeting.

In a related matter, at its June 4 meeting, the Commission discussed the joint neurological study involving the Commission and Johns Hopkins University; staff reported that the University had postponed its submission of the grant application to the National Institutes of Health (NIH) until October 1993. According to a University official, the Commission's reason for wanting the study performed may differ from the reason NIH might be inter-

ested in funding it; the University has promoted the study to the NIH as a way of investigating the possible role of head injury as a cause of Alzheimer's Dementia, which is an important concern on the part of NIH. As part of the study, the University is reviewing the possibility of obtaining and examining the brains of boxers who die during the follow-up period of the study; according to Johns Hopkins, this may enable the University to determine whether the Commission's neurological exam is sensitive to brain damage.

Additionally, the University informed the Commission that it would need a list of the names and dates of birth and/or social security numbers of all boxers who have been licensed in California; if a subject is identified as having died, the University would be able to retrieve the death certificate and determine whether an autopsy was performed. According to the University, this information would be invaluable as part of its proposal to support the feasibility of obtaining brains on the select subsample of deceased boxers who were participants in the study.

At its June 4 meeting, the Commission discussed the University's request, noting that federal law prohibits it from releasing the social security numbers of its licensees. Following discussion, the Commission agreed to provide Johns Hopkins with the information requested, excluding social security numbers.

**Pension Plan Update.** In 1991, the Office of the Auditor General (OAG) prepared a report on the Commission's Professional Boxers' Pension Plan, which was established in 1982 to provide a small amount of financial security for professional boxers after their retirement from boxing. Among other things, OAG found that the Commission did not keep accurate records of pension plan contributions; did not ensure that the interest rate, risk, and liquidity of its investments or others available to it were reviewed; and did not ensure that contributions collected were promptly and completely deposited into the Commission's money market fund. [11:4 CRLR 48-49]

Further, in 1992, the Department of Consumer Affairs' Internal Audit Unit (IAU) conducted a review of the pension plan. Among other things, IAU found that the Commission did not always retain records for the proper administration of the plan; the Commission should evaluate its investment of pension funds regularly and consider alternative investments; and the Commission had not developed and documented procedures for coordinating the administration of the plan. [12:4 CRLR 56]



Thus, at its August 20 meeting, the Commission discussed its need to develop pension plan investment objectives to ensure that it invests the \$1.4 million in pension deposits in accordance with California and federal law. Employee benefits law consultant Kevin Long of the firm Chang, Hallisey, Ruthenberg, Crawford and Long was present at the meeting to assist the Commission in developing an invitation for bid (IFB) for a pension fund manager. Among other things, Long noted the importance of choosing an appropriate investment fund advisor and establishing a procedure for monitoring the performance of that advisor; recommended that the funds be invested in a balanced portfolio which meets the Commission's short- and long-term needs; and suggested that the Commission choose a provider based upon fees, service, and performance.

Following discussion, the Commission asked that Long meet with Commissioners Willie Buchanon and Kim Welshons and Commission staff to discuss information obtained from the pension plan's actuarial report and to further consider available investment options; at this writing, the Commission is expected to continue its consideration of these issues at its September 27 meeting.

Also at its August 20 meeting, the Commission discussed a request submitted by John Jackson of the Great Western Forum to research the ramifications of capping the contributions to the pension plan by boxers and managers at \$1,000 per fight and capping the contributions of promoters at \$1,000 per show; according to Jackson, these changes would result in more major promotions in California. Staff recommended that the Commission place such caps or limits on pension contributions, and also recommended that the Commission consider allowing a fighter to box in California once or twice prior to requiring them to make pension plan contributions—in addition to the existing requirement that the contributions shall not commence until a boxer's total purse exceeds \$1,500 per calendar year from fights in California. Although the Commission took no formal action on these recommendations, Commissioners Welshons and Buchanon stated their opposition to the proposed caps on pension plan contributions at this time. Commission Chair Bill Eastman stated his desire to resolve these questions in the near future, perhaps by the end of 1993. At this writing, Commission staff is drafting proposed regulatory changes to section 401, Title 16 of the CCR, to exempt boxers from making pension deposits for their first and second bouts in California during a calendar year;

these proposed changes have not yet been published in the *California Regulatory Notice Register*.

In a related matter, Executive Officer Richard DeCuir and Commissioners Welshons and Buchanon met on June 21 with Center for Public Interest Law Director Robert C. Fellmeth to discuss various issues regarding the pension plan, including whether a cap or limit should be placed on pension contributions and whether the fund could be used to assist boxers in pursuing vocational training for career changes; Fellmeth chaired the Athletic Commission at the time the pension plan was established. At the Commission's August 20 meeting, Commissioner Welshons reported that the Pension Plan Review Committee is still reviewing the information gathered and would be formulating recommendations for consideration by the Commission at a future meeting.

**Commission's Budget Problems Continue.** At the Commission's August 20 meeting, Executive Officer Richard DeCuir reported that the Commission ended fiscal year 1992-93 with revenues of \$446,000 and expenditures of \$583,000 for the Commission's general support, and revenues of \$272,000 and expenditures of \$303,000 for the administration of the neurological examination; thus, the Commission ended the fiscal year with a total deficit of \$171,000. [13:2&3 CRLR 48] DeCuir explained that revenues from the 5% gate tax have decreased significantly due to lack of attendance at boxing events throughout the state. DeCuir urged that the Commission consider tapping new revenue sources through legislation, and take active steps to encourage more boxing events and greater attendance throughout California. The Commission also hopes that AB 2275 (Tucker) (Chapter 1057, Statutes of 1993) will generate as much as \$145,000 per year in additional revenue; AB 2313 (Cortese), which is still pending in committee, is expected to generate an additional \$166,000 per year if enacted (*see* LEGISLATION).

**Martial Arts Advisory Committee Update.** At its June 4 meeting, the Commission appointed Andy Ah Po, Steve Fossum, George Chung, Anthony Chang, and Myung Kang to its Martial Arts Advisory Committee; at its August 20 meeting, the Commission appointed Jim Mather to the Committee. Also on August 20, the Commission reviewed proposed regulatory changes regarding amateur martial arts and kickboxing. Among other things, the proposals would provide the following:

—the Professional Martial Arts and Kickboxing Rules (Chapter 3, Division 2, Title 4 of the CCR) shall apply to amateur

full contact martial arts and kickboxing, unless a club or organization obtains a waiver of the applicable laws and rules under Business and Professions Code section 18646 or unless they are clearly inconsistent with the proposed Amateur Martial Arts and Kickboxing Rules (proposed Chapter 4, Division 2, Title 4 of the CCR);

—a novice class shall consist of any contestant who has participated in three or fewer full contact martial arts or kickboxing contests approved by the Commission, and an open class shall consist of any contestant who has participated in more than three full contact martial arts or kickboxing contests approved by the Commission;

—in addition to equipment required by section 513, Title 4 of the CCR, every contestant in the novice class shall wear ten-ounce gloves, headgear that is approved by the American Boxing Federation or an equivalent organization, and shin guards that extend from the ankle or instep to the top of the shin or a safety boot that has a shin pad;

—the maximum number of rounds allowed for any contestant in the novice class shall not exceed three three-minute rounds with a one-minute rest period between rounds, and the maximum number of rounds allowed for any contestant in the open class shall not exceed five three-minute rounds with a one-minute rest period between rounds; and

—between contestants in the novice class, the only kicks allowed are to the outside of the legs or boot; all other kicks shall be considered a foul.

After reviewing the draft regulatory changes, the Commission directed that they be distributed to the newly appointed members of the Advisory Committee for review and comment.

**Commission Adopts Drug Screening Regulation.** At its August 20 meeting, the Commission conducted a public hearing on its proposed adoption of new section 280(c), Title 4 of the CCR, which would provide that any applicant for a license or renewal of a license who has been convicted of a crime that is a violation of any California or federal statute or rule regulating dangerous drugs or controlled substances shall be required to undergo screening for the presence of any dangerous drugs or controlled substances as a part of the application process at a time and place to be designated by the Commission. [13:2&3 CRLR 49] The Commission received no public comments regarding the proposal; following the hearing, the Commission adopted the proposed regulation, which awaits review and ap-



proval by the Office of Administrative Law.

## ■ LEGISLATION

**AB 2275 (Tucker)**, as amended August 26, creates the Athletic Commission Fund and directs that assessments previously deposited in the Boxer's Neurological Examination Account be deposited in the Athletic Commission Fund. This bill also provides that moneys deposited in the Boxers' Pension Account and the Disability Insurance Program Account in the General Fund instead be deposited in those accounts in the Athletic Commission Fund to be continuously appropriated, as under existing law, for specified purposes. This bill also requires the cost of the neurological examination to be paid by managers and professional boxers.

Existing law specifies licensing, registration, and other fees for various athletic professions and vocations. This bill revises, as specified, the licensing, registration, and other fees of specified athletic professions and vocations, and imposes licensing fees for booking agents and sparring permits.

Existing law requires persons who conduct contests or wrestling exhibitions to pay to the Commission a 5% tax of the amount paid for admission, and of the gross price for the sale, lease, or other exploitation of broadcasting or television rights, provided that the tax shall not be less than \$50. This bill characterizes the 5% tax as a fee and provides that the fee shall not be less than \$1,000, except that the minimum fee for an amateur contest or exhibition shall not be less than \$500.

Existing law provides that no tax is due in the case of a person admitted free of charge. This bill provides, in addition, that if the number of persons admitted free of charge to specified contests or exhibitions exceeds 25% of the total number of spectators, then an additional fee of \$1 per complimentary ticket or pass shall be paid to the Commission for each complimentary ticket or pass that exceeds the numerical total of 25% of the total number of spectators. This bill was signed by the Governor on October 10 (Chapter 1057, Statutes of 1993).

**AB 2313 (Cortese)**, as amended June 15, would authorize the Commission to register and establish recommended minimum safety and equipment standards for all martial arts studios or schools where contact sparring is performed; require a specified form of application for registration of a martial arts studio or school, to be accompanied by a registration fee; and delete the exemption from regulation for light and noncontact kickboxing and mar-

tial arts, and for kickboxing and martial arts instruction and schools, and instead provide an exemption only for light and noncontact martial arts tournaments, or martial arts studios and schools. [*S. B&P*]

## ■ RECENT MEETINGS

At its June 4 meeting, the Commission discussed its current requirement that two ringside physicians be present at every boxing event; staff reported that it had received an inquiry as to whether two physicians are necessary at small boxing events that have no main event and no televised taping coverage. Following discussion, the Commission agreed to retain this requirement on the basis that it reduces the potential liability of the state, reduces possible delays in the boxing program should one physician be required to accompany a boxer to a hospital or elsewhere for medical treatment, and is consistent with the Commission's goal of protecting the safety of boxers.

At the Commission's August 20 meeting, Executive Officer Richard DeCuir reported that Assemblymember Jackie Speier has declined to carry legislation authorizing the Commission to require applicants to submit to and pay for human immunodeficiency virus (HIV) testing as a condition of licensure and license renewal. [*13:2&3 CRLR 49*] At this writing, it is not known if the Commission will attempt to locate another legislator to carry this measure.

## ■ FUTURE MEETINGS

December 3 in Sacramento.

## BOARD OF BARBERING AND COSMETOLOGY

*Executive Officer: Olivia Guebara (916) 445-7061*

On July 1, 1992, pursuant to AB 3008 (Eastin) (Chapter 1672, Statutes of 1990), the enabling statutes of the Board of Barber Examiners (BBE) and the Board of Cosmetology (BOC) were repealed and replaced with an enabling act creating the Board of Barbering and Cosmetology (BBC); that act is found at Business and Professions Code section 7301 *et seq.* BBC licenses and regulates persons engaged in the practice of barbering, cosmetology, and electrolysis. The Board is authorized to conduct and administer examinations, adopt regulations governing public health and safety, and discipline persons in violation of its statutes or regulations. BBC represents the first merger of two California regulatory agencies. The Board, which consists of five public members and four

members representing the professions, holds meetings at least four times per year.

In June, Rosemary Faulkner was sworn in to fill the one remaining industry member seat on BBC; Faulkner, a licensed cosmetologist since the 1940s, has owned a salon, been an instructor in the public and private sector, and is now retired from the industry.

Assistant Executive Officer Jeff Weir attended his last BBC meeting on June 7, having received a promotional opportunity with the Air Resources Board.

## ■ MAJOR PROJECTS

**New Fee Regulations Approved.** On June 22, the Office of Administrative Law (OAL) approved BBC's repeal of section 990, Title 16 of the CCR, and adoption of section 998, which sets licensing fees for barbers, cosmetologists, estheticians, manicurists, electrologists, barber instructors, cosmetology instructors, apprentices, and establishments. These changes became effective on July 22. [*13:2&3 CRLR 52*]

**New BBC Regulations.** On March 29, following two public hearings, BBC decided to repeal Divisions 3 and 9, Title 16 of the CCR (formerly the regulations of BBE and BOC), and adopt a new Division 9, Title 16 of the CCR, subject to minor modifications and with the exception of Article 8, which covers proposed curriculum changes. [*13:2&3 CRLR 53*]

At its June 7 meeting, BBC reviewed comments and suggestions regarding Article 8 (sections 951-962), which contains required curricula for each of the trades regulated by the Board. Following discussion, BBC adopted all of the sections except 954 (nail care curriculum) and 960 (prohibition on reciprocal credit for apprentice and school training).

Regarding section 954, BBC voted at its June meeting to increase the required hours of the nail care curriculum from 350 hours to 500 hours. Because this increase in hours was considered a significant change, resulting in an estimated \$485 increase in tuition to complete the additional hours, the Board released the modified language for a 15-day comment period which ended on June 30. At its August 16 meeting, BBC considered the comments received and again modified the language of section 954, to instead increase the required nail care curriculum from 350 to 400 hours. BBC released this proposal for another 15-day comment period ending on September 30.

Regarding section 960, BBC voted in June to amend the section to provide that training received in an apprentice program will not be credited towards school training, and training received in a school will