



gave the parent caregivers to recover damages for negligent infliction of emotional distress. [13:1 CRLR 63]

At this writing, oral argument is scheduled for October 14 in *Californians for Safe Prescriptions v. California State Board of Pharmacy*, No. B073104, pending in the Second District Court of Appeal. The trial court held that the Board followed and complied with the Administrative Procedure Act in promulgating and adopting its pharmacy technician regulations; plaintiffs/appellants are members of a nonprofit organization consisting of approximately 5,000 licensed pharmacists. [13:1 CRLR 62]

## RECENT MEETINGS

At its July 21 meeting, the Board discussed a proposal for amending section 1751.10, Title 16 of the CCR, to allow licensed pharmacies which are also licensed as home health agencies to dispense emergency kits to home health agency registered nurses who provide care to patients in their homes; staff noted that escalating health care costs have resulted in patients being released earlier from hospitals for convalescence at home. This proposal would allow home health agency registered nurses to carry an emergency kit with stock items upon a written or oral prescription; the provisions would call for a locked, portable unit with only specified drugs and a method for inventory control. Following discussion, the Board directed its Executive Officer to draft appropriate regulatory language; the Board expects to hold a public hearing on the proposal in January or April.

Also in July, Board President Steve Dibble recommended that the Board ask the Drug Enforcement Agency (DEA) for clarification regarding 21 C.F.R. section 1304.04, which requires pharmacists to stamp a red "C" on the hard copy of controlled substance prescriptions; Dibble noted that such a requirement is unnecessary if the pharmacy is computerized. The Board agreed to ask DEA to allow pharmacies to either maintain a separate electronic file of Schedule III-V controlled substances, or maintain a separate physical file of Schedule III-V controlled substances, or mark all Schedule III-V controlled substance prescriptions with a red "C."

Also at its July meeting, the Board unanimously agreed to seek amendments to Business and Professions Code section 4001 to provide that at least one pharmacist position on the Board shall be filled by a pharmacist who actively dispenses prescriptions in the community or outpatient pharmacy setting.

Finally, the Board elected its 1993-94 officers at the July meeting: Raffi Simonian will serve as President, Janeen McBride was elected Vice-President, and M. Standifer Shreve was chosen as Treasurer.

## FUTURE MEETINGS

January 26-27 (location to be announced).

April 27-28 (location to be announced).

July 27-28 (location to be announced).

## BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

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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 8805 of the Business and Professions Code. The Board's regulations are found in Division 5, Title 16 of the California Code of Regulations (CCR).

The basic functions of the Board are to conduct examinations, issue certificates, registrations, and/or licenses, and appropriately channel complaints against registrants/licenses. 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. Eleven of the members are appointed by the Governor for four-year terms which expire on a staggered basis. One public member is appointed by the Speaker of the Assembly and one by the Senate Rules Committee.

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. The committees function in an advisory capacity unless specifically

authorized to make binding decisions by the Board.

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. 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 authorities linked to the civil Practice Act and require an additional examination after qualification as a civil engineer.

On June 15, three new Board members were appointed to replace members whose terms had expired. Megan Matthews, the owner of Matthews Land Company in Santa Cruz, replaced George Warriner as a public member; Myrna Powell, the coordinator of the CALL-3 Consumer Action Program at KCRA-TV in Sacramento, replaced Bill Rupp as a public member; and Quang Vu, a mechanical engineer and president of Dahl, Taylor and Associates, Inc., in Newport Beach, replaced Bob Young as a Practice Act engineer member. The terms of the three new members expire on June 1, 1996.

## MAJOR PROJECTS

**Board Approves New Examination Administration.** At the Board's August 27 meeting, the Examination/Qualification Committee presented its findings and recommendations regarding a proposal that PELS develop and administer its own Special Four examinations (corrosion, quality, safety, and traffic) in-house as a cost-saving measure. [13:2&3 CRLR 104] Among other things, the Committee noted that the Board currently develops and administers the structural engineering examination using its own resources and expertise; according to the Committee, the Board could use that expertise to develop and administer the Special Four exams and achieve a cost savings of approximately \$23,000 per year. The Committee reported that in-house development and administration would allow the Board more control and flexibility over the examinations, and could allow it to explore options such as on-demand testing or computer-generated examinations. The Committee noted that the disadvantage of developing and administering the examinations in-house is that 40% of one staff member's time would be required to coordinate the examinations.



Following discussion, PELS adopted the Committee's recommendation and agreed to administer the Special Four exams in-house, effective with the October 1994 examinations.

**Board Considers Establishing Additional Criteria for Five-Year Delinquent Applicants.** Some PELS members have expressed concern that holders of certifications and registrations which have been expired for more than five years are able to secure reinstatement of these certifications and registrations with relative ease. Business and Professions Code section 6796.3(c) provides that certificates of registration as a professional engineer and certificates of authority to use the titles "structural engineer," "soil engineer," or "consulting engineer" which are not renewed within five years after expiration may not be renewed, restored, reinstated, or reissued unless—among other things—the registrant or certificate holder takes and passes the examination, if any, which would be required of him/her if he/she were then applying for the certificate for the first time, or otherwise establishes to the satisfaction of the Board that, with due regard for the public interest, he/she is qualified to practice the branch of engineering in which he/she seeks renewal or reinstatement; PELS is attempting to develop criteria which would assist the Board and staff in determining how an applicant may "otherwise establish" his/her qualifications.

At PELS' July 16 meeting, the Examination/Qualification Committee recommended that the Board approve specified criteria for reinstating five-year delinquent registrations, and direct staff to develop the necessary regulatory language to implement the requirements. Specifically, the Committee recommended the following:

—An applicant shall be determined to be qualified for reinstatement if he/she provides a minimum of four positive references for engineering or surveying work performed in the branch for which he/she is applying for reinstatement, and the references must cover the entire period of nonrenewal; also, the applicant must have continued gaining qualifying experience in that branch during the period of nonrenewal.

—An applicant shall be considered as unable to substantiate his/her qualifications if he/she provides any negative references, as specified, for engineering or surveying work performed during the period of nonrenewal; and has not gained qualifying engineering experience in the branch for which he/she is reapplying during the period of nonrenewal.

—In order to obtain reinstatement of his/her license or registration, a qualified applicant is required to take and pass the

take-home examination on the Board's laws and rules; all civil engineering applicants must also take and pass the Special Civil examination, if they have not previously done so.

—An applicant who is unable to substantiate that he/she is qualified shall be required to take and pass the appropriate second division examination inclusive of the Special Civil examination if applying for reinstatement of his/her civil engineering registration, and take and pass the take-home examination on the Board's laws and rules.

Following discussion, the Board referred the proposal to its Examination/Qualification and Legislative committees for further review and revision.

**Rulemaking Update.** At its June 4 meeting, PELS adopted its proposed amendment to section 464, Division 5, Title 16 of the CCR, which provides that when a survey is a retracement of lines shown on a recorded map, no material discrepancies with the record are found, and sufficient recorded monumentation is found to establish the precise location of property corners thereon, a corner record may be filed in lieu of a record of survey for any property corners which are set or reset or found to be of different character than indicated by prior records. PELS' proposed amendment would delete the requirement that the monumentation found to establish the precise location of property corners must be recorded. [13:2&3 CRLR 104] At this writing, the change awaits review and approval by the Office of Administrative Law (OAL).

Also at its June 4 meeting, the Board rejected the proposed adoption of new sections 472 and 472.5, Division 6, Title 16 of the CCR, which would have implemented provisions of SB 2044 (Boatwright) (Chapter 1135, Statutes of 1992) by creating a regulatory scheme under which PELS may impose citations and levy fines against licensed and unlicensed persons for violations of the Board's statutes and regulations. [13:2&3 CRLR 104] President Larry Dolson requested that staff redraft the proposed regulations for future consideration.

**Other Board Rulemaking.** At its August 27 meeting, PELS tabled a proposal to encourage the registration of college professors by amending sections 424 and 438, Division 5, Title 16 of the CCR, to allow professors to waive the engineer-in-training examination and qualify for the professional engineering examinations. [12:1 CRLR 95] The Board directed staff to provide a more workable definition for the term "professor" for the Board's consideration.

## LEGISLATION

**SB 842 (Presley)**, as amended July 14, permits PELS to issue interim orders of suspension and other license restrictions, as specified, against its licensees. This bill was signed by the Governor on October 5 (Chapter 840, Statutes of 1993).

**AB 1392 (Speier)**, as amended July 1, would—among other things—provide that PELS' 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]

**AB 1807 (Bronshvag)**, as amended September 8, would add additional titles to the list of titles that may be used only by a registered professional engineer.

Under existing law, the provisions of the Professional Engineers Act pertaining to registration of professional engineers in the branches of chemical, electrical, industrial, mechanical, metallurgical, and petroleum engineering do not apply to employees in the communication industry, or to employees of contractors while engaged in work on communication equipment. This bill would recast these provisions to instead make the provisions of the Act pertaining to registration of professional engineers other than civil engineers inapplicable to those employees.

Existing law requires PELS to prepare a roster and a supplemental roster of all registered professional engineers, and a roster and supplemental roster of all licensed land surveyors. This bill would delete the requirement that PELS prepare the supplemental rosters of professional engineers and licensed land surveyors, and would require that the rosters be a public record.

This bill would revise requirements relating to engineering plans, specifications, reports, or documents prepared by a registered engineer to require that they bear a seal and the expiration date of the registration of the engineer; this bill would also require licensed land surveyors to obtain a seal, and would require that the license expiration date be shown within the confines of the seal.

Existing law allows renewal of a certificate or registration as a professional engineer or of a license to practice land surveying for five years after expiration, and allows reinstatement beyond the five-year period unless the certificate holder, registrant, or licentiate has committed specified acts. If the registrant or certificate holder has practiced with an expired license, PELS may act in specified ways, including by renewing or restoring the



license and attaching conditions. This bill would shorten the renewal period to three years and delete the provision specifying the Board's discretionary power to act beyond the delinquent renewal period.

Finally, this bill would revise certain administrative functions and responsibilities of PELS. [A. Inactive File]

**AB 1363 (Lee).** Existing law provides that if the county surveyor finds that the record of survey does not comply, as specified, it shall be returned to the person who presented it, together with a written statement of the changes necessary. Existing law also provides that the licensed land surveyor or registered civil engineer submitting the record may then make the agreed changes and note on the map those matters which cannot be agreed upon, and resubmit the survey. As introduced March 3, this bill would require the licensed land surveyor or registered civil engineer to make the agreed changes and note on the map any specific matters which cannot be agreed upon, before resubmission. The bill would also provide that the land surveyor or civil engineer and county surveyor shall not be prevented from resolving their differences prior to resubmission.

The bill would also provide that a record of survey may also be prepared and filed for the express purpose of (1) rescinding the effect of prior matters of disagreement, as specified, or (2) rescinding the effect of prior county surveyor opinions, as specified. The bill would provide that a record of survey amended and filed pursuant to this provision shall include an explanation of how these matters of disagreement or opinion were resolved. [S. B&P]

**SB 296 (Ayala).** Existing law permits a licensed land surveyor to offer to practice, procure, and offer to procure civil engineering work incidental to his/her land surveying practice, even though he/she is not authorized to do that work, provided all civil engineering work is performed by or under the direction of a registered civil engineer. As introduced February 17, this spot bill would make technical, nonsubstantive changes to existing law. [S. RIs]

**AB 358 (Eastin).** Existing law requires that all contracts awarded by any state agency, department, officer, or other state governmental entity for construction, certain professional services, material, supplies, equipment, alteration, repair, or improvement have statewide participation goals of not less than 15% for minority business enterprises, not less than 5% for women business enterprises, and not less than 3% for disabled veteran business enterprises. Existing law defines

minority business enterprise, women business enterprise, and disabled veteran business enterprise for purposes of these provisions.

As amended March 24, this bill would add to these definitions the requirement that if a business concern performs engineering or land surveying services, the persons who control the management and daily operations of the business shall be appropriately licensed or registered to render these services. In addition, the bill would require that if a business concern performs more than one of these professional services, a person who controls the management and daily operations of the business need only be licensed or registered to render any one of these individual services. [A. U&C]

## RECENT MEETINGS

At its June 4 meeting in Irvine, PELS elected Richard Johnson to serve as 1993-94 Board President, replacing Larry Dolson; PELS also elected Sharon Reid to serve as Vice-President, replacing Johnson. Johnson, an electrical engineer who has served on PELS since 1989, is the founder, president, and chief executive officer of RAJ Information Networks, Inc. and Ubiquinet, Inc. Reid, who has served as a public member on PELS since 1983, is Deputy Director of the San Diego County Department of Public Works.

At its July 16 meeting in San Diego, the Board unanimously approved a motion to increase the examination time of its seismic principles and engineering surveying examinations from two hours to two and one-half hours each, effective October 1993; this action came in response to applicants' complaints that the Board did not provide sufficient time to complete the examinations.

At its August 27 meeting in Sacramento, PELS unanimously approved a proposal to delay, following the grading of examinations, making public the list of approved registrants, licensees, and certificants until after individual notice is received; this action follows the Board's release of an erroneous pass list for the civil engineering examination, which resulted in several candidates receiving incorrect information as to whether they passed the examination. Staff reported that the Board's computer program has been modified to prevent such an error from recurring. In addition, the Board decided that in the future, it will approve the passing scores and registration for those individuals who meet all the legal requirements and adopt the list of names at the Board meeting following exam administration; the list will then be made available four days after individual mailings.

## FUTURE MEETINGS

January 7 in Ontario.  
February 25 in Sacramento.  
April 8 in San Diego.  
May 27 in Sacramento.

## BOARD OF REGISTERED NURSING

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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, certifies qualified nurse-midwifery applicants, establishes accreditation requirements for California nursing schools, and reviews nursing school curricula. A major Board responsibility involves taking disciplinary action against licensed RNs. 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.

During the summer, BRN welcomed three new members: Myrna Allen (nursing service administrator member); Mary Jo Gorney-Lucero (nurse educator member); and Michael Moran (public member).

## MAJOR PROJECTS

**BRN Executive Officer Announces Retirement.** At the Board's June 10 meeting in San Diego, Catherine Puri announced her retirement as BRN's Executive Officer; Puri had worked for the Board for over nine years. BRN selected Ruth Ann Terry, then a Board Supervising Nursing Education Consultant, to serve as Acting Executive Officer until Puri's replacement was named. Minimum qualifications for the position include a master's degree in nursing; seven years of active nursing experience, at least five years of which must be in an administrative or teaching position at a school of nursing; comprehensive knowledge of the principles of nursing education and practice; and working knowledge of federal and state statutes and regulations pertaining to nursing.

At a special September 22 meeting in Sacramento, BRN interviewed candidates