



a condition of license renewal; that language was deleted. This bill was signed by the Governor on September 11 (Chapter 626, Statutes of 1992).

AB 1660 (Speier), which would have required a licensed veterinarian to be present during any rodeo sanctioned by the Professional Rodeo Cowboy Association or the International Professional Rodeo Association, died in committee.

■ LITIGATION

The unpublished decision of the Fourth District Court of Appeal in *Hall v. Kelley*, No. G009476 (Dec. 31, 1991), has become final. In that ruling, the appellate court affirmed the trial court's dismissal of Dr. Hall's lawsuit against BEVM for its alleged failure to provide her with an adequate setting in which to take its practical exam; Dr. Hall is dyslexic. [12:2&3 CRLR 152] Because Dr. Hall failed to timely file a petition for review with the California Supreme Court, the Fourth District's decision is now final.

■ FUTURE MEETINGS

To be announced.

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 licensed 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.

On July 14, Governor Wilson appointed Maryann Maloney to fill a public member position on the Board; Ms. Maloney is the legislative liaison for Saint Francis Hospital in Lynwood. Also on July 14, Governor Wilson appointed Carolyn Duncan to fill a psych tech position on the Board; Ms. Duncan is a psychiatric technician at Mt. San Antonio College in Walnut.

■ MAJOR PROJECTS

Proposed Regulatory Action on Processing Times for Psych Tech CE Provider Permits. On May 29, the Board closed the public comment period on its proposed amendments 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. Further, the proposed regulatory action would specify thirty days as the maximum period of time after the filing of a complete application to be a CE provider in which the Board will notify the applicant of a permit decision. [12:2&3 CRLR 154] The full Board has yet to vote on this proposal.

Psychiatric Technician Occupational Analysis. At its September 18 meeting, the Board heard an update from DCA's Central Testing Unit (CTU) on the occupational analysis which is being conducted of the psychiatric technician population to determine the validity of the California Psychiatric Technician Licensure Examination. Last spring, CTU interviewed 23 psych techs to identify categories of work, job tasks performed in each category, and the knowledge, skills, and abilities required to perform each task. [12:2&3 CRLR 154-55] CTU Manager Norman Hertz and Test Specialist Roberta Chin reported that CTU then prepared a draft questionnaire and is currently reviewing the items with Board staff to verify that the language used in the questionnaire is technically correct and appropriate. Although CTU originally

scheduled distribution of the questionnaire for August, the revisions currently in progress have required postponement of the questionnaire distribution until February 1993.

Computer Testing. Based on the recommendation of CTB MacMillan/McGraw-Hill, the Board's exam contractor for computerized psych tech exams, the Board has developed a practice test to field-test newly-developed questions. [12:2&3 CRLR 155] Almost 200 individuals took the practice test during the first phase of administration from April 27-May 1 at Mt. San Antonio College in Walnut and May 11-13 at Napa College in Napa. The second phase of administration began the week of July 27 at San Bernardino Valley College and was scheduled to continue during the week of November 2 at Santa Rosa Junior College. In order to achieve its goal of testing 450 candidates, the Board plans to hold an additional session at Mt. San Antonio College in early December.

At its September 18 meeting, the Board heard a report from Executive Officer Billie Haynes on the National Council of State Boards of Nursing's (NCSBN) Delegate Assembly meeting in August. The Delegate Assembly proceeded with its plan to convert from paper-and-pencil testing to computer adaptive testing (CAT) for all LVN and registered nurse candidates, and selected Educational Testing Services as the CAT vendor.

■ LEGISLATION

The following is a status update on bills reported in detail in CRLR Vol. 12, Nos. 2 & 3 (Spring/Summer 1992) at pages 155-56:

SB 1813 (Russell) is a follow-up bill to SB 1070 (Thompson) (Chapter 1180, Statutes of 1991). SB 1070 requires the Department of Health Services (DHS) to promulgate guidelines and regulations to minimize the risk of transmission of bloodborne infectious diseases in the health care setting by January 1993. It requires the Board and other health profession regulatory agencies to ensure that their licentiates are informed of their responsibility to minimize the risk of transmission of bloodborne infectious diseases in the health care setting, and makes it unprofessional conduct for a licentiate to knowingly fail to protect patients by failing to follow DHS' infection control guidelines.

SB 1813 provides that, in investigating and disciplining LVNs and psych techs for knowing failure to protect patients from transmission of bloodborne infectious diseases in the health care setting, the Board



REGULATORY AGENCY ACTION

shall consider referencing DHS' guidelines; it also requires the Board to consult with the Medical Board, the Board of Podiatric Medicine, the Board of Dental Examiners, the Board of Registered Nursing, and other agencies to encourage consistency in the implementation of this provision. Finally, this bill clarifies existing law to provide that the Board may discipline its licensees for the knowing failure to protect patients by failing to follow the Board's infection control guidelines. This bill was signed by the Governor on September 30 (Chapter 1350, Statutes of 1992).

SB 2044 (Boatwright) declares legislative findings regarding unlicensed activity and authorizes all DCA boards, bureaus, and commissions, including the Board, to establish by regulation a system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee or registrant under the jurisdiction of that board, bureau, or commission. This bill was signed by the Governor on September 28 (Chapter 1135, Statutes of 1992).

AB 2743 (Frazee), DCA's omnibus bill, authorizes the Board to suspend or revoke a license issued to an LVN for, among other things, the use of excessive force upon or the mistreatment or abuse of any patient, or the failure to maintain confidentiality of patient medical information, except as disclosure is otherwise permitted or required by law. The bill also authorizes the Board to deny any application or suspend or revoke any license issued under Chapter 6.5, Division 2 of the Business and Professions Code, based upon the denial of licensure, suspension, restriction, or other disciplinary action of a license by another state, any other government agency, or by another California health care professional licensing board; and authorizes the Board to issue an initial license on probation, with specific terms and conditions, to any applicant who has violated any term of Chapter 6.5, but who has met all other requirements for licensure as an LVN and who has successfully completed the examination for licensure within four years of the date of issuance of the initial license.

The bill also authorizes the suspension or revocation of a license as a psych tech based upon the failure to maintain confidentiality of patient medical information, the commission of any act punishable as a sexually related crime, and the commission of any act involving dishonesty related to the duties and functions of the licensee. The bill also adds new grounds for denial, suspension, or revocation of a

license and adds provisions relating to reinstatement of psychiatric technicians. This bill was signed by the Governor on September 30 (Chapter 1289, Statutes of 1992).

SB 664 (Calderon). Existing law prohibits LVNs and psych techs, among others, from charging, billing, or otherwise soliciting payment from any patient, client, customer, or third-party payor for any clinical laboratory test or service if the test or service was not actually rendered by that person or under his/her direct supervision, unless the patient is apprised at the first solicitation for payment of the name, address, and charges of the clinical laboratory performing the service. This bill also makes this prohibition applicable to any subsequent charge, bill, or solicitation. This bill also makes it unlawful for any LVN or psych tech to assess additional charges for any clinical laboratory service that is not actually rendered by that person to the patient and itemized in the charge, bill, or other solicitation of payment. This bill was signed by the Governor on June 4 (Chapter 85, Statutes of 1992).

AB 2435 (Hannigan). Existing law does not provide for a rehabilitation program for alcohol- or drug-impaired LVNs and psych techs. This bill would have established a recovery program to provide for rehabilitation as an alternative or adjunct to traditional disciplinary actions of LVNs and psych techs experiencing problems related to chemical dependency or mental illness, and required the Board to administer the recovery program by contracting with one or more professional providers or assistance programs. The Board asked Assemblymember Hannigan to drop this bill at the request of DCA, which is evaluating the diversion programs of its various constituent agencies and considering the creation of a consolidated program to treat all substance-abusing DCA licensees.

RECENT MEETINGS

At the Board's September 18 meeting in Sacramento, Executive Officer Billie Haynes reported on the effect of the 1992-93 Budget Bill, which was finally signed on September 2. The Budget Bill requires special-funded agencies, including the Board, to reduce 1992-93 expenditures by 10% over 1991-92 expenditures, and to transfer that 10% to the state general fund on June 30, 1993. Haynes introduced DCA Budget Analyst Willie Diggs, who will be working with Board staff to determine where cuts can be made and to forecast possible budgetary shortfalls so that licensing and testing fees may be adjusted accordingly.

Also at the September meeting, the Board noted that NCSBN's Delegate Assembly adopted a Joint Statement on Nursing Shortage prepared in collaboration with the American Nurses Association and the National Federation of Licensed Practical Nurses, Inc., opposing the use of unlicensed personnel as a substitute for licensed nurses to resolve the nursing shortage. The Delegate Assembly also authorized the implementation of a Nurse Information System (NIS) designed to be a national database on all licensed nurses. The NIS will provide an unduplicated count of licensees nationwide, as well as current, accurate information on nurse characteristics. Implementation of the NIS is contingent upon receipt of external funding for the development and initiation of the system. [12:2&3 CRLR 142-43]

FUTURE MEETINGS

January 22 in San Diego.