



REGULATORY AGENCY ACTION

notice and an opportunity to correct deficiencies when it determines that CE requirements have not been satisfied; adds an additional item to be maintained as a record; and adds a disciplinary provision for willful, false, or misleading statements concerning CE. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 51 for background information.)

BOA amended its proposed regulatory changes, released the revised proposals for public comment on October 11, and subsequently submitted the revised rulemaking package to OAL. On December 10, OAL approved amended section 89, and on December 13 OAL approved new section 87.2.

LITIGATION:

On October 18, the California Supreme Court unanimously granted Bonnie Moore's petition for review in *Bonnie Moore v. State Board of Accountancy*, 222 Cal. App. 3d 919, 272 Cal. Rptr. 108 (1990), in which Moore challenges the validity of a BOA rule prohibiting unlicensed accountants legally practicing accountancy from using the terms "accountant" or "accounting" in their advertising. (See *supra* COMMENTARY; see also CRLR Vol. 10, No. 4 (Fall 1990) p. 51; Vol. 10, No. 1 (Winter 1990) p. 53; and Vol. 9, No. 4 (Fall 1989) p. 42. for detailed background information on this case.)

Moore filed her opening brief with the court on November 16, and BOA's counsel filed its opening brief on December 19. The Center for Public Interest Law and the California Society of Enrolled Agents each petitioned the Court to file *amici curiae* briefs in support of Moore; both motions were opposed by the Board's counsel. However, on December 13, the Court overruled the Board's objections and granted both petitions. The *amici* briefs were due by January 11, and any answer thereto was to be served and filed by January 31.

FUTURE MEETINGS:

March 23 in Los Angeles.
May 17-18 in Sacramento.

BOARD OF ARCHITECTURAL EXAMINERS

Executive Officer: Stephen P. Sands
(916) 445-3393

The Board of Architectural Examiners (BAE) was established by the legislature in 1901. BAE establishes minimum professional qualifications and performance standards for admission to and practice of the profession of archi-

ture through its administration of the Architects Practice Act, Business and Professions Code section 5500 *et seq.* The Board's regulations are found in Division 2, Title 16 of the California Code of Regulations (CCR). Duties of the Board include administration of the Architect Registration Examination (ARE) of the National Council of Architectural Registration Boards (NCARB), and enforcement of the Board's statutes and regulations. To become licensed as an architect, a candidate must successfully complete a written and oral examination, and provide evidence of at least eight years of relevant education and experience. BAE is a ten-member body evenly divided between architects and public members. Three public members and the five architects are appointed by the Governor. The Senate Rules Committee and the Speaker of the Assembly each appoint a public member.

MAJOR PROJECTS:

Regulatory Changes. BAE's proposed amendments to sections 121 and 124, Chapter 2, Title 16 of the CCR, were submitted to the Office of Administrative Law (OAL) on November 29 and were approved by OAL on December 18. The amendment to section 121 deletes the requirement that a candidate who fails in three attempts to pass the graphic building and/or site design oral assessment interview take the appropriate graphic design examination. The amendment to section 124 eliminates the requirement that a candidate bring photographs of completed work to an oral examination, and revises the scoring method for the oral examination from pass/fail by individual exam section to pass/fail for the oral exam as a whole. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 52 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 67 for background information.)

BAE's proposed amendments to section 125, Title 16 of the CCR, were approved by OAL on October 31. These amendments delete the appeal procedures for the graphic site design division of the licensing exam, specify the appeal procedures and deadlines for the graphic building design division of the licensing exam, and delete the provisions which allow for appeals on the content or format of the licensing exam. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 52 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 67 for background information.)

At its September 14 meeting, BAE agreed to publish a notice of proposed changes to section 134, Chapter 2, Title 16 of the CCR, in an effort to ensure that its advertising provisions concerning

architectural business names for partnerships are consistent with similar provisions relating to business names for corporations and sole proprietorships. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 52 for background information.) BAE held a public hearing on this proposed amendment on December 13. No oral or written testimony was received by the noticed deadline. BAE was scheduled to vote on the adoption of the proposed change at its January 18 meeting.

Implementation of AB 1005 Stamp Requirement. Effective January 1, 1991, architects are required to affix a stamp authorized by BAE to all plans, specifications, and other instruments of service when submitting them to a governmental entity for approval or issuance of a permit. Under the provisions of AB 1005 (Frazee) (Chapter 94, Statutes of 1990), the stamp must bear the licensee's name, his/her license number, the legend "licensed architect," and the legend "State of California," and the stamp must provide a means of indicating the renewal date of the license. BAE expects the stamping of such documents will assist in assuring the public that all licensees have had proper education and training and have passed examinations which demonstrate their basic level of competence. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 68 for background information on AB 1005.)

Because AB 1005 did not specify the stamp's design features, BAE has proposed the adoption of section 136, Division 2, Title 16 of the CCR, for the purpose of providing specific language describing the size, shape, and type of stamp. BAE held a public hearing concerning this matter on December 13, and the Board was scheduled to vote on the proposed adoption of the new regulation at its January 18 meeting.

FUTURE MEETINGS:

To be announced.

ATHLETIC COMMISSION

Executive Officer: Ken Gray
(916) 920-7300

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 Bill Malkasian, Raoul Silva, Ara Hairabedian, P.B. Montemayor, M.D., Jerry Nathanson, Thomas Thaxter, M.D., Charles Westlund, and Robert Wilson.

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:

Medical Advisory Committee Report. At the Commission's November 16 meeting, the Medical Advisory Committee presented its report and recommendations regarding, among other things, the vision requirements of Commission Rule 282, contact lenses, ringside physicians, and coagulants.

Section 282(a), Division 2, Title 4 of the CCR, contains vision requirements for professional and amateur boxers, which must be ascertained in periodic required eye examinations by an ophthalmologist. The regulation currently requires the Commission to deny, suspend, or revoke a license as a professional or amateur boxer if it determines that the applicant or licensee cannot safely engage in boxing activities because of a visual condition, including but not limited to the following: (1) uncorrected visual acuity of less than 5/30 in either eye, 20/200 in either eye, or 20/100 in both eyes; (2) corrected visual acuity of less than 20/60 in either eye (amblyopia), regardless of its cause; (3) a visual field of 30 degrees or less, extending over one or more quadrants of the visual field; (4) a cataract in either eye which reduces vision to 20/40 or less; (5) presence or history of retinal detachment or retinal tear (excluding choroidal tear), whether or not such condition has been treated; (6) presence of primary glaucoma, whether or not such condition has been treated; and (7) pres-

ence of aphakia or dislocated lens in either eye.

Based on recommendations from several ophthalmologist consultants, the Committee stated that the restriction on boxing activities due to vision less than 20/200 in one eye is too strict, since, for example, persons with vision of 20/200 are allowed to drive during the day. Therefore, the Committee recommended that section 282(a)(1) be amended to include only "uncorrected visual acuity of less than 20/400 in either eye."

The Committee also recommended that the Commission: (1) delete the visual field test required in section 282(a)(3), because a visual field examination is usually performed as part of the required neurological examination, and it would be redundant and costly to have to have it done by ophthalmologists as well; (2) delete section 282(a)(6) regarding glaucoma as grounds for license denial or revocation, because glaucoma that is under control should not be deemed as an ocular condition that prevents a boxer from fighting; and (3) amend section 282(a)(7) to include pseudophakia as grounds for license denial or revocation; this is a relatively new procedure whereby a new lens is attached to the eye in place of the old one, and any blow could detach the transplanted lens and cause blindness. The Commission approved these draft regulatory changes, and subsequently scheduled a February 15 hearing to entertain public comment.

The Committee also suggested that the Commission approve a new eye examination form to be completed by physicians; prohibit boxers from wearing hard or soft contact lenses while fighting, since lenses may become lodged in the eye and the movement of the lens within the eye could cause tearing and other complications; and amend the existing criteria for the visual field portion of the neurological examination to state that, if visual acuity is the only deficit and there is no evidence of an acquired neurological deficit, a visual field to 30 degrees or less, extending over one or more quadrants of the visual field, is criteria for failing the examination. At this writing, the Commission has not yet scheduled a public hearing on these draft regulatory changes.

Also, the Committee proposed the adoption of new section 288. This new regulatory section would implement AB 112 (Floyd) (Chapter 471, Statutes of 1989), which requires the Commission to adopt criteria for the approval of licensed physicians at boxing contests. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 43 for background information.) The Commission subsequently approved

draft provisions of new section 288, which require that Commission-appointed ringside physicians meet all of the following criteria: (1) he/she must be licensed as physicians or osteopaths by the state of California; (2) if the applicant has not previously served as a ringside physician, he/she must hold staff privileges in general medicine, general surgery, or emergency medicine at a general acute care facility approved by the Joint Commission on Accreditation of Hospitals; and (3) a new applicant must have precepted at six boxing events and received a satisfactory evaluation by the preceptor in at least five of the events, and must have attended two Athletic Commission ringside physician training clinics. Proposed section 288 was also scheduled for a February 15 public hearing.

Further, the Committee made the following recommendations:

- that the Commission make various changes to the physical examination form and the pre-fight exam form;

- that the Commission adopt fourteen specific duties of a ringside physician, including examining the boxers, examining the officials, monitoring and evaluating the medical conditions of the boxers, evaluating injuries, and rendering appropriate post-fight treatments;

- that the Commission require that two physicians be assigned to all boxing shows;

- that the Commission require ringside physicians to administer random checks of the coagulants used by cornermen, and recommended certain substances as acceptable corner coagulants, including ice, gelfoam, and petroleum jelly;

- that water be the only substance allowed to be ingested during a bout; and

- that a six-week rule replace the Commission's "indefinite suspension" rule for cuts, meaning that a boxer will remain on suspension for six weeks but that he may be cleared by a physician at any time during the six weeks. These recommendations have not yet been formally proposed or scheduled for a public hearing.

Update on Other Regulatory Changes. On October 24, the Office of Administrative Law approved the Commission's proposed amendments to section 220 and adoption of new section 279 of its regulations. (See CRLR Vol. 10, No. 4 (Fall 1990) pp. 54-55; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 69; and Vol. 10, No. 1 (Winter 1990) p. 54 for background information.) Amended section 220 permits the Commission to approve contracts not on its printed form, if entered into in another jurisdiction, without requiring that the parties be



REGULATORY AGENCY ACTION

nonresidents. New section 279 requires promoters to provide the Commission with the names, addresses, and telephone numbers of persons recording boxing contests, and copies of any available videotape or other reproduction of boxing contests made with that promoter.

RECENT MEETINGS:

At the Commission's November 16 meeting, Executive Officer Ken Gray reported that he attended the Association of Boxing Commissions' (ABC) meeting in New Jersey, as well as the New York Commission's Boxing and Medical Symposium. He reported that there is an interest in developing national standards for promoting boxing and the medical requirements applicable to the sport. Also, Gray reported that ABC is currently conducting studies to determine what, if any, correlations exist between boxing injuries and Alzheimer's disease.

Gray reported that a topic of discussion at the Medical Symposium was the correlation between facial injuries and neurological problems; the concern is over long-term effects which do not appear until many years after a person has stopped boxing.

FUTURE MEETINGS:

April 19 in Los Angeles.
June 21 in Sacramento.
July 19 in Los Angeles.

BUREAU OF AUTOMOTIVE REPAIR

Chief: John Waraas
(916) 366-5100
Toll Free Complaint Number:
1-800-952-5210

Established in 1971 by the Automotive Repair Act (Business and Professions Code sections 9880 *et seq.*), the Bureau of Automotive Repair (BAR) registers automotive repair facilities; official smog, brake and lamp stations; and official installers/inspectors at those stations. The Bureau's regulations are located in Division 33, Title 16 of the California Code of Regulations (CCR). The Bureau's other duties include complaint mediation, routine regulatory compliance monitoring, investigating suspected wrongdoing by auto repair dealers, oversight of ignition interlock devices, and the overall administration of the California Smog Check Program.

The Smog Check Program was created in 1982 in Health and Safety Code section 44000 *et seq.* The Program provides for mandatory biennial emissions

testing of motor vehicles in federally designated urban nonattainment areas, and districts bordering a nonattainment area which request inclusion in the Program. BAR licenses approximately 16,000 smog check mechanics who will check the emissions systems of an estimated eight million vehicles this year. Testing and repair of emissions systems is conducted only by stations licensed by BAR.

Approximately 80,000 individuals and facilities—including 40,000 auto repair dealers—are registered with the Bureau. Registration revenues support an annual Bureau budget of nearly \$34 million. BAR employs approximately 600 staff members to oversee the Automotive Repair Program and the Vehicle Inspection Program.

Under the direction of Chief John Waraas, the Bureau is assisted by a nine-member Advisory Board which consists of five public and four industry representatives. They are Herschel Burke, Carl Hughett, Joe Kellejian, Louis Kemp, William Kludjian, Vincent Maita, Alden Oberjuege, Gilbert Rodriguez, and Jack Thomas. The Governor recently reappointed Mr. Kludjian to a new term which will expire on June 1, 1994.

MAJOR PROJECTS:

Rulemaking Update. BAR has submitted several proposed regulatory changes to the Director of the Department of Consumer Affairs (DCA) for approval. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 56 for detailed background information on these changes.) At this writing, the provisions awaiting DCA's approval include the following:

- amendments which specify processing times for Smog Check Program mechanics' licensure applications, in compliance with the Permit Reform Act of 1981 (Government Code section 15374 *et seq.*);

- language clarifying the DCA Director's authority to adopt general performance standards applicable to inspections performed by lamp and brake stations;

- amendments establishing conditions for valid oral authorization by a customer for work to be performed in circumstances where written authorization cannot be obtained;

- amendments prohibiting dealers from billing on an invoice for items generically described as "shop supplies" or the like;

- a proposed rule allowing automotive repair dealers to charge customers for costs associated with the handling and disposal of toxic wastes from serviced vehicles; and

- amendments prohibiting engine changes that degrade the effectiveness of a vehicle's emission control system.

Following DCA review, the above-described regulatory changes will be submitted to the Office of Administrative Law (OAL) for approval.

Two other regulatory changes were approved by OAL on September 26. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 71 for background information on these changes.) Amendments to section 3303.2 establish processing times for various licenses issued by BAR, in compliance with the Permit Reform Act of 1981. As amended, section 3303.2 establishes a processing time of up to 70 days for institutions providing training to Smog Check Program mechanics. It also requires inspection of an applicant's training facility, and provides that the 70-day period may be extended to allow for the correction of any deficiencies discovered at the training site. A 45-day application processing timeframe was established for Smog Check Program inspectors and instructors.

New section 3340.18 allows BAR to certify test analyzer system calibration gases used by Smog Check stations and gas blenders who provide such calibration gases, in accordance with the Bureau's "Specifications and Accreditation Procedures for Calibration and Audit Gases Used in the California Emissions I/M Program" publication dated January 1990.

Federal Clean Air Act Amendments Enacted. On November 15, President Bush signed Congress' comprehensive Clean Air Act amendments. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 57 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 71 for background information.) The original Clean Air Act of 1970 required cities to achieve smog-free, healthy air by 1987; U.S. Environmental Protection Agency (EPA) enforcement measures received sharp criticism in 1989 when 96 cities had yet to meet that mandate. In response to the new legislation, which ends almost thirteen years of congressional inaction coinciding with dramatic air pollution increases and ozone depletion, the EPA is expected to adopt 27 major new regulations over the next two years. However, many environmentalists question the federal agency's ability to enforce the drastic pollution controls.

This legislation affects BAR by establishing deadlines for emissions reductions in seven California nonattainment areas, including San Diego and Los Angeles. However, the state's Air Resources Board (ARB) had already established sweeping tailpipe emissions