



the curriculum requirements of Board-recognized court reporting schools. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 104 and Vol. 10, No. 4 (Fall 1990) pp. 104-05 for background information.) Among other things, the changes would eliminate the 1,320-hour requirement in the area of shorthand, dictation, and transcription, to allow for the different pace of individual students. At its May 9 meeting, the Board noted that these changes are still in the discussion stage, and that the revisions must be adopted in accordance with formal rulemaking procedures and approved by the Office of Administrative Law (OAL) before they are effective.

Regulatory Update. Proposed new sections 2407, 2408, and 2409, Division 24, Title 16 of the CCR, which specify BCSR's processing times for considering and issuing permits pursuant to the Permit Reform Act of 1981, have been submitted to OAL for approval; at this writing, the Board is awaiting OAL's response. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 104-05 and Vol. 11, No. 1 (Winter 1991) p. 87 for background information.)

On March 1, BCSR released a modified version of new sections 2480 and 2481, which provide for the issuance of citations, fines, and orders of abatement to CSRs who violate BCSR's statute or regulations. The modifications resulted from comments received at a public hearing in February. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 105; Vol. 11, No. 1 (Winter 1991) p. 87; and Vol. 10, No. 4 (Fall 1990) p. 104 for background information.) The Board accepted comments on the modified version until March 20; at this writing, the rule-making file awaits review and approval by OAL.

LEGISLATION:

AB 2002 (Horcher), as amended May 7, would make numerous changes in BCSR's enabling act. Among other things, this bill would provide that all BCSR certificates shall expire on the last day of the birth month of the licensee, instead of on April 30 of each year; provide that gross negligence or incompetence in practice are grounds for discipline or denial of certification; and set forth additional grounds for discipline or denial of certification, including physical or mental incapacity to perform the duties of a CSR, and inability to perform those duties because of abuse of chemical substances or alcohol. This bill is pending in the Assembly Ways and Means Committee.

RECENT MEETINGS:

At BCSR's May 9 meeting, Executive Officer Richard Black announced that staff had compiled a booklet containing all of BCSR's statutes and regulations. Because the booklet is longer than originally expected, the Board approved a minimal charge to cover copying and mailing expenses. The booklet will not be copyrighted, and may be copied and distributed as desired, according to Mr. Black.

Also at its May 9 meeting, the Board agreed to recognize San Diego City College (SDCC), if an SDCC student passes BCSR's exam. Prior to this, the school has been on provisional recognition.

FUTURE MEETINGS:

August 24 in Sacramento.

STRUCTURAL PEST CONTROL BOARD

Registrar: Mary Lynn Ferreira
(916) 924-2291

The Structural Pest Control Board (SPCB) is a seven-member board functioning within the Department of Consumer Affairs. The SPCB is comprised of four public and three industry representatives. SPCB's enabling statute is Business and Professions Code section 8500 *et seq.*; its regulations are codified in Division 19, Title 16 of the California Code of Regulations (CCR).

SPCB licenses structural pest control operators and their field representatives. Field representatives are allowed to work only for licensed operators and are limited to soliciting business for that operator. Each structural pest control firm is required to have at least one licensed operator, regardless of the number of branches the firm operates. A licensed field representative may also hold an operator's license.

Licensees are classified as: (1) Branch 1, Fumigation, the control of household and wood-destroying pests by fumigants (tenting); (2) Branch 2, General Pest, the control of general pests without fumigants; (3) Branch 3, Termite, the control of wood-destroying organisms with insecticides, but not with the use of fumigants, and including authority to perform structural repairs and corrections; and (4) Branch 4, Roof Restoration, the application of wood preservatives to roofs by roof restorers. Branch 4 was enacted by AB 1682 (Sher) (Chapter 1401, Statutes of 1989), and became effective on July 1, 1990. An operator may be licensed in all four branches, but will usually specialize in

one branch and subcontract out to other firms.

SPCB also issues applicator certificates. These otherwise unlicensed individuals, employed by licensees, are required to take a written exam on pesticide equipment, formulation, application and label directions if they apply pesticides. Such certificates are not transferable from one company to another.

SPCB is comprised of four public and three industry members. Industry members are required to be licensed pest control operators and to have practiced in the field at least five years preceding their appointment. Public members may not be licensed operators. All Board members are appointed for four-year terms. The Governor appoints the three industry representatives and two of the public members. The Senate Rules Committee and the Speaker of the Assembly each appoint one of the remaining two public members.

MAJOR PROJECTS:

Board Proposes New Regulatory Action. At its April 5 meeting, the Board agreed to pursue proposed amendments to regulatory sections 1970.4 and 1983, and to adopt new sections 1990.1 and 1991.1, Division 19, Title 16 of the CCR. The amendments to sections 1970.4 and 1983 would add the term "fungicide" to numerous subsections which currently relate to the use of pesticides. Proposed section 1990.1 would establish new reporting requirements under Business and Professions Code subsections 8516.1(b) and 8516.1(c)(1)-(8); proposed section 1991.1 would establish additional requirements for reports required under Business and Professions Code subsection 8516.1(c)(8).

Also at its April 5 meeting, the Board unanimously agreed to seek amendment to Article 5 of its regulations, regarding the Wood Destroying Pests and Organisms Inspection Report requirements, to include a notice to consumers and to adopt into regulation the revised Standard Notice of Work Completed and Not Completed.

Board Adopts Roof Inspection Specific Notice. At its April 5 meeting, SPCB adopted Specific Notice No. III-1-91, regarding Branch 3 roof inspections. According to the Notice, "[i]nfestations or conditions visible from ground level or the attic must be reported (roof eaves, rafters, fascias, exposed timbers, exposed sheathing, exposed rafters and ceiling joists, and attic walls)." The Notice also states that the Board considers moss an uncontrollable moisture source and it should be reported. Further the Notice mandates that "[w]ater stains



and other evidence which may indicate a condition likely to lead to infection and infestation shall be reported with appropriate recommendations for correction or further inspection by the licensee." Finally, the Notice requires that "[i]f the subject roof covering is either wood shake or wood shingle and there is reasonable evidence to believe an infection of wood destroying organisms or non-decay fungi exists on the roof covering, the Branch 3 licensee must either inspect the roof covering, or state the roof covering was not inspected and recommend inspection by a Branch 4 Registered Company."

Board Adopts Specific Notice Concerning Inspection Reports. At its April 5 meeting, the Board unanimously adopted Specific Notice No. III-1-90, which specifies when Branch 3 inspection reports are not required. According to the Notice, inspection reports are not required when (1) a licensee returns to the property prior to the preparation of the Notice of Work Completed and Not Completed (a) to explain to the consumer/agent the recommendations on the inspection report when there are no new findings, or (b) to perform a quality control check on work in progress by the registered company when there is no change from the recommendation; or (2) a licensee returns to the property after the Notice of Work Completed and Not Completed has been prepared to (a) explain to the consumer/agent what work has been completed and if there are no changes from the findings other than those specified on the Notice of Work Completed and Not Completed, or (b) perform inspections in compliance with "control service agreement" provisions. According to the Notice, in any other case, whenever an opinion is rendered or a statement is made regarding the presence or absence of wood destroying pests, an inspection report must be issued and filed. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 107 for background information.)

Regulatory Changes Permitting Alternate Treatments. At its April 5 meeting, the Board held a public hearing on proposed amendments to regulatory subsections 1991(a)(8) and (9), which currently require structural pest control operators to exterminate all reported infestations of wood-destroying organisms by means of either fumigation or exposure of the infestation for local chemical treatment. The amended regulations would no longer limit operators to recommending fumigation or local chemical treatment, but would also allow for the use of other all-encompassing methods of treatment of the entire

structure, removing infested wood, or using any technology known to eradicate the infestation. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 106 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 122-24 for extensive background information on this issue.) SPCB's proposed amendments would also distinguish between the recommendations which must be made following a complete inspection as opposed to a limited inspection.

Following the April 5 hearing, the Board adopted the proposed amendments after making minor revisions to the proposed language. At this writing, the Board is preparing the modified text for an additional 15-day public comment period.

Update on Other Proposed Regulatory Changes. The following is a status update on other rulemaking packages recently adopted by the Board, and reported in detail in previous issues of the *Reporter*:

-Continuing Education Regulations. Board staff has submitted its July 1990 adoption of amendments to sections 1950, 1950.5, and 1953, relating to continuing education, to the Office of Administrative Law (OAL). (See CRLR Vol. 11, No. 1 (Winter 1991) p. 88 and Vol. 10, No. 4 (Fall 1990) p. 106 for background information on these regulatory changes.) At this writing, SPCB is awaiting OAL's decision.

-Building Standards Regulations. In January 1991, SPCB adopted by reference subsections 2516(c)(1), (2), (4), (6), and (6.1), Title 24 of the CCR, into section 1991 of its own regulations in Title 16 of the CCR. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 105-06 for background information.) At this writing, Board staff is still preparing the rule-making file for submission to OAL.

Disciplinary Guidelines and Model Disciplinary Orders. At its April 5 meeting, SPCB reviewed a manual of uniform disciplinary guidelines, conditions of probation, and model disciplinary orders, which has been created in order to establish consistency in discipline for similar offenses. According to the manual, the Board recognizes that these penalties and conditions of probation are merely guidelines and that administrative law judges (ALJs) must be free to exercise their discretion in such cases; however, the manual expresses the Board's desire that the guidelines be followed to the extent possible. The manual also requests that the ALJ hearing the case "include some explanation of any departure or omissions from the guidelines in the proposed decision so that the circumstances can be better understood

by the Board during its review of the case for ultimate action."

The manual also includes the following factors which SPCB believes should be considered in determining whether the minimum, maximum, or an intermediate penalty should be imposed in a given case: actual or potential harm to the public; actual or potential harm to any consumer; prior disciplinary record; number and/or variety of current violations; mitigation evidence; in the case of a criminal conviction, compliance with the terms of the sentence; overall criminal record; whether the conduct was knowing, willful, reckless, or inadvertent; the financial benefit to the respondent; evidence that the unlawful act was part of a pattern or practice; and whether the respondent is currently on probation. The manual notes that SPCB "does not intend that any one of the above factors be required to justify the minimum or maximum penalty as opposed to an intermediate penalty."

At the April 5 meeting, the Board directed its staff to evaluate the proposed disciplinary guidelines and submit them for the Board's review at its June meeting.

LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 2 (Spring 1991) at page 106:

AB 1767 (Gotch), as amended May 2, would revise the existing list of lethal fumigants; provide that simple asphyxiants, identified as liquid nitrogen and carbon dioxide, are not fumigants; and specify that SPCB shall establish and, as necessary, amend the list of simple asphyxiants and prescribe safety regulations for their use, storage, and application. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 89; Vol. 10, No. 4 (Fall 1990) p. 106; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 122-24 for extensive background information on this issue.)

This bill would also provide that, when a contract for roof restoration work is entered into, a copy of the applicable inspection report shall be filed with the Board at the time the report is delivered or not later than five working days after the date the inspection is made. This bill passed the Assembly on May 29 and is pending in the Senate Business and Professions Committee.

AB 1832 (Areias), as amended May 20, would add licensure as a structural pest control field representative for a period of at least one year (or equivalent training and experience) to the requirements for an original structural pest control operator's license. This bill passed



REGULATORY AGENCY ACTION

the Assembly on May 29 and is pending in the Senate Business and Professions Committee.

RECENT MEETINGS:

At its April 5 meeting, the Board unanimously voted to sponsor legislation to require Branch 4 licensees to identify wood-destroying pests in wood shake and shingle roofs, issue certifications, and perform reinspections; the legislation would also require Branch 4 licensees to recommend that treatment be performed by a Branch 3 licensee.

Also on April 5, SPCB unanimously adopted Policy No. L-6, Continuing Education Exemptions for Armed Services Personnel, which provides that "[a]ny licensee who permitted his/her license to expire while serving in any branch of the armed services of the United States during Operation Desert Storm may have one year from the date of discharge from the armed services or return to inactive status to earn the required continuing education points necessary to reinstate his/her license; provided the license was valid at the time the licensee entered the armed services, and the application for reinstatement is accompanied by an affidavit showing the date of discharge from the armed services or return to active status."

FUTURE MEETINGS:

September 4-5 in San Francisco.

TAX PREPARER PROGRAM

Administrator: Jacqueline Bradford
(916) 324-4977

Enacted in 1973, abolished in 1982, and reenacted by SB 1453 (Presley) effective January 31, 1983, the Tax Preparer Program registers approximately 19,000 commercial tax preparers and 6,000 tax interviewers in California, pursuant to Business and Professions Code section 9891 *et seq.* The Program's regulations are codified in Division 32, Title 16 of the California Code of Regulations (CCR).

Registrants must be at least eighteen years old, have a high school diploma or pass an equivalency exam, have completed sixty hours of instruction in basic personal income tax law, theory and practice within the previous eighteen months, or have at least two years' experience equivalent to that instruction. Twenty hours of continuing education are required each year.

Prior to registration, tax preparers must deposit a bond or cash in the amount of \$2,000 with the Department of Consumer Affairs. Registration must

be renewed annually, and a tax preparer who does not renew his/her registration within three years after expiration must obtain a new registration. The initial registration fee is \$50 and the renewal fee is \$40.

Members of the State Bar of California, accountants regulated by the state or federal government, and those authorized to practice before the Internal Revenue Service are exempt from registration.

An Administrator, appointed by the Governor and confirmed by the Senate, enforces the provisions of the Tax Preparer Act. He/she is assisted by a nine-member State Preparer Advisory Committee which consists of three registrants, three persons exempt from registration, and three public members. All members are appointed to four-year terms.

MAJOR PROJECTS:

Governor Names New Administrator. On May 2, Governor Pete Wilson announced the appointment of Jacqueline Bradford as the new Administrator of the Tax Preparer Program. Bradford, who previously served in the Business, Transportation and Housing Agency as Executive Development Program Manager, will receive an annual salary of \$55,208.

Program Moves to New Offices. The Tax Preparer Program recently announced its relocation to new offices at 400 R Street, Suite 3140, Sacramento, CA 95814.

RECENT MEETINGS:

The Advisory Committee has not met since December 13, 1988; the Program has been functioning without the Committee since the terms of all Committee members expired on December 31, 1988.

FUTURE MEETINGS:

To be announced.

BOARD OF EXAMINERS IN VETERINARY MEDICINE

Executive Officer: Gary K. Hill
(916) 920-7662

Pursuant to Business and Professions Code section 4800 *et seq.*, the Board of Examiners in Veterinary Medicine (BEVM) licenses all veterinarians, veterinary hospitals, animal health facilities, and animal health technicians (AHTs). The Board evaluates applicants for veterinary licenses through three written examinations: the National Board Examination, the Clinical Compe-

tency Test, and the California Practical Examination.

The Board determines through its regulatory power the degree of discretion that veterinarians, AHTs, and unregistered assistants have in administering animal health care. BEVM's regulations are codified in Division 20, Title 16 of the California Code of Regulations (CCR). All veterinary medical, surgical, and dental facilities must be registered with the Board and must conform to minimum standards. These facilities may be inspected at any time, and their registration is subject to revocation or suspension if, following a proper hearing, a facility is deemed to have fallen short of these standards.

The Board is comprised of six members, including two public members. The Board has eleven committees which focus on the following BEVM functions: continuing education, citations and fines, inspection program, legend drugs, minimum standards, examinations, administration, enforcement review, peer review, public relations, and legislation. The Board's Animal Health Technician Examining Committee (AHTEC) consists of the following political appointees: three licensed veterinarians, three AHTs, and two public members.

MAJOR PROJECTS:

AB 334 Defeat Results in "Dog-gyscam" Investigation. The controversy over animal teeth cleaning—which has pitted veterinarians against pet groomers for over three years—has taken a new twist which may result in bribery indictments.

After prolonged debate beginning in January 1988, BEVM adopted a rule in October 1988 defining the term "dental operation" to include animal teeth cleaning with motorized instruments. An animal "dental operation" may be performed only by a veterinarian or a vet-supervised AHT; thus, pet groomers are prevented from providing this service. However, the Director of the Department of Consumer Affairs (DCA) rejected the rule in March 1989, on grounds that vet fees for teeth cleaning are considerably higher than groomers' fees for the same service. After the Board was unable to overrule the DCA Director, it initiated a new rulemaking process and readopted the rule at its November 1989 meeting. The DCA Director neither approved nor rejected the rule, so it was forwarded to the Office of Administrative Law (OAL), which approved it in April 1990. However, that year, Assemblymember Bruce Bronzan carried a bill expressly permitting non-vets to perform animal teeth