



practice of veterinary medicine, and placed Dr. Bullock on five years' probation, subject to continuing education, reexamination, and a 90-day suspension. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 109 for extensive background information.) Dr. Bullock appealed BEVM's decision to the Los Angeles County Superior Court on the basis that among the findings listed by the Board in its decision were two counts of negligence which were mentioned during oral argument but not alleged in the Attorney General's 1988 accusation against Dr. Bullock. At a March 12 hearing, the Board stated that it would have reached the same penalty decision without considering the additional negligence charges. Superior Court Judge Ronald S. Sohigian ordered the Board to clarify the language in its decision accordingly. The Board complied and Judge Sohigian approved the decision with the new language on April 24; the decision, which assesses the same penalty stated above, became effective June 10.

Dr. Linda Hall, who suffers from dyslexia, is appealing the Orange County Superior Court's dismissal of her lawsuit against BEVM for its alleged failure to provide an adequate setting for her to take the practical exam. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 109; Vol. 11, No. 1 (Winter 1991) p. 91; and Vol. 9, No. 4 (Fall 1989) pp. 84-85 for background information.) Dr. Hall has filed her opening brief with the Fourth District Court of Appeal; the Attorney General's office has filed its responding brief and is awaiting Dr. Hall's reply brief. No date has been set for oral argument.

RECENT MEETINGS:

At BEVM's May 23-24 meeting in Sacramento, the Board reviewed its monthly enforcement statistical report for April; 32 complaints were opened during April, bringing the total for the first ten months of fiscal year 1990-91 to 330. The Board has collected \$5,650 in fines during this ten-month period, an increase over the \$4,652 received during fiscal year 1989-90.

Also at the May meeting, Executive Officer Gary Hill reported that the Board would be undergoing an internal audit by DCA during the month of July; a final report will be prepared by August 31. The auditors will examine the Board's cashiering system, its enforcement process, and its complaint review system.

FUTURE MEETINGS:

September 19-20 in Sacramento.
November 14-15 in Sacramento.

BOARD OF VOCATIONAL NURSE AND PSYCHIATRIC TECHNICIAN EXAMINERS

*Executive Officer: Billie Haynes
(916) 445-0793/(916) 323-2165*

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 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 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 licenses 65,018 LVNs with active licenses, 34,263 LVNs with delinquent active licenses, and 11,650 with inactive licenses, for a total LVN population of 110,931. The Board's psych tech population includes 13,681 with active licenses and 4,595 with delinquent active licenses, for a total of 18,276 psych tech practitioners.

MAJOR PROJECTS:

Permit Reform Act Regulations Approved. On May 3, the Office of Administrative Law approved the Board's adoption of sections 2508 and 2567, Title 16 of the CCR, which implement the Permit Reform Act of 1981, Government Code section 15374 *et seq.* The new regulations specify the Board's processing times for considering and issuing permits. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 110 and Vol. 11, No. 1 (Winter 1991) p. 91 for background information.)

Board Adopts Policy Regarding Applicants on Criminal Probation. At its May 9 meeting, the Board adopted the Enforcement Committee's recommendation that LVN/psych tech licensure applications shall not be denied based solely on the fact that an applicant is on criminal probation at the time of application. The Board also accepted the Com-

mittee's recommendation that applications submitted by applicants on criminal probation should be reviewed by the Enforcement Unit staff to determine eligibility for licensure. It is the Committee's belief that such a policy would assure equitable consideration of applicants with similar criminal histories.

Board Adopts Guidelines Regarding Criminal Convictions. At its May 9 meeting, the Board adopted the Enforcement Committee's proposed guidelines regarding criminal convictions. Under these guidelines, staff may approve applications submitted by applicants who have one conviction for driving under the influence (DUI); two DUI convictions within five years immediately preceding the date of application provided that the last conviction is not within 18 months of the application date; one misdemeanor conviction such as petty theft, insufficient funds, shoplifting, etc.; or two misdemeanor convictions within five years immediately preceding the date of application, provided that the last conviction is not within 18 months of the application date. However, the Board did not approve the Committee's recommendation that staff be permitted to approve applications submitted by applicants who have one conviction of welfare fraud or unemployment insurance fraud.

Computer Testing. The California Psychiatric Technician Computer-Administered Testing Program was implemented in April 1990. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 111; Vol. 11, No. 1 (Winter 1991) pp. 92-93; and Vol. 10, No. 4 (Fall 1990) p. 110 for background information.) At its May 10 meeting, the Board announced that, since implementation, a total of 1,187 candidates have been scheduled for the examination at the Sacramento and Los Angeles test facilities. As of April 19, the passage rate for first-time examinees was 80%.

Discipline Statistics. At its May 10 meeting, the Board reported that during the month of March, fifteen LVNs had been formally disciplined, including eight for drug-related violations. The Board also reported that violations by five psych techs resulted in disciplinary decisions.

LEGISLATION:

SB 664 (Calderon), as introduced March 5, would prohibit 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,



REGULATORY AGENCY ACTION

except as specified. This bill is pending in the Senate Business and Professions Committee.

AB 2116 (Hunter). Under existing law, the Department of Corrections and the Department of the Youth Authority are prohibited from appointing a person as a medical technical assistant unless the person is an LVN, RN, or has certain prescribed experience in the medical corps of the armed forces of the United States or the United States Public Health Service. These departments are authorized only to hire persons who are eligible for licensure and, as a condition of employment, must require that those persons obtain a license as a vocational nurse within six months of employment. As introduced March 8, this bill would require the departments to require those persons to obtain a license as a vocational nurse within twelve (as opposed to six) months of employment. This bill is pending in the Assembly Health Committee.

RECENT MEETINGS:

At its April 5 meeting, the Enforcement Committee reviewed the Board's disciplinary guidelines, which are intended to assist deputy attorneys general and administrative law judges in determining appropriate penalties for particular violations. The Committee authorized staff to submit proposed revisions to probationary terms and conditions to the Board's legal counsel and the Attorney General's office for review; these revisions will be submitted to the Committee at its next meeting. The Committee also authorized staff to make revisions to existing penalties and present proposed changes at the next Committee meeting.

At the May 9 Board meeting, the Board accepted the Education Practice Subcommittee's suggestion that it change its name to the Education and Practice Committee. Also in May, the Board reviewed the Education and Practice Committee's four functions. The first Committee function, relating

to education, requires the Committee to review relevant materials and make recommendations to the Board regarding the educational preparation of LVNs and psych techs. In addition, the Committee addresses curricular, faculty and clinical facility requirements, student policies, and other school issues.

The second Committee function is to monitor the practice of LVNs and psych techs. To fully execute this responsibility, the Committee must stay abreast of changing trends in health care, technological advances, and innovative practice. The Committee explores practice issues in all health care settings, including long-term, acute, mental health, home health, and other specialized areas. The Committee also reviews new procedures and techniques related to patient care.

The third Committee function is to direct the activities of the Examination Subcommittees, which review examination issues related to the National Council Licensure Examination for Practical Nurses and the psych tech computer-administered test.

The fourth function of the Committee is, in conjunction with the Board's legal counsel, to make recommendations to the full Board on interpretations of the laws related to the education and practice of Board licensees.

At the May 9 Board meeting, the Education and Practice Committee clarified the LVN's role in the insertion of weighted nasogastric tubes. The Committee determined that LVNs who have the knowledge, skill, and ability may insert weighted feeding tubes if the procedure is performed in an organized health care setting; the feeding tube does not extend beyond the pylorus; feeding tube placement is determined by X-ray; and the feeding tube is inserted only into conscious and responsive patients.

FUTURE MEETINGS:

September 12-13 in San Diego.
November 14-15 in Los Angeles.

the Department with the exclusive power to regulate the manufacture, sale, purchase, possession, and transportation of alcoholic beverages in California. In addition, the Act vests the Department with authority, subject to certain federal laws, to regulate the importation and exportation of alcoholic beverages across state lines. ABC also has the exclusive authority to issue, deny, suspend, and revoke alcoholic beverage licenses. Approximately 68,000 retail licensees operate under this authority. ABC's regulations are codified in Divisions 1 and 1.1, Title 4 of the California Code of Regulations (CCR). ABC's decisions are appealable to the Alcoholic Beverage Control Appeals Board. Further, ABC has the power to investigate violations of the Business and Professions Code and other criminal acts which occur on premises where alcohol is sold. Many of the disciplinary actions taken by ABC, along with other information concerning the Department, are printed in liquor industry trade publications such as the *Beverage Bulletin*.

The Director of ABC is appointed by, and serves at the pleasure of, the Governor. ABC divides the state into two divisions (northern and southern) with assistant directors in charge of each division. The state is further subdivided into 21 districts, with two districts maintaining branch offices.

ABC dispenses various types of licenses. "On-sale" refers to a license to sell alcoholic beverages which will be bought and consumed on the same premises. "Off-sale" means that the licensee sells alcoholic beverages which will not be consumed on the premises. Population-based quotas determine the number of general liquor licenses issued each year per county. No such state restrictions apply to beer and wine licenses.

MAJOR PROJECTS:

Bill to Increase ABC License Fees Defeated. In April, the Senate Governmental Organization Committee twice rejected SB 22 (Kopp), which—in its original form—would have increased certain ABC license fees by as much as 300%, with much of the money earmarked to add 200 enforcement officers to ABC's workforce. It also would have generated as much as \$50 million in general fund revenue to improve the state's budget deficit. Industry lobbyists vehemently opposed the fee increase proposal, which follows a recent federal excise tax increase and several proposed alcohol tax hikes at the state level. (See *infra* LEGISLATION for related information.)



BUSINESS, TRANSPORTATION AND HOUSING AGENCY

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Director: Jay Stroh
(916) 445-6811

The Department of Alcoholic Bever-

age Control (ABC) is a constitutionally-authorized state department established in 1955 (section 22 of Article XX, California Constitution). The Alcoholic Beverage Control Act, Business and Professions Code sections 23000 *et seq.*, vests