



that all speech pathologists be required to take continuing education in this area prior to license renewal.

Immittance Testing. At SPAEC's June 28 meeting, Committee Chair Robert Hall explained that position statements on aural acoustic immittance measurements have been approved by the American Speech-Language-Hearing Association (ASHA), the California Speech-Language-Hearing Association (CSHA), and California Speech Pathologists and Audiologists in Private Practice (CALSPAPP). According to the CSHA statement, the aural acoustic immittance test battery has one purpose: to assess auditory function by indicating the physical and physiological status of the eardrum, middle ear, cochlea, seventh and eighth cranial nerves, and the auditory pathway in the brainstem. It is not a test of hearing, and should only be performed by professionally-trained audiologists (not hearing aid dispensers).

Dr. Dennis Armst, present at the June meeting representing CALSPAPP and CSHA, stated that the terms "tympanometry," "impedance," and "immittance" have become used interchangeably, but are in fact different. Mr. Hall suggested the Committee take care to utilize the terms accurately, and noted that SPAEC and the Hearing Aid Dispenser Examining Committee (HADEC) adopted a joint statement in January 1990 to the effect that acoustic immittance testing for other than the purpose of fitting or selling hearing aids exceeds the scope of practice of a hearing aid dispenser. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 111 for background information.)

Speech Pathology Aides. At its June 28 meeting, SPAEC continued its discussion regarding speech pathology aides and problems of supervision. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 97 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 111 for background information.) The Committee decided to modify the aide application to clarify the licensee/supervisor's responsibilities. The question of multiple supervisors was also addressed. Discussion focused on who is ultimately responsible for services performed by the aide. SPAEC formed a subcommittee to research issues concerning aides.

LEGISLATION:

SB 664 (Calderon), as introduced March 5, would prohibit speech pathologists and audiologists, 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, except as specified. This two-year bill is pending in the Senate Business and Professions Committee.

RECENT MEETINGS:

At its June meeting, the Committee discussed a proposal to establish a standing subcommittee between SPAEC and HADEC to deal with ongoing issues of mutual interest. One issue of concern involves alleged misrepresentations in advertising by hearing aid dispensers. SPAEC is pursuing remedies, but the committees are in dispute over their respective jurisdiction to monitor violations. Although HADEC has expressed interest in the proposal, creation of the subcommittee has been delayed indefinitely due to committee member vacancies on HADEC. At SPAEC's September 6 meeting, Committee member Gail Hubbard reported that HADEC has only one dispenser member. (See *supra* agency report on HADEC for related discussion.)

SPAEC is currently in the process of developing a manual for use by Medical Board investigative staff in pursuing violations of the speech-language pathology and audiology laws and regulations. The manual will attempt to define the services provided by licensees in layperson's terms. Committee member Gail Hubbard had completed a draft encompassing the practice of audiology as of the September 6 meeting. She requested assistance from the speech pathologists on the Committee to complete a draft encompassing that specialty. The manual will also be used in implementing SPAEC's citation and fine regulations. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 79; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 111; and Vol. 10, No. 1 (Winter 1990) pp. 85-86 for background information.)

Also in September, SPAEC Executive Officer Carol Richards announced that she has asked legal counsel to draft language for possible inclusion in the Department of Consumer Affairs' 1992 omnibus bill to change SPAEC's licensure expiration date from December 31 of each odd-numbered year to a cyclical renewal system. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 97 for background information.)

FUTURE MEETINGS:

January 24 in San Diego.
April 16 in San Francisco.

BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

Executive Officer: Ray F. Nikkel
(916) 920-6481

Pursuant to Business and Professions Code section 3901 *et seq.*, the Board of Examiners of Nursing Home Administrators (BENHA) develops, imposes, and enforces standards for individuals desiring to receive and maintain a license as a nursing home administrator (NHA). The Board may revoke or suspend a license after an administrative hearing on findings of gross negligence, incompetence relevant to performance in the trade, fraud or deception in applying for a license, treating any mental or physical condition without a license, or violation of any rules adopted by the Board. BENHA's regulations are codified in Division 31, Title 16 of the California Code of Regulations (CCR). Board committees include the Administrative, Disciplinary, and Education, Training and Examination Committees.

The Board consists of nine members. Four of the Board members must be actively engaged in the administration of nursing homes at the time of their appointment. Of these, two licensee members must be from proprietary nursing homes; two others must come from nonprofit, charitable nursing homes. Five Board members must represent the general public. One of the five public members is required to be actively engaged in the practice of medicine; a second public member must be an educator in health care administration. Seven of the nine members of the Board are appointed by the Governor. The Speaker of the Assembly and the Senate Rules Committee each appoint one member. A member may serve for no more than two consecutive terms.

MAJOR PROJECTS:

Nursing Home Reform Act Update.

As a result of the recent settlement between the federal Health Care Financing Administration (HCFA) and California's Department of Health Services (DHS) regarding California's implementation of the federal Nursing Home Reform Act passed by Congress in 1987, HCFA is responsible for circulating guidelines implementing the federal reforms and compiling and circulating changes submitted by California and other states. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 98 and Vol. 11, No. 2 (Spring 1991) pp. 94-95 for background information.) At BENHA's August 14 meeting, BENHA Executive Officer Ray Nikkel informed the Board



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that HCFA has yet to release the proposed guidelines; Mr. Nikkel anticipated the release to be forthcoming and opined that the public comment period should begin in early October.

Examination and Enforcement Statistics. The pass rate for the April 11 state exam for nursing home administrators (NHA) was 73%; the national exam pass rate was 74%. On the July 11 NHA exam, the pass rates were 51% for the state test and 61% for the national exam.

From March 15 to July 31, BENHA received four citations from the Department of Health Services (DHS) for "AA" violations, which are violations of standards which lead to a patient's death, and 70 "A" violations, which seriously endanger a patient's safety with a substantial probability of death or serious bodily harm. BENHA conducted nine informal telephone counselling sessions and issued four letters of warning. Finally, BENHA received four accusations from DHS for review and requested seven accusations against NHAs.

In August, BENHA issued its notice of nursing home administrators whose licenses are suspended or revoked or who were placed on probation current through August 6; BENHA is required to publish this information pursuant to AB 1834 (Connelly) (Chapter 816, Statutes of 1987). (See CRLR Vol. 9, No. 3 (Summer 1989) p. 64; Vol. 9, No. 1 (Winter 1989) p. 58; and Vol. 8, No. 3 (Summer 1988) p. 71 for extensive background information.) Currently, 22 NHAs are on probation, nine of whom are presently working as the designated administrator of a nursing home in California.

LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at page 99:

AB 1615 (Hannigan). Existing law requires an administrator of a residential care facility for the elderly (RCFE), if other than the licensee of the facility, to successfully complete a prescribed certification program. As amended September 9, this bill requires that the certification program contain different requirements for an individual designated as an administrator who holds a valid license as a nursing home administrator, and for an individual who was both the licensee and administrator of the facility on or before July 1, 1991. AB 1615 was signed by the Governor on October 11 (Chapter 848, Statutes of 1991).

SB 679 (Mello), as amended September 10, authorizes courts to award

attorneys' fees and costs where it is proven by clear and convincing evidence that a defendant is liable for abuse of an elder or dependent adult, and that the defendant has been guilty of recklessness, oppression, fraud, or malice in the commission of the abuse. SB 679 was signed by the Governor on October 9 (Chapter 774, Statutes of 1991).

AB 1191 (Epple). As amended June 11, this bill would, with specific exceptions, require that a physician, prior to the administration of a physical restraint to a resident of a skilled nursing facility or intermediate care facility, seek consent from the resident (if he/she has the capacity to understand and make health care decisions) or the legal representative of the resident. For a resident who is unable to make health care decisions, as determined by the resident's physician, this bill would require a facility to conduct a physical restraint review process. AB 1191 is a two-year bill pending in the Assembly Ways and Means Committee.

AB 95 (Friedman), as amended May 15, would prohibit (except in an emergency) a long-term health care facility from using a physical restraint on a resident unless the facility has verified that the resident has given his/her informed consent, as specified, to the use of the physical restraint, and the informed consent has been documented by the physician in the resident's medical record. Additionally, this bill would require that skilled nursing and intermediate care facilities' written policies regarding patients' rights ensure that each patient admitted to the facility has the right to be free from any physical restraint which is not required for medical purposes, but is imposed for purposes of discipline or convenience, and is notified of this right. AB 95 is a two-year bill pending in the Assembly Ways and Means Committee.

SB 664 (Calderon), as introduced March 5, would prohibit nursing home administrators, 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, except as specified. This two-year bill is pending in the Senate Business and Professions Committee.

RECENT MEETINGS:

At BENHA's June 5 meeting, Executive Officer Ray Nikkel announced that he anticipates a closer working relationship with DHS' Licensing and Certification district offices. Mr. Nikkel

plans to attend a monthly staff meeting of each office so that he may deliver a brief overview of current activity involving the Board, discuss responsibilities within the scope of the Board, review the information available to BENHA and information the Board is interested in receiving, inform the district offices of BENHA's administrator-in-training expectations, and discuss other administrative issues. The meetings will be scheduled throughout the year and Mr. Nikkel will address the Board as they occur.

At its August 14 meeting, BENHA was introduced to Jim Conran, the new Director of the Department of Consumer Affairs. In his remarks to the Board, Conran stated that he is planning a very aggressive agenda toward quality care and consumerism, and that he expects every DCA board and bureau to be responsive to public protection and consumer need.

FUTURE MEETINGS:

To be announced.

BOARD OF OPTOMETRY

Executive Officer: Karen Ollinger
(916) 323-8720

Pursuant to Business and Professions Code section 3000 *et seq.*, the Board of Optometry is responsible for licensing qualified optometrists and disciplining malfeasant practitioners. The Board establishes and enforces regulations pertaining to the practice of optometry, which are codified in Division 15, Title 16 of the California Code of Regulations (CCR). The Board's goal is to protect the consumer patient who might be subjected to injury resulting from unsatisfactory eye care by inept or untrustworthy practitioners.

The Board consists of nine members. Six are licensed optometrists and three are public members. One optometrist position is currently vacant due to the June 3 resignation of Ronald Kosh.

MAJOR PROJECTS:

Disciplinary Guidelines. At its August meeting, the Board adopted Disciplinary Guidelines and Model Disciplinary Orders; at this writing, the Board's guidelines for the imposition and assessment of administrative fines and citations have not been finalized. The purpose of the guidelines is to establish consistency in disciplinary penalties for similar offenses, although mitigating or aggravating circumstances may necessitate variations in individual cases. The guidelines will be used by