



# REGULATORY AGENCY ACTION

hold a January 12 public hearing on its proposed citation and fine regulations.

*Topics Tabled to Subcommittee.* At its November meeting, SPAEC referred issues to its legislative subcommittee for further study and presentation at a future SPAEC meeting, including the following:

- whether acoustic emittance testing is actually the practice of audiology and beyond the scope of practice of a hearing aid dispenser; SPAEC will work with the Hearing Aid Dispensers Examining Committee (HADEC) on this issue;

- the number of clock hours of continuing education which should be required of SPAEC licensees;

- the possibility of amending the Business and Professions Code to prevent hearing aid dispensers from conducting hearing tests;

- the possibility of increasing the minimum statutory grade point average required for SPAEC licensure;

- a possible amendment to section 1399.157 of SPAEC's regulations to limit the number of clinical practicum units a student may apply to his/her overall units required for licensure; and

- whether out-of-state practitioners should be required to take the standard California licensing exam or whether an alternative exam or procedure would be acceptable.

## LEGISLATION:

*AB 459 (Frizzelle)*, which would have provided that a previously licensed individual may renew his/her license at any time after license expiration upon payment of applicable fees and completion of continuing education requirements, was dropped by its author.

*Proposed Legislation.* At its November 3 meeting, SPAEC approved a number of proposed legislative amendments to its enabling statute. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 71 for background information.) Although many of the proposals are technical and non-substantive, the Committee will recommend that the legislature enact several substantial changes to the Business and Professions Code, including the following:

- SPAEC will propose amendments to section 2531.4 of the Business and Professions Code, which would grant the Committee full authority to investigate and evaluate every applicant for a license to practice speech pathology or audiology, and to admit the applicant to the examination or to issue a license, in

conformance with existing law. Currently, SPAEC makes licensing recommendations to MBC's Division of Allied Health Professions (DAHP), which makes all final licensing decisions.

- SPAEC proposes to repeal section 2531.5 of the Business and Professions Code, which presently limits the authority of SPAEC to hear only contested cases or petitions for reinstatement, restoration, or modification of probation referred to it by DAHP.

- SPAEC proposes to add language to section 2532.2(c), which currently requires applicants to submit evidence of completion of supervised clinical experience with individuals representative of a wide spectrum of ages and communication disorders. The Committee proposes to add language stating that the clinical practice shall be under the direction of an educational institution approved by the Committee. Further, if the site of the clinical practice is a facility which is not a part of an approved educational institution, the educational institution must have an affiliation agreement with the facility providing clinical practice to students. According to the proposed language, the Committee may set forth guidelines for provisions to be contained in the affiliation agreements.

- Proposed changes to section 2533 of the Business and Professions Code would transfer from DAHP to SPAEC the final authority to refuse to issue, issue subject to terms and conditions, suspend, revoke, or impose conditions upon the license of a licensee if he/she has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

- Proposed section 2533.2(b) would authorize SPAEC to hear all matters, including but not limited to any contested case, or to assign any such matters to an administrative law judge (ALJ). According to the proposed section, if a contested case or petition for reinstatement, modification, or termination of probation is heard by the Committee itself, the ALJ who presided at the hearing shall be present during the Committee's consideration of the case and shall assist and advise the Committee.

- Section 2535.2 of the Business and Professions Code presently states that a license which has expired may be renewed at any time within two years after its expiration upon the filing of an

application for renewal on a form prescribed by the Committee and upon payment of the renewal fee in effect on the last regular renewal date. Under specified circumstances, the licensee would also be required to pay a prescribed delinquency fee as a condition precedent to renewal. SPAEC proposes to change the two-year period for renewal to a five-year period.

- The Committee also proposes to amend section 2531.05 to require HADEC to appoint one of its members to serve as a liaison to SPAEC; and to add section 2531.10 to require SPAEC to notify HADEC in advance of all Committee business concerning the fitting or dispensing of hearing aids.

- Finally, proposed changes to section 2535.4 of the Business and Professions Code would set forth the conditions that must be met before a person whose license has been expired for more than five years may apply for and obtain a new license.

At this writing, the Committee is looking for a sponsor for these proposals.

## FUTURE MEETINGS:

May 11 in Ontario.

July 6 in Sacramento.

September 28 in Burbank.

November 30 in San Diego.

## 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 Chapter 39, 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:

*Implementation of AB 1834.* At BENHA's December meeting, Education Committee Chair Dr. John Colen briefly discussed the implementation of the recommendations made by his committee regarding continuing education (CE) and the preceptor and administrator-in-training (AIT) programs. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 72 for background information on the recommendations of the Education Committee.)

Regarding continuing education, BENHA plans to take the following steps: (1) Executive Officer Ray Nikkel will track CE providers over the next two years to assess the effect of higher provider fees on the availability of CE courses; (2) the Executive Officer will also continue to review and approve CE home study courses that meet Board criteria for use in rural or isolated areas; and (3) no change is contemplated regarding the present requirement of forty hours of CE every two years.

Planned actions regarding the preceptor and AIT programs include the following: (1) the Executive Officer and Board secretary will review each AIT's quarterly report to assure that a minimum of twenty hours per week is being completed; (2) by July, the Board will convene a committee to review and revise regulations for educational standards at the baccalaureate level for entry into the AIT program; and (3) by June, BENHA will propose regulation changes to require visits to each AIT by a BENHA staff member. Nikkel admitted that budget change proposals to support added personnel to implement these

regulations are problematic, suggesting that AIT entrance fees be increased instead. Legal counsel Don Chang warned that any fee increase greater than \$100 would require a statutory amendment. Nikkel also noted that, in compliance with AB 1834, the agency had acquired two half-time enforcement positions for the next eighteen months.

#### LEGISLATION:

*AB 1886 (Quackenbush)* would provide that any person who has been directly responsible for planning, coordinating, directing, and implementing the patient care, physical plant, and fiscal administration of a distinct part skilled nursing facility (DP/SNF) of an acute care hospital in California for one year immediately preceding his/her application for a nursing home administrator's license, and who applies on or before July 1, 1990, shall be required to take the next scheduled nursing home administrator examination as a condition of licensure. This bill is pending in the Senate Appropriations Committee.

#### RECENT MEETINGS:

At BENHA's December meeting, Ray Nikkel reported on the midyear meeting of the National Association of Boards of Examiners of Nursing Home Administrators. He noted that a committee was being formed to analyze a NHA's duties and propose a standard NHA job description. He also noted that the association has published a booklet on the national exam for NHAs.

The results of the November licensing exams were announced: 62% of the examinees passed the state exam; 25% passed the national exam.

#### FUTURE MEETINGS:

To be announced.

#### BOARD OF OPTOMETRY

*Executive Officer: Karen Ollinger*  
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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 Chapter 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 members of the community at large.

#### MAJOR PROJECTS:

*Foreign Graduates.* In an attempt to address some of its problems regarding the licensure of applicants who have graduated from foreign optometric schools (see CRLR Vol. 9, No. 4 (Fall 1989) p. 73 and Vol. 9, No. 3 (Summer 1989) pp. 64-65 for background information), the Board took several actions at its December 14 meeting. First, the Board passed a motion allowing pre-1980 graduates of foreign optometric schools to take the state practical exam and the National Board of Examiners in Optometry (NBE) examination in any order within a five-year period. To accomplish this, the Board must repeal regulatory section 1535, which currently requires applicants for the California exam to successfully complete the NBE before taking the California practical exam. There may be a problem with limiting the application of this new procedure to foreign graduates. The Board's Regulation Committee was directed to prepare a draft of proposed regulatory language for discussion at the February meeting.

In addition to addressing the order in which the exams may be taken, the Board also passed a motion to review its entire exam scoring system. There was some discussion of requiring an overall score of 75% with no score under 65% on any one area, but the Board decided to have its Examination Committee, consisting of Dr. Applebaum and Dr. Chun, conduct a detailed review of the scoring system.

Also in connection with the foreign graduate problem, the Board passed a resolution to have the Board President assign a member to work as a liaison with Senator Roberti's office.

The Board has also been exploring ways of providing remedial education to assist foreign graduates in supplementing their education to meet California standards, without requiring them to duplicate the studies they have already successfully completed. In connection with this, J. E. Knox, Dean at the UC Berkeley School of Optometry, indicated he would be willing to rent the optometric clinic there on weekends and