



tial for abuse and fraud. The consensus of the Board was to attempt to limit the number of items which could be checked on each pad to one. The Board moved to table this discussion until its next meeting, when samples of the different types of pads currently in use would be made available for inspection.

Prescription Faxing. On October 25, the Board discussed whether it should take any action concerning the facsimile transmission ("faxing") of prescriptions. According to Deputy Attorney General William Marcus, current law allows the transfer of prescriptions by fax; but does not address the original transmission of a prescription by fax. The Board is concerned about the potential for fraud or mistake. The Board decided to table this matter, and wait until a pending Attorney General's Opinion is published.

Emergency Meeting. The Board held an emergency meeting on December 11 to discuss the resignation of Executive Officer Lorie Rice, effective February 1, 1990. The Board decided to appoint Patricia Harris as interim executive officer until the May 1990 meeting.

LEGISLATION:

The following is a status update on bills described in detail in CRLR Vol. 9, No. 4 (Fall 1990) at pages 75-76:

AB 1832 (Polanco) would have provided that any person who knowingly sells Syrup of Ipecac, any laxative, or any diuretic to another person who is under the age of eighteen is subject to either criminal action for a misdemeanor or a civil action brought by a city attorney, a county counsel, or a district attorney. This bill died in committee.

AB 1006 (Isenberg) would require health maintenance organizations to give written notice to all pharmacy providers in their service area of their intent to change the manner of payment for pharmacy services and to give those providers an opportunity to submit a bid to participate in the organization's panel of providers on the terms proposed. This bill is pending in the Senate Committee on Insurance, Claims, and Corporations.

AB 1177 (Kelley), as amended January 11, would amend section 4047.9 of the Business and Professions Code. Currently, this section requires a pharmacist to inform a patient orally or in writing of the harmful effects of a drug dispensed by prescription if the

drug poses substantial risk to the person consuming the drug when taken in combination with alcohol. This bill would include in that warning requirement any drug which may pose a substantial risk when taken in combination with other prescribed drugs. This bill is pending in the Senate Business and Professions Committee.

AB 1397 (Filante) would have required pharmacist consultation when an initial prescription is filled or when a pharmacist deems that a consultation is warranted. This bill died in committee.

AB 1986 (Ferguson), which would have created felony criminal and civil penalties for prescribing controlled substances to minors without the written consent of parents or guardians, died in committee.

Future Legislation. The Board may introduce legislation during the current legislative session regarding the scope of pharmaceutical care. Section 4046 of the Business and Professions Code currently allows pharmacists in certain licensed health care facilities to initiate, monitor, and adjust drug therapies, and to order related laboratory tests. The Board may propose to expand this statute to allow pharmacists in any practice setting to perform these tasks, under certain conditions. The Board's Ad Hoc Committee on Scope of Practice proposed that such activity be (1) regulated by protocol developed by the attending physician; (2) subject to the patient's authorization; and (3) in accordance with the Board's regulations.

At its October 25 meeting, the Board discussed the possibility of future legislation regarding the needle exchange issue. A coalition of advocates for people with AIDS recently called on the San Francisco Health Commission to support a citywide needle exchange program for drug addicts to help fight the spread of AIDS. The Commission then asked the Board to grant a license to San Francisco that would exempt the city from the state law forbidding dispensing syringes without a prescription. The Board denied this request because, in the opinion of a legislative analyst, the only way to legally allow needle exchange is to change state law. Therefore, the Board may propose to amend state law to allow such activity.

FUTURE MEETINGS:

May 30-31 (location undecided).

POLYGRAPH EXAMINER BOARD

Executive Officer: Dia Goode
(916) 739-3855

Until January 1, 1990, the Polygraph Examiners Board operated within the Department of Consumer Affairs. The Board had authority to issue new licenses and to regulate the activities of an estimated 655 examiners licensed in California. The Board's enabling act contained a sunset date of January 1, 1990.

During the fall of 1989, the legislature passed SB 1494 (Dills), which would have transferred the duties of the Board to the Department of Justice. However, the Governor vetoed the bill on October 2 (see CRLR Vol. 9, No. 4 (Fall 1989) p. 76 for background information). Thus, the sunset date in the Board's enabling legislation remained unchanged and the Board was abolished effective January 1, 1990.

BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Executive Officer: Darlene Stroup
(916) 920-7466

The Board of Registration for Professional Engineers and Land Surveyors (PELS) regulates the practice of engineering and land surveying through its administration of the Professional Engineers Act, sections 6700 through 6799 of the Business and Professions Code, and the Professional Land Surveyors' Act, sections 8700 through 8805 of the Business and Professions Code. The Board's regulations are found in Chapter 5, Title 16 of the California Code of Regulations (CCR).

The basic functions of the Board are to conduct examinations, issue certificates, registrations, and/or licenses, and appropriately channel complaints against registrants/licensees. The Board is additionally empowered to suspend or revoke registrations/licenses. The Board considers the proposed decisions of administrative law judges who hear appeals of applicants who are denied a registration/license, and those who have had their registration/license suspended or revoked for violations.

The Board consists of thirteen members: seven public members, one licensed land surveyor, four registered Practice Act engineers and one Title Act



engineer. Eleven of the members are appointed by the Governor for four-year terms which expire on a staggered basis. One public member is appointed by the Speaker of the Assembly and one by the Senate President pro Tempore.

The Board has established four standing committees and appoints other special committees as needed. The four standing committees are Administration, Enforcement, Examination/Qualifications, and Legislation. The committees function in an advisory capacity unless specifically authorized to make binding decisions by the Board.

Professional engineers are registered through the three Practice Act categories of civil, electrical, and mechanical engineering under section 6730 of the Business and Professions Code. The Title Act categories of agricultural, chemical, control system, corrosion, fire protection, industrial, manufacturing, metallurgical, nuclear, petroleum, quality, safety, and traffic engineering are registered under section 6732 of the Business and Professions Code.

Structural engineering and geotechnical engineering are authorities linked to the civil Practice Act and require an additional examination after qualification as a civil engineer.

There is currently one public member Board vacancy, due to the resignation of Lynn Morris in October.

MAJOR PROJECTS:

Typographical Errors on Civil Engineering Examination. The civil engineering licensing exam administered on October 27 contained typographical errors. The flawed question, worth a majority of the exam points, dealt with surveying and could not be answered correctly because an alignment number was wrong. Examinees were frustrated when they could not get the boundary lines in the question to meet. Approximately 950 individuals sat for the one-hour exam. The Board met in a closed session during its December 1 meeting in San Francisco to discuss the problem, and decided to proceed with the scoring of the exam giving credit to candidates who demonstrated an understanding of the principles involved and conducted a logical analysis. Two scorers will grade each exam, and the Board was scheduled to review the results at its January 26 meeting in San Diego prior to approving the list of candidates who passed and sending result letters. Candidates who fail the

exam will be permitted to take the April 20 exam for free and may also appeal to have their exam rescored. A letter was sent to all examinees on December 4 notifying them of the problem and explaining the Board's adopted solution.

Regulatory Changes. On November 15, PELS held a public hearing to consider a regulatory package containing amendments to sections 424 (experience credit), 443 (inspection of examinations), and 444 (examination appeal). The Board adopted the proposed amendments to sections 443 and 444 at its December 1 meeting. Section 424 was further modified after written comments from the public were considered. The Board was expected to adopt the proposed amendments to 424 at its January 26 meeting, and then forward the entire package to the Office of Administrative Law (OAL) for approval.

The Board recently published in the *Notice Register* a proposed change to section 407. The amendment would increase the application fees for structural, geotechnical, and professional engineers, and professional land surveyors. Renewal fees will also increase and the limit on the delinquency penalty for renewal will be removed. A hearing on this proposed change was scheduled for January 22 in Sacramento.

Comity. The Board's problems with comity have resulted from the California legislative requirement that applicants for licensure as California civil engineers pass separate examinations on seismic principles and engineering surveying. (See CRLR Vol. 7, No. 2 (Spring 1987) p. 66 and Vol. 7, No. 1 (Winter 1987) p. 58 for background information.) The state of Washington currently requires California civil engineers to retake the eight-hour national examination prior to licensure in Washington.

Concern over the potential for further deterioration of comity and reciprocity led to a meeting between representatives of the Washington licensing board and PELS on October 14 in San Francisco. The boards discussed a proposal under which Washington would remove its requirement that California civil engineers retake the national examination and also would proctor the California special civil examination as a courtesy to its licensees who seek California licensure. PELS is to pursue legislation exempting structural engineers otherwise eligible for comity licensure from the special exam. Both boards are to

seek exemption from additional exam requirements for civil engineers registered prior to January 1, 1988.

Public comment on this issue at the PELS Board meetings has been active. The California Council of Civil Engineers and Land Surveyors opposes the proposal. PELS is currently seeking an author for legislation to resolve the issue. On October 25, the Senate Business and Professions Committee conducted an oversight hearing on the Department of Consumer Affairs and selected boards within DCA. PELS was asked to appear before the committee and testify regarding the comity issue. Senator Greene stated that a bill pending in the legislature regarding the issue, SB 162 (Greene), will be held while the two boards attempt to work out an agreement.

LEGISLATION:

Three bills affecting PELS were introduced at the First Extraordinary Session of the California legislature at the beginning of November:

SBX 16 (Roberti) and *ABX 24 (Eastin)* are similar bills which would make it a misdemeanor or a felony for unlicensed architects, engineers, or contractors to offer or perform services for repair of damage caused to a structure by natural disasters for which a specified state of emergency is proclaimed by the Governor or for which a state of emergency or major disaster is declared by the President. The bills are urgency statutes aimed at preventing the victimization of persons suffering property damage as a result of the northern California earthquake of October 17. *SBX 16* is pending in the Senate Appropriations Committee, and *ABX 24* is awaiting a second reading in the Assembly at this writing.

SBX 24 (Lockyer) provides that an architect or engineer who voluntarily, without compensation or expectation of compensation, provides structural inspection services at the scene of a declared national, state, or local emergency caused by a major earthquake, at the request of a public official, shall not be liable in negligence for any personal injury or property damage caused by the good faith but negligent inspection of a structure for structural integrity or non-structural elements affecting health and safety. This immunity would not apply to cases of gross negligence or willful misconduct. *SBX 46* is an urgency statute aimed at encouraging the prompt



inspection of potentially dangerous structures. SBX 46 is pending in the Assembly Judiciary Committee.

The following is a status update of two-year bills described in CRLR Vol. 9, No. 4 (Fall 1989) at pages 77-78:

SB 162 (Greene). Existing law provides for the issuance of a professional engineer's license, without examination, to any person licensed in another state if his/her qualifications meet requirements for licensure in California. SB 162 would have prohibited the issuance of a civil engineer's license to any person who is licensed in another state, if that state requires a California engineer applying for a license in that state to take an examination. This bill was dropped by its author.

AB 439 (Lewis). Existing law requires that a lot line adjustment between adjacent parcels be reflected in a deed or record of survey, and be recorded. AB 439, which would have required that a record of survey of the lot line adjustment be filed if required by provisions of the Professional Land Surveyors' Act, died in committee.

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

AB 1537 (Bradley). Existing law requires that in any civil action concerning a claim of professional negligence, the plaintiff's attorney must attempt to obtain consultation with at least one appropriate professional who is not a party to the action. The attorney is then required to file a certificate declaring that, on the basis of the consultation, there is a reasonable cause for filing the action, or if the consultation was not obtained, why it was not. The attorney is not required to reveal the name, address, or telephone number of the person consulted. This bill, which died in committee, would have changed the nondisclosure rule and would have required the certificate to be signed by the professional and contain his/her name, address, and telephone number.

AB 1789 (Cortese) would add Chapter 8 (commencing with section 3081.1) to the Civil Code. This bill would give architects, engineers, and land surveyors a specified design professional's lien on real property for which a work of improvement is

planned, and for which a specified governmental approval is obtained. The amount of the lien would be limited to the lesser of the contract fee earned, pursuant to a written contract with the landowner for design, engineering, or planning services for a prospective improvement to the real property, prior to the commencement of the work of improvement, or the reasonable value of those services. This bill is pending in the Senate Committee on Insurance, Claims, and Corporations.

AB 709 (Bradley). The Professional Land Surveyors' Act provides that all maps, plats, reports, descriptions, or other documents issued by a licensed land surveyor or engineer must bear the seal or stamp of the licensee or registrant, including the expiration date of the license or registration. This bill, which died in committee, would have amended sections 8761, 8764.5, and 8801 of the Business and Professions Code to change every reference of "expiration date" to "renewal date."

AB 1748 (Chandler). Under current law, persons applying to become land surveyors who are registered as professional engineers, or have passed an engineer-in-training program, are exempted from taking the first part of the two-part examination. This bill would delete these exemptions and require a civil engineer to pass the first part of the exam and have one year of responsible field training and one year of responsible office training in land surveying as a condition of taking the second part of the examination. AB 1748 is pending in the Senate Business and Professions Committee.

AB 1162 (Ferguson). Pursuant to section 66448 of the Government Code, whenever a parcel map is required, the map must be based on a field survey performed in conformity with the Professional Land Surveyors' Act, or compiled from filed or recorded data under certain conditions. Violation of these provisions is a misdemeanor. This bill would amend Section 66448 to require that parcel maps be based upon a field survey in conformity with the Professional Land Surveyors' Act, but would permit a parcel map, when authorized by local ordinance, to be compiled from filed or recorded data based on a field survey made within the preceding five years. This bill is pending in the Senate Housing and Urban Affairs Committee.

SB 581 (Green), regarding surveys

performed for certain lot line adjustments between adjacent parcels, and which would have required such surveys to be conducted in conformance with provisions of the Professional Land Surveyors' Act, died in committee.

FUTURE MEETINGS:

April 27 in San Diego.

June 15 in Monterey.

July 27 in Sacramento.

September 14 in San Diego.

BOARD OF REGISTERED NURSING

Executive Officer: Catherine Puri
(916) 322-3350

Pursuant to the Nursing Practice Act, Business and Professions Code section 2700 *et seq.*, the Board of Registered Nursing (BRN) licenses qualified RNs, certifies qualified nurse midwifery applicants, establishes accreditation requirements for California nursing schools, and reviews nursing school curricula. A major Board responsibility involves taking disciplinary action against licensed RNs. BRN's regulations implementing the Nursing Practice Act are codified in Chapter 14, Title 16 of the California Code of Regulations (CCR).

The nine-member Board consists of three public members, three registered nurses actively engaged in patient care, one licensed RN administrator of a nursing service, one nurse educator and one licensed physician. All serve four-year terms.

The Board is financed by licensing fees, and receives no allocation from the general fund. The Board is currently staffed by 56 people.

MAJOR PROJECTS:

Board Approves California Participation in National Program. At its November 16 meeting, BRN approved a proposal from the National Council of State Boards of Nursing (NCSBN) to participate in a new program for nursing licensure testing. The new national program involves a computer adaptive testing model; California will be a field test site for the computer model.

National Licensing Exam Results. Also at its November meeting, BRN reviewed the results from the NCSBN licensing exam taken by California students in February 1989. California