



public hearing at the February Board meeting in San Francisco.

At its October 13 meeting, the Board held open elections for SPCB's officers. Dr. Irene Fabrikant, a public member of the Board since November 1985, was unanimously elected President, replacing James Steffenson. William Jones, an industry Board member since September 1986, was elected Vice-President. Both officers will serve for two years.

FUTURE MEETINGS:

May 4 in Orange County.

TAX PREPARER PROGRAM

Administrator: Don Procida
(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 Chapter 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.

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.

RECENT MEETINGS:

The Advisory Board has not met since December 13, 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). Effective May 1990, the Board will evaluate applicants for veterinary licenses through three written examinations: the National Board Examination, the Clinical Competency 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 Chapter 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 Animal Health Technician Examining Committee consists of two licensed veterinarians, three AHTs, and two public members.

MAJOR PROJECTS:

Teeth Cleaning Controversy. On March 22, 1989, Department of Consumer Affairs (DCA) Director Michael Kelley rejected BEVM's proposed regulatory section 2037, which would have clarified the term "dental operation" to include the use or application of any instruments or devices to any portion of an animal's teeth or gums for specified purposes, including preventive dental procedures such as the removal of tartar or plaque from an animal's teeth.

This section would have allowed such operations to be performed only by a licensed veterinarian or veterinarian-supervised AHT. It would not prevent dog groomers from providing the cosmetic service of cleaning an animal's teeth with a toothbrush, dental floss, gauze, or similar items. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 82; Vol. 9, No. 1 (Winter 1989) p. 66; and Vol. 8, No. 4 (Fall 1988) pp. 75-76 for detailed background information.)

In his March 22 letter, Mr. Kelley indicated that the restrictions imposed by proposed section 2037 on groomers' teeth cleaning activities would deprive the public of an affordable and valuable service. Apparently, one reason for Mr. Kelley's position is his finding that veterinarians' fees for cleaning teeth are much higher than fees charged by groomers for the same service. The Board recently wrote Mr. Kelley, asking the director to state his source of information on veterinarian fees for teeth cleaning. Mr. Kelley responded that his source was the public testimony included in the rulemaking file BEVM submitted for Office of Administrative Law (OAL) review.

The Board believes the veterinarian fees reported in the rulemaking file were overstated. BEVM's legal counsel Don Chang verified that only those who were opposed to section 2037 testified to fees charged by veterinarians during the rulemaking proceeding. Additionally, BEVM member Dr. Stiern conducted an informal survey of 106 veterinarians. His results indicate that vet fees for teeth cleaning are much lower than indicated in the public testimony. The Board plans to include this survey and additional public testimony in the rulemaking file when section 2037 is resubmitted.

At its November 29 meeting, the Board made what it considers to be non-substantial changes to proposed section 2037, and published these changes for the required fifteen-day public comment period.

Other Regulatory Action. On November 30, the Board held a public hearing on proposed amendments to regulatory section 2014, which would change grading of the California Practical Examination from fixed percentage to a criterion-reference scoring method. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 83 for the history of proposed amendments to section 2014.) Following the hearing, BEVM adopted the



amendments, which now await DCA and OAL approval.

In its statement of reasons, the Board maintains that the criterion-reference scoring method is a fairer and more accurate indicator of competency than the fixed percentage method of grading. More specifically, the Board states that the problem with using a fixed percentage is that it does not take into account the varying difficulty factor of successive examinations. Thus, the fixed percentage differentiates inconsistently between "competent" and "incompetent" candidates. As a result, this method is difficult to defend in a court of law.

The Board claims that using a criterion-referenced standard-setting procedure would be more appropriate, because (a) a candidate's performance would be compared with an absolute standard that represents the minimum competency needed for safe and effective practice, and (b) the Board can legally defend the cut-off score.

Reissuance of Licenses. Pursuant to section 4902 of the Business and Professions Code, veterinarians who are not practicing in California may allow their licenses to become delinquent for up to five years and reinstate it any time during that period without having to retake an examination, by paying the license renewal fee plus a delinquent fee. However, if the license is delinquent for over five years, the license may not be reinstated. The Board, however, may review and approve applications for license reissuance without examination. At its July meeting, the Board stated that applicants for reissuance must submit the following to the Board: (1) a current resume; (2) letters of good standing from all states in which licensed; (3) certification of any continuing education completed during the past five years; (4) letters of recommendation from at least two fellow practitioners; and (5) any association activities pertaining to veterinarian medicine.

At its October 13 meeting, the Board reviewed the information provided by four veterinarians in support of their applications for license reissuance without examination. The Board approved three of the applications. The Board decided to ask the fourth applicant for more information concerning his practice over the past few years.

BEVM Issues First Citation. During fall 1989, the Board issued its first cita-

tion under Business and Professions Code section 125.9 and its new citation and fine regulation, section 2043, Title 16 of the CCR. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 77 for background information.) The Board cited a veterinarian for practicing veterinary medicine in California with an expired license. As its October 13 meeting, the Board reviewed and granted the veterinarian's application for reinstatement. In addition to the fees for reinstating his license, the Board fined the veterinarian \$500 for practicing with an expired license.

Pet Stores Owned by Veterinarians. Last summer, BEVM received a letter from a California dog breeder, who argued that ownership of pet stores by veterinarians poses a conflict of interest. Pet stores often purchase puppies from "puppy mills" in the midwest. Pet stores can purchase puppies at a far lower price from these mills than from California breeders. The puppies from puppy mills are often ill or carry diseases which can infect healthy dogs. Veterinarians who purchase puppies from puppy mills would have to represent the puppies as healthy in order to sell them. This situation, the breeder claimed, creates a conflict of interest.

At its October 13 and November 29 meetings, the Board responded to the breeder's contention. The Board recognized that it does not have the authority to prohibit veterinarians from owning pet stores. While the sale of sick puppies by veterinarians who represent the dogs as healthy is unethical and potentially fraudulent, the Board cannot prevent vets from owning pet stores. However, the Board may require veterinarian-owners to register these stores with the Board if they intend to establish a primary practice on the premises.

Detailed Practice Standards. Last summer, the California Veterinary Medical Association (CVMA) completed detailed practice standards for small animals, food animals, and equines. The Board recently decided not to adopt the standards as regulations, in light of the fact that detailed justifications for each standard would be required in order to secure OAL approval. Instead, CVMA has published them as industry standards only.

LEGISLATION:

The following is a status update on bills reported in CRLR Vol. 9, No. 4

(Fall 1989) at page 84:

AB 786 (Polanco) would require a pet dealer, as a condition of sale of a dog and at intervals of not less than fourteen days until the dog is sold, to provide for an examination of the dog by a licensed veterinarian; and would provide remedies for purchasers if, within fourteen days of the sale of a dog by a pet dealer or breeder, the dog becomes ill or dies of any illness which existed in the dog at the time of the sale, or, within one year, a licensed veterinarian certifies a dog to be unfit for purchase due to specified conditions. This bill is pending in the Senate Judiciary Committee.

AB 916 (Kelley), which would have amended sections 4826 and 4830 of the Business and Professions Code to state that a person practices veterinary medicine if he/she provides consultant veterinary services to more than one privately held animal-owning client, died in committee.

Future Legislation. The Board is considering whether to propose legislation to amend the definition of veterinarian practice in section 4826(c) of the Business and Professions Code to include "[administration of] a drug, medicine, appliance or application or treatment of whatever nature for the prevention, cure or relief of a wound, fracture, or bodily injury or disease of animals, or condition...." The Board believes that this change may be necessary to regulate recent advances in veterinary medicine that do not fit within the current definition of veterinarian practice. Among these advances are chiropractic treatment, cosmetic bonding of teeth, and cosmetic surgery.

The Board has appointed a committee to investigate the benefits and costs of implementing a mandatory continuing education (CE) program. As currently envisioned, all licensed veterinarians would be required to participate in this program. However, the Board would only audit compliance with the program for those veterinarians against whom the Board has received complaints. Based on the committee's findings, the Board will decide whether to sponsor legislation in 1991 to authorize the Board to implement a CE program.

LITIGATION:

In *Hall v. Kelley*, Linda Hall, a dyslexic, has sued BEVM for its alleged failure to provide an adequate setting for her to take the California Practical Exam. (See CRLR Vol. 9, No. 4 (Fall



1989) pp. 84-85 and Vol. 8, No. 4 (Fall 1988) p. 76 for detailed background information.) The Attorney General's Office has filed a motion to remove this case to federal court, and has also filed a motion for dismissal. The hearing on these motions was scheduled for January 29.

RECENT MEETINGS:

BEVM currently provides letters of good standing upon request by California veterinarians planning to practice in another state. At the Board's October 13 meeting, BEVM staff reported that requests for such letters have substantially increased. The staff also stated that a significant amount of time and effort is required to perform the background check necessary before these letters are issued. For these reasons, the staff proposed that a \$10 fee be charged for this service. Board legal counsel Don Chang stated that this activity arguably can be termed as "reviewing history." Therefore, the staff could charge up to \$25 to process these requests pursuant to section 122 of the Business and Professions Code. The Board approved the \$10 fee.

In July, the staff received a call from an AHT examination candidate, who reported that she had received an anonymous call offering her the August AHT licensing exam for \$25. DCA's Division of Investigations performed an investigation, which did not verify the report. In spite of the investigation findings, the staff reported at BEVM's October 13 meeting that it has prepared a report on exam protocol detailing examination procedure from exam preparation to destruction.

Section 4853 of the Business and Professions Code states that all premises where veterinary medicine, veterinary dentistry, or veterinary surgery is being practiced shall be registered with the Board. At its November 29-30 meeting, the Board clarified the application of this code section to clinics at pet stores and other locations not certified by the Board. If a veterinarian has a premises registration for a clinic or hospital, and uses a pet store or other location for satellite operations, the veterinarian is not required to register these satellite locations with the Board.

FUTURE MEETINGS

May 3-4 in Sacramento.

July 5-6 in San Diego.

BOARD OF VOCATIONAL NURSE AND PSYCHIATRIC TECHNICIAN EXAMINERS

*Executive Officer: Billie Haynes
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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 Chapter 25, Title 16 of the California Code of Regulations (CCR). The Board currently licenses approximately 65,795 LVNs with active licenses, 27,000 LVNs with delinquent active licenses, and 11,000 LVNs with inactive licenses, for a total LVN population of 103,795. The Board's psych tech population includes 13,400 with active licenses and 4,000 with delinquent and inactive licenses, for a total of 17,400 psych tech practitioners.

Current Board members include Kathleen Fazzini Barr, LVN (President), Frances Junilla, LVN, Gwendolyn Hinchey, RN, Bruce Hines, PT, Kenneth G. Audibert, PT, and public members E. Charles Connor, Betty Fenton, Patricia A. Lang, Helen Lee, and Manuel Val. It was announced at the Board's November 17 meeting that Deloyce Arrington, LVN (Vice-President), has resigned.

MAJOR PROJECTS:

Fee Increase Possibility Looms Again. Debbie Ochoa, budget analyst for the Department of Consumer Affairs (DCA), presented additional alternative fee structure options at the Board's November 17 meeting. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 85 for back-

ground information.) Effective January 1, 1990, all fees will be at their statutory maximums. It is projected that at the Board's current level of expenditures, the income obtained by the recent fee increase will not keep the Board solvent by 1991. The selection of a fee structure was deferred until the Governor's budget is presented in January 1990.

Update on Computer Aided Testing.

The validation studies for computer aided testing for PTs have been completed. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 85; Vol. 9, No. 1 (Winter 1989) p. 68; and Vol. 8, No. 4 (Fall 1988) p. 77 for background information.) The projected implementation date for the PT computerized testing is April 1990. Testing centers will be located in Sacramento and Los Angeles, and will enable the Board to provide year-round testing for PT candidates.

Implementation of Automated Cashiering System. All renewal fees received as of October have been processed by DCA's new central cashiering unit. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 86 for background information.) Twenty working days is the current renewal processing time, and confirmation receipts are being sent to licensees as soon as their monies are received, enabling them to continue working and retain their jobs.

LEGISLATION:

The following is a status update on bills described in detail in CRLR Vol. 9, No. 4 (Fall 1989) at page 86:

SB 368 (Torres), which would define "nursing hours" as the number of hours of work performed per patient per day by aides, nursing assistants, orderlies, RNs, or LVNs, is pending in the Assembly Health Committee.

AB 395 (Felando), which would have required all hemodialysis technicians, LVNs, and RNs who provide services to dialysis patients in a patient's home to be held to the same requirements as when they provide health care services to dialysis patients in a clinic, died in committee.

RECENT MEETINGS:

During the public comment period of the Board's November 17 meeting, representatives from the Service Employees International Union, the California State Employees Association, the Service Employees Union, and the Executive Director of the California LVN Association presented their concerns