



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 (916) 445-0793

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



about the Board's fee increase proposal. They stated that prior to the implementation of such an increase, which they fear will be an extreme hardship on licensees, an analysis of the Board's expenditures should be completed. The representatives stated that in their research they discovered that the

Board's expenditures had sharply increased this year without explanation. The Board thanked the representatives for their input but could not comment at that time.

FUTURE MEETINGS:
May 10-11 in Sacramento.



BUSINESS, TRANSPORTATION AND HOUSING AGENCY

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Director: Jay Stroh
(916) 445-6811

The Department of Alcoholic Beverage 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 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. ABC's regulations are codified in Chapter 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 licenses issued each year per county.

MAJOR PROJECTS:

Voter Initiative to Increase Alcohol Tax. Assemblymember Lloyd Connelly is behind an initiative called the Alcohol Tax Act of 1990, which—if passed by the voters—would amend the California Constitution and impose a five-cent excise tax on alcoholic beverages. This tax would be levied per each unit of alcohol sold by a liquor manufacturer, wine grower, or importer within California. A unit is defined as twelve ounces of beer, five ounces of non-fortified wines, three ounces of fortified wines, or one ounce of distilled spirits. Fortified wine is defined as wine containing at least 14% alcohol by volume, which is aged for at least two years, and which has wine spirits, brandy, or alcohol added during the production process.

The so-called "nickel-a-drink" initiative, if passed, would also create the Alcohol Surtax Fund. Revenue from the five-cent excise tax, which is expected to top \$800 million per year, would be placed into the newly created fund. Twenty-four percent of the money in the Fund would provide financial support for programs designed to prevent and treat alcohol- and other drug-related problems. Another 25% of the Fund's revenues would go to provide emergency and trauma care necessary due to alcohol or drug affliction. Additionally, 21% may be expended to ensure that laws prohibiting driving under the influence of alcohol or drugs are enforced.

Fifteen percent of the funding would assist women, children, and other victims of alcohol and other drug abuse. Another 15% would be used in community mental health programs.

The initiative has already been submitted to the Attorney General's Office, and is currently being circulated for signatures.

Ongoing Investigations. Usually in response to citizen complaints or law enforcement tips, ABC agents initiate undercover investigations. Typically, they investigate licensees who may be selling alcohol to obviously intoxicated people or minors. Also under investigation are ABC licensees—usually retail liquor stores—which illegally sell drug paraphernalia.

ABC is also presently undertaking a major investigation regarding possible violations of license transfer restrictions. These restrictions prohibit the resale of a general liquor license within five years of its issuance if the purchase price is higher than \$6,000 (which is the original purchase price). In addition, there is a general prohibition against reselling a license at all within the first two years of issuance. Although it is widely believed that these restrictions are frequently violated, proving the violation is difficult.

However, in Orange County, a business opportunity broker (one who brings potential license buyers and sellers together) and a prominent attorney were recently arraigned on felony counts for alleged license transfer violations. In one transaction, the buyer was told that the license would cost \$46,000. Disgruntled over the amount, the buyer contacted ABC, which investigated the case and exposed the broker and attorney. As a result of the Orange County case, ABC is now investigating on a wider scale license transfers conducted within the last three years.

LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 9, No. 4 (Fall 1989) p. 87:

AB 213 (Floyd), which would repeal certain provisions of the Penal Code regarding the sale of alcohol near certain institutions, is pending in the Senate Committee on Governmental Organization.

AB 151 (Floyd), which would require applicants for an alcoholic beverage license to post a notice of intention to engage in the sale of alcoholic beverages at each entrance of the premises