



**Regulatory Recap.** On September 19, OAL approved SPCB's proposed changes to sections 1948 and 1997, Chapter 19, Title 16 of the CCR, which increase licensing fees effective July 1, 1990 for numerous items, including duplicate licenses, change of branch office address, change of bond or insurance, inspection report filing, and application examination. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 124 for background information.)

On September 20, OAL approved the Board's proposed changes to section 1992 of its regulations, which will require the name of the person or agent who requested or authorized the completion of secondary treatment to be included on any billing or completion document, to ensure that all interested persons are aware of the individual or company who requested a secondary treatment in lieu of a primary treatment. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 124 for background information.)

On July 20, OAL disapproved the Board's proposed addition of section 1990(c) to its regulations, which pertains to structural inspections for wood destroying pests or organisms. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 125 for background information.) SPCB had proposed to add the regulation to require that an inspection also covers wood decks, wood patios, and other similar structures which touch or connect with the structure being inspected, unless the report is a "limited report." OAL disapproved the proposed amendments on grounds that SPCB failed to comply with the clarity standard of Government Code section 11349.1, failed to summarize and respond to each public comment made regarding the proposed action, and failed to include in the rulemaking file all required documents.

#### LEGISLATION:

**AB 4050 (Sher)**, as amended August 28, would have required the registration of a structural pest control device, as defined, with the state Director of Health Services before the device may be used or offered for sale in this state, and would have made it unlawful to manufacture, deliver, distribute, sell, possess, or use any such device which is not registered. This bill also would have required a registered company, upon receipt of a prescribed written complaint from a customer during a guarantee period for pest control work, to conduct a reinspection for not more than the price of the original inspection or \$100, whichever is less, within a reasonable

time, and to treat the premises to eradicate an infestation covered under the guarantee at no additional cost or refund the original amount paid. This bill was vetoed by the Governor on September 30.

#### RECENT MEETINGS:

At its July 12 meeting, the Board adopted a Technical Advisory Committee recommendation that an inspection report should be issued whenever an inspector goes to a property or expresses an opinion, except when performing a quality control inspection, or when reviewing and clarifying to a consumer an existing report prior to issuance of a notice of work completed. In conjunction with this action, the Board agreed to send a specific notice to all Branch 3 licensees indicating that inspection reports are not required under the following circumstances: (1) if a company representative returns to the property prior to the Notice of Work Completed and Not Completed being prepared; (2) when a company representative meets with the consumer/agent to explain what work is required or has been completed (after the initial inspection) and there is no change from the initial findings; (3) when clarification of the original inspection form is required; (4) when a representative of a registered company is performing a quality control check on work performed or in progress; and (5) when inspections are performed in compliance with "control service agreement" provisions. In any other case where an opinion is rendered or a statement is made regarding the presence or absence of wood-destroying pests, a report must be issued and filed.

#### FUTURE MEETINGS:

January in Monterey (date to be announced).

#### TAX PREPARER PROGRAM

*Administrator: Don Procida*  
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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 com-

pleted 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.

#### LEGISLATION:

**AB 3242 (Lancaster)**, as amended July 27, is the Department of Consumer Affairs' omnibus bill. The bill prohibits the use of experience gained in violation of the Tax Preparer Act towards a tax preparer's or tax interviewer's registration requirements; changes the existing two-year registration renewal system to an annual renewal requirement of registration for tax preparers and tax interviewers; and provides that a tax preparer who does not renew his/her registration within three years of its expiration must obtain a new registration. This bill was signed by the Governor on September 21 (Chapter 1207, Statutes of 1990).

#### 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*  
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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.

On September 5, Assembly Speaker Willie Brown announced his appointment of Alice Suet Yee Barkley of San Francisco as a new BEVM public member. Barkley, whose term expires in June 1994, is an architect and an attorney.

## MAJOR PROJECTS:

*Required Continuing Education.* At BEVM's July 5 meeting, the Board continued its discussion on whether to seek legislation permitting it to require continuing education as a condition of license renewal. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 127 and Vol. 10, No. 1 (Winter 1990) p. 98 for background information.) BEVM's Continuing Education Committee reported on meetings it had conducted with representatives from the Board of Pharmacy and the Board of Dental Examiners regarding their CE requirements.

At the July meeting, the Board discussed a proposal to require veterinarians to take fifty hours of approved required continuing education (RCE) every two years. The July discussion focused on whether the Board should approve RCE courses, or whether it should rely on the accreditation processes of the American Veterinary Medical Association (AVMA) and other professional organizations. Executive Officer Gary Hill noted that the costs to the Board would be minimal if BEVM were to utilize national and state associations as the approving bodies for providers and courses. Several representatives from the California Veterinary Medical Association (CVMA) urged the Board to

"keep it simple" and allow outside entities (such as AVMA and CVMA) to approve courses, as is done by the Pharmacy Board and the Medical Board. BEVM instructed Department of Consumer Affairs (DCA) legal counsel Greg Gorges to prepare draft RCE language to be discussed at the Board's September meeting.

At its September 13 meeting, BEVM addressed Gorges' draft language. Pursuant to new Article 5.5 (commencing with section 4906) of the Business and Professions Code, all licensed veterinarians would be required to complete fifty hours of approved RCE every two years. The Board may publish a list of professional associations, organizations, and educational institutions which it approves to provide RCE to veterinarians for credit. Vets would be required to report compliance with RCE requirements under penalty of perjury at time of license renewal; under the proposed language, the Board may randomly audit a sample of veterinarians who have reported compliance. Vets would be required to retain documentation of RCE compliance for a minimum of four years.

The September discussion centered around whether vets may obtain RCE credit through correspondence courses or video cassette tapes; BEVM instructed Mr. Gorges to draft language allowing the Board to adopt regulations permitting alternative methods of fulfilling RCE requirements (up to a maximum number of hours). Board members suggested several other changes to the proposed legislative language; BEVM was scheduled to resume its discussion of this matter at its November meeting.

*Legend Drug Program Update.* At its July 5 meeting, BEVM reviewed a draft final report on the Board's participation in a study sponsored by the federal Food and Drug Administration (FDA) to track the extent of abuses in the distribution and administration of veterinary legend drugs (LD), and the levels of LD residues in food animals. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 126-27 and Vol. 9, No. 4 (Fall 1989) p. 83 for background information.) FDA hopes that the study will result in a comprehensive nationwide program to combat and control the illegal sale and abuse of LD and the escalating problem of excessive drug residues in the food animal chain.

The Board's function was to set up a program for inspection of veterinary facilities, veterinary hospitals, wholesale veterinary drug suppliers, and pet stores, in order to identify individuals or businesses that are abusing the use of veterinary prescription drugs. BEVM's goals

were to identify those drugs most often found in violation; identify the sources of illegal legend drugs and extra-label over-the-counter (OTC) drugs; identify livestock producers and others found in violation; use education as well as enforcement to obtain compliance; and reduce the incidence of illegal drug use, drug residues, and drug misuse.

As of June 30, the BEVM investigative team had inspected 191 veterinary hospitals, 151 veterinary clinics, 6 drug distributors, 3 feed and supply stores, and 73 pet stores. The Board documented a total of 218 violations, and made 6 successful buys of illegal drugs. All of the successful buys were made from veterinarians and veterinary clinics. Those violators have been or will be served with citations under the Board's cite and fine program.

As a result of BEVM's participation in this study, program manager Robert C. Goulding, DVM, made several recommendations. First, he noted that the Milk and Dairy Foods Branch of the California Department of Food and Agriculture has adopted stringent LD labeling requirements which, Dr. Goulding believes, are more suited to the smaller dairies of 50-100 cows in the rest of the country than to the larger dairies (1,000-6,000 cows) common in California. The regulations require that all LD in dairies be labeled with the name and address of the prescribing veterinarian, directions for use, and any cautions deemed necessary. This requirement is easy to comply with in small dairies where single vials are common, but difficult in California where multiple-vial packages are often used. California's pharmacy laws limit labeling and relabeling of drugs to manufacturers, pharmacies, and licensed physicians. In California, the largest suppliers of veterinary drugs to the livestock industry are veterinary drug wholesalers who, authorized by the attending veterinarian, ship large quantities of LD to dairies, feed lots, and commercial cattlemen. To resolve this problem, Dr. Goulding recommended that the Pharmacy Board consider modifying its laws to allow the relabeling of prescription drugs by veterinary drug wholesalers when such relabeling is requested by a veterinarian who has a doctor/client/patient relationship with the dairy and/or other livestock enterprise, and submits the authorization in writing to the wholesaler.

Dr. Goulding also suggested that any out-of-state mail order drug company be required to have an office of designated person within California, who would be responsible for ensuring compliance with California laws and regulations.



Finally, Dr. Goulding recommended that the Board of Pharmacy create a specialty license for veterinary pharmacology; or that the use and control of all animal drugs be placed under the jurisdiction of BEVM, which should issue special permits to sell veterinary drugs. He also stated that lay people—that is, non-veterinarian owners of food producing animals—should be prohibited from using any drug on food producing animals when consumed by the public, unless authorized by a veterinarian. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 127 for background information on BEVM's previous discussion of this issue.)

Following Dr. Goulding's presentation, the Board approved his draft report and directed that it be forwarded to FDA.

*Occupational Analysis of Veterinary Medicine.* At its July and September meetings, BEVM discussed an upcoming occupational analysis of the veterinary profession to be conducted by DCA's Central Testing Unit (CTU). Nick Fittinghoff of the CTU attended the Board's September 14 meeting to explain the project methodology, which includes two-hour interviews with up to fifty veterinarians chosen to represent all aspects of the occupation; two two-day workshops to define and refine tasks, duties, and responsibilities (TDRs) and the associated knowledges, skills and abilities (KSAs) needed to exercise them; and development of a questionnaire to be sent to 2,500 veterinarians regarding their TDRs. The long-term goal of the project is the construction of licensing examinations which test the skills and abilities needed to perform the tasks and procedures actually conducted by veterinarians, weighted in proportion to their relative importance. The last such study was performed in 1979, and these types of studies are usually conducted every ten years.

*AHT Exam Grading Change Update.* At this writing, the Office of Administrative Law (OAL) is considering the Board's amendment to section 2062, Chapter 20, Title 16 of the CCR. This amendment, adopted by BEVM at its April meeting, would change the current fixed percentage method of scoring the California AHT Examination to a criterion reference method. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 126 for background information.)

#### LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) at pages 127-28:

*AB 3482 (Bronzan)*, as amended May 31, would have provided that the law regulating veterinary medicine shall not prohibit any person from performing specified procedures on an animal's teeth, thus superseding section 2037 of BEVM's regulations. This bill would additionally have prohibited the dissemination of any form of public communication containing a false, fraudulent, misleading, or deceptive statement or claim, as defined, for the purpose of or that is likely to induce the rendering of animal teeth cleaning services, and would have required a person not licensed under the Veterinary Practice Act to obtain written permission before performing those services. This bill was vetoed by the Governor on July 20. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 126 and Vol. 10, No. 1 (Winter 1990) p. 97 for extensive background information on this issue.)

*AB 4357 (Farr)*, as amended May 16, would have required a notice to be conspicuously posted on the cage of any dog displayed for sale by a retail dealer indicating the state in which the dog was bred and brokered; would have required additional information to be made available upon request to consumers; and would have required a notice regarding the availability of this information to be conspicuously posted. This bill died in the Senate Judiciary Committee.

*AB 3260 (Floyd)*, as introduced, prohibits a veterinarian from administering medications to any horse entered in the same race in which a horse owned or trained by the veterinarian is entered. A violation of this provision is a misdemeanor. This bill was signed by the Governor on July 16 (Chapter 290, Statutes of 1990).

*SB 2224 (Watson)*, as amended July 23, would have enacted the Consumer Pet Protection Act providing, among other things, that it shall be unlawful for any pet dealer to have possession of any dog which is less than eight weeks of age; animals in the possession of pet dealers must be exercised daily; pet dealers must have a fire alarm system; and pet shops must allow access for inspection purposes to various health, humane, and law enforcement officials. This bill died in the Assembly Committee on Governmental Efficiency and Consumer Protection.

*AB 786 (Polanco)*, as amended August 6, would have required 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; would have required a pet dealer to isolate dogs found to be afflict-

ed with a contagious or infectious disease; and would have required every pet dealer to conspicuously post, within close proximity of the cages of any dogs offered for sale, a notice relating to the availability of certain information about the dogs. This bill died in the Senate Judiciary Committee.

#### LITIGATION:

Following oral argument on June 18, the Second District Court of Appeal on July 5 issued a ruling in *Ho v. BEVM*, No. 2CV B043471, upholding the Board's revocation of the license of former BEVM member Dr. Herbert Lok-Yee Ho. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 128 for background information on this case.) Dr. Ho subsequently petitioned the Board for reinstatement of his license; BEVM was scheduled to hold a hearing on the petition at its November meeting.

#### RECENT MEETINGS:

At BEVM's September meeting, Executive Officer Gary Hill reported the Board's August 1990 enforcement statistics. During that month, BEVM opened 63 new complaints (with a monthly average of 45) and 13 new investigations, and had 128 complaints and 22 investigations pending. Since January 1990, the Board has collected \$1,500 in fines through its cite and fine program.

#### FUTURE MEETINGS:

To be announced.

#### BOARD OF VOCATIONAL NURSE AND PSYCHIATRIC TECHNICIAN EXAMINERS

*Executive Officer: Billie Haynes (916) 445-0793/(916) 323-2165*

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