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-veterinian 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-day workshops to define and refine tasks, duties, and responsibilities (TDRs) and the associated knowledge, 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.

**AHIT 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 AHIT 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 afflicted 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
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 59,046 LVNs with active licenses, 24,884 LVNs with delinquent active licenses, and 11,035 LVNs with inactive licenses, for a total LVN population of 94,965. The Board’s psych tech population includes 13,339 with active licenses and 4,278 with delinquent and inactive licenses, for a total of 17,677 psych tech practitioners.

MAJOR PROJECTS:

**Computer Aided Testing.** The California Psych Tech Computer Administered Testing was initiated on April 9 in Sacramento and April 10 in Los Angeles. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 129 for background information.) The April-June testing session, completed on June 1, tested 102 candidates in Sacramento and 262 in Los Angeles, for a total of 364 candidates. The overall pass rate was 63.2%. Following the April-June testing session, Board staff and staff from CTB MacMillan/McGraw-Hill performed an assessment of the testing procedures and made program changes and enhancements. The computer software was modified to simplify exam administration and the testing manual was revised. Also, new forms and procedures were created to improve the quality of data entry and to reduce errors. During the July-August test session, 54 candidates were examined in Sacramento and 129 candidates were examined in Los Angeles, for a total of 183 candidates. For first-time examinees, the passage rate this time was 83.6%.

**Passing Standard Revised For NCLEX-PN.** The National Council of State Boards of Nursing has revised the passing standard on the licensure examination for practical nursing (NCLEX-PN). The new standard, which took effect with the October 1990 PN examination, requires practical/vocational nurse candidates to answer three to four additional questions correctly in order to pass the NCLEX-PN.

**Discipline Statistics.** At the Board’s September 21 meeting, Enforcement Officer Angelina Martin announced that from May 1990 to August 1990, fourteen LVNs and six psych techs were disciplined for drug abuse; nine LVNs were disciplined for unprofessional conduct; one LVN and one psych tech were disciplined for sexual misconduct; two psych techs were disciplined for patient abuse; and two LVNs were disciplined for charting errors. As of July, the year-to-date total of complaints received was 88 for LVNs and 43 for psych techs. During January-July 1990, the Board filed eighteen accusations against LVNs and six accusations against psych techs. Also as of July, sixteen LVNs and ten psych techs had been put on probation, and the licenses of three LVNs and two psych techs had been revoked.

**Disciplinary Guidelines.** At its September 12 meeting in San Diego, the Board approved amendments to its Disciplinary Guidelines for Administrative Law Judges and Deputy Attorneys General. For a patient abuse violation, the suggested minimum penalty was increased from one year to two years of probation and a thirty- to ninety-day license suspension. This penalty was also amended to allow the administrative law judge and Board to consider another requirement—the completion of an education course substantially related to the violation during the first year of probation, and/or participation in a counseling program substantially related to the violation. In addition, the Board also approved other changes to standard probation conditions.

**Draft Amendments to Curriculum Regulations.** In 1984, the Board appointed a task force to study the future role of LVNs and PTs. The task force presented its final report to the Board in July 1986, at which time that report was accepted by the Board. (See CRLR Vol. 6, No. 4 (Fall 1986) pp. 56-57 for background information.) The proposed recommendations were reviewed by the Board’s Education/Practice Committee on July 13, 1988. At this meeting, the group considered some suggested changes to vocational nurse recommendations. On November 9, 1988, the Education/Practice Committee met to finalize recommendations from the task force. Subsequently, the full Board met on November 16, 1988 to make final decisions on all Task Force recommendations. (See CRLR Vol. 9, No. 1 (Winter 1989) pp. 67-68 and Vol. 8, No. 4 (Fall 1988) p. 77 for background information.)

Pursuant to the Task Force’s recommendations, at its September 21 meeting the Board reviewed draft language to amend sections 2533 and 2587, Chapter 25, Title 16 of the CCR, which currently set forth the required curricula for vocational nurse and psychiatric technician programs. The draft amendments to section 2533 would change the vocational nursing curriculum to specifically require theory and concurrent clinical experience, and to add obstetrical nursing, pediatric nursing, gerontological nursing, rehabilitation nursing, and several other components to the required curriculum. The draft amendments to section 2587 would change the psychiatric technician curriculum to specifically require theory and concurrent clinical experience, and to add gerontological nursing, specified courses in addictive behaviors and eating disorders, and several other components to the required curriculum.

The Board recommended that the directors of California vocational nursing and psychiatric technician programs submit written comments regarding the draft amendments to the Board by February 1, 1991. The comments submitted by program directors should include suggested changes with corresponding rationales. Thereafter, the Board plans to hold public hearings in northern and southern California to elicit further input before formally publishing the proposed regulatory amendments.

**New Policy for PT Candidates.** At its September 21 meeting, the Board adopted a new policy allowing candidates who fail the PT exam the first time an opportunity to retake the exam a second time no less than one month after notification of the results from the first exam. If the candidate fails again, the candidate may take the exam as many times as desired, but not more than once every six months.

**LEGISLATION:**

*AB 3909 (Areias), as amended August 28, 1989, makes numerous substantive and technical changes in the Private Postsecondary and Vocational Education Reform Act of 1989, and makes specified changes in the statement of legislative intent with regard to the Act. The Governor signed this bill on September 29 (Chapter 1479, Statutes of 1990) (see supra agency report on BOARD OF COSMETOLOGY for further information on this bill).*

The following is a status update on bills reported in detail in CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) at pages 129-30:
AB 4349 (Filante), as amended August 14, increases the fees relating to the practice of vocational nursing, and adds fees for a duplicate license and the endorsement of a license. This bill also requires the Auditor General to review and report to the legislature on or before January 1, 1992, concerning the operations of the Board of Vocational Nurse and Psychiatric Technician Examiners. This bill was signed by the Governor on September 20 (Chapter 1131, Statutes of 1990).

AB 3306 (Lancaster), as amended July 28, affects LVN applicants by increasing the educational requirement to the twelfth grade. The Governor signed this bill on August 13 (Chapter 520, Statutes of 1990).

SB 2481 (Hart), as amended June 27, would have prohibited any person or public agency from operating, conducting, or maintaining a temporary nursing service, as defined, after January 1, 1992, unless it has applied for and been approved by the state Department of Health Services as a temporary nursing service. This bill died in the Assembly Health Committee.

SB 2509 (Lockyer), as amended July 6, would have provided that any disease, illness, syndrome, or condition requiring treatment pursuant to prescribed provisions resulting from blood-borne pathogens which occurs, develops, or manifests itself in certain health care workers shall constitute an injury presumed to arise out of and in the course of employment for workers’ compensation purposes. This bill was vetoed by the Governor on September 18.

RECENT MEETINGS:
In response to AB 3306 (Lancaster), which increased the educational requirement for LVNs from tenth to twelfth grade or the equivalent (see supra LEGISLATION), the Board announced at its September meeting that any vocational nursing student with only a tenth grade education or equivalent who is presently enrolled and will apply to take the licensing examination prior to January 1, 1991 will not be required to obtain a twelfth grade education or its equivalent. Also, all students who enroll in a vocational nursing program after December 31, 1990 will be required to show proof of completion or obtain a twelfth grade education or its equivalent prior to graduation from the program. Any person who applies for licensure prior to January 1, 1991, based on an equivalency method of qualification (such as graduation from an accredited school of vocational/practical nursing outside of California) will not be required to obtain a twelfth grade education or its equivalent. Any person who applies for licensure after December 31, 1990, based on an equivalency method of qualification will be required to show proof of completion or obtain a twelfth grade education or its equivalent before submitting the application. The Board will send a memorandum to all vocational nursing programs to inform them of this change.

At the September 21 meeting, Executive Officer Billie Haynes announced that due to the current crisis in the Middle East, many candidates for licensure are now expecting active duty status. Therefore, they may not be available to appear for the scheduled examinations. At Ms. Haynes’ recommendation, the Board voted to waive retake fees for all LVN and PT candidates who are called to active duty and cannot appear for the scheduled exam. All such candidates must provide documentation to verify their active duty status.

At its April 26-27 meeting, the Education/Practice Committee determined that the Vocational Nursing Practice Act does not permit LVNs to apply liquid nitrogen to skin. The Board accepted these findings at its May 11 meeting.

However, this issue was reopened at the September 21 meeting, when attorney David Sanders was allowed to speak in support of allowing LVNs to apply liquid nitrogen. With the assistance of a physician and several nurses, Sanders gave a demonstration of liquid nitrogen application. He stated that it is a relatively simple procedure which an LVN should be permitted to conduct under a physician’s supervision. The Board referred this issue back to the Education/Practice Committee for reconsideration.

Also at the September 21 meeting, the Board assessed the impact of the cancellation of its July meeting. The Board concurred that cancellation of the July meeting did not seem to negatively impact the Board’s ability to fulfill its legislative mandate, and a proposal was made to cancel all future July meetings. However, the Board decided to wait until the May meeting to assess the need for a July meeting.

FUTURE MEETINGS:
January 18 in San Diego.
March 14-15 in Los Angeles.

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.

BUSINESS, TRANSPORTATION AND HOUSING AGENCY

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
Director: Jay Stroh
(916) 445-6811

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