



LITIGATION:

Moore v. California State Board of Accountancy, No. 863037 (San Francisco Superior Court), challenges the Board's restriction on the use of the term "accountant" to licensees. (For background information, see CRLR Vol. 8, No. 2 (Spring 1988) p. 40.) Superior Court Judge Thomas Dandurand heard final arguments on December 2 and announced a tentative decision in favor of the Board on January 13. In its tentative decision, the court enjoined unlicensed persons from future use of the term "accountant" and from engaging in the unlicensed practice of accounting. Counsel for Moore and the California Association of Independent Accountants has requested a statement of decision explaining the judge's reasoning. The final decision should be issued during the spring.

RECENT MEETINGS:

At its October meeting in Ontario, the Board discussed its proposed \$6.6 million 1989 budget. Because its current fee structure will not support the proposed budget, it will probably not be approved. The Board supported AB 4537 (Cortese) last year, which would have significantly increased maximum fees for licensees, but the bill was defeated (see *supra* LEGISLATION). The Board plans to reintroduce the bill in the new legislative session, with the support of the Little Hoover Commission and a trade association which had previously opposed the measure.

Also at its October meeting, the Board voted unanimously to abolish the Minority Representation Committee, citing a lack of programs which could be appropriately implemented by such a committee of a regulatory board. (See CRLR Vol. 8, No. 4 (Fall 1988) pp. 41-42 for background information.)

A Board meeting following the regulatory hearing on November 18-19. The Board discussed fictitious names at great length and voted to liberalize restrictions to allow a surviving partner to use the partnership name long after the death. Further, the members formalized their view that the Board should not regulate other writing that a CPA firm chooses to include with the firm name on its letterhead. Finally, the Board has begun to work on formal fictitious name standards which will be adopted through the rulemaking process.

FUTURE MEETINGS:

March 18 in Los Angeles.

BOARD OF ARCHITECTURAL EXAMINERS

Executive Officer: Stephen P. Sands
(916) 445-3393

The Board of Architectural Examiners (BAE) was established by the legislature in 1901. BAE establishes minimum levels of competency for licensed architects and regulates the practice of architecture. Duties of the Board include administration of the California Architect Licensing Exam (CALE) and enforcement of Board guidelines. BAE is a ten-member body evenly divided between public and professional membership.

MAJOR PROJECTS:

Regulatory Changes. Many changes to its regulations contained in Chapter 2, Title 16 of the California Code of Regulations (CCR), have been implemented by the BAE in the last several months. Section 117, regarding evaluation of a candidate's experience and education, was approved by the Office of Administrative Law (OAL) and went into effect on October 28. Sections 134, 135, and 151, which affect advertising guidelines for architects, penalties for aiding and abetting unlicensed architects, and CALE administration, were approved by OAL and went into effect on November 20. (See CRLR Vol. 8, No. 3 (Summer 1988) pp. 45-46 for background information.) On November 9, OAL approved an amendment to section 121(a), concerning reciprocity licensure; and also approved the adoption of new sections 111 and 112 to comply with the Permit Reform Act of 1982, which requires licensing boards to identify the time periods within which they will process applications for licensure.

On October 7, the Board held a meeting in Los Angeles to discuss amendments to section 144. The proposed changes to section 144 would increase licensing fees and the cost of taking the CALE. The Board heard testimony from Paul Welch, Executive Vice-President of the California Council of the American Institute of Architects (CCAIA), and several members of the American Institute of Architects (AIA). The witnesses contended that the Board did not adequately address their concerns expressed at previous public hearings, or the CCAIA's proposed fee schedule submitted during public comment at the Board's August 30 meeting. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 42 for background information.) Also, Mr. Welch stated that the Board should identify the portion of the fee used

for the test and enforcement programs that licensees and examinees are expected to pay.

The Board responded by stating that it had already addressed these and the other approximately fifty questions or comments raised during public hearings on the fee increase. Board President Paul Neel stated that he was deeply troubled that the Board, AIA, and CCAIA disagree on the proposed fee regulation, and repeated that he created an initial task force to recommend the fee regulation and a second task force to respond to the comments offered. President Neel also indicated that he would contact CCAIA and ask for its input regarding budget, revenue, and expenditure concerns; and stated that he is convinced that the fee increase is proper and necessary. Board member Richard Stephens moved to reduce the proposed exam fee increase by \$50 (from \$400 to \$350), with individual sections to be prorated to the nearest \$5, but the Board voted unanimously to adopt the regulation as discussed. The regulation was subsequently approved by the OAL and is in effect as of January 1989.

Also at the October meeting, the Board adopted an amendment to section 119.5. This amendment would clarify the numbering system for the various sections of the 1989 CALE. This amendment was submitted to OAL in late December.

LEGISLATION:

Future Legislation. The Board is seeking a sponsor to introduce a bill requiring an architectural stamp on plans, specifications, and instruments of service. The stamp would contain the architect's name as well as a place for his/her signature.

FUTURE MEETINGS:

March 23 in southern California.

ATHLETIC COMMISSION

Executive Officer: Ken Gray
(916) 920-7300

The Athletic Commission regulates amateur and professional boxing, contact karate, and professional wrestling. The Commission consists of eight members each serving four-year terms. All eight seats are "public" as opposed to industry representatives.

The current Commission members are Bill Malkasian, Raoul Silva, Roosevelt Grier, P.B. Montemayor, M.D., Jerry Nathanson, Thomas Thaxter, M.D.,



REGULATORY AGENCY ACTION

Charles Westlund, and Robert Wilson.

The Commission is constitutionally authorized and has sweeping powers to license and discipline those within its jurisdiction. The Commission licenses promoters, booking agents, match-makers, referees, judges, managers, boxers, martial arts competitors, and wrestlers. The Commission places primary emphasis on boxing, where regulation extends beyond licensing and includes the establishment of equipment, weight, and medical requirements. Further, the Commission's power to regulate boxing extends to the separate approval of each contest to preclude mismatches. Commission inspectors attend all professional boxing contests.

MAJOR PROJECTS:

1988 Neurological Examination Results. As part of its ongoing neurological examination program (see CRLR Vol. 8, No. 4 (Fall 1988) p. 43 and Vol. 8, No. 2 (Spring 1988) p. 41 for background information), the Commission recently released its statistics for neurological tests on boxers conducted between September 1, 1987 through August 1, 1988. Out of a total of 472 examinations administered, 15 failed the exam and 304 examinees had some neurological abnormalities.

The number of neurologists or neurosurgeons under contract with the Commission has increased. There are now two in San Diego, three in Los Angeles, one in the San Francisco/Oakland area, and two in the Sacramento area.

Ambulances at Boxing Contests. The recent ring death of boxer Ricardo Velazquez in San Jose has renewed the debate over whether the Commission should require ambulances to stand by during boxing contests. According to the Commission, the October 20 investigation of Velazquez' death revealed that the responding ambulance took approximately 20-25 minutes to arrive at the San Jose Civic Auditorium. The investigation also determined that the delay had no effect on the efforts to save Velazquez.

Although the Commission has previously considered requiring ambulances to be present at each boxing contest, no regulation has been proposed because of allegedly high costs. A Commission study indicates that the cost of an ambulance equipped with two certified paramedics (or, at a minimum, two uncertified attendants trained in basic life support) ranges from a high of \$171 per hour in the San Diego area to a low of \$100 per hour in the San Jose area. At its next meeting,

Commission staff will recommend that the Commission undertake a cost-benefit analysis to determine the feasibility of requiring ambulances to stand by at a boxing contest for three hours.

Regulatory Changes. At its December 16 meeting, the Commission held a hearing on the proposed addition of section 279 to Chapter 2, Title 4 of the California Code of Regulations (CCR), regarding the copying of any videotape made of a professional fight. The proposed regulation would require the promoter to obtain the name, address, and telephone number of any person who records all or part of a boxing contest on videotape. Additionally, the regulation would hold the promoter responsible for providing the Commission with a copy of any available videotape of a boxing contest. The Commission adopted proposed section 279, with the understanding that it will provide promoters with an appropriate consent form.

Also at the December meeting, the Commission adopted an amendment to section 220 of its regulations, regarding contracts to manage boxers. The proposed amendment would allow the Commission to approve a contract not executed on the Commission's printed form and entered into in another state by residents or non-residents of California. Previously, only non-residents could enter into management contracts on non-Commission forms and legally box in California. This amendment would make it easier for California residents to enter into boxer-manager agreements out of state and allow them to return to box in California.

At this writing, the Commission is preparing its rulemaking file on these changes for submission to the Office of Administrative Law (OAL).

On October 19, OAL notified the Commission of its disapproval of its proposed amendment of section 330 of its regulations. The Commission's proposal would have included Commission-appointed neurological examination physicians in the definition of boxing "officials". (See CRLR Vol. 8, No. 2 (Spring 1988) p. 42 for details.) OAL rejected the proposed amendment for lack of clarity.

On September 21, OAL disapproved the Commission's large rulemaking package which included the adoption of section 600; the amendment of sections 601, 603, 609, 613, 618, and 623; and the repeal of sections 602, 604-06, 610, 614-17, 619, and 622 of its regulations. OAL found that sections 601, 609, and 613

failed to satisfy the clarity standard in Government Code section 11349.1. OAL disapproved the repeal of section 622, regarding transportation expenses of contestants, because the Commission's rulemaking file did not support its need to repeal the rule.

LEGISLATION:

AB 112 (Floyd) would require the Commission to adopt regulations detailing the criteria for approving licensed physicians who attend boxing contests. At this writing, AB 112 is awaiting assignment to a policy committee.

RECENT MEETINGS:

Two recent Athletic Commission meetings scheduled for October 21 in Los Angeles and November 18 in San Jose were cancelled due to a lack of quorum.

FUTURE MEETINGS:

To be announced.

BUREAU OF AUTOMOTIVE REPAIR

Chief: Martin Dyer
(916) 366-5100

Established in 1971 by the Automotive Repair Act (Business and Professions Code sections 9880 *et seq.*), the Bureau of Automotive Repair (BAR) registers automotive repair facilities; official smog, brake and lamp stations; and official installers/inspectors at those stations. Approximately 39,200 auto repair dealers are registered with BAR. The Bureau's other duties include complaint mediation, routine regulatory compliance monitoring, investigating suspected wrongdoing by auto repair dealers, oversight of ignition interlock devices, and the overall administration of the California Smog Check Program.

The Smog Check Program was created in 1982 in Health and Safety Code section 44000 *et seq.* The Program provides for mandatory biennial emissions testing of motor vehicles in federally designated urban nonattainment areas, and districts bordering a nonattainment area which request inclusion in the Program. BAR licenses approximately 22,000 smog check mechanics who will check the emissions systems of an estimated six million vehicles this year. Testing and repair of emissions systems is conducted only by stations licensed by BAR.

Approximately 130,000 individuals and facilities are registered with the Bureau. Registration revenues support