



REGULATORY AGENCY ACTION

the Bureau's workload. The agencies which remain under the Bureau's jurisdiction accounted for at least 90% of the Bureau's investigative and enforcement workload before AB 2929 took effect, so the 60% drop in licenses was coupled with only a 10% reduction in workload.

Bureau Chief Jean Orr had planned to use the November 2 hearing to demonstrate that the Bureau is operating effectively and to argue for measures which would ensure its continued effectiveness. Bureau Office Manager Janelle Wedge credits cost-cutting measures (including a reduction of staff from seven to four) and computerization as responsible for enabling the Bureau to handle over 2,000 written complaints during the first half of the 1988-89 fiscal year. She notes that the Bureau processed fewer than 500 complaints per year less than a decade ago.

Computer matching employment services, overseas employment services, and prepaid employment agencies account for most of the Bureau's present workload. Although an attempt was made last year in AB 4145 to outlaw prepaid employment agencies, the attempt was blocked by a successful lobbying effort by those agencies. The Bureau continues to favor efforts to prohibit such agencies.

The California Association of Personnel Consultants (CAPC) is a private group which lobbies for legislation affecting the personnel services industry. CAPC sponsored AB 2929, and the group's October 26, 1988 "CAPC Inner View" newsletter announced the association's plans to oppose increases in the Bureau's licensure fees, and to sponsor legislation to make AB 2929 permanent. Absent such legislation, AB 2929 will sunset on January 1, 1991, and employer-retained agencies will once again fall under the Bureau's jurisdiction.

DCA Deputy Director Vader calls the CAPC position "understandable" and feels that, even if the Association fails in its efforts to make deregulation permanent, the 1991 sunset of AB 2929 would be too late to help the Bureau. Vader also states his disappointment that the November 2 hearing was cancelled, but says the DCA continues to formulate plans to deal with the Bureau's immediate funding problem. The DCA has not ruled out any specific legislative or administrative solutions to the problem, but it expects any attempt to outlaw prepaid employment agencies will again face stiff opposition. Deputy Director Vader has indicated a DCA belief that 95% of complaints received by the Bureau might be curable through enhance-

ment of the Civil Code. The DCA was expected to announce its official proposals on these matters in February 1989.

LEGISLATION:

As described above, CAPC has announced plans to sponsor legislation to make AB 2929 effective beyond its present sunset date of January 1, 1991; and the DCA was scheduled to announce in February its legislative proposals to deal with the Bureau's funding problem.

FUTURE MEETINGS:

To be announced.

BOARD OF PHARMACY

Executive Officer: Lorie G. Rice
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The Board of Pharmacy grants licenses and permits to pharmacists, pharmacies, drug manufacturers, wholesalers and sellers of hypodermic needles. It regulates all sales of dangerous drugs, controlled substances and poisons. To enforce its regulations, the Board employs full-time inspectors who investigate accusations and complaints received by the Board. Investigations may be conducted openly or covertly as the situation demands.

The Board conducts fact-finding and disciplinary hearings and is authorized by law to suspend or revoke licenses or permits for a variety of reasons, including professional misconduct and any acts substantially related to the practice of pharmacy.

The Board consists of ten members, three of whom are public. The remaining members are pharmacists, five of whom must be active practitioners. All are appointed for four-year terms.

MAJOR PROJECTS:

Fee Increases. Amendments to section 1749, Chapter 17, Title 16 of the California Code of Regulations (CCR), which increase licensing fees, were approved by the Office of Administrative Law (OAL) and became effective on January 1, 1989. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 70 and Vol. 8, No. 3 (Summer 1988) p. 74 for background information.)

Examination Changes. The Board's examination committee has revised the pharmacist's examination specifications and proposed an integrated exam format which eliminates the current seven subtest division. The Board plans to administer the new integrated examination beginning in June 1989. Since the current regulation contains language reflect-

ing the subtest format, the Board proposes amending section 1724 of Chapter 17, Title 16 of the CCR. This amendment will eliminate the language referring to the subtests and require that the candidate achieve a score of 75 under the new format. A public hearing on the proposed regulation was scheduled to be held at the Board's January meeting in San Diego.

Continuing Education Regulations.

After further definition of the requirements of an "accreditation agency" in section 1732.05, the Board's fourth version of amendments to its continuing education regulations (sections 1732-1732.7, Chapter 17, Title 16 of the CCR), was finally approved by OAL and became effective on January 8, 1989. (For more information, see CRLR Vol. 8, No. 4 (Fall 1988) pp. 69-70; Vol. 8, No. 3 (Summer 1988) p. 73; Vol. 8, No. 2 (Spring 1988) p. 73; and Vol. 8, No. 1 (Winter 1988) pp. 68-69.)

Pharmacy Technician Legislation.

At this writing, the Board is in the process of finding an author for proposed legislation which will add section 4008.5 to the Business and Professions Code. The bill will create the category of pharmacy technician and define the requirements and authority of such technicians. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 70 for background information.)

LEGISLATION:

AB 229 (Polanco) would state that hypodermic needles and syringes shall only be distributed, possessed, or used as authorized by specific provisions of the Pharmacy Law; define the term "warehouse" as that term is used in provisions dealing with storage facilities owned by a medical device retailer; and make other technical changes. This bill is pending in the Assembly Health Committee.

RECENT MEETINGS:

At its October meeting, the Board approved the amendment of section 1717(a), Chapter 17, Title 16 of the CCR, which permits the reuse of clean multiple-drug medication packages ("med paks") by pharmacies for home use by patients. The med paks are particularly useful for older patients because the compartments increase compliance by setting out the medications for each day. The reuse of med paks had previously been permitted for licensed health and community care facilities. At this writing, the amendment is being reviewed by the legal office of the Department of Consumer Affairs. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 70 for background



information.)

Also at the October meeting, the Board held a public hearing on pharmacists' scope of practice. The California Pharmacists Association (CPA) presented oral and written comments on the current and future roles of the pharmacist. CPA is working with California Society of Hospital Pharmacists (CSHP) to adopt a long-range plan which seeks to expand the role of pharmacists to include increased authority for medication adjustment, monitoring, assessment, and communication to patients. These goals require an increased interchange and the establishment of written protocols between pharmacists and prescribers.

At the hearing, Board members questioned the effect that the new Medicare Catastrophic Coverage Law and the increasing use of intravenous medication by patients at home will have on scope of practice. A subcommittee of members and representatives of CPA, CSHP, and the California Retailers Association will be formed to begin to address the issues related to changes in the scope of pharmacists' practice.

FUTURE MEETINGS:

May 24-25 in Los Angeles.

POLYGRAPH EXAMINERS BOARD

Executive Officer: Dia Goode
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The Polygraph Examiners Board operates within the Department of Consumer Affairs. The Board has authority to issue new licenses and to regulate the activities of an estimated 655 examiners currently licensed in California under Business and Professions Code section 9300 *et seq.* The Board has no jurisdiction over federally-employed polygraph examiners.

The Polygraph Examiners Board consists of two industry representatives and three public members, all appointed to four-year terms. The Board has a sunset date of January 1, 1990.

MAJOR PROJECTS:

Regulatory Changes. On October 28, following a period of public comment, the Board adopted several proposed changes to its regulations, which appear in Chapter 34, Title 16 of the California Code of Regulations (CCR). In all, eight proposals were submitted, each of which was adopted unanimously and sent to

the Office of Administrative Law (OAL) for approval.

Existing regulations require polygraph examiner interns to meet with a supervisor every month and that reports be submitted to the Board after every fifty exams. Amended section 3434 would clarify that interns must meet monthly with a supervisor (regardless of whether they have administered any exams) in order to receive regular instruction in techniques, chart analysis, and question construction. New section 3436 would set forth precise disciplinary procedures for interns and supervisors who do not comply with the standards for instruction established by the Board.

The proposed regulatory changes also clarify continuing education requirements. Section 3470 would require general and intern licensees to submit proof of continuing education in order to have their licenses renewed. Amended section 3474 would reduce the application time period for providers of continuing education programs from ninety days to thirty days prior to the first class session.

Existing section 3480 lists eight acts which serve as grounds for the denial, suspension, or revocation of a license. Amended section 3480 would clarify that this list is illustrative rather than exhaustive. Section 3484 would set forth the criteria under which to evaluate a licensee's rehabilitation. The criteria adopted are standard for most of the boards within the Department of Consumer Affairs.

New section 3486 contains the procedures for the issuance of citations and fines, pursuant to section 125.9 of the Business and Professions Code, as a means of discipline for minor and/or technical violations which do not warrant a revocation or suspension of an examiner's license. The regulation outlines two classes of violations which are designated "A" and "B" in descending order of severity. These classes are based on the degree of damage or harm to the consumer and the prior record of violations. Class A violations pertain to performance while class B violations are procedural. Each category contains a range in the amount of fines that may be assessed, allowing for flexibility in determining the civil penalty that reflects the severity and effects of the violation.

Prior to these proposals, no procedure existed to resolve a citation dispute short of a formal hearing. New section 3488 would establish a citation review conference as an alternative remedy. The two forums are not mutually exclusive. The purpose of such a conference is to

expedite the resolution of disputes.

Sunset Clause. The Polygraph Examiners Act is scheduled to be repealed on January 1, 1990, unless a statute becomes effective on or before that date to extend the Act. Four options are being considered: allow the Board to sunset on the specified date and default on the loan from the General Fund (see CRLR Vol. 8, No. 2 (Spring 1988) p. 74 for background information); merge with the Bureau of Collection and Investigative Services; increase license fees and delay repayment of the General Fund loan; or move the program from the Department of Consumer Affairs to the Department of Justice. At this point, it appears that transition to the Department of Justice would require the least amount of sacrifice and ensure the greatest amount of stability.

LEGISLATION:

Public Law 100-347, the federal Employee Polygraph Protection Act of 1988, became effective on December 27 (see CRLR Vol. 8, No. 4 (Fall 1988) p. 70 for background information). The new law severely restricts the use of polygraph tests by businesses to screen job applicants or employees. In response, the Board has considered the changes necessary to bring state law into compliance with the federal law; however, no formal legislative proposals will be introduced until the effects of the new law are known.

Among the sections of the Polygraph Examiners Act (and the Board's regulations adopted thereunder) designated for amendment at this preliminary stage are sections 9310 of the Business and Professions Code (duration of licenses); section 9313 (criteria for discipline); section 9319 and section 3410 of the CCR (record retention); section 9307(c) and sections 3403(e) and 3422(d) of the CCR (proportion between regular and specific examinations); and section 3480 of the CCR (grounds for denial, suspension, or revocation of a license).

RECENT MEETINGS:

At its October 28 meeting, the Board discussed the continuing decline in enrollment in polygraph training schools. This decline has a direct effect on the number of applicants for licenses, which also continues to decline. When the Board's enabling legislation was passed in 1983, it was estimated that approximately 850 licensed examiners would be paying licensure fees. The Board currently regulates only 400 licensees. This disparity between projected and actual revenue has forced the Board to increase