



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



license fees twice since 1984 in order to make the program self-supporting.

In 1984, the legislature authorized a \$50,000 loan from the General Fund to cover the Board's start-up costs. The loan was to be repaid in 1984, but was extended by statute. Intermediate payments of \$10,000 per year plus interest were to be made beginning in fiscal year 1985-86. To date, the Board has made one \$10,000 interest-only payment. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 74 for background information.) This loan, coupled with the decreasing number of licensees, will play a large role in the Board's approach to its January 1, 1990 sunset date.

March 4 and September 9 were set as the proposed 1989 examination dates.

FUTURE MEETINGS:

To be announced.

BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

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The Board of Registration for Professional Engineers and Land Surveyors regulates the practice of engineering and land surveying through its administration of the Professional Engineers Act and the Professional Land Surveyors' Act.

The basic functions of the Board are to conduct examinations, issue certificates and/or licenses and appropriately channel complaints against its licensees. The Board is additionally empowered to suspend or revoke certificates or licenses. On a routine basis, the Board considers the proposed decisions of administrative law judges who hear appeals of applicants who are denied registration and licensees who have had their licenses suspended or revoked for violations.

The Board consists of thirteen members: seven public members, one licensed land surveyor, four registered practice act engineers and one title act engineer. Eleven of the members are appointed by the Governor for four-year terms which expire on a staggered basis. One public member is appointed by the Speaker of the Assembly and one by the Senate President pro Tempore.

The Board has established seven standing committees dealing with land surveying and the various branches of engineering. These committees, each composed of three Board members, approve or deny applications for exam-

inations and register applicants who pass the examinations. Their actions must have the approval of the entire Board, which is routinely forthcoming.

Professional engineers are now licensed through the three Practice Act categories of civil, electrical and mechanical engineering under section 6730 of the Business and Professions Code, and the Title Act categories of agricultural, chemical, control system, corrosion, fire protection, industrial, manufacturing, metallurgical, nuclear, petroleum, quality, safety, and traffic engineering.

Structural engineering and soil engineering are linked to the civil Practice Act and require an additional examination after qualification as a Practice Act engineer.

MAJOR PROJECTS:

Rulemaking. On November 9, the Board held a public hearing to consider several proposed changes in its regulations, which appear in Title 16 of the California Code of Regulations. The proposed amendments and additions would set forth the procedure for registered civil engineers to obtain authorization to use the title "structural engineer"; implement the Permit Reform Act; and make technical changes in existing rules. (See CRLR Vol. 8, No. 4 (Fall 1988) pp. 71-72 for detailed background information.)

Following public comment, the Board made the following changes in the proposed rules. In proposed section 426.12, the Board eliminated the portion of the experience requirement that provides that an applicant must have worked under the supervision of an engineer "who holds a valid California registration to use the title 'structural engineer' in this State." In proposed section 426.13, to promote clarity, the Board changed the term "supplemental experience" to "supplemental evidence" wherever it appeared. In section 427, the Board rejected a proposed amendment prohibiting family references for engineer applicants. The Board changed the wording of proposed section 427.30 to allow both structural and civil engineers to act as references. Finally, the Board adopted minor changes in wording in its proposed clean-up amendments to sections 400, 403, 404, 410, and 411.

The Board adopted the regulatory package as amended, and extended the public comment period on the package for fifteen days.

Future Rulemaking. The Board currently has rules in place to handle renewal applications from engineers who have let their registrations lapse for a

period of five years or longer; an amnesty period is presently in effect to facilitate the processing of these applications. The Board is considering a change in these rules which would treat five-year delinquent applications as new applications.

The Board also plans to consider changes to its rules regarding comity applications, examination appeals, and the application process in general. Comity is the process by which the Board accepts the registration of applicants who are registered in other states.

LEGISLATION:

Title Act Reform Legislation. At its November 18 meeting, the Board voted to drop its proposed legislation regarding the freeing of Title Act registrations.

In 1982, the legislature enacted section 6730.1 of the Business and Professions Code, which required the Board to review all existing engineering Title Act disciplines and submit a report to the legislature regarding Practice Act registration of any title disciplines.

The purpose behind this proposed change from Title Act to Practice Act registration was to bring existing Title Act disciplines under the authority of the Board. The Board is powerless to take action against an engineer for negligence or incompetence if he/she is registered in a Title Act branch. Title acts only protect the use of the title, and do not prevent nonregistered persons from performing the work of that discipline. So, under current law, while anyone may perform the work of a safety engineer, only registered people may use the title "safety engineer". (See CRLR Vol. 2, No. 3 (Summer 1982) pp. 15-16 for background information on Board discipline and Title and Practice Acts.)

In 1985, the legislature passed SB 1030 (Chapter 732, Statutes of 1985), which amended section 6732 of the Business and Professions Code to include some existing engineering disciplines into the Professional Engineers Act. This legislation also repealed section 6730.1 of the Business and Professions Code, resulting in a removal of the Board's authority to establish new engineering disciplines by petition.

The Board has determined that the passage of the 1985 legislation fulfilled the legislature's mandate to reform the Title Act disciplines. In addition, it believes that the Title Act legislation is not necessary since current registration requirements establish a minimum practice standard, and engineers registered under the Title Act have not generated complaints in the Board's enforcement unit.