



REGULATORY AGENCY ACTION

BOARD OF ARCHITECTURAL EXAMINERS

*Executive Officer: Stephen P. Sands
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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. On February 23, the Office of Administrative Law (OAL) approved a change in section 119.5, contained in Chapter 2, Title 16 of the California Code of Regulations (CCR). The amendment clarifies the numbering system for the various sections of the 1989 CALE.

Licensing Examination. After three years of administering its own examination, BAE expects to return to the National Council of Architectural Registration Board (NCARB) examination in 1990. A supplementary oral examination will also be administered to cover issues peculiar to California under the Architects Practice Act.

The issue of a separate examination in California began in the summer of 1978, when BAE received legal advice that a then-existing section of the Business and Professions Code prohibited grading of the design portion of NCARB's Architectural Registration Examination (ARE) by a grader not having the same qualifications as professional members of the BAE. Under the state statute, graders had to be resident architects licensed in California for five years. The law applied to all regulated professions, but had not been an issue for most because their licensing boards use state rather than national examinations. Until 1987, architects were an anomaly in that regard.

The purpose of the statute, which is no longer in effect, was to ensure that every candidate in California had satisfied the state's particular requirements for licensure. California requires the nationally recognized skills necessary to the practice of architecture, which are tested in the ARE. However, in addition to this basic aptitude, the Architects Practice Act (Business and Professions Code section 5500 *et seq.*) specifically requires knowledge in other areas before

a license may be granted. These areas, under the state Building Code, substantially differ from other states in three major areas: energy conservation, handicapped access, and seismic safety. The legislature determined that the best way this knowledge could be ensured would be to mandate examination grading by California licensees who themselves interpret these codes in everyday practice and understand what is necessary in terms of practical knowledge.

Thus, from 1979 to 1983, architects from California attended the NCARB regional grading sessions, but graded only California solutions. This process, which was approved by NCARB, allowed the BAE to comply with state law but also to use a national standardized test and to participate in the regional grading process.

In 1983, NCARB adopted Resolution 12, which required all state boards to follow NCARB rules—including full participation in the regional grading sessions—or forfeit the right to purchase and administer the ARE. At that time, NCARB specifically instructed the NCARB Board of Directors to withhold the ARE from California unless California observed NCARB rules.

Unable to comply with Resolution 12 because of the state law, BAE participated in the NCARB regional grading session in order to receive the examination but also conducted its own grading session to comply with California law. This resulted in 300 candidates who passed NCARB grading but failed in California grading, while 100 candidates who failed NCARB grading passed the California grading.

In 1985, NCARB used the master juror system of grading, which allowed California commissioners to make the final determination on California examinations. NCARB viewed this as a temporary solution until California could change its state law, while California saw it as a possible permanent solution. Although a number of states chose to pursue statutory amendments, California had no plans to eliminate the state law. BAE had recently survived a serious threat of being dismantled by the Governor, whose chief complaint was that BAE could not directly supervise the protection of the public health, safety, and welfare in the licensing of architects if it did not have its own examination. Additionally, BAE felt that grading by a California architect was the only feasible way to carry out its specific statutory mandate to ensure that a candidate is familiar with the state's building codes.

Finally, BAE found it significant that there was no serious support among members of BAE or the profession for delegating its fundamental role of examination to a private, nongovernmental membership organization. In fact, the Governor's administration opposed it.

To address the examination situation, the legislature passed AB 3074 (Frazee) in 1986 (see CRLR Vol. 6, No. 4 (Fall 1986) p. 27), which provided BAE with the authority to delegate examination development, administration, and grading to any vendor (including NCARB) satisfying examination criteria promulgated by the Board. BAE notified NCARB that a continuation of the master juror system then in use would satisfy those criteria. NCARB refused to accept those terms.

With the support of the California Council, American Institute of Architects (CCAIA), and the Department of Consumer Affairs, BAE proceeded to develop the California Architect Licensing Examination (CALE), which was first administered in July 1987. BAE invited NCARB to participate in the development, administration, and grading of the state examination, but NCARB declined to do so. (See CRLR Vol. 7, No. 2 (Spring 1987) p. 37 for background information.)

Once the California examination was in place, the issue of reciprocity arose. According to BAE, the CALE was originally written to serve as a mutually acceptable alternative to the ARE so that Californians licensed under it could enjoy the privilege of reciprocity in other states, and so that architects licensed under the ARE in other states could continue to enjoy the privilege of reciprocity in California. According to NCARB, the two examinations are not equivalent, because (1) the content of CALE focuses upon California laws and is biased toward special design issues; (2) the ARE is a dynamic, not static, examination which is updated yearly, while the CALE is modeled after the 1986 ARE (the last examination to which BAE had access); and (3) even if the two examinations were identical in content, they would not be deemed equivalent for registration purposes because of significant disparity in the grading process.

In fall 1987, the California legislature—concerned that continued acceptance of architects from other states would create an unfair disadvantage for California architects who would not be admitted to practice in those states—passed AB 1113 (Bradley). (See CRLR Vol. 8, No. 1 (Winter 1988) p. 42 and Vol. 7, No. 4



(Fall 1987) p. 38 for background information.) The new law prohibited BAE from granting a reciprocal license to any candidate licensed under the ARE in another state unless both BAE and the home state agree the ARE and the CALE are mutually acceptable for licensing purposes.

At various times throughout this dispute, the parties attempted to solve the problem through professional mediation. With the passage of AB 1113, those attempts were discontinued. Nevertheless, as a result of intensive talks between NCARB President Walter Carry and BAE President Paul Neel, the two groups reached a tentative agreement at NCARB's 1988 annual meeting that both believe will lead to a settlement of the long-standing dispute. NCARB board members also voted unanimously to take no action on Resolution 6, which would have provided for the removal of the California Board from Council membership.

In addition to California's expressed intention to return to the use of the ARE, other major terms of the agreement include BAE's recognition of the NCARB certificate as a sufficient basis for reciprocal registration of out-of-state candidates; BAE will actively oppose any legislation in California which might hinder the process of reciprocity; and NCARB and BAE will establish a special Joint Committee for the purpose of studying the transition of candidates from the CALE to the ARE and the question of NCARB certification of those who have been licensed in California on the basis of the CALE. BAE has appointed Paul Neel, Lawrence Chaffin, Jr., and Robert DePietro as BAE members of the Joint Committee. A statement by the Committee in November 1988 indicates that the supplemental examination will be oral and will be administered by NCARB. While the Committee is still working out the details of the agreement, both NCARB and BAE have agreed to the process in principle. The Committee presented these concepts at NCARB's regional meetings, held March 2 through April 7, and they met with no objections. NCARB must formally approve the proposal at its annual meeting in June.

Last July, the Governor signed AB 4419 (Bradley), an urgency statute which effectively repealed AB 113 and allows BAE to grant licensure to applicants who passed written examinations prior to 1986 in other jurisdictions. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 43 for background information.) The law, termed a "limited opportunity" by BAE, will remain in effect until July 1, 1989.

Because there was no uniform examination before 1966, the law's provisions technically apply only to those candidates who passed the examination between 1966 and 1986. Under section 121(a) of Chapter 2, Title 16 of the CCR, reciprocity candidates who were licensed based upon passage of written examinations administered prior to 1966 and who possess five years of licensed practice as an architect are also eligible for licensure upon passage of BAE's oral interviews.

LEGISLATION:

AB 1158 (Bradley) would effectively make AB 4419 (Bradley), passed as an urgency statute in 1988, permanent. (See *supra* MAJOR PROJECTS for further discussion of this issue.) Because BAE has conditionally agreed to administer the ARE in 1990, a permanent repeal of AB 1113 would facilitate the normalization of reciprocity statutes. The bill is pending in the Assembly Ways and Means Committee at this writing.

AB 1005 (Frazee) would require an architect to affix a stamp bearing the architect's name, license number, the term "licensed architect", and the expiration date of the license on plans and documents in lieu of noting the license number. The bill would make it unlawful for any unlicensed person to use the stamp of a licensed architect or a stamp or seal which bears the legend "State of California" or words, symbols, or documents that indicate that he/she is licensed by the state on plans or documents for structures that are submitted to a governmental entity. At this writing, AB 1005 is pending in the Assembly Governmental Efficiency and Consumer Protection Committee.

RECENT MEETINGS:

At its January 26 meeting in Millbrae, the Board welcomed Peter S. Chan as a public member to the Board. Chan, who has a bachelor's degree in civil engineering from California Polytechnic University in Pomona, is chairman and president of PSC Associates, Inc., a geotechnical consulting firm in Mountain View. He is also chairman and president of Mountain Savings Bank and Mountain Pacific Holding Company. Chan replaces Paul W. Morgal, who resigned.

FUTURE MEETINGS:

June 15 in Sacramento.

ATHLETIC COMMISSION

Executive Officer: Ken Gray
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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., 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, matchmakers, 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:

Medical Advisory Committee. At its January meeting, the Commission appointed six physicians to the Medical Advisory Committee. Under section 18645 of the Business and Professions Code, the Commission is empowered to appoint six licensed physicians to the Committee, which will provide information and advice to the Commission on medical issues that affect boxing. The six members of the Committee, appointed for two-year terms, are Dr. Fred Flynn and Dr. Jonathan Mueller (neurologists), Dr. Howard Cohen and Dr. Michael Skala (ophthamologists), and Dr. Robert Karns and Dr. William Lundeen (physicians with sports medicine experience).

At its February meeting, the Commission appointed Commissioner P.B. Montemayor and Bill Malkasian to its two-member Medical Committee. The Committee will act as the liaison between the aforementioned Medical Advisory Committee and the Commission.

Safety Equipment Committee. Also at its February meeting, the Commission appointed Commissioners Charles Westlund and Roosevelt Grier to the newly formed Safety Equipment Committee. The Committee will be responsible for