



REGULATORY AGENCY ACTION

a larger, more qualified pool of oral commissioners.

Another topic discussed in January was the rise in reported complaints against psychotherapists. The number reported to PEC has risen from 201 in 1987, to 348 in 1988, to a projected 480 by June 1989. The PEC believes this increase in the number of complaints reflects a better-informed public with a willingness to file complaints. Sexual abuse is the highest reported complaint. Studies have shown that 5-10% of California's 38,000 psychotherapists have had sex with their patients. (See CRLR Vol. 7, No. 3 (Summer 1987) p. 83 for background information.) Because an estimated 80% of therapists charged with sexual misconduct engage in such conduct with more than one patient, the number of patients involved is estimated at 7,000-17,000. The PEC is trying to develop disciplinary guidelines to deal with this serious problem.

FUTURE MEETINGS:

July 21-22 in San Francisco.

September 15-16 in San Diego.

SPEECH PATHOLOGY AND AUDIOLOGY EXAMINING COMMITTEE

Executive Officer: Carol Richards
(916) 920-6388

The Board of Medical Quality Assurance's Speech Pathology and Audiology Examining Committee (SPAEC) consists of nine members: three speech pathologists, three audiologists and three public members (one of whom is a physician).

The Committee registers speech pathology and audiology aides and examines applicants for licensure. The Committee hears all matters assigned to it by the Board, including, but not limited to, any contested case or any petition for reinstatement, restoration, or modification of probation. Decisions of the Committee are forwarded to the Board for final adoption.

Gail Hubbard was elected to serve as chair of SPAEC at the Committee's February 3 meeting. Ms. Hubbard, a dispensing audiologist who owns a combination audiology and hearing aid dispensary practice in the San Diego area, replaces Dr. Philip Reid. Jacquelyn Graham, a speech pathologist who has served with the Buena Park school district since 1968, was elected vice-chair.

MAJOR PROJECTS:

Speech Pathology and Audiology

Aide Regulations. Proposed changes to sections 1399.170-.176, Title 16 of the California Code of Regulations, which were submitted to the Office of Administrative Law (OAL) for review, were returned to SPAEC for minor modification. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 58; Vol. 8, No. 4 (Fall 1988) p. 66; and Vol. 8, No. 3 (Summer 1988) pp. 70-71 for background information.)

The proposed changes, which would impose stricter requirements regarding the registration, supervision, and training programs for speech pathology and audiology aides, will be modified by SPAEC in accordance with OAL's recommendations and resubmitted.

Rulemaking Calendar for 1989. SPAEC plans to draft new regulations creating penalties for violations of the licensure act and regulations which govern the practice of speech pathologists and audiologists. Currently, there are no applicable penalties. The proposed regulations would be established under the authority of sections 12.5, 125.9, and 125.95 of the Business and Professions Code. SPAEC projects the notice of proposed action will be ready in July; hearing will be scheduled during September; and the rulemaking package will be sent to OAL in January 1990.

RECENT MEETINGS:

During the Committee's February 3 meeting, Executive Officer Carol Richards presented a comparison of the number of speech pathology and audiology licenses issued during 1987 and 1988. The rate of issuance has been stable, with 369 licenses issued in 1987 and 364 in 1988.

Ms. Richards also reported the current budget report looks favorable with funds earmarked for a pamphlet to be made available to aide supervisors this year.

At the same meeting, the Committee discussed and approved a revised draft of the application form for registering aides. The new application will be available when the proposed regulatory changes for speech pathologist and audiology aides have been approved by OAL.

FUTURE MEETINGS:

June 30 in Los Angeles.

September 8 in San Jose.

November 10 in San Diego.

BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

Executive Officer: Ray F. Nikkel
(916) 445-8435

The Board of Examiners of Nursing Home Administrators (BENHA) develops, imposes, and enforces standards for individuals desiring to receive and maintain a license as a nursing home administrator. The Board may revoke or suspend a license after an administrative hearing on findings of gross negligence, incompetence relevant to performance in the trade, fraud or deception in applying for a license, treating any mental or physical condition without a license, or violation of any rules adopted by the Board. Board committees include the Administrative, Disciplinary, and Education, Training and Examination Committees.

The Board consists of nine members. Four of the Board members must be actively engaged in the administration of nursing homes at the time of their appointment. Of these, two licensee members must be from proprietary nursing homes; two others must come from nonprofit, charitable nursing homes. Five Board members must represent the general public. One of the five public members is required to be actively engaged in the practice of medicine; a second public member must be an educator in health care administration. Seven of the nine members of the Board are appointed by the Governor. The Speaker of the Assembly and the Senate Rules Committee each appoint one member. A member may serve for no more than two consecutive terms.

MAJOR PROJECTS:

Implementation of AB 1834. BENHA continues to work towards compliance with the requirements of AB 1834 (Connelly). (For details on AB 1834, see the implementation plan outlined in CRLR Vol. 8, No. 4 (Fall 1988) p. 67; see also Vol. 8, No. 2 (Spring 1988) p. 69; and Vol. 8, No. 1 (Winter 1988) pp. 66-67.) A new computer tracking system that would record numerous enforcement actions, including complaints, citations, and Department of Health Services (DHS) referrals, was scheduled to be operative in April. At the Board's February 17 meeting, Executive Officer Ray Nikkel reported that the office presently has the terminal hardware and necessary software, but is waiting for time on the mainframe.

The Board is currently conducting



studies on various issues so it will be able to submit the report required by AB 1834 to the legislature. At BENHA's December 1 meeting, Education Committee Chair Dr. John Colen presented the Board with a report on the Board's continuing education approval process and the administrator-in-training program.

LEGISLATION:

AB 1886 (Quackenbush) would provide that any person who on January 1, 1990, is a hospital administrator of a separate hospital nursing home or a distinct facility for long-term care, and has specified work experience, shall be admitted to the nursing home administrator examination. At this writing, this bill is pending in the Assembly Committee on Aging and Long Term Care.

RECENT MEETINGS:

At its February 17 meeting in San Diego, the Board discussed a proposal by the California Association of Hospitals and Health Systems (CAHHS) for a revision in BENHA's licensing requirements to accommodate administrators operating "distinct part skilled nursing facilities" (*i.e.*, those connected with hospitals). Presently, BENHA licensure of DP/SNF administrators is not required, but a new federal statute regarding licensure of skilled nursing facilities requires each facility to have an administrator licensed by the state, and CAHHS anticipates that this requirement will be applied to DP/SNFs.

CAHHS representatives appeared at the February meeting, proposing (1) a one-time "grandfathering" of all acute administrators who have operational responsibility for DP/SNFs; and (2) a revision in BENHA's regulation specifying the standards which must be met in order to qualify for the nursing home administrator examination. CAHHS' proposal would exempt from the currently required 1,000-hour administrator-in-training (AIT) requirement those who have "three years work experience in planning, coordinating, directing and implementing the operations of an acute care hospital, or one year of work experience in planning, coordinating, directing or implementing the operations of a long-term care facility." CAHHS believes the 1,000-hour AIT program places an unnecessary and undue burden upon those practitioners who meet the educational requirements and have experience in the field.

Board counsel Don Chang opined that the automatic licensure ("grandfathering") of these individuals would require a statutory change, but automatic eligibil-

ity to take the BENHA licensing exam would require only a regulatory change. Chang noted that the regulatory process would take a minimum of six to eight months from start to finish. (*See supra* LEGISLATION for related bill.)

Executive Officer Ray Nikkel also reported the results of examinations administered on December 14, 1988: the state exam pass rate was 44%; and the passage rate on the national exam was 60%.

BENHA is currently seeking a sponsor for its fee bill to raise the statutory ceiling on its licensing fees. The Board's single biggest expense was said to be Attorney General fees.

The Board also approved as policy the granting of continuing education credits (up to a total of two hours) for licensees who attend Board meetings. Board members who are also licensees will be exempt from this credit, to avoid the appearance of a conflict of interest.

FUTURE MEETINGS:

To be announced.

BOARD OF OPTOMETRY

Executive Officer: Karen Ollinger (916) 739-4131

The Board of Optometry establishes and enforces regulations pertaining to the practice of optometry. The Board is responsible for licensing qualified optometrists and disciplining malfeasant practitioners. The Board's goal is to protect the consumer patient who might be subjected to injury resulting from unsatisfactory eye care by inept or untrustworthy practitioners.

The Board consists of nine members. Six are licensed optometrists and three are members of the community at large.

MAJOR PROJECTS:

Regulatory Changes. The Office of Administrative Law (OAL) has approved the Board's resubmitted rulemaking package. (*See CRLR Vol. 9, No. 1 (Winter 1989) p. 59 and Vol. 8, No. 3 (Summer 1988) p. 72 for further information.*) The approved regulatory changes include the addition of new sections—section 1526 (CPR requirement) and section 1565 (requiring specified information to be included in optometric prescriptions). Also approved in this package were amendments to sections 1530, 1531, 1532, 1533, and 1535 of Chapter 15, Title 16 of the California Code of Regulations. (*See CRLR Vol. 8, No. 4 (Fall 1988) pp. 67-68 for background information.*)

Other Regulatory Changes. After a public hearing in December on the modified versions of new section 1533.1 (examination appeals) and amended section 1561 (topical pharmaceutical agents usage), the Board determined that these amendments would overlap with proposed amendments in the regulatory package which was then pending before the OAL. The Board tabled these amendments and will take them up again now that the regulatory package has been approved. (*See CRLR Vol. 8, No. 4 (Fall 1988) p. 68 and Vol. 8, No. 3 (Summer 1988) p. 72 for background information.*)

The Board is currently revising language for an amendment to section 1510 which pertains to informed consent, and a new section 1570 which defines contact lenses for prescription purposes. (*See CRLR Vol. 9, No. 1 (Winter 1989) p. 59 for further information.*)

LEGISLATION:

Anticipated Legislation. The Department of Consumer Affairs has decided not to sponsor the Board's proposed legislation to ban the use of fictitious names, and the Board will not pursue this bill.

SB 1104 (Roberti) would extend until January 1, 1992, the Board's authority to refuse to honor a doctor of optometry degree awarded by a foreign university if the Board finds the school's instruction is not equivalent to that required in the United States. *SB 1237 (Roberti)* (Chapter 1473, Statutes of 1987) eliminated such authority commencing January 1, 1991.

FUTURE MEETINGS:

To be announced.

BUREAU OF PERSONNEL SERVICES

Chief: Jean Orr (916) 920-6311

The Bureau of Personnel Services was established within the Department of Consumer Affairs (DCA) to regulate those businesses which secure employment or engagements for others for a fee. The Bureau regulates both employment agencies and nurses' registries. Businesses which place applicants in temporary positions or positions which command annual gross salaries in excess of \$25,000 are exempt from Bureau regulation; similarly, employer-retained agencies are also exempt from Bureau oversight.

The Bureau's primary objective is to