



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



REGULATORY AGENCY ACTION

limit abuses among those firms which place individuals in a variety of employment positions. It prepares and administers a licensing examination and issues several types of licenses upon fulfillment of the Bureau's requirements. Approximately 900 agencies are now licensed by the Bureau.

The Bureau is assisted by an Advisory Board created by the Employment Agency Act. This seven-member Board consists of three representatives from the employment agency industry and four public members. All members are appointed for a term of four years. As of this writing, seats for one public and two industry members remain vacant.

LEGISLATION:

Two bills which could abolish the Bureau have been introduced into the state legislature. *AB 2113 (Johnson)*, as introduced, would simply abolish the Bureau at the end of 1989. *SB 1673 (Montoya)*, as introduced, would make minor changes to the Employment Agency Act, but Senator Montoya's office says the bill probably will be amended to include a provision abolishing the Bureau. A third bill, *AB 2469 (Johnston)*, would continue the present deregulation of employer-paid agencies beyond the current 1991 sunset date.

Both Assembly bills are supported by the California Association of Personnel Consultants (CAPC). CAPC is the private industry group which is largely responsible for the present deregulation of employer-paid agencies. Deregulation is the result of AB 2929 (Chapter 912, Statutes of 1986), a CAPC-sponsored bill which took effect on July 1, 1987. AB 2929 removed employer-retained agencies from the Bureau's oversight. The number of licensees regulated by the Bureau decreased as a result. Since the Bureau receives all of its funding from its licensing fees, the Bureau suffered a 60% decline in its funding as a result of deregulation. (For more information on the effects of AB 2929, see CRLR Vol. 9, No. 1 (Winter 1989) p. 59 and Vol. 8, No. 4 (Fall 1988) p. 68.)

CAPC continues to favor the deregulation which occurred under AB 2929. That bill contained a sunset provision which automatically returns employer-paid agencies to the Bureau's jurisdiction on January 1, 1991 unless AB 2929 is extended. AB 2469 would delete the sunset date, and, according to Peter Cooley of Assemblymember Johnston's office, AB 2469 has no connection with the bills to abolish the Bureau. At this writing, AB 2469 is pending in the Assembly

Committee in Governmental Efficiency and Consumer Protection.

The Bureau's budget shortfall, combined with the deregulation of employer-paid agencies, has left the industry in a volatile condition. According to an article in the February 1989 CAPC *Inner View* newsletter, "'Free enterprise' was the cry, but anarchy is the result." The article also states that CAPC is developing legislation to create the first responsible, mandatory self-regulation system in the country. The office of James Randlett, CAPC's lobbyist, says CAPC is awaiting the language of proposed amendments to AB 2113 before it announces an official position on the bill. Those amendments are being prepared by the DCA, which believes that any effort to abolish the Bureau must be coupled with alternate remedies for consumer protection. DCA will announce the specific language of its proposals after it receives approval from the Governor's office. At this writing, AB 2113 is pending in the Assembly Government Efficiency and Consumer Protection Committee.

Michael Gomez of Senator Montoya's office says SB 1673 is a spot bill which will be amended to compete with AB 2113 if the Assembly bill with the DCA amendments fails to adequately protect the interests of consumers. SB 1673 is pending in the Senate Business and Professions Committee.

Bureau Chief Jean Orr claims that, in addition to wanting a self-regulated industry, CAPC also favors shifting the industry toward larger agencies and toward employer-retained agencies.

As of this writing, annual voting membership in CAPC costs an employment agency \$298, which includes \$24 for CAPC's Political Action Committee. In addition, CAPC claims to have given over 2,700 exams to managers, owners, and consultants, certifying them as "certified employment specialists." This certification is given by the California Institute for Employment Counseling (CIEC), a part of CAPC which was founded in 1958. The exam costs \$75, including a tutoring session, and study materials cost an additional \$50. CAPC reports that 84% of all who take the exam pass.

According to the October 1988 CAPC reporter, DCA officials have requested CAPC to consider, with regard to industry self-regulation, the following: (1) mandatory arbitration in the event of a fee dispute; and (2) the accreditation of consultants. CAPC describes corollary issues of (2) above as whether the CIEC should be separately chartered to administer such a program, and whether CAPC

should sponsor legislation requiring the accreditation of consultants by CAPC as a prerequisite to continued employment in the industry.

FUTURE MEETINGS:

To be announced.

BOARD OF PHARMACY

Executive Officer: Lorie G. Rice
(916) 445-5014

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:

Examination Changes. At the January meeting in San Diego, there was no public comment on the proposed amendments to section 1724 of Chapter 17, Title 16 of the California Code of Regulations (CCR). (See CRLR Vol. 9, No. 1 (Winter 1989) p. 66 for background information.) These changes would streamline the format of the examination by eliminating subsections and would decrease the time of the examination from the current 14 hours to a nine- or ten-hour period. The content tested would remain the same and the candidate would be required to achieve a score of 75 under the new format. The amended regulation was submitted to the Office of Administrative Law (OAL) in March.

Pharmacy Technician Regulation. The Board has encountered "roadblocks" to the introduction of legislation which would create a new category of pharmacy technicians. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 60 and Vol. 8, No. 4 (Fall 1988) p. 70 for background information.) As an alternative measure, the