



amount of \$2,000 with the Department of Consumer Affairs.

Members of the State Bar of California, accountants regulated by the state or federal government, and those authorized to practice before the Internal Revenue Service are exempt from registration.

An Administrator, appointed by the Governor and confirmed by the Senate, enforces the provisions of the Tax Preparer Act. He/she is assisted by a nine-member State Preparer Advisory Committee which consists of three registrants, three persons exempt from registration, and three public members. All members are appointed to four-year terms.

LEGISLATION:

AB 861 (Jones). Existing law provides that registrations of tax preparers and tax interviewers are to be renewed on an annual basis. This bill would provide for a staggered birthdate renewal program on a two-year basis for those persons and would make related changes. This bill passed the Assembly on June 7 and is pending in the Senate Business and Professions Committee.

FUTURE MEETINGS:

To be announced.

BOARD OF EXAMINERS IN VETERINARY MEDICINE

Executive Officer: Gary K. Hill (916) 920-7662

The Board of Examiners in Veterinary Medicine (BEVM) licenses all veterinarians, veterinary hospitals, animal health facilities, and animal health technicians (AHTs). All applicants for veterinary licenses are evaluated through a written and practical examination. The Board determines through its regulatory power the degree of discretion that veterinarians, animal health technicians, and unregistered assistants have in administering animal health care. All veterinary medical, surgical, and dental facilities must be registered with the Board and must conform to minimum standards. These facilities may be inspected at any time, and their registration is subject to revocation or suspension if, following a proper hearing, a facility is deemed to have fallen short of these standards.

The Board is comprised of six members, including two public members. The Animal Health Technician Examining Committee consists of three licensed veterinarians, one of whom must be involved

in AHT education, three public members and one AHT.

MAJOR PROJECTS:

Department of Consumer Affairs Rejects Teeth Cleaning Regulations. On March 22, the Director of the Department of Consumer Affairs (DCA) rejected BEVM's proposed section 2037, Chapter 20, Title 16 of the California Code of Regulations (CCR). This proposed section would have clarified the term "dental operation" to include the use or application of any instruments or devices to any portion of an animal's teeth or gums for specified purposes, including preventive dental procedures such as the removal of tartar or plaque from an animal's teeth. This section would have allowed dental operations to be performed only by a licensed veterinarian or veterinarian-supervised AHT. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 66; Vol. 8, No. 4 (Fall 1988) pp. 75-76; Vol. 8, No. 3 (Summer 1988) pp. 81-82; and Vol. 8, No. 2 (Spring 1988) p. 79 for detailed background information.)

BEVM's stated purpose for adopting section 2037 was to assure the public that only formally trained and licensed individuals would be performing this service. However, DCA Director Michael Kelley was persuaded that the purpose of the regulation is solely for the public's benefit. In his March 22 letter, Kelley stated that "the adoption of this regulation will operate to preclude the public from being able to obtain a legitimate service at an affordable cost...it seems quite clear that the motivation is, at least in part, a matter of economics."

The Director's rejection of section 2037 does not end the teeth cleaning controversy. The Board is free to initiate a new rulemaking proceeding; alternatively, it may choose to sponsor clarifying legislation. Although it is still considering various options, the Board has long considered animal teeth cleaning to be within the parameters of Business and Professions Code section 4826, which defines the practice of veterinary medicine. In fact, BEVM claims that this statute authorizes it to prohibit unlicensed teeth cleaning activity without adopting any implementing regulations. To this end, the Board has issued several cease and desist letters to non-vets performing this service.

BEVM's letters have been challenged by Stephen Arian of Larkspur, who has requested a regulatory determination by the Office of Administrative Law (OAL). Arian's request alleges that the Board's letters are an attempt to enforce an im-

proper "underground regulation" prohibiting nonlicensed individuals from engaging in teeth cleaning, and that such attempt exceeds the Board's authority and violates the Administrative Procedure Act. OAL is currently reviewing the request and was scheduled to issue a determination by July 12.

Additionally, the Attorney General's Office is also preparing a formal opinion on the issue at the request of Senator Cecil Green. Opinion 89-504 will address the question whether "the application of a dental instrument, hand scaler, ultrasonic device, or motorized polisher, for the removal of calculus, soft deposits, plaque, tartar, stains, or the matter above or below the gumline in the mouths of dogs or cats, or other smoothing, filing or polishing of the tooth surfaces of dogs or cats, constitute the practice of veterinary medicine, surgery, or dentistry."

OAL Rejects Permit Reform Act Regulations. Following an October 1988 regulatory hearing, the Board adopted at its January 1989 meeting new sections 2017 and 2018, Chapter 20, Title 16 of the CCR, to set licensure and examination application processing deadlines in compliance with the Permit Reform Act of 1981. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 67 for background information.) On March 20, OAL rejected the proposed regulations on grounds that they failed to satisfy the clarity standard of Government Code section 11349.1, and that they were internally inconsistent.

On April 5, BEVM released its modified versions of the two sections, and accepted public comments until May 3. The Board adopted the provisions as modified at its May 5 meeting. At this writing, OAL is reviewing the modified regulations.

Other Regulatory Action. At its March meeting, the Board held a public hearing on several other proposed changes. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 77 for background information.) Following the hearing, BEVM adopted the changes subject to minor modifications, which it released for an additional public comment period ending on May 3. The Board adopted the changes as modified at its May 5 meeting.

The Board amended section 2014, Chapter 20, Title 16 of the CCR, to provide that its written examination consists of two parts, and that an applicant for licensure must pass both parts in order to pass the written exam. Applicants must also achieve a passing grade on the practical examination in order to qualify for licensure.



REGULATORY AGENCY ACTION

The Board also amended section 2015.2, to require applicants to pass all sections of the licensing exam within a 63-month period, and to establish a procedure to grant conditional examination credit to applicants who have passed the National Board exam and/or the clinical competency test in another jurisdiction.

The Board also adopted new section 2015.2, which allows applicants who passed the written exam at a time when it consisted solely of the National Board exam to have three subsequent examinations in which to pass the practical exam during the five-year period following their initial failure to pass the practical exam.

The Board amended subsections (a) and (b) of section 2070 to provide that the application fees for sections one and two of the written exam are \$100 and \$80, respectively. The Board also adopted amendments to sections 2024 (regarding remedial training for graduates of foreign veterinary schools) and 2025 (to require foreign veterinary graduates to obtain, among other things, a passing score on a test of written English, and to successfully complete either a twelve-month internship at an accredited veterinary college or pass a clinical proficiency examination).

Finally, the Board adopted new section 2025.2, to provide a transitional licensure program for foreign graduates who entered, prior to May 1, 1987, a twelve-month evaluated clinical experience at an approved site.

At this writing, OAL is currently reviewing these changes.

LEGISLATION:

AB 786 (Polanco) would require a retail pet dealer, as a condition of selling a dog or cat and at intervals of fourteen days until the dog or cat is sold, to provide for an examination by a licensed veterinarian and maintain a record of the veterinary services for that animal. This bill would specify conditions for replacement or a full refund if the animal dies within fourteen days of the sale and if the illness or condition causing death existed at the time of the sale. At this writing, AB 786 is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

AB 916 (Kelley) would amend the Business and Professions Code to state that a person practices veterinary medicine if he/she provides consultative veterinary services to more than one privately held animal-owning client. Current law allows out-of-state vets to consult within California; this bill would end that exemption. This bill is pending in

the Assembly Agriculture Committee.

AB 1081 (Allen) would exempt oxygen and nitrous oxide as kept and used by certain health professionals, including veterinarians, from existing law requiring any business which handles hazardous materials to adopt a business plan for the response to their release, and to annually submit an inventory to the local administering agency. This bill is pending in the Senate Committee on Toxics and Public Safety Management.

AB 1842 (Speier), as amended May 8, would authorize a veterinarian who finds an injured dog or cat without its owner in a public place and treats it so that it recovers from its injuries to keep the animal for purposes of adoption, provided the responsible animal control agency has been first contacted and has refused to take possession of the animal. This bill is pending in the Senate Appropriations Committee.

SB 428 (Torres) would define vicious and potentially dangerous dogs and would provide for the regulation and licensing of these animals. (See CRLR Vol. 9, No. 2 (Spring 1989) pp. 77-78 for more information.) This bill passed the Senate and is currently pending in the Assembly Ways and Means Committee.

RECENT MEETINGS:

At its March 16 and May 4 meetings, BEVM again reviewed the issue of whether the implantation of a microchip into an animal for identification purposes constitutes the practice of veterinary medicine. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 78 for background information.) For the past two years, BEVM has asserted that this procedure is under the Board's jurisdiction because it requires the use of a twelve-gauge needle and is thus surgery.

The Board recently received a request from InfoPet Company asking that BEVM reconsider its position. Specifically, InfoPet inquires whether an unsupervised AHT is allowed to perform this procedure. The Board has stated that it will reevaluate its position if evidence is presented which suggests the procedure is not surgery. At its May meeting, the Board asked DCA legal counsel Don Chang to investigate whether this procedure fits into any existing practice exemption. At this writing, InfoPet has not yet submitted any new information to the Board.

FUTURE MEETINGS:

October 12-13 in Santa Clara.

BOARD OF VOCATIONAL NURSE AND PSYCHIATRIC TECHNICIAN EXAMINERS

Executive Officer: Billie Haynes (916) 445-0793

This agency regulates two professions: vocational nurses and psychiatric technicians. Its general purpose is to administer and enforce the provisions of Chapters 6.5 and 10, Division 2, of the Business and Professions Code. A licensed practitioner is referred to as either an "LVN" or a "psych tech."

The Board consists of five public members, three LVNs, two psych techs, and one LVN with an administrative or teaching background. At least one of the Board's LVNs must have had at least three years' experience working in skilled nursing facilities.

The Board's authority vests under the Department of Consumer Affairs as an arm of the executive branch. It licenses prospective practitioners, conducts and sets standards for licensing examinations, and has the authority to grant adjudicatory hearings. Certain provisions allow the Board to revoke or reinstate licenses. The Board currently licenses approximately 68,000 LVNs and 14,000 psychiatric technicians.

Current Board members include Kathleen Fazzini Barr, LVN (President), Deloyce Arrington, LVN (Vice-President), Gwendolyn Hinchey, RN, Bruce Hines, PT, Kenneth G. Audibert, PT, and public members E. Charles Connor, Betty Fenton, Patricia A. Lang, Helen Lee, and Manuel Val.

MAJOR PROJECTS:

Fee Increase Regulation. The Board was scheduled to hold a July 14 public hearing on its proposal to amend section 2537, Chapter 25, Title 16 of the California Code of Regulations (CCR). The amendment would increase the Board's licensure application fee to \$50, its biennial renewal fee to \$50, and establish an initial license fee of \$50. Other fees set forth in section 2537 would remain the same.

OAL Approves Regulatory Changes. On April 12, the Office of Administrative Law approved the Board's proposal to amend numerous provisions of its regulations in Chapter 25, Title 16 of the CCR. These amendments affect qualifications of faculty at Board-approved schools of vocational nursing and PT programs; the course content in vocational nursing and PT curricula; and the establishment of a reexamination fee for PTs. (See CRLR Vol. 9, No. 2 (Spring