The Committee discussed the topic of feeding patients in depth. The issue is whether patients who are in danger of aspiration should be fed only by speech pathologists, or whether feeding by nurse’s aides is acceptable. The argument in favor of requiring only speech pathologists to feed patients, or to be in the room during feeding, is that the pathologist can help the patient swallow and teach proper lip, tongue, and jaw control. The problem appears to be determining which patients need this specific supervision and which do not. The discussion was tabled pending further information and clarification.

FUTURE MEETINGS:
January 12 in Costa Mesa.
March 30 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 license 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. At BENHA’s October 3 meeting, Education Committee Chair Dr. John Colen presented a progress report on BENHA’s continuing education (CE) and administrator-in-training (AIT) programs. (See CRLR Vol. 9, No. 3 (Summer 1989) p. 64 and Vol. 8, No. 4 (Fall 1988) p. 67 for background information on BENHA’s implementation of AB 1834.)

Nursing home administrators (NHAs) are currently required to complete forty hours of CE credits during each two-year license period. Recent changes have increased the filing fees for CE providers to $150 per provider and $15 for each course submitted to BENHA for approval. For the CE portion of its AB 1834-required study, the Education Committee sent questionnaires to CE providers and NHAs to assess compliance with the law and determine the availability of courses by subject matter and geographical area. Based on the survey results, the Committee made several recommendations. BENHA should: (1) monitor CE provider applications during the next two years to see if the fee increases are excluding CE providers or reducing course offerings; (2) continue to approve correspondence CE courses to assure availability to rural areas, and explore the possibility of CE home video courses; and (3) retain the forty-hour CE requirement.

Under current AIT requirements, a preceptor must have served for two years as an NHA, attended a preceptor training session, and have no pending or past disciplinary actions. Based on an assessment of the AIT applicant’s background and education, the preceptor must submit a training program to the Board for approval. Most AITs, based on their educational background, are required to complete 1,000 hours of AIT instruction. In studying the AIT program as required by AB 1834, the Committee sent questionnaires to NHAs, as former AIT trainees, to assess the effectiveness of the program. The Committee made several recommendations based on the survey results. BENHA should: (1) monitor the AIT program more closely to ensure that trainees are following the twenty-hour-per-week minimum requirement; (2) adopt regulations requiring onsite visits by a Board or staff member to ensure compliance with AIT requirements; and (3) adopt a regulation requiring a B.A. degree as a minimum prerequisite for the NHA licensing exam.

This last requirement would correspond to the educational standards of the National Association of Boards of Examiners of Nursing Home Administrators (NABENHA).

Board members generally agreed with the Committee’s recommendations, particularly the suggestion regarding AIT on site visits, which are currently conducted by the American College of Health Care Administrators. Some Board members suggested that the monitors lack uniform and, perhaps, adequate qualifications. The current recommendations, if implemented, would vest more monitoring control in the Board. The recommendations were accepted and were sent back to BENHA’s committees for implementation recommendations.

LEGISLATION:
The following is an update on bills reported in detail in CRLR Vol. 9, No. 3 (Summer 1989) at page 64: AB 2323 (Hannigan) requires the Department of Social Services to conduct a study to determine the appropriate state administrative structure to certify administrators of residential care facilities for the elderly (RCFEs) and to establish a minimum standard of education and training requirements for RCFE personnel. This bill was signed by the Governor on September 13 (Chapter 434, Statutes of 1989).

SB 1166 (Mello) enacts the Residential Care Facilities for the Elderly Reform Act of 1989, requiring, among other things, that an applicant demonstrate that he/she has successfully completed an approved certification program involving a minimum of forty hours of class instruction. This bill was signed by the Governor on September 29 (Chapter 1115, Statutes of 1989).

AB 1886 (Quackenbush), as amended August 21, would provide that any person who has been directly responsible for planning, coordinating, directing, and implementing the patient care, physical plan, and fiscal administration of a distinct part skilled nursing facility (DP/SNF) of an acute care hospital in California for one year immediately preceding his/her application for a nursing home administrator’s license, and who applies on or before July 1, 1990, shall be required to take the next scheduled nursing home examination as a condition of licensure. Additionally, the bill provides that any person who has a master’s degree in nursing home administration or a related field, and has specified work experience, shall be eligible to take the examination for a nursing home adminis-
trator’s license. This bill is a two-year bill, pending in the Senate Committee on Appropriations.

RECENT MEETINGS:
At its August 15 meeting, BENHA lacked a quorum so no substantial business was conducted. At the October 3 meeting, the Board discussed a recent recommendation by NABENHA that state licensing exams be conducted four times per year to ensure a larger pool of candidates and greater test security. BENHA currently tests six times per year (every two months). After discussion, the Board decided to retain its six-per-year testing schedule.

Executive Officer Ray Nikkel suggested that BENHA’s licensing exam include questions testing the applicant’s knowledge of state statutes and regulations, especially the ombudsman statutes; the Education Committee will examine this recommendation. Nikkel also suggested that a NHA correspondence course be adopted which, together with the AIT requirement, could be a prerequisite to the licensing exam. He opined that such a course, if tailored to the NHA, might be more relevant than the general B.A. requirement. Dr. Colen argued that this would be a “step backward” since the current trend is toward greater professionalization of the NHA. The Education Committee will examine this issue for the next meeting.

Discipline Committee Chair Lilly Shapell, distressed by recent newspaper accounts of nursing home atrocities, expressed concern that discipline of NHAs is not severe or prompt enough. “The buck has to stop somewhere,” according to Shapell. This led to a discussion concerning BENHA’s discipline procedure. (See CRLR Vol. 7, No. 2 (Spring 1987) p. 62 for background information on BENHA’s discipline process.) Nikkel and Department of Consumer Affairs legal counsel Don Chang explained the delays inherent in the current system; also, the enormous legal costs incurred in license revocation proceedings would outstrip BENHA’s budget. Therefore, BENHA accusations are usually “piggybacked” onto any action brought by the Department of Health Services against a licensee.

FUTURE MEETINGS:
December 5 in San Francisco.
February 23 in Los Angeles.

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:
Foreign Graduates. At the Board’s September meeting, Mr. Simon Haines from Senator Roberti’s office addressed the Board on its continuing problems in licensing graduates of foreign optometric schools. (See CRLR Vol. 9, No. 3 (Summer 1989) pp. 64-65 for extensive background information.)

In 1987, Senator Roberti sponsored SB 1347 (Chapter 1473, Statutes of 1987), which—as of January 1, 1991—strips the Board of the authority to deny admission to its licensing exam to a foreign graduate if the Board determines that the curriculum of the foreign school is not “reasonably” equivalent to that of an accredited U.S. institution. Senator Roberti is currently carrying SB 1104, which would delay the effective date of SB 1347 until January 1, 1992.

Mr. Haines stated that there appear to be both philosophical differences between the Board’s approach to this problem and that of Senator Roberti. The Senator believes that the Board is responsible for assisting qualified foreign graduates in attaining California licensure without requiring them to complete the entire course of optometry at an accredited U.S. institution. The Senator would like to see the Board set standards for and approve remedial training programs, which would provide foreign graduates with the courses needed to prepare them for licensure without requiring them to retake the entire four-year program. The Board is currently authorized to accept remedial education, but—according to Senator Roberti—has not prescribed or accepted any such training which would qualify foreign graduates for the exam.

Board members expressed particular concern over whether Senator Roberti’s bill intends to eliminate the requirement that foreign graduates take the National Board of Examiners in Optometry (NBEO) examination before being admitted to the California exam. The Board wants to retain that requirement. In particular, it is concerned about Filipino graduates, who reportedly have an extremely low pass rate on the NBEO—which the Board believes is indicative of poor education in the basic sciences area. Board members also complained that they are being unfairly singled out in this area; other licensing boards may have higher rates of foreign graduate licensure, but the Board believes that the courses of foreign study in those professions are more similar to what is required in the United States than is the course of study in most foreign optometry schools.

The Board hopes to come up with a course of action on this issue by its December meeting.

Board Comments on Medical Assistant Regulations. On September 13, Board Executive Officer Karen Ollinger sent a letter to the Board of Medical Quality Assurance’s Division of Allied Health Professions (DAHP), which is authorized to adopt regulations defining the scope of practice of medical assistants under SB 645 (Royce) (Chapter 666, Statutes of 1988). (See CRLR Vol. 9, No. 2 (Spring 1989) p. 61 for background information on SB 645.) The Board is concerned about a provision in proposed section 1366, Chapter 13, Title 16 of the California Code of Regulations, which would permit medical assistants to perform “additional technical supportive services” provided they are not “prohibited by another provision of law.” The Board is particularly interested in ensuring that this provision will not be construed to allow medical assistants to perform acts falling within the scope of practice of optometry as defined in section 3041 of the Business and Professions Code. DAHP is expected to hold a regulatory hearing on the proposed regulations at its December 1 meeting.

LEGISLATION:
AB 2114 (Bane), as amended June 30, would amend section 3053 of the Business and Professions Code, which authorizes the Board to accept an examination given by other agencies or organizations which it deems equivalent to the exam required to determine an applicant’s fitness to practice optometry. This bill would require that any exam used to determine an applicant’s fitness to practice optometry be developed and administered solely by the Board, except that the Board would be authorized to