



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-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 ombudsperson 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
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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 basic 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 Optome-

try (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



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use consultants and expert examiners to assist it in conducting the examination and to use exams given by other agencies or organizations as a supplement to the exam given by the Board. AB 2114 is a two-year bill pending in the Senate Business and Professions Committee.

At its September meeting, the Board decided to take no position on AB 2114 as amended. Board members expressed confusion as to the consequences of the bill; the Board believes it is already free to accept the advice of consultants in preparing and administering its exam, and expressed concern about the possibility that this bill would curtail that authority.

AB 2198 (*Klehs*) would require the Board to administer its licensing exam at least twice per year; increase the maximum amount of the application fee from \$75 to \$195; and increase the maximum refund to those found ineligible to take the exam from \$50 to \$150. At its September meeting, the Board expressed concern about this bill, claiming that it is understaffed to administer even one exam per year. Even with additional funding for a half-time employee, the Board does not feel it has the resources to offer two exams at this time. AB 2198 is a two-year bill pending in the Senate Business and Professions Committee.

The following bills, which were discussed in detail in CRLR Vol. 9, No. 3 (Summer 1989) at page 65, were made two-year bills, and may be pursued when the legislature reconvenes in January: AB 881 (*Hughes*), which would authorize the Board to require proof of completion of continuing education as a condition for license renewal; AB 1807 (*Statham*), which would authorize optometrists having experience equivalent to specified educational and examination requirements to be permitted the use of pharmaceutical agents; SB 929 (*Seymour*), which would prohibit licensees from dispensing or selling contact lenses unless the licensee or his/her authorized agent has first determined the proper fit of the lenses by fitting the generic type of lenses to the person named in the prescription; and SB 1104 (*Roberti*), which would extend until January 1, 1992, the Board's authority to refuse to honor optometry degrees awarded by foreign universities if the Board finds the curriculum to be less than that required in the United States.

RECENT MEETINGS:

The Board's August 30-31 meeting was a "retreat" meeting which included

discussions of internal structure, strategic planning, and goal-setting. The Board verbalized its mission statement as "protection of the California consumer by regulating the practice of optometry in accordance with California law." The goals set by the Board include the following: to complete the agenda at all Board meetings; resolve the foreign graduate licensure problem; periodically assess and evaluate Board members, the Executive Officer, and Board staff; codify policy and procedures; establish incoming and outgoing Board member procedures; and revise and delete obsolete forms and applications. The Board established special committees to implement these goals.

At its September 20 meeting, Board members spent a considerable amount of time trying to "correct" the minutes of the March and August meetings. Board legal counsel Bob Miller advised that it is acceptable to draft "action minutes" as opposed to the more informative narrative minutes the Board has kept in the past. Board President Julia Preisig stated that the Board prefers the narrative format, so members can refer to earlier reasoning and decisions and avoid rehashing the same issues in future meetings.

The Board also heard a report by former Board member and immediate past president, Dr. Larry Thal, on the possibility of California optometrists using therapeutic drugs in the future. Dr. Thal summarized his studies but declined to give any recommendation. He cited cost containment, better quality care, and improved access to care as the advantages to consumers. He opined that with 160 hours of ocular pharmacology in their training, optometrists are better trained in this area than any other health care provider. He also stated his belief that optometrists have proven their ability to diagnose and that, in terms of risk to the patient, diagnostic drugs are far more toxic than therapeutic drugs. He suggested that in considering whether to support therapeutics legislation, the Board should carefully review the scope of the proposed therapeutic licensure to make sure that it is appropriate; he also cautioned that grandfathering should not be allowed. The Board decided to put his research materials and report on file at its office for future reference.

FUTURE MEETINGS:

To be announced.

BUREAU OF PERSONNEL SERVICES

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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 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:

The following is a status update on bills described in detail in CRLR Vol. 9, No. 3 (Summer 1989) at page 66:

AB 2113 (*Johnson*), entitled the "Employment Agency, Employment Counseling, Job Listings Services Act," repeals the entire Employment Agency Act in the Business and Professions Code, existing provisions of law which create the Bureau of Personnel Services and provide for its funding, examining, licensing, and regulatory functions, and those provisions which provide for nurses' registries and prepaid computer employment agencies and job listing services. The bill reenacts certain provisions of the Employment Agency Act as part of the Civil Code so that the contents of employment agency, employment counseling service, and job listing service contracts, and the advertising and fees of such agencies, are regulated by statute in lieu of the Bureau. The bill's August 25 amendments appropriate any funds remaining in the Bureau of Personnel Services Fund to the Department of Consumer Affairs