



## REGULATORY AGENCY ACTION

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



for specified purposes of the act. This bill, which takes effect on January 1, 1990, was signed by the Governor on September 22 (Chapter 704, Statutes of 1989).

**AB 2469 (Johnston)**, as amended July 18, continues the present deregulation of employer-paid agencies which occurred under AB 2929 beyond the January 1, 1991 sunset date. Although this bill was signed by the Governor on September 22 (Chapter 705, Statutes of 1989), a provision in the bill states that it will not become operative if AB 2113 is chaptered and takes effect on or before January 1, 1990.

**SB 1673 (Montoya)**, which would add an applicant's complaint history to the Bureau's criteria for evaluating possible restrictions on an applicant's license, is a two-year bill pending in the Senate Business and Professions Committee.

## BOARD OF PHARMACY

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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:

**Regulatory Changes.** Following a May regulatory hearing, the Board adopted several changes to its regulations at its July meeting. (See CRLR Vol. 9, No. 3 (Summer 1989) p. 67 for background information on these changes.) The Board adopted a slightly modified version of section 1710, Chapter 17, Title 16 of the California Code of Regulations

(CCR), to define an inpatient hospital pharmacy as one which, although predominantly serving inpatients of that hospital, may furnish drugs to outpatients or employees, provided that sales to walk-in customers do not exceed 1% of all the pharmacy's prescriptions.

The Board also adopted an amendment to section 1707.1, to require pharmacists to orally consult with the patient whenever a prescription drug is dispensed for the first time. Finally, the Board amended section 1717(c), to specify the tasks which may be performed by an unlicensed person under the supervision of a licensed pharmacist.

The Board received over 300 comments on these proposed regulations, and is currently preparing the rule-making record on all three changes for submission to the Office of Administrative Law (OAL).

**English Proficiency Examination.** After a July 25 hearing, the Board approved a proposed amendment to section 1719 of its regulations. (See CRLR Vol. 9, No. 3 (Summer 1989) p. 67 for background information.) The revised version states that candidates for licensure who have been non-U.S. residents for more than ten years must take and pass the Test of Spoken English in addition to satisfying all other licensure requirements. The Board is preparing the rule-making file for submission to OAL.

**Foreign Graduates.** The Board was scheduled to hold a regulatory hearing on October 25 on several proposed changes affecting the licensure of foreign graduates.

Business and Professions Code section 4085(b)(2) requires an applicant for the Board's exam who has graduated from a foreign pharmacy school to demonstrate that his/her education is equivalent to that of domestic graduates, or take an equivalency examination. The proposed adoption of new section 1720.1, Chapter 17, Title 16 of the CCR, would set forth the acceptable method of demonstrating curriculum equivalency. The Board would delegate the task of performing equivalency evaluations to the Credentials Evaluation Service (CES), an established national organization used by other licensing boards and which is approved by the American Council on Pharmaceutical Education. The new section would also specify that the acceptable equivalency examination is the Foreign Pharmacy Graduate Equivalency Examination (FPGEE) administered by the National Association of Boards of Pharmacy.

The Board also plans to amend section 1720 in several ways: first, it would

add subsection (d) to set a five-year limit (from the time of receipt of the application for evaluation to the time when one would apply for the licensure examination) as the maximum time to complete the evaluation process, after which the application will be deemed abandoned. New subsection (c) would specify that the file of an applicant who fails to pay the licensing fee for a two-year period after passing the examination will be deemed abandoned. Finally, the Board plans to make technical changes to section 1720(b).

**"Black Bag" Regulation.** Also on October 25, the Board was scheduled to hold a hearing on the proposed addition of new section 1751.10 to its regulations. This section would allow a pharmacist to carry and furnish, to a patient at home, dangerous drugs (except controlled substances) and devices for parenteral therapy (the intravenous administration of medication) when the dangerous drug or device is one currently prescribed for the patient, and the prescription has not been superseded by a different drug or device.

**Attorney General's Opinion.** Pursuant to a request by the Board, the Attorney General recently issued an opinion on whether the Board of Pharmacy has jurisdiction over pharmaceutical facilities on the campuses of the University of California. The AG's July 6 opinion (No. 89-402) held that "a pharmacy operated by the University of California is subject to the licensure, inspection and disciplinary provisions of the Pharmacy Law."

## LEGISLATION:

**SB 802 (Marks)** expressly prohibits a residential care facility for the elderly from requiring patients to purchase drugs, or rent or purchase medical equipment from any particular pharmacy or other source. This bill was signed by the Governor on October 2 (Chapter 1419, Statutes of 1989).

**AB 2083 (Polanco)**, as amended August 31, would have prohibited the retail sale of Syrup of Ipecac unless it is furnished by the retailer from supplies not accessible to the public and in response to a request by the purchaser. This bill was vetoed by the Governor on September 21.

**AB 1932 (Polanco)** would provide that any person who knowingly sells Syrup of Ipecac, any laxative, or any diuretic to another person who is under the age of eighteen years is subject to either criminal action for a misdemeanor or a civil action brought by a city attor-