CRLR Vol. 8, No. 3 (Summer 1988) pp. 82-83 (for background information). The program is charged with inspecting veterinary facilities to ensure compliance with state laws, regulations, and BEVM standards. The inspection process also includes maintaining inspection records, filing reports, issuing violation notices, and assisting BEVM in hearings and prosecutions. Board member Jean Guyer stated that the program has been very well received.

FUTURE MEETINGS:
January 10-11 in San Jose.

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 65 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.

MAJOR PROJECTS:
Computer Aided Testing. The Board is currently working with agencies throughout the state in order to implement a computer testing system for licensing psychiatric technicians. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 80 for background information.) The Board anticipates that six computers will be available statewide for licensing examinations and the scheduled date of implementation is set for September 1989.

To provide information on the Psychiatric Technician Computer Administered Testing Project, the Board held two orientation sessions in September and October for psychiatric technician directors, educators, and mental health and developmentally disabled representatives and students.

LEGISLATION:
SB 645 (Royce) authorizes BMQA’s Division of Allied Health Professions to adopt and administer regulations establishing standards for additional technical supportive services which may be performed by medical assistants. This bill also requires the Division to request recommendations concerning these standards from other agencies, including the Board. This bill was signed by the Governor (Chapter 666, Statutes of 1988).

SB 1552 (Kopp) requires healing arts boards regulating dentists, physicians and surgeons, registered nurses, marriage, family and child counselors, and clinical social workers to consider including training regarding the characteristics and methods of assessment and treatment of AIDS in continuing education requirements. This bill was signed by the Governor on September 22 (Chapter 1213, Statutes of 1988).

SB 1966 (Davis) allows the Board to require continuing education for psychiatric technicians. This bill was signed by the Governor on September 20 (Chapter 1078, Statutes of 1988).

SB 2755 (Royce) authorizes the Board of Registered Nursing to appoint a special advisory committee to study the shortage of registered nurses in California. This special advisory committee is required to report to the legislature and the BRN on its recommendations and solutions. This bill was signed by the Governor on September 26 (Chapter 1421, Statutes of 1988).

AB 4401 (Filante), as amended on August 1, provides that a law prohibiting the Department of Health Services from requiring the use of an RN for the performance of any service which may lawfully be performed by an LVN will be repealed on January 1, 1994. The bill also requires a skilled nursing or intermediate care facility to provide an RN for consultational purposes during the hours in which an LVN is used. This bill was signed by the Governor (Chapter 786, Statutes of 1988).

RECENT MEETINGS:
At its July 15 meeting, the Board sent out a reminder to all interested parties that a special Board meeting was scheduled for November 2-4 in Los Angeles. The purpose of this meeting was to allow the advisory committees from the Task Force on the Future Roles of the Licensed Vocational Nurse and Psychiatric Technician to make recommendations pursuant to the public hearings held in March, April, and May of this year. (For background information, see CRLR Vol. 8, No. 3 (Summer 1988) p. 83; Vol. 8, No. 1 (Winter 1988) p. 75; Vol. 7, No. 3 (Summer 1987) p. 93; and Vol. 6, No. 4 (Fall 1986) pp. 56-57.) The Board was expected to make final decisions regarding all Task Force recommendations at its regularly scheduled November 16 meeting.

FUTURE MEETINGS:
January 13 in Palm Springs.
March 2-3 in Los Angeles.
May 12 in San Francisco (tentative).

BUSINESS, TRANSPORTATION AND HOUSING AGENCY

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
Director: Jay Stroh
(916) 445-3221

The Department of Alcoholic Beverage Control (ABC) is a constitutionally-authorized state department. The Alcoholic Beverage Control Act vests the Department with the exclusive right and power to license and regulate the manufacture, sale, purchase, possession, and transportation of alcoholic beverages within the state. In addition, the Act vests the Department with authority, subject to certain federal laws, to regulate the importation and exportation of alcoholic beverages across state lines. ABC issues liquor licenses and investigates violations of the Business and Professions Code and other criminal acts which occur on premises where alcohol is sold. Many of the disciplinary actions taken by ABC, along with other information concerning the Department, are printed in the liquor industry trade
IREGULATORY
Cooked foodstuffs injected with alcohol to the sale of so-called "alcohol foods". The ABC and the state Department of Water and Toxics Enforcement Act of Proposition 65, the Safe Drink-
ests hope that Governor Deukmejian will decide that further research should be conducted before alcoholic beverages contribute to birth defects. As a result, stores and bars must provide warnings about fetal alcohol syndrome by October 1. Warning requirements for the cancer-causing aspects of alcoholic beverages would go into effect in July 1989. However, this may be delayed if the industry initiates litigation to contest the validity of the panel's conclusion. Liquor interests hope that Governor Deukmejian will decide that further research should be conducted before alcoholic beverages are subjected to the warning requirements of Proposition 65, the Safe Drinking Water and Toxics Enforcement Act of 1986.

ABC Approves "Alcohol Foods". The ABC and the state Department of Health Services have given their consent to the sale of so-called "alcohol foods". Cooked foodstuffs injected with alcohol (such as beeburgers, margarita cakes, and 60-proof yogurt) have been found not to violate any state laws. The ABC has determined that sellers of alcohol foods need not obtain liquor licenses since the end product is not a beverage. However, ABC believes that sellers are still prohibited by the Penal Code from selling alcohol foods to persons under the age of 21.

LEGISLATION: The following is a status update on measures discussed in detail in CRLR Vol. 8, No. 3 (Summer 1988) at pages 84-85: SB 2273 (Mello) was signed by the Governor on August 27 (Chapter 680, Statutes of 1988). As amended on June 27, the bill authorizes a peace officer, under certain circumstances, to seize and impound all alcoholic beverages in plain view and in the possession of, or provided to, persons under the age of 21 at social gatherings where persons under the age of 21 are consuming alcohol.

SB 2430 (Dills) was signed by the Governor on September 20 (Chapter 1080, Statutes of 1988). As amended on June 27, the bill specifies with respect to beer that premiums, gifts, or free goods, including advertising, shall be deemed to have greater than inconsequential value if they exceed a specified price. With respect to distilled spirits and wine, the bill provides that a licensee may furnish, give, rent, loan, or sell advertising to a retailer if those items bear conspicuous advertising required of a sign and the total value does not exceed $50 per brand, as specified.

SB 1730 (Dills) was signed by the Governor on September 29 (Chapter 1528, Statutes of 1988). As amended on August 29, the bill states that, with respect to the California Beverage Container Recycling and Litter Reduction Act, the actions of persons affecting scrap values or quantities of materials being recycled should not be subject to state antitrust or trade regulation laws. The bill also defines the terms "convenience incentive payment," "dropoff or collection program," "recycling location," and "supermarket," and defines the term "noncertified recycler" for purposes of the Act. The bill also revises the labeling requirements for beverage containers.

SB 2257 (Dills) was signed by the Governor on July 7 (Chapter 289, Statutes of 1988). The bill authorizes the ABC to issue a temporary permit to the transferee of a retail license to continue the operation of the premises for a period of 120 days; the fee for the temporary permit would increase to $100.

SB 2316 (Dills) was signed by the Governor on September 24 (Chapter 1335, Statutes of 1988). As amended on August 24, the bill abolishes the $100 per diem for work and traveling expenses given to members of the ABC Appeals Board, and provides for an annual salary of $25,500 for each member. The bill also, with respect to a stay of an ABC license suspension, provides that an offer in compromise for non-retail licensees shall not be less than $300.

AB 2187 (Friedman, et al.) was vetoed by the Governor on September 30. The bill would have prohibited the issuance or renewal of any alcoholic beverage license to a club which makes any discrimination, distinction, or restriction for the purpose of membership against any person on account of that person's color, race, religion, ancestry, national origin, sex, or age.

AB 3144 (Floyd) was signed by the Governor on July 7 (Chapter 284, Statutes of 1988). As amended in April, the measure permits a wholesaler's license restricted to the sale of wine to be issued or renewed to an off-sale beer and wine licensee.

The following bills died in committee: AB 3348 (Floyd), regarding the distribution of gifts by ABC licensees; AB 3354 (Floyd), concerning signs and other advertising matter used by licensees; AB 3869 (Leslie), regarding consumption of alcohol by persons under the age of 21 at a religious service; SB 2014 (Deddeh), regarding the ownership of stock in a beer manufacturer by specified on-sale license holders; SB 2490 (Nielsen), which would have amended the state's "tied-house" restrictions; and SB 625 (Keene), concerning the sale of wine or brandy by a licensed winegrower or brandy manufacturer in bona fide eating places.

LITIGATION: In Miller Brewing Company v. Department of Alcoholic Beverage Control, et al., No. C003572 (August 29, 1988), the Third District Court of Appeal denied Miller's petition for writ of mandate, which would have directed the ABC and its Director to refrain from enforcing the Department's Rule 106 to prohibit Miller from giving things of value to members of the public in circumstances unrelated to the sale of alcoholic beverages.

In 1987, Miller sought advance permission from ABC to promote a concert...
tour in California by providing concert tickets and jackets to cosponsoring radio stations, which would in turn give them to listeners who called in when the stations advertised the concert and the “give-aways”. The tickets would identify Miller as a sponsor and the jackets would bear logos of Miller products and the concert.

The Department notified Miller that it would consider the furnishing of the free tickets and jackets a violation of Business and Professions Code section 25600 and Rule 106, which prohibits a licensee from giving any premium, gift, or free goods in connection with the “sale or distribution” of any alcoholic beverage. Miller sought an order preventing ABC from enforcing its interpretation of the rule.

The court held that, although Miller's give-aways would not violate the portion of Rule 106 which prohibits gifts in connection with the “sale” of alcoholic beverages, they would violate the portion of Rule 106 prohibiting gifts in connection with the “distribution” of alcohol, as “distribution” is commonly defined to mean “the process by which commodities get to final consumers, including storing, shipping, and advertising” (emphasis original). The court also found that the legislature intended to authorize the Department to enforce its interpretation of Rule 106 due to the 1983 passage of Assembly Bill 686. AB 686 amended section 25600 to expand the scope of the statutory prohibition to donations made in connection with the distribution as well as the sale of alcoholic beverages.

In a different case, the ABC has decided not to appeal the Third District Court of Appeal's ruling in California Beer and Wine Wholesalers Association v. ABC, No. C000498 (May 13, 1988), which invalidated the portion of Rule 106 which authorized beer wholesalers to give retailers up to $50 in “advertising specialties.” (See CRLR Vol. 8, No. 3 (Summer 1988) p. 85 for background information.) The ABC has decided to enforce the court's ruling by prohibiting all wholesalers of alcoholic beverages from giving any promotional items to retailers.

The court's ruling enables California's beer, wine, and distilled spirits wholesalers to save a great deal of money by not having to give retailers, as a means of increasing sales of their products, promotional items such as trays, sponges, and towels.

**BANKING DEPARTMENT**

**Superintendent: Howard Gould (415) 557-3322**

The State Banking Department administers all laws applicable to corporations engaging in the commercial banking or trust business, including the establishment of state banks and trust companies; the establishment, operation, relocation, and discontinuance of various types of offices of these entities; and the establishment, operation, relocation, and discontinuance of various types of offices of foreign banks.

The superintendent, the chief officer of the Department, is appointed by and holds office at the pleasure of the Governor. The superintendent approves applications by authority to organize and establish a corporation to engage in the commercial banking or trust business. In acting upon the application, the superintendent must consider:

1. the character, reputation, and financial standing of the organizers or incorporators and their motives in seeking to organize the proposed bank or trust company;
2. the need for banking or trust facilities in the proposed community;
3. the ability of the community to support the proposed bank or trust company, considering the competition offered by existing banks or trust companies; the previous banking history of the community, opportunities for profitable use of bank funds as indicated by the average demand for credit; the number of potential depositors; the volume of bank transactions; and the stability, diversity and size of the businesses and industries of the community. For trust companies, the opportunities for profitable employment of fiduciary services are also considered;
4. the character, financial responsibility, banking or trust experience and business qualifications of the proposed officers; and
5. the character, financial responsibility, business experience and standing of the proposed stockholders and directors.

The superintendent may not approve any application unless he/she determines that the public convenience and advantage will be promoted by the establishment of the proposed bank or trust company; conditions in the locality of the proposed bank or trust company afford reasonable promise of successful operation; the bank is being formed for legitimate purposes; the proposed name does not so closely resemble as to cause confusion the name of any other bank or trust company transacting or which has previously transacted business in the state; and the applicant has complied with all applicable laws.

If the superintendent finds that the proposed bank or trust company has fulfilled all conditions precedent to commencing business, a certificate of authorization to transact business as a bank or trust company will be issued.

The superintendent must also approve all changes in the location of a head office, the establishment or relocation of branch offices and the establishment or relocation of other places of business. A foreign corporation must obtain a license from the superintendent to engage in the banking or trust business in this state. No one may receive money for transmission to foreign countries or issue traveler's checks unless licensed. The superintendent also regulates the safe-deposit business.

The superintendent examines the condition of all licensees. However, as the result of the increasing number of banks and trust companies within the state and the reduced number of examiners following passage of Proposition 13, the superintendent now conducts examinations only when necessary, but at least once every two years. The Department is coordinating its examinations with the FDIC so that every other year each agency examines certain licensees. New and problem banks and trust companies are examined each year by both agencies.

The superintendent administers the Small Business Loan Program, designed to provide long-term capital to rapidly growing small businesses whose growth exceeds their ability to generate internal earnings. Under the traditional standards used by banks, these small businesses cannot provide adequate security to qualify for regular bank loans.

The superintendent licenses Business and Industrial Development Corporations which provide financial and management assistance to business firms in California.

Acting as Administrator of Local Agency Security, the superintendent oversees all deposits of money belonging to a local governmental agency in any state or national bank or savings and loan association. All such deposits must be secured by the depository.

**MAJOR PROJECTS:**