



REGULATORY AGENCY ACTION

to the legislature by January 1, 1992. This bill is pending in the Assembly Ways and Means Committee.

AB 3624 (Hannigan), as amended, would require a nursing home to reimburse or replace patients' lost or stolen property when the facility fails to make reasonable efforts to safeguard resident property. AB 3624 would establish a rebuttable presumption that a facility has made reasonable efforts to safeguard resident property and exempt it from citations by DSS for violation of the provisions in this bill, if certain conditions of a theft and loss program have been met by the facility. This bill would also make unlawful any provision of a contract of admission which requires or implies a lower standard of responsibility for the personal property of residents of nursing homes than is required by law. AB 3624 passed the Assembly on June 9.

FUTURE MEETINGS:

To be announced.

BOARD OF OPTOMETRY

Interim 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:

Regulatory Changes. Proposed regulatory changes which were the subject of a public hearing on October 29, 1987, have been approved by the Director of the Department of Consumer Affairs (DCA). At this writing, the Board is preparing the filing for submission to the Office of Administrative Law (OAL). (For background information, see CRLR Vol. 8, No. 2 (Spring 1988) p. 70.)

The Board is currently proposing the adoption and amendment of two sections of Chapter 15, Title 16 of the California Code of Regulations (CCR). Proposed section 1533.1 would codify an appeals procedure under which licensure applicants failing the examination would be permitted to appeal to the Board. The

proposed regulation outlines the requirements and limitations of an appeals process which is presently employed by the Board.

Section 1561(b), dealing with examination requirements for optometrists who use topical pharmaceutical agents, would be amended. The section currently requires successful completion of the National Board Examination in Optometry (NBEO) pharmacology examination. The proposed change provides that successful completion of an equivalent pharmacology examination administered by the Board or by an accredited school of optometry is acceptable as an alternative to the NBEO examination.

Comments received at a May 25 hearing on these regulations resulted in several changes to the proposed language, which resulted in a reopening of the public comment period for fifteen days. Interim Executive Officer Karen Ollinger anticipates that the regulations will be ready for OAL review by summer's end.

On March 21, the OAL approved the repeal of sections 1541 and 1542 of Chapter 15, Title 16 of the CCR. The two sections repealed concerned optometric corporations. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 71 for background information.)

Recruitment of Permanent Executive Officer. The Board was to review applications of finalists seeking appointment as its Executive Officer at its July 7 meeting. (For background information, see CRLR Vol. 8, No. 2 (Spring 1988) p. 71.)

LEGISLATION:

AB 2824 (Polanco) would allow specified licensed persons, other than optometrists, to be minority shareholders, officers, directors, and professional employees of optometric corporations. The bill was passed by the Assembly on March 17, and has been referred to the Senate Committee on Insurance, Claims and Corporations.

SB 2103 (McCorquodale), as amended May 18, would prohibit any licensed optometrist, physician and surgeon, or registered contact lens dispenser, from selling or dispensing a contact lens by mail unless the licensee has personally fitted the lens to the patient. The bill remains in the Senate Committee on Business and Professions.

The following is a status update on bills discussed in CRLR Vol. 8, No. 2 (Spring 1988) at page 71:

AB 32 (Bane), which would enact as state law several federal trade regulations which prohibit optometrists from engag-

ing in certain acts in connection with the performance of eye examinations, remains in the Senate Committee on Business and Professions. (See CRLR Vol. 7, No. 2 (Spring 1987) p. 63 for additional information.)

AB 573 (Bates), which would require the Board of Optometry to hold its licensure examination at least twice per year, remains on the Senate floor in the inactive file. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 68 for additional information.)

AB 3549 (Jones), which would allow the Board of Optometry to recover its costs from the respondent when the Board prevails in an administrative disciplinary action, was passed by the Assembly on April 28. It has been referred to the Senate Committee on Business and Professions.

AB 3551 (Jones), which would allow a person licensed to practice optometry in another state to be registered as a licensed optometrist in California by reciprocity, remains pending in the Assembly Health Committee.

AB 3738 (Jones), which would attempt to fashion a more specific standard than now exists for approval of fictitious name permits for optometric practices, remains pending in the Assembly Health Committee.

FUTURE MEETINGS:

To be announced.

BUREAU OF PERSONNEL SERVICES

Chief: Jean Orr

(916) 920-6311

The Bureau of Personnel Services was established within the Department of Consumer Affairs to regulate those businesses which secure employment or engagements for others for a fee. The Bureau regulates both employment agencies and nurses' registries. Those businesses which place applicants in temporary positions or positions which command annual gross salaries in excess of \$25,000 are exempt from Bureau regulation. Under AB 2929 (Chapter 912, Statutes of 1986), employer-retained agencies are also exempt from such oversight. AB 2929 became effective on July 1, 1987. The number of licensees regulated by the Bureau decreased as a result with a major decline occurring in April 1988, which was the renewal date for many now-exempt licenseholders. At that time, the number of Bureau licensees dropped by 58%, to approximately 800. (For



more information on the effects of AB 2929, see CRLR Vol. 7, No. 2 (Spring 1987) p. 64 and Vol. 7, No. 1 (Winter 1987) p. 56.)

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.

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.

MAJOR PROJECTS:

Regulations Approved. On May 9, the Office of Administrative Law approved several proposed regulatory changes which were the subject of a January 8 public hearing. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 68 for a complete description of the proposed changes.) Included in the approved package are the Bureau's citation and fine regulations, adopted pursuant to section 125.9 of the Business and Professions Code.

Pilot Enforcement Program. The Bureau is continuing to declare its pilot enforcement program a success. (For background information, see CRLR Vol. 8, No. 2 (Spring 1988) p. 7; Vol. 8, No. 1 (Winter 1988) p. 68; and Vol. 7, No. 4 (Fall 1987) p. 63.) During the 1987-88 fiscal year, the Bureau received a higher number of complaints than in the preceding year. In early May, the Bureau turned one of its investigations over to the Federal Trade Commission, resulting in the closure of Overseas Unlimited Agency, a Los Angeles-based computerized job-matching service. The Bureau's enforcement program has also resulted in the recent transfer of six investigations of job listing services to the Attorney General's Office for prosecution.

LEGISLATION:

AB 454 (Roybal-Allard) would require foreign labor agents who find employment for temporary foreign workers to be licensed by the state. This bill passed the Assembly on May 19 and is pending in the Senate Business and Professions Committee.

AB 4638 (Quackenbush), which failed passage in the Assembly Ways and Means Committee on June 1, would

have established a separate category for career counselors; required the Bureau to administer a specialized exam for such persons; and established criteria for applicant eligibility.

SB 2471 (Montoya). Existing law provides that if a nurses' registry collects a fee or expenses for an assignment from a nurse and the nurse fails to obtain the assignment or the nurse fails to be paid for the assignment, the nurses' registry shall repay the fee or expenses collected. This bill would provide that any person who successfully brings an action to enforce that provision shall also be awarded attorney fees and costs. This bill is pending in the Senate Business and Professions Committee.

The following is a status update on measures reported in detail in CRLR Vol. 8, No. 2 (Spring 1988) at page 72:

AB 4007 (Lancaster), the Department of Consumer Affairs' 1988 omnibus bill, would delete specified categories of employment agencies from the Business and Professions Code, thus requiring those agencies to obtain a general license from the Bureau. The bill passed the Assembly on May 19 and is pending in the Senate Business and Professions Committee.

AB 4145 (Wright). Existing law requires the contract for employment counseling services to state the amount of the fee charged to the consumer. This bill would require that the fee be stated for each service received. This bill would also require that a contract provided by a licensee to a jobseeker contain a statement that the licensee will provide a minimum of three job opportunities; specify requirements for fee refunds; and exempt from the Employment Agency Law any employment counseling service which provides services strictly on an hourly basis, with no financial obligation to the consumer beyond the hourly fees for services rendered. AB 4145 passed the Assembly on June 20 and is pending in the Senate Business and Professions Committee, where it is scheduled for an August hearing. At this writing, according to Assemblymember Wright's office, the Department of Consumer Affairs is working with the author on amendments to the measure which might effectively abolish the Bureau.

FUTURE MEETINGS:

To be announced.

BOARD OF PHARMACY

Executive Officer: Lorie G. Rice
(916) 445-5014

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:

Continuing Education Regulations. At its April 6 meeting in Los Angeles, the Board held a public hearing on proposed changes to its complex continuing education (CE) regulations, which appear in Chapter 17, Title 16 of the California Code of Regulations (CCR). (See CRLR Vol. 8, No. 2 (Spring 1988) p. 73 and Vol. 8, No. 1 (Winter 1988) pp. 68-69 for background information and a detailed description of the proposed changes.)

After Continuing Education Committee Chair Glenn Yokoyama summarized the changes, the Board entertained several industry comments and suggestions for amendments. The Board adopted amendments proposed that day to the language of section 1732.3(c) regarding the length of time a recognized CE provider's coursework shall be valid following initial presentation; and section 1732.3(d) regarding required contents of CE providers' advertisements of their CE courses. The Board also voted to add a provision regarding the Board's authority to assign CE hours to inspectors and Board members for certain presentations.

Following its approval of these changes, the Board voted to adopt the proposed CE regulation changes as amended. The regulatory package was submitted to the Office of Administrative Law (OAL) on May 27.