



BMQA's Division of Allied Health Professions to adopt, amend, and repeal regulations which establish standards for services performed by medical assistants. SPAEC opposes this bill.

RECENT MEETINGS:

At the Committee's January 22 meeting in Los Angeles, Dr. Phil Reid was reelected Committee Chair and Ellen Rosenblum-Mosher was elected Vice-Chair.

The Committee heard a report from Dr. Don Morgan of the UCLA Clinic that several audiologists in private practice have recently used sedatives to calm infants during screening. Legal counsel Greg Gorges confirmed the view that such practice by audiologists calls for disciplinary action. By consensus, Committee members agreed that an article informing audiologists of their roles and responsibilities in conducting audiologic evaluations should appear in a future SPAEC newsletter.

The Committee also discussed the procedure of nasal-endoscopy (an exam of nasal passageways). Mr. Gorges informed the Committee that the Medical Practice Act permits only licensed physicians to perform this procedure. Executive Office Carol Richards will contact BMQA for guidance as to the permissibility of different endoscopy procedures.

FUTURE MEETINGS:

- July 8 in San Diego.
- September 9 in San Francisco.
- November 4 in Monterey.

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 licensee 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.

BENHA's budget increased \$15,000 over last year's allocation. The 1987-88 budget is \$315,000.

MAJOR PROJECTS:

Implementation of AB 1834. BENHA is beginning to take steps to comply with the requirements of AB 1834 (Connelly). (For details on AB 1834, see CRLR Vol. 8, No. 1 (Winter 1988) pp. 66-67.) BENHA allocated \$3,000 of its budget to obtain a computer system which will be used for word processing and to track the following statistics and events: where licensees are employed; when their employment is terminated; complaints lodged against a licensee; citations received by a nursing home administrator; and disciplinary actions taken against a licensee. BENHA is currently in the process of determining the type of computer system needed to compile these statistics.

BENHA will also hire a half-time Disciplinary Action Coordinator to assist in handling the development of disciplinary cases. The person in this position will review and monitor all facility license revocation actions, temporary suspension orders, and decertification actions taken by the Department of Health Services (DHS), and make recommendations to assist the Executive Officer in filing accusations for disciplinary action; monitor all "A" and "AA" citations received from the DHS, make recommendations, and initiate remedial or disciplinary action against licensees; assist in the compilation of studies and legislative reports based upon BENHA's enforcement activities; develop and maintain reports of remedial and disciplinary actions taken by BENHA and provide the reports to the DHS, health facility providers, and

consumers; and coordinate BENHA disciplinary activities with the Department of Consumer Affairs' Office of Legal Affairs and its Investigation Division, the DHS, the Office of the Attorney General, and other agencies involved in making disciplinary determinations. BENHA has decided not to fill the position until AB 1834 actually takes effect in July.

AB 1834 requires BENHA to develop policies and procedures for the bill's implementation. The bill further instructs BENHA to develop these policies and procedures with input from long-term care provider associations, the DHS Licensing and Certification Division, the Office of the Attorney General, nursing home administrators who are not facility owners, and consumer representatives. Executive Officer Ray Nikkel has formed a committee which includes representatives of the groups specified in the bill, and the first meeting was scheduled for February 23 in Sacramento. The Board requested that at least one of its members be appointed to the committee, and Board member Martha Lang volunteered to serve on the committee.

BENHA plans to draft a fee bill during the summer which would increase the licensing fee structure so as to enable BENHA to finance the reforms required by AB 1834. Although the fee bill would be requested this year, the increases would not take effect until 1992.

Regulatory Changes. The rule-making package containing proposed changes to sections 3116, 3117.5, 3180, and 3130, chapter 39, Title 16 of the California Code of Regulations, has been examined by the Office of Administrative Law (OAL). (See CRLR Vol. 8, No. 1 (Winter 1988) p. 67 for details on these proposed changes.) OAL approved the amendments, with the exception of the change to section 3117.5. Section 3117.5, regarding the time between filing an application to take the licensing exam and the date of the exam, was rejected by OAL on grounds that it failed to meet OAL's necessity and clarity standards. BENHA does not plan to resubmit the proposed rule change to OAL at this time, although it may be resubmitted along with future rulemaking.

LEGISLATION:

AB 3624 (Hannigan) would require a residential care facility for the elderly which fails to make reasonable efforts to safeguard patient property to reimburse the patient for, or to replace, stolen property or lost patient property



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at its then current value. The bill would establish a rebuttable presumption that a facility has made reasonable efforts to safeguard patient property and exempt it from citation or deficiency by the Department of Social Services for violation of this bill if all the various prescribed conditions have been met by the facility. This bill is pending in the Assembly Committee on Aging and Long-Term Care.

AB 2383 (Connelly) died in committee. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 61 for background information on this bill.)

RECENT MEETINGS:

At BENHA's February 9 meeting in Los Angeles, the Board heard public comment from Barbara Heimann of Country Villa Services Corporation in Culver City regarding disciplinary action. Heimann suggested that the current disciplinary structure discourages the best nursing home administrators from accepting employment in troubled facilities for fear of being subject to discipline for situations beyond their control. Citing the public's negative perception of nursing home administrators, Heimann also suggested that the Board consider a name change.

The Education Committee discussed the results of a study conducted by the Ohio Board of Examiners of Nursing Home Administrators (OBENHA), in which BENHA participated. The objective of the study was to determine which states have universities that offer a bachelor's or master's degree program in long-term care administration. According to the study, California has no relevant degree programs and no system to approve university programs in long-term care administration. OBENHA hoped that the study would prove to federal legislators that the states are working toward improving the credentials of nursing home administrators across the country.

The National Association of Boards of Examiners for Nursing Home Administrators recently supported an amendment to H.R. 2270 (Waxman), which is pending in Congress. A provision in H.R. 2270 which would repeal the requirement that states license nursing home administrators has been deleted. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 62 for details on H.R. 2270.)

Results of the licensing examinations administered by BENHA on January 21 show a 36% failure rate for the state exam and a 49% failure rate for the national exam. These percentages are

similar to past exam passage rates.

FUTURE MEETINGS:

To be announced.

BOARD OF OPTOMETRY

Interim 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:

Regulatory Changes. On February 16, the Board released technical, non-substantive changes to proposed regulations which were the subject of a public hearing on October 29, 1987. The Board issued a fifteen-day notice regarding the changes; the comment period ended on March 2.

The Board adopted section 1526, chapter 15, Title 16 of the California Code of Regulations. If approved by the Office of Administrative Law (OAL), section 1526 would require CPR certification as a condition of licensure and license renewal. The February 16 changes to the proposed section add a provision allowing the Board to grant a ninety-day "good cause" extension of time in which to comply with the CPR requirement for renewal applicants.

Section 1531 describes the Board's examination, and provides that the exam shall include questions on California law and regulations governing the practice of optometry. Under the February 16 changes, the exam will consist of a single section for which a single exam grade will be given.

The Board also approved minor changes to section 1532, which provides that an applicant must pass the exam before being registered by the Board; and section 1533, which permits applicants who have failed the exam to inspect the papers he/she wrote in taking the exam, under specified conditions. Amended section 1535 requires successful completion of the National Board

Examination as a condition of eligibility to take the Board's exam.

New section 1536 establishes a program of mandatory continuing education (CE) as a condition of license renewal; the CE requirements would become effective January 1, 1989. Pursuant to the amendments published on February 16, each licensee must complete twenty hours of Board-approved, formal optometric CE coursework within the year immediately preceding the renewal deadline. Up to one-half of the required twenty hours may be accomplished through specified alternative methods. Section 1536 describes the types of courses which the Board may approve; sets forth approved methods of certifying attendance; and authorizes exemptions from the CE requirement in specified cases.

Finally, section 1565 requires that prescriptions for spectacles and contact lenses written by an optometrist include the name, address, telephone number, and license number of the issuing optometrist; his/her signature; the issue date and expiration date; and the patient's name.

This regulatory package was scheduled for submission to OAL by the end of March.

At its March 3 meeting, the Board reconsidered its previous approval of proposed section 1526, which would require current certification of CPR training for initial licensure and license renewal. Some Board members cited possible health risks and fear of increased liability for optometrists. Board member Dr. Samuel Jerian voiced his opposition to the proposed regulation, stating that CPR does not enhance the treatment of eyes. He said requirements unrelated to optometry should not be mandated because of some potential benefit to the public. However, Board member Dr. Thomas Nagy stated that on occasion stressful situations do arise in optometric offices as a result of the practice of optometry. Board President Dr. Lawrence Thal expressed his view that as a board charged with the responsibility to protect the best interests of the consumer, the Board of Optometry should approve the regulation.

After a lengthy discussion, the Board reiterated its approval of the proposed regulation.

Contemplated Regulations. Another package of regulatory changes to chapter 15, Title 16 of the CCR, is being prepared by Board staff. Among the proposals anticipated are regulations concerning spectacle lens and contact