



The Board's Policy Committee is developing recommendations for changes in the structure of the Board of Optometry. The Committee is attempting to draft a list of the duties of Board members and staff, including the Executive Officer. The Committee is also considering a suggestion that Board committees be made two-person committees. By limiting committee membership to two people, the provisions of the Open Meetings Act would not apply to the committees. However, under current structure, the President of the Board is an *ex officio* member of all committees. The question was raised as to whether an *ex officio* member would constitute a third committee member for purposes of the Open Meetings Act. The Committee will present its final recommendations to the Board at a future meeting.

The Board's Examination Committee met in Berkeley on February 24. The Committee recommended that the Board attempt to send examination results to candidates for licensure within four weeks after the exam. The Committee also recommended that more of the examination be computer-graded. The Board unanimously accepted the Examination Committee's recommendations.

FUTURE MEETINGS:

May 25 (location undecided).

BUREAU OF PERSONNEL SERVICES

Chief: Jean Orr
(916) 920-6311

The Bureau of Personnel Services, formerly the Bureau of Employment Agencies, 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 July 1, 1987. The number of licensees regulated by the Bureau decreased as a result, but the major decline in the number of licensees expected in April 1988, which was the renewal date for current license holders. (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. There are approximately 1,600 licensees.

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:

Pilot Enforcement Program. The Bureau's pilot enforcement program has been declared a success. (For background information, see CRLR Vol. 8, No. 1 (Winter 1988) p. 68 and Vol. 7, No. 4 (Fall 1987) p. 63.) During fiscal year 1985-86, the Bureau assisted in securing \$29,000 in refunds for consumers; during fiscal year 1986-87 (the first year of the pilot enforcement program), refunds increased to \$59,158. During the first few months of fiscal year 1987-88, \$33,332 in refunds has been collected. Hundreds of consumers have also been referred to the bonds of six agencies which have gone out of business. The Bureau's tracking of complaints, trends, and actual violations is greatly enhanced with the new programming available with the personal computer now used by Bureau staff.

Regulations. On January 8, the Bureau conducted a public hearing regarding proposed changes to its regulations contained in chapter 28, Title 16 of the California Code of Regulations. Sections 2840 and 2841 were amended to require that employment agency advertisements and agency job advertisements contain the agency license name and either its address, telephone number, or license number. Sections 2842 and 2880 were amended to delete language relating to employer-retained agencies, which the Bureau no longer licenses. Section 2893 would be repealed, as the section's statutory authority has been repealed. Sections 2898 and 2898.1 implement the Bureau's citation and fine authority established under SB 2335 (Montoya), 1986 legislation which added section 125.9 to the Department of Consumer Affairs' gen-

eral provisions in the Business and Professions Code.

The Bureau subsequently adopted these proposed regulatory changes; at this writing, the rulemaking file is being prepared for submission to the Office of Administrative Law.

LEGISLATION:

AB 4007 (Lancaster) would amend statutes governing several agencies of the Department of Consumer Affairs. Existing law classifies employment agencies into categories depending on the type of business engaged in by a person. This bill would delete the babysitting, domestic, modeling, and farm labor categories, and thus would require persons engaged in those activities to be licensed by the Bureau as a general employment agency. This bill would also delete the current fee for a babysitting business and thus require a person engaged in that business to pay the higher fee for a general license. AB 4007 is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

AB 4145 (Wright) would exclude from the licensing provisions of the Employment Agency Law certain "employment counseling services," if they provide services strictly on an hourly basis, with no financial obligation required of the consumer beyond the hourly fee for services rendered.

AB 4145 would also declare that prepaid employment agencies are against public policy. This bill would provide that it is against the public policy of this state for any person who acts as an employment agency in the capacity of an owner-operator, agent, or employee, to impose any fee on an applicant for employment until the applicant has accepted an offer of employment resulting from an employment referral. It would also provide that it is against public policy for any person who acts as a nurses' registry or personnel service in the capacity of an owner-operator, agent, or employee to impose any fee on a nurse, applicant, jobseeker, or client until the services have been delivered. The bill would delete all "prepaid" provisions from the Employment Agency Law.

AB 4145 is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

RECENT MEETINGS:

At its January 8 meeting, the Board met as a committee due to the lack of a quorum. The minutes of the April 10, 1987 Advisory Board meeting were reviewed but could not be approved. Chief



Orr presented the Bureau's Quarterly Report, which reviewed the appointment of Michael A. Kelley as Director of the Department of Consumer Affairs, and the Department's task force recommendations for the Bureau. Chief Orr also reported that the Bureau stayed under its budget again this year, which was originally \$659,000 but was reduced to \$554,843. The proposed 1988-89 budget is considerably less than that amount.

Patricia Bustos will continue as Chair of the Advisory Board until the next meeting. Elections could not be held due to lack of a quorum.

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:

OAL Disapproves Proposed Regulation. On December 17, 1987, the Board resubmitted proposed regulatory section 1781.5 for the third time to the Office of Administrative Law (OAL) for approval. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 69 and Vol. 7, No. 2 (Spring 1987) p. 64 for background information.) The proposed regulation would provide an exemption for certain manufacturers and wholesalers of drugs from the general requirement that a California licensed pharmacist be present and in control of the manufacturing or wholesaling premises. On January 14, OAL once again

disapproved the proposed regulation, on grounds that it still does not satisfy the clarity standard.

Public Hearing. On January 20, the Board held a public hearing on two proposed regulatory changes: an amendment to section 1717(a), chapter 17, Title 16 of the California Code of Regulations, concerning reuse of clean containers in a licensed health facility for non-liquid oral products; and section 1718.1, regarding the distribution of drugs not bearing a manufacturer's expiration date. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 69 for details on these proposed regulations.)

The Board adopted both changes, and has submitted the rulemaking file to the OAL.

Proposed Continuing Education Regulations. In the last two years, the OAL has twice disapproved the Board's proposed changes to its complex continuing education (CE) regulations. (See CRLR Vol. 8, No. 1 (Winter 1988) pp. 68-69 for background information.) According to the Board's Initial Statement of Reasons accompanying its most recent proposed version, OAL's second disapproval prompted the Board to "evaluate its program and its effectiveness." In its statement, the Board reviewed its bifurcated and rather confusing CE regulations, and stated that it is "concerned not only with the bureaucratic nature of its CE program, but also believes that pharmacists as professionals should have more flexibility in determining what program best meets his/her needs, and that it should be the responsibility of the profession to monitor the quality of CE."

The statement explained that the Board's CE regulations presently contain two kinds of course designations: "accredited" and "acceptable." A pharmacist must obtain thirty hours of CE every two years, of which fifteen must be "accredited." Currently, there are three systems for reviewing CE: (1) the provider is accredited through the American College of Pharmaceutical Education (ACPE); (2) the coursework is reviewed by the Board through its CE Committee; or (3) there is no review at all, as with "acceptable" courses.

In its evaluation, the Board determined that CE should be more accessible to pharmacists; more emphasis should be placed on the provider application process; there should be only one category of CE; and the standards of ACPE should be incorporated as part of the accreditation process.

Thus, the Board has proposed a new

set of CE regulations in chapter 17, Title 16 of the California Code of Regulations. Section 1732 is a definitional section; the proposed amendments would define the new terms that will be used in the CE article, and delete those terms no longer applicable. Section 1732.05 would designate the ACPE and the Accreditation Evaluation Service of the California Pharmacists Association as accreditation agencies; establish criteria for the designation of other organizations as accreditation agencies; and impose certain requirements on the agencies with respect to the CE providers they recognize and accredit. Section 1732.05 also sets forth grounds upon which the Board may revoke accreditation agency designation.

Section 1732.1 lists requirements for recognized CE providers, including registration with the Board and approval by a Board-designated accreditation agency. The section also describes the content and quality of acceptable CE courses; and requires providers to furnish certificates of completion to all enrollees with specified information thereon, and maintain CE course attendance records.

Section 1732.2 would allow pharmacists to petition the Board for credit if a CE course was taken from a non-recognized provider, and would also provide a mechanism for Board licensees to obtain CE credit for courses approved by the Board of Medical Quality Assurance, the Board of Registered Nursing, the Board of Podiatric Medicine, and the Board of Dental Examiners.

Section 1732.3 would deem all coursework offered by recognized providers (who have been approved by an accreditation agency) as approved for California pharmacists, unless the accreditation agency has denied the course as a result of an audit. This section would also require the accreditation agencies to review selected coursework offered by its providers, and specifies the requirements and the factors to be considered when auditing courses.

Section 1732.4 would require upon written request that each recognized provider submit materials to the accreditation agency for review. Finally, section 1732.7 would allow providers to file complaints with the Board against accreditation agencies; this section is deemed necessary because the Board is proposing that the accreditation agency both approve the provider and audit the coursework.

The Board was scheduled to conduct a public hearing on its proposed CE regulations on April 6 in Los Angeles.