



REGULATORY AGENCY ACTION

viduals, employed by licensees, are required to take a written exam on pesticide equipment, formulation, application and label directions if they apply pesticides. Such certificates are not transferable from one company to another.

SPCB is comprised of four public and three industry representatives.

MAJOR PROJECTS:

Regulation Proposals. The Board is preparing to propose regulations which will allow Branch 1 or Branch 2 licensure applicants to substitute education for on-the-job experience. For example, one semester would be equivalent to one month in the field of pesticide application. Education would be allowed to substitute for a maximum equivalent of one-and-one-half years of required work experience.

The Board has also requested its staff to review and change its applicator certification testing procedures. Specifically, the Board has requested that two tests be created and administered—one for Branch 2 General Pest applicants, and one for Branch 3 Termite Control applicants.

LEGISLATION:

AB 1596 (Cortese), which would authorize the Department of Food and Agriculture's Pesticide Enforcement Branch to levy fines against imported produce handlers for violations of laws relating to produce which carries pesticide residue, passed the Assembly in late January and is pending in the Senate Agriculture and Water Resources Committee at this writing.

AB 3059 (Areias) would amend existing law which requires a structural pest control operator to issue a written inspection report to a person requesting an inspection of premises for the absence or presence of wood-destroying pests or organisms. On or after July 1, 1989, each recommendation for corrective measure included in the report must separately state the infestation or infection which is evident and the conditions that are present which are deemed likely to lead to infestation or infection. Under specified circumstances, the bill would also require an estimate or bid for repairs to be given, separately allocating the costs to perform each and every corrective recommendation. This bill is pending in the Assembly Governmental Efficiency and Consumer Protection Committee.

FUTURE MEETINGS:

July 30 in Monterey.

TAX PREPARER PROGRAM

*Administrator: Don Procida
(916) 324-4977*

Enacted in 1973, abolished in 1982, and reenacted by SB 1453 (Presley) effective January 31, 1983, the Tax Preparer Program registers commercial tax preparers and tax interviewers in California.

Registrants must be at least eighteen years old, have a high school diploma or pass an equivalency exam, have completed sixty hours of instruction in basic personal income tax law, theory and practice within the previous eighteen months or have at least two years' experience equivalent to that instruction. Twenty hours of continuing education are required each year.

Prior to registration, tax preparers must deposit a bond or cash in the amount of \$2,000 with the Department of Consumer Affairs.

Members of the State Bar of California, accountants regulated by the state or federal government, and those authorized to practice before the Internal Revenue Service are exempt from registration.

An Administrator, appointed by the Governor and confirmed by the Senate, enforces the provisions of the Tax Preparer Act. He/she is assisted by a nine-member State Preparer Advisory Committee which consists of three registrants, three persons exempt from registration, and three public members. All members are appointed to four-year terms.

MAJOR PROJECTS:

Fee Increase. On April 1, the Program published a proposed amendment to section 3230 of its regulations, which appear in chapter 32, Title 16 of the California Code of Regulations. Under the proposal, the registration fee for a tax preparer and tax interviewer would be increased to \$50; the renewal fee would be increased to \$40. A public hearing on this proposed regulation was scheduled for May 17.

LEGISLATION:

SB 91 (Boatwright), as introduced, would have abolished the Tax Preparer Program. (See CRLR Vol. 7, No. 3 (Summer 1987) p. 91 and Vol. 7, No. 2 (Spring 1987) pp. 70-71 for background information.) As amended in January, this bill would instead establish a Tax Practitioner Program in the Franchise Tax Board. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 73 for further information.) If the amended bill is passed, the Tax Practitioner Program would be-

come part of the Franchise Tax Board on January 1, 1989, and would require "tax practitioners" to be licensed and "tax preparers" to be registered with the Program. At this writing, SB 91 is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

RECENT MEETINGS:

The Program has held no public meetings since December 17.

FUTURE MEETINGS:

To be announced.

BOARD OF EXAMINERS IN VETERINARY MEDICINE

*Executive Officer: Gary K. Hill
(916) 920-7662*

The Board of Examiners in Veterinary Medicine (BEVM) licenses all veterinarians, veterinary hospitals, animal health facilities, and animal health technicians (AHTs). All applicants for veterinary licenses are evaluated through a written and practical examination. The Board determines through its regulatory power the degree of discretion that veterinarians, animal health technicians, and unregistered assistants have in administering animal health care. All veterinary medical, surgical, and dental facilities must be registered with the Board and must conform to minimum standards. These facilities may be inspected at any time, and their registration is subject to revocation or suspension if, following a proper hearing, a facility is deemed to have fallen short of these standards.

The Board is comprised of six members, including two public members. The Animal Health Technician Examining Committee consists of three licensed veterinarians, one of whom must be involved in AHT education, three public members and one AHT.

In January, the Board elected its 1988 officers. Herbert Ott, DVM, was elected Board President, from his previous position as Vice-President; and Alan Edmondson, DVM, will replace Dr. Ott as Vice-President.

MAJOR PROJECTS:

Examinations. A total of 243 test candidates took the National Board Examination (NBE) on December 8. The Clinical Competency Test (CCT) administered on December 9 had a total applicant pool of 72: 57 from the foreign veterinarian graduate program (ECFVG),



and 15 reciprocity applicants. The NBE passage rate was 64%. The overall pass rate on the CCT was 35%: 21% from the ECFVG program and an 87% reciprocity pass percentage rate.

AHT Committee Report. The AHT Committee recently approved draft language for proposed changes to section 2068.5 of the California Code of Regulations (CCR). These changes would allow an AHT test candidate to sit for an AHT exam with three years of AHT experience under the direct supervision of a veterinarian, provided the test candidate has completed either 50 semester or 75 quarter college units. The Committee will schedule a public hearing for comments on the proposed amendments.

The AHT Inspection Subcommittee conducted its initial inspection of Western Career College in San Leandro, and approved a two-year accreditation to the school for its compliance with minimum equipment, classroom, and supply standards.

The AHT Committee is considering waiving its guidelines calling for biennial reinspections of schools which have not undergone changes in administration, instructors, or Advisory Committees, provided that graduates from these schools maintain a high passage rate on the AHT exam. The AHT Committee noted that the reinspection program is costly and, in some situations, the re-inspections are unnecessary. Alternatives to reinspection—such as certified photographs or notices of corrections—are often effective.

Citation and Fine Program. At its January meeting, the Board again reconsidered the language of its proposed citation and fine regulation, section 2043, chapter 20, Title 16 of the CCR. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 74 and Vol. 7, No. 4 (Fall 1987) p. 69 for background information.) The current proposed regulation distinguishes between Class "A" and "B" violations based on the extent of bodily injury to the animal-patient. Class "A" violations include serious bodily injury or death to the animal, for which a fine ranging from \$1,501 to \$2,000 may be imposed. Class "B" violations are for bodily injury to an animal not resulting in death. This type of citation is subject to a fine ranging between \$501 to \$1,500. The overlap in bodily injury criteria will allow the Board flexibility in determining which fine to impose depending on the extent of the injury.

The Board is now concerned that the Office of Administrative Law (OAL) will reject the proposed language based on

lack of clarity. Section 11349(c) of the Government Code states that regulations are clear when they are "written or displayed so that the meaning of the regulation will be easily understood by those persons directly affected by them." BEVM was scheduled to discuss the language of the proposed regulation once again at its May meeting.

Alcohol and Drug Diversion Program. The alcohol and drug diversion program is designed to identify and rehabilitate veterinarians and AHTs with chemical dependency problems. The program is in its fourth year of existence and currently has twenty participants. The program is growing rapidly and program manager Sterling Corley, DVM, has just resigned, stating that the program needs a full-time director. Funding for such a position could come from the profession and private industry. The program's assistant director, Joyce Francis, will serve as interim program manager.

Prior to his resignation as program manager, Dr. Corley discussed with the Board the issue of confidentiality within the program. Confidentiality is a main concern among program participants. Dr. Corley suggested, however, that participant confidentiality could be waived if the program manager finds evidence that a participant has breached his/her contract and is abusing a chemical substance. This information could be forwarded to the program physician, who could notify the Board for potential disciplinary action if the physician concludes the abuse is substantial enough to endanger the public. The Board referred this issue to the Board's legislative committee for review.

LEGISLATION:

AB 1358 (Frizzelle), which would have prohibited the BEVM from issuing or renewing a license to any veterinarian premises unless it is owned or leased by a licensed veterinarian, has been dropped by its author.

AB 2756 (O'Connell), as introduced, would expand the duty of a veterinarian to report enumerated crimes against animals. Existing law requires a vet who believes a dog was injured or killed through participation in a staged dog-fight to report that activity to the appropriate local law enforcement agency. This bill expands the list of crimes against animals which a veterinarian would be required to report, including willful poisoning; the intentional maiming, wounding, torturing, or mutilation of animals; and animals subjected to needless suffering or kept without proper

care or attention. At this writing, this bill is pending in the Assembly Ways and Means Committee.

RECENT MEETINGS:

At its January meeting, the Board addressed complaints and advertisements regarding teeth cleaning of animals. The Board's position on this issue is that teeth cleaning may be performed by licensed AHTs under the direct supervision of a veterinarian, and that teeth extraction may be performed only by a veterinarian or a supervised AHT. The Board feels that teeth cleaning of an animal is a preventive dental procedure which is not exclusively cosmetic in nature. The Board believes that these procedures fall squarely within Business and Professions Code section 4826(b), which provides that veterinary practice includes "treatment of whatever nature for the prevention...of...disease of animals." The Board has notified several laypersons offering this service that their continued activity could result in a fine or criminal prosecution by the district attorney's office.

Also at the January meeting, the Board discussed a particular advertising service for licensed veterinarians. The service in question provides the public with a list of veterinarians who charge low prices for certain vet services. "Pet'n'Vet" accepts a fee from the vet to match that vet with a client. Business and Professions Code section 650 prohibits veterinarians from participating in any form of referral service. Violation of this statute is punishable by a one-year jail term or a fine of not more than \$10,000. The Board's legal counsel will investigate and research the issue, and report to the Board at its May meeting.

FUTURE MEETINGS:

June 28-29 in Sacramento.

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 6.5 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,