



# REGULATORY AGENCY ACTION

the rule was set for January but was cancelled. The Board of Optometry opposes this proposed regulation.

## LEGISLATION:

**AB 573 (Bates)** would require the Board of Optometry to hold the examination for licensure at least twice per year. Existing law requires the Board to hold the examination at least once annually. AB 573 remains in inactive status. The Board, which endorsed the measure, may try to resurrect it in 1988.

**1988 Proposed Legislation.** Assemblymember Bill Jones has agreed to author 1988 legislation addressing three issues affecting optometrists. The first issue concerns the recognition in California of optometric licenses from other states. California currently has no optometric reciprocity agreement with other states. Legislation in this area would allow optometric licenses from other states to partially or completely fulfill California's optometric licensure requirements.

Also to be addressed in the legislation are fictitious name permits for optometric practices, which must be approved by the Board. Section 3125 of the Business and Professions Code states that a fictitious name may not be deceptive or misleading. Proposed legislation in this area would attempt to fashion a more specific standard for approval of fictitious name permits.

Finally, the Jones legislation would allow the Board of Optometry to recover its costs from the respondent when it prevails in an administrative disciplinary action. Currently, the Board may recover costs in successful criminal actions.

## RECENT MEETINGS:

The Board of Optometry met on October 28-29 in Los Angeles. The Board voted to send a letter to the state Athletic Commission regarding examination of boxers. The letter was to express the opinion that optometrists are as qualified as ophthalmologists to examine boxers. Currently, only ophthalmologists may examine boxers' eyes.

The next licensure examination was set for July 8-10 at University of California at Berkeley.

The Board also voted to change its fee schedule. The fee for license renewals was reduced from \$85 to \$75. The branch office renewal fee was reduced from \$65 to \$50. The fee schedule changes have been approved by the Department of Consumer Affairs.

The Examination Committee of the Board met on December 17 in Emeryville. The Committee heard appeals from

22 licensure candidates who did not pass the licensure examination. Nine of the 22 appeals were accepted by the Committee.

## FUTURE MEETINGS:

March 3 in San Diego.

## BUREAU OF PERSONNEL SERVICES

*Chief: Jean Orr*  
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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 the recently-enacted 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 is expected in April, 1988, which is the renewal date for current license holders. (For more information on the effects of AB 2929, see CRLR Vol. 7, No. 1 (Winter 1987) p. 56 and Vol. 7, No. 2 (Spring 1987) p. 64.)

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 Program.** The Bureau's pilot enforcement program is now operative. (For more information, see CRLR Vol. 7, No. 4 (Fall 1987) p. 63.) The program's enhanced enforcement has been demonstrated through the closing of

twelve businesses in the last four months as a result of Bureau investigation and consumer complaints.

**Regulations.** The Bureau was scheduled to conduct a hearing on January 8 regarding proposed changes to its regulations contained in Chapter 28, Title 16 of the California Administrative Code. Proposed amendments to sections 2840 and 2841 would require that employment agency advertisements and agency job advertisements contain the agency license name and either its address, telephone number, or license number. Several proposed amendments to sections 2842 and 2880 would delete language relating to employer-retained agencies, which the Bureau no longer licenses. Also scheduled for discussion at the January 8 hearing was the Bureau's proposal to adopt new sections 2898 and 2898.1 in Chapter 28. These provisions would implement the Bureau's citation authority established under SB 2335 (Montoya), 1986 legislation which added section 125.9 to the Department of Consumer Affairs' general provisions in the Business and Professions Code.

## FUTURE MEETINGS:

To be announced.

## BOARD OF PHARMACY

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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:

**Proposed Continuing Education Regulations.** After two Office of Admin-



istrative Law (OAL) disapprovals last year, the Board is once again preparing for public hearings on its proposed continuing education (CE) regulations in Chapter 7, Title 16 of the California Administrative Code. (See CRLR Vol. 7, No. 3 (Summer 1987) p. 87; Vol. 7, No. 2 (Spring 1987) p. 64, and Vol. 6, No. 4 (Fall 1986) p. 49 for background information.)

Proposed section 1732.1 sets out requirements for approval of CE providers, course content, and monitoring of compliance with CE requirements by the Board's CE Committee. Section 1732.2 sets forth guidelines for approval of courses from non-recognized providers; section 1732.3 provides for CE Committee monitoring of CE course content; and section 1732.4 describes the Board's coursework audit process. Sections 1732.5-1732.7 concern proof of compliance with CE requirements upon license renewals; exemptions from CE requirements; and review of adverse actions by the CE Committee. A public hearing on the proposed CE regulations is scheduled for April 6 in Los Angeles. Written comments will be accepted until April 5.

**Public Hearings on Other Proposed Regulations.** The Board scheduled a January 20 hearing on proposed section 1718.1, Chapter 17, Title 16 of the California Administrative Code. The regulation would prohibit any pharmacist from distributing drugs not bearing a manufacturer's expiration date in accordance with section 211.137, Title 21 of the Code of Federal Regulations.

A January 20 hearing was also scheduled on proposed amendments to section 1717(a) of Title 16, California Administrative Code. The existing regulation allows the reuse of clean containers in licensed health care facilities for non-liquid oral products; however, it does not specify requirements for these containers. As amended, section 1717(a) would authorize the reuse of clean containers in licensed community care facilities for non-liquid oral products, and would require that the reused containers conform to standards established in the official compendia.

**OAL Disapproval of Proposed Section 1781.5.** Sections 4050.5 and 4050.7 of the Business and Professions Code provide an exemption from pharmacist licensure to any manufacturer, wholesaler, or other supplier of hemodialysis drugs who employs qualified personnel, certified by the Board, to supervise the manufacture, compounding, or distribution of dangerous drugs.

On September 18, 1987, the Board submitted to the OAL for a second time its proposed section 1781.5 (Title 16 of the California Administrative Code), which would have established standards to be used by the Board in its consideration of exemption certificate applications, including (1) completion of a written exam; and (2) possession of a pharmacist's license issued by another state, or possession of at least two years' applicable experience in the manufacture, compounding, or distribution of dangerous drugs. (See CRLR Vol. 7, No. 2 (Spring 1987) p. 64 for background information.)

On October 26, OAL again disapproved proposed section 1781.5 because it found the language was non-regulatory in nature, and because the meaning of the term "two years' applicable experience" was unclear. As of this writing, the Board has not yet decided whether it will resubmit the provision.

**Informational Hearings on Contemplated Regulations.** The Board heard informal comments on January 4 (Fresno), January 6 (Los Angeles), and January 11 (Sacramento) concerning contemplated regulations which would establish qualifications and responsibilities of pharmacy technicians. (See CRLR Vol. 7, No. 3 (Summer 1987) p. 87 for background information.)

According to a policy statement regarding the changes, the Board's purpose is to "recognize, foster and monitor the employment of ancillary personnel to perform repetitive, non-discretionary functions related to the practice of pharmacy but not involving the exercise of professional judgment, so that pharmacists may devote themselves to the professional non-technical aspects of pharmacy practice, including safe, effective drug therapy delivery."

Section 1793 of new Article 12, Title 16, California Administrative Code, would define terms used in the article; section 1794 would describe the responsibilities of pharmacists and registered interns, including receiving new prescription orders, consulting with patients, evaluating and interpreting prescriptions, interpreting clinical data, supervising drug packaging, and supervising non-pharmacist personnel. Section 1795 would set out qualifications of pharmacy technicians and minimum requirements for technician programs; and section 1796 would propose minimum requirements for pharmacies employing technicians. As of this writing, the Board has not decided whether to formally propose the regulations.

## LEGISLATION:

All two-year bills reported in CRLR Vol. 7, No. 4 (Fall 1987) at pp. 63-64 remain inactive as of this writing. Those measures include *AB 44 (Calderon)*, *AB 1953 (Filante)*, *AB 513 (Tucker)*, *AB 1238 (Moore)*, *AB 1732 (Isenberg)*, and *SB 1534 (Keene)*.

## RECENT MEETINGS:

Senate Bill 550, enacted in 1986, added section 6030.1 to the Penal Code, directing the state's Board of Corrections, with support from the Board of Pharmacy, to conduct a study into the handling and management of drugs in correctional facilities. On October 8 and 9, the Board heard reports from pharmacists who had attended an October 7 hearing on the Board of Corrections' proposed drug management regulations, to be located in Subchapter 4, Chapter 2, Division 1, Title 15 of the California Administrative Code (Minimum Standards for Local Detention Facilities). The proposed regulations would authorize the Board of Corrections to hire a consultant pharmacist to administer the drug distribution program in correctional facilities.

After discussion of the Board of Corrections' proposed regulations, the Board voted to send a letter to the Board of Corrections outlining several concerns. The Board is primarily concerned with proposed section 1216(a)(9), which requires preparation of an annual report by a pharmacist on the status of pharmacy services in the institution, but which does not require the pharmacist to keep or include records of drug distribution to individual inmate patients in the annual report.

## FUTURE MEETINGS:

April 6-7 in Los Angeles.

## POLYGRAPH EXAMINERS BOARD

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The Polygraph Examiners Board operates within the Department of Consumer Affairs. The Board has authority to issue new licenses and to regulate the activities of an estimated 655 examiners currently licensed in California under Business and Professions Code section 9300 *et seq.* The Board has no jurisdiction over federally-employed polygraph examiners.

The Polygraph Examiners Board consists of two industry representatives and three public members, all appointed