



purchase of new microfilm equipment has again been delayed. The Board has been attempting to purchase the new equipment since 1986. With the Board's existing equipment, it takes one to two hours to locate specific reports which are on microfilm. The new, more efficient equipment would expedite this process by finding reports within minutes. The latest delay occurred when the Department of Finance failed to approve the expenditure, which will total approximately \$75,000. (For background information, see CRLR Vol. 7, No. 2 (Spring 1987) p. 70; Vol. 6, No. 4 (Fall 1986) p. 54; and Vol. 6, No. 3 (Summer 1986) p. 44.)

AB 294 Enforcement Problems. Also at the December SPCB meeting, representatives of the California Department of Food and Agriculture (CDFA) and county agricultural commissioners joined Board members and staff in discussing problems attendant to the AB 294 Pesticide Enforcement Program. AB 294 (Filante), effective in 1985, established concurrent jurisdiction among CDFA, county agricultural commissioners, and SPCB for enforcement of laws governing pesticide use. At the December meeting, Doug Okumura, a CDFA representative, discussed some of the issues currently involved in administering the program, suggesting that additional funding is needed for training, and perhaps the recruitment of someone to coordinate the enforcement activities of the numerous agencies involved.

The Board will review the original memorandum of understanding for the AB 294 program and consider possible changes which should be made therein. Additionally, an SPCB subcommittee may be appointed to work with county agricultural commissioners and CDFA in an attempt to address difficulties arising in the program. (For background information, see CRLR Vol. 7, No. 2 (Spring 1987) p. 70; Vol. 6, No. 4 (Fall 1986) p. 54; Vol. 6, No. 3 (Summer 1986) p. 44; Vol. 6, No. 1 (Winter 1986) p. 45; Vol. 5, No. 4 (Fall 1985) p. 44; and Vol. 5, No. 3 (Summer 1985) p. 62.)

Board Activities to be Automated. At the October 3 SPCB meeting, Registrar Ferreira reported that the Board will be fully automated by December 1988. The Department of Consumer Affairs is presently implementing a system which will speed up many Board functions, including licensing, accounting, and complaint procedures. Additionally, a complaint tracking system will be installed.

LEGISLATION:

AB 1596 (Cortese), which would authorize the CDFA Pesticide Enforcement Branch to levy fines, as specified, for violations of laws relating to produce which carries pesticide residue, passed the Assembly in late January and is awaiting committee assignment in the Senate as of this writing. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 68 and Vol. 7, No. 3 (Summer 1987) p. 91 for background information.)

FUTURE MEETINGS:

May 14 in Santa Barbara.

TAX PREPARER PROGRAM

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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.

LEGISLATION:

SB 91 (Boatwright), which would have abolished the Tax Preparer Program as introduced, was amended on January 11 to establish a Tax Practitioner Program in the Franchise Tax Board (FTB). Under the Program, "tax practitioners" would be licensed and "tax

preparers" would be registered. The Program would impose eligibility requirements for licensure, registration, and recertification of either, including examination, educational, fee, and bonding requirements.

The amended bill would also establish a State Tax Practitioner Committee composed of nine members—three licensees, three representatives of the tax preparation industry, and three public members—to advise the administrator of the Tax Practitioner Program.

If the amended bill is passed, the Tax Practitioner Program would become part of the FTB on January 1, 1989.

RECENT MEETINGS:

At its December 17 meeting, the first meeting since November 7, 1986, the Advisory Committee heard recommendations from the FTB on proposed amendments to SB 91 which would keep the Tax Preparer Program intact. Subsequently, the bill was amended to incorporate the recommendations, with the intent to facilitate a service to consumers, provide a better-prepared tax return, and protect state revenues.

The FTB also proposed several recommendations designed to strengthen the Program. The Advisory Committee discussed the proposals and voted to adopt several of them. One such proposal adopted by the Committee would initiate a qualifying exam for tax practitioners and tax preparers. Currently, tax practitioners who are over eighteen years of age and have a high school diploma may register for licenses after sixty hours of training. Under the proposal, minimum training would be increased to 75 hours, and reexamination would be required every three years. Those already registered would have three years in which to pass the exam.

The Advisory Committee also voted to increase the required number of continuing education hours from twenty to thirty hours per year. A third proposal adopted would create a two-tiered system of tax preparers. The first tier would include the tax practitioner, or the owner of the office. This position would require a license, 75 hours of training, an exam, and thirty hours of continuing education per year. The second tier would include the tax preparer, who is the employee of the tax practitioner. This position would require sixty hours of training, thirty hours of continuing education, and the exam. Tax preparers must be registered. Currently, there are two levels of tax preparers—the tax preparer and the tax interviewer—but the qualifications to register are the same for each.



The Advisory Committee sent the adopted proposals to the FTB. The Board then submitted the proposals to Senator Boatwright for his consideration in amending SB 91.

FUTURE MEETINGS:

To be announced.

BOARD OF EXAMINERS IN VETERINARY MEDICINE

*Executive Officer: Gary K. Hill
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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.

MAJOR PROJECTS:

Examinations. The Exam Preparation Committee (EPC) voted to withhold test scores of the November 1987 California Practical Exam (CPE) until a review of the questions for validity was conducted. Upon completing that review, the EPC (which includes a Board member, the Executive Officer of the BEVM, educators, general practitioners, and Board-certified specialists) eliminated fourteen questions from the exam. Because of this action, forty more individuals passed the exam due to increased test scores. The EPC has also created 189 new questions for future exam administrations.

The EPC also delineated its policy regarding minimum scores for passage on the CPE. Technically, a 75 is re-

quired to pass the exam but the Committee believes a 74.5 or above (rounded off to the next number) is also a passing grade.

AHT Committee Report. Seven California community colleges and five private schools have AHT programs. All twelve schools offered the AHT exam in August, and 108 of a total examinee pool of 188 passed the test. The passage rates varied among schools, ranging from a low of 17% to a high of 90%. The California community colleges had a higher overall passage rate of 70%, compared to the private school rate of 54%.

The new BEVM inspection manual was recently used for the first time at an inspection of a private school AHT program seeking re-licensure. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 69.) The AHT Committee stated the manual was helpful in simplifying the process for all concerned.

In addition, the Committee noted there are currently approximately 28 AHT positions available for every licensed, qualified AHT. The general consensus among Committee members as to the significance of the large number of available positions is that the AHT can select facilities where opportunities exist to use their skills and training; participate extensively with the veterinarian; and pursue career advancement.

Regulation Changes. On September 25, the Office of Administrative Law (OAL) approved an amendment to section 2019, Title 16 of the California Administrative Code. Previously, section 2019 allowed a test applicant who had failed the CPE exam to review both the answer sheet and the examination itself. This amendment, intended to increase exam security, will allow an applicant to review only the answer sheet.

Section 2070 of Title 16 establishes a maximum fee of \$180 for the written examination. Currently, the fee schedule for the exam requires a \$120 fee for the National Board Exam (section 1 of the written exam) and a \$60 application fee for the Clinical Competency Exam (section 2 of the written exam). Under a proposed amendment which was to be submitted to OAL in early February, the fees for sections 1 and 2 of the written exam would be \$100 and \$80, respectively.

Proposed section 2043 was adopted by the Board on September 4. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 69.) The Board has since modified the language of this section, which provides

civil penalties for violations under Business and Professions Code section 4875.4. One modification in the language includes a clause allowing "significant and substantial injury to an animal" to be a basis for civil action, instead of limiting liability to instances where an animal has died. A second change in the language imposes a two-year penalty period—that is, if three violations occur within two years, the third violation will generate Board action (if those previous violations were decided against the licensee). Section 2043, including the modified language, was scheduled for reconsideration at the Board's March meeting.

RECENT MEETINGS:

In September, the Board reaffirmed its support for its Alcohol and Drug Diversion Program. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 62.) The program, which has a new director, Sterling Corley, DVM, has moved to Riverside. The program wants to either install a 24-hour hotline or publish its current business phone number to handle veterinarian or AHT substance abusers who are contemplating suicide. The Board will study budget allocations to determine which alternative should be selected.

At both the September and October meetings, the Board debated the issue of whether a veterinarian is prohibited from prescribing a drug beyond the scope of the manufacturer's recommendations under the Federal Food, Drug and Cosmetic Act. The current policy regarding "off-label" use is that if the drug has been approved by the federal Food and Drug Administration (FDA) for some purpose, a DVM may prescribe it for a new purpose with a new label. The DVM may exceed both the dosage and the frequency approved by the FDA if that decision is within sound professional judgment. The Board relied on a dual Attorney General Opinion (Nos. CV 76-212, CV 77-236, May 2, 1978) in noting that once a product has been approved for marketing, a medical professional (including a DVM) may prescribe it for uses not included on approved labeling. The Board also noted that a DVM may be civilly liable to clients and disciplined by the Board for going beyond approved uses for drugs, if such use is not within usual community standards of practice.

In October, the Board attempted to define a "physical examination" as used in Business and Professions Code section 2035. Since the Code does not specify what constitutes a physical exam,