



Newsletter. BLA will publish a newsletter for the first time in ten years. The first edition was expected to be released in January 1987. The Board has an anticipated circulation of 2,500, including licensees, legislators, schools, and CLARB members.

RECENT MEETINGS:

A complaint to the Board from an unhappy homeowner was recently settled. A licensee was reported for performing unauthorized work and for poor workmanship, and has settled the claim with the homeowner. The landscape architect will reimburse the homeowner \$12,500, and must recertify within four years or surrender his license.

Special hearings have been scheduled for May 8 at UC Santa Cruz and May 15 at UC Irvine to discuss certain proposals of BLA's Education Committee with landscape architects and students. These proposals involve changes to the minimum educational requirements required of a candidate in order to qualify for examination, and employer verification of actual work experience.

FUTURE MEETINGS:

April 7 in San Diego.

BOARD OF MEDICAL QUALITY ASSURANCE

Executive Director: Ken Wagstaff
(916) 920-6393

BMQA is an administrative agency within the state Department of Consumer Affairs. The Board, which consists of twelve physicians and seven lay persons appointed to four-year terms, is divided into three autonomous divisions: Allied Health, Licensing and Medical Quality.

The purpose of BMQA and its three divisions is to protect the consumer from incompetent, grossly negligent, unlicensed or unethical practitioners; to enforce provisions of the Medical Practice Act (California Business and Professions Code sections 2000 *et seq.*); and to educate healing arts licensees and the public on health quality issues.

The functions of the individual divisions are as follows:

The Division of Allied Health (DAHP) directly regulates five non-physician health occupations and oversees the activities of seven other examining committees which license non-physician certificate holders under the jurisdiction of the Board. The following allied health professionals are subject to the jurisdiction

of the Division of Allied Health: acupuncturists, audiologists, drugless practitioners, hearing aid dispensers, lay midwives, medical assistants, physical therapists, physical therapist assistants, physician's assistants, podiatrists, psychologists, psychological assistants, registered dispensing opticians, research psychoanalysts and speech pathologists.

The Division of Medical Quality (DMQ) reviews the quality of medical practice carried out by physicians and surgeons. This responsibility includes enforcing the disciplinary and criminal provisions of the Medical Practice Act. The division operates in conjunction with fourteen Medical Quality Review Committees (MQRC) established on a geographic basis throughout the state. Committee members are physicians, allied health professionals and lay persons appointed to investigate matters assigned by the Division of Medical Quality, hear disciplinary charges against physicians and receive input from consumers and health care providers in the community.

Responsibilities of the Division of Licensing (DOL) include issuing licenses and certificates under the Board's jurisdiction, administering the Board's continuing medical education program, suspending, revoking or limiting licenses upon order of the Division of Medical Quality, approving undergraduate and graduate medical education programs for physicians, and developing and administering physician and surgeon examinations.

BMQA's three divisions meet together approximately four times per year, in Los Angeles, San Diego, San Francisco and Sacramento. Individual divisions and subcommittees also hold additional separate meetings as the need arises. Dr. Rendel Levonian and Neal Maslan have been elected President and Vice President of BMQA, respectively.

MAJOR PROJECTS:

Examinations. In June 1986, the FLEX examination was administered to 302 candidates. Of those candidates who took the entire FLEX exam in one sitting, 30.85% failed, which is comparable to the national pass/fail rate. Of those who took Component 1 alone as a postgraduate training entrance qualification exam, 43.47% failed. Candidates who took Component 2 after having completed one year of postgraduate training in a U.S. hospital failed at a rate of 45%. Whereas California previously drew 1,200-1,500 examinees per FLEX administration, the June 1986 exam fig-

ures reflect a dramatic decrease in this number. This decline is attributed to a recent change in the law which now requires Educational Commission for Foreign Medical Graduates (ECFMG) certification as a prerequisite to taking the FLEX exam. The ECFMG exam has proven to be a formidable barrier for foreign medical graduates throughout the United States, and applications for California licensure are expected to drop temporarily while foreign applicants clear this new hurdle.

Site Visits. The Division of Licensing (DOL) has completed the first of three site visits mandated by AB 1859. (See CRLR Vol. 6, No. 2 (Spring 1986) p. 46.) A site visit team traveled to England in October, visiting various facilities in London, Leeds, Oxford and Middlesex. A full report of this visit is forthcoming. In discussing its next scheduled visit to India and the Philippines, the site visit team related to the DOL that an English team of physicians had been unsuccessful in obtaining cooperation from the Indian government when planning a similar trip to that country. It was suggested that, if the DOL's request to visit India is met with similar resistance, the Board should consider the possibility of not accepting any Indian medical graduates who apply for licensure in California. The staff will continue to pursue arrangements for a site visit to India, as well as to the Philippines and Mexico.

Vietnamese Physician Applications. In November, the Division of Licensing discussed its previous decision to suspend the processing of all applications from post-1975 graduates of Vietnamese medical schools. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 40.) This suspension was to remain in effect until the DOL could acquire further information concerning post-1975 Vietnamese medical school curricula, training, and credentialing procedures. At the September DOL meeting, the Vietnamese-American Physicians Association presented the requested information in a formal proposal for the establishment of a Faculty Council-in-Exile to evaluate post-1975 Vietnamese medical graduates who are currently applying for licensure in California. Such a certification committee would be similar to the Faculty Council-in-Exile established by the American Medical Association to evaluate pre-1975 Vietnamese graduates. At the November DOL meeting, the DOL neither accepted nor rejected the proposal but stated that the Credentials Committee of the DOL would continue to review individual cases upon request.



Senate Committee Hearing. On December 5 in Palm Springs, the California Senate Committee on Business and Professions conducted a hearing concerning the policies and procedures used by the Division of Licensing in applicant evaluation and licensure of foreign medical graduates (FMGs). Over the past three years, the Committee has conducted hearings and introduced legislation relative to the licensure of FMGs. Although the Committee indicated it has gained much information and understanding from these hearings, it feels many critical problems remain. The Committee has continued to receive numerous complaints from individual applicants for licensure or certification as physicians and surgeons, and from medical schools seeking DOL approval for their programs. In his opening remarks, Senator Joseph B. Montoya, Chair of the Committee, stated that it is not the job of the government to limit entry into the "best profession in the state," but to apply quality standards to all medical graduates, without discriminating against those who have received all or part of their medical education outside the United States.

The Committee's prepared materials, supplemented by 84 exhibits, contended that the DOL has violated the Administrative Procedure Act (APA) in at least two ways. First, the DOL applied standards to FMGs which were not contained in any statute or regulation. Second, the DOL applied licensing standards to FMGs which it did not apply to U.S. and Canadian medical school graduates and which cannot be met by many U.S. and Canadian medical schools and graduates. The Committee also identified management problems within the DOL as well as inconsistencies between DOL staff actions and Division votes.

The Committee heard testimony from a number of FMGs who have experienced significant problems in obtaining a license from the DOL. FMGs applying for licensure in California experience a disproportionate number of problems compared to FMG applicants in other states. The Committee learned that California hospitals are reluctant to accept FMGs into their residency programs in light of these licensure problems. Several FMGs alleged they were being denied equal protection. Others described instances of alleged procedural irregularities and inconsistencies; BMQA's failure to properly adopt standards pursuant to the APA; lengthy delays which have resulted in inability to accept offered employment; and failure to respond to

inquiries from applicants. Senator Montoya responded to this testimony by insisting that BMQA must be "an accountable bureaucracy," and that subsequent licensing of any of the complaining witnesses would not be sufficient. Changes in attitudes and procedures are essential. Committee member Senator Ed Royce concluded that BMQA has been operating "without proper oversight."

In response to the testimony, BMQA Executive Director Kenneth Wagstaff denied any discriminatory conduct by DOL in licensing FMGs. He stated that 30% of California licenses are issued to FMGs and that there are "no barriers to licensure for anyone who is qualified." BMQA's primary goal is to protect the public; Mr. Wagstaff stated that the Board is accountable to the legislature, the governor and the medical profession. He assured Senator Montoya that his staff will continue to respond to individual cases experiencing problems.

Division of Allied Health Status. Dr. Unatin clarified his presentation at the last meeting regarding allocation of DAHP's functions to the other two divisions of BMQA. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 40.) He stated that he did not intend to suggest that DAHP should be absorbed into the other divisions; rather, his concern is how to best utilize resources and make government more efficient. While Mr. Andrews said that he thought the Division was legitimate and should continue to exist, Carol Sigmann, Executive Officer of the California Board of Podiatric Medicine, expressed a different sentiment. While the Division has a clear statutory function to oversee the regulation of several non-physician health professions, Ms. Sigmann stated concerns about the present functioning and philosophy of the Board with respect to the Division. Under the statute, the Board should be an umbrella organization, but there appears to be little integration or coordination of efforts among the three divisions of BMQA. According to Sigmann, DAHP is severed from the other two divisions to the point that it has no input into issues directly affecting the allied health professions. Specifically, Ms. Sigmann is concerned that BMQA's diversion program for impaired physicians does not cover podiatrists or other allied health professions. (See *infra* report on CALIFORNIA BOARD OF PODIATRIC MEDICINE and CRLR, Vol. 6, No. 4 (Fall 1986) p. 45.) Ms. Sigmann argued that once BMQA makes a commitment to serving all affected professions over which it has jurisdiction,

the appropriate structure of the Board and the proper role of DAHP will easily follow. Dr. Unatin said that he was not aware that such a problem exists, and recommended that Ms. Sigmann write down suggestions for discussion at the next meeting.

LEGISLATION:

BMQA has voted to oppose any proposed legislation which would allow physicians and hospitals to subscribe to for-profit "information-based marketing service companies." Although legislation would require these referral services to register with BMQA, the Board would not have any power to regulate such services, which provide consumer information about physicians and hospitals.

The Division of Licensing has proposed that the Board seek legislation to require that U.S. and Canadian graduates of LCME-accredited medical schools comply with Title 16, California Administrative Code, section 1324, which requires that foreign medical graduates include four months of general medicine in their postgraduate clinical training.

Preprint Senate Bill No. 13, formulated by Senator Montoya and discussed at the Senate Business and Professions Committee's December 5 hearing (see *supra* MAJOR PROJECTS), would prohibit the Division of Licensing from denying licensure or admittance to any examination or from giving notice of a deficiency in any requirement for licensure as a physician and surgeon unless the basis for the denial or notice is set forth in statute or a regulation adopted pursuant to the Administrative Procedure Act. The bill would also provide that any requirement for licensure related to the classroom or clinical clerkship phase of medical education or related to graduate training or residency shall not apply to any person enrolled in the classroom or clinical clerkship phase, respectively, or to a person who has begun his/her graduate training or residency at the time the requirement becomes effective.

LITIGATION:

In *California Pharmacists Association v. BMQA*, No. 3 CIVIL 26117 (Sacramento Superior Court), the California Pharmacists Association has appealed the court's decision in favor of BMQA and PAEC. The Boards' regulations were sustained, enabling PAs working under the supervision of physicians to furnish certain drugs to patients.



RECENT MEETINGS:

At the DAHP meeting in November, Dr. Unatin initiated a discussion of the status of the rulemaking file on supervisor regulation of physician's assistants. Mr. Ray Dale, Executive Officer of the Physician's Assistant Examining Committee (PAEC), was accused of improper lobbying by sending out an informational packet regarding the proposed regulations. Mr. Dale maintained that his policy has always been one of open communication and that no malice was intended by the mailing. The Division then engaged in a prolonged discussion over the correct name of the Committee, since the rulemaking file currently refers to "physician assistant" rather than "physician's assistant." Dr. Unatin took the position that this was misleading and probably false advertising. Fred Cagle, Chair of the PAEC, pointed out that the publications of the national PA organization refer to "physician assistants." Mr. Andrews of the DAHP responded that, because that designation is inaccurate, the publications are thus not legal in the state and potentially liable for a \$2000-per-day fine. It was unanimously decided by the Division that the statement of reasons in the rulemaking file be altered so that the term "physician's assistant" is consistently used. Mr. Andrews, who is also a board member of PAEC, will attend the next PAEC meeting to discuss this issue further.

The Division of Allied Health Professions discussed legislative priorities for 1987. AB 4379 (Grisham) requires the Division to register all spectacle lens dispensers (SLDs) by January 1, 1988. However, since the bill does not provide the Division with the authority to collect a registration fee until 1988, another bill is needed to enable BMQA to collect fees during 1987. The California Association of Dispensing Opticians has agreed to introduce this bill.

The Division also discussed proposed revisions to the Business and Professions Code pertaining to medical assistants. The Medical Assistants Alliance of California and the California Medical Assistants Association have agreed that legislation should be drafted giving DAHP clear authority to define the scope of practice of medical assistants. The California Medical Association is working with both professional groups in drafting legislation which DAHP will review.

Also in November, DAHP briefly discussed the interim legislative hearings on the regulation of midwifery. In response to a request by Assemblymember Vas-

concellos for the Division's support for proposed legislation creating clarification for lay midwives, Dr. Unatin said that it was "unconscionable" to consider delivering babies without more thorough medical training. Dr. Tsao suggested that rather than immediately oppose any proposed bill, the Division should first read the Alternative Birthing Methods Study provided by the Office of Statewide Health Planning and Development.

The Division of Medical Quality discussed the hospital reporting statute (Business and Professions Code section 805), its associated problems, and areas for improvement. A subcommittee of the Medical Quality Review Committee (MQRC) determined that there is an inconsistent flow of section 805 reports varying according to time, hospital, and region. The subcommittee recommended that section 805 be made more precise, that MQRC members work more closely with hospital staff, that the hospitals' legal protection and immunity be enhanced, and that interns, residents and fellows be included in the category of licensees for reporting purposes. The Division recommended and the Board agreed that any proposed legislation should address these areas. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 41.)

MQRC District 11 (Los Angeles) has developed a proposal which would allow MQRC members to assist in monitoring probationers. Such utilization of members would alleviate the investigation backlog and, as physicians practicing in the community, the members' unique position might be useful in the rehabilitation of physician probationers.

The Board decided not to formally respond to the recent series of articles about BMQA which appeared in the *San Jose Mercury News* between October 19-22, 1986. The four-part series addressed many facets of BMQA's physician disciplinary process, and was based upon an eight-month investigation and analysis of over 1,000 cases by the newspaper.

FUTURE MEETINGS:

April 9-10, 1987 in San Diego.

June 25-26, 1987 in San Francisco.

October 8-9, 1987 in Sacramento.

ACUPUNCTURE EXAMINING COMMITTEE

Executive Officer:

Jonathan Diamond
(916) 924-2642

The Acupuncture Examining Committee was created in July 1982 by the

legislature as an autonomous rule-making body. It had previously been an advisory committee to the Division of Allied Health Professionals of the Board of Medical Quality Assurance.

The Committee prepares and administers the licensing exam, sets standards for acupuncture schools, and handles complaints against schools and practitioners. The Committee consists of four public members and seven acupuncturists, five of whom must have at least ten years of acupuncture experience. The others must have two years of acupuncture experience and a physicians and surgeons certificate.

RECENT MEETINGS:

On November 8 the Tutorial and Continuing Education Subcommittee, the Legislation Subcommittee, and the Examination Subcommittee met in San Francisco. The Tutorial and Continuing Education Subcommittee recommended that the trainer qualifications set forth in Business and Professions Code section 4940(b)(5) be amended to require ten years of post-licensure experience in any state or country, instead of seven years. The Subcommittee also recommended that the required science courses described in section 1399.425(e)(5-11), Chapter 13.7, Title 16 of the California Administrative Code, be completed in a Committee-approved school or in an accredited institution; and that the theoretical and didactic training described in section 1399.425(e)(1-4) conform to corresponding school curriculum requirements in terms of subject matter and hourly requirements.

The Subcommittee also recommended amendment of Business and Professions Code section 4941 to allow the Committee more discretion in limiting the amount of awarded credit for prior training and experience. The section currently states that in reviewing applications for certification based upon the completion of a tutorial program in acupuncture, the Committee shall insure that credit is granted for relevant prior training and experience. The amendment would change the words "shall insure" to "may insure." The Subcommittee also proposes to require site and program inspections as feasible within Committee time and budgetary constraints.

Recommendations relating to continuing education made by the Subcommittee include statutory amendments to allow the Committee to approve the provider of a continuing education course rather than the course itself, and to extend provider approval to individu-



REGULATORY AGENCY ACTION

als as well as institutions or schools. The Subcommittee also recommended that a provider approval fee be established.

The Legislation Subcommittee recommended that section 2075 of the Business and Professions Code relating to research programs be amended to include approved acupuncture schools and to change the statute's language from "unlicensed" to "legally qualified" so that research may not be performed by unlicensed persons. The statute now states that the performance of acupuncture by an unlicensed person, when carried on in a program affiliated with and under the jurisdiction of an approved medical school for the primary purpose of scientific investigation of acupuncture, is not in violation of law.

The Subcommittee also recommended that section 4987 of the Business and Professions Code be amended to allow the Committee more discretion with regard to reissuing lapsed licenses.

The Examination Subcommittee recommended that the Committee freeze the herbology component of the acupuncture examination at 25% of the test, and allow a one-year lead time prior to introduction of any major changes in material covered by the examination. The Subcommittee also recommended that a task force in herbology be created to advise the Committee on curriculum and examination matters relating to herbology.

FUTURE MEETINGS:

To be announced.

HEARING AID DISPENSERS EXAMINING COMMITTEE

Executive Officer:

Margaret J. McNally
(916) 920-6377

The Board of Medical Quality Assurance's Hearing Aid Dispensers Examining Committee (HADEC) prepares, approves, conducts, and grades examinations of applicants for a hearing aid dispenser's license. The Committee also reviews qualifications of exam applicants. Actual licensing is performed by the Board of Medical Quality Assurance. The Committee is further empowered to hear all disciplinary matters assigned to it by the Board.

The Committee consists of seven members, including four public members. One public member must be a licensed physician and surgeon specializing in treatment of disorders of the ear and

certified by the American Board of Otolaryngology. Another public member must be a licensed audiologist. The other three members are licensed hearing aid dispensers.

MAJOR PROJECTS:

Examinations. HADEC will move its examination cycle from December and June to September and March.

LEGISLATION:

AB 3060 (Hannigan) requires HADEC and all other DCA licensing entities to collect federal identification numbers or Social Security numbers at the time of license renewal. HADEC's renewal period, however, began before AB 3060 was chaptered; therefore, the Board cannot comply with this law until the next fiscal year starting July 1, 1987.

AB 1313 (Carpenter) authorizes the Attorney General to represent HADEC's expert witnesses if they are later sued by a party to a disciplinary hearing.

RECENT MEETINGS:

At its October 18 meeting in Los Angeles, HADEC discussed proposed changes to sections 3322, 3328, 3329(b), 3357, 3359, and 3401 of the Business and Professions Code. Due to funding and staff limitations, however, further work on these proposals may not be accomplished.

HADEC's very small budget has allowed the employment of only one part-time staff member. Due to the Department of Finance's refusal to increase HADEC's operating budget, this staff person is leaving the Committee. Budget limitations will also affect HADEC's ability to enforce hearing aid dispensing regulations, which are designed to protect consumers from being fitted with improper hearing aids.

HADEC's financial problems will also affect the number of meetings it can afford to hold. Until now, HADEC has paid its Committee members \$50 per diem for each meeting. Because of the passage of SB 2590 (Craven), Committee members must now be paid \$100 per diem. The Committee cannot afford to pay these salaries from its operating budget, and the Department of Finance has refused to allow HADEC to use its surplus reserve funds to comply with the law. Thus, HADEC will be forced to reduce the number of meetings held each year.

FUTURE MEETINGS:

To be announced.

PHYSICAL THERAPY EXAMINING COMMITTEE

Executive Officer: Don Wheeler
(916) 920-6373

The Physical Therapy Examining Committee is a six-member Board responsible for examining, licensing and disciplining approximately 8,600 physical therapists. The Committee is comprised of three public and three physical therapist members.

Committee licensees presently fall into one of three categories: physical therapists, physical therapist assistants, and physical therapists certified to practice electromyography or the more rigorous clinical electroneuromyography.

The Committee also approves physical therapy schools. An exam applicant must have graduated from a Committee-approved school before being permitted to take the licensing exam. There is at least one school in each of the 50 states and Puerto Rico whose graduates are permitted to apply for licensure in California.

MAJOR PROJECTS:

Foreign-Trained PTs. PTEC is currently renewing its standards for qualification of foreign-trained applicants. Committee member Schulman prepared a report suggesting additional information which should be requested from foreign or out-of-state facilities when the Committee is asked to waive a foreign-or out-of-state-trained applicant's clinical service requirements. The report contained suggested areas of inquiry which would verify the quantity and quality of the applicant's clinical experience. The report was submitted to other Committee members for comments and suggestions.

Federation of State PT Licensing Boards. Committee member Schulman reported that preliminary bylaws and fees have been adopted for the proposed federation of state physical therapy licensing boards. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 43.) The membership dues for California will be \$2,500 per year. PTEC intends to join the federation provided it can pay these dues from its 1987 budget. A meeting concerning further progress of the federation was held on February 11 in Atlanta in conjunction with the American Physical Therapy Association (APTA) meeting.

Subcommittee for Enforcement Policy. PTEC has adopted Chairperson Sibbet's proposal that a subcommittee for enforcement policy and scope of practice be organized. The subcommittee



will review and render opinions on issues pertaining to the scope of PT practice and establish regulation enforcement priorities. According to PTEC, the subcommittee will not be charged with reviewing specific cases, but will be an interpretive body with regard to Committee policy.

RECENT MEETINGS:

At the October meeting, Mr. Sibbet discussed a concern expressed by podiatrists regarding the fitting of orthotics by PTs. After discussion with the Committee, Mr. Sibbet agreed to publish an article discussing PTEC's position on this issue. At the December 4 meeting, Mr. Sibbet presented his article, which describes appropriate circumstances under which PTs may recommend and fit orthotics. The article was forwarded to the California chapter of APTA for publication in its December newsletter.

The Committee proposed that a task force be organized to update its oral examination such that it is comparable with that of the Professional Examination Service (PES). The oral examination currently consists of fifty short-answer questions and must be taken by persons who are licensed but have not practiced for a significant period of time, and those who have passed the written portion of the exam but have failed the clinical portion of their training. Committee member Norma Shanbour agreed to chair the task force.

Also at the October meeting, the problem of duplicate patient evaluations was discussed by the Committee. When both a physician and a PT perform a patient treatment evaluation, third-party payors (i.e., fiscal intermediaries) object to being billed for both evaluations. While patient evaluations by PT are not required under the Practice Act, Chairperson Sibbet stated that they are necessary, are within the PT's scope of practice, and should be encouraged even if the patient already has a prescription or recommendation from a physician. PTEC agreed with his position.

PTEC received a reply from PES regarding PTEC's testing of vision-impaired applicants. Currently, PTEC administers the test by having a non-PT read the exam orally to the applicant; PES responded that this method is appropriate.

At its December 4 meeting, PTEC responded to a request from Charlene Welty of the Department of Aging regarding the use of physical therapy aides (PTAs) in her proposed adult health care

centers. Ms. Welty had inquired as to the propriety of PTAs providing services such as ambulatory assistance to those at health care centers. The Committee stated that PTAs could provide such services so long as they did not refer to them or bill them as physical therapy.

Mr. Sibbet reported that he will continue to work with the State Compensation Insurance Advisory Board on proposed regulations for the provision of compensation for physical therapy services. Mr. Sibbet also proposed that introductory statements be included at the beginning of the written and practical electromyography examinations. The statements should stress the applicant's responsibility toward the subject and examiner, and should advise that the practical examination be conducted in a safe and sterile manner. The applicants should also be reminded that the subject be treated as a patient.

Executive Officer Wheeler has submitted written comments to the Board of Chiropractic Examiners that its proposed amendments to sections 302 and 312 of Title 16 of the California Administrative Code may exceed that Board's statutory authority. PTEC believes the proposed regulations would augment the chiropractic scope of practice so to allow chiropractors to practice physical therapy.

At the December 4 meeting Committee members Patti Goodman and Kerri Schulman were elected Chairperson and Vice Chairperson, respectively, for 1987.

FUTURE MEETINGS:

March 27 in Los Angeles.

May 29 in Sacramento.

July 24 in San Diego.

PHYSICIAN'S ASSISTANT EXAMINING COMMITTEE

Executive Officer: Ray Dale
(916) 924-2626

The legislature established the Physician's Assistant Examining Committee (PAEC) to "establish a framework for development of a new category of health manpower—the physician assistant." Citing public concern over the continuing shortage of primary health care providers and the "geographic maldistribution of health care service," the legislature created the PA license category to "encourage the more effective utilization of the skills of physicians by enabling physicians to delegate health care tasks...."

PAEC certifies individuals as PAs, allowing them to perform certain medical procedures under the physician's supervision, such as drawing blood, giving injections, ordering routine diagnostic tests, performing pelvic examinations and assisting in surgery. PAEC's objective is to ensure the public that the incidents and impact of "unqualified, incompetent, fraudulent, negligent and deceptive licensees of the Committee or others who hold themselves out as PAs [are] reduced."

PAEC's nine members include one member of the Board of Medical Quality Assurance, a physician representative of a California medical school, an educator participating in an approved program for the training of PAs, one physician who is an approved supervising physician of PAs and who is not a member of any Division of BMQA, three PAs and two public members.

MAJOR PROJECTS:

Regulation Changes. A regulatory hearing was held on November 6 to consider amending regulations in Chapter 13.8 of Title 16 of the California Administrative Code (see CRLR Vol. 6, No. 4 (Fall 1986) p. 44). After brief discussion the PAEC unanimously voted to exclude from section 1399.532 the requirements that a specialty training program be located in an educational institution and that coursework in such a program carry academic credit. These amendments will allow a training program within a hospital setting to fully comply with specialty training program requirements.

Physician's Assistant Survey. Jack Liskin, Program Director of the PA Program at the University of Southern California, presented a preliminary analysis of results from a questionnaire which was mailed to renewal licensees in 1984. The reported findings include: 59% of PAs practicing in California are males, but of those practicing less than two years 52% are women; over 50% work in large metropolitan areas; and 62% practice primary care or family medicine. On a scale of one to five, the average level of personal satisfaction was 3.88; community acceptance was 3.94; and respondents rated their satisfaction with the PAEC at 3.8. More detailed results will be presented at future meetings.

Continuing Medical Education. The Committee engaged in a wide-ranging discussion regarding the establishment of a continuing medical education (CME) requirement for PAs. PAEC's



enabling statute currently does not encompass CME; thus, such a requirement would entail new legislation. Mr. Deutsch pointed out that many professions have established such requirements, particularly the health professions, and that requiring a specified number of hours of education per year would upgrade the profession. Dr. Edwards of the Licensing and Programs Subcommittee stated that she has researched the topic and has found no data to suggest that CME improves patient care. The National Commission of Certification of Physician's Assistants (NCCPA) requires 100 hours every two years, but not all PAs in California are NCCPA-certified. Since this certification is not available to PAs who were "grandfathered in," the PAEC is the logical source if such a requirement is deemed appropriate. The PAs attending the meeting agreed that the idea of CME is sound, but establishing CME as a requirement is questionable. The expense of continuing medical education and becoming NCCPA-certified were cited by one PA as major obstacles. But, she added, most PAs take it upon themselves to keep up with their area of practice. The PAEC survey results indicate that 78% of the respondents were participating in CME in 1984. The Licensing and Programs Subcommittee will present alternatives at a future meeting.

LITIGATION:

In *California Pharmacists Association v. BMQA*, No. 3 CIVIL 26177 (Sacramento Superior Court), the California Pharmacists Association has appealed the court's ruling in favor of BMQA and PAEC. Regulations enabling PAs working under the supervision of physicians to dispense certain drugs were upheld by the lower court.

RECENT MEETINGS:

On November 6, the PAEC met in San Francisco. Committee Chair Fred Cagle announced that Medicare reimbursement has been approved for services provided by a PA. While the pertinent provision of the Omnibus Budget Reconciliation Act does not provide for full reimbursement and does not cover PAs working with physicians in private practice settings, the Committee agreed that this is a good beginning.

The PAEC also discussed the wording of a proposed change in legislation regarding program approval. Currently, section 3513(b) of the Business and Professions Code provides that the Committee "shall require programs to utilize

equivalency and proficiency testing and other mechanisms whereby full credit is given to trainees for past health care education and experience." The Committee agreed that this language should be altered to "may allow." The Legislation and Regulation Subcommittee will seek a sponsor for this proposed change. The Committee is currently drafting a Good Samaritan Statute which is targeted for completion in early 1988.

The following goals and objectives were suggested by Dr. Cagle at the November meeting: improvement of California's PA regulations so they more closely conform with those of other states; establishment of relationships with other professions and other boards; and development of a clear definition of protocols for PAs and scope of practice. The Chairperson also suggested that an AIDS informational mailing be sent to all licensees.

FUTURE MEETINGS:

April 3 in Sacramento.
June 12 in Los Angeles.
September 11 in South Lake Tahoe.
November 6 in San Diego.

CALIFORNIA BOARD OF PODIATRIC MEDICINE

Executive Officer: Carol Sigmann
(916) 920-6347

The California Board of Podiatric Medicine (CBPM) of the Board of Medical Quality Assurance (BMQA) regulates the practice of podiatric medicine in California. The Board licenses doctors of podiatric medicine (DPMs), administers examinations, approves colleges of podiatric medicine (including resident and preceptor training), and enforces professional standards by disciplining its licensees. CBPM is also authorized to inspect hospital records pertaining to the practice of podiatric medicine.

The Board consists of four licensed podiatrists and two public members.

MAJOR PROJECTS:

Discrimination. All hospitals have now responded to surveys sent by CBPM regarding hospital violations of California Administrative Code Title 22, sections 70717(c)(1) and 70567(c), and section 1316 of the Health and Safety Code. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 45.) The survey responses, which include hospital bylaws, are now being reviewed by the Rules and Regulations Subcommittee for violations. Examples of violations may include

discrimination by hospitals against podiatrists in the areas of staff privileges, voting privileges, and admissions. CBPM composed a history of its hospital complaint file and correspondence with the Department of Health Services (DHS), which was distributed to Board members at the December 6 meeting. The Board continues to enlist the help of DHS in this area.

Regulations. On December 6, CBPM held a public hearing on proposed regulations creating an appeals system for prospective licensees who have failed oral examinations. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 45.) No oral or written comments were received. The regulations were approved by the Board at its December meeting, and will become section 1399.661 of Title 16 of the California Administrative Code following OAL approval.

Proposed Study. CBPM approached the California Podiatric Medical Association seeking funding for an independent study to evaluate the cost-effectiveness of the current administrative structure of CBPM within BMQA and the Department of Consumer Affairs (DCA). The Association declined. Currently, CBPM lacks the funds to perform the study on its own, but will continue to consider the proposal as a future project.

Proposed Regulations. The CBPM Subcommittee on Rules and Regulations met on January 12 in San Francisco to draft regulations to implement SB 2355 (Montoya), which became effective on January 1, 1987. SB 2335 gives CBPM (and most DCA regulatory agencies) the authority to establish systems for the issuance of administrative citations and the imposition of administrative fines. The bill allows the agencies flexibility in determining the scope of their citation systems. The proposed regulations are scheduled for presentation to CBPM at its February meeting, and a public hearing on the regulations is projected for June.

Medicare Regulation Change. CBPM is continuing its inquiry into a federal Medicare regulation change which apparently removes DPMs from the classification of "physicians," thus prohibiting them from completing histories and physicals on patients who are admitted to acute care hospitals. CBPM is concerned with the cost implications to the consumer resulting from this change, and has asked the Health Care Financing Administration (HCFA) of the U.S. Department of Health and Human Services to provide CBPM with any available data evaluating consumer cost.



CBPM is also concerned because California regulations allow histories and physicals to be performed by podiatrists. As of this writing, no response from HCFA has been received.

LEGISLATION:

SB 1880 (Montoya) failed the Ways and Means Committee. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 45.) CBPM is working with Assemblymember Maxine Waters and Senator Montoya to reintroduce the bill during 1987.

RECENT MEETINGS:

At the December 6 meeting in Palm Springs, Carol Sigmann reported on her attendance at the November 14 meeting of BMQA's Division of Medical Quality. The Division discussed a request from the California Medical Association that the Division support the concept of obtaining a grant from the Robert Wood Johnson Foundation to establish a diversion program for all health care providers. The Division, however, does not support the concept's broad coverage of all health care professionals, in its belief that its primary obligation in this area is to physicians. Ms. Sigmann went on record contending that the Division and BMQA improperly lack concern and support for non-physician health care providers and their patients.

Ms. Sigmann also attended the meeting of the BMQA's Division of Allied Health Professions (DAHP), which discussed its role and function as a division within BMQA. Ms. Sigmann stated that DAHP has emphasized control rather than quality with regard to the non-physician health care boards under its jurisdiction. She stated further that she is prevented from doing a good job for podiatrists and consumers in this atmosphere. She cited the previous meeting, during which the Division of Medical Quality refused to support the establishment of a diversion program for all health care professions, as a reflection of the lack of communication and support among the Divisions, and a patent disregard for the fact that the Board should function as an umbrella organization and not an organization for physicians only. (For further information, see *supra* report on BOARD OF MEDICAL QUALITY ASSURANCE.)

Ms. Sigmann also reported on program policy and procedural changes implemented by BMQA following the enforcement study conducted by Arthur Young. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 45.) She is also continuing in her attempt to obtain information on CBPM's possible participation in the

diversion program for physicians with substance abuse problems established by BMQA. The Board also heard a status report outlining anticipated legislation by BMQA during 1987.

Board members were provided with statistics on the November licensure examination.

FUTURE MEETINGS:

June 5 in San Francisco.

September 18 in San Diego.

December 4 in Los Angeles.

PSYCHOLOGY EXAMINING COMMITTEE

Executive Officer: Howard Levy
(916) 920-6383

The Psychology Examining Committee (PEC) is the state licensing agency for psychologists. PEC sets standards for education and experience required for licensing, administers licensing examinations, promulgates rules of professional conduct, regulates the use of psychological assistants, conducts disciplinary hearings, and suspends and revokes licenses. PEC is composed of eight members, three of whom are public members.

MAJOR PROJECTS:

Child Abuse Training. The PEC has modified the language of proposed regulations describing Child Abuse Detection Training courses, to be added to California Administrative Code, Title 16, Chapter 13.1, section 1386.7. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 45.) The amended language provides that persons teaching the training course are deemed to have complied with the required child abuse training. A second addition states that no licensed psychologists will be exempted from the required eight hours of training regardless of the nature of their practice, because all psychologists are subject to the child abuse reporting laws.

Supervision of Psychological Assistants. The PEC has been examining this issue for several months (see CRLR Vol. 6, No. 4 (Fall 1986) p. 46), and has now proposed amendments to Title 16 of the California Administrative Code, Chapter 13.1, sections 1387, 1391.1 and 1391.6.

The proposed changes to section 1387 provide that the supervised professional experience of the psychological assistant shall have a broad base, including training in the following: (1) in clinical and counseling specialties, training shall

include (i) a variety of psychotherapy or counseling techniques and psychometrics, (ii) involving patients with varied demographic characteristics including age, gender, and ethnic origin, and (iii) a variety of types of cases by diagnosis; or (2) in other specialty areas, an appropriate variety of cases, setting and clients. For supervision commencing on or after July 1, 1987, the supervising psychologist must have a minimum of five years of professional post-doctoral experience.

Proposed amendments to section 1391.1 concerning registration require that if a person applying to supervise is other than an individual, the applicant's clinic director or responsible corporate officer shall sign the application and designate a licensed psychologist or psychiatrist to supervise the psychological assistant.

Proposed amendments to section 1391.6 require the supervisor to maintain records on a weekly basis specifying the type and amount of services provided by the psychological assistant. This information must be included in the annual report to the PEC.

The amendments also propose that the supervisor inform each client in writing that the assistant is unlicensed and is under the direction of the supervisor as an employee. The client will be asked to sign the notice, and notices shall be kept on file for three years.

LITIGATION:

In *Larry P. v. Wilson Riles, Superintendent of Public Instruction for the State of California*, No. C-71-2270 RFP, the court held that no IQ tests of black children may be used for any purpose in California public schools.

RECENT MEETINGS:

At its November meeting, the PEC announced the dates for the 1987 examinations. The first set of oral exams was given on January 10 in Los Angeles and January 17 in San Francisco. The written exam is scheduled for April 10 in San Francisco. Oral exams will be given again on June 6 in Los Angeles and June 13 in San Francisco, and the written exam is scheduled for October 23 in Los Angeles.

At its December meeting, the PEC discussed proposed changes in procedures which prepare the individuals who administer the oral portion of the examination. The purpose behind the discussion was to ensure that administration of oral examinations is uniform.

FUTURE MEETINGS:

To be announced.



SPEECH PATHOLOGY AND AUDIOLOGY EXAMINING COMMITTEE

Executive Officer: Carol Richards
(916) 920-6388

The Board of Medical Quality Assurance's Speech Pathology and Audiology Examining Committee (SPAEC) consists of nine members: three speech pathologists, three audiologists and three public members (one of whom is a physician).

The Committee registers speech pathology and audiology aides and examines applicants for licensure. The Committee hears all matters assigned to it by the Board, including, but not limited to, any contested case or any petition for reinstatement, restoration, or modification of probation. Decisions of the Committee are forwarded to the Board for final adoption.

MAJOR PROJECTS:

Speech Pathology and Audiology Aides. SPAEC's interest in monitoring aides who assist licensees has resulted in the Board's creation of three task forces to study the practice of aides in audiology, speech pathology, and industrial audiology.

Each task force has conferred with professionals from hospitals, clinics, private practice, and state organizations for the purpose of determining whether changes to existing aide regulations are necessary and whether the aide application forms should be modified. The task forces will report their findings to the SPAEC at the next scheduled meeting.

RECENT MEETINGS:

SPAEC cancelled its November 21, 1986 meeting and postponed its January 9, 1987 meeting.

FUTURE MEETINGS:

March 13 in southern California.
May 8 in northern California.

BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

Executive Officer: Hal E. Tindall
(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.

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. Board members are normally appointed for three-year terms. However, a member holds office until a successor is appointed or until one year has passed since the expiration of the term for which he/she was appointed, whichever occurs first. A member may serve for no more than two consecutive terms.

MAJOR PROJECTS:

Audit of Continuing Education Claims. Licensees who applied for renewal of nursing home administrator licenses in May, June, or July of 1986 were not required to submit proof of their continuing education claims. They merely listed approved continuing education courses and declared under penalty of perjury that they had actually completed the courses listed. If the list of courses appeared to be valid, a renewal license was issued on the basis of the licensee's signed declaration.

In September, the Board sent letters to approximately 250 of the licensees who had applied for active license renewal before July 31, 1986. The licensees selected for the audit were required to submit proof of completion of the continuing education courses listed on the declarations submitted with their renewal applications.

Licensees who apply for active license renewal after July 31, 1986 are required to submit proof of completion of the required number of BENHA-approved continuing education courses. Once a license has expired, a nursing home administrator has three years after the date of expiration to renew the license before it is cancelled. Once a license lapses, it may not be renewed or reinstated. The former licensee must requalify for licensure under the current

rules applicable to those seeking licensure for the first time.

Preceptor Training Sessions. Licensed nursing home administrators may apply to the Board to serve as a preceptor for administrators-in-training. The licensee must satisfy minimum requirements, including (1) at least two years as the designated administrator or at least four years as the designated assistant administrator of a licensed nursing home; (2) attendance at a four-hour preceptor training session; and (3) the licensee must not be on suspension, probation, or the subject of pending disciplinary action.

Preceptor training classes are offered six times per year, usually near the middle of each odd-numbered month. Continuing education credit is granted to each licensee who attends a preceptor training session. A preceptorship expires three years after the date of issue.

Examinations. BENHA is preparing to conduct a detailed review of the question bank used for its licensing examination. Letters were sent to the California Chapter of the American College of Health Care Administrators, the California Association of Homes for the Aging, and the California Association of Health Facilities requesting assistance in the review of existing test questions and preparation of new questions. Each organization was asked to select two nursing home administrators to serve on a task force in Sacramento.

LEGISLATION:

AB 1370 (Connelly) would have required fingerprinting of nursing home employees. The bill was vetoed by the Governor in 1986, but may be reintroduced in 1987.

SB 2408 (Maddy) limits an acute care hospital's ability to license freestanding nursing homes under a consolidated facility license. The bill allows consolidated licenses only when the nursing home is part of the physical structure of the acute care facility, with certain exceptions. SB 2408 was approved by the Governor.

HR 5450 (Dingell) is proposed federal legislation which would amend Title XIX of the Social Security Act to change Medicaid requirements for nursing facilities, and repeal the requirement that nursing home administrators be licensed for purposes of federal reimbursement.

SB 1566 (Deddeh), effective January 1, 1987, amends section 3940 of the Nursing Home Administrator Licensing Act. It authorizes the Board to increase several of its fees, and to exact fees for continuing education providers,