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.

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 2,100 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.

MAJOR PROJECTS:

The Future of the Bureau. With the passage of Assembly Bill 2929 (Chapter 912, Statutes of 1986), the Bureau of Personnel Services is, as one member put it, "at a crossroads." AB 2929, effective July 1, 1987, redefines the term "employment agency" to include only agencies which exact or attempt to collect fees from the applicant for employment. Thus, "employer-retained" licensees, which collect only employer-paid fees, will be excluded from the statute's coverage and the Bureau's regulation as of July 1.

While this deregulation has caused the Advisory Board to give serious consideration to the current mission of the Bureau, several types of agencies are still regulated by the Bureau under the Employment Agency Act, including general employment agencies, nurses' registries, domestic agencies, prepaid computer employment agencies, career counseling services, and job listing services. As reported at the Bureau's last meeting, the Department of Consumer Affairs (DCA) has considered registering rather than licensing employment agencies. Computerized registration has been suggested. Bureau staff plans to meet with the DCA to discuss the future of the Bureau.

RECENT MEETINGS:

AB 2929 and its ramifications were the main topics of discussion at the Advisory Board's October 3 meeting in San Francisco. Because there was no quorum, the Board met only as a committee.

In addition to discussing the Bureau's mission, the Board also discussed activity of temporary agencies. Board member Howard Rudiger, in his presentation on "The Mission of the Bureau," contended that temporary agencies and job fair organizers are placing more people in permanent positions than all of the regulated agencies combined and should be regulated. Members of the nurses' registry industry who were present agreed with Mr. Rudiger that such unlicensed activity should be investigated; and that agencies placing people in permanent positions should be required to pay licensing fees.

Rudiger also argued that if the Bureau is not permitted and funded to license these agencies which are currently excluded from the Employment Agency Act, then perhaps, although he does not favor such an extreme action, the Bureau should be sunsetted on an "all or none" principle.

With reference to funding, Bureau Chief Jean Orr clarified that the $100 increase (from $200 to $300) in the registration fee for an initial employment agency license effective April 1, 1987 is unrelated to the deregulation of mployer-retained agencies. The increase was based upon a recommendation of the budget analyst made before AB 2929 was passed.

In addition to the problem with temporary agencies, the Board also discussed the activity of job listing services. Such services must be licensed, and abuse to consumers has recently been reported in this area.

FUTURE MEETINGS:

To be announced.

BOARD OF PHARMACY

Executive Officer: Lorie G. Rice
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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:

Regulations. The Board has proposed two new sections for addition to Chapter 17 of Title 16 of the California Administrative Code (CAC). New section 1781.5 will exempt from licensure any drug wholesaler or manufacturer of hemodialysis drugs whose qualifying supervisory personnel have (a) passed a written examination given by the Board; (b) become licensed pharmacists in a state other than California; and (c) two or more years of applicable experience in the manufacture, compounding, or distribution of dangerous drugs. The addition of this proposed section provides clear guidance as to the qualifications necessary for exemption certification, by establishing in regulatory form standards long used by the Board's staff in determining exemption requests. The staff now receives numerous inquiries about exemption certificate requirements, due primarily to the lack of information in the current regulations.

New section 1781.6 addresses exemptee examinations. The written examination described in section 1781.5 shall cover applicable federal and state statutes and regulations governing the manufacture, compounding and wholesale distribution of dangerous drugs and devices. To pass the examination, the qualifying person must achieve a score of 75% or more.

The Board conducted a public hearing on these proposed new sections on January 29 in Newport Beach.

RECENT MEETINGS:

At the Board's October meeting in Los Angeles, a fee bill proposal was discussed. The purpose of the bill is to charge fees for various certifications and licenses within the pharmacy field, as well as to raise the ceiling on the maximum amount the Board may charge pharmacists when they acquire licenses.

Since 1981, the Board has proposed two fee bills. In March 1986, the Board raised license fees to the maximum level set by the fee bill currently in effect. The proposed fee bill, which will be submitted to the legislature in 1987, also charges fees for the transfer of intern hours and for licensing of pharmacists from other states.

Sections 1751-1751.9 in Chapter 17 of Title 16 of the CAC have now been approved by the Office of Administrative Law (OAL) and were implemented on November 6. The regulations, which were previously disapproved by OAL, deal with the dispensation of parenteral drugs. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 49 for details.) The continuing education regulations, sections 1732.1, 1732.2(c) and (d), in Chapter 17 of Title 16 have been submitted to OAL for approval.

A task force has been formed to develop standards for mail order prescriptions. This is a new area for pharmacists in California and study is needed to determine what regulations should govern to protect consumers.

Discussion was resumed regarding the challenged practices of Travenol, a company which supplies materials to another pharmacy which compounds parenteral solutions, labels them, and returns the medications to Travenol. Travenol then delivers the drugs to patients through its home health care services. If, through this practice, Travenol is "manufacturing" or "dispensing" drugs, Travenol may be in violation of the Federal Drug Act; further, to the extent that these actions constitute contracting with a second licensed pharmacy to prepare or compound medication, they may also violate the pharmacy law and the Health and Safety Code of California.

Travenol proposed that the Board revise and amend section 4046 (c)(1) of the Business and Professions Code and section 1717(e) of the CAC to include language which would be consistent with the interests of the patient and still allow Travenol to provide materials to a pharmacy which will compound the drugs and return them to Travenol for delivery to the consumer. The Board has maintained a neutral position on this prospective legislation and has decided to look at the manner in which the federal Food and Drug Administation (FDA) handles similar cases. The Board announced it will invite a spokesperson from the FDA to a 1987 Board meeting to update the Board on the FDA's treatment of this issue.

Another issue which evoked lengthy discussion was a proposal which would would allow trained ancillary personnel to perform certain duties which have traditionally been performed only by a licensed pharmacist. The Board discussed several professional responsibilities which it believes ancillary personnel should not perform, such as receipt of a verbal prescription from a physician; consultation with the patient regarding medications; initial interpretation of the prescription; determination of the product or the generic equivalent required; final check of the filled prescription; dispensation of appropriate instructions for patient use; signing documents requiring the pharmacist's signature or initials; and providing professional consultation to the patient or to other health care professionals.

The Ad Hoc Committee on Ancillary Personnel, which had been established to investigate this matter more fully, recommended that the use of ancillary personnel in an expanded role should be initiated on a trial basis at acute health care facilities. This suggestion raised some debate about the political ramifications of such a selective process of introduction of the new program. Because the Ad Hoc Committee contained a pharmacist from an acute care facility but no pharmacist from a retail pharmacy, it was suggested that the Committee had not fairly represented retail pharmacists. It is believed that this program will enable a pharmacy to increase its prescription-filling capacity significantly in a short period of time, and allowing a limited group of pharmacies to use ancillary personnel earlier than other pharmacies in the community could conceivably give them a competitive edge.

FUTURE MEETINGS:

To be announced.

POLYGRAPH EXAMINERS BOARD

Executive Officer: Dia Goode
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The Polygraph Examiners Board, an agency within the Department of Consumer Affairs, regulates the activities of an estimated 1,000 polygraph examiners in California. (See Business and Professions Code sections 9300 *et seq.*) Currently, approximately 655 polygraph examiners are licensed by the Board. Federally-employed examiners are specifically excluded from the Board's jurisdiction.

The Board, which has a January 1, 1989 sunset date, consists of two industry representatives and three public members, all appointed to four-year terms.

MAJOR PROJECTS:

Complaint Tracking System. Staff has completed a computerized complaint tracking system which, in response to a specific inquiry, provides information on the type of complaint involved, the present status of the complaint, and the actions pending. The system operates on in-house computers and was developed by the staff at no extra cost.

Accreditation. The following schools have been accredited: Keeler Polygraph School, Military Police School in Fort Gordon, National Training Center of Lie Detection, Reid College of Detection and Deception, and the Zonn Institute.

Adopted Regulations. The Office of Administrative Law (OAL) has approved section 3480 of the Board's regulations at Title 16 of the California Administrative Code. The new regulation enumerates eight types of conduct which constitute grounds for disciplinary action. OAL also approved several other regulatory changes, including section 3420, which requires applicants to apply on or before the final filing date announced for each examination; and section 3426, which sets forth circumstances under which applicants who hold licenses as polygraph examiners in other states may be licensed as general polygraph examiners without taking the licensing examination.

RECENT MEETINGS:

At the Board's October meeting in San Jose, the enforcement committee reported that five investigations are pending; further, the Riverside District Attorney's Office is prosecuting an unlicensed activity case.

The July/August Combined Budget and Expenditures Statement indicates that the Board has spent $12,060, leaving a balance of $87,783.

Staff recommended and the Board approved the following schools' courses for accreditation: the American Association of Police Polygraphist's May 1986 seminar; and the California Academy of Polygraph Science's October 1986 seminar and its "Nonverbal Behavior of the Interviewer Interrogation" seminar.

The Board also discussed a recent claim that voice stress analyzers have published advertisements which imply that their techniques are actually polygraphs. Voice stress analysis analyzes voice pitches and patterns; whereas polygraph tests measure a person's other bodily reactions such as pulse and per-