



REGULATORY AGENCY ACTION

ment regarding the disbursement of funds to underrepresented minority groups. While the bill refers to nurses, the initial allocation of funds does not include people enrolled or accepted into nursing schools. The Board will support this bill if amended to provide allocation of funds in proportion to demonstrated need of the professions.

RECENT MEETINGS:

At its January meeting in Los Angeles, the Board voted to approve the clinical experience guidelines suggested by the Education Committee. Since some nursing programs do not have sufficient access to clinical facilities, a minimum amount of time required in each area has been established in accordance with section 1426(d), Chapter 14, Title 16, California Administrative Code. The Board agreed that no less than 60 hours must be spent in each required clinical area and the program may use up to 25% of each clinical rotation in a simulated situation.

FUTURE MEETINGS:

May 21-22 in Sacramento.
July 23-24 in San Francisco.
September 17-18 in Los Angeles.
November 19-20 in San Francisco.

BOARD OF CERTIFIED SHORTHAND REPORTERS

Executive Officer: Richard Black (916) 445-5101

The Board of Certified Shorthand Reporters (BCSR) licenses and disciplines shorthand reporters, recognizes court reporting schools and administers the Transcript Reimbursement Fund, which provides shorthand reporting services to low-income litigants otherwise unable to afford such services.

The Board consists of five members, three public and two from the industry, who serve four-year terms. The two industry members must have been actively engaged as shorthand reporters in California for at least five years immediately preceding their appointment.

MAJOR PROJECTS:

Examinations. The Board of Certified Shorthand Reporters, in pursuing its plans to formally validate its examinations, has received a proposal from the Department of Consumer Affairs' Central Testing Unit (CTU) to validate the Professional Practice portion of the CSR exam. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 59.) After receipt of the

CTU's proposal concerning validation of the English portion of the exam, the Board will negotiate with the CTU for its services regarding this year-long project, scheduled to begin July 1, 1987.

Because of concern over examination security, the Board is developing a new procedure for identification of persons sitting for the CSR exam. Prior to being admitted, examinees will be required to show their Final Notice of Examination with a passport-type photograph attached, and an "approved" photo identification which has the applicant's photograph permanently attached. This new procedure will be in effect for the May examination.

At its February meeting, the Board reaffirmed its decision not to offer an interim examination for those applicants who must retake the written knowledge portion of the exam. Mr. Richard Black, Executive Office of BCSR, reiterated his major objections, including lack of staff resources to organize and administer the exam, the additional programming expenses created by giving an interim exam, and the possible exam security problems caused by a small pool of examination questions. An interim exam will not be offered, at least until the test validation process is completed and new test items have been created.

Citation and Fine Program. With the enactment of SB 2335 (Chapter 1379, Statutes of 1986), most of the regulatory agencies within the Department of Consumer Affairs now have the authority to establish systems for the issuance of administrative citations and the imposition of administrative fines. Any such system established pursuant to the provisions of SB 2335 must be established by regulation. The Board's legal counsel, Barbara King, has suggested that the citation and fine concept is best suited to addressing licensee conduct which is easily defined. The Board has directed the staff to develop suggestions as to which statutory provisions might be most amenable to establishment of a citation and fine system. The staff will give its report at the June Board meeting.

Executive Officer Position. Pursuant to Section 8005 of the Business and Professions Code, the Board's request to increase the position of the Executive Officer to full-time status was approved and will take effect July 1, 1987.

RECENT MEETINGS:

At the February board meeting, Mr. Black informed Board members of plans

to publish a consumer information brochure concerning the Board and the profession. This brochure will be designed and ready for publication at the beginning of the next fiscal year.

FUTURE MEETINGS:

May 8-9 in San Francisco.
June 27 in San Diego.

STRUCTURAL PEST CONTROL BOARD

Executive Officer: Mary Lynn Ferreira (916) 924-2291

The Structural Pest Control Board (SPCB) licenses structural pest control operators and field representatives. The latter can function only under a licensed operator and secure pest control work for the operator. Each structural pest control firm is required to have one licensed operator, regardless of the number of branches the firm operates. A licensed field representative can also hold an operator's license.

Licensees are classified as: (1) Branch 1, Fumigation, the control of household and wood-destroying pests by fumigants (tenting); (2) Branch 2, General Pest, the control of general pests without fumigants; or (3) Branch 3, Termite, the control of wood-destroying organisms with insecticides, but not with the use of fumigants, and including authority to perform structural repairs and corrections. An operator can be licensed in all three branches, but more often will limit the variety of his or her expertise for purposes of efficiency and subcontract out to other firms.

SPCB also issues applicator certificates. These otherwise unlicensed individuals, employed by licensees, are required to take a written exam on pesticide equipment, formulation, application and label directions if they apply pesticides. Such certificates are not transferable from one company to another.

SPCB is comprised of four public and three industry representatives.

MAJOR PROJECTS:

Consumer Complaints. Board policy requires that a consumer with a complaint against an SPCB licensee/registered company attempt to resolve the complaint with the licensee prior to seeking Board assistance. If the consumer's attempt to work out the grievance with the licensee fails, the consumer may subsequently file a complaint with the Board's office.



Critics contend that promoting public awareness of the Board and its regulatory and disciplinary powers would better serve the public, because increased awareness of the Board's powers would likely encourage SPCB licensees to successfully negotiate a resolution with the aggrieved consumer. (See CRLR Vol. 6, No. 3 (Summer 1986) p. 44.) The Board, in an attempt to address this criticism, has recently released three consumer brochures designed to promote public awareness of the Board and its disciplinary powers.

On January 10, Assistant Registrar Karen Gaucher reported that the consumer brochures answer the most frequently asked questions regarding all three branches of pest control. The brochures cover fumigation for pest control, household pest control, and structural pest control inspections. The Board's consumer brochure mailing list includes all registered structural pest control companies; the California Association of Realtors; escrow and lending companies; consumer groups such as public consumer affairs agencies, private consumer groups and human relations commissions; better business bureaus; senior citizen groups; and women's groups such as the League of Women Voters. News releases are also being mailed with the consumer brochures. The releases describe the SPCB and staff and their functions; inspection reports and notices of work completed; structural inspections; pesticide notification; and public information concerning meetings, Board agenda, minutes, and hearings.

At the Board's March 8 meeting in San Diego, discussion concerning the accuracy of the consumer brochures followed Ms. Gaucher's report. Neil Good, president of the SPCB, asked all Board members to forward suggested changes to the staff. Ms. Gaucher noted that the Board's Technical Advisory Committee (TAC) suggested minor changes to the brochures which will appear in the next printing. Ms. Gaucher also noted the overwhelming positive response received by staff concerning the consumer brochures. Maureen Sharp reported that 620 complaints were filed with the Board during the first half of the 1986/87 fiscal year. If the current rate of complaints filed with the Board continues, the 1986/87 fiscal year will show an increase of approximately 200 complaints over the 1985/86 fiscal year.

Video Presentation. The Board is presently considering the possibility of developing a video presentation on

Branch 3 inspection reports. The video will explain the inspection report process to real estate personnel and consumers. On March 8, the staff reported that the total cost per running minute for the video is estimated at approximately \$1,500. The video would be funded by revenue from the Pesticide Enforcement Program. Estimated revenue generated for the Program from pesticide stamps and pesticide violation fines is approximately \$170,000. Estimated expenditures, however, total only \$40,000. SPCB Registrar Mary Lynn Ferreira is developing a full proposal on the video for the Board's consideration. Information concerning inspection reports is presently available to the public in the recently-published consumer brochure entitled "Structural Pest Control Inspections."

Continuing Education. SPCB requires all licensees to satisfy continuing education requirements prior to license renewal. (See CRLR Vol. 7, No. 1 (Winter 1987) pp. 60-61; CRLR Vol. 5, No. 4 (Fall 1985) p. 44.) An SPCB Continuing Education Point Requirements List specifies the number of continuing education points required within the three-year renewal period. SPCB randomly audits a percentage of licensees presently renewing for compliance with the continuing education points requirement. Audited licensees are asked to verify their participation in approved continuing education activities.

At the Board's March 8 meeting in San Diego, the Continuing Education Committee reported the necessity to update the requirements of the continuing education program. The necessity for updating the requirements is a result of the numerous legislative changes to the Board's licensing procedures which became effective on January 1, 1987. The Committee stated that revision of the continuing education requirements necessary for license renewal will help to ensure pest control operators' continued knowledge of the Structural Pest Control Act. The Committee will provide a list of recommended changes at the next Board meeting.

Proposed Regulatory Amendment. For over a year, the Board has considered the possible amendment of Title 16, California Administrative Code, section 1991(a)(8), to require that when a limited inspection is performed, the licensee should only be required to ensure that accessible termite pellets are removed, masked, or covered. (See CRLR Vol. 7, No. 1 (Winter 1987)

p. 60; CRLR Vol. 6, No. 4 (Fall 1986) p. 54; and CRLR Vol. 6, No. 2 (Spring 1986) p. 57 for further information.)

The existing language presents few problems when a full property inspection is performed. Limited inspections, however, are also performed, and all accessible pellets present on the property are not discovered. After an October 25, 1986 public hearing, the Board adopted one proposed amendment allowing the licensee to mask, cover, or remove only those pellets discovered in the limited areas in which inspection was performed for the purpose of recommending fumigation. The licensee should also recommend that a complete inspection be performed and any pellets discovered as a result thereof be removed, covered, or masked.

At its January 10 meeting, other proposed revisions to section 1991(a)(8) were discussed. TAC has recommended replacement of scientific names for different types of termites with their generic names. After a public hearing and considerable discussion, the Board re-referred the proposed amendment to the TAC.

Proposed Definition of "Supervision". At its January 10 meeting, the Board reviewed another proposed draft of new section 1918 of Title 16 of the California Administrative Code, which defines the term "supervision" with respect to both qualifying managers and designated branch licensees (sections 8506.2 and 8611 of the Business and Professions Code). (See CRLR Vol. 6, No. 4 (Fall 1986) p. 54 and Vol. 5, No. 4 (Fall 1985) pp. 44-45 for background information.) The Board passed a motion to notice proposed section 1918 for public hearing. The section provides that company owners who own more than one company and who cannot provide actual on-site supervision to each company because of their locations may designate licensee(s) licensed in the branch(es) of business being conducted to provide actual on-site supervision. The designation of supervision does not relieve the owner of his/her responsibilities of supervision as required in section 8606.2 of the Code.

Disapproval of Regulatory Action. On December 9, 1986 the SPCB submitted to the Office of Administrative Law (OAL) its proposal for regulatory action to amend Title 16, California Administrative Code, sections 1948 and 1953. The regulatory filing consisted of two pages of regulations and 135 rule-making pages and deleted obsolete fees and added fees required by Business and



Professions Code section 8674. The filing additionally required that applications for continuing education course approval and approval as a provider of continuing education must be accompanied by fees. On January 8, 1987 OAL notified SPCB of its disapproval of the proposed amendments to sections 1948 and 1953, due to SPCB's failure to establish necessity as required by Government Code section 11349.1. Section 1953 also failed to satisfy the clarity standard of Government Code section 11349.1.

Additionally, on December 9, 1986 SPCB submitted to OAL a regulatory package adopting section 1936.1, amending sections 1903, 1911, 1912, 1913, 1914, 1916, 1917, 1937, 1937.1, 1937.2, 1937.12, 1937.13, 1937.14, 1937.16, 1970, 1970.4, 1983, 1996, 1996.1, and 1998, and repealing section 1944 of Title 16 of the California Administrative Code. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 53.) The proposed regulatory changes, with the exception of sections 1944 and 1983, implement the provisions of SB 358 (Carpenter), which became effective January 1, 1987; thus, SPCB requested an early effective date for the proposed regulatory changes. However, on January 8, 1987, OAL notified SPCB of its disapproval of the proposed regulatory action to adopt, amend, and repeal the specified actions of Title 16. OAL stated that sections 1912, 1917, and 1936.1 violate the clarity standard of Government Code section 11349.1 (a)(3); section 1937.2 fails to properly cite the authority on which the regulation is based, as required by Government Code section 11349.1(a)(2); sections 1903, 1914 and 1937.2 fail to comply with the reference standard required by Government Code section 11349.1(a)(5); and sections 1937, 1917, 1936.1, 1937.2, 1970.4 and 1998 fail to employ the proper underline/strikeout format in certain parts of their texts.

LEGISLATION:

AB 4082 (Filante), effective January 1, 1987, requires the removal of the sunset provisions of the Pesticide Enforcement Program under AB 294. (See CRLR Vol. 5, No. 4 (Fall 1985) p. 44 for further information.)

RECENT MEETINGS:

In 1986, the SPCB approved the purchase of microfilm equipment to alleviate the Board's volume of office records which are encroaching on needed space and making record reference an administrative nightmare. However, the 1986/87 budget deadline

had passed prior to the Board's approval, thus requiring postponement of the equipment purchase until the 1987/88 appropriation. At its January 10 meeting, Ms. Ferreira reported that although the Board has approved the purchase of microfilm equipment, the purchase also requires approval by both the Department of General Services and the Department of Finance. A feasibility study is presently being conducted. The Board hopes to purchase the equipment by July 1, 1987.

In August 1986, the Board passed a motion to hire a legal intern to review the Board's Specific Notices, industry minimum standards, and policy directives for determining their compliance with the current Structural Pest Control Act and Rules and Regulations. The intern was hired on December 8, 1986, and at its meeting on January 10, the Board reported completion of the legal intern's review. The intern is now compiling information for a report on the revision of the continuing education exams and the operator and field representative licensing exams. The revised examinations will include questions on changes to SPCB's licensing procedures as a result of SB 358 (Carpenter). (See CRLR Vol. 5, No. 4 (Fall 1985) p. 45.)

On January 10, Ms. Sharp reported that reserves from the Pesticide Enforcement Fund are exceeding permissible levels. Under the enforcement provision of AB 294, structural pest control companies are required to place a Pesticide Use Report Stamp on Monthly Summary Pesticide Use Report Forms submitted to the county agricultural commissioner. (See CRLR Vol. 5, No. 4 (Fall 1985) p. 44.) SPCB currently charges a \$5.00 fee per stamp. Because of the excessive funds, the Board approved a proposal to lower the Pesticide Use Report Stamp fee to \$3.00. At its March 8 meeting, the Board noted March 17 as the effective date for the stamp fee decrease.

On December 16 in southern California, a fumigation death was reported. An investigation following the death revealed the fumigation company's full compliance with all laws. No violations were cited.

The Department of Food and Agriculture and the SPCB will conduct the second training seminar for staffs of county agricultural commissioners required by AB 294. Enacted in 1984, AB 294 tightens the relationship between SPCB, the Department of Food and Agriculture, and the county agricultural commissioners. (See CRLR Vol. 5, No.

4 (Fall 1985) p. 44 for AB 294 implementation requirements.) The seminar will be conducted in two or three segments around the state and is tentatively scheduled for May or June of 1987. On September 23 and 24, 1986 the first training seminar was conducted. Forty-two county agricultural commissioners' staffs attended, along with five Board specialists and two consumer services representatives.

FUTURE MEETINGS:

May 16 in San Francisco.
July 25 in Newport Beach.
October 10 in Sacramento.

TAX PREPARER PROGRAM

Administrator: Don Procidia
(916) 324-4977

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

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

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

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

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

LEGISLATION:

SB 91 (Boatwright) would abolish the Tax Preparers Program. Legislative position papers in support of this bill argue that the Program (1) has taken no disciplinary actions by way of administrative hearings over the last three