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Executive Officer

AN EXAMINATION OF THE DEPT. OF PROFESSIONAL & VOCATIONAL STANDARDS

STATE OF CALIFORNIA

An Examination

of the

Department of Professional and Vocational Standards

State of California

A Report of Findings and Recommendations

September, 1967

Commission on California State Government
Organization and Economy

COMMISSION ON CALIFORNIA STATE GOVERNMENT ORGANIZATION AND ECONOMY

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September 15, 1967

To:

The Honorable Ronald Reagan
Governor of the State of California

The Honorable Members of the Senate
The Honorable Members of the Assembly

Gentlemen:

The Commission on California State Government Organization and Economy herewith submits the Report of its Study of the Department of Professional and Vocational Standards.

This study, which has occupied the attention of the Commission for more than a year and one-half, has resulted in numerous recommendations which are included in the Report in summary form.

The most important of these recommendations we believe is the statement that "Protection of the public is the only justification for business or professional licensing and regulatory boards," and that based on that criterion, none of the new groups seeking to be licensed in the Legislature this year meets that test, and several existing licensing boards should be abolished.

We hope that legislation carrying out the Commission's recommendations may be introduced at the next legislative session, and we will of course be glad to support that legislation with testimony growing out of the material contained in our report.

Respectfully submitted,

COMMISSION ON CALIFORNIA STATE
GOVERNMENT ORGANIZATION AND ECONOMY

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AN EXAMINATION
OF THE
DEPARTMENT OF PROFESSIONAL AND VOCATIONAL STANDARDS

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PART I

I. INTRODUCTION

This is the second Commission study of the use of plural bodies in California State government. The first dealt with the boards and commissions in the Resources Agency,[1] and the present study considers those in the Department of Professional and Vocational Standards. The report on the earlier study presented a set of criteria or guidelines for use in evaluating the need for and role of such bodies in state government. The statement was there made that, "These [criteria] will receive further testing in future projects of the Commission dealing with the same subject elsewhere in the state government."

Certain general concepts were enunciated in the first report favorable to the use of citizen boards, including: broader public participation in government, the open manner in which affairs are conducted, achieving a consensus of views, providing a buffer against undue pressures, and offering a needed protection against arbitrary action. The case made for the exercise of caution in the use of boards included such factors as diffusion of responsibility, slowness to act, division of authority, undue special interest representation, expense, and isolation from normal processes of government. As will be pointed out later, several of these conclusions have particular pertinence to a board engaged in the licensing of a profession or vocation. Of particular concern are the problems of special interest representation and isolation from the normal control processes.

The general guidelines set forth in the first study report were:

Functions Best Performed by Boards

1. Participation in policy formulation
2. Participation in rule-making
3. Acting as an Administrative Tribunal to hear appeals from administrative orders or actions
4. Allocation of funds in the form of loans or grants to local jurisdictions or the division of appropriations among state agency projects, subject to staff recommendation and, where required, legislative approval
5. Such single or special purposes as conduct of negotiation, new or pilot project guidance, or study and report on a particular subject

Manner of Creation and Membership Requirements

1. Appointments to statutory boards or commissions in the executive branch should be made by the Governor.
2. The number of members should not normally exceed seven, with a lesser number on adjudicative bodies.
3. Terms of office should be definitely fixed, preferably at four years with a two-term maximum and with provision for overlap.
4. Members should not receive compensation (other than for full-time service) but should receive ample expense allowances.
5. Members should be selected first on their ability to represent the general public interest and only secondarily on their special knowledge of the subject area.
6. Beneficiary or special interests may be represented, but only when the need for their special knowledge or support is clearly demonstrated and then only as a minority of the membership.

Organizational Status

1. Bodies should be linked to the agency at the level at which policy decisions are made—normally the Office of the Director—and advisory to the agency (not a particular official) in the specified subject area.
2. Department directors should maintain direct liaison with all bodies in their department, designating the appropriate division chief or others to coordinate department-board activities.
3. Bodies should not employ or supervise administrative or technical staff but should be provided all requested staff assistance by the department to which attached.

Subsequent sections of this report will measure the boards of the Department of Professional and Vocational Standards, as a group and individually, against these criteria. Beyond this, specific recommendations treating with the unique features of a licensing board are offered as are proposals for improvements in particular licensing programs.

THE PUBLIC INTEREST

In considering what is the appropriate role of a board in the administration of a licensing program, the central issue is that of representing and protecting the general pubic interest. The justification for the State's controlling entry into a particular profession or vocation and regulating the activities of practitioners is simply, and exclusively, protection of the public. Since licensure is a restriction on the freedom of individuals, the need for government intervention must be clearly demonstrated. There is no

[1] *The Use of Boards and Commissions in the Resources Agency*, April, 1965.

need to belabor the point that a licensing program can be used to the special advantage of the licensed group—by restricting entry even of reasonably qualified persons and thus reducing competition or by protecting licensees who are incompetent, negligent, or acting contrary to the public good. Further, licensing programs have been used in some instances to advance the professional status of occupational groups, with no benefit to the public or even counter to the public interest. Examples of these distortions of the licensing function are easily found. It is equally clear that many licensing programs give the public a protection not otherwise attainable. What is good for a particular group may or may not be good for the public generally. There need not be a conflict between the licensed group interest and the general *public* interest; both can be served to the benefit of all.[2]

The question of how best to assure that the public interest is properly served arises at two primary points in the licensing process. First, when the decision is made—by the legislature—as to whether or not a particular profession or vocation need be licensed by the State. This decision must rest on substantial evidence that the public needs this protection. That a problem exists is borne out by such facts as: no two states license all of the same professions and vocations; only a few professions, such as physicians and attorneys, are licensed by all of the states; and some states, including California, license many more groups than do others. For a number of years the trend has been upward, but more often than not the pressure has come from the groups themselves rather than from the public or from government. There appears to be no question but that the licensed groups benefit; the benefit to the public, on the other hand, is not always as clear. In situations where a case can be made that licensing might have some desirable features from the standpoint of the public, these must be weighed against the broad question of increased government intervention into areas traditionally viewed to be of private concern.

The second point at which the public interest question must be considered is in deciding how this interest is to be represented once licensing has been decided upon. In a later section of this report, treating with licensing agency organization and composition and the proper authority of licensing boards, proposals are made in this regard. The basic conclusion reached—and it would seem an obvious one—is that relatively complete control of all phases of a licensing process by the group being licensed does not provide the necessary assurance that the public interest is adequately represented.

[2] Later in this report certain distinctions are made between the licensing of professions or vocations and the licensing of business activities. See pages 14, 19, and 20.

II. PRESENT PRACTICE

The Department of Professional & Vocational Standards has functioned less as an executive branch department, in the normal sense, than as a group of independent licensing agencies held together by a set of staff services. The Director is given significant powers and authority in the general licensing code provisions. The reluctance of Directors in the past to use these powers to better represent the public interest and bring about greater coordination and increased effectiveness in the operations of the several boards has resulted in many of the boards functioning with a greater independence than the Legislature intended. This in turn seems to have led to a belief that the Director is without power, which clearly is not the case.

With few exceptions the licensing agencies are boards comprised of members of the profession or vocation licensed—except for one "public" member—possessing administrative and regulatory power and control of their own staffs and enjoying special fund status. It is this financial autonomy, with fees collected from licensees or applicants deposited in special funds under board control and used to defray the cost of the licensing activity, that encourages board independence. The Department is in large part dependent upon assessments against these special funds for its operation. The existence of a generally close-knit clientele group served by each board also assures a strong voice at the legislative level.

As revealed by TABLE I, there are within the Department twenty-eight licensing agencies.[1] Collectively they license nearly 700,000 individuals or establishments in some 230 license categories.[2]

TABLE I

LICENSING AGENCY COMPOSITION AND ROLE

Licensing Body	Board Membership		Nature of Function	
	Licensees	"Public"	Administrative	Advisory
Accountancy	7	1	X	
Architecture	8	1	X	
Athletic Commission	-	5	X	
Barber	4	1	X	
Cemetery Board	5	1	X	
Chiropractic	5	-	X	
Civil & Prof. Engineers	8	1	X	
Collection Agency	5	1		X
Contractors	8	1	X	
Cosmetology	6	1	X	
Gental Examiners	7	1	X	
Dry Cleaners	6	1	X	
Electronic Repair Dlrs.	2	3		X
Funeral Directors	5	1	X	
Furniture & Bedding	6	1		X
Landscape Architect	5	1	X	
Marriage Counselor	4	1		X
Medical Examiners	11	1	X	
Nursing Education	5	1	X	
Optometry	5	1	X	
Osteopathic	5	-	X	
Pharmacy	7	1	X	
Private Investigators[a]	-	-		
Shorthand Reporters	3	2[b]	X	
Social Work Examiners	4	2	X	
Structural Pest Control	5	1	X	
Veterinary Medicine	5	1	X	
Vocational Nurse	7	4[c]	X	
Yacht and Ship Brokers	4	1	X	

[a] At present time, there is no licensing board, only a bureau.
[b] Members of State Bar.
[c] Includes 1 MD, 1 RN, 1 Hospital Administrator, and 1 School Administrator.

THE LICENSING BODY

At present the licensing body, which has relatively complete authority over all aspects of the licensing, is most commonly a board comprised of five to nine members, all but one of whom are by law licensees of the board—that is, a member of the profession or industry being regulated. Members are appointed by the Governor for four-year staggered terms and are compensated at the per diem rate of $25 plus expenses. Code provisions frequently require that boards meet at least several times a year, but in practice most meet at least monthly or, if less frequently than that, in sessions of two or more days duration. A board's staff is headed by an executive secretary appointed by and serving at the pleasure of the board.

Individual boards differ widely in the extent to which members personally participate in the several phases of the licensing process, ranging from almost complete involvement in all phases to confining themselves strictly to policy matters and deciding appeals. This is reflected in the number of per diem days charged, which range among boards from a low of 6 to more than 100 per year (TABLE II). Common board functions include:

1. Establishing rules and regulations governing the licensing program—not inconsistent with code provisions.
2. Setting educational and other pre-requirements to license applicants.
3. Approving or accrediting institutions which provide training in the field.
4. Preparing or approving examinations and participating in their administration.
5. Determining who is to be granted a license, based on examination and other requirements.
6. Generally directing inspectional and enforcement activities carried out by Division of Investigation or by board staff.

[1] Excluded are the Board of Osteopathic Examiners which no longer issues licenses and the Board of Guide Dogs for the Blind with 16 licensees. There exist also several "examining committees" under the primary boards which enjoy varying degrees of autonomy. As a result, the number of licensing agencies is sometimes shown to number as many as 34.

[2] Approximately 90 of these categories are construction and building contractors in various specialties. See TABLE IIa, page 10.

TABLE II

ACTIVITY OF LICENSE BOARD MEMBERS

Board	Number of Licensees	Per Diem Expenditures, 1965-66 Budgeted		
		Total	Per Board Member	Number of Days per Year
Accountancy	26,634	$3,575	$447	18
Architecture	4,895	8,000	889	36
Athletic Commission	1,117	1,825	365	15
Barber	42,768	4,050	810	81
Cemetery	1,651	1,500	250	10
Chiropractic	4,618	2,550	1,510	60
Engineers	49,348	10,700	1,189	48
Collection Agency [a]	576	1,800	300	11
Contractors	92,711	2,950	328	13
Cosmetology	133,062	6,300	900	36
Dental Examiners	14,780	28,800	3,600	[b]144
Dry Cleaners	19,991	13,000	1,857	75
Electronic Repair Dlr. [a]	6,736	1,500	300	12
Funeral Directors	4,474	3,925	654	26
Furniture & Bedding [a]	23,913	1,250	156	8
Landscape Architect	740	2,500	42	17
Medical Examiners	53,043	15,825	1,319	53
Nursing Education	120,749	10,300	1,717	70
Optometry	2,825	4,400	733	29
Osteopathic	404	300	60	--
Pharmacy	19,182	18,255	2,282	91
Shorthand Reporter	1,270	2,975	595	24
Social Work Examiners	3,385	1,050	150	6
Structural Pest Control	3,962	3,450	575	23
Veterinary Medicine	2,512	3,975	663	27
Vocational Nurse	22,772	2,025	266	11
Yacht and Ship Brokers	640	1,250	250	10

[a] Advisory Boards.
[b] A major portion of this time is for grading examination papers, on a formula of 20 papers equals one day's per diem.

TABLE IIa

LICENSEES AND LICENSE CATEGORIES

(June, 1966)

Licensing Body	Number of Licensees	Number of License Categories	
		Individual	Establishment
Accountancy	26,634	2	1
Architecture	6,188	2	--
Athletic Commission	1,117	17	1
Barber	42,768	3	2
Cemetery	1,651	2	2
Chiropractic	4,618	1	--
Civil & Prof. Engineers	49,348	11	--
Collection Agency	576	2	1
Contractors'	92,711	91	--
Cosmetologist	133,062	7	3
Dental Examiners	14,780	2	--
Dry Cleaners	19,991	21	9
Electronic Repair Dlrs.	6,736	--	1
Funeral Directors	4,474	3	--
Furniture and Bedding	23,913	--	10
Landscape Architect	740	1	--
Marriage Counselors	1,372	1	--
Medical Examiners	56,405	6	--
Nursing Education	120,749	1	--
Optometry	2,825	1	1
Osteopathic	404	2	--
Pharmacy	19,182	1	8
Private Investigator	1,824	5	--
Shorthand Reporters	1,270	1	--
Social Work Examiners	3,385	1	--
Structural Pest Control	3,962	2	--
Veterinary Medicine	2,512	1	1
Vocational Nurse	28,567	2	--
Yacht and Ship Brokers	640	2	1
Total	672,420	191	41

7. Considering and acting on complaints and reports of infractions of code provisions or board regulations by licensees and non-licensees.
8. Reviewing and deciding proposed decisions of hearing officers following formal proceedings under the Administrative Procedure Act, at times sitting with hearing officers in such proceedings.

In carrying out certain of the above functions, most boards take quite similar approaches; in others the variations are great. For example, the members of some boards compose, administer, and grade all examinations whereas others use national examinations and testing services or staff specialists. This is reflected in Table II (page 10) in that the Board of Dental Examiners and others showing large numbers of per diem days spend considerable time grading tests, a somewhat unusual activity for per diem reimbursement. Several boards devote substantial time to activities other than actual licensing, such as accreditation of schools or business regulation. Others are heavily involved in formal or informal discipline. Eight of the twenty-six boards report that their members devote an average of one day or less per month to board activities, and another eight spend more than one but less than three days.

Among the more important organizational variations are the use of advisory rather than administrative boards [3], no board at all [4], and committees attached to boards to license particular categories [5].

STAFF ORGANIZATION AND SERVICES

The most common staff organization consists of an executive secretary and several clerical personnel engaged in the processing of license applications and paperwork related to complaints, investigations, and disciplinary procedures (TABLE III). Somewhat less than one-half of the boards have professional or investigative staff personnel engaged in examination preparation, inspections of training establishments, or investigative work. Some of the latter boards look to the Division of Investigation, a central unit under the Department Director, for certain but not all inspectional and investigative services. Boards not hav-

[3] Furniture and Bedding, Collection Agencies, and Electronic Repair Dealers.
[4] Private Investigators and Adjusters.
[5] For example, Psychologists and Physical Therapists under the Board of Medical Examiners.

ing this type of staff rely exclusively on the Department's Division of Investigation for these services.

Central staff units of the Department provide such services as accounting, personnel, building operation, data processing, communications, methods improvement, and examination consultation. Individual boards or agencies are charged on a pro-rata basis for these and general departmental administration expenses. Legal services are for the most part provided by the Office of the Attorney General on a reimbursement basis. Limited assistance from the Department's in-house counsel is available on request and two boards retain their own attorneys.

LICENSE APPLICATION AND PRE-QUALIFICATION PROCESS

The licensing laws normally prescribe that a person must meet certain pre-conditions or possess specified minimum qualifications to make application for a license. These relate to citizenship, age, good character, education, and, in some instances, work experience. The application process is designed to establish these pre-qualifications as a condition to a person's being allowed to take an examination. In some license categories, there is no formal examination or test of competence, in which cases application acceptance and approval leads directly to licensure or registration (Table IV).

Most pre-conditions are rather easily established or verified, the principal exception being the "good character" requirement found in most licensing laws. The agencies commonly clear the applicant through the State Criminal Investigation and Identification Bureau for any record of potentially disqualifying crimes or offenses. Where such are found—or a record of offenses actually committed is not acknowledged by the applicant on his application form—the agency will decide whether or not to reject the application, usually after having caused an investigation to be made. There are variations in the language of code provisions treating with the "good character" requirement and in their interpretation and application by particular boards. In none of the code provisions or board regulations is "good character" adequately defined. If the decision is to deny the applicant, he is given an opportunity for a hearing under the Administrative Procedure Act. The agency seeks a statement of issues from the Attorney-General, and the case is heard by a hearing officer from the Office of Administrative Procedure whose decision is advisory to the board.

TABLE III

LICENSING AGENCY STAFF

(1966–67 Authorized)

Licensing Body	Professional and Technical	Office and Clerical	Total	Salaries (1966–67 Budget)
Accountancy	4	10	14	$106,000
Architectural Examiners	5	5	10	80,000
Athletic Commission	13	4	17	126,000
Barber Examiners	3	9	12	86,000
Cemetery Board	2	2	4	39,000
Chiropractic	1	3	4	39,000
Civil and Prof. Engineers	15	23	38	297,000
Collection Agency	5	4	9	78,000
Contractors	99	66	165	1,232,000
Cosmetology	6	20	26	177,000
Dental Examiners	5	6	11	106,000
Dry Cleaners	3	8	11	84,000
Electronic Repair Dealers	6	6	12	92,000
Funeral Directors	2	4	6	53,000
Furniture and Bedding	10	10	20	151,000
Landscape Architects	[a]	1	1	9,000
Marriage Counselor	[a]	[b]	--	--
Medical Examiners	4	20	24	182,000
Nursing Education	8	26	34	255,000
Optometry	1	2	3	28,000
Osteopathic	[a]	1	1	9,000
Pharmacy	14	10	24	242,000
Private Investigators	[a]	5	5	27,000
Certified Shorthand Reporters	[a]	1	1	8,000
Social Work Examiners	1	1	2	22,000
Structural Pest Control	3	23	26	154,000
Veterinary Medicine	[a]	[b]	--	5,000
Vocational Nurse	4	5	9	79,000
Yacht and Ship Brokers	1	1	2	23,000

[a] Executive Secretary shared with other boards.
[b] Clerical staff shared with other boards.

TABLE IV

LICENSE REQUIREMENTS

Licensing Body	Good Moral Character	Education	Experience	Reciprocity Permitted
Accountancy	X	College	X	X
Architecture	X	College[a]	X	[c]
Athletic Commission	X	No	No	
Barber	X	Vocational School	X	No
Cemetery	X	No	X	No
Chiropractic	X	College	No	
Engineer	X	College[a]	X	[c]
Collection Agency	X	High School	X	No
Contractors	X	No	X	No
Cosmetologist	X	Vocational School	No	No
Dental Examiners	X	College[a]	No	No
Dry Cleaners	X	Vocational School	X	No
Electronic Repair Dealer	No	No		
Funeral Directors	X	[b]		
Furniture and Bedding	No	No		
Landscape Architect	X	6 yrs. education and experience		No
Marriage Counselor	No	College[a]	X	X
Medical Examiners	X	College[a]	No	X
Nursing Education	X	Vocational School	No	No
Optometrist	X	College	No	No
Osteopathic	X	College[a]	X	No
Pharmacy	X	College[a]	X	No
Private Investigator	X	No	X	No
Shorthand Reporters	X	Vocational School	X	No
Social Work Examiners	No	College[a]	No	X
Structural Pest Control	X	No	X	No
Veterinary Medicine	No	College[a]	No	No
Vocational Nurse	X	Vocational School	No	X
Yacht and Ship Brokers	X	No	X	No

[a] Professional school or advanced degree requirements in addition to college degree.
[b] High School plus trade school for Embalmers. No requirements for Funeral Director.
[c] Partial. Applicant must take an oral exam and meet experience requirements.

The second kind of pre-qualification is the requirement set for several licensed groups that applicants must have from one to several years of prior work experience judged qualifying by the board. Some cases are not clear-cut, with applicants disagreeing with the agency's evaluation of their experience—in these the board's decision is final.

EXAMINATIONS

Applicants for all but a few license categories must successfully pass an examination prior to being granted a license. Several boards use examinations prepared by or for national professional associations and used by a number of states. Several others engage the services of examinations specialists or look to their own staff for the construction, administration, and scoring of examinations. At least half of the boards construct and administer their own examinations, board members personally doing the work. In nearly all instances in which oral, practical, or performance elements are included—as distinguised from written—board members conduct these either individually or as a group National examinations given for a number of professions are not recognized in California, being judged by the respective boards to be inferior to the local examination.

Examinations range from very simple tests of knowledge of the particular licensing laws and board regulations to complex substantive examinations requiring several days to complete. Some are given in sections—from two to as many as ten—with applicants allowed conditional credit for sections passed, retaking only those failed. Most examinations are scheduled two or more times per year and liberal provision is made for an applicant to retake an examination a number of times.

There are wide variations in the pass-fail ratios, ranging from as low as 10 percent to nearly 100 percent passing a particular examination. There is no discernible pattern to this performance in relation to the kind of profession or vocation.

ENFORCEMENT ACTIVITIES

Enforcement activities fall into several primary categories. A number of the licensing agencies carry out regular periodic inspections of licensed establishments, either through the Division of Investigation or with individual board staff, in the course of which violations are discovered. Other agencies rely on the receipt of complaints from various sources, including clients of licensees, and cause investigations to be made of the allegations by staff or Division of Investigation personnel. Minor infractions of code provisions or regulations are commonly disposed of informally by a warning to the licensee or by bringing about a settlement acceptable to the affected parties. Serious infractions are referred to the Attorney-General for the institution of formal proceedings under the Administrative Procedure Act. These latter cases represent a very small percentage of those investigated, there being substantial variation between different boards. Some boards sit with the hearing officer—from the Office of Administrative Procedure—on all or selected cases; others do not. The decision of the hearing officer is advisory to the board, which may approve the decision or reduce the proposed penalty. To increase the penalty the board must call for and review a complete transcript of the hearing or call for a re-hearing.

The most usual penalty assessed where the hearing produces evidence of infractions is a license suspension with the suspension stayed subject to certain stipulations. Relatively few license revocations are ordered—there were approximately 150 revocations during fiscal 1965–66 for the 580,000 licenses other than contractors then in effect).[6] Many of these also were stayed and the licensee placed on probation.

Complaints or reports of non-licensed persons engaging in a profession or vocation for which a license is required are systematically investigated. A warning may be issued if the allegation is found to be supported, or, on serious or repeated offenses, the local district attorney is asked to prosecute. Some

[6] A total of 488 contractor licenses—of 92,000 in force—were revoked, most frequently because of financial insolvency.

TABLE V

ENFORCEMENT ACTIVITY

(1965–66 Fiscal Year)

Licensing Body	Per 1,000 Licensees			
	Complaints	Investigations	Admin. Hearings	Suspensions or Revocations
Accountancy	29	27	0.6	0.4
Architectural Examiners	48	25	None	None
Athletic Commission	--	88	21.0	[a]
Barber Examiners	34	20	4.0	3.1
Cemetery Board	31	8	3.0	0.6
Chiropractic	22	14	3.0	0.9
Civil and Prof. Engineers	27	20	0.1	None
Collection Agency	212	252	31.0	9.0
Contractors	238	209	7.0	7.0
Cosmetology	--	78	15.0	7.0
Dental Examiners	15	14	0.9	0.3
Dry Cleaners	--	74	0.7	0.5
Electronic Repair Dealers	294	163	0.6	1.3
Funeral Directors	20	19	2.0	0.4
Furniture and Bedding	113	90	0.3	0.3
Landscape Architects	34	24	1.4	None
Marriage Counselors	12	1	None	None
Licensed Physical Therapists	9	9	2.0	None
Medical Examiners	14	14	2.0	0.3
Nursing Education	2	2	0.6	0.4
Optometry	--	8	0.7	0.4
Osteopathic	--	7	None	None
Pharmacy	63	19	2.0	1.2
Private Investigators	658	196	7.0	6.0
Shorthand Reporters	33	36	None	None
Structural Pest Control	361	259	15.0	30.0
Veterinary Medicine	45	49	2.0	1.0
Vocational Nursing	9	5	1.0	0.5
Yacht and Ship Brokers	115	50	6.0	None

[a] Not applicable.

boards devote considerable energy to the restriction of this kind of activity.

A number of the licenses are not mandatory, the law simply prohibiting a non-licensed person engaged in the profession or vocation from identifying or "styling" himself as a registered, certified, or licensed practitioner. Certain of the boards granting such licenses are actively engaged in seeking out violators—using such techniques as checking the classified section of telephone directories and other advertising media. Violators are warned or action against them sought through a district attorney.

As attached TABLE V reveals, variations among boards in the number of complaints, investigations, and formal disciplinary actions are great. In some instances the nature of the profession or vocation explains the differences, but in others there would seem to be differing policies as to intensity of enforcement effort or the informal handling of complaints and infractions of code provisions or board regulations.

III. FINDINGS AND RECOMMENDATIONS—GENERAL

It has been the general finding of the present study that the more than two hundred citizen members of the boards in the Department of Professional and Vocational Standards are providing a significant service to the State and to the professions they represent. They bring to these boards talents and the kind of experience and expertise that would not otherwise be obtainable. The time devoted to their activities as board members represents a substantial personal contribution. It is therefore most important that these boards be given technical and staff assistance of a kind and quality that will permit the members to concentrate their efforts on the policy and standard setting functions that only they can perform.

Since the state government has entered the field of licensing and regulating certain profession, vocations, and businesses to fulfill a public need, it is essential that these programs be administered in a way that most effectively serves the broad public interest. There is nothing incompatible with the achievement of this objective and the significant use of citizen boards, the majority membership of which are drawn from the licensed groups. The recommendations that follow have been developed with this conclusion in mind.

GROUPS REQUIRING STATE LICENSING

Although the principal objective of the present study is to define how citizen boards can be most effectively used in the administration of state licensing programs, it is necessary first to explore the question of what groups should be licensed and for what purpose. The underlying philosophy is well known. Under our system of government we generally subscribe to the rule that a person should be allowed to choose his own occupation and pursue it free from government interference. It is recognized, however, that situations occur in which government has an obligation to intercede to protect the public against the consequences of ignorance and incapacity, as well as against deception and fraud, inherent in a business or profession if practiced by persons lacking the necessary knowledge and abilities.[1] Licensing is one means of doing this. The problem arises in seeking to identify those businesses and professions which by their nature require licensing in the public interest.

A fairly sharp distinction can be made between the licensing of a business as distinguished from a profession or vocation, although in some instances there is overlap. Business licensing by the State is primarily directed towards protecting the public from fraud rather than incompetence, thus the licensee usually need not meet any fixed personal qualification standards. Professional and vocational licensing, on the other hand, centers around measuring the individual's qualifications even though in many cases the protection afforded the public is from fraud as well as incompetence. Nevertheless, several of the vocational licensing or registration programs do not include meaningful individual qualification requirements other than good character, or more accurately, an absence of evidence of bad character.

All of the State's licensing programs are not centralized in the Department of Professional and Vocational Standards and those which are include some of both categories—business and professional. Other departments are licensing both business and occupational groups. Local governments also conduct licensing programs, for both revenue and regulatory purposes.

Obviously, the present study cannot cover the entire licensing spectrum, yet there is within the Department of Professional and Vocational Standards a sufficient number and variety of licensing programs to permit and require the development of certain criteria of general applicability.

Recommendations

Licensing by the State of the members of a profession or vocation should be undertaken only when:

1. Failure to do so would present a clear and definite danger to the general public health, safety, or welfare—as distinguished from the interests of a particular group or segment.
2. Specific pre-qualification standards can be established and there is reasonable assurance that persons meeting such standards will be able to function effectively in the vocation and those who fail to meet the standards could not.

Licensing by the State of businesses—as distinct from individual professional or vocational licensing—is justified only where:

1. A fiduciary relationship exists between the licensee and the public.
2. The nature of the business and the relationship between the licensed business and the public is such that the public requires special protection against fraud.
3. The general law and other remedies available to the public do not afford a reasonable protection or assurance of redress.

A number of the presently licensed groups do not meet one or the other of these criteria, nor do most of the new groups now seeking licensure. It is therefore recommended that:

1. The Legislature, in considering requests for the licensing of new groups, measure the need for such licenisng against the criteria set forth in this report.
2. These criteria be applied in considering business and occupational licensing carried out by departments other than the Department of Professional and Vocational Standards.

[1] A current, and excellent, treatment of the philosophy of licensing is: *Business and Professional Licensing—California, a Representative Example*, J. F. Barron, Stanford Law Review, February, 1966.

MANDATORY LICENSING

At present a number of the licensing programs involve the granting of name-only licenses or registration. A person need not possess a license or be registered to engage in the work of the profession or vocation; he is simply prohibited from identifying himself by or using whatever title is specified in the licensing act, e.g., Registered Social Worker or Landscape Architect. The enforcement program in these categories concentrates in large part on seeking out persons improperly using the restricted title and causing them to desist. The justification offered for this type of licensing is that the public can be assured that the person with a license or registered is fully qualified in the field.

Recommendations

If a genuine need exists for protecting the public from persons unqualified by lack of training or good character practicing a particular profession or vocation, and if licensing will give the needed protection, that licensing should be mandatory. To permit unlicensed, i.e., unqualified, persons to function in that capacity is to leave the public unprotected. Specific exclusions or exemptions could be allowed, as, for example, in instances in which an unlicensed person works under the immediate direction of a licensee who accepts full responsibility for the former's actions, or in an institutional setting. It is further believed that so-called "title" or "name-only" licensing does not protect the public.

MULTIPLE LICENSE CATEGORIES IN A SINGLE OCCUPATIONAL AREA

There is a tendency in a number of professional and vocational areas to recognize several rather narrow or specialized license categories. This at times takes the form of creating levels or a vertical series of license classifications, such as Registered Barber Apprentice, Barber, and Barber College Instructor, or multiple narrow specializations at the same level, as the many license classes of contractors. In some cases these distinctions are necessary and justified, but in many the result is a hardship on rather than a protection to the public, requiring the employment of several persons or firms to provide a service that one might do as well and more economically.

Recommendations

Within a given profession or vocation the number of license categories should be held to the minimum essential to protect the public interest. Generally, the public is adequately protected if the licensee meets the basic qualifications for professional or journeyman-level performance in the field. Individuals may specialize within that field but separate licensing should not normally be necessary—the single license for Physician and Surgeon, regardless of specialty, illustrates the preferred approach.

THE EXAMINATIONS PROCESS

Although it is recognized that variations in the nature of activity in the several professional and vocational fields will require differing kinds and ways of measuring an applicant's qualifications for entry, this does not explain the unusual variety of examining practices now in use. This was borne out by a recent intensive study made by the Examinations Consultant on loan to the Department from the State Personnel Board.[2] Boards engaged in examining persons for professions or vocations or substantial comparability use widely different techniques for examination construction, administration, and grading. Some use recognized national examinations, others prepare their own even in fields where such national examinations exist and enjoy wide acceptance; some employ staff or consulting specialists to construct tests, others use board members; some engage staff or proctors to administer and grade examinations, others use board members; and so on. There is no uniformity in provisions for retaking examinations or for giving partial credit. As has already been noted, there are variations in pass-fail percentages of from less than 10% to more than 95%.

Policies for granting reciprocity are varied; in some cases there is full reciprocity, in others partial, and in the great majority none at all.

There is no great merit in uniformity as such, but practice as varied as now exists unavoidably raises questions of equity and unjustified discrimination among persons seeking careers in the several licensed fields. Significant differences in the performance on examinations by graduates of the same accredited educational institution in different professional areas, or in specialized categories in the same area, suggest defective or unrealistic examination policies and techniques. Either some are restrictive to the point of excluding from licensure persons who possess the essential qualifications, or some are so low as to admit unqualified persons; in all likelihood both situations exist.

Recommended General Criteria

Recognizing that special situations will need to be accommodated and that a measure of flexibility is desirable, the following criteria are recommended for general observance. Significant deviations from these by a board should be permitted only where the justification is persuasive, and only with legislative sanction or the approval of the Director, Department of Professional and Vocational Standards.

1. Examinations developed or approved by national professional associations and used in a number of states should be used in California unless substantial evidence exists that their use would not provide the public a reasonable protection. Where such national examination does not exist, the subject matter coverage and general content of examinations should be determined by the licensing board and the examina-

[2] *License and Examination Policies and Procedures*, Department of Professional and Vocational Standards, August, 1966.

tions constructed by specialists and finally approved by the board.

2. The Department of Professional and Vocational Standards should provide a central testing service for all licensing agencies in the Department. This would include, as appropriate, test construction, administration, and grading as well as general examinations consulting services. Such could be provided by a staff unit within the department or under an agreement with the State Personnel Board or outside organizations offering these kinds of services.
3. Wherever feasible, written examinations should be constructed so as to permit economical machine processing and grading.
4. Performance portions of examinations which cannot be evaluated validly by the central examinations staff should be conducted by qualified licensee "commissioners" or, if this is not feasible, by licensee members of the board functioning as an examining committee.
5. Oral examinations should be used only as tests of individual competence and qualifications, as are written examinations.
6. Boards should fix passing grades both for locally prepared and for national examinations used in the State, after consulting with and receiving the recommendations of the central testing service (proposed in Item 2 above).
7. An unsuccessful candidate should be given an opportunity to review his test paper and receive an explanation of any question in doubt; the board should hear and resolve those protests in which its staff is unable to satisfy the individual.
8. Each board should cause to be prepared a summary report on each examination given, including information on the numbers passing and failing, and make the report available to any participant on request.
9. The boards should, in consultation with the Director of Professional and Vocational Standards, develop a uniform policy on the granting of partial credit and the privilege of retaking examinations; this policy could permit variations to meet special situations.
10. The code provisions and board policies regarding reciprocity should be liberalized to permit licensees of states maintaining qualification standards comparable to California's to obtain California licenses without examination or waiting periods.

The effect of the application of these recommended criteria would be to relieve the boards of time-consuming duties of a recurring and technical nature and free them for the policy and deliberative functions which they best perform.

Good Moral Character Requirement

It was earlier noted that requirements for most, but not all, license groups include one of good moral character both for applicants and for persons holding licenses. Because code provisions are vague, inconsistent, and unevenly applied, many persons suffer unnecessarily.

Recommendations

1. The provisions in the several licensing acts imposing good character requirements should be made more consistent and what constitutes "good moral character" explicitly defined. The department should request of the Attorney General a definition of "good moral character" for uniform application in the licensing programs.
2. Individual boards should set clear policy guidelines to aid staff and hearing officers in applying the good character requirements.

THE ENFORCEMENT PROCESS

The second major element of a program of licensing a profession or vocation—the first being control of entry—is the provision of required supervision over the licensed group. The purpose is to obtain compliance with the provisions of law, and regulations issued thereunder, regarding licensee activity and conduct. This is a combination educational and disciplinary process with emphasis more on seeking voluntary compliance than on punishing offenders. The varied approaches taken by licensing boards to achieve compliance have already been noted: for example, the inspectional programs, informal arbitration between a licensee and a client, or the issuance of oral or written warnings by boards or their staff. The resort to proceedings under the Administrative Procedure Act is the course usually taken when less severe enforcement measures fail or when the offense is of a serious nature. Readiness to invoke these proceedings varies widely among licensing boards, in part because of the particular nature of the licensed activity and in part because of differing board philosophies as to how compliance can best be obtained.

Several elements of the enforcement process deserve special consideration for they pose basic questions of assuring adequate public protection. At issue is the concentration of authority at one point, i.e., the licensing board. Matters of administrative cost and expeditious processing of actions are also involved. The frequently made complaint of extended delays in obtaining a decision on an application, appeal, or enforcement action reflects the need for speeding up their processing.

Receipt and Processing of Complaints

In those enforcement programs not including regular inspections of licensed premises heavy reliance is placed on the public "complaints" regarding licensee performance. Even where establishment inspections are systematically conducted, complaints from the public are the only avenue through which certain aspects of licensee conduct become known to the licensing agency. Most often the individual directs his complaint to the concerned board, but in a number of instances he communicates with the De-

partment, the Governor, or a legislator. Some boards receive so few citizen complaints as to suggest that the nature of the profession, vocation, or business is such that licensing is not needed for public protection, or that the public is not aware of the protection available to it. In a great many instances the person is complaining of a licensee action or behavior not a matter of board jurisdiction—alleged excessive charges or inferior performance are the most common. Some boards proceed in an informal way to deal with these by at least informing the involved licensee of the complaint; others simply notify the complainant of their lack of jurisdiction. Few boards take a sufficiently orderly approach to the recording, review, and analysis of complaints to provide information needed for enforcement policy or code provision evaluation.

Recommendations

1. The several licensing boards and the Department should jointly study the present complaint procedures and seek agreement on a uniform method of processing complaints; the possibility of a central complaint recording and screening service should be considered. The need to accelerate the processing must be stressed.
2. Boards should publicize, by all reasonable means, their role of receiving and considering complaints and the kinds of licensee acts or performance prohibited by code provision and board regulation.
3. Licensees should routinely be notified of complaints concerning them whether or not the alleged action constitutes a punishable offense.

Inspectional and Investigative Services

Approximately two-thirds of the licensing boards rely exclusively on the central Division of Investigation for inspectional and investigative services, the remaining one-third retain their own staff for this work, at times calling on the Division for assistance. This difference in approach cannot be explained on the basis of the kind of profession or vocation regulated. For example, the Board of Medical Examiners uses the Division, whereas the Board of Dental Examiners does not; the Structural Pest Control Board does, the Contractors' Board does not.

The advantages of a central unit to serve all licensing agencies are of two kinds, objectivity and economy. Having inspections and investigations performed by persons not under the immediate control of a board comprised almost exclusively of licentiates gives an added assurance to the complainant and the public of objectivity or freedom from bias. The economies of a central service with personnel trained in investigative techniques supplemented by specialized training in several subject areas, functioning out of regional offices, are obvious and have been demonstrated by the present Division. The contention that each licensed group is unique, requiring specialized investigative personnel, is disproved by (a) the fact that most such personnel are taken from the same civil service list, and (b) the successful functioning of present Division personnel in a number of license areas. The advantages that accrue from the specialization of investigative personnel assigned to a single board are offset by the likelihood of bias, particularly when they are responsible to a group of representatives of the industry or profession regulated. To the extent that specialized investigators are needed for particular types of cases, they are better placed in a central unit independent of the particular industry or profession.

Recommendations

1. All licensing agencies in the Department of Professional and Vocational Standards should utilize the services of the Division of Investigation.[3]
2. To the extent necessary or desirable, subject matter specialization of a portion of the staff of the Division of Investigation should be accomplished.

Legal Services

Two of the present licensing boards—Dental Examiners and Funeral Directors and Embalmers—engage their own counsel; all others use the Office of the Attorney General and, to a very limited extent, the legal staff of the Department. The latter, comprised of two persons classified as Administrative Advisers, give advice and counsel on varied legal questions referred to them, but do not represent boards in actions taken under the Administrative Procedure Act. The service given by the Attorney General is on request of the individual boards and consists of:

1. Advice on varied legal questions such as interpretation of code provisions, drafting of regulations, and any other matters requiring advice of counsel
2. Advice on specific cases as to the sufficiency of evidence to proceed under the Administrative Procedure Act or to effect other disposition
3. Preparation of accusations and statements of issues and representing the boards at hearings under the Administrative Procedure Act
4. Representing boards in cases heard on appeal or otherwise in the regular courts

The costs of these services has from time to time become an issue—in the fiscal year 1965–66 these costs amounted to a total of nearly $500,000. The Attorney-General bills each board on a fixed all-inclusive hourly rate of $14.25 for professional time devoted to board affairs. Here, as in relation to other major elements of enforcement activity costs, concern is expressed that a board's ability to pay—based on its special fund income—may influence decisions as to whether to take no disciplinary action or to dispose of a case informally without permitting consideration of license suspension or revocation.

[3] A Commission-proposed bill introduced in the 1967 session to accomplish this failed of adoption.

Suggestions have been made that, as an economy measure, the Department enlarge its legal staff to perform the services now provided by the Attorney-General. This would be possible and desirable in respect to items 1 and 2 above, but not items 3 and 4. The Attorney-General with offices in Sacramento, San Francisco, and Los Angeles, where most hearings are conducted, has staff resources and flexibility the Department could not effectively or economically duplicate. There are indications that the executive officers of several of the boards seek Attorney-General advice on matters they themselves should be able to resolve or which could more economically be handled by referral to the administrative advisers in the Department for advice. The retention by individual boards of their own counsel is ill-advised both from the standpoint of cost and resultant absence of an independent source of advice as an added asusrance of public interest representation.

Recommendations

1. Individual licensing boards should not engage their own legal counsel.
2. All licensing boards should utilize the in-house department counsel for all legal advice other than representation at hearings under the Administrative Procedure Act and litigation in the courts.
3. The services of the Office of the Attorney General should be used in all hearings under the Administrative Procedure Act and litigation in the courts.

Informal Hearings

As a means of speeding up action on disciplinary cases, and reducing their administrative cost, various proposals have been advanced for some form of informal hearing short of proceeding under the Administrative Procedure Act. One under current consideration would permit such proceedings by licensing boards with the consent of the parties concerned and would empower the board to impose sanctions, including fines. Should the licensee not accept the decision he could request a formal hearing under the Administrative Procedure Act.

Several of the boards now follow a policy of issuing informal warnings or instructions to comply to licensees found guilty of a technical violation or minor infraction of a code provision; several also observe a practice of calling the licensee before the board to discuss his actions and obtain compliance. The Contractors' License Board through its staff personnel seeks to bring complainants and licensees to an agreement—as do several other boards, but to a lesser extent—where fulfillment of contract or workmanship is at issue. The current proposals extend this approach to authorizing the imposition of sanctions.

Recommendations

The feasibility of introducing this type of proceeding into the licensing enforcement program would be contingent on providing the necessary protection to the individual licensee and to the public served by the licensee. Should this be possible, the use of the informal hearing is recommended. The decision as to whether or not to follow this course and the types of cases to be so processed should rest with each board.

ORGANIZATIONAL AND ADMINISTRATIVE ARRANGEMENTS

Under present arrangements it is accurate to state that the authority of the Director of the Department of Professional and Vocational Standards is in part indirect and dependent upon his powers of persuasion and, secondarily, on the ability of the central staff units to provide services to attached licensing agencies that are superior or more economical than the boards can provide for themselves. It was noted earlier that the Director possesses greater legal authority than he has been willing in the past to use. The boards' relationships *vis a vis* the department is therefore the central administrative issue.

Board Composition

How a board is constituted, in terms of special (licensee) and public interest representation, has a direct and critical bearing on the nature and extent of the authority properly assignable to it. Also involved is the question of economy and effectiveness in administering the program, and this introduces the consideration of the relative merits of central versus decentralized staff and facilitative services.

Board Membership. It is obvious that a board charged with the licensing of a profession must include members fully knowledgeable in that profession. Their expertise is essential in determining such matters as qualification standards, examination content, practitioner performance, and ethical behavior. Normally this means that the members will themselves be licentiates of the board. It can be assumed that most persons selected from the profession to serve on such a board will have stature in their profession and will be sufficiently broad-gauged to be cognizant of the public interest as well as that of the professional group. It is however unreasonable and unfair to expect them to be completely objective in their outlook.

In 1961, the legislature recognized this problem by adding one public member to each of the boards which prior to then were comprised exclusively of "industry" representatives.[4] All of the boards now recognize the value of the public member in his offering a differing viewpoint or perspective; however, as a minority of one in a board comprised of five to twelve members, his ability adequately to represent the public interest is subject to question.

The argument against the addition of more public or nonindustry members rests on the alleged need for

[4] An exception to this is the Board of Chiropractic Examiners which was created by initiative measure in 1922; all five members are licentiates. The 1961 statute adding the public member did not apply in this case in that a vote of the people is required to alter the Board's composition.

board members to be fully conversant with the profession or industry if they are to participate significantly in certain of the present board activities; the fixing of educational and experience standards for entry into the profession and the preparation and conduct of examinations are the activities most frequently cited. This argument is not fully persuasive in that alternatives to prevailing methods of board operation are available. These include use of nationally set standards, examinations prepared or approved by national professional associations, examining "commissions" or committees of board members and others who are licentiates, and outside consultants. Each of these techniques is now being used by one or more boards. These are discussed in a subsequent report section.

Another method of broadening the interest base of board membership—other than the addition of more public members—would be the *ex officio* membership of the Director of the Department or his designee. This would have the added advantage of permitting improved departmentwide coordination and introduce a kind of management expertise that is now lacking on many boards which are frequently called upon to decide matters having significant administrative ramifications. An unsuccessful effort was made in the current legislative session to authorize this—in a Commission-proposed bill. The point has not been clearly made that the Director of the Department has actually been denied the right to sit with boards in their "executive" sessions—even as a non-voting observer. It is difficult to see such an arrangement as being in the public interest, or consistent with good government practice.

Another technique for achieving a more balanced board is that represented by the present composition of the Board of Vocational Nurse Examiners. Of its eleven members, seven are licentiates and four are representatives of allied professions and vocations—a physician, a registered nurse, a hospital administrator, and a school administrator. In this case it has worked well and there would seem to be considerable merit in extending its use to other licensing areas; for example, cross-representation of architects, professional engineers, and contractors on their respective boards would bring together representatives of major segments of a total industry whose interests are related but not identical.

Recommendations

1. A majority of the members of a board licensing a profession should be drawn from the profession being regulated.[5]
2. The Director, Department of Professional and Vocational Standards, or his designee, should serve as an ex-officio member of each board.
3. On each board licensing a profession, there should be a minimum of one public member not a licentiate of any Professional and Vocational Standards licensing agency.
4. Wherever feasible, there should be representatives of professions closely allied to the one being regulated.
5. Letters of appointment to membership on boards should emphasize that each board's activity is a part of a much broader program of licensing and the board is an integral part of the Department, not an autonomous, self-contained entity.

It is appropriate at this point to restate the general criteria for board creation and membership that were developed in the earlier study by this Commission.[6]

1. Appointments to statutory boards or commissions in the executive branch should be made by the Governor.
2. The number of members should not normally exceed seven, with a lesser number on adjudicative bodies.
3. Terms of office should be definitely fixed, preferably at four years.
4. Members should not receive compensation (other than for full-time service but should receive ample expense allowances.
5. Members should be selected first on their ability to represent the general public interest and only secondarily on their special knowledge of the subject area.
6. Beneficiary or special interests may be represented, but only when the need for their special knowledge or support is clearly demonstrated and then only as a minority of the membership.

All of these are recommended for licensing boards with the exception of the minority membership provision in Item 6.

Business Versus Professional Licensing Boards. In considering how much and what kind of authority should rest with a board, a distinction must be made between boards engaged in the licensing of a profession or vocation and those regulating a business or industry.

In the former, the major emphasis is placed on setting educational, experience, and character requirements and testing or measuring applicants against these, and on assuring the observance of standards of compliance and professional conduct by licentiates. These standards are best set with major participation by the profession concerned. In the regulation of a business, on the other hand, the possession of professional and technical qualifications by the applicant as a pre-condition to obtaining a license either is not a factor or those qualifications are limited to proof of financial assets, good character, understanding of the laws relating to the business, and the like. Also, the public is being protected primarily against fraud or misrepresentation rather than incompetent practitioners. Here it would not be in the public interest to place authority in the hands of the industry.

[5] See the next report section for the distinction between the licensing of a *profession* and a *business activity*.

[6] *The Use of Boards and Commissions in the Resources Agency*, Commission on California State Government Organization and Economy, April, 1965.

Recommendations

1. Boards involved in the licensing of professions and vocations should have policy and regulatory authority.
2. Boards involved in business licensing which meet the criteria set forth in this report should be regulatory and a majority of the members should be non-licensees.

The discussion that follows relates only to the first type of board—one which regulates a recognized profession or vocation—or business licensing boards with non-licensee majority membership.

Professional Licensing Board Authority and Functions

It was found in the earlier study made by this Commission that a board functions most effectively in the areas of policy formulation, rule-making, and adjudication. That finding applies with equal force to professional licensing boards. In the paragraphs that follow these criteria are applied to the specific steps in the total licensing process. It is assumed that the boards would be constituted as proposed above, with fully adequate public (and department) representation.

Setting Scope and Content of a Licensing Program. It is essentially a legislative responsibility to determine the basic content of a licensing program and to review and modify this from time to time. The legislature expects guidance and logically looks to the Department and its boards for this. Further, within the broad provisions of the legislation authority must be delegated for developing and implementing policies consistent therewith. In their particular areas of competence the boards are the logical recipients of such a delegation.

Establishing Licensure Requirements. The fixing of those standards of professional or vocational education, training, and experience an applicant for licensure must meet, or interpreting those fixed by code, can best be done by the boards. The basic requirements should appear in the licensing code. Requirements of citizenship, residence, age, character, and others of a nature not unique to the particular profession are best fixed in general licensing code provisions with maximum feasible uniformity for all groups—some exceptions may be required.

Processing Applications. The processing of applications—assuming clear and definite standards are set—is a matter of routine best performed by staff with board involvement only in doubtful cases as referred to it by staff. Rejections based on failure to meet good character requirements should, as now, be conditioned on the right of the applicant to request and obtain a hearing under the Administrative Procedure Act.

Examinations. It has already been noted that wide differences now exist among boards as to the degree of board member participation in the several steps of the examining process—differences that can for the most part be explained only on the basis of individual board preferences. In another section of this report recommendations are presented which if adopted would relieve many of the boards of much of the detail or staff-type work now performed by board members. The most appropriate role of the boards is determining the subject matter on which applicants will be tested and the type of examinations to be given, approving examinations prepared by specialists, setting the time and place, participating as necessary in the conduct of performance tests, and considering appeals or protests received from various sources. This role would be consistent with the general criteria that boards function in a policy, regulatory, and adjudicative capacity avoiding wherever possible the performance of administrative or technical duties.

Regulation and Enforcement. Licensing acts to varying degrees prescribe specific kinds of behavior or actions on the parts of members of licensed groups which are cause for discipline, including license revocation. Similarly, code provisions either prohibit practice in the profession or vocation by non-licensees or prohibit their use of the licensed titles. Usually the boards issue regulations or rules interpreting or applying the provisions of the code and set policies for staff guidance. These are proper board functions. All boards in the Department of Professional and Vocational Standards are required to observe the Administrative Procedure Act in taking any formal disciplinary action, in which cases the boards function in an adjudicative role, either sitting with the hearing officer or receiving and acting upon his proposed decision. This also is a proper board activity. There are major variations among boards in the extent to which they enter into enforcement and disciplinary activities short of resorting to the Administrative Procedure Act. These, considered elsewhere in this report, are generally categorized as efforts to achieve licensee compliance through education or the application of informal disciplinary measures.

Recommendations

In general, licensing boards should be policy, rule-making, and adjudicative bodies. More specifically, they should:

1. Develop, in consultation with the Director, Department of Professional and Vocational Standards, the scope and content of the licensing program for review and enactment by the legislature.
2. Interpret licensing code provisions in their particular areas of competence and develop policies and regulations for implementation of code provisions.
3. Consistent with the licensing code, set education, training, and experience requirements for entry into the profession or vocation. (Requirements of citizenship, residence, character, and the like should be fixed in general licensing code provisions with allowance for exceptions in unusual situations.)

4. In the examination process, and consistent with previous recommendations for use of national examinations, where possible boards should:
   (a) Determine subject matter coverage and general content.
   (b) Decide the type of examination to be used.
   (c) Approve examinations prepared by staff or specialists.
   (d) Fix regular times and places for giving examinations.
   (e) Participate to the extent necessary in the conduct of performance tests.
   (f) Review results and, in consultation with examination specialists, set passing grades.
   (g) Hear and decide appeals or protests regarding the general validity of examinations.
5. Establish enforcement and disciplinary policies and regulations.
6. Recommend to the Legislature specific causes for license suspension and revocation.
7. Resolve enforcement problems—general and specific—referred by staff and others.
8. Sit with hearing officers on cases where professional incompetence or negligence is alleged.
9. Review and make final decision on hearing officer recommendations.

Department-Board Relationships

The organization of the Department of Professional and Vocational Standards and its jurisdiction over and services to the individual licensing boards has been the subjecct of repeated study. Invariably, the recommendations center around the degree or extent of authority that should rest with the Department. The boards, understandably, resist what they view as improper external interference into their affairs and are reluctant to give added authority to the Department. The case for strengthening the role of the Department rests on considerations of economy and protection of the broad public interest through a degree of control over individual profession or industry dominated licensing programs. There is general agreement that boards are needed, but almost no agreement on what, specifically, their relationships with the Department should be.

In the preceding report section recommendations are offered regarding what are considered appropriate board functions; what follows assumes the general acceptability of those recommendations. If there is to be a Department, it must have some role other than that of offering advice and services to a group of essentially autonomous entities. Much has been accomplished in the past through the willingness of the several boards to cooperate in the support and use of common staff services. Boards have, and rightly so, insisted that before agreeing to transfer certain staff activities to a central unit they be assured of a more economical or effective service. Assuming a continuation of this attitude, there is no need for any more substantial modification of the present organization structure and department-board relationships than is proposed in this report. The recommendations that follow are directed towards the achievement of improved performance of basically staff or housekeeping services, retaining with the boards their authority to set and enforce policies and standards.

Recommendations

1. For purposes of continuing liaison, the several licensing agencies in the Department should be grouped as (a) healing arts and related, (b) construction and related, and (c) business and other, and a deputy director assigned to each. Logically, these deputies would serve as members of the boards, representing the Director, should the recommendation that the Director be a member *ex officio* of each board be accepted. Alternatively, each deputy should attend the regular meetings of the boards in his area of concern.
2. The Department and the boards should jointly carry out intensive studies of code provisions in an effort to acheive a greater uniformity or consistency in licensing requirements common to all. Any proposals for code revision originating with a board should be submitted to the Director for review and comment prior to submission to the Legislature.
3. The Department's administrative analysis section, as well as such service units of central staff agencies, should be used to better serve the boards in the development of more economical and effective administrative procedures and work methods.
4. There should be created a central testing service to provide to all boards the kinds of specialized services proposed elsewhere in this report.
5. The services of the Office of Administrative Adviser should be expanded to provide legal counsel to all boards, short of those of the Attorney-General in connection with formal proceedings.
6. All inspectional and investigative personnel should be transferred to the Department's Division of Investigation, which would then serve all licensing agencies in the Department.
7. In the interests of economy and improved service to the public, those processes susceptible to mechanization should be standardized and programmed for the Department's data processing equipment. A recent study made by outside consultants points to a possible annual savings of $400,000 by a further mechanization of routine clerical operations. The equipment and systems employed should be compatible and consistent with what is planned elsewhere in the State Government.

Financing of Licensing Programs

As noted earlier, with the single exception of the Athletic Commission the operations of each licensing agency are fully financed from fees collected for examinations and license issurance and renewal. There

is wide variation in the fees assessed, ranging from a few dollars to more than $100 for original issuance and renewal. TABLE VI indicates that the annual cost per licensee ranges from $3 to $278, the median falling around $25. The differences reflect such variables as thoroughness of the examination, intensity of the enforcement program, number of licensees, or nature of the profession or business activity.

Fee schedules are commonly set by statute as not to exceed fixed amounts or as specified ranges within which limits the individual boards make specific ranges within which limits the individual boards make specific determinations based on operating needs. Annual budget requests are submitted through the Department and the regular executive budget process for ultimate legislative approval. Being special fund activities, the executive and legislative review is less meaningful than for general fund programs; however, some central control is exercised over staff positions, salaries, and other common items. Current special fund balances are shown in TABLE VII. These range from modest to substantial. As noted earlier, the several boards are assessed a pro rata share of the cost of departmental administration and services. These and Attorney General charges are shown in TABLE VI.

Because a state licensing program benefits the licensed individual and group, as well as the public, there is ample justification for charging fees for the service. In most categories, but not necessarily all,

TABLE VI
LICENSING PROGRAM COSTS
(Fiscal Year 1965–66)

Licensing Body	Departmental Charges		Attorney General Charges	Administrative Procedure	Other	Total	Per Licensee
	General	Investigative					
Accountancy	$26,298	$38,728	$12,427	$5,235	$269,659	$352,347	$13.23
Architecture	10,229	--	4,005	--	116,249	130,483	26.66
Athletic Commission	12,740	--	--	4,341	151,962	169,043	151.34
Barber	21,899	124,662	7,928	6,961	160,376	321,826	7.52
Cemetery	5,450	--	2,667	2,002	60,197	70,316	42.59
Chiropractic	8,409	21,479	2,537	2,150	67,981	102,556	22.21
Civil and Professional Engineers	34,860	--	1,117	115	443,189	479,281	9.71
Collection Agency	18,344	10,866	26,663	*10,988	93,678	160,539	278.71
Contractors'	139,166	--	178,996	*134,482	1,552,696	2,005,340	21.63
Cosmetology	44,702	181,791	37,191	25,330	345,072	634,086	4.77
Dental Examiners	11,897	--	--	1,502	169,013	179,408	12.14
Dry Cleaners	24,021	128,589	9,599	1,027	143,359	306,595	15.34
Electronic Repair Dealers	15,592	96,468	6,864	4,359	120,123	243,406	36.14
Funeral Directors	7,123	--	763	523	88,983	97,392	21.77
Furniture and Bedding	45,712	292,520	3,049	1,731	231,300	574,312	24.02
Landscape Architect	2,055	2,334	689	781	22,352	28,211	38.12
Marriage Counselor	--	2,000	--	--	7,623	9,623	7.01
Medical Examiners	51,571	224,237	70,167	25,376	312,809	684,160	12.90
Licensed Physical Therapists	1,031	4,869	--	201	5,185	11,286	11.75
Registered Physical Therapists	1,326	4,869	42	219	8,214	14,660	6.06
Nursing Education	41,167	86,776	17,594	9,410	404,979	559,926	4.67
Optometry	5,142	10,650	6,791	*2,341	41,495	66,329	23.47
Osteopathic	1,848	1,000	91	161	10,791	13,891	34.38
Pharmacy	35,583	59,170	24,333	7,237	362,603	488,926	25.49
Private Investigators	8,677	44,042	9,349	4,818	45,770	112,656	136.72
Shorthand Reporters	2,337	1,438	470	--	22,165	26,410	20.79
Social Work Examiners	2,283	--	--	--	28,205	30,488	9.00
Structural Pest Control	34,479	127,521	38,649	25,934	246,053	472,636	119.29
Veterinary Medicine	3,629	9,352	3,654	1,587	31,005	49,227	19.60
Vocational Nurse	11,254	11,670	3,793	2,976	123,675	153,368	6.73
Psychiatric Technicians	226	1,500	--	113	16,894	18,733	3.21
Yacht and Ship Brokers	1,868	4,684	1,081	510	17,251	25,394	39.68
Total	$630,918	$1,491,215	$470,509	$282,410	$5,720,906	$8,592,854	

* Budgeted amount—actual expenditures not available.
SOURCE: Quarterly detail expenditure report, Department of Professional and Vocational Standards, March 31, 1967.

TABLE VII

SPECIAL FUND BALANCES

Department of Professional and Vocational Standards

Fund	Current Surplus	
	Actual, F. y. 1965–66	Estimated, F. y. 1966–67
Accountancy	201,165	259,197
Architectural Examiners	364,963	298,522
Athletic Commission	--	--
Barber Examiners	232,014	5,358
Cemetery Board	29,683	29,989
Chiropractic Examiners	80,153	79,836
Professional and Civil Engineers	104,050	362,717
Collection Agency	12,882	8,750
Contractors'	1,555,139	186,784
Board of Cosmetology	556,745	900,420
Dental Examiners	242,267	137,290
Dry Cleaners	281,506	590,406
Electronic Repair Dealer	234,056	232,216
Funeral Directors and Embalmers	22,522	113,448
Furniture and Bedding	43,252	476,045
Landscape Architects	44,344	19,529
Bureau of Marriage Counselors	25,031	16,411
Medical Examiners	2,185,241	1,198,399
Registered Physical Therapists	38,911	28,886
Licensed Physical Therapists	33,999	19,557
Nursing Education	237,469	170,637
Optometry Board	48,822	108,435
Osteopathic Examiners	11,736	12,553
Pharmacy Board	285,368	100,765
Private Investigators and Adjusters	105,054	70,322
Certified Shorthand Reporters	60,695	86,675
Social Work Examiners	30,919	30,597
Structural Pest Control	39,217	9,656
Veterinary Medicine	60,280	15,295
Vocational Nurse Examiners	155,205	317,940
Psychiatric Technicians	67,786	69,591
Yacht and Ship Brokers	44,669	37,430
Totals (All funds)	7,435,143	5,993,656

the fees should be set at a level that would cover the total costs of the program. It does not follow from this, however, that license fees from each activity need or should be placed in a special fund. The existence of special funds unnecessarily complicates the State's financial planning and control processes and limits the effectiveness of executive and legislative review of expenditure programs.[7] Their use in respect to licensing activities tends to fix artificial limits on the scope of regulatory and enforcement programs and influence decisions in specific disciplinary cases. Rather than developing a program based on actual needs, the tendency is to build the program around the amount of fees collected. The alternative to this is to seek frequent legislative approval of changes in the fee schedules.

It is of interest to note that in many states licensing programs are financed from general fund appropriations and fees collected accrue to the general fund.[8]

Recommendations

1. All licensing programs should be financed from the general fund and all fees collected deposited to the credit of that fund.
2. Fees should be set by the legislature at a level adequate to meet all program costs, except where such would place an undue hardship on a licensed group.

As noted above, these recommendations are not offered as a means of increasing State revenues although there would be a one-time transfer to the general fund of 6 or 7 million dollars. In those instances in which special fund surpluses are now building up, or where more efficient operating procedures are possible and proposed, present license fees could be reduced.

[7] The next major study of this Commission will be concerned with this subject on a state-wide basis.

[8] New York, Illinois, Ohio, Wisconsin, Iowa, Delaware, Florida, Georgia, New Jersey, Rhode Island, and Utah.

IV. RECOMMENDATIONS AFFECTING INDIVIDUAL LICENSING BOARDS

Many of the general recommendations appearing in the preceding report section apply to all present licensing boards and need no further interpretation. Others have particular pertinence or applicability to specific boards or require interpretation in light of present organizational arrangements and operating practices. In some instances, exceptional circumstances suggest the need for flexibility in the manner in which general proposals or criteria are applied. These are set forth below.[1]

State Board of Accountancy

1. The investigative staff of this Board should be transferred to the Division of Investigation. Although certain of the investigations performed require a knowledge of accounting, this is also true of investigations conducted for several other licensing boards. A pooling of these specially qualified personnel in the Division of Investigation would permit their more effective utilization.
2. Consideration should be given by the Board of Accountancy to the possible need for state licensing of persons performing tax consulting and bookkeeping services for the public.

State Board of Architectural Examiners

1. Consideration should be given to broadening the base of representation on the Board to include a General Contractor and a Structural Engineer.
2. The investigative staff of the Board should be transferred to the Division of Investigation.
3. The experience qualifications for candidates for the Architect license, and their interpretation, should be reviewed. These appear unduly restrictive when compared with requirements for entry into other professions.
4. In light of the wide variations in the pass-fail ratios on different examination sections, an expert review of examination content should be made to the end of seeking greater equity.

State Athletic Commission

No special recommendations.

Board of Barber Examiners

1. The use of Board members in a full-time capacity as examiners should be discontinued and required examination personnel engaged as staff.
2. Consideration should be given to combining the Board of Barber Examiners and the Board of Cosmetology.
3. Consideration should be given to discontinuing the Apprentice Barber license category in that there is no substantive difference between this and the regular barber category in terms of providing a protection to the public.
4. Reciprocity should be extended to barbers possessing valid licenses issued by other states having standards comparable to California's.
5. The program of fixing minimum prices for barber services should be discontinued as being contrary to the public interest.
6. The possibility of discontinuing the expensive program of periodic, routine, inspections of barber shops should be explored and the alternative of sanitary inspections—should these be necessary—by city and county health departments considered.

Cemetery Board

1. The Cemetery Board should be combined with the Board of Funeral Directors and Embalmers.
2. The license category of Cemetery Salesman should be discontinued. The examination is meaningless and Cemetery Brokers are or can be held responsible for the acts of their sales personnel.
3. The field auditor position on the Board staff should be transferred to the Division of Investigation.

State Board of Chiropractic Examiners

Because this Board was created by initiative measure and can thus be changed only by vote of the people, no recommendations are made herein.

Board of Registration for Civil and Professional Engineers

1. Consideration should be given to broadening the base of representation on the Board to include a General Contractor and an Architect.
2. The investigative staff of the Board should be transferred to the Division of Investigation.
3. Reciprocity should be extended to presons with current valid registration in other states having comparable standards; the present oral examination requirement should be dropped.
4. In light of the wide variations in the pass-fail ratios among the examinations for the several engineering specialties, an expert review of examination content should be made to the end of seeking greater equity.

Collection Agency Licensing Bureau

1. The status of this Board should be changed from advisory to regulatory and the membership altered so that a majority of the members are taken from outside the industry.
2. The investigative or audit staff should be transferred to the Division of Investigation.

[1] Somewhat detailed accounts of the present organization and activities of each of the existing licensing agencies in the Department are contained in Part II—Present Activities of Licensing Boards.

Contractors' State License Board

1. The Contractors' State License Board should be combined with the Structural Pest Control Board.
2. Consideration should be given to broadening the base of representation on the new board to include an Architect and a Structural Engineer.
3. The more than 90 specialty and limited specialty license categories should be reviewed by the board and department with a view to reducing the number. Such narrow specialization increases administrative costs and cannot be justified in terms of the public interest.
4. The Board, rather than the Registrar as at present, should receive and act upon proposed decisions of hearing officers resulting from cases heard under the Administrative Procedure Act.
5. The Board's inspectional and investigative staff should be transferred to the Division of Investigation; the informal "conciliation" service now provided between complainants and licensees is an excellent one and should be continued.
6. A thorough study should be made by the Board and Department of present bonding requirements —both the initial $1,000 bond and the penalty bond. It is doubtful if either the public or the licensee is now adequately protected.

Board of Cosmetology

1. Consideration should be given to the merging of this Board with the Board of Barber Examiners.
2. Reciprocity should be extended to persons having current valid licenses issued by other states with comparable standards.
3. The possibility of discontinuing the expensive program of periodic, routine, inspections of cosmetic establishments should be explored and the alternative of sanitary inspections—should these be necessary—by city and county health departments considered.
4. The present practice of scheduling formal hearings for license applicants who apparently do not meet the "good character" requirement without first giving the applicant an opportunity to withdraw his application should be discontinued.

Board of Dental Examiners

1. The national examination—now recognized in more than 40 states—should be used in California and reciprocity granted. The present practice of Board members constructing, administering, and grading examinations places an undue, and unnecessary, work load on them.
2. The staff position of attorney should be abolished and the Board obtain legal services from the Department and the Attorney General.
3. The investigative staff of the Board should be transferred to the Division of Investigation.

State Board of Dry Cleaners

This Board and licensing program should be abolished. The program offers no significant public protection and as such constitutes an unwarranted interference by state government into an ordinary private business activity. Should this recommendation be accepted, the State should notify local government accordingly so that they could consider whether or not they wish to initiate a local inspection program.

Bureau of Electronic Repair Dealer Registration

The need for continuing this licensing activity is questioned. The program appears to have accomplished its original purpose of sharply reducing fraudulent practices, for very few offenses are now being discovered. Should the recommendation for eliminating this bureau be accepted, the State should notify local government accordingly so that they could consider whether or not they wish to initiate a local inspection program.

Board of Funeral Directors and Embalmers

1. This Board should be combined with the Cemetery Board.
2. The staff position of attorney should be abolished and the Board obtain legal services from the Department and the Attorney General.
3. The one-year apprenticeship requirement (in California) for embalmers licensed by other states as a pre-condition of taking the California examination should be abolished. This provision is unique among the professional and vocational license categories.
4. Reciprocity should be extended to persons having current valid licenses issued by states with standards comparable to California's.

Bureau of Furniture and Bedding Inspection

1. Consideration should be given to abolishing the licensing program and assigning the true-labeling enforcement responsibilities to the proper state authority.
2. To the extent that health protection matters are involved, these should be made the responsibility of appropriate health authorities.

Board of Landscape Architects

The Board of Architectural Examiners should be requested to determine whether or not a need exists for the qualification licensing of landscape architects as opposed to the present title-only licensing. If such need for qualification licensing is found, this licensing function should be made the responsibility of the Board of Architectural Examiners.

Marriage, Family, and Child Counselor Licensing

This Board and licensing program should be discontinued. It does not provide an essential protection to the public, the enforcement program being largely one of preventing non-licensees from using the title. This type of counseling is performed by many persons and groups—e.g., ministers, attorneys, social workers, and personnel of charitable organizations—

who are not and need not be licensed. Should the program be continued, it should be combined with the social worker registration program.

Board of Medical Examiners

1. To reduce the amount of time members must devote to Board activities, increased use should be made of technical staff and "examinations commissioners" in the preparation and administration of examinations, even if additional administrative costs are involved.
2. The code provisions for the licensing of psychologists should be amended to give the Board of Medical Examiners specific authority to reject or modify recommendations made by the Psychology Examining Committee. At present the Board has responsibility for the Committee's actions but lacks authority to influence them.
3. The two groups of Registered Physical Therapist and Licensed Physical Therapist should be merged into one category under the continued jurisdiction of the Board of Medical Examiners.
4. The examination given by the National Board of Podiatry Examination should be used in California and reciprocity extended to persons licensed in other states having requirements comparable to those of California.

Board of Nursing Education and Nurse Registration

1. The jurisdiction of this Board should be extended to include the licensing of vocational nurses, as now administered by the Board of Vocational Nurse Examiners. Either a Vocational Nurse Examining Committee should be created, advisory to the Board of Nursing Education and Nurse Registration, or the group should be given direct representation on that Board.
2. At least one member of the Board should be a licensed Physician and Surgeon.
3. The Board should be given clear jurisdiction over state licensing of all categories of nursing personnel. Consideration as to what new subgroups might require licensing in the future should be the initial responsibility of this Board.

State Board of Optometry

1. This Board should be reconstituted as an examining committee under the Board of Medical Examiners or, alternatively, its membership revised to include at least one Ophthalmologist.
2. The examination composed by the National Board of Examiners in Optometry should be used in California—in preference to the present practice of board members preparing and administering a separate examination.[2]
3. Reciprocity should be extended to licensees of other states having standards comparable to California's.
4. The present code restriction on the number of branch offices a licensee can own and operate should be removed. This does not offer any added protection to the public.

Board of Pharmacy

1. Consideration should be given to the inclusion of a licensed Physician and Surgeon on the Board of Pharmacy.
2. The alternative of using technical staff to prepare and administer written examinations, rather than board members, should be adopted.
3. The inspectional staff of the Board should be reduced and greater use made of the Division of Investigation in the pharmacy inspection program. Several licensed pharmacist could be retained on the staff to perform selected inspections and investigations where professional knowledge is essential.
4. Reciprocity should be extended to licensees of other states having standards comparable to California's.

Certified Shorthand Reporters Board

Consideration should be given to abolishing this Board and licensing program as not providing an essential protection to the public generally.

Board of Social Work Examiners

This Board and licensing program should be discontinued. It does not provide an essential protection to the public, the enforcement program being largely one of preventing non-licensees from using the title. Were the program to be continued, it should be combined with the marriage, family, and child counselor licensing activity.

Structural Pest Control Board

This Board should be combined with the Contractors State License Board.

Board of Examiners in Veterinary Medicine

No special recommendations.

Board of Vocational Nurse Examiners

The licensing program of the Board of Vocational Nurse Examiners should be placed under the Board of Nursing Education and Nurse Registration. The category of Licensed Vocational Nurse should be continued.

Yacht and Ship Brokers Commission

Consideration should be given to abolishing this Board and licensing program as not providing an essential protection to the public generally.

[2] During the course of the study, it was reported that the decision was made to use the national examination.

PART II—PRESENT ACTIVITIES OF LICENSING BOARDS

STATE BOARD OF ACCOUNTANCY

Functions

The State Board of Accountacy was created by the Legislature in 1901 specifically to examine, license, and regulate the conduct of Certified Public Accountants. In 1945 the function of the Board was expanded to license Public Accountants for a limited period. Licensing of Public Accountants was closed in 1946 and reopened for short periods in 1947, 1949, 1953, and 1955. No Public Accountants have been licensed since December 31, 1955, but the remaining 14,000 licenses are renewable. The number of licensed Certified Public Accountants is currently 12,000. Although the initial qualifications of Public Accountants and Certified Public Accountants are different, both are licensed to perform the same functions.

Organization

The Board is comprised of eight members appointed by the Governor for four-year overlapping terms. Five members must be CPA's, two PA's, and the eighth a public member. The Board is required, by law, to appoint a Secretary-Treasurer and two committees—the Certified Public Accountant Administrative Committee and the Public Accountant Administrative Committee. These two five-member committees are empowered to investigate complaints involving the conduct of their respective licensees. The Board has also appointed a seven-member Certified Public Accountant Qualifications Committee. This Committee, composed exclusively of CPA's, reviews the qualifications and experience of applicants for licensure to determine that all meet the Board's standards. The staff consists of 12 employees including an Executive Secretary and two special investigators.

Licensing

Since the Board no longer licenses Public Accountants, its principle activity is now the licensing of CPA's. As a subsidiary duty the Board approves the formation of CPA and PA partnerships and the use of fictitious names by accounting firms.

The basic qualifications for licensure as a CPA are: age 21, citizenship or declaration of intention, good moral character, graduation from a four-year college with a major in accounting or the equivalent, and at least three years of public accounting experience. Candidates may apply for and take the examination prior to completion of the necessary experience and if successful, may be granted a license after completion of the required experience.

The Board uses a standardized examination composed and graded by the American Institute of Public Accountants and used by all fifty states. The examination is divided into four sections with a passing score of 75 being required on each section. A candidate need not, however, pass the entire examination at one sitting; conditional credit is given for sections passed. In fact, only two per cent of all candidates pass the entire examination on *their first* attempt; 40 per cent pass at least one part. Approximately 16 per cent of all candidates finally pass all sections each time the examination is administered. Applicants who have taken the examination in another state need not retake it in California, providing they meet all other California requirements.

Since a small proportion of applicants pass the examination on their intital attempt, no background investigation is made of candidates for the examination. When a candidate finally completes the examination and applies for a license, a thorough background investigation is then performed. The staff routinely recommends approximately 60 per cent of such applicants to the Board for approval, the remaining 40 per cent being admitted to the CPA Qualification Committee for review. The Committee's primary function is to evaluate the education and experience of applicants. It may recommend to the Board that an application be denied, in which case the applicant may appeal to the full Board. The law does not provide that the denied candidate has a right to an administrative hearing, although in practice the Board does grant such hearings.

Enforcement

Most disciplinary actions result from improper statements by licensees in the opinion section of transmittal letters accompanying financial statements. Such cases, which involve a question of professional conduct or ability, are referred first to either the PA or the CPA Administrative Committee. These Committees review each case and, as a final action, may simply explain to the licensee the nature of his error. In more serious cases the committees recommend an administrative hearing to the Board.

Prior to establishment of the Division of Investigation, the Board had six full-time investigators. It now has two full-time investigators of its own, the justification being that many investigations require a special competence in accounting. Formal investigations may result from complaints from clients, other accountants, professional associations, and other sources.

STATE BOARD OF ARCHITECTURAL EXAMINERS

Functions

The Board of Architectural Examiners licenses architects and building designers and otherwise enforces the provisions of Business and Professions Code governing the practice of architecture.

Organization

The Board is comprised of nine members of whom six are architects, two building designers, and one the public representative; all are appointed by the Governor for four-year staggered terms. A Building Designers Qualifications Committee, having as members three architects and three building designers, deals

with the registration of this group, its decisions being subject to Board approval. The Board meets on an average of six times per year in regular session and several times a year for the conduct of examinations or hearings. It is a policy and decision-making body. The Board's staff includes the Executive Secretary, two special investigators, and three office employees.

Licensing of Architects

To qualify for a "certificate" as an architect, a person must possess eight years of training and educational experience in architectural work, be of good character, and pass an examination. Graduation from a school of architecture accredited by the National Association of Accreditation Boards is credited as five of the eight years.[7] This is not a requirement although the great majority of applicants have this educational preparation. Experience to be counted as qualifying must have been in the office and under the supervision of a practising architect. This is evaluated by the Board staff and all questionable applications referred to the Board. Accompanying each application are evaluations made by the architects under whose supervision the applicant has been working. The experience must include all major aspects of professional practice.

The examination is in seven parts, five of which are prepared by a national board and graded by the Educational Testing Service, Princeton, New Jersey. The remaining two parts which cover structural design and site development are prepared by the California Board and used in twelve western states. An applicant can take certain sections of the examination after meeting five of the eight years of education. He is given credit for each section passed and can re-take the sections failed as many times as he wishes. The per cent passing an individual section varies from perhaps 35 to 60. In the fiscal year 1965–66 there were 700 failures in 1,600 examinations. Probably not more than 20 per cent of the applicants pass all of the sections taken at one time. A review of applicant performance on recent examinations revealed that graduates of accredited schools did much better than other groups and out-of-state applicants generally scored higher than those from within the state.

There are now 5,000 licensed architects in California and roughly 300 new certificates are issued annually—more than in any other state.

Registration of Building Designers

A 1963 Act of the Legislature provided for the registration of persons who had for the previous five years been actively engaged in the design of buildings as a principal means of livelihood and who possessed the equivalent of at least three years of independent practice in the State. This latter requirement prevented many persons who had been doing building design work but not independently—as, for example, working for a governmental agency—from qualifying. A deadline was set, and later extended to June 1, 1965, for persons applying for registration. The above-mentioned Examining Committee processed the applications, recommending for or against registration to the Board of Architectural Examiners. This process was completed with 1,300 persons registered and there is no new entry into the group. The Act further provides that a Registered Building Designer with eight years of approved experience may apply for an architect's certificate, and request waiver of the examination other than the structural design section. The Examining Committee now has before it several such requests but has not as yet undertaken their processing. The Act also requires that the Registered Building Designers must apply for the architect certificate by the year 1971 at which time their present registration program will be discontinued.

Building Designers are required by law to associate with a registered civil or structrual engineer or licensed architect in the design of certain types of structures.

Enforcement

The law does not require that a person be licensed or registered to practice architecture. Civil and structural engineers may do anything an architect does other than identify themselves as architects. A non-licensed person may design specified types of buildings or alterations, including most single-family dwellings. Local building codes frequently impose additional or special requirements in this regard as do laws concerning public buildings. Close cooperation is maintained between the Board staff and local building code enforcement agencies on matters of common interest.

Formal disciplinary proceedings against licensees are infrequent. The code lists a number of causes for discipline such as conviction of a felony in connection with the practice of architecture, fraud, negligence, incompetence, and so on, but in the past four years only one case of this nature has gone through a formal hearing under the Administrative Procedure Act. Complaints are investigated by the two staff investigators and generally dealt with by the Board by issuance of a kind of warning letter—reportedly, compliance is quickly achieved. During the fiscal year 1965–66, some 145 cases involving violations were so resolved.

The few instances of serious violations is in part attributable to the close controls imposed by local building code enforcement agencies. Complaints relating to performance of architects in such matters as contract fulfillment are not a matter for Board action.

STATE ATHLETIC COMMISSION

Background

Prior to World War I, boxing matches were banned in California but a referendum measure—backed largely by veterans' organizations—legalizing boxing

[7] There are now three accredited schools in California—University of California, University of Southern California, and California Polytechnic Institute.

and creating the State Athletic Commission passed in 1924. A 1921 constitutional amendment gave the Legislature authority to modify in any way the 1924 measure. The purposes of the state supervision of the boxing business are to protect the participants (boxers) and to prevent practices apt to attend events on the outcome of which there is considerable gambling.

Functions

The Athletic Commission exercises close surveillance over boxing matches and, to a lesser extent, wrestling exhibitions, and licenses organizations and persons in any way connected with these.

Organization

The Commission is comprised of five members appointed by the Governor for four-year overlapping terms. Members serve without compensation and need not have any specific qualifications for appointment. (The present Commission members include a physician, an attorney, and three men with business backgrounds.) The Commission adopts rules and regulations, grants exceptions thereto, appoints an Executive Officer, approves the budget, and hears complaints and appeals from actions taken by the staff. The staff, consisting of an Assistant Executive Officer, a Chief Inspector, two Assistant Chief Inspectors, one Investigator, one typist clerk, and three stenographers headed by the Executive Officer, carries out the policies and enforces the rules set by the Commission.

Activities

Licensing of Clubs and Promoters. Anyone who sponsors a boxing match, either as an organization or as an individual, must obtain a license from the Commission. An examination is not required but the applicant must show good character and financial responsibility. The fee is $25 to $100 depending on the size of the city in which the match is held, and bonds must be posted—a $2,000 licensing bond, a bond in the amount of the capacity of the house to cover possible refunds, and a bond of 75% of the capacity to cover payment of contestants.

Licensing of Boxers. To be licensed a boxer must be of good character, meet certain medical standards, and know his trade. The latter is determined by the man's fight record or by observation by a person designated by the Commission staff, e.g., a licensed referee. In general, California's standards are higher than those of other states. The license fee is $5.

Licensing of Others. Managers and referees are licensed by the Commission. Good character and successful completion of an examination covering the law and rules and regulations of the Commission are required. Practically all other persons connected with prize fighting — matchmaker, second, announcer, trainer, timekeeper, and box office personnel—are licensed, but without examination. Applicants are screened as to good character by the staff securing a rap sheet; particular attention is given to such offenses as gambling and fraud. This is more a registration than an actual licensing process, the purpose being the screening noted above and to be able to find the people when misconduct is charged or takes place. The registration fee for most categories is $5.

Approval and Supervision of Boxing Matches. Each program (a night of boxing events) must be approved in advance by the Commission staff. Special forms are provided on which the promoter must identify himself, his license, the time and place, the contestants in the various events, their managers, arrangements for dividing the purse, the weight of the fighters, and so on. The Commission staff reviews these applications, verifying the fact that they involve people who properly are licensed and that the boxers in the several events are reasonably well-matched.

Members of the staff or experienced persons engaged on a per-evening basis attend every boxing event in the State. The inspector performs a number of functions at the scene: he watches the preparation for the fight, checks the box office tickets, assures himself that the men who are in the ring are the same ones who are listed on the advance notice, sees that the proper officials are there and the regulations observed, and at the conclusion of the evening verifies the box office sales and determines the amount of tax due the State. The State receives five per cent of the gate and five per cent of all radio and television income.

Supervision of Wrestling. The Athletic Commission also exercises supervision over wrestling, although the degree of control is not comparable with that over boxing. The law specifically precludes wrestling exhibitions being called contests or matches, stating:

> "18607. As used in this chapter, 'wrestling exhibition' means a performance of wrestling skills and techniques by two or more professional wrestlers, to which any admission is charged or which is broadcast or televised, in which the participating wrestlers are not required to use their best efforts in order to win, and for which the winner may have been selected before the performance commences."

The wrestlers must obtain a license, but they do not need the same kind of protection a boxer does in that they are rarely injured and are not ordinarily young persons susceptible to exploitation. Others connected with wrestling events are also licensed, or registered, but no examinations are given.

BOARD OF BARBER EXAMINERS

Functions

The Board of Barber Examiners licenses barber colleges and instructors, barber shops, and apprentice and master barbers. It also sets minimum price schedules, county by county, on petition of the licensed barbers.

Organization

The Board is comprised of five members, four of whom must be licensed barbers and the fifth a public

member. Three board members are employed on a full-time salaried basis and serve as examiners.[8] Appointment is by the Governor for four-year terms with a limit by law of three consecutive terms. The Board meets on an average of once a month setting policy, fixing minimum price schedules, conducting disciplinary action, and hearing various complaints. Staff work is performed by a secretary, who is also a licensed barber, and nine office employees.

Licensing of Barbers

The requirements for an apprentice barber license are the equivalent of a ninth grade education, graduation from a barber college—a course of study and practice of approximately six months—and passage of an examination which includes written, performance, and oral interview sections. To obtain a master barber license the applicant must have at least 18 months' experience as an apprentice working under a master barber and pass a written examination which tests knowledge of the barber code and shop management and a performance examination.

A student on enrolling in a barber college must register with the Board which seeks to establish his "good character." If he is found to have been convicted of certain offenses, e.g., use of narcotics or crimes involving moral turpitude, he may be disqualified at this point, depending on the circumstances.

Out-of-state applicants are allowed to take the master barber examination if they produce evidence of having been licensed elsewhere for a period of at least two years.

Licensing of Barber Colleges

Anyone wishing to open a barber college must submit an application to the Board setting forth such information as: location, physical plan of the facility, the population in the service area (according to the law, a college can be authorized for each 500,000 of population in a county, or 150,000 in a city), financial ability, the need for the college in the particular area in terms of number of barbers required, availability of students, a certification that the opening of the college would not have an adverse effect on the business in barber shops in the area, and, finally, that there are a sufficient number of students interested in enrolling. The application is reviewed by the staff for completeness and then referred to the Board of Examiners. The Board, after conducting a hearing at which the applicant appears and is questioned, either grants or denies the application. There are approximately 25 licensed barber colleges in the State; tuition averages $325 to $350 for a six-month course.

Enforcement

In enforcing the barber code a regular program of barber shop inspection is carried out by the Division of Investigation. The inspectors are primarily interested in matters of sanitation and cleanliness but also routinely check the licenses of the barbers working in each shop—there are code limitations on the ratio of apprentice barbers to master barbers. Failure to sterilize instruments and use of the same towel on more than one person are among the more common sanitation violations; lack of cleanliness usually takes the form of unmopped floors, need for paint, and so on. The Board, as a matter of policy, would like each shop to be inspected four times a year. In practice the frequency of inspection is two to three times annually.

The inspector prepares a report of inspection which the owner of the shop signs and receives a copy. The inspector may issue a notice of violation and follow up to see that the infraction is corrected. If reasonable progress is not made, formal disciplinary measures may be taken, either locally through the District Attorney or through the State Board. Cases of a serious nature are sent to formal hearing under the Administrative Procedure Act, the Board normally sitting with the hearing officer.

There are numerous complaints of persons cutting hair without a license, usually in their homes, or of licensed barbers performing work other than in the barber shop where standards of sanitation cannot be maintained. Where these situations are found, the investigator seeks corrective action either directly or through the District Attorney.

During the 1965–66 fiscal year, approximately 1,700 complaints were investigated and disciplinary action was taken in 174 instances (43,000 licensees). In nearly all cases the Board ordered supsension of the license for a specified period of time.

Setting Minimum Prices

According to the law, if 75 per cent of the barbers in a county petition the Board to set a scale of minimum prices for the county it will do so. If this has already been done, the Board will review and readjust the schedule on the request of 51 per cent of the barbers. In this process the Board first causes a cost study to be made over a period of 30 days in which the shops maintain records of income and costs. The Board then holds a public hearing in the county, usually attended by at least a quorum of the board, but on occasion only by a single member. Any persons wishing to appear at such a hearing are heard, following which the Board establishes the minimum prices for that county. At present, nearly all of the counties in the state have come under this provision. Reportedly, shops in most counties charge above the minimum scale. The only restriction is that they cannot drop below it.

CEMETERY BOARD

Function

The Cemetery Board regulates and licenses cemeteries, cemetery brokers, and cemetery salesmen, regulates endowment care trust funds and administers the laws relating to mausoleum and columbarium construction.

[8] The Chairman (full-time) receives an annual salary of $8,900, the two full-time members $8,400, and the Secretary $12,096.

Organization

The Board is comprised of six members appointed by the Governor and confirmed by the Senate for four-year staggered terms. Five members must have had five years of experience in cemetery management immediately preceding their appointment; the sixth is a public member. The Board is required by law to meet twice annually but in practice meets on an average of four times each year alternating insofar as possible between Northern and Southern California. The staff consists of an Executive Secretary, a Field Auditor, and two clerical personnel.

Licensing

Certificates of Authority. To operate a cemetery, a corporation must make application to the Cemetery Board for a Certificate of Authority and must show it is in a position to commence operation of a cemetery. Fees consist of a $100 regulatory charge, a $200 initial filing fee and an additional filing fee with a maximum of $300 based upon time spent in investigation of the application. The staff of the Board investigates the physical site, plans, specifications, and financing of the proposed cemetery; the character of the applicant, including its officers, directors, shareholders, or members; compliance with all laws, rules, regulations, ordinances, and orders applicable to it, and makes a recommendation to the Board. The Board calls the applicant to appear before it for questioning and determines whether or not the applicant qualified. Renewal fee consists of $100 regulatory fee and $.15 for each interment made during the preceding calendar year. The are approximately 180 licensed cemeteries, with several new licenses granted annually.

Cemetery Brokers. The Board issues three types of cemetery brokerage licenses: corporation, partnership, and individual. In the case of a corporation or partnership application, one or more of the officers or partners must qualify in the same manner as an individual applicant. Requirements include proof of honesty, truthfulness, and good reputation, two years' licensing as a cemetery salesman or two years' general cemetery experience, and successful completion of a written examination. The original license fee is $100 and annual renewal $75 for all individuals and the first licensee of any corporation or partnership. If a corporation or partnership has more than one agent named, $25 is charged for each additional agent. Surety Bonds are required for all licensees except a corporation which also holds a certificate of authority. There are approximately 138 licensed cemetery brokers and 26 licensed cemetery broker branch offices.

Cemetery Salesmen. A cemetery salesman to be licensed must be in the employ of a licensed cemetery broker who is responsible for his activities as a cemetery salesman. A non-renewable temporary license good for a period of three months is issued after a preliminary check. A regular license is issued after a further character check and passage of a written examination. Applicants must show proof of honesty, truthfulness, and good reputation. Renewal and original issuance fees are $10. There are approximately 1,200 currently licensed salesmen.

Written examinations for both cemetery brokers and salesmen include knowledge of the English language and elementary arithmetic, an understanding of cemetery associations and corporations and cemetery operations, care and preservation of endowment care and trust funds, and an understanding of cemetery brokerage practice including business ethics and the pertinent provisions of the Cemetery Act.

Endowment and Special Care Funds (Trust)

The statues specify the amount which must be deposited to establish an endowment care fund and the minimum amounts to be deposited for each grave, crypt, or niche sold or disposed of. The fund is administered by trustees and must be invested in accordance with the provisions of law with the income used only for the care and maintenance of the cemetery. An annual report is required, plus an independent audit by a certified public accountant. The staff of the Board reviews these reports and audits and makes such investigations as it deems necessary to secure compliance with the statutes.

Mausoleum and Columbarium Construction

The staff of the Board works with local building officials to insure compliance with the construction requirements for mausoleums and columbariums to insure uniform, permanent, and durable construction.

Enforcement Activities

Examinations of trust funds are conducted by the Board staff, trained in accounting, and investigations are made concurrent with these examinations. Investigations and disciplinary hearings commonly involve alleged violation of the cemetery brokerage provisions—e.g., misrepresentation in selling of plots—and the improper investment or mishandling of trust funds. All such hearings are conducted under the provisions of the Admininstrative Procedure Act with the members of the Board sitting with the Hearing Officer. In fiscal year 1965–66 five such hearings took place, resulting in one license suspension. Services of the Bureau of Investigation are not used, the Board staff doing the investigative work along with the trust fund examination activity as noted above.

STATE BOARD OF CHIROPRACTIC EXAMINERS

Function

Created in 1922 by an initiative measure, the Board of Chiropractic Examiners licenses persons to engage in the chiropractic profession and accredits chiropractic schools.

Organizations

The Board is comprised of five members appointed by the Governor all of whom are licensed chiropractors. The staff consists of a Secretary, appointed by the Board, and three office employees.

Licensing

Applicants for a license must be graduates of an accredited school of chiropractic medicine which teaches a course of 4,000 hours (equivalent of 36 months) covering certain specified subjects. An examination, prepared, administered, and graded by members of the Board, is given twice yearly. Approximately 30 to 25 per cent of the applicants taking recent examinations failed to achieve passing grades. Licenses are issued persons from out-of-state if their qualifications equal California standards and their state of residence extends reciprocity to California licensees.

The bases for denial of applications are essentially the same as for most other licensed professions—misrepresentation, offenses involving moral turpitude, habitual intemperance, etc.

There are at present approximately 5,000 licenses in effect.

Accrediting of Schools

There are only two accredited schools in the State. The Board has adopted very specific and detailed regulations to be observed by the schools and exercises continuing supervision over their operation.

Enforcement

The Chiropractic Act and Board rules developed thereunder list a number of grounds for disciplinary action and in some instances prescribe the limits of authorized penalties. Of special concern are false or misleading advertisment, use of the title of Doctor without indicating chiropractic, and engaging in treatment techniques—e.g. prescribing drugs—outside the chiropractic field.

The Board uses the services of the Division of Investigation and observes the Administrative Procedure Act. In the 1965–66 fiscal year 93 complaints were received, 62 investigations conducted, 12 hearings held, and 4 licenses revoked. The more common of the serious complaints involved alleged morals offenses and abortions.

BOARD OF REGISTRATION FOR CIVIL AND PROFESSIONAL ENGINEERS

Background

The first legislation providing for the registration of engineers, which dealt only with civil engineers, was enacted in 1929. Chemical, electrical, mechanical, and petroleum engineers were added in 1948 and metallurgical engineers in 1965. Authority to use the title "Structural Engineer" was restricted in 1933 to registered civil engineers who passed a separate examination in this specialty. Land surveying licensing was transferred to the Board from the Surveyor General in 1929.

Functions

The Board in administering the Civil and Professional Engineers' Act and the Land Surveyors' Act examines and licenses professional engineers in the classifications of civil, mechanical, electrical, chemical, petroleum, metallurgical, structural, land surveyor, and engineer-in-training. It maintains a current register of licensed persons and enforces code provisions and regulations governing professional conduct and activity.

Organization

The Board is composed of nine members, seven of whom—by code provision—must be registered engineers, one a licensed land surveyor, and one the public representative. The Board makes extensive use of committees having from one to several members. The full Board normally meets monthly, alternating between Northern and Southern California, and performs the functions of setting qualification standards for examinations, reviewing the make-up of examinations, acting on applications, interviewing applicants, conducting oral examinations, grading and reviewing examination papers, and setting various kinds of rules and regulations consistent with legislative provisions. it hires the Executive Secretary and reappoints him from year to year for one-year periods.

The staff totals 32, including clerical personnel, specialized personnel engaged in the preparation and grading of examinations, and six full-time investigators. The Executive Secretary is responsible to the Board for the supervision of all staff activities.

Registration

Civil engineers and land surveyors, with certain specific exceptions, must be registered or licensed to practice their profession in the State. Those in other engineering categories are not required to be registered, but if they are not registered they are prohibited from formally identifying themselves as "consulting engineer," "professional engineer," "industrial engineer," "chemical engineer," and the like.

Examinations are given at approximately eight-month intervals for registered engineers and midway between each such examination one is given for engineer-in-training. The only qualifications for registration as an engineer-in-training are to be of good moral character and to pass the examination. To register as a professional engineer, one must have six years of experience acceptable to the Board and pass an examination. Although the engineer-in-training certificate is counted as the equivalent of four years of education or experience, the Board normally requires that an applicant have three years of experience after receiving his EIT registration.

Examinations are prepared by outside experts hired by the Board on a per diem rate of $40 to $50. They are engineers and land surveyors who may be working for a state agency or private firm, are self employed, or teaching in a university. Normally, several are asked to contribute portions of one examination, each performing in the area of his particular specialty. These questions come to the staff of the Board for review and possibly modification and are then sent to the

Board where the members of the Board individually, according to their field of specialization, study and pass on the questions.

The following figures are approximations of how many applicants take each examination:

EIT	3,000
Civil	1,800
Mechanical	500
Electrical	300
Structural	175
Chemical	50
Petroleum	16
Land Surveyors	250

The application fee for the EIT examination is $25 and $40 for professional engineer, plus a $14 biennial renewal fee for the engineer's certificate.

The experience requirements for land surveyors are similar to those for civil engineer, one noteworthy difference being that a land surveyor must be a U.S. citizen.

To be granted authority to use the title "Structural Engineer," a person must have been a registered civil engineer for at least three years and pass an additional examination.

The Board maintains a complete roster of all registered engineers and licensed land surveyors, and publishes this annually in book form. An engineer or land surveyor is required, in certain situations, to show his number on documents, survey monuments, and the like.

Enforcement

When a person who is registered with the Board is reported to have acted in an illegal manner, the Executive Secretary will assign investigators to determine the facts in the case. The investigator reports to the Executive Secretary and, on approval by the Board, takes his findings to the Attorney General. If the latter feels there is sufficient evidence for proceeding, charges will be prepared and a hearing set. Hearing officers are used, there being an average of three or four cases a year that are carried through to a hearing.

Some investigations are completed quickly; others may require a year or more.

Perhaps the most common infraction of the law is that of practicing civil engineering or land surveying without a license. In these cases the investigator normally takes his findings to the District Attorney in the locality and asks him to proceed against the person.

Rather than engage the services of the Division of Investigation, the Board continues its long-established practice of employing its own staff of investigators (six full-time). More have been requested, but denied in the budget review process by the Department of Finance, the latter urging use of the Division of Investigation.

COLLECTION AGENCY LICENSING BUREAU

The Collection Agency licensing function was originally created by the Legislature in 1927. It was placed under the administrative jurisdiction of the Prison Board in 1929 and then transferred to the Secretary of State's office in 1937. At this time there was an autonomous policy-making board made up of industry representatives. In 1957 a Senate Committee began a study of the licensing board and determined that the Agency's enforcement program was ineffective—only three accusations were filed by the licensing board against licensees during the entire period 1937–1959. As a result of the Senate committee's recommendations the collection agency licensing function was completely reorganized by the Legislature in 1959.

Functions

The Collection Agency Licensing Bureau grants licenses to collection agency offices and grants permits for individuals to work in the industry. The Bureau also promulgates and enforces detailed regulations governing the relationships between collection agencies and both debtors and their client creditors.

Organization

The bureau is an administrative division of the Department of Professional and Vocational Standards. It is headed by a Chief who is appointed by the Governor and reports directly to the Director of the Department. The law provides that the Director may delegate all of his related powers to the Chief except the authority to adopt or act upon the decisions of a hearing officer after a hearing under the provisions of the Administrative Procedure Act.

There is also a six-member Collection Agency Advisory Board. The members are appointed for four-year overlapping terms by the Governor and serve without compensation. One member must represent the public and the other five must be actively engaged as owners or managers of collection agencies. The Board's statutory duties limit it to the provision of advice and recommendations to the Director and the Chief. The law provides that the Chairman of the Board must call meetings at least four but not more than six times per year. Additional meetings of the Board may be held only with the approval of the Bureau Chief.

Licensing

The Board licenses all collection agency offices; regardless of ownership, each physically separate office must have an individual license. To qualify for a license the applicant must: post a $5,000 bond with the Bureau; have a net worth of $7,500 of which $5,000 must be cash in the bank; and be of good moral character. If a corporation or partnership applies for a collection agency license, each owner, member of the Board of Directors, and major stockholder must be of good moral character. A further requirement for licensure is that each office must be managed by a "qualified person."

An applicant for a Qualification Certificate must meet the following requirements: age 21; citizen of U.S.; good moral character; resident of California for two preceding years; equivalent of high school education; two years full-time experience collecting ac-

counts in a collection agency; and a passing grade on the required examination.

The qualification certificate examination is administered twice per year in San Francisco and Los Angeles. About 50 candidates take each examination of which about 50 per cent are successful. The examination covers various principles of law, accounting, professional ethics, and the rules and regulations governing the industry. It is composed, administered, and graded by the Bureau Chief and his staff.

All persons who work in a collection agency as active collectors must be registered with the Bureau. Responsibility for reporting of new employees rests with the employer; employment of a person who has failed to comply with the registration requirements may result in either a criminal action or a disciplinary action against the agency license. The Bureau makes a thorough background investigation of all registered employees and may, after a hearing, deny registration to a person who lacks good character.

The various fees include: original office license $300 and annual renewal $200; qualification certificate examination $75 and annual renewal $20; and employee registration $10 (a one-time fee).

Enforcement

Until 1965 the Bureau had a staff of ten professional auditors who routinely audited the records of all collection agencies. The industry was dissatisfied with this arrangement because the cost was borne by license fees. As a result of a Legislative revision the procedure was changed on January 1, 1965. The number of auditors was reduced from ten to two and each collection agency was required to submit an annual financial statement of its operations prepared by a certified public accountant. The two remaining auditors are now used to conduct intensive audits of agencies which submit questionable financial statements and are the subjects of complaints. There is now some dissatisfaction in the industry with the current procedure in that a financial report may cost a larger agency several thousand dollars.

During the period 1959 through 1964 the Bureau filed a total of 159 accusations against licensees, resulting in the revocation of about 75 licenses and the suspension of another 39. Additionally, 22 licensees were placed on probation, 13 licensees suspended with suspension stayed and placed on probation, 5 revoked with the revocation stayed, 3 were found to have violated the law but no penalty was assessed, and accusations against 2 licensees were dismissed. In addition to these formal disciplinary actions the Bureau also issued numerous formal warning letters. Since January 1, 1965, the Bureau's audit program has necessarily been curtailed; nevertheless, during this ten-month period a total of 26 accusations and 37 warning letters have been issued.

CONTRACTORS STATE LICENSE BOARD

Background

The registration of contractors was initiated in 1929 at the request of the industry. At first the Director of the Department of Professional and Vocational Standards was designated the Registrar of Contractors with full authority under the law. After several unsuccessful attempts, the industry obtained legislation in 1935 creating the Contractors License Board. Board actions were for a time subject to the approval of the Department Director, but subsequent amendments have given the Board and the Registrar final authority in their areas of operation.

Functions

The Board and Registrar administer the Contractors License Law by granting licenses in 36 basic categories in the construction industry and by enforcing provisions of the law relating to the activities of licensed contractors.

Organization

The Board is comprised of nine members, eight of whom must hold current contractors licenses (one general engineering, three general building, and four specialty contractors). The ninth is the public member. Appointments are made by the Governor for four-year staggered terms, members serving without compensation. They must be at least 30 years old, of good character, and residents of the State for the five years preceding appointment. The Board through its enacted rules and regulations prescribes the licensing policies and procedures and defines the license classifications. It meets quarterly. The Registrar as the Executive Officer of the Board carries out its policies and has final authority on enforcement and disciplinary actions. The staff of the Board approximates 160, some 90 of whom are primarily engaged in investigative and enforcement work. In addition to the headquarters office, regional, district, and branch offices are maintained throughout the State.

Licensing Activities

The license categories set by the Board include General Engineering Contractor, General Building Contractor, and Specialty Contractor in 34 categories plus another 50 or more Limited Specialty Classes. The total number of licensees exceeds 95,000. An applicant for a license must present documentary information on his experience, type of contracting business to be conducted, insurance coverage, financial solvency, and related matters. He must have had at least four years' experience at the journeyman level or higher during the preceding ten years. Written examinations are given to qualified applicants. These are prepared by board staff in cooperation with industry representatives and with Board review.

In recent examinations, 50 to 70 per cent of the examinees in most categories received passing grades, although in a few the percentage fell below this level or reached as high as 80 per cent. The examinations test knowledge of the laws governing the construction industry and of the materials, techniques, and methods used in the particular license classification. Where the applicant is a firm, a responsible manag-

ing employee or principal must qualify by examination and experience. The Registrar has substantial delegated authority from the Board to administer the examining program.

The fee schedule is set by law and now stands at $50 for original application and biennial renewal, and $20 for each additional category for which a license is sought. Total income of the Board for the year 1965–66, a regular renewal year, was $2.7 million; for the off-year 1964–65 it was under $500,000. With current expenditures running at nearly $2.2 million, it was found necessary to obtain legislative approval in the 1966 special session for an increase in the license fee.

As a condition of obtaining a license, a person must post a $1,000 bond with the Board. Clients or others wronged by a contractor can proceed through the courts to collect damages. This is, of course, a very modest bonding requirement considering the size of most contruction contracts.

Enforcement

The Contractors License Law sets forth more than twenty kinds of actions and practices on the part of contractors that constitute cause for license suspension or revocation. These range from disregarding plans or specifications and non-performance under contracts to misuse of funds and insolvency. Nearly 2,000 complaints are received monthly—22,000 in the 1965–66 fiscal year. Many are against persons without the proper license—more than 5,000 last year—but the majority are public complaints against licensees. These are investigated by Board staff who may first, where appropriate, seek a solution acceptable to the concerned parties. In cases where evidence of serious violation of the law is found, disciplinary proceedings are instituted under the provisions of the Administrative Procedure Act.

Roughly one-half of all complaints are dismissed or settled on initial investigation. In the year past formal disciplinary proceedings were taken against more than 1,000 licensees, nearly one-half of which resulted in license revocation and an additional 20 per cent in license suspension. More than 150 cases were dismissed after admininstrative hearing. Of the 5,000 complaints concerning non-licensed contractors, more than 600 resulted in court convictions—most are dropped for lack of sufficient evidence to prosecute, as determined by the Board staff or district attorneys.

Hearing officers from the Office of Administrative Procedures are used in all disciplinary hearings. Their decisions are advisory to the Registrar who may reduce the penalty or, on review of the full transcript, increase the penalty. The latter is infrequently done. The decision of the Registrar is subject to review only by court proceedings.

A contractor who has had a license suspended or revoked must post a bond of $3,000 to $10,000, for a two-year period, as one condition of again being licensed or having his license reinstated. This has proved an effective enforcement measure, whereas the basic $1,000 bond has not. The law was recently modified to allow the Board to seek an injunction against a non-licensed contractor to prevent his working pending court decision; this has not proved a particularly useful device.

BOARD OF COSMETOLOGY

Functions

The Board of Cosmetology examines, licenses, and regulates persons and businesses engaged in the various branches of cosmetology.

Organization

The Board is comprised of seven members appointed by the Governor for four-year overlapping terms. Five members must be licensed cosmetologists, one an owner-manager of a school of cosmetology, and one a public member. Staff consists of an Executive Secretary and 25 administrative and office personnel, including 1 full-time examiner in Los Angeles and 1 in San Francisco. A large number of intermittent personnel are used in the examination process.

Licensing

The Board issues 10 different licenses: cosmetologist, manicurist, electrologist, cosmetology instructor, electrology instructor, junior operator, junior electrologist, cosmetological establishment, school of cosmetology, and school of electrology. Examinations are required for the first five of these. Cosmetologist, by far the largest class, includes all beauty operators licensed to perform the full range of cosmetological services including manicuring, hair cutting, and hair setting. The more specialized class, such as manicurists or electrologists, are licensed only to provide a specific service.

The basic requirements for licensure as a cosmetologist are: age 18, tenth grade education or equivalent, good moral character, a passing examination grade, and either (a) 1,600 hours of training in a school approved by the Board, (b) 4 years' experience as a cosmetologist employed outside the State, or (c) 2 years' experience as a junior operator in a licensed establishment. The requirements for other licenses are similar with some variations in the required age and training. The classifications of junior operator and junior electrologist are actually two-year apprentice programs. Junior operators, for example, may take the operator examination after two years, without having attended a cosmetological school. In practice, very few junior operator or junior electrologist licenses are issued—most cosmetologists and electrologists attend schools instead of going through the apprenticeship program.

The Board administers examinations daily in Los Angeles and San Francisco, over 90 per cent of the 14,000 examinations administered annually being for cosmetologists. All examinations are composed by the Board, the most recent cosmetologist examination having been developed in August of 1965. The cosmetologist examination is weighted 75 per cent practical and 25 per cent written, the practical portion

being divided into six parts. If a candidate fails to achieve the required 75 per cent passing score on any of the seven test parts, he is given conditional credit for those passed and may retake those failed any time from 30 days to one year after his original examination. A candidate failing to pass the complete examination on the second attempt cannot retake the examination until completing an additional 500 hours of school instruction.

Examinations are graded by the Board staff at the Examination site. A successful candidate usually receives a license in the mail within 48 hours.

The Board staff routinely reviews and acts upon all application forms, and candidates who fail to meet a technical requirement are so advised. Each applicant is evaluated for good character and may be administratively rejected by the staff, in which case a hearing under the Administrative Procedure Act is automatically scheduled.

The Board approves and licenses cosmetological schools. Whereas the law requires only that a cosmetological school give 1,600 hours of training, the Board prescribes the breakdown of that training. Transcripts of applicants graduated from out-of-state schools are reviewed by the staff to determine possession of the required number of hours in the various subjects. There are approximately 200 licensed schools in California.

Enforcement

The Board uses the services of the Division of Investigation whose personnel routinely inspect all licensed shops for sanitary conditions and to determine that all operators are properly licensed. The largest number of violations pertain to sanitary conditions. These however do not typically result in disciplinary actions, most being corrected after a warning from the Board. The majority of disciplinary actions stem from licensee violations of the good character requirements. In the year past a total of 106 accusations were filed by the Board, for which administrative hearings were scheduled. These cases resulted in 54 license suspensions and 38 revocations.

Unlicensed activity is also an enforcement problem. Inspectors occasionally discover unlicensed shops. If after warnings such shops continue to operate, the cases are referred to local district attorneys. Unlicensed shops are usually operated by a licensed operator, in which case the Board may also take disciplinary action to revoke the operator's license.

BOARD OF DENTAL EXAMINERS

Background

The Dental Practices Act, dating back to 1885, is one of the first acts calling for state supervision of a profession in California. Until 1921 only professional dentists were licensed, and at that time dental hygienists were added. Dental technicians have unsuccessfully sought a licensing program under a separate board of examiners.

Functions

The Board of Dental Examiners licenses dentists and dental hygienists, approves dental colleges and hygienists' education programs, and enforces the Dental Practices Act provisions affecting the conduct of licensees.

Organization

The Board is comprised of seven dentist members and one public member. In selecting members, the Governor has sought to assure a fair geographic representation and has avoided an imbalance on the board of graduates from any one dental college. Members generally have a number of years of successful practice in the profession. The law requires that, to be appointed to the Board, a dentist must have five years of experience in the State and not be a member of the faculty of any dental school. Dentists who specialize in a particular field are not named to the board because of the role described below of board members in the examining process. The Board meets on an average of once a month in business session and four times a year for the conduct of examinations. The staff consists of the Executive Secretary, a part-time attorney, three investigators, and supporting clerical personnel.

Licensing of Dentists

The qualifications to take the examination are graduation from an approved dental school, good moral character, and payment of a $50 application fee. The staff of the Board verifies the credentials submitted with and information contained on the application form. The battery of examinations includes both written and performance elements, requiring several days for completion.

The examination questions and materials are prepared by individual board members, each member other than the public member being assigned responsibility for preparing certain sections of the examination. He develops his questions and sends them in to the board staff where they are put into final form. There has been some discussion of the possibility of using the National Board Certificate in lieu of the written examination. This certificate is issued by a Council of the American Dental Association which develops an examination given in two parts on a national scale, the first part at the end of the sophomore year in a dental college and the second part at the end of the senior year. Thirty-eight states now recognize this certificate as meeting qualifications for licensing.

The Board members conduct the performance tests, proctor all examinations, and do the grading and scoring. Use is made of "Examinations Commissioners," usually former Board members, who are paid on a per diem basis.

The number of applicants taking an examination ranges from 150 to 300. In recent examinations, from 93 to 97 per cent of the graduates of California dental colleges passed the examination on their first try. Out-of-state candidates do not do as well, only 60 to 75 per cent of them passing the first time they take the exami-

nation. In both categories the failures are most commonly on the practical aspects of the examination. A candidate who fails in the examination can request an interview with the Board at which the Board discusses with him the reasons for his failure.

Board members receive $25 per day of attendance at meetings and $25 per day on those days when they are conducting examinations. They also receive $25 for each examination prepared and a like amount for each 20 papers corrected.

Licensing of Dental Hygienists

To become licensed as a dental hygienist, a person must be 18 years of age, of good moral character, and graduated from an approved course in dental hygiene. Examinations are prepared and administered in the same manner as those for dentists, and they are given at the same time and place. There is an average of 100 candidates sitting per examination, and the percentage of failures is in the range of 5 to 10 per cent. The latter are primarily out-of-state candidates for the reason that California law permits dental hygienists to do relatively more than they are allowed to do in many other states.

The use of dental hygienists by dentists is increasing sharply. In 1954 there were only 620 licensees in California, whereas now the number is approximately 2,500.

Approval of Dental Colleges and Hygienists Programs

There are at present in California five accredited colleges of dentistry and decision has been taken to create two new dental colleges. The Board recognizes dental colleges elsewhere in the United States which have been approved by the Council on Dental Education. This Council, a creation of the American Dental Association, inspects dental colleges throughout the United States and recommends for or against their accreditation. A report of the Council's findings on particular schools is sent to the California Board which then decides whether to approve or disapprove the college. If approved, its graduates can apply for registration in California and sit for the examinations.

The present and projected output of California's accredited colleges, plus out-of-state applicants, is judged adequate to meet anticipated needs.

There are now five accredited educational programs for training dental hygienists in the state. The position of the dental profession is that the two-year junior college curriculum is adequate to produce trained dental hygienists; however, the Dental Hygienists' Association is pressing for a four-year educational requirement. In California the clinical aspects of junior college programs of training in dental hygiene must be under the sponsorship and supervision of an accredited dental school. Graduates of such programs in other states are eligible to sit for the California examination if these have been approved by the Council on Dental Education.

Enforcement Program

The most common offenses leading to disciplinary action are improper use of narcotic drugs, serious intemperance, sex offenses, fraudulent claims to welfare and other agencies, and conviction of felonies. In the past year, there were seven cases which went through the hearing procedure and where licensees were found guilty. In these cases use is made of Hearing Officers, the Board sitting with them where matters of professional competence are involved.

There are many complaints and minor offenses dealt with short of formal proceedings; many relate to alleged excessive charges or unsatisfactory work. The Board takes the view that the former is not within their jurisdiction. Complaints of poor work are followed up by staff investigators and reported to the dentist who is asked to give his explanation. The staff then seeks to dispose of the matter by dismissing the complaint or by suggesting to the dentist that he take some corrective action. Normally these matters are settled expeditiously.

The Board makes use of the Division of Investigation on complaints regarding non-licensed persons and in investigating the background of candidates for the examination where the information suggests this would be desirable. Complaints of the practice of dentistry by persons who are not licensed are usually against dental technicians who undertake to make false teeth or to do other prosthetic work without involving a professional dentist.

Use is made by the Board of what is called a citation hearing. An illustration of this is in the promotion of "dental plans" where frequently salesmen go door to door selling such a plan which entitles the person to dental service at reduced prices. Normally these are promoted by lay persons, but in association with dentists. These may be legitimate, but they are apt to not be. The staff in these cases investigates and presents its findings to the Board. The Board may call in the dentists associated with the plan for questioning and then decide if disciplinary action is needed.

STATE BOARD OF DRY CLEANERS

Functions

The State Board of Dry Cleaners examines applicants and issues licenses and registration certificates for various types of establishments and employment in the dry cleaning industry. The business licensing program is mandatory, as is the registration of all operators.

Organization

The Board is comprised of seven members appointed by the Governor for four-year overlapping terms. Of the seven members two, by code requirement, must be owners of retail shops, two owners of retail cleaning plants, two owners of wholesale cleaning plants, and one the public representative. Each member must be a citizen of the United States and must have been actively engaged in his respective branch of the cleaning industry for at least five years immediately prior to appointment. The staff consists of an Executive Secretary and eight permanent employees plus some temporary and intermittent help.

Licensing and Registering Operators

The Board issues licenses in a multiplicity of different formats, broken down by the type of business or operation to be performed, e.g., clothes cleaning establishment, dye plant establishment, dry cleaning school, spotting and pressing shop, press shop, and fur, hat and leather renovator. Operator certificates are issued for each job category within a licensed establishment. An examination is given for each of 31 types of licenses or registration certificates. At least one owner, partner, or managing employee must qualify by examination and otherwise for an establishment license.

All examination applicants and licensees are required to be of good moral character. Anyone with convictions of felonies or other offenses may be approved by the Board and if not approved are entitled, upon written request, to a hearing under the Administrative Procedure Act. In addition to the good character requirement, applicants for an owner-operator, or operator certificate are required to have one year (or 1,800 hours) of practical experience, or 360 hours' training in an approved dry cleaning school—or a combination of the two.

Examinations are administered each month in Los Angeles and Oakland. Some consist of both a written portion and practical portion, others a written portion only. The Board owns dry cleaning equipment and rents the examination facilities.

Enforcement

The Board uses the services of the Division of Investigation and the State Fire Marshal. The latter is responsible for inspection of cleaning establishments for compliance with fire safety standards. These services are paid for from Board funds. Enforcement activities include inspections of establishments for observance of licensing code requirements and presence of excessive perchlorethylene fumes, restriction of unlicensed activity, and investigations of alleged or reported acts contrary to the good character requirements. Nearly 1,500 investigations were conducted in the year 1965–66, 13 administrative hearings were held, and 8 license suspensions or revocations effected.

BUREAU OF ELECTRONIC REPAIR DEALER REGISTRATION

Background

This is the latest licensing legislation enacted in the State, taking effect in 1963. It was enacted after five years of effort on the part of the industry. Support for the legislation was built up through substantial evidence of fraud on the part of electronic repair dealers, particularly in the repair of television sets.

Functions

The Bureau registers electronic equipment repair dealers and enforces provisions of law and regulations regarding the conduct of this business activity—related primarily to fraudulent practices.

Organization

There is an advisory board uniquely comprised of two industry and three public members. The board meets four to six times a year to advise and consult with the Bureau Chief on such matters as interpretation of the legislation, issuance of rules and regulations for industry observance, and enforcement policies. The Bureau Chief, responsible to the Director of the Department, directs all Bureau activities.

Dealer Registration

This is a dealer registration program involving no examination of competence in the field. Responsibility is placed on the dealer for his own actions and for the actions of all repair personnel in his employment. The purpose is to protect the public from misrepresentation and dishonest practices by requiring registration of dealers and granting authority to the State to suspend or revoke that registration or otherwise induce dealers to serve the public in an honest and ethical manner. This kind of a licensing program assumes that the laws of the market place will deal satisfactorily with the incompetent operator and with the one who simply charges too much. The control program is directed solely towards the dishonest or fraudulent parties. This is, of course, quite different from the theory underlying the licensing of professions.

Any person or company that wishes to engage in the business of electronic equipment repair (television, radio, and sound reproduction) may do so by filing an application with the Bureau and paying a $35 fee. On the application form he is asked only to identify himself, the type of business, address, name and titles of officers in the corporation or partnership, and the names and addresses of all persons in the business who will be engaged in repair work. Approval of the application and issuance of a certificate of registration are automatic. Fees from the 7,600 registered dealers are deposited in a special fund and cover the cost of the program.

Enforcement

The Bureau looks to the Division of Investigation for routine inspections of registrants. These are fairly simple inspections to assure that the shop is registered and observing the full disclosure requirements on invoices which require detail on the work performed for the customer, the new parts needed, the name of the repairman, and so on. The Division of Investigation personnel make these inspections routinely as they are inspecting other licensed establishments. Where they find violations, they will issue a notice of violation and perform the necessary follow-up.

The Bureau received more than 3,000 complaints in the past year, most of which come from private citizens who felt thay had, in some way, been cheated or dealt with unfairly. Others came by referral from better business bureaus or local police departments, and a few from competitors. These are reviewed by bureau staff and checked against the registrant's file

where a running record is maintained of complaints received against each registrant. Complaints are dealt with according to one of several procedures. In many, one of the three field representatives in the bureau—who are trained technicians—visit either the complainant or the dealer or both. If it is a fairly simple matter, he may recommend an adjustment which if accepted ends the case. If the complaint is one which indicates serious fraud or dishonest practice, the Bureau may proceed immediately to "run a set" through his shop. This simply means introducing a malfunction into an otherwise good set, and having someone take it to the dealer for repair. If, on return, the dealer claims to have done a number of things not needed, or claimed he put in parts which he did not, the Bureau proceeds immediately into a revocation procedure. In up to 90 per cent of these cases the dealer is found dishonest. The Administrative Procedures Act is followed, using a hearing officer whose decision is a recommendation to the Bureau Chief. Ordinarily this recommendation is followed, although there are cases in which the hearing officer's decision is believed too lenient. In these cases, the Bureau Chief asks for a complete transcript of the hearing, studies it, requests further argument from both sides, and then reaches a decision. In most cases, permanent revocation of the license is effected and, in many cases, the Bureau proceeds through the District Attorney with criminal charges. A number of dealers have been jailed.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Functions

The Board of Funeral Directors and Embalmers examines and grants licenses to Funeral Directors and Embalmers and supervises the administration of pre-need funeral trust funds.

Organization

The Board is comprised of six members appointed by the Governor for four-year overlapping terms. Five members must be licensees of the Board and the sixth a public member. The Board meets monthly. The staff consists of an Executive Secretary, two field representatives, and several office personnel.

Licensing

All funeral establishments must be operated under the supervision of a licensed funeral director. Funeral director licenses are granted to individuals to do business at a specific address. The prerequisites for a license are: age 21, good character, a passing examination score, and proof that the establishment in which the business is to be conducted is properly constructed.

All embalming must be performed by a licensed embalmer or by an apprentice under the supervision of a licensed embalmer. The prerequisites for licensure as an embalmer are: age 21, good moral character, completion of high school, a passing examination score, graduation from a nine-months embalming college approved by the Board, and two years of apprenticeship in California. Qualified embalmers from other states must serve one year of apprenticeship in California. Apprentice embalmers are not required to take an examination but they must be 18 years of age, of good moral character, and high school graduates, and must be employees of a funeral establishment approved by the Board.

The Funeral director and embalmer examinations are held twice a year concurrently in the San Francisco and Los Angeles areas, and in Sacramento on two different dates. Both examinations are composed by the Executive Secretary and approved by the Board. Funeral Directors are tested on their knowledge of the law and of the signs of death, whereas embalmers are also tested on their knowledge of embalming science. The embalming science questions are selected from a large number submitted to the Board by the two schools of embalming located in the State. More than 95% of the 300 candidates examined annually are successful. The application fee for funeral director is $35, embalmer, $25; license renewal fees are $100 for funeral director and $25 for embalmer.

License denial proceedings are conducted under the provisions of the Administrative Procedure Act.

Other Activities

The Board's two field representatives, both licensed activities of inspecting funeral establishments regularly for compliance with code provisions and Board regulations, approving establishments for the training of apprentice embalmers, and accrediting embalming schools—as noted above, there are only two such schools in California.

Enforcement

The Board's two field representatives, both licensed embalmers, make routine, unannounced inspections of all funeral establishments in the State. Establishments are inspected for sanitary conditions, misrepresentation in advertising, and possible solicitation of business. For minor violations the Board may schedule an informal hearing; more serious cases are heard under the provisions of the Administrative Procedure Act and may result in the suspension or revocation of a license. The more serious cases most frequently involve improper solicitation of business.

The Board makes limited use of the Division of Investigation, primarily for undercover work.

Pre-Need Funeral Trust Funds

The Legislature recently assigned the Board responsibility for regulation of the administration of pre-need funeral funds collected by funeral establishments under which funeral establishments are required to create a separate trust account for each client. The Board approves the trustees for these accounts and requires periodic accounting reports. The Board's field representatives examine pre-need trust fund accounts as a part of their routine inspections.

BUREAU OF FURNITURE AND BEDDING INSPECTION

Background

Efforts in California to regulate the furniture and bedding industry date back to a 1909 Act requiring a label on merchandise containing "used" filling material. In 1935 the Bureau of Furniture and Bedding Inspection was created in much its present form, the advisory board being added in 1955. In the last regular legislative session a bill to correct certain deficiencies in the enforcement program and to reconstitute the advisory board as a policy and decision making body passed both houses but was not approved by the Governor.

Functions

The Bureau licenses all individuals or firms engaged in the manufacture, processing, repair, or sale of upholstered furniture and bedding and those that sterilize used upholstery or bedding preparatory to resale. It directs a program of enforcing the provisions of the law in respect to labeling, materials used for filling, sanitary practices, and the like.

Organization

The Bureau operates as a regular unit of the Department of Professional and Vocational Standards and is headed by chief responsible to the Director of the Department. The advisory committee, comprised of six representatives of various branches of the industry and one public member—all appointed by the Governor—meets on a quarterly basis and considers matters referred to it by the Bureau Chief. These most commonly relate to the development of new standards and rules, legislative amendments, enforcement policies, and budget matters. Rarely do members of the committee initiate agenda items, but they participate significantly in the resolution of those matters referred to them.

A staff of twenty employees carries out the work of the Bureau, which includes operation of a modern materials testing laboratory. The services of the Division of Investigations are used extensively in the inspection program.

Licensing

The licensing is in no way related to determining competence to engage in the occupation or business. Although it has been contended that health hazards inherent in the use of certain materials justify the licensing, this as a practical matter is not a major problem. The requirements for sterilization of second-hand items or materials is a precautionary health measure. The major purpose of the licensing is to protect the public from mislabeling and deception. The legislation and the Bureau, through its regulations, set standards of tolerance in respect to the identification and labeling of filling materials. It also seeks to insure that the sizes and weights recorded on labels are accurate.

There are approximately 23,000 licensees in the several categories. Biennial fees are $20 for each retail outlet, $80 for renovation facilities, and $120 for wholesale and manufacturing establishments.

Inspectional Program

Division of Investigation personnel routinely inspect licensed establishments for compliance with the law and regulations. Labels and shipping documents are examined and samples of filling material taken, as judged necessary, for laboratory examination. Inspection reports are filed with the Bureau. The Bureau's laboratory is equipped to make a variety of tests of materials to determine composition of filling material, presence of foreign matter, and adherence to standards.

Disciplinary Activities

The policy of the Bureau has been to work with licensees and encourage compliance by the issuance of warnings and allowing self correction. They are, for example, frequently allowed to relabel merchandise. In most instances the investigator deals fully with a violation on the scene. In others, an enforcement letter is sent from the Bureau Chief to the licensee directing him to take certain kinds of action. Where violations are repeated or serious, a special investigation is made, the results of which are reviewed by the Bureau Chief, the evidence discussed with the staff of the Office of Attorney General, and an accusation prepared and a hearing held. The decision of the hearing officer is advisory to the Bureau Chief. Before he accepts, rejects, or modifies it, he may consult with legal counsel of the Department or the Attorney General. His decision is final, subject to appeal to the courts.

BOARD OF LANDSCAPE ARCHITECTS

Functions

The Board of Landscape Architects licenses and regulates the practice of landcape architects. Landscape Architecture is defined as the profession of preparing plans and specifications and supervising the execution of projects involving the arranging of land and the elements used thereon. The law does not require mandatory licensing of landscape architects; it merely requires a person who styles himself as a Landscape Architect to be licensed.

Organization

The Board is comprised of six members appointed by the Governor for four-year overlapping terms. Five members must be licensees of the Board of which two must be residents of Southern California and two of Northern California; the sixth is the public member. The Board is required by law to meet quarterly, but in carrying out the responsibilities vested in the Board it meets ten to twelve times per year. Staff is currently shared with three other licensing boards—Shorthand Reporters, Veterinarians, and Yacht Brokers.

Licensing

To list or advertise as a Landscape Architect a person must be licensed with the Board. The basic requirements for licensure are: age 21, six years of combined education and experience in landscape architecture, good moral character, and a passing grade in the landscape architect examination. A college degree in landscape architecture is deemed equivalent to four years of experience.

The three day (33½ hour) written examination, given twice a year, is composed and graded by the Board. Candidates who are successful on the written examination are required to pass an oral examination administered by the Board. Approximately one-third of the 125 candidates examined annually are successful. There are now 788 licenses in effect.

Enforcement

Enforcement activities are confined primarily to the restriction of unlicensed activity. The Board staff routinely reviews telephone book classified listings for improper advertising by unlicensed architects. Persistent violators are referrred to local district attorneys for prosecution. Disciplinary actions involving licensees are heard under the provisions of the Administrative Procedure Act. In fiscal year 1965–66 one such hearing occurred; 25 complaints were reported and 18 investigations ordered.

MARRIAGE, FAMILY, AND CHILD COUNSELOR LICENSING

Functions

The Marriage, Family, and Child Counselor Licensing Law was enacted by the Legislature in 1963 and became effective on the first of January, 1964. The act provides for mandatory licensing of anyone who advertises and engages in the business of offering a marriage, family, or child counseling service. Some counselors are exempted from this rule, e.g., employees of charitable organizations or ministers.

Organization

The act assigns general responsibility to the Director of Professional and Vocational Standards who in turn has contracted with the Board of Social Work Examiners to perform the licensing function. A 1965 amendment to the act provided that the Governor may appoint a five-member Advisory Committee on Marriage, Family, and Child Counselors. If the Governor elects to appoint such a committee—which he has not done—its membership must contain a psychologist, a registered social worker, a minister, and a sociologist, all licensees, plus one public member.

Licensing

To qualify for a license, an applicant must possess a master's degree in marriage counseling, social work, or a behavioral science, and have two years of pertinent experience. No examination is required. Candidates may be disqualified because of conviction of a felony or an offense involving moral turpitude and for addiction to alcohol or drugs. License denial proceedings for other than technical deficiencies are heard under the provisions of the Administrative Procedure Act. The application fee and the biennial renewal fee are $24.

Enforcement

Enforcement activities are limited for the most part to the restriction of unlicensed activity. Staff members check telephone directory classified listings for advertising by unlicensed counselors, who are then advised by letter of the license requirement. Persistent violators are referred to a local district attorney for prosecution — there has been only one such case to date with several others pending. According to departmental records, in fiscal year 1965–66 there were 16 complaints received which led to two investigations but no formal disciplinary proceedings.

BOARD OF MEDICAL EXAMINERS

Background

The regulation of medical practice in the State of California dates back to 1876. The classifications of licenses have changed from time to time as have the administrative arrangements for performing the licensing function. As will be noted below, several groups within the broad area of the healing arts are licensed by or somehow under the aegis of the Board of Medical Examiners. Others have their own licensing boards. Some groups formerly licensed — drugless practitioners, midwives, and naturopaths— no longer are.

Functions

The Board of Medical Examiners administers the laws relating to the practice of medicine and surgery, podiatry, dispensing opticians, physical therapy, and psychology through a program of licensing practitioners, approval of schools offering training in these professions, and supervision of licensees.

Organization

The Board is comprised of ten physicians, one public member, and (until the year 1971) one licensed M.D. representing the licensees formerly of the Board of Osteopathic Examiners. The Board meets in four regular annual sessions to conduct its normal business and hearings on disciplinary matters and two additional meetings each year for the conduct of examinations. Meetings are of 6 to 7 days duration largely because of the volume of disciplinary actions considered and hearings held in connection with these. Under the general jurisdiction of the Board are the following bodies which are prescribed by law:

1. *Podiatry Examining Committee* comprised of five licensed podiatrists appointed by the Governor on recommendation of the Board of Medical Examiners and one public member appointed by the Governor.

2. *Physical Therapy Examining Committee* comprised of one licensed M.D., three licensed physical therapists, and one public member, all appointed by the Governor.
3. *Psychology Examining Committee* comprised of seven certified psychologists and one public member appointed by the Governor.

These three bodies administer certain provisions of the law governing the licensing of the respective professions.

The staff of the Board, which provides facilitative services for the Board and the three listed committees, is under the immediate direction of the Executive Secretary and consists of approximately 20 administrative and office personnel.

Licensing of Physicians and Surgeons

Applicants for a license as a Physician and Surgeon must be graduates of an accredited medical college and pass a written examination. The Board recognizes colleges that have been accredited by the Association of American Medical Colleges and the Council of Medical Education and Hospitals of the American Medical Association. The written examination is prepared and administered by the Board. Provision is made for the licensing of applicants on the basis of reciprocity or endorsement either on the basis of a license issued by another state or on the basis of National Board Credentials—during the past year 2,200 such licenses were granted out of a total of approximately 2,700. Nearly 500 applicants took the State Board's examination; of these, more than 99 per cent of the graduates of California medical colleges and 83 per cent of the applicants trained in foreign colleges achieved passing grades.

Special requirements have been set for applicants from foreign colleges which include two years service satisfactory to the Board in a hospital or hospitals located in the United States and approved for the training of interns, one of the two years in a hospital within the State of California. Commissioned officers of the military establishment and the U.S. Public Health Service are licensed under special provisions of the law which give them a preferred status.

The Board's written examination is prepared by the Board members. One member is assigned each of the nine subject areas, personally, grading the section of the examination he constructed. Oral practical examinations are given out-of-state applicants seeking a license on the basis of reciprocity or endorsement if more than five years have lapsed since they took their written examination in another state or that of the National Board of Medical Examiners. All graduates of foreign medical schools must, in addition to the written examination, pass an oral and clinical examination at the completion of the required hospital service. These are conducted by two-man teams made up of members of the Board and Examination Commissioners who are M.D.'s retained by the Board for this purpose.

Podiatrists

Podiatrists are licensed by the Board of Medical Examiners, assisted by the aforementioned Examining Committee. The Committee receives and approves applications, prepares and conducts examinations, and recommends to the Board of Medical Examiners those persons to be granted licenses. The Board routinely concurs in the recommendations of the Committee. To apply for such a license, a person must have at least completed a two-year college course, which has included certain specified subjects, and been graduated from a four-year school of podiatry. There is one such school in the State of California. The examination is prepared, administered, and graded by Committee members and is given at the same time and place as the examinations for physicians and surgeons.

Prior to 1957, licensing of podiatrists was carried out directly by the Board of Medical Examiners, but in that year the Committee was created. The Association of Podiatrists had petitioned for a licensing board of their own; however, the Legislature responded by authorizing the Committee. There are now approximately 900 licenses.

Registered Physical Therapists

The Board of Medical Examiners has licensed "registered physical therapists" since 1953. To qualify for the examination, a person must have fulfilled one of several educational options, roughly the equivalent of a Bachelors Degree. The examination used is one developed by the American Physical Therapists' Association and Professional Examination Service of the American Public Health Association, with the California Board of Medical Examiners determining the passing grade. A registered physical therapist by law must work under the supervision and direction of a licensed physician and surgeon.

Licensed Physical Therapist

At the time the physical therapists sought licensing —in the year 1953—the members of the group could not reach agreement, particularly on the conditions under which they would be blanketed under the "grandfather" clause and on questions of supervision of their practice. This resulted in the two forms of licensing one—for *registered* physical therapists, noted above, and one for *licensed* physical therapists. In the latter case, an Examining Committee was established comprised of three physical therapists, one physician, and one public member. When the two bills were first introduced, both passed the Legislature and were vetoed by the Governor—in the following session both passed and both were approved. Although there are minor differences in the qualification standards, basically the same examination is given in both cases. There is a distinction between the two groups in terms of their practice in that the registered physical therapist must work under a licensed physician and surgeon whereas the licensed physical therapist may also work under a chiropractor or on his own. However, in the latter instance, the law states that he cannot diagnose. The licensed physical therapist group is on the

decline. The last examination given was in 1963 which was passed by one person and failed by a second, thus essentially all persons now entering the field are coming in as registered physical therapists. There is a current move to consolidate the two groups, and it is likely that legislation will be introduced in the next session to accomplish this. At the present time, there are approximately 2,500 registered physical therapists and 950 licensed physical therapists.

Psychologists

In 1957 the Psychologist Examining Committee was created by legislation, and although attached to the Board of Medical Examiners, was assigned the full range of functions normally exercised by an autonomous licensing board. Its being placed under the Board of Medical Examiners simply reflected a reluctance on the part of the Legislature to create new autonomous boards. The law contains clear language requiring the Board of Medical Examiners to act "at the direction of the committee" and there is nothing in the law that would appear to permit the Board of Medical Examiners to disapprove any action taken by the Committee.

Requirements for the examination include the possession of a Ph.D. in psychology or educational psychology, or training deemed equivalent by the Committee. The law further specifies the degree shall be from the University of California, Stanford, U.S.C., or another university having an equivalent program. The applicant must possess at least one year of supervised professional experience, as determined by the Committee. The examination is composed, administered, and graded by the members of the Committee, and includes an oral portion for which a verbatim transcript must be taken.

This is not a mandatory license; it simply prevents a person from using the title Certified Psychologist unless he possesses a license. There has been discussion of making licensing mandatory but this would pose difficult problems of defining precisely what constitutes the practice of psychology.

Registered Dispensing Opticians

The Board of Medical Examiners licenses registered dispensing opticians who, by legal definition, may fill prescriptions issued only by physicians and surgeons licensed by the Board of Medical Examiners—excluded from this group may be those working for or through optometrists. This is not conventional individual licensing, but rather a license to a person, partnership, or firm to do business at a particular location.

The requirements for registration include five years of actual experience in the fitting and adjusting any prescription lens or lenses and the submission of certificates issued by three physicians who specialize in the treatment of the eye, stating that the applicant is experienced, competent, has good character, and so on.

Drugless Practitioners

Drugless practitioners were licensed by the Board of Medical Examiners prior to the year 1946, at which time their licensing was discontinued. Since then licenses have been renewed but no new ones issued; the active group now numbers less than 60.

Midwives

Midwives are in the same category as drugless practioners, although at present there remain only three active licenses.

Other Activities

The following functions are also required of the Board under the provisions of the Medical Practice Act: approval of hospitals for the training of interns and residents; approval of hospitals for the treatment of narcotic addiction under the provisions of Section 11391 of the Health and Safety Code; and enforcement of certain provisions relating to mental illness of licentiates.

Enforcement Activities—Licensed Physicians

The Board learns of alleged improper or unlawful conduct of licensees through citizen of patient complaints, local medical societies, other licensees, and law enforcement agencies. Patient complaints most frequently relate to fees or questions of professional competence. Other commonly reported offenses involve improper use or prescription of narcotic and dangerous drugs, imtemperance, illegal abortions, and practicing medicine without a license.

Complaints of non-licensees practicing medicine when received by the Executive Secretary are screened and passed to the Division of Investigation. If sufficient evidence is found, the case is referred to the local District Attorney for prosecution. Alleged or reported violations of the law and regulations by licensed M.D.'s and other licentiates of the Board are similarly investigated with the Executive Secretary deciding—on the basis of the investigation report—those to be referred to the Attorney General for proceedings under the Administrative Procedure Act. In the past, if the Attorney General recommended that the case go to a hearing, the entire Board membership was polled by mail to decide if the case would be heard by a hearing officer, by the Board, or by a District Review Committee. By recent decision, the Board delegated this authority to the Secretary-Treasurer (a Board member) and the Executive Secretary.

The District Review Committees were created by 1965 legislation as a new approach to the exercise of discipline. Five Committees were established, each serving a defined geographic area, having as members five licensed M.D.'s appointed by the Governor from panels of candidates variously nominated by local medical societies, medical school deans, and the State Board. The Committees hear discipline cases assigned to them, sitting with a hearing officer, and make a proposed decision to the Board. The Board may accept the decision or order one of several types of re-hearings. The same legislation redefined and

somewhat expanded the licensee actions calling for disciplinary measures in the area of imcompetence and gross negligence. These types of cases—and others involving evaluation of professional performance—are generally heard by a Committee or the Board itself sitting with a hearing officer, rather than solely by the latter. In recent years the Board has been participating in perhaps 20 to 25 per cent of the hearings; the District Committees should assume some of this activity.

The 1965 legislation permits the Board to revoke a license for certain acts which formerly could be done only after a court conviction on criminal charges—as commission of any act involving moral turpitude, dishonesty, or corruption.

The number of disciplinary cases processed by the Board in the year 1965 which reached the hearing stage totaled 131, resulting in 24 revocations, 32 revocations stayed and the licensee placed on probation, 8 suspensions or other penalties, 1 dismissed, and 66 carried forward pending decision.

Enforcement—Other Licensed Groups

There is substatial similarity in the enforcement programs affecting all groups licensed by the Board of Medical Examiners for several reasons; the Board sets general policy, the same staff serves all groups, and since all function in the field of the healing arts the punishable offenses are much the same. The more frequent disciplinary actions deal with cases of intemperance, use of drugs, and providing services outside those authorized by law. Perhaps two or three disciplinary cases involving members of each of the other licensed groups are processed each year under the Administrative Procedure Act.

BOARD OF NURSING EDUCATION AND NURSE REGISTRATION

Functions

The Board of Nursing Education and Nurse Registration regulates professional nursing in California. In so doing, the Board accredits schools of nursing and approves programs of nursing education, licenses or registers professional nurses, and otherwise administers the Nursing Practice Act.

Organization

The Board is comprised of five registered professional nurses and one public member. Required by law to meet three times annually, the Board in practice meets at least twice that often in two or three day sessions. In addition to enacting rules and regulations and giving general guidance to the Executive Secretary, it acts on numerous specific matters such as accreditation of nursing schools, disciplinary matters, and applicant appeals. The staff of 33 includes 7 nursing education consultants who work closely with schools of nursing and office personnel engaged in licensing activities and the processing of disciplinary actions.

Accrediting Schools of Nursing

Within the State of California there are 65 accredited programs of nursing education within three general categories: (1) 15 schools offering the Baccalaureate Degree, (2) 18 programs within hospitals which give a Diploma in Nursing, and (3) 32 junior college programs leading to an Associate Degree. The Board sets standards as to faculty, facilities, and curriculum and maintains a continuing supervision of the schools following the granting of Certificates of Accreditation. The nursing education consultants conduct inspections, consult with school officials, and make recommendations to the Board. The Board acts upon all matters relating to granting or withdrawal of accreditation and approves changes in school directors and curriculum.

Licensing

A person must be licensed by the Board to engage in the practice of professional nursing. Primary requirements are graduation from an accredited school and successful completion of a written examination. Graduation from out-of-state schools is recognized provided those schools have programs equivalent to the minimums set for schools within California. The examination used is a national one developed by the National League for Nursing (State Board Test Pool Examination). Representatives of the Board participate in its preparation and the draft examination is reviewed and approved by the Board. In recent examinations approximately 10 per cent of the California nurse applicants have failed, compared with a national average of 15 or more per cent failure. Registered or professional nurses from out-of-state are licensed on a reciprocal basis without examination, subject to a documentary review of their educational background.

There are at present 122,500 licensed nurses. Of these an estimated 20 percent reside outside the State and roughly one-third are currently inactive (not working as nurses). The fee for examination and initial licensing is $20 with a biennial renewal fee of $6.

Enforcement

The Nursing Practice Act specifies a number of causes for disciplinary action including unprofessional conduct, incompetence, gross negligence, intemperance, narcotic or dangerous drug use or unauthorized handling, and engaging in the practice of medicine. Certain of these are not easily defined or detected. On receipt of a complaint or report of such alleged actions an investigation may be ordered by the Executive Secretary. The Division of Investigation service is used. If the Investigator's report gives evidence of need for disciplinary action, the normal procedure is referral by the Executive Secretary to the Attorney General and a hearing by the Office of Administrative Procedure. The proposed decision of the hearing officer is referred to the Board for mail vote and appropriate action is taken. Cases in which

incompetence is charged are heard by the Board sitting with the hearing officer.

The more common disciplinary actions are license suspension or revocation. When a license is revoked the licensee can apply to the board for reinstatement after one year; the Board in considering such a request may call the applicant before it or order a regular hearing. These cases occupy a significant portion of the Board's time. Suspensions are normally "stayed" and the nurse placed on probation—under the supervision of a committee comprised of two board members and a staff representative. In the year ending June, 1966 a total of 229 cases were investigated, of which 72 went to formal hearings and resulted in 12 suspensions and 38 revocations. Complaints of persons practicing professional nursing without a license are frequently received, but are often difficult to resolve because of the problem of definition as to what constitutes "professional" nursing.

STATE BOARD OF OPTOMETRY

Functions

The State Board of Optometry examines and grants licenses to optometrists and optometrist branch offices and generally regulates the practice of optometry.

Organization

The Board is comprised of six members appointed by the Governor for four-year overlapping terms. Five members must be practicing licensees of the Board and the sixth a public member. The Board meets five to seven times per year. The staff consists of the Executive Secretary and an office employee.

Licensing

An applicant for licensure is required to be 21 years of age, of good moral character, a high school graduate; and to have completed 60 semester units of collegiate work including certain required subjects and three years of instruction in an accredited school of optometry. Applicants with technically deficient applications or lacking the required educational preparation are so advised administratively and given an opportunity to present further information or request a hearing. When an applicant does not appear to satisfy the good character requirement, the application is denied and a hearing conducted in accordance with the Administrative Procedure Act.

The optometrist license examination, conducted once a year, is composed, administered, and graded by the Board and staff. Of about 100 candidates examined each year, approximately 90 per cent are successful. The test is divided into eight parts—five written and three practical. The professional members of the Board write questions for the written parts of the examination and determine what types of forms and instructions will be needed for both the written and practical parts. They also determine procedures to be followed in the administration of the examination and personally correct and grade examination papers. Candidates must achieve a passing score of 75 per cent on each part to pass the examination. Candidates who do not pass the entire examination are allowed conditional credit for those portions on which they received a score of 85 percent and need not retake these at the next examination.

There is no reciprocity for optometrists from other states. A number of states (not California) use a standardized examination composed by the National Board of Examiners in Optometry; the Board is now exploring the possibility of recognizing the results of this examination.

The law provides that any licensed optometrist, upon payment of an annual $15 registration fee, may operate a branch office in which he employs other licensed optometrists. Prior to October 1, 1959, there was no limit to the number of such branch offices but a legislative enactment at that time imposed a limit of one (in addition to the optometrist's prime place of business). A grandfather clause allowed continued operation of branch offices existing prior to this date.

The Board has an accreditation program for schools of optometry which includes periodic inspections of those within California. Outside-of-state schools are accredited through a study of course catalogs, course descriptions, and related materials. In approving the facilities of out-of-state schools, the Board accepts the accreditation of the Council on Optometric Education of the American Optometric Association.

Enforcement

The Board uses the services of the Division of Investigation. A large proportion of the complaints investigated deal with alleged improper advertising, among other allegations investigated are: unacceptable or immoral conduct, frauds and misrepresentations, inefficiency and incompetence, habitual intoxication, unlicensed practice, and aiding and abetting unlicensed practice. Many cases are resolved with what might be termed administrative warnings by the staff of the Board. It is felt that a formal warning could only result from a formal proceeding. Cases involving serious violations are referred to a formal administrative hearing; during the last three years there have been two suspensions and one revocation ordered. In addition, there have been two prosecutions and two convictions of unlicensed practice and five proceedings initiated by statements of issues, four of the latter having to do with the licensing of branch offices.

BOARD OF PHARMACY

Functions

The Board of Pharmacy licenses pharmacists and other individuals and establishments engaged in the manufacture and distribution of pharmaceuticals and carries out an extensive educational and enforcement program covering all aspects of the pharmaceutical industry.

Organization

The Board of Pharmacy is a policy and regulatory body comprised of seven registered pharmacists and one public member appointed by the Governor for four-year staggered terms. The staff includes an Executive Secretary who by Board ruling is a registered pharmacist and eleven inspectors, similarly registered. The inspectors are engaged in a continuing program of pharmacy inspections and the investigation of complaints or reports of alleged infractions of the law or Board regulations.

Licensing Activities

The Board licenses pharmacists and issues various permits or certificates for retail pharmacies; drug manufacturers and wholesalers; manufacturers, wholesalers, and retailers of prophylactics; retailers of hypnotic drugs; wholesalers and retailers of hypodermic syringes and needles; itinerant vendors; and general dealers.

The requirements for certification as a registered pharmacist include graduation from an approved college of pharmacy, one year of experience under the direct supervision of a registered pharmacist, good moral character and temperate habits, and successful completion of an examination. Applications are received and reviewed by the staff, a four-member credentials committee of the Board, and finally the Board itself. The examination is prepared and administered by the members of the Board and is given four times a year. It contains both performance and written sections. Of the 710 candidates examined in the year past, 545 passed. There are now approximately 12,000 licensees.

Code provisions and Board regulations relating to the several categories of permits and certificates are quite comprehensive in prescribing conditions and controls in connection with facilities, sanitation, security, and dispensing procedures, particularly as regards narcotic and dangerous drugs, poisons, hypodermic materials, and prophylactics. A retail pharmacy permit may, for example, be issued to any responsible person of good character, but a licensed pharmacist manager must be on duty in such an establishment at all times. A 1963 Act of the legislature provides that a physician may not own a pharmacy. (The Board is appealing a recent superior court decision that this restriction does not apply to a corporation owned by a group of physicians.)

As already noted, special licenses are issued for handling hypnotic drugs (e.g. sleeping pills), hypodermics, and prophylactics. A retail pharmacy license conveys the right to sell these items. The drug wholesaler license conveys the right to sell hypodermics, but not hypnotics or prophylactics. A "general dealer" license is issued to country grocery stores, which allows them to sell a few prepared drugs in addition to those sold by an ordinary grocery store. Itinerant vendors are licensed to sell non-prescription drugs door-to-door. There are no established qualification standards for this, other than good character, the purpose of the licensing being to know who is in the business and to impose needed controls over this activity.

The law prescribes that any drug manufactured or sold in California must be prepared under the supervision of a licensed pharmacist. The Board licenses manufacturers inside and outside of the State. After examination of such an applicant's qualifications, the Board may grant a Certificate of Exemption for a non-pharmacist to manufacture drugs.

Enforcement

The Board's inspectors make regular inspections of licensed pharmacies to assure compliance with code provisions and Board regulations and to provide informational-educational assistance to licensees. The services of the Division of Investigation are used in the investigation of alleged offenses of the type involving "street crimes." In fiscal year 1965–66 an estimated 1,200 complaints were received. Of these 408 were referred to the Division; 356 were investigated by Pharmacy Inspectors; the balance were otherwise disposed of; 175 formal warnings issued by Pharmacy Inspectors, and 32 administrative hearings held which resulted in 24 suspensions and 4 revocations. Among the more frequent offenses leading to formal disciplinary action are filling or refilling prescriptions without a physician's authorization, operation of a pharmacy without a registered pharmacist on duty, false advertising, and conviction of a felony or offense indicating bad character. The code prescribed numerous grounds for action, including narcotic act violations, gross negligence or incompetence, gross immorality, and unprofessional conduct.

The Board participates actively in the enforcement program—reviewing investigation reports, calling alleged offenders before it, issuing formal warnings, and acting on hearing officer recommendations.

BUREAU OF PRIVATE INVESTIGATORS AND ADJUSTERS

Background

Private detectives were licensed by the Board of Prison Directors prior to 1947 at which time this activity was transferred to the Department of Professional and Vocational Standards and placed in a bureau rather than under a licensing board.

Functions

The Bureau now licenses private investigators, private patrol operators, insurance adjusters, and repossessors. The primary purpose of the licensing is protection of the public from fraud and deception on the part of persons engaged in the investigative business.

Organization

There is no licensing board, advisory or otherwise. Because of the low volume of activity, a full-time bureau head has not been employed in recent years—at present the Executive Secretary of the Board of Chiropractic Examiners acts in that capacity, assisted by four office employees.

Licensing

Each person, partnership, or firm wishing to engage in the subject business or vocations must apply for and obtain a license. Only one person—the regulations say the individual in charge of a firm's activities—need qualify by meeting the special requirements and successfully passing the examination given by the Bureau. Other partners and officers must be identified and copies of their fingerprints submitted with the application. Employees who would be engaged in investigative assignments are required to register, but not to obtain a license. This applies only to regularly employed staff, defined as persons who work for at least 30 uninterrupted days. Further, persons who work exclusively for such employers as a law firm or an insurance company need not be either licensed or registered.

In the past the Bureau has engaged under contract an examinations testing firm to develop and administer examinations for the several categories on a quarterly basis. Bureau personnel did not see the examinations, before or after they were administered; the testing service simply provided the Bureau with a list of those who took the exam and the grades received. The next group of examinations to be given are being prepared by the Examinations Consultant of the Department of Professional and Vocational Standards (on loan from the State Personnel Board). A $25 fee is charged for the examination and a person may take it as many times as he wishes until he passes, paying —the reexamination fee is $10. It was reported that some have taken the examination as many as six or eight times. When the applicant is notified of the time and place of examination, he is given a packet of materials to study and an outline of the subject matter of the examination and the weight to be given each section. From 60 to 80 per cent successfully pass the examination. There is a requirement in the law that an applicant must have at least two years' prior qualifying experience for private investigator and insurance adjuster and one year for private patrol operator and repossessor.

The Bureau now licenses approximately 1,800 persons and firms.

Enforcement

Grounds for disciplinary action against a licensee or registrant include offenses involving dishonesty or fraud, impersonation of a law enforcement officer, refusal to render agreed-upon services or reports to a client, undue use of force, and other such actions.

The Bureau makes use of the Division of Investigation to verify complaints regarding licensees and registrants. The Bureau reviews investigative reports and takes whatever action judged appropriate, referring serious cases to the Attorney General for advice and possible action under the Administrative Procedure Act. In the year ending June 30, 1966, a total of 265 investigations were ordered; 12 hearings were conducted resulting in 4 revocations and 4 suspensions.

CERTIFIED SHORTHAND REPORTERS BOARD

Functions

The Certified Shorthand Reporters Board regulates the profession of shorthand reporter and certifies the competency of its practitioners. The law requires all courts to use certified reporters with the provision that an uncertified reporter may be used when no certified reporter is available.

Organization

The Board is comprised of five members appointed by the Governor and confirmed by the Senate for four-year overlapping terms. Two must be members of the State Bar and three must be persons who hold certificates issued by the Board with five years' experience as shorthand reporters. Staff is shared on a pro rata basis with three other licensing boards—Landscape Architects, Veterinarians, and Yacht Brokers.

Licensing

The prerequisites for certification are: age 21, U.S. citizenship (or declaration of intent), good moral character, high school education or equivalent, and one of several types of qualifying experience. Candidates are tested on their ability to receive and transcribe dictation as well as their knowledge of grammar, punctuation, and spelling. The full day examination is administered twice a year. The Board composes the practical portions of the examination and participates actively in the examination process. the English portions of the examination are composed and graded by an examination service. The examination fee is $25; the original certificate fee and the biennial renewal fee are $40.

All license applications are reviewed by the staff; questionable applications are referred to the Board. There is some question whether or not the provisions of the Administrative Procedure Act are applicable to the denial of an application by the Board. In practice, however, appeals from denied applicants are referred to an administrative hearing.

All but a few of the 450 candidates examined annually by the Board are stenotype operators. Approximately 40% of all candidates are successful in the examination.

Enforcement

The Board uses the services of the Division of Investigation. There are few disciplinary actions against licensees; the bulk of enforcement activity being directed toward the restriction of the word "certified" to qualified persons. Use of the word "certified" without having qualified is a misdemeanor and persistent violators are referred to local district attorneys for prosecution. Most revocations or suspensions result from violation of the good moral character requirement. Disciplinary proceedings are taken under the provisions of the Administrative Procedure Act. In fiscal year 1965–66 no such hearings took place.

BOARD OF SOCIAL WORK EXAMINERS

Functions

The Board of Social Work Examiners examines and grants certificates of registration to social workers. It is not a mandatory licensing program; the preponderance of practicing social workers do not meet the standards and thus are not registered with the Board. The certificate issued by the Board entitles a person to style himself a Registered Social Worker and to use the letters RSW in connection with his name, thus identifying himself to the public as having met the state-set standards.

Organization

The Board is comprised of seven members appointed by the Governor for four-year overlapping terms. At least two members must represent the public and the rest must be licensees of the Board with at least five years of social work experience. The law provides that the Executive Secretary appointed by the Board must also be a licensee of the Board.

Licensing

The law requires only that an applicant for certification be a U.S. citizen and pass the licensure examination. By regulation, the Board has further provided that an applicant must possess a master's degree in social work and have completed at least two years of graduate study.

Regular examinations are scheduled in most major cities of the State, twice per year. Special examinations are administered any place or time, inside or outside of the State, that three or more candidates wish to take the test. From 150 to 200 candidates are examined annually of which over 95 per cent are successful. The current examination was composed by a special committee in 1963. It is graded by the Board staff. Fees consist of a $10 application fee and a $10 annual renewal fee. There are approximately 3,400 licensees in the State at this time.

Enforcement

There is not active enforcement program in that very few complaints are received or offenses reported—none during fiscal year 1965–66. The law provides that a license may be revoked for moral turpitude, fraud, sedition, and other causes but the Board has no investigative program to uncover such actions. Any disciplinary actions which do arise as a result of citizen complaints must be heard under the provisions of the Administrative Procedure Act. One license has been revoked under this procedure during the last ten years.

STRUCTURAL PEST CONTROL BOARD

Functions

The Structural Pest Control Board licenses Structural Pest Control Operators and Field Representatives and regulates licensees in accordance with the governing code provisions.

Organization

The Board is comprised of six members, five of whom must be Board licensed operators and one a public representative. All are appointed by the Governor for four-year staggered terms. The Board appoints, with the approval of the Department Director, a registrar who heads a staff of 17 employees engaged in the processing of licenses and inspection reports.

Licensing

No person can engage in structural pest control work unless he is licensed by the Board, thus this is a mandatory licensing program prescribed by law. Several categories of licenses are issued, depending on the type of work to be performed. An applicant for an operators license must provide the Board with specific information concerning his business associates and place of business and, depending on the category of license, show two to four years' experience in pest control work. An examination is given covering pertinent laws and theories, practices, and techniques of pest control.

Applicants for Field Representative licenses must furnish, in addition to information on previous employment and experience, a statement from employers or others as to "honesty, truthfulness, and good reputation." As in the case of licensing operators an examination is given, covering much the same subject matter. Once licensed, a field representative must notify the Board of any changes in employment.

Examination material is developed by an "examinations commission" engaged for this purpose on an as-needed basis with the Board reviewing the material prior to its inclusion in the examination. The Cooperative Personnel Service of the State Personnel Board is hired to finally prepare and grade the examination booklets but the Board administers the examinations. In the year past 994 persons were tested, 345 of whom received passing grades. At present there are 1,200 operator and 1,540 field representative licenses.

Special Services

The Board receives and maintains reports of all structural pest inspections, copies of which are sold to the public—this is a well-used service.

Enforcement

The enforcement program is a relatively strict and comprehensive one. In the 1965–66 fiscal year, for example, there were 98 license suspensions and 19 revocations. Minor infractions are settled informally by the Board and major ones processed through the Office of Administrative Procedure with the Office of the Attorney General acting as counsel for the Board. The Board makes full use of the services of the Division of Investigations; in the past year it referred nearly 850 complaints for such investigation. The grounds for disciplinary action set forth in the code include all of those found in most licensing acts as well as failure of a licensee fully to

conform with the terms of contracts executed with clients, negligence, and misrepresentation.

In part because of code provisions relating to workmanship, prices, and performance according to contracts, the Board functions in the role of a conciliator in processing many complaints. In these cases the operator generally complies with suggestions to correct any deficiencies in his performance rather than face formal disciplinary proceedings.

Operators are required to post a $2,000 surety bond and to carry insurance in the minimum amount of $25,000 bodily injury and $25,000 property damage. After a license suspension, an operator must also post an additional bond of from $1,000 to $8,000, depending on the seriousness of the violation leading to the suspension.

BOARD OF EXAMINERS IN VETERINARY MEDICINE

Functions

The Board of Examiners in Veterinary Medicine examines and licenses qualified persons to practice veterinary medicine and regulates such practice. The Board is also charged with the inspection and registration of all premises where veterinary medicine is carried out.

Organization

The Board is comprised of six members appointed by the Governor for four-year overlapping terms. Five of the members must be veterinarians who have been residents of, and engaged in the practice of veterinary medicine in, California for at least five years prior to appointment. The sixth is a public member. No two members may reside in the same congressional district. Staff is shared on a pro rata basis with three other boards—Landscape Architects, Shorthand Reporters, and Ship and Yacht Brokers.

Licensing

The Board conducts semiannual examinations which include theoretical and practical sections. The former is part of a standard examination composed and graded by the Professional Examination Service, a division of the American Public Health Association. The two day practical portion of the test is prepared by the Board and administered and graded by the Board and staff. Some 200 candidates are examined each year, with approximately 80 per cent passing. There are now 2,642 licenses in effect. There is a $30 application fee and $35 license and biennial renewal fee.

To qualify for a veterinary license an applicant must demonstrate that he is of good moral character and be a graduate of a veterinary college recognized and approved by the Board. Application denial proceedings are conducted under the provisions of the Administrative Procedure Act, although the Board is not required by law to do so.

All veterinary premises must be registered with the Board, for which a fee of $10 is assessed.

Enforcement

Each of the 950 registered animal hospitals is inspected on an average of once per year, by personnel of the Division of Investigation. Inspectors typically examine sanitary conditions and the degree of compliance with code provisions and Board rules and regulations. As a result of infractions discovered during these inspections the Board may issue warnings or order a more intensive investigation. Infractions involve sanitary deficiencies, fraud, deceit, negligence, incompetence, drunkenness, the improper use of drugs and conduct reflecting unfavorably on the profession. Serious or repeated violations may result in the suspension or revocation of a license, after a hearing conducted under the provisions of the Administrative Procedure Act.

BOARD OF VOCATIONAL NURSE EXAMINERS

Functions

The Board of Vocational Nurse Examiners examines and licenses vocational nurses and psychiatric technicians. The duties of a psychiatric technician are similar to those of a vocational nurse, except that they specialize in the care of mentally ill and retarded patients.

Licensing of psychiatric technicians was instituted in 1959 and then suspended in 1963 due to a lack of funds to administer the program. The program was reactivated on a trial basis in 1965; in 1968 the Legislature will re-evaluate the financial condition of the program and determine whether it will be extended.

Organization

The Board is comprised of eleven members appointed by the Governor for four-year overlapping terms. Five members must be licensed vocational nurses, two certified psychiatric technicians, one physician and surgeon, one registered nurse with experience as a teacher or administrator, one hospital administrator, and one public school administrator. The vocational nurse staff consists of an Executive Secretary ($\frac{3}{4}$ time), an administrative assistant ($\frac{3}{4}$ time), two nursing education consultants, and five office personnel; the psychiatric staff consists of the Executive Secretary ($\frac{1}{4}$ time), administrative assistant ($\frac{1}{4}$ time), one nursing education consultant and one office worker. The Executive Secretary is required by law to be either a registered nurse or else a licensed vocational nurse.

Licensing

The requirements for licensure as a Licensed Vocational Nurse are: age 17, citizen of U.S. or declaration of intention, equivalent of a tenth grade education, good character, and completion of a 12-month accredited course in vocational nursing or the equivalent. The Board's interpretation of the latter requirement, until recently, limited candidates to graduation from same type of vocational nursing school. This year the Board adopted a policy that six and one-half years of paid nursing experience is qualifying. There has,

therefore, been a large increase in the number of applicants: 1,350 applications were accepted for the October, 1966 examination. In recent years the Board has examined from 1,500 to 2,000 candidates annually, the examination given at roughly four-month intervals. The application fee for the Licensed Vocational Nurse examination is $15. A candidate who fails the examination may take it twice more at a cost of $5 per test and after a third failure must take or repeat an accredited course before again being re-examined. The biennial license renewal fee is $15.

The requirements for licensure (certification) as a psychiatric technician are: age 19, citizen of U.S. or declaration of intention, equivalent of a twelfth-grade education, good character, and completion of a 12-month accredited course or the equivalent. In regard to the latter requirement, there are now no courses accredited by the Board. The staff training programs at several State mental hospitals are now under consideration for accreditation. The Board has set the equivalent to the required training course at two years' employment in a psychiatric nursing unit.

Both licensed vocational nurses and psychiatric technicians are required to take licensure examinations. The licensed vocational nurse examination is a standardized national test composed and graded by the American Nurses' Association and the National League for Nursing in cooperation with the various state licensing boards. Each state board establishes its own passing score. The examination is revised every two years. The failure percentage tends to decline from about 14 per cent when the test is first administered to 6 per cent the sixth time it is administered. The Board grants licenses to qualified candidates from other states without examination if they had attained a passing score on the national examination equal to that set for California applicants.

No standardized examination is available for psychiatric technicians because no other state has a psychiatric technician licensing program. When the Board began licensing psychiatric technicians in 1959, it adopted a variation of the State Department of Mental Hygiene's comprehensive examination for psychiatric technicians. The examination is now in need of revision. Because some of the Department of Mental Hygiene's training courses may shortly be accredited by the Board, it is no longer considered desirable to use examinations prepared by that institution. The failure rate for the current examination is three per cent. The psychiatric technician application and annual license renewal fees are both $10.

The Board is not required by law to conduct license denial proceedings under the provisions of the Administrative Procedure Act; in practice, however, denial proceedings involving the applicant's character are so conducted.

The Board is responsible for the accreditation of vocational nursing schools of which there are 65 in California—all associated with hospitals and other health agencies. Background work for accreditation is performed by the Board's two full-time nursing education consultants.

Enforcement

The Board uses the services of the Division of Investigation. A small percentage of enforcement work is devoted to restriction of the unlicensed use of the title Licensed Vocational Nurse. Most enforcement activity involves background investigations of licensees or applicants to determine compliance with the good character requirement. All disciplinary actions are conducted under the provision of the Administrative Procedure Act.

YACHT AND SHIP BROKERS COMMISSION

Functions

The Yacht and Ship Brokers Commission licenses and regulates brokers and salesmen who, for others, sell, purchase, rent, lease, charter, or negotiate loans on yachts or ships.

Organization

The Commission is comprised of five members appointed by the Governor for four-year overlapping terms. Four of the members must be persons who have for a period of not less than five years preceding the date of their appointment been actively engaged and licensed as yacht and ship brokers. The fifth is a public member. Staff is shared on a pro rata basis with three other licensing boards—Landscape Architects, Veterinarians, and Shorthand Reporters.

Licensing

The basic licenses issued by the Board are broker licenses, salesmen licenses, and broker branch office. The prerequisites for licensure as a broker are: age 21, good moral character, and one of several types of shipping or ship sales related experience. The qualifications for a salesman are: age 21 and good moral character. An application for a broker's license must be accompanied by two character references from yacht brokers or real estate brokers of the county in which the applicant resides. The Commission is not required by law to refer application denial appeals to an administrative hearing, but in practice does so.

Both brokers and salesmen are required to take examinations, composed by the Commission, which cover basic questions on the law of principle and agency, sales tax regulations, boating regulations, Yacht and Ship Brokers Act provisions, and marine terminology. Approximately 200 candidates per year are examined with an average of 65 per cent passing. There are now 680 outstanding broker, salesman, and branch office licenses. The examination fee for both broker and salesman is $15. The original license fees are: broker, $100; salesman, $25; and branch office $10; annual renewal fees are: broker, $25; salesman, $15; and branch office, $10.

Licensed salesmen must work for a licensed broker and a salesman's license is automatically cancelled when he leaves the employ of a broker. Through payment of a $5 fee a license may be reinstated under another broker.

Enforcement

Yacht and ship brokers are frequently required to act in a fiduciary capacity for their clients and thus are required to post a $2,500 surety bond with the Commission. Any person injured by the actions of a broker may bring action against this bond.

The Commission uses the services of the Division of Investigation. Enforcement work is divided about equally between licensed and unlicensed activities. Disciplinary actions are taken under the Administrative Procedure Act.

Two actions by the Commission against the surety in the last year resulted in $5,000 being distributed to members of the public who were financially harmed in their dealing with brokers, who subsequently surrendered their licenses.

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