

## FROM THE FLOOR

By Genevieve M. Clavreul, RN, Ph.D.

# While You Were Sleeping

*On Dec. 31, California's Board of Registered Nursing ceased to exist. Did anyone notice?*

The Board of Registered Nursing (BRN) was the government agency charged with protecting the public by administering and enforcing the Nursing Practice Act, the body of state laws regulating the education, licensure, practice and discipline of all registered nurses in California.

I use the past tense "was" because at midnight on Dec. 31, 2011, the BRN as we knew it ceased to exist. Even now, more than four months later, it has not yet been fully restored.

Thanks to the paucity of media coverage of this situation, you may be asking yourself what I'm talking about. How could the BRN cease to exist? Simple: by a stroke of the governor's pen. This is the story of what happened to the Board and what has (and has not) been done about it.

### The Sunset Review

Like most state agencies, the BRN must periodically undergo what is called a sunset review: an assessment of the continuing need for the agency to exist. The law that originally estab-

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lished the BRN calls for the Board to be automatically repealed (i.e., abolished) at the end of the sunset period unless new legislation is enacted to extend its operations. The purpose of the sunset review is to give legislators an opportunity to look closely at each agency and make any necessary

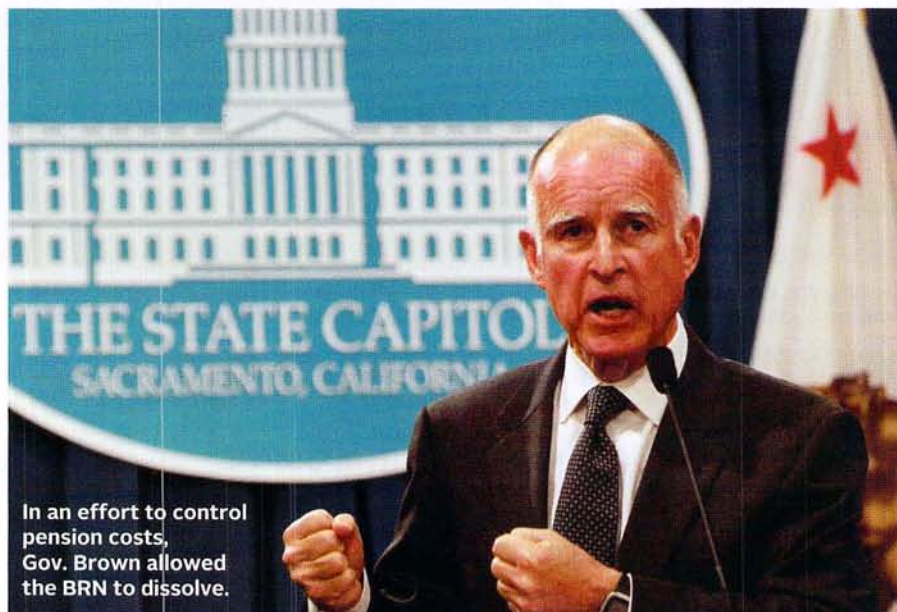
changes to its mission and approach.

The BRN completed a sunset review back in 2007 and was extended through Dec. 31, 2011. On Feb. 17, 2011, State Senator Curren Price introduced SB 538, a bill that would have extend-

ed the Board's existence for another four years. On Sept. 1, the State Assembly approved SB 538 by a vote of 52 to 25. Six days later, the State Senate approved the bill by a vote of 31 to 5, and SB 538 was placed on the governor's desk for signature.

On Oct. 9, Governor Jerry Brown vetoed SB 538 on the grounds that it contained "extraneous harmful provisions" that would have expanded pension benefits for certain BRN investigators, "[flying] in the face of much-needed pension reform." Gov. Brown asked the Legislature to submit a new bill to reconstitute the BRN after the expiration of the Board's current extension.

Needless to say, this turn of events caused much gnashing of teeth for Board members and support staff. Louise Bailey, RN, M.Ed., then the BRN's executive director, was quoted as saying that the Board had been unaware of the governor's concerns about the provision affecting the investigators. She added that the issue could have been easily fixed if the



Board had only known about it earlier.

The news of the veto hardly made a blip on the media radar, either in the mainstream press or in nursing-specific forums. Not only did the public fail to notice the imminent demise of the BRN, so, apparently, did a large majority of the more than 360,000 registered nurses licensed by the selfsame Board.

### **Memo of Understanding**

Following the veto, Sen. Price urged his fellow lawmakers to pass a revised extension bill, either in a special session or after returning from winter recess in January. Meanwhile, Board members and staff worked feverishly to devise a scheme that would allow the BRN to continue in some form.

After countless meetings with experts and officials from other agencies, the Board drafted a memorandum of understanding (MOU) calling for the administrative functions of the BRN to be temporarily folded into the Department of Consumer Affairs (DCA).

The impact of the veto and the proposed MOU were discussed at the Board's regular monthly meeting on Oct. 13. As a rule, these meetings are rarely standing room only, and this one was no exception. It seemed to me that there were a few more observers than usual, but the room was far from packed. "Where are all the RNs?" I wondered. I was sure that those of us in the room couldn't be the only ones concerned that the BRN would soon cease to exist. Where was the public outrage? Where was the concern?

While various speakers at the meeting (both RNs and non-RNs) spoke out in favor of the MOU, I testified that the Board should instead call the governor's bluff and force the Legislature to hold a special session so that the BRN could continue its work without interruption. After all, when the California Medical Board faced a similar peril several years earlier, legislators wasted no time in remedying the situation. Nonetheless, at the end of the meeting, Board members voted to

sign the MOU, although it was by no means a unanimous decision.

By December, it was clear that there would be no legislative special session and reconstituting the BRN would have to wait until the Legislature returned from its vacation in January. At 12:00 a.m. on Jan. 1, 2012, the nine current Board members were dismissed and the BRN became the California Registered Nursing Program, with Louise Bailey, RN, M.Ed., going from executive director to program manager.

### **Grassroots Efforts**

When the Legislature reconvened on Jan. 3, I began eagerly watching for any sign that the BRN would be made whole once again. I made numerous calls to nursing leaders and legislators' offices, but I was told something different in almost every conversation. Finally, I decided it was time for a more direct approach, so my daughter and I set off to Sacramento to get the real skinny on the BRN's future.

After a series of fact-finding meetings with legislators and their staffs, I called a few of my nursing colleagues to share what I had learned and discuss possible strategies. On the road home, my cohorts and I came up with a simple grassroots plan: we would organize our network of nurses to call their legislators and the governor's office and firmly but politely demand the prompt reestablishment of the BRN. We would also ask each of our contacts to urge their own colleagues and friends to do the same, hopefully helping to light a fire under the Legislature before its spring recess began on Apr. 14.

The California Legislature often appears to work at a snail's pace, but thankfully the same body can move swiftly when the need arises. On Feb. 2, both the Assembly and the Senate passed SB 98, a bill calling for the establishment of a new Board of Registered Nursing. The bill went to the governor that same day, although Gov. Brown did not sign it until Feb. 14.

**We had a few questions for Louise R. Bailey, MEd., RN, interim executive officer, Board of Registered Nursing. Here were her responses on April 6, 2012.**

***During the time the BRN has ceased to exist, what has been happening to the nurses whose licenses are suspended or under investigation?***

Those licenses that have been suspended remain suspended. Investigations have not been affected at all.

***Are nurses who are in violation allowed to continue practicing?***

Again, nothing has changed. If disciplinary action has been taken against a nurse and their license has been suspended or revoked, then no, they cannot practice.

***What does this mean for the nurses themselves and for patients?***

Nurses and patients have not been affected. The BRN continues its mission of public protection by investigating complaints, monitoring probationers and diversion program, overseeing approved RN programs, and issuing licenses and renewals to RNs.

***How does this impact nursing managers?***

It doesn't. The BRN continues to post all accusations against licensees on its website, and managers can still check the website to verify that a nurse's license is in good standing or whether an accusation has been filed. They can also read any accusations filed against a nurse.

## Starting Over

Although the governor has now signed legislation reconstituting the BRN, the new Board does not yet exist. The governor must still appoint seven of the nine new members (which must include five registered nurses), while the Speaker of the Assembly and the Senate Committee on Rules must appoint the remaining two. Erin Niemela was appointed by the Senate Rules Committee on March 1, 2012. While it's quite possible that the governor has already made his choices, no names have yet been announced on the official BRN website.

The lengthy delay caused by the initial veto has seriously hamstrung the BRN's ongoing work, which ranges from disciplinary action for RNs to the accreditation of new nursing programs. With so much time already lost, I don't think we can afford to let state leaders drag their feet on making these vital appointments.

The upside is that this may be a perfect opportunity for qualified RNs and members of the public to throw their hats into the ring. If you or someone you know would be a good fit for one of the nine seats on the new Board, you can find an application form on the governor's website.

I don't know how much influence our little grassroots effort really had on the passage of SB 98, but I'd like to think we played a small but important role in resuscitating the BRN. In any case, this near-debacle is an important reminder that our advocacy efforts shouldn't be limited to our own patients or the policies that impact us directly. Larger actions (or inaction) affecting the regulatory agencies that oversee our profession can have far-reaching consequences for every nurse in California. It's crucial that we stay informed and involved. **WN**

## ONLINE RESOURCES

Make it easy on yourself! Quick links can be found by searching this article at [WorkingNurse.com](http://WorkingNurse.com).

- The official Board of Registered Nursing website: [www.rn.ca.gov](http://www.rn.ca.gov)
- The application form for new gubernatorial appointments: [gov.ca.gov/s\\_appointmentsapplication.php](http://gov.ca.gov/s_appointmentsapplication.php)
- The Board's memorandum of understanding with the Department of Consumer Affairs and related correspondence: [www.rn.ca.gov/whatsnew.shtml#sunset](http://www.rn.ca.gov/whatsnew.shtml#sunset)
- A summary of SB 538, the sunset extension bill vetoed by Gov. Brown in Oct. 2011: [www.aroundthecapitol.com/Bills/SB\\_538/20112012](http://www.aroundthecapitol.com/Bills/SB_538/20112012)
- The text of the governor's veto message regarding SB 538: [gov.ca.gov/news.php?id=17275](http://gov.ca.gov/news.php?id=17275)
- A summary of SB 98, which reestablished the BRN: [www.aroundthecapitol.com/Bills/SB\\_98/20112012](http://www.aroundthecapitol.com/Bills/SB_98/20112012)



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## Healthcare Reform April Update

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### The Back Story

On March 23, 2010, President Obama signed the Patient Protection and Affordable Care Act (ACA), a sweeping package of provisions we know as "healthcare reform." The new law goes into effect over the next three years, with most changes taking place in 2014. Stay tuned as we guide working nurses through the twists and turns, and provide an answer to the question, "What's going on with healthcare reform?"

### Supreme Court Holds Hearings

From March 26-28, the Supreme Court held six hours of oral arguments on the Patient Protection and Affordable Care Act (PPACA), often referred to as "Obamacare." These much anticipated and historic hearings brought a swell of supporters and protestors alike to Washington D.C.

Pundits, politicians, and the public-at-large all took turns parsing the various questions posed by the Justices and the responses from attorneys from both sides. In the end, the decision rests with the nine Supreme Court justices, who are expected to rule on the constitutionality of the PPACA in June.

This link provided by the Supreme Court ([www.supremecourt.gov/docket/PPACA.aspx](http://www.supremecourt.gov/docket/PPACA.aspx)) provides a comprehensive look at the hearings as they occurred, along with various documents related to the case.

### California Forges Ahead

Governor Brown has announced that regardless of whether the PPACA is upheld or struck down by the Supreme Court, California is poised to move forward with implementation of its own affordable care act plan. More on this as it develops. **WN**