



The public comment period ended on January 19; no public hearing was scheduled. The Board was expected to vote on the proposed changes to section 1021 at its January 22 meeting.

Other BDE Rulemaking. At its November 13 meeting, BDE adopted three separate rulemaking proposals which are currently being reviewed by the Department of Consumer Affairs prior to submission to the Office of Administrative Law. The Board approved a proposed change to section 1043.2(b), Division 10, Title 16 of the CCR, to permit those dentists who have completed a course which meets the 1982 Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry of the American Dental Association to be conscious sedation evaluators. The Board also adopted an amendment to section 1017(d), Division 10, Title 16 of the CCR, clarifying the continuing education waiver for disabled licensees. Finally, BDE adopted sections 1023-1023.8, Division 10, Title 16 of the CCR, implementing SB 650 (Alquist) (Chapter 521, Statutes of 1991), which authorizes the Board to conduct inspections of dental offices and issue citations, orders of abatement, and administrative fines for violations of the Dental Practice Act or any regulation adopted by BDE pursuant to that law. [12:4 CRLR 74-75]

RECENT MEETINGS

At its November 13 meeting, BDE officially welcomed public member Virtual Murrell to the Board. Dr. Jean Savage then presented BDE member Gloria Valde with a plaque in recognition of her outstanding efforts in the difficult task of filling in for former BDE President James Dawson, DDS, upon his untimely death. [12:4 CRLR 76]

Also at the November 13 meeting, the Board resolved to reduce licensing fees for dental auxiliaries. Business and Professions Code section 1725 authorizes BDE to set dental auxiliary fees by resolution. The fees were increased by resolution on January 25, 1991, when COMDA's reserve fund had been almost depleted. Because the fund is once again healthy, BDE agreed that it is appropriate to reduce fees in order to avoid excessive reserves which might be captured by the state.

In addition, the Board discussed developing a protocol outlining procedures for dealing with candidates observed cheating on the written portion of the dental licensure exam. Although the Board has procedures for handling violations during the clinical portion of the exam, there currently exists no protocol for addressing violations on the written portion of the

examination. The matter was tabled until January to allow the Board to consider the most appropriate procedure for disciplining violators while at the same time causing the least amount of disruption to other candidates.

FUTURE MEETINGS

May 6-7 in Los Angeles.
July 8-9 in San Francisco.
September 9-10 in Los Angeles.
November 18-19 in San Francisco.

BUREAU OF ELECTRONIC AND APPLIANCE REPAIR

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The Bureau of Electronic and Appliance Repair (BEAR) was created by legislative act in 1963. It registers service dealers who repair major home appliances, electronic equipment, cellular telephones, photocopiers, facsimile machines, and equipment used or sold for home office use. BEAR is authorized under Business and Professions Code section 9800 *et seq.*; its regulations are located in Division 27, Title 16 of the California Code of Regulations (CCR).

The Electronic and Appliance Repair Dealer Registration Law requires service dealers to provide an accurate written estimate for parts and labor, provide a claim receipt when accepting equipment for repair, return replaced parts, and furnish an itemized invoice describing all labor performed and parts installed.

The Bureau inspects service dealer locations to ensure compliance with BEAR's enabling act and regulations. It also receives, investigates, and resolves consumer complaints. If an investigation reveals an unregistered person engaged in activity for which BEAR registration is required, the Bureau is authorized to impose a fine not less than \$250 and not more than \$1,000. Grounds for revocation or denial of registration include false or misleading advertising, false promises likely to induce a customer to authorize repair, fraudulent or dishonest dealings, any willful departure from or disregard of accepted trade standards for good and workmanlike repair, and negligent or incompetent repair.

BEAR's Advisory Board was eliminated as of January 1 by ABX 66 (Vasconcellos) (Chapter 21X, Statutes of 1992). [12:4 CRLR 78]

MAJOR PROJECTS

BEAR Reviews Service Contract Summit Meeting and Submits Proposals to Governor. On November 6, BEAR held its first post-Advisory Board public meeting and reviewed the key points reached at BEAR's September 24 informational meeting on potential service contract legislation; the purpose of the September meeting was to determine whether and what kind of legislation is needed to protect consumers from losing the value of their service contracts when the responsible party is unable to perform its agreement to provide promised service during the life of the contract. The invitees at the September meeting included representatives of businesses involved in the administration, sale, or servicing of service contracts, professional associations, and public interest groups such as the Center for Public Interest Law and Consumer Action. [12:4 CRLR 77] According to BEAR Chief Marty Keller, the September "summit meeting" reaffirmed participants' support for a registration program initially presented at BEAR's February 1992 meeting, under which all service contract administrators and sellers would be required to register with BEAR. [12:2&3 CRLR 84] After much discussion at the summit meeting, the participants reached consensus to support legislation on two other key points: (1) all third-party administered contracts must be backed by insurance underwritten by a California-registered insurance company, and (2) all contracts sold directly must carry disclosure language notifying the consumer as to who bears the financial responsibility for carrying out the contract's provisions. At the close of the summit meeting, Keller appointed a committee to further review and refine the proposed legislative language.

On November 6, Keller noted that the major retailers have proposed a change which would require BEAR to implement disciplinary action short of revocation before action on revocation itself could be initiated; this proposed change is currently being reviewed by the Department of Consumer Affairs (DCA). At this writing, the original service contract proposals are being reviewed by the Governor's office; in the event the administration declines to approve the concept, industry interests have indicated that they may still pursue the legislation without BEAR's assistance.

BEAR Taking Active Role in Implementing SB 2044. Along with DCA's Bureau of Home Furnishings and Thermal Insulation and Tax Preparer Program, BEAR is participating in a pilot project to



implement the infraction authority granted to DCA's boards and bureaus by SB 2044 (Boatwright) (Chapter 1135, Statutes of 1992). [12:4 CRLR 78] Currently, a BEAR field representative is undergoing training in cooperation with DCA's Division of Investigation on legal and practical matters involved in issuing citations. Also, the three bureaus have created an Unregistered Activity Unit to monitor yellow pages and other public information sources in an effort to uncover possible unregistered activity to be targeted for infraction sanctions.

BEAR is also attempting to implement provisions of SB 2044 which provide that if, upon investigation, BEAR has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by the Bureau to offer or perform those services, the Bureau may notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertisement. According to BEAR Chief Keller, DCA is working with officials of the Public Utilities Commission to implement this authority.

Additionally, Keller reports that Bureau staff is attempting to communicate with firms which are now required to register with BEAR as a result of provisions of SB 2044 which expanded BEAR's scope of authority to include service dealers who repair cellular telephones, facsimile machines, photocopiers, and equipment used or sold for home office use.

BEAR Chief Leads Effort to Streamline DCA. As vice-chair of a steering committee appointed by DCA Director Jim Conran, Bureau Chief Keller is attempting to identify redundancies in DCA agencies' operations which could be eliminated or consolidated so that the agencies' limited resources would be redirected to enforcement and consumer protection activities. The steering committee is directing the work of five task forces which are investigating the following activity areas for possible efficiencies: complaint intake; complaint mediation; administration; enforcement; and applicant tracking/licensing. According to Keller, a number of possible efficiencies have been identified, such as consolidating the unregistered activity enforcement of various bureaus and/or agencies (*see supra*).

Keller is receptive to public comments and criticisms aimed at improving the operations of BEAR and DCA. According to Keller, DCA believes that "public involvement is a critical and irreplaceable element in carrying out its mission to protect and

empower the consumer while maintaining a fair and competitive marketplace."

Personnel Changes. BEAR Deputy Chief Curt Augustine is expected to return to the Bureau in February after serving ten months on special assignments. Other personnel changes include the retirement of longtime Program Manager George Busman on December 30; Richard Kuepper, BEAR's southern California Field Representative, was appointed to succeed him as of January 4.

RECENT MEETINGS

On November 6, BEAR staff sponsored a post-Advisory Board public meeting; the keynote speech at that meeting was presented by Fay Wood, the last president of the Advisory Board. Wood noted the success of the Board in maintaining two-way communication between the Bureau and the public on behalf of the consumer. Along with all the former Board members in attendance, Wood pledged to continue to be available to the Bureau for project work in whatever capacity the Chief may request.

FUTURE MEETINGS

According to BEAR Chief Keller, Bureau staff will conduct three public meetings per year in order to generate industry and public comments on key issues. Currently scheduled are a May 21 meeting in San Diego and a November 5 meeting in Los Angeles.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

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The Board of Funeral Directors and Embalmers licenses funeral establishments and embalmers. It registers apprentice embalmers and approves funeral establishments for apprenticeship training. The Board annually accredits embalming schools and administers licensing examinations. The Board inspects the physical and sanitary conditions in funeral establishments, enforces price disclosure laws, and approves changes in business name or location. The Board also audits preneed funeral trust accounts maintained by its licensees, which is statutorily mandated prior to transfer or cancellation of a license. Finally, the Board investigates, mediates, and resolves consumer complaints.

The Board is authorized under Business and Professions Code section 7600 *et*

seq. The Board consists of five members: two Board licensees and three public members. In carrying out its primary responsibilities, the Board is empowered to adopt and enforce reasonably necessary rules and regulations; these regulations are codified in Division 12, Title 16 of the California Code of Regulations (CCR).

MAJOR PROJECTS

Rulemaking Update. On November 13, Office of Administrative Law approved the Board's adoption of section 1240 *et seq.*, Title 16 of the CCR. The new regulations establish a system for the issuance of citations and orders of abatement, set forth a range of fines for violations by funeral directors and embalmers of the Funeral Directors and Embalmers Law and the regulations adopted by the Board, and provide for an appeal process. The regulations also establish a system for the issuance of citations to nonlicensees who illegally engage in activity for which a license is required. [12:4 CRLR 79]

Board Considers CFDA's Requests for Clarification. By letter of October 27, the California Funeral Directors Association (CFDA) presented the Board with several questions regarding statutory interpretation of various provisions added to the Business and Professions Code by AB 3746 (Speier) (Chapter 797, Statutes of 1992); CFDA requested that the Board's clarification of the questions be set forth in regulation form. In response, the Board considered the questions and proposed regulatory responses at its November 23 meeting.

CFDA's first three questions concerned interpretations of Business and Professions Code sections 7685 and 7685.1. Section 7685 states that a funeral director shall provide to any person, upon beginning discussion of prices or of the funeral goods and services offered, a written statement or list which, at a minimum, specifically identifies a particular casket or casket by price and by thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements under federal regulations, when a request for specific information on a casket or caskets is made in person by any individual. Section 7685.1(a) requires funeral directors to place the price on each casket in a conspicuous manner; individual price tags on caskets must include the thickness of metal, or type of wood, or other construction, as applicable, in addition to interior and color information. CFDA's concerns regarding these sections are whether the term "provide" as used in section 7685 means give to the consumer for retention; whether