



plan should be finalized by the middle of 1991.

RECENT MEETINGS:

At its November meeting, the Board unanimously agreed to pursue an amendment to section 1017(d) of its regulations, as it relates to disabled licensees. Section 1017(d) currently provides that a licentiate who has not practiced in California for more than one year because the licentiate is disabled need not comply with specified continuing education requirements during the renewal period within which such disability falls. BDE proposes to amend this provision by requiring that each such licentiate provide documentation from a licensed physician that the licentiate has a disability which would not permit compliance with the continuing education requirements during the current renewal period.

FUTURE MEETINGS:

March 15-16 in Los Angeles.
May 10-11 in San Diego.
July 12-13 in San Francisco.

BUREAU OF ELECTRONIC AND APPLIANCE REPAIR

Chief: Jack Hayes
(916) 445-4751

The Bureau of Electronic and Appliance Repair (BEAR) was created by legislative act in 1963. It registers service dealers who repair major home appliances and electronic equipment. BEAR is authorized under Business and Professions Code section 9800 *et seq.*; BEAR's regulations are located in Division 27, Title 16 of the California Code of Regulations (CCR).

Grounds for denial or revocation 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. The Electronic and Appliance Repair Dealers Act also 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 continually inspects service dealer locations to ensure compliance with the Electronic and Appliance Repair Dealers Registration Law and

regulations. It also receives, investigates and resolves consumer complaints.

The Bureau is assisted by an Advisory Board comprised of two representatives of the appliance industry, two representatives of the electronic industry, and five public representatives, all appointed for four-year terms. Of the five public members, three are appointed by the Governor, one by the Speaker of the Assembly, and one by the Senate President pro Tempore.

MAJOR PROJECTS:

Proposed Rulemaking. BEAR's proposed rulemaking package, consisting of modifications and additions to twelve sections of Division 27, Title 16 of the CCR, has undergone an additional revision. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 73; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 87-88 for detailed background information.) During October, the proposed amendment to section 2736 was modified to ensure that when a mandatory 30-day labor and 90-day parts guarantee on a repair is implied due to the service dealer's failure to clearly disclaim a guarantee on the invoice, it does not modify or cancel any guarantees provided by the manufacturer on products or parts, and does not modify any applicable service contract provisions.

The Bureau distributed the modified language and reopened the public comment period for an additional fifteen days; it received no additional comments. BEAR then submitted the entire package to the Office of Administrative Law (OAL) for approval; at this writing, BEAR is awaiting OAL's response.

Phone Disconnect Legislation Rejected by DCA. During the fall, BEAR Program Manager George Busman drafted proposed legislation that would grant the Bureau authority to request the disconnection of telephone service to unregistered electronic and appliance repair businesses. Currently, such action requires BEAR to obtain a court order, which, according to BEAR, is expensive and time-consuming. The proposal was similar to current law applicable to the Contractors State License Board, which allows that board to make such a request directly to the Public Utilities Commission, after providing appropriate notice and an opportunity to be heard to the alleged offender. The justification for the proposal was to bolster BEAR's law enforcement activity and to protect consumers. However, the Department of Consumer Affairs subsequently informed BEAR that it would not endorse or sponsor such legislation.

LEGISLATION:

Anticipated Legislation. Currently, all BEAR registrations must be renewed at the end of the state's fiscal year (June 30). Under a cyclical renewal system, a registration would be renewed every year on the date of original issuance. The benefit of such a system is a more efficiently distributed workload for the Bureau. BEAR's legal counsel determined that the general provisions of the Business and Professions Code may allow implementation of cyclical renewal (via rulemaking) without seeking new legislation; however, the possibility of future legislation to effectuate such a change has not been foreclosed.

According to Bureau Chief Jack Hayes, Senator Herschel Rosenthal has promised to reintroduce legislation on service contracts in the coming year. Last year, Senator Rosenthal sponsored SB 2086, which would have required service contracts to contain, or have set forth in a related document, specified information relating to the total cost and terms of payment of the service contract, and protection of the buyer from loss in the event of the seller's bankruptcy. The bill died in the Assembly Committee on Governmental Efficiency and Consumer Protection. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 74 for background information.)

At the November 9 Advisory Board meeting, Assistant Chief Gordon Boranian noted that in the previous legislative session, not a single bill aimed at restricting the production, use, distribution, or sale of chlorofluorocarbons became law. (See CRLR Vol. 10, No. 4 (Fall 1990) pp. 73-74 for background information.) According to Mr. Boranian, BEAR anticipates that a number of bills addressing this issue will be introduced in the current legislative session.

RECENT MEETINGS:

At the October 11 meeting of BEAR's Executive Committee, Advisory Board public member Glenn Shoemaker reported that Pacific Gas and Electric Company (PG&E) in San Francisco has tentatively agreed to include basic information about BEAR in a newsletter which it encloses with its monthly bills sent to over four million customers. Assistant Chief Gordon Boranian subsequently reported at the November 9 Advisory Board meeting that BEAR will supply information to PG&E, which will write the newsletter article. BEAR will then review the article and resubmit it to PG&E for publication. Mr. Shoemaker stated that BEAR may need additional assistance in its efforts to disseminate consumer-related



information through the major public utilities in southern California.

Also at the October 11 Executive Committee meeting, Bureau Chief Jack Hayes indicated that the recently-published statement in GTE's yellow pages, which directs consumers to contact BEAR for registration requirement information, has been effective as a method of consumer outreach. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 74 for background information.) The statement appears at the beginning of each of the various headings where a consumer would find a business activity requiring BEAR registration. To determine the success of each of BEAR's efforts to increase public awareness, the Executive Committee suggested that, in the future, consumers who call the Bureau should be asked how they received information about BEAR.

At the November 9 meeting of the Bureau's Advisory Board, Mr. Boranian provided an update on toxic parts. He noted that BEAR has not located a definitive study on toxic parts yet, but is continuing its search for relevant reports or studies. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 74 for background information.) Currently, BEAR is gathering information on the shipment of toxic waste out of the United States to Taiwan for disposal or recycling, a practice in which many American companies are allegedly engaged. In addition, Mr. Boranian reported that he raised the issue of toxic parts at a meeting he attended with officials from Japan. He asked the officials, some of whom represent major electronic manufacturers, to look into the matter and relay any relevant information to BEAR. Finally, information is being gathered on recent federal legislation regarding lead and tin ratios in solder.

Also at the November 9 meeting, BEAR's Advisory Board once again discussed several issues relating to service contracts. Service contracts allow consumers to purchase extended warranty coverage for appliances and home electronic equipment, and are often sold by companies in the exclusive business of selling service contracts. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 74 for background information.) The Advisory Board suggested that an effort be made to educate consumers and service dealers regarding service contracts due to the steady stream of problems which have arisen. For example, BEAR staff noted that some service contract companies refuse to pay certain service dealer charges following repairs made under

the contract. As a result, some service dealers have decided to charge the consumer "up front" on a repair under a service contract to protect against "no-pay" or "slow-pay" from the administrator. Staff cautioned that, under such circumstances, the consumer must be apprised of the charges in writing and dealers must not violate the contract's estimate provision and applicable regulations. BEAR's legal counsel, offering a preliminary opinion on the legality of the service dealer action, stated that the terms of the contract between the consumer and administrator and the agreement between the administrator and service dealer would control. If the service contract is silent as to which party is responsible for payment, the consumer would have a legitimate claim that the service dealer action is in violation of the contract.

Board President Fay Wood emphasized that the Board cannot effectively address service contract payment problems, or any other problems arising with the sale and administration of service contracts, without consumer and service dealer input. The Board suggested that a brochure and letter be distributed by BEAR, requesting service dealers to provide consumers with complaint forms to be submitted to the Bureau when disagreements over service contracts arise, and that the Bureau's complaint form and fact sheet be published in the California State Electronics Association's magazine, *Service Dealer*. Mr. Hayes stated that he would write a guest editorial to the magazine highlighting the problem to all member dealers.

FUTURE MEETINGS:

May 17 in the San Diego/Palm Springs area.

August 16 in the Seaside/Monterey area.

November 22 in Long Beach.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Executive Officer: James B. Allen
(916) 445-2413

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:

Proposed Regulatory Changes. The Board has decided not to pursue its earlier proposed amendments to section 1262, Division 12, Title 16 of the CCR. As originally introduced in early 1990, the amendment would have prohibited the practice of "constructive delivery" of merchandise purchased under a preneed trust arrangement. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 89; Vol. 10, No. 1 (Winter 1990) pp. 68-69; and Vol. 9, No. 4 (Fall 1989) p. 57 for extensive background information.)

On December 7, the Board noticed its intent to amend section 1257 and add new section 1259 to its regulations. Section 1257 would be amended to provide for an increase in various licensing fees of embalmers and funeral directors. For example, under the proposed amendments, the application fee for a funeral director's license would be increased from \$150 to \$400, and the application fee for an embalmer's license would be increased from \$50 to \$150. New section 1259 would convert the Board's present annual license renewal schedule to an anniversary date or cyclical renewal schedule. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 75 for background information.) The Board was scheduled to hold a public hearing on these proposed regulatory changes on January 24.

Consumer Guide. The Board has completed its final revisions to a general information booklet for consumers regarding funeral services and cemeteries. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer) p. 91 and Vol. 10, No. 1 (Winter 1990) p. 70 for background information.) Although the Board approved the printing of 5,000 copies of the guide, it has insufficient funds in its current budget to cover the cost of the printing. Therefore, the guide is not