



## REGULATORY AGENCY ACTION

The Bureau is also charged with the registration of dry cleaning plants throughout the state. The registration process includes submission of information regarding the plant's onsite storage, treatment, and disposal of toxic wastes. The Bureau, however, has no enforcement authority regarding this function.

The Bureau is assisted by a thirteen-member Advisory Board consisting of seven public members and six industry representatives.

### MAJOR PROJECTS:

**Furniture Flammability Standards.** After receiving public comments on proposed regulatory changes to sections 1374 and 1374.3, Title 4 of the CCR, which establish higher flammability standards for furniture in public buildings, BHF modified the regulatory changes to require the use of the square gas burner as the sole ignition source in testing and to clarify test criteria. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 64; Vol. 10, No. 4 (Fall 1990) p. 77; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 95 for background information.) No comments on these modifications were made within the 15-day notice period which ended on January 10.

All flammability regulations must be approved by the State Fire Marshal's Office, which conditioned its approval on BHF's deletion of the regulatory section expressly authorizing BHF and local fire authorities to enforce the new standards. However, both BHF and local fire authorities still have generic authority under their respective enabling statutes to enforce the new flammability standards. No comments on this modification were received within the 15-day notice period which ended on March 15.

The Bureau is in the process of preparing a final statement of reasons and the rulemaking file for submission to the Office of Administrative Law (OAL) for approval. BHF's estimated effective date for the regulations is January 1, 1992.

**Proposed Increase in License Fees.** On January 25, the Bureau published notice of its proposed regulatory changes to section 1107, Title 4 of the CCR, which would increase license fees to the maximum levels authorized by law by July 1991. (See CRLR Vol. 11, No. 1 (Winter 1991) pp. 64-65 for background information.) The Bureau scheduled no public hearing on the regulatory changes, but accepted written comments until March 11. After the notice was published, DCA requested the Bureau to include a reference to a license expiration date of June 30, 1991, in the pro-

posed regulation, stating that this language is required for all license fee regulations. This modification required BHF to conduct a 15-day comment period which was scheduled to end March 29. BHF is preparing the final statement of reasons and the rulemaking file; DCA and OAL review and approval is expected by early June and the license fee increase enforced by July 1.

**Licensing Project.** At its December 11 meeting, the Advisory Board requested that the Bureau devise a plan to address the problem of unlicensed activity. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 65 for background information.) In response, BHF developed several approaches to locate unlicensed industry members and enforce the licensing requirement; these suggestions were presented to and approved by the Board at its March 12 meeting. The field of interior designing and decorating appears to be rife with unlicensed activity. BHF proposes to investigate the possibility of including information regarding its licensing program in State Board of Equalization pamphlet #35 (Tax Tips for Interior Designers and Decorators). Second, the Bureau has prepared a letter regarding licensing to be sent to interior designers throughout the state, and is in the process of obtaining mailing addresses of various interior design associations in California. Also, BHF will contact the business license offices of all city and county governments in the state and attempt to enlist their assistance in distributing fact sheets explaining the Bureau's licensing requirements to businesses regulated by the Bureau.

**False and Misleading Advertising Pamphlets.** BHF is in the process of drafting two pamphlets, one for consumers and one for licensees, to educate both groups on what constitutes false or misleading advertising under the Home Furnishings and Thermal Insulation Act, BHF regulations, and the California Business and Professions Code. The Bureau expects to finalize the pamphlets and seek DCA's approval by June.

**BHF Licensees Must Give Proposition 65 Warnings to Consumers.** Proposition 65, the Safe Drinking Water and Toxics Enforcement Act of 1986, requires a person in the course of doing business to provide a clear and reasonable warning to all individuals exposed to a "significant amount" of a chemical known to the state to cause cancer or reproductive toxicity. The state has published a list of chemicals that are known to cause cancer or reproductive toxicity; this list contains the chemical commonly known as formaldehyde.

In the past few months, BHF licensees who use formaldehyde in processing or whose products contain or may contain formaldehyde have contacted the Bureau regarding letters they have received from attorneys notifying them of the Proposition 65 requirements and the possibility of legal action if they do not comply. BHF recommends that licensees who use formaldehyde or whose products contain or may contain formaldehyde post notices at their retail business locations or, in the case of manufacturers, label their products, warning consumers that they may be exposed to a significant amount of formaldehyde, a known cancer-causing and reproductive toxin, from their products.

### LITIGATION:

In *People v. Cornucopia Products, Inc.*, No. BC008664 (Los Angeles County Superior Court), Cornucopia agreed to pay civil penalties, investigation costs, and attorneys' fees totalling \$29,672. Cornucopia, a California corporation doing business as Synergy International and Chia-Yi Chin Jwu Enterprise Co., Ltd., did not admit to any violation of law, although the court's judgment enjoins Cornucopia from, among other things, placing upon its upholstered furniture a label which indicates that the furniture complies with requirements of California law unless in truth and in fact the upholstered furniture does comply with the requirements of California law. Of the \$29,672 judgment, the Bureau will receive \$5,172 to cover its investigation costs in the matter.

### RECENT MEETINGS:

At its March 12 meeting in Sacramento, the Advisory Board welcomed two new members appointed by the Governor in late December to fill Board vacancies. Mary Alice Kaloostian, personnel director of Gottschalk, a retail department store, is a new public member; Lawrence Brooks of Brooks Industries represents the furniture manufacturing industry.

### FUTURE MEETINGS:

June 11 in San Diego.  
September 10 in San Francisco.  
December 10 in Los Angeles.

### BOARD OF LANDSCAPE ARCHITECTS

*Executive Officer: Jeanne Brode*  
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The Board of Landscape Architects (BLA) licenses those who design landscapes and supervise implementation of design plans. To qualify for a license, an



applicant must successfully pass the written exam of the national Council of Landscape Architectural Registration Boards (CLARB) and a section covering landscape architecture in California; out-of-state applicants must also pass an oral examination given by the Board. In addition, an applicant must have the equivalent of six years of landscape architectural experience. This may be a combination of education from a school with a Board-approved program in landscape architecture and field experience.

The Board investigates verified complaints against any landscape architect and prosecutes violations of the Practice Act. The Board also governs the examination of applicants for certificates to practice landscape architecture and establishes criteria for approving schools of landscape architecture.

Authorized in Business and Professions Code section 5615 *et seq.*, BLA consists of seven members. One of the members must be a resident of and practice landscape architecture in southern California, and one member must be a resident of and practice landscape architecture in northern California. Three members of the Board must be licensed to practice landscape architecture in the state of California. The other four members are public members and must not be licentiates of the Board. Board members are appointed to four-year terms. BLA's regulations are codified in Division 26, Title 16 of the California Code of Regulations (CCR).

#### MAJOR PROJECTS:

*Education/Experience Regulations Adopted.* At a January 25 public hearing, the Board agreed to repeal section 2620 and adopt new section 2620, adopt new section 2620.5, and amend section 2649 of its regulations in Division 26, Title 16 of the CCR.

Business and Professions Code section 5650 provides that applicants must have six years of training and educational experience to be eligible to sit for BLA's licensing exam. New section 2620 specifies and clarifies the type and amount of education and work experience required to sit for the licensing exam. (See CRLR Vol. 11, No. 1 (Winter 1991) pp. 65-66; Vol. 10, No. 4 (Fall 1990) p. 78; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 95-96; and Vol. 10, No. 1 (Winter 1990) p. 73 for detailed background information on this regulatory change.) Although the proposal met with some opposition, mainly from licensees requesting stricter educational and experience requirements, the Board unanimously adopted the regulatory proposal.

Business and Professions Code section 5650 also states that a degree from a landscape architecture school must be approved by the Board. Currently, undergraduate and graduate programs in landscape architecture are accredited by Landscape Architectural Accreditation Board (LAAB). However, LAAB will not review extension schools; thus, in accordance with SB 572 (Bergeson) (Chapter 229, Statutes of 1989), section 2620.5 specifies the requirements for an "Approved Extension Certificate Program," defines the program's educational core, and establishes criteria for approving schools in landscape architecture as authorized by section 5630 of the Business and Professions Code.

BLA's amendment to section 2649 increases selected fees for services which require excessive staff time, including fees for temporary certificates, duplicate certificates, failure to notify BLA of change of address, and the fee for a branch office. The amended regulation will increase these fees in order to offset their excessive cost to the Board.

At this writing, BLA has not yet submitted the rulemaking package to Office of Administrative Law for approval.

*CLARB Exam Task Analysis.* For the past several months, CLARB has been engaged in a nationwide task analysis to identify the range of services rendered by landscape architects in all areas of practice. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 66; Vol. 10, No. 4 (Fall 1990) p. 78; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 96 for background information.) At the Board's January 25 meeting, staff reported that CLARB has selected a vendor to perform the task analysis, which has designed a draft questionnaire which will be reviewed and modified by a committee made up in part of CLARB executives. The vendor was expected to mail its questionnaire to landscape architects across the nation in late February or early March; the vendor's final report is due in early June.

According to BLA, CLARB is still planning to develop a new national exam by June 1992. Should the new exam differ dramatically from the 1991 exam, CLARB will proceed with a transition period, wherein candidates who have previously passed a particular section of the exam will receive an automatic pass on the new related section. However, any new sections on the 1992 exam as well as failed sections from 1991 will have to be taken during this transition period. In addition to the exam, CLARB has indicated an interest in California's eligibility requirements; CLARB ultimately plans to have all states require the

same eligibility requirements to standardize the exam process.

In conjunction with BLA's discussion of CLARB's exam at its January 25 and March 1 meetings, the Board discussed the issue of double grading of non-objective portions of the exam. Although it is very expensive, the Department of Consumer Affairs (DCA) strongly urges all boards under its jurisdiction to have double grading to ensure a defensible exam. On January 25, the Board approved a motion to proceed with double grading and secure the necessary funds (an extra \$40,000). However, on March 1, the Board reconsidered that decision and voted to conform to CLARB's single grading policy for this year alone. Due to the excessive cost and complexity of the issue, DCA agreed to support BLA's decision.

CLARB's task analysis and exam restructuring activities are due in part to demands from BLA and other state landscape architecture licensing boards which have previously threatened to break away from CLARB and write their own exam. While BLA believes CLARB is meeting its demands, the Board will notify CLARB that it requires the following in order to ensure continued California participation: CLARB's completion of its task analysis and BLA review by August 1991; a new exam by June 1992; a plan to correct the exam grading process to include double grading of non-objective portions or the provision of an exam which does not require double grading; and development of a long-term program for regular task analysis and exam updating.

*BLA's Task Analysis.* BLA has contracted with its own vendor, Psychological Services, Inc. (PSI), to perform an occupational task analysis of landscape architecture. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 78 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 96 for background information.) PSI proposed to survey 400 licensees the first week in March. At the Board's March 1 meeting, PSI reported that the task analysis was on schedule and that it mailed ten pilot surveys and received all ten back. BLA approved the survey on March 1; they were mailed by March 7. PSI was scheduled to submit a five- to six-week follow-up analysis and a final draft report by May 3.

#### LEGISLATION:

*AB 1893 (Lancaster)*, as introduced March 8, would authorize BLA to adopt guidelines for the delegation of its authority to grade the examinations of licensure applicants to any vendor under



contract to the Board. The guidelines would include goals for appropriate content, development, grading, and administration of an examination, against which the vendor's rules and procedures may be judged, and procedures through which BLA may reasonably ensure that the vendor meets the Board's goals. This bill is pending in the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development.

*Board's Legislative Proposal Rejected.* DCA disapproved the Board's request for legislation to amend section 5651 of the Business and Professions Code, to allow BLA to accept CLARB-certified individuals to become licensed in California.

## RECENT MEETINGS:

At its January 25 meeting, the Board introduced its two new members: Dan Johnson, a landscape architect from Sacramento, and Greg Burgener, a landscape contractor from Pismo Beach who is a new BLA public member. Although Mr. Burgener has considerable connections with the landscaping industry, BLA contends that he meets the definition of a public member under section 450 *et seq.* of the Business and Professions Code. Also on January 25, George Gribkoff was elected to serve another term as Board President, and Larry Chimbole was selected as Vice President.

On March 1, Executive Officer Jeanne Brode outlined BLA's present budget. The Board is currently overextended in the following areas: temporary help, examiners (graders), staff benefits, general expenses, travel in and out of state, exam contract, exam supplies, printing, and communications. The Board approved Ms. Brode's request to prepare a budget change proposal.

At its March 1 meeting, the Board also heard from Pam Ledbetter, whose application to take the licensing exam had been denied. Ms. Ledbetter's actual work experience appeared from her application to have been unsupervised. Thus, she appeared to lack the requirement of work experience supervised by a licensed professional in one of several enumerated fields. The misunderstanding was cleared up when Ms. Ledbetter approached BLA and explained that all of her work was performed under a licensed professional engineer, which she failed to mention in her application. BLA then stated that should this situation arise in the future, Executive Officer Brode may approve the application with the review and concurrence of two Board members. Board staff stated that

the language of new regulatory section 2620 should prevent this situation from recurring.

## FUTURE MEETINGS:

August 2 in Irvine (tentative).

## MEDICAL BOARD OF CALIFORNIA

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*Toll-Free Complaint Number:*  
1-800-MED-BD-CA

The Medical Board of California (MBC) is an administrative agency within the state Department of Consumer Affairs. The Board, which consists of twelve physicians and seven lay persons appointed to four-year terms, is divided into three autonomous divisions: Licensing, Medical Quality, and Allied Health Professions.

The purpose of MBC and its three divisions is to protect the consumer from incompetent, grossly negligent, unlicensed, or unethical practitioners; to enforce provisions of the Medical Practice Act (California Business and Professions Code section 2000 *et seq.*); and to educate healing arts licensees and the public on health quality issues. The Board's regulations are codified in Division 13, Title 16 of the California Code of Regulations (CCR).

The functions of the individual divisions are as follows:

MBC's Division of Licensing (DOL) is responsible for issuing licenses and certificates under the Board's jurisdiction; administering the Board's continuing medical education program; suspending, revoking, or limiting licenses upon order of the Division of Medical Quality; approving undergraduate and graduate medical education programs for physicians; and developing and administering physician and surgeon examinations.

The Division of Medical Quality (DMQ) reviews the quality of medical practice carried out by physicians and surgeons. This responsibility includes enforcement of the disciplinary and criminal provisions of the Medical Practice Act. The division operates in conjunction with fourteen Medical Quality Review Committees (MQRC) established on a geographic basis throughout the state. Committee members are physicians, other health professionals, and lay persons assigned by DMQ to investigate matters, hear disciplinary charges against physicians, and receive input

from consumers and health care providers in the community.

The Division of Allied Health Professions (DAHP) directly regulates five non-physician health occupations and oversees the activities of eight other examining committees and boards which license non-physician certificate holders under the jurisdiction of the Board. The following allied health professions are subject to the jurisdiction of DAHP: acupuncturists, audiologists, hearing aid dispensers, medical assistants, physical therapists, physical therapist assistants, physician assistants, podiatrists, psychologists, psychological assistants, registered dispensing opticians, research psychoanalysts, speech pathologists, and respiratory care practitioners.

DAHP members are assigned as liaisons to one or two of these boards or committees, and may also be assigned as liaisons to a board regulating a related area such as pharmacy, optometry, or nursing. As liaisons, DAHP members are expected to attend two or three meetings of their assigned board or committee each year, and to keep the Division informed of activities or issues which may affect the professions under the Medical Board's jurisdiction.

MBC's three divisions meet together approximately four times per year, in Los Angeles, San Diego, San Francisco, and Sacramento. Individual divisions and subcommittees also hold additional separate meetings as the need arises.

## MAJOR PROJECTS:

*MBC Still Hoping to Leave DCA.* At its February 8 meeting, MBC discussed the response from Governor Wilson's transition team to the Board's request to leave the Department of Consumer Affairs (DCA), to become either an autonomous agency or a department within the Health and Welfare Agency. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 68; Vol. 10, No. 4 (Fall 1990) pp. 81-82; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 98 for background information on the Board's dissatisfaction with and desire to leave DCA.) Despite the transition team's appraisal that "before moving forward with a transfer, it would appear prudent to await the new appointments to the State and Consumer Services Agency to see if the issues of primary concern to the Board can be resolved," MBC members Dr. J. Alfred Rider and Dr. Eugene Ellis stated their belief that the transition team's response was "not definitive," and urged the Board to continue to "actively pursue" leaving DCA. However, public member Ray Mallel strongly disagreed, and recommended that the