



found, a certificate of compliance must not be issued.”

RECENT MEETINGS:

At the August 9 Advisory Board meeting, David Rutherford of the South Coast Air Quality Management District gave a report on reformulated gasolines such as EC One, EC Premium, and ECX; reformulated gasoline was recognized in the Clean Air Act as a form of alternate fuel. Rutherford discussed the reformulating process, its effects on air pollution, and its cost to consumers.

Also at the August 9 meeting, Jack Thomas and Carl Hughett were selected as Chair and Vice-Chair, respectively, of BAR's Advisory Board for 1992.

FUTURE MEETINGS:

To be announced.

BOARD OF BARBER EXAMINERS

*Executive Officer: Lorna P. Hill
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In 1927, the California legislature created the Board of Barber Examiners (BBE) to control the spread of disease in hair salons for men. The Board, which consists of three public and two industry representatives, regulates and licenses barber schools, instructors, barbers, and shops. It sets training requirements and examines applicants, inspects barber shops, and disciplines violators with licensing sanctions. The Board licenses approximately 22,000 barbers, 5,000 shops, and 20 schools.

BBE's enabling act is currently found at Business and Professions Code section 6500 *et seq.*; the Board's regulations are located in Division 3, Title 16 of the California Code of Regulations (CCR).

On July 1, 1992, BBE and the Board of Cosmetology (BOC) will merge, pursuant to AB 3008 (Eastin) (Chapter 1672, Statutes of 1990). The Business and Professions Code sections which establish BBE and BOC will be repealed and replaced with an enabling act creating the Board of Barbering and Cosmetology (BBC), which will provide for the licensure and regulation of persons engaged in the practice of performing specified acts relating to barbering, cosmetology, and electrolysis.

MAJOR PROJECTS:

BBE/BOC Continue Joint Hearings on Draft BBC Regulations. On June 17 in El Segundo, BBE and BOC held its second joint public hearing to receive

and discuss comments on proposed draft regulations which have been formulated by Department of Consumer Affairs (DCA) consultant Kirk Marston for BBC. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 62 and Vol. 11, No. 2 (Spring 1991) p. 59 for background information.) The proposed regulations and issues relating to them were discussed extensively during the hearing. Although no formal decisions will be reached until the merged Board comes into being in July 1992, the following regulatory proposals did receive considerable attention at the June hearing:

-Proposed section 75, regarding leasing and rental agreements, would prohibit the carrying out of any agreement which divides, limits, or restricts the authority or duties of the licensee supervising and managing the establishment; this regulation would appear to prohibit the practice of booth rental. Under a booth rental arrangement, a licensee is not an employee of the establishment owner or manager, but simply rents space from him/her. Because there is no employer-employee relationship, the owner/manager does not withhold income tax, social security, or other deductions from the licensee's paycheck; the licensee's customers pay him/her personally and the licensee independently reports his/her income to tax authorities.

At the June hearing, much of the discussion centered on methods of allowing the practice of booth rental while enabling the establishment owner/manager to maintain health and safety control, such the possibility of issuing two classes of licenses—an establishment license and a booth renter's license. Although booth rental has been criticized as creating an "underground economy" within the cosmetology profession, BOC representatives and audience members emphasized that prohibiting booth rental may drive practitioners from a salon setting into the home, resulting in more unlicensed activity. The two boards decided to defer this controversial issue to BBC.

-Proposed section 97 sets forth the requirements which must be met for a barber college seeking to teach the 400-hour course prescribed in Business and Professions Code section 7321.5; proposed section 105 sets forth the curriculum for students enrolled in a 400-hour cosmetology crossover course for barbers. Members of the Board and public reiterated comments made at the May hearing regarding the possibility of increasing the number of curriculum hours for the cosmetology crossover course to 600.

-Proposed section 108 specifies that a student enrolled in a school specified in the Barbering and Cosmetology Act shall not be permitted to work upon a patron paying for services until he/she has completed the freshman period of 150 hours of training and instruction. At the hearing, discussion centered on raising the 150-hour freshman period to 250 or 300 hours.

Another joint public hearing to receive additional comments was scheduled for March 15, 1992, in Fresno.

BBE Holds Merger Task Force Forum. On September 22 in San Diego, BBE held an open agenda meeting to prepare for and facilitate its upcoming merger with BOC. The most heated merger issue addressed by the Board and barbers present at the meeting was whether the quality of barber shop inspections will be maintained after the merger. BBE requires its inspectors to be licensed as barbers for five years before they are eligible to become inspectors. Warren Norman, instructor at the Associated Barber College, stated his concern that cosmetology inspectors are not as stringent as barber inspectors and that the quality of inspections will decrease after the merger.

Also at the meeting, the Board discussed a proposed change in the barber examination process. BBE member Robert Boulding suggested that after students have completed their coursework, they could work in a shop for about 60 days and then return to the school to take the barber examination, thus eliminating the state board examination. Several barbers stated that although this may lead to collusion between the school instructors and the students, the public ultimately decides whether a person is qualified as a barber.

BBE again discussed the necessity of the shave requirement on its licensing exam. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 59; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 73-74; and Vol. 9, No. 4 (Fall 1989) p. 46 for background information.) A barber student present at the meeting claimed that he has not taken the license examination because he cannot find a person willing to be his shave subject. The student suggested that this part of the examination be worth less than the 7 points it is now worth of the minimum 75 points needed to pass the exam. Many meeting participants agreed that too many points are allocated to the shave portion of the exam, but maintained the importance of the shave requirement.

The Board also discussed section 75 of the BBC's proposed regulations,



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concerning booth rental. At present, barbers are prohibited from renting booths within their shops, but cosmetologists are not. James Adams, president of the National Association of Barber Boards of America, suggested that the only reasons for booth renting are to avoid paying taxes and poor business skills. BOC Executive Officer Denise Ostton disagreed, stating that a prohibition on booth rental would be a restraint of trade. She also noted that the issue will remain unresolved until the new board makes a determination. Finally, Ostton reminded BBE that the merger is administrative only; barbers and cosmetologists will still require separate individual licenses and little, if any, impact on the professions themselves is expected. At the end of the meeting, Karen McGagin, Special Assistant to the Director of the Department of Consumer Affairs (DCA), stated that, because BBC will be the first merged board in California, DCA will help facilitate the merger and will be considerate of both industries.

BBE Moves. On May 28, the BBE moved its Sacramento office to 400 R Street, along with the Department of Consumer Affairs. BBE's rent for the new location will be \$49,212 annually, an increase over its previous rent of \$21,719. However, Board staff noted that the new space is considerably larger than the old location, and that the rent on the old location would have increased to \$30,000 per year.

LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at page 63:

SB 985 (Deddeh), as amended August 28, requires BBC, after July 1, 1992, to adopt regulations providing for the submittal of "pre-applications" for admission to the examination from students of approved cosmetology, electrology, or barbering schools who have completed at least 75% of the required course clock hours and curriculum requirements (60% for students of the manicurist course). This bill was signed by the Governor on October 13 (Chapter 1015, Statutes of 1991).

AB 1161 (Eastin), as amended August 29, deletes an existing provision which requires that the BBC member who finishes second in the vote for Board president shall become vice president. This bill also specifies that both a rejection and a recommendation for dismissal of BBC's executive officer by the DCA Director must be for good cause and specifically stated to the Board in writing. This bill also requires BBC to inspect every establishment where

any licensed barbering or cosmetology activity is practiced for compliance with applicable laws relating to the public health and safety at least once per year, rather than twice per year. This bill was signed by the Governor on October 14 (Chapter 1172, Statutes of 1991).

RECENT MEETINGS:

At its June 3 meeting in San Diego, the Board discussed water conservation and its impact on the sanitary requirements of barber colleges and shops, and agreed that it is acceptable for students and barbers to use alternative cleansing agents, such as towelettes, every other time instead of washing hands with soap and water before serving each patron. BBE also voted to require licensees to update license photographs which do not reflect the present appearance of the licensee, and to require any new photographs to be from the shoulders up.

Also on June 3, David Camp was elected President of BBE and Elton Pamplin was elected Vice President for the 1991-92 year.

At its July 29 meeting in Sacramento, BBE announced its Year End Statistical Report for fiscal year 1990-91. The report noted that BBE conducted 9,216 inspections, scheduled 897 examinations, and conducted 690 exams; 81% of barber examinees passed the licensing exam; 47% of instructors passed the licensing exam; school enrollments numbered 646; 84 consumer complaints were received, 7 were referred for formal investigation, and 3 disciplinary accusations were filed; the Board revoked 7 licenses, suspended 41 licenses, and placed 25 licensees on probation; BBE inspectors wrote 55 citations and collected \$26,429 in fines; and the Board spent a total of \$832,852.

Finally, BBE reviewed guidelines developed by staff to assist the Merger Planning Committee, which include the creation of several workshops for headquarters staff, field staff, administrative staff, and board members. As of September, there have already been two workshops given for headquarters staff, and two more were planned for October.

FUTURE MEETINGS:

December 2 in San Francisco.

BOARD OF BEHAVIORAL SCIENCE EXAMINERS

Executive Officer: Kathleen Callanan (916) 322-4910 and (916) 445-4933

Authorized by Business and Professions Code section 4980 *et seq.*, the eleven-member Board of Behavioral

Science Examiners (BBSE) licenses marriage, family and child counselors (MFCCs), licensed clinical social workers (LCSWs) and educational psychologists (LEPs). The Board administers tests to license applicants, adopts regulations regarding education and experience requirements for each group of licensees, and appropriately channels complaints against its licensees. The Board also has the power to suspend or revoke licenses. The Board consists of six public members, two LCSWs, one LEP, and two MFCCs. The Board's regulations appear in Division 18, Title 16 of the California Code of Regulations (CCR).

MAJOR PROJECTS:

Supervision Issues. At its July meeting, BBSE held a public hearing to receive comments on its proposed regulatory revisions which would effectively forbid trainees, MFCC interns, and associate clinical social workers in non-private practice settings to pay their supervisors for the supervision. Business and Professions Code sections 4980.43(c) and 4996.20(a)(1) prohibit MFCC interns and associate clinical social workers in private practice settings from paying their supervisors, but the sections are silent as to whether interns and associates gaining experience in other settings may do so. According to BBSE, payment for such supervision undermines the supervisor/intern relationship since the intern may hire and fire his/her supervisor as he/she chooses. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 63; Vol. 11, No. 2 (Spring 1991) p. 61; Vol. 10, No. 4 (Fall 1990) p. 59 for background information.)

At the July 18 public hearing, BBSE heard extensive testimony from counselors, psychologists, and trade association representatives concerning the Board's proposed amendments to section 1833 and addition of section 1875, which would provide that no credit shall be given for hours of experience obtained under the supervision of a person who has received monetary payment or other consideration from a trainee, intern, or associate for the purpose of rendering supervision. The majority of comments were supportive of the proposed amendments, with many witnesses citing an inherent conflict of interest where a trainee or intern pays for his/her supervision. Specifically, a supervisor who is being paid by a supervisee may not be able to objectively evaluate and critique the supervisee's performance, which is the whole purpose of BBSE's supervised experience requirement. Other wit-