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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-



nesses—particularly representatives of the California Association of Marriage and Family Therapists (CAMFT), which strongly opposes the proposed regulatory changes—argued that therapy is not considered “tainted” because a patient pays for it; likewise, supervision is not necessarily suspect if the supervisee pays for it. CAMFT also argued that the legislature’s failure to prohibit supervisee payment of supervisors in the non-private practice setting reveals its intent to allow such payment.

At the Board’s July 19 meeting, BBSE decided to refer the matter to its subcommittee on supervision to review the comments received and draft possible revisions to the proposed language; the subcommittee was scheduled to report its findings to the Board at its October 31 meeting.

Out-of-State MFCC Experience Issues. At BBSE’s July 19 meeting, the Board continued its discussion regarding the acceptability of out-of-state MFCC experience gained by an individual who resides in California, has a qualifying degree from a California institution, and is under supervision by a California licensee. (See CRLR Vol. 11, No. 3 (Summer 1991) pp. 64–65 for background information.) Specifically, the issue concerns the interpretation of Business and Professions Code section 4980.90, which provides that BBSE “may allow any person to be examined who, in its opinion, has met the education and experience requirements for licensure while residing outside of California, or education outside California and experience within California, that are substantially the equivalent” of BBSE’s requirements, providing that specified conditions are met. A July 11 memo to BBSE from Department of Consumer Affairs’ legal counsel Anita Scuri stated that relevant statutes contain “no comparable clause which provides for California residents who obtain their experience outside California. The specific description of the first two types of situation [sic] and omission of the third leads to the conclusion that the Legislature did not intend to permit the board to accept experience obtained outside California by California residents.” Scuri concluded the memo by noting that the Board is facing two distinct issues: (1) whether a person should be able to obtain experience outside California when the person resides in California; and (2) whether experience should be accepted if a person who obtained a qualifying degree in California moves to another state and gains experience in that state. According to Scuri, BBSE “needs to decide what it thinks

the policy should be and then go forward with the necessary legislative changes to implement that decision.”

At its July 19 meeting, the Board unanimously agreed to form a subcommittee of Board members and invite educational institutions and other groups to participate in a discussion of the various issues involved regarding out-of-state supervision as well as the payment-for-supervision issue (*see supra*). The Board also instructed staff to continue to evaluate out-of-state experience on a case-by-case basis until the issue is clarified or changed as a result of the subcommittee’s findings.

Applicants Suffering From Mental Illness. At its July 19 meeting, BBSE discussed seeking statutory authority which would permit the Board to require an applicant to undergo a psychological evaluation to determine whether the applicant is fit to practice. (See CRLR Vol. 11, No. 3 (Summer 1991) pp. 63–64 for background information.) Following discussion, the Board agreed that such amendments should be pursued during 1992.

Dual Relationships. At BBSE’s July 19 meeting, the Board decided to defer discussion of “dual relationships” between psychotherapists and patients until the Board had gathered more information on the issue. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 63 and Vol. 11, No. 2 (Spring 1991) p. 92 for background information.)

LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at page 64:

SB 686 (Boatwright), as amended April 30, enables BBSE to implement a “cost recovery” system; that is, it authorizes BBSE, in any order issued in resolution of a disciplinary proceeding before the Board, to request the administrative law judge to direct any registrant or licensee found to have violated certain provisions to pay BBSE a sum not to exceed the actual and reasonable costs of its investigation and prosecution, and specifies procedures to enforce an order for payment. This bill was signed by the Governor on October 5 (Chapter 525, Statutes of 1991).

SB 899 (Boatwright), as amended August 28, permits an MFCC intern to annually extend his/her intern registration with BBSE beyond the existing six-year maximum so long as the intern meets the educational requirements in effect at the time of the application for extension and no grounds exist for its denial, suspension, or revocation. This

bill also requires persons who enroll in a qualifying MFCC degree program on or after January 1, 1990, to register with the Board prior to the commencement of gaining trainee hours of experience. This bill was signed by the Governor on October 14 (Chapter 1114, Statutes of 1991).

SB 1112 (Mello). Existing law permits the Department of Mental Health to waive BBSE’s licensure requirements for persons employed or under contract to provide mental health services under the Short-Doyle program for a specified period of time. As amended September 3, this bill provides that the licensure requirements would not be applicable, for a period not to exceed five years from the date employment under the program commences, to MFCC registered interns or to associate clinical social workers who are gaining qualifying experience for licensure under supervision. This bill was signed by the Governor on October 5 (Chapter 612, Statutes of 1991).

AB 1893 (Lancaster), as amended August 19, amends Business and Professions Code section 4996.20 to specify, for purposes of qualifying LCSW postmaster’s degree supervised experience, that not less than one-half of the required hours of supervision shall be individual supervision; the remaining hours may be group supervision. The bill also defines “individual supervision” to mean one supervisor meets with one supervisee at a time; “group supervision” means a supervisor meets with a group of no more than eight supervisees at a time. This bill was signed by the Governor on October 7 (Chapter 654, Statutes of 1991).

SB 664 (Calderon), as introduced March 5, would prohibit MFCCs and LCSWs, among others, from charging, billing, or otherwise soliciting payment from any patient, client, customer, or third-party payor for any clinical laboratory test or service if the test or service was not actually rendered by that person or under his/her direct supervision, except as specified. This bill is pending in the Senate Business and Professions Committee.

AB 756 (Bates), as introduced February 26, would provide that on or after January 1, 1993, any person applying for or renewing a license, credential, or registration as an LCSW, MFCC, school counselor, school psychologist, or school social worker, shall, in addition to all other requirements for licensure or renewal, have completed coursework or training in suicide prevention and intervention. This bill is still pending in the Assembly Health Committee.



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AB 1106 (Felando), as introduced March 5, would create the Alcohol and Drug Counselor Examining Committee within BBSE and require the Committee to adopt regulations establishing certification standards and requirements relating to education, training, and experience for persons who practice alcohol and drug abuse counseling. AB 1106 is still pending in the Assembly Health Committee.

SB 738 (Killea), as introduced March 6, would require BBSE and BOP to establish required training or coursework in the area of domestic violence assessment, intervention, and reporting for all persons applying for an initial license and the renewal of a license of a psychologist, LCSW, or MFCC. This bill is still pending in the Senate Business and Professions Committee.

AB 2085 (Polanco), as amended April 15, would require the trustees of the California State University and the regents of the University of California to collaborate with the California Conference of Local Mental Health Directors to develop a curriculum and practicum within their respective graduate social work programs to train social workers to work with seriously emotionally disturbed children and severely mentally ill adults, and to provide culturally appropriate services to ethnic minority populations. This bill is pending in the Assembly Higher Education Committee.

RECENT MEETINGS:

At its July 19 meeting, the Board revised its policy regarding special accommodations for written licensing examinations, to provide that one and one-half times the normal period allotted to complete the examination will be available to specified applicants; for candidates requiring additional time for medical reasons and learning disabilities, additional time may be granted upon the Board's receipt of acceptable documentation from an appropriate medical or psychological professional.

Also at BBSE's July 19 meeting, sponsors of AB 3314 (Harris) (Chapter 1005, Statutes of 1990) addressed the Board regarding implementation of that measure, which required BBSE and the Board of Psychology (BOP) to consider mandatory continuing education requirements for their licensees in the area of recognizing chemical dependency and the proper steps for early intervention. BBSE considered but rejected such requirements at its April meeting. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 64 for background information.) AB 3314 sponsor Joan Pachanez explained

that AB 3314 was designed to address the problem that some psychotherapists have little or no chemical dependency training. She suggested that the boards develop an informational pamphlet which could be made available to every licensed psychotherapist. BBSE unanimously agreed to have a Board representative meet with BOP's Executive Officer, the Director of the Department of Drug and Alcohol Programs, and AB 3314 sponsors to develop creative ideas to encourage licensees to take continuing education and training in alcohol and chemical dependency.

FUTURE MEETINGS:

To be announced.

CEMETERY BOARD

*Executive Officer: John Gill
(916) 920-6078*

The Cemetery Board's enabling statute is the Cemetery Act, Business and Professions Code section 9600 *et seq.* The Board's regulations appear in Division 23, Title 16 of the California Code of Regulations (CCR).

In addition to cemeteries, the Cemetery Board licenses cemetery brokers, salespersons, and crematories. Religious cemeteries, public cemeteries, and private cemeteries established before 1939 which are less than ten acres in size are all exempt from Board regulation.

Because of these broad exemptions, the Cemetery Board licenses only about 185 cemeteries. It also licenses approximately 45 crematories, 200 brokers, and 1,200 salespersons. A license as a broker or salesperson is issued if the candidate passes an examination testing knowledge of the English language and elementary arithmetic, and demonstrates a fair understanding of the cemetery business.

MAJOR PROJECTS:

Cremation Workshop. On September 25, the Board held a Cremation Workshop in San Francisco; the purpose of the workshop was to receive public and industry comment regarding current crematory laws. Although the Board has not yet decided to pursue changes in the statutes affecting crematory operators, the workshop was intended to indicate whether legislative change is believed necessary and to specifically identify important areas for change.

During the workshop, the Board noted that the piecemeal fashion in which the current statutory framework has been adopted and amended has led to widespread industry confusion re-

garding how to comply with the law. Specific areas of industry concern include the need for a standard disclosure contract for persons contracting for cremation services; the desire for clarification of the term "durable container" as it relates to shipping remains; the need for a waiver of liability from claims arising from customers who insist upon watching the cremation process; the need to recognize that "repositioning" of a corpse may be necessary in order to guarantee the completeness of the cremation; and the need for step-by-step guidelines for proper cremation.

Perhaps the most controversial topic at the workshop, however, involved crematory operators' obligation to include tooth fillings, prostheses, and other materials in the cremated remains given to families of the deceased. Industry representatives argue that the equipment used to carry out cremations frequently traps fillings and other non-human material, making it possible for these materials to remain in the equipment and be combined with a subsequent corpse's remains. This, the industry maintains, exposes crematory operators to legal actions by customers who discover discrepancies in the remains given to the family. Industry representatives have suggested that the crematory operator be allowed to dispose of the non-human material in a "lawful manner," which would include the sale of valuable metals to third parties. Both the Board and private individuals voiced objections to this suggestion, based primarily on the right of the family to the possessions of the deceased. The Board is currently considering whether or not to pursue these legislative changes.

Board Will Not Pursue Proposed Regulatory Change. The Board has decided not to revise proposed section 2376, Title 16 of the CCR, which was disapproved by the Office of Administrative Law (OAL) on April 1. Proposed section 2376 would have defined the point at which an initial sale of a cemetery plot is deemed complete and specified the time within which money collected from a consumer must be deposited in an endowment care fund. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 65; Vol. 11, No. 2 (Spring 1991) p. 62; and Vol. 11, No. 1 (Winter 1991) p. 52 for background information.)

Health and Safety Code section 8738, the statute which proposed section 2376 sought to interpret, provides that endowment care funds must be deposited "at the time of or not later than the completion of the initial sale" of a plot. As written, proposed section 2376 would have allowed a thirty- to sixty-