



REGULATORY AGENCY ACTION

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 Pachane 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
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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-



day time lag between collection and deposit of these funds, an interpretation which OAL found to be inconsistent with section 8738. As a result of the Board's inability to interpret the "not later than" provision of section 8738 to OAL's satisfaction, the Board has dropped its efforts to adopt section 2376 and will not revise it to comply with OAL's findings.

LEGISLATION:

AB 1540 (Speier), as introduced March 7, would repeal the enabling statutes of the Cemetery Board and the Board of Funeral Directors and Embalmers, and enact the Cemeteries, Funeral Directors and Embalmers Act, with unspecified contents. This two-year bill is still pending in the Assembly Committee on Consumer Protection, Governmental Efficiency, and Economic Development, which was scheduled to hold interim hearings on the bill and the boards' respective performances in October. The Board unanimously opposes this bill on the basis that the proposed restructuring would afford no additional consumer protection and would operate less efficiently than the existing, separate boards.

LITIGATION:

On September 10, the California Supreme Court heard oral argument in *Christensen, et al. v. Superior Court*, No. S016890. The court is reviewing the Second District Court of Appeal's June 1990 decision which considerably expanded the plaintiff class in this multi-million dollar tort action against several Board licensees. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 65; Vol. 11, No. 2 (Spring 1991) p. 62; and Vol. 10, No. 4 (Fall 1990) pp. 61 and 75 for background information.)

RECENT MEETINGS:

At its August 9 meeting, the Board discussed state Senator Marian Bergeson's request that the Board draft regulations regarding cremation contract disclosures. No further action is planned until a meeting with Senator Bergeson is scheduled so that the Board may determine what she specifically wants the regulations to address.

FUTURE MEETINGS:

To be announced.

BUREAU OF COLLECTION AND INVESTIGATIVE SERVICES

Chief: James C. Diaz
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The Bureau of Collection and Investigative Services (BCIS) is one of 38

separate regulatory agencies within the Department of Consumer Affairs (DCA). The Chief of the Bureau is directly responsible to the DCA Director.

Pursuant to the Collection Agency Act, Business and Professions Code section 6850 *et seq.*, the Bureau regulates the practices of collection agencies in California. Collection agencies are businesses that collect debts owed to others. The responsibility of the Bureau in regulating collection agencies is twofold: (1) to protect the consumer/debtor from false, deceptive, and abusive practices and (2) to protect businesses which refer accounts for collection from financial loss. The Bureau also plays an important role in protecting collection agencies from unlawful competition by the detection and prohibition of unlicensed activity within the industry.

In addition, eight other industries are regulated by the Bureau, including private security services (security guards and private patrol operators), repossessionors, private investigators, alarm company operators, protection dog operators, medical provider consultants, security guard training facilities, and locksmiths.

Private Security Services. Regulated by the Bureau pursuant to Business and Professions Code section 7544 *et seq.*, private security services encompass those who provide protection for persons and/or property in accordance with a contractual agreement. The types of services provided include private street patrols, security guards, watchpeople, body guards, store detectives, and escort services. Any individual employed to provide these services is required to register with the Bureau as a security guard. Any security guard who carries a firearm and/or baton on the job must possess a firearm permit issued by the Bureau. The Bureau operates to protect consumers from guards who unlawfully detain, conduct illegal searches, exert undue force, and use their authority to intimidate and harass.

Repossessionors. Repossession agencies repossess personal property on behalf of a credit grantor when a consumer defaults on a conditional sales contract which contains a repossession clause. Any individual employed by these services is required to be registered with the Bureau. Pursuant to the Repossessionors Act, Business and Professions Code section 7500 *et seq.*, the Bureau functions to protect consumers from unethical methods of repossessing personal property, such as physical abuse resulting in bodily harm, threats of violence, illegal entry onto private property, and misrepresentation in order to

obtain property or information about property.

Private Investigators. Private investigators conduct investigations for private individuals, businesses, attorneys, insurance companies, and public agencies. The scope of their job generally falls within the areas of civil, criminal, and domestic investigations. Any private investigator who carries a firearm on the job must possess a firearm permit issued by the Bureau. Pursuant to Business and Professions Code section 7512 *et seq.*, the Bureau oversees private investigators to protect consumers and clients against investigators who misrepresent, impersonate, or make threats in order to obtain desired information; perform inadequate or incompetent investigations; fail to substantiate charges or charge more than the amount agreed upon; and alter, falsify, or create evidence.

Alarm Company Operators. Alarm company operators install, service, maintain, monitor, and respond to burglar alarms. These services are provided to private individuals, businesses, and public entities. Any employee responding to alarms who carries a firearm on the job must be registered by the Bureau and possess a Bureau-issued firearm permit. Pursuant to the Alarm Company Act, Business and Professions Code section 7590 *et seq.*, the Bureau regulates this industry in order to protect clients from potential theft or burglary, invasion of privacy or misrepresentation by alarm companies, and failure on their part to render service as agreed.

Protection Dog Operators. Protection dog operators train, lease, and sell dogs for personal and/or property protection. They also provide patrol services using trained dogs. Individuals employed by any of these services must be registered by the Bureau. These services are employed by private individuals, business entities, and law enforcement agencies. Pursuant to Business and Professions Code section 7550 *et seq.*, the Bureau serves to protect against possible violations in this industry, such as inadequately trained or physically abused dogs, overcharges for services, invasions of privacy, or potential theft or burglary of property.

Medical Provider Consultants. Medical provider consultants are contract collectors who provide in-house collection services to medical facilities. They contact insurance companies and/or patients to try to collect on medical debts on behalf of the medical provider. Nevertheless, consultants cannot themselves collect on delinquent debts.