



LEGISLATION:

SB 89 (Boatwright) would repeal the statutes creating the Cemetery Board, transfer that Board's powers and duties to the Board of Funeral Directors and Embalmers, and increase the membership of the Funeral Board by adding a cemetery industry representative. (See CRLR Vol. 7, No. 3 (Summer 1987) p. 62 and CRLR Vol. 7, No. 2 (Spring 1987) p. 43 for further discussion of this bill.)

RECENT MEETINGS:

At its September 16 meeting in Monterey, the Board unanimously passed a motion which requires all applicants who desire to have their applications placed on the agenda for consideration at a regularly scheduled meeting to have their applications in the Board's office at least thirty days prior to the meeting.

On December 8 in Los Angeles, the staff presented a summary of the 62 complaints filed against Board licensees during the first six months of 1987. The staff prepares and studies summaries in an effort to detect the development of patterns warranting legislation and/or regulation. On November 6, the staff completed its review, detecting nothing warranting special action. The staff studies only those complaints mailed directly to the Board.

FUTURE MEETINGS:

To be announced.

BUREAU OF COLLECTION AND INVESTIGATIVE SERVICES

Chief: Gary Kern
(916) 739-3028

The Bureau of Collection and Investigative Services is one of over forty separate regulatory agencies within the Department of Consumer Affairs. The chief of the Bureau is directly responsible to the director of the Department.

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 two-fold: (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.

In addition, eight other industries are regulated by the Bureau, including private security services (security guards and private patrol operators), repossession, private investigators, alarm com-

pany operators, protection dog operators, medical provider consultants, security guard training facilities, and locksmiths.

Private Security Services. 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 for these services is required to register with the Bureau as a security guard. Any security guard who carries a firearm 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.

Repossessors. 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. 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. 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 Industry. Alarm company operators install, service, maintain, monitor, and respond to burglar alarms. These services are provided to private individuals, businesses, and public entities. 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 pro-

tection. They also provide patrol services using trained dogs. These services are employed by private individuals, business entities and law enforcement agencies. 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. Instead, they must turn the debt over to an independent, licensed collection agency in order to avoid any conflict of interest.

Security Guard Training Facilities. These facilities provide necessary training for those desiring to become security guards. Training is given in legal procedures, public safety, minimum standards, and professional conduct. Firearm training is especially important for those guards who will carry a firearm on the job. Upon completion of training, guards must pass an exam before they can be registered.

Locksmiths. As of July 1987, SB 1540 became effective, resulting in the creation of a locksmith regulation program within the Bureau. (For additional information on SB 1540, see CRLR Vol. 6, No. 3 (Summer 1986) p. 25.)

The purpose of the Bureau is to protect the health, welfare and safety of those affected by these industries. To accomplish this, the Bureau regulates and reviews these industries by its licensing procedures and by the adoption and enforcement of regulations. For example, the Bureau reviews all complaints for possible violations and takes disciplinary action when violations are found. The Bureau's primary method of regulating, however, is through the granting or denial of initial/renewal license or registration applications. Education is also utilized to assist in achieving Bureau goals.

Consumers and clients may pursue civil remedies to resolve complaints and disputes currently within the regulatory authority of the Bureau. In addition, class action suits may be filed on behalf of consumers by the Attorney General's office and local district attorneys against businesses which engage in repetitive unethical business practices.



MAJOR PROJECTS:

Qualified Managers. The articulation of the duties and responsibilities of a qualified manager continues to be a focal point for Collection Agency Advisory Board (CAAB) discussion. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 44 and Vol. 7, No. 3 (Summer 1987) pp. 65-66 for background information.) The CAAB's Compliance Task Force and the California Association of Collectors recently recommended that (1) the qualified manager be responsible for all collection activities, and (2) the licensee (that person licensed as a collection agency) should be accountable for all financial interests and activities in any licensed collection agency. As of this writing, members of the California Association of Collectors were developing questions for possible inclusion in a revised examination for qualification certification applicants. Some Board members expressed interest in retaining some items pertaining to fiscal operations on the examination for prospective qualification certification holders. The proposed examination questions were to be submitted to the CAAB at the January 1988 meeting.

Private Security Services Advisory Board. The Private Security Advisory Board announced that its nine-member board has been appointed by the Governor. New appointees are: John Hoard, public member; Margaret Morgan, public member; John Taylor, private patrol industry representative; Craig Sasser, public member; and Nao Takasugi, public member. Reappointees include Bruce Westphal, alarm operator representative; Ernest Padilla, private patrol industry representative; Alex Stiglitz, public member; and John Roberts, Jr., alarm operator representative. The first meeting of the newly-appointed Board is tentatively scheduled for February 1988.

Regulations. The Bureau is currently preparing two editorial packages for Office of Administrative Law (OAL) approval. The editorial changes modify regulations governing weapons and general provisions affecting private patrol operators, private investigators, and alarm company operators.

The Bureau has also formally proposed adoption of section 616, Chapter 7, Title 16 of the California Administrative Code, regarding cash deposits offered in lieu of a surety bond. Existing provisions of the Collection Agency Act (Business and Professions Code section 6850 *et seq.*) (1) require, as a prerequisite to licensure, the filing of a \$10,000 surety bond; (2) provide in the alterna-

tive for a \$10,000 cash deposit; and (3) establish a three-year statute of limitations for the filing of claims against a bond. The Collection Agency Act does not provide specific time limitations for the Bureau's retention of deposits offered in lieu of surety bonds.

The proposed regulation would provide for Bureau retention of deposits offered in lieu of surety bonds for a period of four years beyond the date of license termination. The four-year retention period is intended to ensure a reasonable approximation of parity between surety bonds and cash deposits with regard to the adequacy of consumer protection provided by each.

The comment period for section 616 ended January 18, and filing with OAL is tentatively scheduled for spring, following CAAB and Department of Consumer Affairs approval of the proposed language.

LEGISLATION:

AB 1072 (Floyd). The Assembly Committee on Governmental Efficiency and Consumer Protection conducted an interim hearing December 15 in Sacramento on AB 1072 (Floyd), which would exempt licensed private investigators from sections of the Penal and Business and Professions Codes which prohibit the carrying of concealed weapons. Under the proposed exemption, a licensed investigator would be authorized to carry a concealed weapon in the scope of his/her employment and while commuting to and from work, if the investigator possesses a current valid firearms permit issued under the Private Investigators Act.

Bureau Chief Gary Kern testified at the hearing regarding background checks conducted by the Bureau in the issuance of weapons permits to private investigators. The Bureau's authority to issue such permits extends only to exposed weapons, and of the approximately 5,500 private investigators in the state, only 175 have Bureau permits.

The two-year bill has met with much opposition from law enforcement agencies and organizations, including the Attorney General's Office, the California Peace Officers Association, the California Police Chiefs Association, and the California State Sheriffs Association. Support for AB 1072 has come from the National Rifle Association, the California Rifle and Pistol Association, Inc., and the California Association of Licensed Investigators. The Bureau has not taken a position on the measure, which remains before the Assembly

Committee on Governmental Efficiency and Consumer Protection as of this writing.

Future Legislation. The Bureau is planning to recommend legislation to rearrange parts of the Collection Agency Act which appear to be out of sequence. Other legislation under consideration as of this writing would extend the Collection Agency Act sunset date.

RECENT MEETINGS:

At the CAAB meeting on September 25 in San Diego, Deputy Chief Ernest Luzania reported on the Bureau's meeting with Michael Kelley, new Director of the Department of Consumer Affairs. According to Luzania, Director Kelley acknowledged the complex nature of the Bureau's workload and stated that he would do all he could to facilitate the Bureau's request for additional staff, provided those requests are justified. Though the Bureau has requested creation of additional staff positions, it is unable to predict any expected date for adding these new positions due to the nature of the budget approval process.

Deputy Chief Luzania's comment sparked questions from industry members attending the meeting as to whether the Bureau could ever expect to obtain any additional collection program audit positions. The Bureau audits a licensed collection agency when it is deemed to be in trouble, such as when an agency is reported out of trust by another agency. Currently, one auditor is assigned to the Bureau. Some participants suggested Bureau use of outside auditors (on a contractual basis) pending approval of in-house audit positions.

Additional topics of discussion at the September meeting included the ability of the Bureau to conduct enforcement efforts; the status of the Collection Agency Fund, which is largely comprised of licensing revenues; and the laws/rules governing the disposition of Fund monies and regulation of licensing fees based upon the amount of funds on reserve. The CAAB requested that the Bureau furnish updated information on the status of additional staff positions and a determination of what happens to excess funds carried in the Collection Agency Fund over a period of time.

Some Board members and audience participants questioned the effectiveness of the Bureau's current collection agency program and whether the program should be modified. The CAAB requested that the Bureau report to the CAAB at its January meeting, providing information as to (1) those aspects of its



program it feels have been most successful and should be continued over the next two to five years; (2) those areas it believes should be discontinued or modified; and (3) enforcement actions taken during the past four to five years, as well as those anticipated in the next few years.

FUTURE MEETINGS:

To be announced.

CONTRACTORS STATE LICENSE BOARD

Registrar: John Maloney
(916) 366-5153

The Contractors State License Board (CSLB) licenses contractors to work in California, handles consumer complaints, and enforces existing laws pertaining to contractors.

The thirteen-member Board, consisting of seven public members, five contractors and one labor member, generally meets every other month. The Board maintains four committees: legislative, which monitors legislation affecting the Board; enforcement, which oversees enforcement of existing rules and regulations, including licensing requirements; licensing, which oversees the Board's licensing procedures; and administration/public information/liason, which oversees the Board's operations and public contact. Committees meet monthly, making recommendations to the full Board for requested action.

MAJOR PROJECTS:

Low Voltage Systems Contractor. Section 832, Title 16 of the California Administrative Code (CAC), classifies specialty contractors. CSLB has proposed an amendment which would add class C-7 (Low Voltage Systems Contractor) to the list of specialty contractors. Under proposed section 832.07, a communication and low voltage systems contractor is one who installs, services, and maintains all types of communication and low voltage systems which are energy-limited and do not exceed 91 volts. The proposal, which was amended after a hearing on October 22, is scheduled for a January 28 hearing at the Hotel Queen Mary in Long Beach.

Landscape Contractor Regulations. CSLB has proposed an amendment to section 832.27, Title 16 of the CAC, which would delete and replace current language which specifically describes tasks which landscape contractors may perform. According to CSLB, the amend-

ed provision would more accurately define the general work function allowed by the classification, thus eliminating the need to frequently revise the regulations as the technology of the trade evolves. The proposed amendment would also permit landscape contractors to subcontract to appropriately-licensed specialty contractors that work which may not be performed by a landscape contractor but which is essential to the completion of the landscape project. A hearing on the proposed amendment is scheduled for January 28 in Long Beach.

Unlicensed Contractor Workshop. CSLB conducted a workshop on October 21 to obtain testimony and information on the extent of the unlicensed contractor problem in California. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 46.) Those present, including Board members and interested members of the industry, discussed ways to address the problem. Several proposals were presented, including one under which a trade association would be established to aid CSLB in enforcing laws against individuals who are operating as contractors without a license. CSLB committees have been directed to study the possibilities.

Implementing AB 1280 (Areias). This bill, which is now law (Chapter 1264, Statutes of 1987), gives CSLB authority to waive examinations for specified contractor classifications by regulation. At its November 17 meeting in San Francisco, the Licensing Committee recommended three criteria for determining whether an examination should be waived, including (1) health and safety concerns; (2) frequency of complaints against the classification; and (3) number of applicants per classification.

FUTURE MEETINGS:

To be announced.

BOARD OF COSMETOLOGY

Acting Executive Officer:

Denise Ostton
(916) 445-7061

In 1927 the California legislature passed Business and Professions Code section 7300 *et seq.*, establishing the Board of Cosmetology (BOC). The Board was empowered to require reasonably necessary precautions designed to protect public health and safety in establishments related to any branch of cosmetology.

Pursuant to this legislative mandate, the Board regulates and issues separate

licenses to salons, schools, electrologists, manicurists, cosmetologists, and cosmeticians. It sets training requirements, examines applicants, hires investigators from the Department of Consumer Affairs to investigate complaints, and disciplines violators with licensing sanctions.

The Board is comprised of seven members—four public members and three from the industry.

MAJOR PROJECTS:

Executive Officer's Report 86/87 Fiscal Year. At the Board's October 25 meeting, Acting Executive Officer Ostton informed the Board that the Combined Budget and Expenditures Report for the first eleven months of the 1986/87 fiscal year indicates that expenses for personal services and travel exceeded budget projections. However, that factor should be offset by underexpenditures in other areas. The year-end expenditure projection indicated the Board would spend approximately 97% of its \$3.1 million budget by June 30, 1987.

Ms. Ostton also informed the Board that three vacancies exist within the Board: Supervising Examiner, Inspector I, and Secretary. In addition, the number of Board licensees has increased overall by 5%.

Ms. Ostton stated that applicants currently wait an average of 39 days from submission of application to examination and, if successful, licensing. Hence, the waiting period has decreased, even though the number of applicants has increased.

Finally, the enforcement activities report showed that at the conclusion of the 1986/87 fiscal year, 118 fewer complaints were received than during the previous year.

Regulatory Changes. Following a December 13 hearing, the Board adopted a proposal to amend section 995, Chapter 9, Title 16 of the California Administrative Code, to establish an inactive license status for cosmetology instructors. At this writing, the rulemaking file is being compiled for submission to the Office of Administrative Law.

Statewide Pass/Fail Ratios for Instructors Exam. In response to concerns raised by many schools and applicants regarding the high failure rate for instructor applicants in southern California, the Board recently reviewed the pass/fail percentages from the instructors exam for the 1986/87 fiscal year. In order to address the apparent inconsistencies between northern and southern California scores, additional data is being developed in several areas. First, the