



clubs set aside an emergency room on their premises; add new weight classifications and amend the existing weight and class specifications; specify that a minimum of two Commission-appointed physicians shall have seats at immediate ringside at all boxing matches; specify and limit the use of foreign substances to petroleum jelly or other similar substances; specify that a fair blow is a blow delivered above the hip line; delete language specifying what a referee should do if both contestants in a bout are in such condition that they are unable to continue, and clarify when a time out should be called when a ringside physician examines a boxer; give the referee the discretion to award a knockout decision to the opponent of a boxer who fails or refuses to resume boxing; specify what should be done when a boxer falls or is knocked from the ring by a legal punch; amend the scoring procedures by adding that the referee or Commission representative may reach a decision which is different from the decision of the judges; provide that no licensee shall verbally or physically abuse an official or Commission representative, and state that such abuse may result in suspension, fine, or disciplinary action as determined by the Commission; prohibit the use of fans and the swinging of towels between rounds; allow a referee to protest a negative evaluation; and provide that any licensed boxing referee, judge, timekeeper, or physician shall be admitted to any boxing show upon presentation of his/her license card. [15:1 CRLR 43-44]

On May 19, the Office of Administrative Law (OAL) disapproved the Commission's rulemaking package on grounds that the action did not meet the clarity and necessity standards of the APA; the rule-making record did not contain all documents or information required by the APA; the Commission failed to summarize and respond to all comments received in connection with the rulemaking; and the Commission did not follow the required procedure to incorporate a document by reference. The Commission has 120 days in which to correct these deficiencies and resubmit the rulemaking file to OAL.

LEGISLATION

SB 1288 (Alquist), as introduced February 24, would impose, on the promoter or producer of a pay-per-view telecast of a boxing or martial arts contest, a fee of 5% of the promoter's or producer's gross receipts attributable to the individual's or entity's pay-per-view telecast fees, exclusive of federal, state, or local tax, as specified; require that these fees shall be collected from the producer by the cable tele-

vision system operator or operators whose pay-per-view facilities are being utilized by the producer for this purpose and forwarded to the Commission; provide that a fee may not be assessed on the cable company transmitting the event or applied to a pay-per-view boxing event that originates in this state; require that payment of the fee be made within thirty days, accompanied by a form prescribed by the Commission that requires the payee to set forth the number of subscriptions sold, the gross receipts that it received from the pay-per-view telecast, and other information as the commission may deem appropriate; and provide that revenues received by the imposition of this fee are for the exclusive use of the Commission, as specified. [15:1 CRLR 44] Although this is a two-year bill, it is not known at this writing whether Senator Alquist will continue to carry the bill in light of opposition from the California Cable Association. [S. B&P]

RECENT MEETINGS

At its February 23 meeting, the Commission reported that gym inspections were under way across the state. To date, few major violations have been detected; those found have been identified to the gym owners, who were instructed to bring the gyms into compliance by the next inspection. The Commission reported that a number of gyms, previously unknown to the Commission, have been identified as a result of the inspections.

Also at the February meeting, the Commission discussed the issue of amateurs sparring with professionals. Chair William Eastman opined that the Commission will get a sense during inspections whether this is a possible problem. While nothing prohibits amateurs from sparring with professionals, the Commission wants to ensure that the amateur is being trained; the Commission may consider the amendment of its rules to provide adequate safeguards for the amateur.

At its April 7 meeting, the Commission noted that it is still seeking an author to carry its HIV/HBV legislation, which would allow the testing of boxers. [15:1 CRLR 42; 13:2&3 CRLR 49; 13:1 CRLR 20] Although Senator Diane Watson had tentatively agreed to carry the bill if it did not impose mandatory testing, she is no longer willing to carry the bill due to the probable political implications. Staff expressed concern that until a boxer becomes HIV-positive in California or Nevada, the legislature will not take action on the issue.

At its April 7 meeting, the Commission discussed whether commissioners should receive per diem and reimbursement for attending Commission-related functions,

such as boxing events. Commissioners Willie Buchanan and Kim Welshons expressed support for the proposal on the basis that, by attending these functions, commissioners are better able to understand the various aspects of the sports they are regulating. However, Chair William Eastman was highly critical of the proposal on several grounds; among other things, Eastman reminded his colleagues that the Commission has had financial difficulties for the past several years, is currently not self-sustaining and must be subsidized by taxpayer money from the general fund, and has already raised boxers' fees in order to fund its current level of expenses. Eastman also objected to the proposal in concept, opining that it is inappropriate for commissioners to be paid for simply observing events; Eastman criticized his fellow commissioners for seeking or receiving other "perks" from the industry, such as an excessive amount of free tickets to events, special seating arrangements, and clothing. Following discussion, the Commission rejected a motion to allow commissioners who actively participate in a boxing match to be compensated.

FUTURE MEETINGS

July 13 in South Lake Tahoe.

August 18 in Los Angeles.

October 6 (location to be announced).

December 8 (location to be announced).

BOARD OF BARBERING AND COSMETOLOGY

Executive Officer:

Pamela Ramsey

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On July 1, 1992, pursuant to AB 3008 (Eastin) (Chapter 1672, Statutes of 1990), the enabling statutes of the Board of Barber Examiners (BBE) and the Board of Cosmetology (BOC) were repealed and replaced with an enabling act creating the Board of Barbering and Cosmetology (BBC); that act is found at Business and Professions Code section 7301 *et seq.* BBC licenses and regulates persons engaged in the practice of barbering, cosmetology, and electrolysis. The Board is authorized to conduct and administer examinations, adopt regulations governing public health and safety, and discipline persons in violation of its statutes or regulations. BBC represents the first merger of two California regulatory agencies. The Board, which consists of five public members and four members representing the



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professions, holds meetings at least four times per year.

On March 20, BBC appointed Pamela Ramsey to serve as its new Executive Officer; Ramsey had served as the Board's Interim Executive Officer since the February 22 resignation of former Executive Officer Olivia Guebara. Ramsey has been with the Department of Consumer Affairs since 1984, working with the Board of Podiatric Medicine, the Respiratory Care Board, and the Board of Nursing Home Administrators.

MAJOR PROJECTS

Board Works Towards Photo Licensure. AB 3008 (Eastin) (Chapter 1672, Statutes of 1990), the bill that created BBC, also mandated that licenses issued by the Board contain a photograph of the licensee; AB 3062 (Wright) (Chapter 213, Statutes of 1992) authorized the Board to charge a separate fee for a photographic license. On March 31, BBC published notice of its intent to amend section 998, Title 16 of the CCR, to set the amount of the additional fee for processing a photographic license; the amount of the fee as noticed is between \$9 and \$15. The notice also explained that the Board is in the process of securing a vendor who will provide the processing services for the photographic license; until the Board receives and accepts a bid from a vendor to provide these services, it is unable to determine the exact amount of the fee which will meet the statutory requirements of being sufficient to cover the costs of processing the photographic license. The Board scheduled a May 17 public hearing on its proposed amendment.

Due to numerous delays, however, the Board did not release a solicitation for bids on the contract until May 15; accordingly, the Board rescheduled its public hearing until June 27. At this writing, however, the Board is expected to again reschedule the hearing until August, at which time the Board expects to know who will be providing the service and at what cost.

Board Approves Citation Appeal Regulations. On March 31, BBC published notice of its intent to adopt new sections 974.1 and 974.2, Title 16 of the CCR. Existing law provides that a person who has been issued a citation by the Board may appeal the citation to a disciplinary review committee of the Board, but the Board's existing regulations do not specify the composition of or the procedures for the operation of a disciplinary review committee. Section 974.1 would require the Board president to appoint such committees and that the committees be formed of three members of the Board.

Section 974.2 would set forth numerous timelines and procedures for various aspects of an appeal, including filing the request for a hearing before the committee, the time and manner of the Board's response, and the grounds for an appeal of a citation or notice.

On May 21, BBC held a public hearing on the proposed sections; following the hearing, the Board unanimously adopted the proposed regulations. At this writing, the regulations await review and approval by the Office of Administrative Law (OAL).

Board Implements Massive Fine Refund Plan. At its May 21 meeting, BBC voted to issue refunds of all fines assessed by the Board from December 1, 1994 to March 20, 1995. This decision was based on the recommendation of Executive Officer Pamela Ramsey, who explained that BBC promulgated new health and safety regulations which became effective in November 1994 and began enforcing those regulations in December 1994. Also in November 1994, the Board's new citation and fine regulations—intended to help BBC enforce the new health and safety regulations—became effective. [15:1 CRLR 45] However, copies of the Board's health and safety regulations had not yet been mailed to licensees. Under Business and Professions Code section 7312(e), the Board is required to furnish each licensee with a copy of its health or safety rules; although section 7312(e) does not specifically require BBC to mail its licensees copies of its regulations prior to implementing the citation and fine program, Ramsey opined that, "ethically, members of the industry should have been made aware of the expectations of the Board prior to being penalized for not being in compliance." On March 21, the Board was ordered by the Sacramento County Superior Court to cease issuing citations and/or fines for violations of the new regulations (*see* LITIGATION).

On April 5, BBC mailed copies of its regulations to its licensees, and on April 21 the Board reinstated its cite and fine program. At Board's May 21 meeting, Ramsey proposed that the Board refund all fines assessed from December 1, 1994 through March 20, 1995, and expunge all citations made during that same period; the cost of the refunds would be approximately \$190,000. However, Ramsey indicated that affected licensees probably would not receive their refunds until approximately November or December 1995, due to the accounting procedures which must be followed to refund monies cashiered and placed in the Board's special fund, the fact that the Board does not want

to incur overtime expenditures, and the amount of time it takes for the checks to be issued by the State Controller's Office. Following discussion, BBC adopted Ramsey's recommendation.

Cosmetology Externship Program. At its May 21 meeting, the Board approved draft language constituting proposed new Article 8.5, Division 9, Title 16 of the CCR, which would establish a voluntary cosmetology externship program to provide student externs with practical salon experience and exposure while simultaneously attending an approved cosmetology school. As proposed, the article has seven separate provisions, numbered sections 962-962.6. Among other things, the sections would clarify definitional issues in regard to various provisions of Business and Professions Code section 7395.1, set notification and qualifications requirements for externs, and set extern curriculum requirements. At this writing, BBC has not published notice of its intent to pursue this action in the *California Regulatory Notice Register*.

BBC Establishes Consumer Complaint Line. On May 21, BBC voted to join an interagency agreement with Department of Consumer Affairs (DCA) agencies to provide an 800 telephone number to field consumer complaints and inquiries. This service will take over the call volume of the DCA automated phone system and put consumers in touch with a live representative rather than a recording. According to J.P. Fish, chief of operations for DCA's Consumer Information Center, the Center currently handles approximately 60,000 calls per month, with an average hold period of 1.5 minutes per call. Translator services will be available in 133 languages via AT&T. The complaint line will be operated by a staff cross-trained in all the client programs. BBC will donate two full-time staff members as part of its entry into the venture. According to Deputy Executive Officer Denise Brown, BBC hopes to be functioning online by July. Other BBC agencies involved with the project include the bureaus of Automotive Repair, Electronic and Appliance Repair, Security and Investigative Services, and Home Furnishings and Thermal Insulation, and the Tax Preparer Program.

LEGISLATION

AB 487 (V. Brown), as introduced February 16, would direct the State Department of Health and Human Services to establish sterilization, sanitation, and safety standards for persons engaged in the business of tattooing, body piercing, or permanent cosmetics, and to distribute



those standards to the county health departments. This bill, which would also establish a task force which includes BBC representatives for the purpose of recommending legislation to regulate these areas, is a reintroduction of AB 3787 (V. Brown), which was vetoed by Governor Wilson in September 1994. [14:4 CRLR 43] [A. Health]

AB 550 (Morrissey). Under existing law, BBC is required to adopt rules governing sanitary conditions and precautions to be employed as are reasonably necessary to protect the public health and safety in establishments, schools approved by the Board, and in the practice of the professions it regulates. As amended April 17, this bill would exclude barbers' tools from this provision and instead provide that BBC shall not adopt regulations governing barbers' tools. This bill would also provide that a barber may not use specified tools on a patron unless the tools are disinfected or sterilized immediately before serving the patron by immersion in a solution of not less than 5% phenol or an equivalent. [S. B&P]

AB 1100 (Speier). Existing law prohibits a business establishment from discriminating against a person because of the gender of the person, and specifies the remedies for a violation of this provision. As amended May 3, this bill would provide specifically that no business establishment may discriminate, with respect to the price charged for services of similar or like kind, against a person solely because of the person's gender; specify the remedies for a violation of this provision; and provide further that its provisions do not alter or affect the provisions of the Health and Safety Code, the Insurance Code, or other laws that govern health care service plan or insurer underwriting or rating practices. This bill is a reintroduction of AB 2418 (Speier), vetoed by Governor Wilson in September 1994. [14:4 CRLR 43] [A. Floor]

SB 790 (Hughes), as introduced February 23, would require BBC to establish a course of study and separate license for hairstylists, and a temporary permitting program for shampoo assistants.

Under existing law, an applicant for licensure by BBC must pass a practical examination as well as a written test in order to become licensed. This bill would provide that, in the alternative, an applicant who passes the written examination may receive a provisional license that entitles the licensee to gain 1,200 hours of work experience, as specified. An applicant who has passed the examination and who completes the 1,200 hours of work experience shall be licensed. [S. B&P]

SB 1182 (Haynes). Existing law requires any person, firm, or corporation desiring to operate an establishment in which barbering, cosmetology, or electrolysis is performed to apply to BBC for a license. As introduced February 24, this bill would require any person, firm, or corporation who leases a booth or other space within such an establishment to apply to BBC for and obtain the same license, and would require the licensee to, among other things, be liable for any infraction that occurs within the booth or space and is discovered during any inspection by BBC. [S. B&P]

■ LITIGATION

In *Knauss v. Board of Barbering and Cosmetology, et al.*, No. 95CS00601 (Sacramento County Superior Court), filed on March 14, petitioner James Don Knauss, Sr. challenged BBC's imposition of citations and fines for violation of health and safety regulations which the Board had not provided to its licensees pursuant to Business and Professions Code section 7312(e). On March 21, the court ordered BBC to stop issuing citations and fines for specified violations of the Board's new regulations on the basis that the new rules had not been mailed to the Board's licensees. Since that time, BBC has mailed copies of its health and safety regulations to all licensees, and has recommenced its citation and fine program (*see* MAJOR PROJECTS).

■ RECENT MEETINGS

At BBC's March 20 meeting, Executive Officer Pamela Ramsey reported that the Board had published its first *Keeping Current* newsletter, which was mailed to 46,000 establishments; Ramsey estimated that an additional 1,000 copies would be mailed to interested persons and schools.

On May 21, BBC approved a reorganization of its enforcement division; the action splits the enforcement division into four teams composed of one assistant, one analyst, and one office technician each. According to Executive Officer Ramsey, the new configurations will incur no additional cost to the agency.

Also at its May 21 meeting, the Board discussed the imminent availability of its *Student Handbook*, which is being developed to clarify the examination application process for applicants and state the basic procedures relative to any of the Board's examinations. [15:1 CRLR 45] According to Deputy Executive Officer Denise Brown, the *Handbook* is almost finished but remains to be reviewed by legal counsel; Brown estimates the availability of the *Handbook* by summer 1995.

■ FUTURE MEETINGS

July 23-24 in San Francisco.
September 17-18 in San Diego.
November 5-6 in Fresno.

BOARD OF BEHAVIORAL SCIENCE EXAMINERS

Executive Officer: Sherry Mehl
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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).

In February, BBSE welcomed new members Evelyn Hart of Newport Beach and Diego Ramirez-Cardenas of San Diego; Hart is filling a public member vacancy and Ramirez-Cardenas is filling a MFCC vacancy. BBSE still has one LCSW vacancy.

■ MAJOR PROJECTS

BBSE Postpones Board Meeting Due to Budgetary Constraints. At BBSE's February meeting, Executive Officer Sherry Mehl reported that travel expenses for that meeting would probably put BBSE at over 100% of its in-state travel budget; the reason for the deficiency in the travel budget appears to be the extra Board meetings held in the 1994-95 fiscal year to deal with the process of selecting a new Executive Officer. [15:1 CRLR 46] Mehl recommended that the Board consider rescheduling its quarterly meeting from May to July so that it would fall under the 1995-96 fiscal year budget. The other option would be to submit a deficiency request; however, Mehl opined that BBSE's fund condition would not support such a request. At that time, the Board agreed to hold the May meeting as scheduled with the understanding that the Executive Officer and Board Chair could cancel it later; subsequent to the February meeting, BBSE did in fact cancel its May