



\$155, and MFCC intern registration fees from \$60 to \$90; require the fees to be reduced if certain moneys appropriated for the general fund are redeposited in the BBSE fund; and prohibit BBSE from renewing an LCSW license on or after January 1, 1999, unless the applicant certifies to the Board that he/she has completed not less than 36 hours of continuing education in the preceding two years. Both the California Chapter of the National Association of Social Workers and CAMFT support this bill. [A. Health]

RECENT MEETINGS

At its February 23-24 meeting, the Board elected LEP Judy Brislain to serve as Chair for a second term and public member Jerry Miller to serve as Vice-Chair for a second term.

Also at its February meeting, BBSE directed Executive Officer Sherry Mehl to develop a program to issue citation and fines to unlicensed practitioners. BBSE is statutorily authorized to adopt such a program, and Mehl opined that it would be advisable to implement that authority prior to BBSE's sunset review by the legislature. [14:4 CRLR 46]

Also in February, Mehl reported that she had signed a memorandum of understanding (MOU) between BBSE and DCA's Department of Investigation (DOI); under the MOU, a BBSE complaint evaluation and case monitoring unit will be established within DOI. [15:1 CRLR 47; 14:4 CRLR 44]

FUTURE MEETINGS

July 7 in Sacramento.

August 24-25 Los Angeles.

November 16-17 (location to be announced).

CEMETERY BOARD

Executive Officer:

Raymond Giunta

(916) 263-2660

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 188 cemeteries. It also licenses approxi-

mately 142 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.

At its March 29 meeting, the Board elected industry member Steve Doukas to the position of Chair and public member Jeff Wallack to the position of Vice-Chair; the other Board members are industry member Keith Hargrave and public members Lilyan Joslin, Linda Trujillo, and Jane Emerson. On April 11, Wallack was hired as the Executive Officer of the Acupuncture Committee; he therefore resigned as a member of the Cemetery Board, and the Board is functioning with one public member vacancy.

MAJOR PROJECTS

Board Granted Temporary Stay of Execution. After closing its doors in December 1994 due to legislative defunding, the Cemetery Board reopened for business in March with a loan from the legislature under section 27 of the 1994-95 Budget Act. However, the Board's stay of execution is temporary: The loan will carry it only to July 1, and the legislature plans to repeat its 1994 attempt to force merger of the Cemetery Board with the Board of Funeral Directors and Embalmers (BFDE) by appropriating only six months' worth of funding to both boards in the 1995-96 budget and considering yet another merger bill—this one authored by Assemblymember Jackie Speier, chair of the Assembly Consumer Protection Committee.

The Board's 1994 defunding and prospective 1995 defunding are further steps in a lengthy effort by the legislature to remedy both boards' ineffectiveness in fulfilling their primary duty of consumer protection through their licensing, standardsetting, and enforcement programs. Industry opposition blocked legislative attempts in the late 1980s and early 1990s to merge the Board with BFDE. SB 2037 (McCorquodale), the legislature's 1994 attempt to merge the boards, failed when the Assembly Consumer Protection Committee deleted the merger provision from the bill; the Senate refused to concur in the Assembly's removal of the merger provision and SB 2037—along with the Board's funding for the second half of the 1994-95 fiscal year—died on the Senate floor. [15:1 CRLR 47; 14:4 CRLR 4, 47]

In October 1994, the Board requested a deficiency appropriation pursuant to section 27, but Joint Legislative Budget Committee (JLBC) Chair Senator Mike Thompson denied the Board's request on

the advice of JLBC Legislative Analyst Mac Taylor and Senate Business and Professions Committee Chair Senator Dan Boatwright, who contended that granting the Board's request would circumvent the legislature's budget process and be inappropriate. In March, however, Thompson authorized section 27 funding contingent upon the Board's performance of specified tasks and completion of reports; the Board's failure to produce any report or issue memorandum by specified deadlines will result in the revocation of any remaining section 27 funds. All reports must be forwarded to the Department of Consumer Affairs (DCA), the Secretary of the State and Consumer Services Agency, and the JLBC by the specified deadlines. The mandated tasks, associated reports, and deadlines include the following:

- By March 31, the Board must restore all operations, bring all licensing current, and provide a written status report at that time and monthly thereafter.

- By March 31, and monthly thereafter, the Board must provide a detailed status report of all enforcement activities. The report must identify audits or inspections performed by type; indicate whether each matter is still in progress or the outcome if completed; and include aging information on complaints, investigations, and adjudications opened, closed, and pending.

- By April 17, the Board must provide an issue memorandum, in the format provided by DCA, exploring the feasibility of transferring the administration of cemetery conservatorships to third parties and the necessity of seeking court approval for conservatorships.

- By April 28, the Board must provide an issue memorandum, in the format provided by DCA, exploring the feasibility of removing the annual cap on fines.

- By May 15, the Board must provide an issue memorandum, in the format provided by DCA, exploring the feasibility of contracting with DCA's Consumer Information Division to open a single consumer complaint line for the Board and BFDE.

- By May 26, the Board must provide an issue memorandum, in the format provided by DCA, exploring the feasibility of limiting the annual management fees for endowment funds.

- By June 15, the Board must prepare a detailed report to identify and discuss benefits, disadvantages, issues, problems, and alternatives to the proposed merger of the Board with BFDE.

- By June 15, the Board must work with DCA's Research and Examination Division to prepare a report on the Board's licensing and enforcement measures, using performance measures developed by DCA.



REGULATORY AGENCY ACTION

At a March 28 workshop, the Board delegated completion of its section 27 reporting requirements to Executive Officer Ray Giunta. Giunta reported that after the Board closed in December, volunteers administered licensing examinations and answered consumer inquiries; in March, the Board returned to full operation with temporary staff.

Also at its March meeting, the Board approved the March 31 status report prepared by Giunta, as required by the section 27 agreement. Among other things, the report states that "former staff members were purposely hiding complaints under their desk to underreport the pending counts of open complaints" and that staff "discovered files with unopened, and unanswered mail addressed to the Executive Officer under a former employee's work station." As of March 31, the Board had a backlog of 98 open, pending complaints—16 are at least one year old, 20 are at least eight months old, 30 are at least six months old, 29 are at least three months old, and the remaining three are under two months old. The report also states that the Board has not had an inspector to perform inspections and investigations since its last inspector retired in 1992; however, Giunta initiated twelve inspections since he was hired in April 1994, several of which have been referred for disciplinary action of some sort.

The Board also met its April 17 deadline to submit a report discussing the feasibility of third-party administration of the conservatorships currently under the control of the Board and the necessity of seeking court approval for such action. Under existing law, the Board is authorized to take control of a cemetery where it has reason to believe, or based on its investigation believes, that there has been damage to the endowment care fund or where damage to the fund is likely to occur if the Board does not act immediately; once this type of action is taken by the Board, the law requires the Board to file a petition in the superior court where the property is located for placement of the property under conservatorship with the Board. In drafting the report, a Board consultant contacted several private cemeterians, financial institutions, and government agencies to determine whether they would be interested in providing daily oversight and asset management of cemeteries in conservatorship. The private cemeterians expressed interest in taking over these activities at active cemeteries (based on a case-by-case evaluation for profitability), but stated no interest in these functions at inactive cemeteries. The financial institutions contacted expressed interest in asset management on

portfolios in excess of \$1.1 million, in order to meet their annual fee requirements. No government agencies expressed interest in daily oversight; other agencies which must conserve insolvent institutions (such as the Department of Insurance) contract out daily management functions by appointment or the bid process. No one expressed interest in taking over either daily oversight or asset management functions on the seven cemetery properties currently under Board conservatorship.

The Board also drafted a May 10 preliminary report on the proposed merger with BFDE, as envisioned in AB 597 (Speier) (see LEGISLATION). The draft reveals that the two boards already share common space in the same building and have compatible phone equipment and computer systems, and that savings from eliminating one of the two executive officer positions could be applied to other personnel costs.

Fee Increases Revived. In May 1994, the Board approved proposed regulatory changes which increase virtually all of the fees it charges to the statutory maximums established in Business and Professions Code sections 9750-70. [14:4 CRLR 48] After the Board reopened for business in March, it revived this rulemaking proposal and forwarded it to the Office of Administrative Law in late May, where it is pending at this writing.

LEGISLATION

AB 597 (Speier), as amended May 10, would abolish the Cemetery Board and BFDE, create the eleven-member Board of Funeral and Cemetery Services (BFCS), and transfer all power, authorities, and funds previously vested with the Cemetery Board and BFDE to BFCS. BFCS would have one public member appointed by the Speaker of the Assembly, one public member appointed by the Senate Rules Committee, and five public members, two cemetery licensees, and two funeral director or embalmer licensees appointed by the Governor. No BFCS member would be allowed to hold both a cemetery license and a funeral license.

AB 597 would also specify that the DCA Director may assume the board's powers and duties where an investigation discloses "probable cause" to believe that the conduct of the board constitutes a violation of criminal law and the Director believes the board is unable to perform its regulatory duties due to a conflict of interest, neglect, or dishonorable or unprofessional conduct; expand the existing statute of limitations on the merged board's filing of an accusation against a licensee from

two years to three years from the performance of an unlawful act; and establish a higher duty of care to the consumer by making "negligence" instead of "gross negligence" the basis for board disciplinary action against a licensee. The bill would also remove an existing statutory cap on fines assessed for multiple violations of the merged board's enabling act. [A. Appr]

RECENT MEETINGS

At its March 28 workshop, the Board voted unanimously to initiate rulemaking to require minimum building standards in the construction of mausoleums.

At the Board's March 29 meeting, the Board reaffirmed its opposition to merger with BFDE by a 4-2 vote; public members Jane Emerson and Jeff Wallack voted not to oppose the merger (see MAJOR PROJECTS and LEGISLATION).

FUTURE MEETINGS

July 18 in Sacramento.

September 25 in Sacramento.

CONTRACTORS STATE LICENSE BOARD

Registrar: Gail W. Jesswein
(916) 255-3900

Toll-Free Information Number:
1-800-321-2752

The Contractors State License Board (CSLB) licenses contractors to work in California, handles consumer complaints, and enforces existing laws pertaining to contractors. The Board is authorized pursuant to the Contractors State License Law (CSLL), Business and Professions Code section 7000 *et seq.*; CSLB's regulations are codified in Division 8, Title 16 of the California Code of Regulations (CCR).

The thirteen-member Board—consisting of seven public members, two B-general building contractors, two C-specialty contractors, one A-general engineering contractor, and one member from a labor organization representing building trades—generally meets four times per year. The Board currently has five committees: administration/public information, enforcement, licensing, legislation, and executive.

On March 6, Governor Wilson appointed Timothy Strader to CSLB for a three-year term running until March 1988. Strader, 56, is an attorney from Corona Del Mar, and has worked as in-house counsel for the Koll Company; Strader was also a principal with the Legacy Development Group, a real estate development company