



about the non-medical aspects of dental care, such as managed care contracts. At this writing, the Board has taken no action to amend section 1016.

At its May meeting, BDE considered COMDA's recommendation that all guidelines for review of RDA educational programs be adopted as regulations to assure that all program personnel are informed of the standards with which they must comply. The Board expressed concern about adopting the guidelines as regulations because they have not been reviewed or modified in several years; BDE appointed an ad hoc committee to review the guidelines and report back to it at a later meeting.

■ FUTURE MEETINGS

August 24–25 in San Francisco.
November 2–3 in Los Angeles.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Executive Officer:
Richard P. Yanes
(916) 263-3180

The Board of Funeral Directors and Embalmers (BFDE) licenses funeral establishments and embalmers. It registers apprentice embalmers and approves funeral establishments for apprenticeship training. The Board annually accredits embalming schools and administers licensing examinations. BFDE inspects the physical and sanitary conditions in funeral establishments, enforces price disclosure laws, and approves changes in business name or location. The Board also audits preneed funeral trust accounts maintained by its licensees, which is statutorily mandated prior to transfer or cancellation of a license. Finally, the Board investigates, mediates, and resolves consumer complaints.

BFDE is authorized under Business and Professions Code section 7600 *et seq.* The Board consists of five members: two Board licensees and three public members. In carrying out its primary responsibilities, the Board is empowered to adopt and enforce reasonably necessary rules and regulations; these regulations are codified in Division 12, Title 16 of the California Code of Regulations (CCR).

■ MAJOR PROJECTS

BFDE Gets New Life. 1995 began on a bizarre note for BFDE and the Cemetery Board: Although both boards exist in statute, neither had funding or staff. In the

1994–95 Budget Act, the state appropriated only six months' worth of funding to both BFDE and the Cemetery Board; the action was an attempt to force the restructuring of the boards and the state's regulation of the death services industry through SB 2037 (McCorquodale), a 1994 bill which would have merged the boards effective January 1 and provided the rest of the needed 1994–95 funding to the merged board. However, the Assembly reversed the budget agreement in August 1994 by deleting the merger provision from SB 2037, and the Senate subsequently refused to concur in the Assembly's amendments—which killed SB 2037 and continuation funding for both boards. [15:1 CRLR 55; 14:4 CRLR 4, 55]

Despite the lack of funding, BFDE Executive Officer Richard Yanes continued to carry on some of the Board's functions, as the Board sought a budgetary reprieve from lawmakers. In March, that reprieve came in the form of temporary funding pursuant to section 27 of the 1994–95 Budget Act. At roughly the same time, yet another bill was introduced to merge the two boards. As amended May 10, AB 597 (Speier) would enact the Funeral and Cemetery Services Act of 1995; the bill would abolish both existing Boards and merge them into the Board of Funeral and Cemetery Services (BFCS) effective January 1, 1996. BFCS would consist of eleven members: seven public members, two cemetery licensees, and two funeral director or embalmer licensees. The Speaker of the Assembly and the Senate Committee on Rules would each appoint one public member, with the remainder appointed by the Governor.

The Act would consolidate the current Funeral Directors and Embalmers Law and the Cemetery Act; under the Act, the Director of the Department of Consumer Affairs (DCA) would be able to take over any BFCS action when an investigation discloses probable cause to believe that the Board's actions constitute a criminal act and that the Board cannot reasonably perform its regulatory duties. AB 597 would also 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, and set a sunset date of January 1, 2000 for the merged board.

Under the March agreement reached by the legislature, the Department of Finance, and DCA, BFDE will receive fund-

ing for January through July; however, according to Executive Officer Yanes, the last three months of this temporary funding will come on a monthly basis contingent on the Board's submission of periodic progress reports on specific issues to the legislature. The reports will cover a number of issues including the viability of eliminating annual management fees for preneed trust funds, having DCA conduct licensing and enforcement actions in place of the Board and establishing a single consumer complaint line, and issues and problems posed by the merger of the two boards. At BFDE's April 22 emergency meeting, Executive Officer Yanes indicated that he will be submitting the required reports on a monthly basis to secure the Board's funding in accordance with section 27.

Rulemaking Resuscitated. During the summer of 1994, BFDE adopted a package of regulatory changes that would amend sections 1258 and 1241, and add new sections 1258.1, 1258.2, 1258.3, and 1262 to Title 16 of the CCR; among other things, these changes would clarify disclosure requirements for the sale of caskets, define and prohibit the practice of "constructive delivery," and add new grounds for the issuance of a citation. [15:1 CRLR 56; 14:4 CRLR 55–56; 14:2&3 CRLR 57–58] The Board originally published notice of these regulatory changes on May 6, 1994. Government Code section 11346.4, part of the Administrative Procedure Act (APA), provides that the effective period of such a notice shall not exceed one year; therefore, if the proposed action as specified in the notice is not completed and transmitted to the Office of Administrative Law (OAL) within the period of one year, the notice expires and the agency must renounce the proposed action. Accordingly, the proposed action was due to expire as of May 6; however, BFDE submitted the package to DCA in late April, and DCA apparently extended the deadline for an additional thirty days. According to Executive Officer Yanes, DCA will return the rulemaking to him in late May; at that time, the Board will submit the regulations to OAL for review and approval.

■ LEGISLATION

AB 597 (Speier), as amended May 10, would merge the Board of Funeral Directors and Embalmers with the Cemetery Board to create the Board of Funeral and Cemetery Services (*see* MAJOR PROJECTS). [A. Appr]

SB 769 (Lockyer), as amended May 11, would establish the Comprehensive Criminal Justice Act of 1995. Among other things, this bill would impose crim-



REGULATORY AGENCY ACTION

inal penalties for a violation of Business and Professions Code Article 9 relating to preneed funeral trusts, impose liability on any violating party whether or not he/she is a BFDE licensee, and subject licensees to possible additional disciplinary action under Business and Professions Code section 7686. [S. Appr]

RECENT MEETINGS

BFDE scheduled a public meeting on April 22 in Sacramento; however, due to the late posting of the notice, the Board canceled that meeting and scheduled an emergency meeting for the same date and time. The Board cited Government Code section 11125.5(f) (part of the Bagley-Keene Open Meeting Act) as its rationale for the emergency meeting; that provision allows an agency to convene an emergency meeting to consider proposed legislative action which may be taken prior to the next regularly scheduled meeting of the agency. At the emergency meeting, the Board discussed AB 597 (Speier) and resolved to support the bill as it then read, but to oppose it if it is later expanded in scope to areas beyond the merger provision, such as preneed trusts. Executive Officer Yanes also presented reports on the Board's budget, funding, and personnel matters; Yanes indicated that the Board would be able to issue licenses and license transfers, and conduct routine business at normal levels within three to four months. Yanes also discussed the difficulties of obtaining staff in light of the uncertain existence of the Board, as well as the minimal enforcement abilities of the unfunded Board over the past few months.

FUTURE MEETINGS

June 22 in Sacramento.
September 22 in Woodland Hills.

BOARD OF REGISTRATION FOR GEOLOGISTS AND GEOPHYSICISTS

Executive Officer: Dalton Pollard
(916) 445-1920

The Board of Registration for Geologists and Geophysicists (BRGG) is mandated by the Geologist and Geophysicist Act, Business and Professions Code section 7800 *et seq.* The Board was created by AB 600 (Ketchum) in 1969; its jurisdiction was extended to include geophysicists in 1972. The Board's regulations are found in Division 29, Title 16 of the California Code of Regulations (CCR).

BRGG licenses geologists and geophysicists, and certifies engineering geologists and hydrogeologists. In addition to successfully passing the Board's written examination, an applicant must have fulfilled specified undergraduate educational requirements and have the equivalent of seven years of relevant professional experience. The experience requirement may be satisfied by a combination of academic work at a school with a Board-approved program in geology or geophysics, and qualifying professional experience. However, credit for undergraduate study, graduate study, and teaching, whether taken individually or in combination, cannot exceed a total of four years toward meeting the requirement of seven years of professional geological or geophysical work.

The Board may issue a certificate of registration as a geologist or geophysicist without a written examination to any person holding an equivalent registration issued by any state or country, provided that the applicant's qualifications meet all other requirements and rules established by the Board.

BRGG is authorized to investigate and discipline licensees who act in violation of the Board's licensing statutes. The Board may issue a citation to licensees or unlicensed persons for violations of Board rules. These citations may be accompanied by an administrative fine of up to \$2,500.

The eight-member Board is composed of five public members, two geologists, and one geophysicist. BRGG's staff consists of five full-time employees. The Board's committees include the Professional Affairs, Legislative, and Examination Committees. BRGG is funded by the fees it generates. In January 1995, Governor Wilson reappointed public member Monta Huber to BRGG for a four-year term.

MAJOR PROJECTS

BRGG Publishes Newsletter. In May, the Board published a licensee newsletter, noting that 1994 marked the twenty-fifth anniversary of the registration of geologists in California. The newsletter contains historical information about the first licensees of the Board and the first BRGG members; letters from BRGG President Robert Lindblom and Executive Officer Dalton Pollard; biographies of current Board members; examination and enforcement reports; and answers to the most frequently-asked questions about BRGG's new hydrogeologist certification program (*see below*).

Use of the "Certified Hydrogeologist" Title. At BRGG's April 21 meet-

ing, Department of Consumer Affairs (DCA) legal counsel Gary Duke outlined DCA's recent legal opinion on the use of the titles "certified hydrogeologist" and "hydrogeologist," now that the Board has adopted regulations creating a specialty certification program for hydrogeologists. [14:4 CRLR 58] According to Duke and DCA, only geologists who have passed the specialty examination and been certified as hydrogeologists by BRGG may use the title "certified hydrogeologist"; geologists registered by BRGG may use the title "hydrogeologist" but not "certified hydrogeologist"; and unregistered persons may not use either title.

Citation and Fine Regulations Pending. On April 26, BRGG finally submitted the rulemaking file on its adoption of new sections 3062-3063.4, Title 16 of the CCR, its citation and fine regulations, to the Office of Administrative Law (OAL) for approval. Over two years in the making, the regulations—if approved—would permit the Board to issue citations and/or fines to registrants for minor violations of the Geologist and Geophysicist Act and the Board's regulations, and to nonlicensees for engaging in activities for which registration or certification is required. [15:1 CRLR 57; 14:4 CRLR 58; 14:2&3 CRLR 59] At this writing, OAL has 30 working days in which to approve or reject the Board's citation and fine regulations.

LEGISLATION

SB 914 (Alquist), as amended April 6, would require BRGG, the Board of Architectural Examiners, and the Board of Registration for Professional Engineers and Land Surveyors to develop, adopt, and enforce regulations on or before July 1, 1996, applicable to the state and local enforcement agencies that regulate building standards and that, pursuant to the bill, have, on staff or under contract, appropriately licensed architects and registered geologists and registered professional engineers with demonstrated competence to review plans, specifications, reports, or documents for the design and construction of all architectural, engineering, and geological work regulated by building standards.

This bill would also provide that, notwithstanding existing law, every state and local enforcement agency shall have, on staff or under contract, appropriately licensed architects, registered professional geologists, and registered professional engineers with demonstrated competence to review the plans, specifications, reports, or documents for the design and construction of all architectural, geological, or engineering work related by building stan-