



**Future Legislation.** Commission Executive Officer Richard DeCuir and DCA legal counsel Anita Scuri have drafted proposed new language for the pension plan statutes at request of the Commission at its December meeting (see MAJOR PROJECTS). The proposal would amend sections 18881 and 18882 and repeal section 18883 of the Business and Professions Code to allow the Commission to establish a pension plan that would not be entirely funded by boxers, promoters, and managers.

DeCuir and Scuri have also drafted proposed changes to Business and Professions Code section 18711, which would allow the Commission to shift the costs of required neurological exams to the boxer.

## LITIGATION

In *Twenty-Nine Palms Band of Mission Indians v. Wilson, et al.*, No. CV 95-5177 MRP, filed on August 4 in the U.S. District Court for the Central District of California, Twenty-Nine Palms Band of Mission Indians (Tribe) brought an action for declaratory relief against Governor Wilson, the Athletic Commission and Executive Officer Richard DeCuir, and Attorney General Dan Lungren over the state's jurisdiction—through the Athletic Commission—to regulate and/or license boxing events staged and promoted or co-promoted by the Tribe on the Tribe's reservation. Specifically, the Tribe is seeking a declaration that the defendants have no jurisdiction or authority to regulate or require the licensing of boxing events that are staged and promoted by the Tribe on the Tribe's reservation; that California Business and Professions Code section 18600 *et seq.* (the "Boxing Act") does not apply to boxing events staged and promoted by the Tribe on the Tribe's reservation; and that defendants have no jurisdiction or authority to fine or suspend any California licensee who participates in such boxing events. The defendants filed a cross-complaint for declaratory and injunctive relief seeking a declaration with respect to the applicability of the Boxing Act to boxing events held on tribal land, and an injunction enjoining the Tribe and all persons acting in concert with the Tribe from promoting professional boxing events absent approval by the Athletic Commission until the Tribe is licensed as a boxing promoter by the Athletic Commission.

At this writing, both parties are expected to file motions for summary judgment; the court is expected to rule on those motions in early 1996.

## RECENT MEETINGS

At the Commission's August 24 meeting, Chair Eastman requested that, in the

future, Commissioners not attend unsanctioned events, so that they will be able to participate in disciplinary hearings related to such events.

Also at the August meeting, the Commission discussed possibilities for increasing the marketability of boxing in general, and specifically in California. Chair Eastman suggested experimenting with an "open" scoring system, in which the judge's score cards are revealed after each round. Commissioner Welshons suggested a "winner take all" purse or purses of different value for winner and loser. The Commission took no action on these proposals.

At its October 6 meeting, the Commission directed staff to draft regulatory language to clarify existing section 221, Title 4 of the CCR, regarding the suspension of contracts; specifically, the Commission may pursue regulatory language stating that any contract is nonenforceable during a time period in which a manager is on suspension for up to 60 or 90 days; any suspension exceeding a 60- or 90-day period would result in the permanent termination of all boxer/manager contracts.

## FUTURE MEETINGS

March 8 in Irvine.  
April 19 in San Francisco.  
May 31 in South Lake Tahoe.

## BOARD OF BARBERING AND COSMETOLOGY

*Executive Officer:*

*Pamela Ramsey*  
(916) 445-7061

*Toll-Free Number:*  
(800) 952-5210

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 cosmetologists, barbers, manicurists, estheticians, electrologists, establishments where licensed services take place, and cosmetology and barber instructors. 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 professions, holds meetings at least four times per year.

## MAJOR PROJECTS

**BBC Undergoes Sunset Review.** On December 5, following months of preparation and the submission of a comprehensive report describing its functions and performance, BBC underwent its first "sunset" review by the Joint Legislative Sunset Review Committee (JLSRC) created pursuant to SB 2036 (McCorquodale) (Chapter 908, Statutes of 1994). [14:4 CRLR 20, 42-43] SB 2036 repeals the laws establishing the Board on July 1, 1997; if the legislature does not pass legislation extending the sunset date prior to that time, the Department of Consumer Affairs (DCA) will assume the powers and responsibilities of the Board and its executive officer.

Preparation of its 130-page sunset report consumed much of the Board's time and attention through the summer and fall. The JLSRC required BBC to describe its responsibilities, provide background information on its budget, and define the functions and tasks of each BBC licensing category. The report also included statistical information on the Board's licensing examinations and pass rates, and its enforcement program—including number of complaints received, investigations commenced, and disciplinary actions taken. The JLSRC also required BBC to analyze the necessity of its seven licensing programs, and consider other less restrictive alternatives which would protect the public without imposing unnecessary costs on licensees or consumers.

The Board prepared its report with the assistance of a paid consultant, Macias Consulting Group, which facilitated strategic planning sessions on August 14-15, helped to draft the report, and advised BBC on lobbying techniques to convince the legislature to pass a bill extending the life of the Board. Also in conjunction with the preparation of its report, Executive Officer Pamela Ramsey and Deputy Executive Officer Denise Brown met with Julie D'Angelo Fellmeth of the Center for Public Interest Law (CPIL), to ascertain CPIL's position on the report and the sunset review. At its August 15, September 17, and October 2 meetings, BBC received extensive public comment on various drafts of the report; many schools, instructors, and representatives of the California Teachers Association (CTA), whose members teach the required barber and cosmetology curricula at community colleges and vocational schools, urged the Board to strongly advocate BBC's extension and retention of its existing licensing requirements, licensing examinations, and educational requirements.



The Board finally adopted the final version of its sunset report on October 2. While Part I of the report set forth extensive background information on BBC's history, funding, internal organization, application, and its examination, licensing, and enforcement programs, Part II focused on the need for regulation of the barbering and cosmetology professions. The report analyzed several scenarios:

- BBC stated that total deregulation of the seven occupations it currently regulates would have "disastrous effects"—because "anyone could attempt to perform barbering, cosmetology, electrology and other related services for pay, either in shops or at home, without any formal training or testing for minimal competency....[T]here will be little need for students to enroll in schools and, with fewer students, schools will be forced to charge exorbitant prices for tuition in order to stay in business." BBC also argued that deregulation and increased competition would reduce the incomes of experienced practitioners, and wipe out the "external incentive" to maintain sanitary and safe conditions.

- Additionally, BBC identified potential harm to consumers if barbering/cosmetology services are deregulated: Estheticians performing chemical skin peels can cause permanent harm if they are incompetent; manicurists can cause injury through the use of toxic chemicals when applying artificial nails, and improper disinfection procedures can cause the spread of bacteria, fungus, and other nail diseases; electrologists, who insert needles into the hair follicle, can cause harm if they fail to sterilize the needles properly; and licensees who apply chemicals to straighten, bleach, or color hair can cause injury if these chemicals are improperly mixed or applied. In addition, barbers are authorized to shave the face with straight-edged razors; "this practice has the potential for consumer harm in terms of the transmission of bloodborne diseases as well as injury resulting from cuts and lacerations."

- BBC also discussed the alternative of transforming the Board into a bureau operating under the direct supervision of the DCA Director, but rejected this option because a bureau lacks required public meetings—thus reducing the opportunity for industry and public input. Additionally, BBC argued that the bureau structure would increase the potential for incorrect policy decisions, because bureau decisionmaking is made by a few people at the top with little industry input.

- BBC's report also rejected the alternative of a registration or permit requirement with or without the posting of a bond. BBC conceded that this alternative would

eliminate the cost of testing and licensure to people entering the profession and significantly reduce the costs of enforcing the Board's regulations. However, BBC listed several problems with this alternative, including the following: the absence of mandatory testing would eliminate its ability to detect incompetent practitioners; BBC would lose its authority to discipline a licensee for acts of gross negligence or incompetence; customer recourse for negligent or incompetent work would fall on local law enforcement and the courts; and industry earnings would decrease due to increased competition.

Thus, BBC concluded that its preferred regulatory alternative is continuation of the Board in its current structure, with enhanced regulatory powers and authority. BBC argued that its jurisdiction should be expanded to include regulation of currently unregulated practices such as body piercing, permanent cosmetic tattooing, tanning, and body massage services occurring within licensed establishments; BBC also urged the creation of a new license category and curriculum for "hairstressers" which excludes nail and skin care.

At the December 5 hearing of the JLSRC, BBC President Rosemary Faulkner and Executive Officer Pamela Ramsey presented the Board's report and oral testimony to the Joint Committee. Ramsey described a series of photographs contained in the report, which purportedly depicted harm caused by licensees. Assemblymember Jackie Speier asked Ramsey to describe the action taken by the Board in each case:

- The first set of pictures showed a pair of hands with fungus-infected fingernails; Ramsey stated that the Board filed an accusation against the licensee in September 1993 but took no disciplinary action until March 1995, and then imposed a 21-day suspension. Senator Dan Boatwright commented that the Board simply gave the licensee a 21-day vacation.

- The second set of photos showed a woman with hair loss allegedly caused by a technician mixing incompatible chemicals. Ramsey said the Board took no action against the licensee, because the consumer had done the damage herself and subsequently came to the licensee to fix the problem. Speier scolded Ramsey for misrepresenting the pictures as the result of licensed activity.

- The third set of pictures depicted a consumer's lip burned by a hot-wax hair removal treatment. Ramsey said the Board took no action because the practitioner was unlicensed. Subsequently, BBC licensed that same practitioner.

- The last set of photos showed a chemical skin peel that had burned a consumer's

leg; Ramsey stated that DCA's Division of Investigation is still investigating the case. Speier asked if the practitioner is still practicing; Ramsey noted that BBC is authorized to issue an interim suspension order to prevent the licensee from practicing, but has never done so and did not do so in this case because it was not "egregious" enough.

Assemblymember Speier stated that the Board's inaction makes a mockery of its enforcement function. When Ramsey stated that BBC would appreciate any assistance the JLSRC could provide, Senator Boatwright interrupted her, noting that BBC has all the authority it needs but refuses to exercise it. Boatwright suggested moving to "some other system where these boards don't do enforcement."

Speier asked about the Board's inspection record, noting that BBC is required to visit each licensed establishment once a year. However, BBC's inspectors visited only 15,000 of 40,000 establishments during the past year. Ramsey responded that BBC has only 17 inspectors, and the Board's new citation and fine program has resulted in more time-consuming inspections—which combine to result in fewer overall inspections and BBC's noncompliance with the statutory inspection requirement. Ramsey also noted that inspections are unannounced, but when one salon is inspected its staff immediately telephone all other salons in the area to warn them of an imminent inspection. Speier told Ramsey that "you're not capturing this problem," and stated that "if boards are merely protectorates of the industry, then we should get rid of the boards and [regulate] through a bureau."

Assemblymember Speier also asked whether BBC's inspectors look for adequate ventilation in salons where toxic fumes from nail polishes and chemicals could be present. Ramsey responded that this issue is presumably under Cal-OSHA's jurisdiction and that compliance with ventilation standards is probably the responsibility of the building owner rather than the salon owner/operator.

Following BBC's presentation, Dr. Jon Rosenberg from the Department of Health Services (DHS) testified that he worked with BBC several years ago regarding ventilation standards. He noted that Cal-OSHA would normally have jurisdiction to enforce compliance with state ventilation laws, but that—due to the pervasive presence of independent contractors (rather than employees) who simply rent booths at many BBC-licensed establishments—Cal-OSHA is not authorized to inspect most salons. According to Dr. Rosenberg, "This is a gray area—no one is regulating this; to properly regulate it would require an enormous influx of resources."



## REGULATORY AGENCY ACTION

Several trade association representatives testified in support of BBC's continuation. Janet Borgens of the California Cosmetology Association said her organization supports BBC because inspections "hold us accountable." Representatives of the California Cosmetology Coalition said their group supports the Board, but that it is not in touch with the reality of the demands on the industry.

At least four representatives of schools and instructors, including CTA, urged retention of the Board. These interests directly profit from BBC's required curricula, and might suffer income loss if licensing requirements are abolished. CTA representative Della Condon warned the JLSRC to question the motives of those who support deregulation.

However, testimony was not unanimous in support of the Board and its licensing requirements. A representative of Supercuts argued that BBC's current licensing system prevents qualified people from getting jobs. Andre Nizetich, President of the Los Angeles County Cosmetology Apprenticeship Council, said BBC's inspection requirement should be transferred to local health officials and criticized BBC's required curricula, which force people to take courses in areas they never again use; "I own a salon and we're not getting trained people out of these schools." He favored the apprenticeship model—"we put people to work; they get work and on-the-job training from individuals who are already successful." Nizetich also urged the JLSRC to outlaw booth rentals and other "underground activity."

Finally, CPIL's Julie D'Angelo Fellmeth presented oral and written testimony in which she criticized BBC's current licensing system. CPIL believes that government should reserve licensing for professions in which incompetence is likely to cause irreparable harm. D'Angelo Fellmeth argued that BBC's sunset report failed to demonstrate a substantial risk of irreparable harm—or even physical injury—from incompetent BBC licensees. She contended that the "repeat business" dynamic of the marketplace has considerable force in this area; no consumer would return to a barber or cosmetologist who is incompetent, and that practitioner will quickly go out of business. She stated that a bond requirement, coupled with the normal functioning of the marketplace, appears to be a sufficient regulatory combination for these professions.

D'Angelo Fellmeth also took issue with one of the key justifications for the existence of the Board and its licensing requirements presented by BBC in its report. The report states that "there is also the

greatest risk associated with transmission of bloodborne diseases, such as HIV/AIDS, Hepatitis B and other communicable diseases that can be caused by uninformed practitioners." D'Angelo Fellmeth argued that this statement directly conflicts with one of the Board's own regulations, which defines the diseases and infections "capable of being transmitted between licensee or student and patron" and expressly excludes HIV and hepatitis B (HBV). Section 984(d), Title 16 of the CCR, states that "[b]loodborne diseases, such as HIV/AIDS and HBV, shall not be considered infectious or communicable diseases for the purpose of this section." When questioned about this regulation by DCA during the rulemaking process, BBC insisted that it had consulted with DHS, which approved BBC's language excluding HIV and HBV as concerns in the hair care setting "since transmission from worker to client is not a significant likelihood." [14:1 CRLR 34]

Additionally, D'Angelo Fellmeth contended that the Board's effect on the small risk of harm which does exist is negligible. Because of tensions between barbers and cosmetologists, BBC failed to adopt health and safety regulations until 1994, two years after the merger of the Board of Barber Examiners and the Board of Cosmetology and four years after the merger bill was passed. She noted that BBC professes to focus on sanitation issues. However, the required 1,600-hour cosmetology curriculum includes only 20 hours relating to disinfection and sanitation; the barber curriculum does not require any training in disinfection and sanitation. She reiterated that BBC fails to inspect more than one-half of the establishments it is required to inspect, and that "resourcing [the inspection] program at this level is tantamount to not resourcing it at all."

D'Angelo Fellmeth also focused on the Board's enforcement statistics, which she characterized as "minimal, clearly not cost-effective, and proof of the fact that the incidence of actual physical harm to the consumer reported to the Board is minuscule." Citing statistics in BBC's report, she concluded that of 400,000 licensees who each serve thousands of clients each year, BBC opened only 132 investigations, filed only 41 accusations, and took a total of 50 disciplinary actions during the past three years. Only 19 of those incidents caused actual physical injury to a consumer. However, BBC spent a total of \$8.6 million to take these 50 disciplinary actions.

D'Angelo Fellmeth noted several abuses within the industry on which the Board has taken little or no action, including the following: (1) BBC has failed to enforce, establish professional standards,

or do anything at all about Proposition 65, which prohibits businesses and employers from exposing customers or employees to substances known to the state to cause cancer or birth defects without warning them; (2) it has failed to address "booth rental," a well-known practice within the cosmetology industry whereby salon owners simply rent booths to cosmetologists rather than hiring them as employees and withholding sums for personal income tax and unemployment insurance—creating an "underground economy" within the cosmetology profession; and (3) it has done nothing about unlawful gender-based pricing, whereby practitioners charge women more than men for identical services (see LEGISLATION).

D'Angelo Fellmeth argued that schools and instructors—instead of consumers—appear to be the primary beneficiaries of BBC's many licensing requirements. BBC's required curricula translate into an extraordinary amount of money for the schools which offer them to the "captive audience" would-be licensees. She opined that abolition of BBC's licensing requirements would not mean an end to schools; however, it would require them to become more competitive in terms of tuition rates, flexible and relevant curricula (rather than the Board-required curricula), and practical training opportunities. "Applicants would pay less, it would take less time, and they would have more choice in terms of curriculum and areas of specialty."

D'Angelo Fellmeth conveyed CPIL's recommendation that BBC and its licensing requirements be abolished and replaced with—at most—a registration program and a bond requirement. If the legislature prefers a greater degree of regulation, CPIL argued that it should focus solely on practitioners who use chemicals or practice electrolysis, and should be administered by a DCA bureau or a small board consisting of all public members and no industry members. Finally, CPIL recommended that BBC's request for creation of a new licensure category for "hairdressers" be summarily rejected—"absolutely no irreparable harm can flow from incompetent hair-cutting or hairstyling."

At this writing, the JLSRC is expected to release its report and recommendations to DCA by January 16; thereafter, DCA has sixty days in which to return to the legislature with its recommendations on the fate of BBC.

**Board Seeks Vendor to Provide Electronic Examinations and Photographic Licenses.** At its July meeting, BBC voted to change from the current paper-and-pencil version of its written examination to an electronically-administered test provided



by a private vendor at multiple sites throughout the state. The Board decided to join with DCA and other DCA boards and bureaus in seeking a vendor who is capable of designing, developing, and implementing the electronic administration of its exams and of implementing the photographic license requirement contained in AB 3008 (Eastin) (Chapter 1672, Statutes of 1990), which mandates that licenses issued by the Board contain a photograph of the licensee. [15:2&3 CRLR 44]

With regard to electronic administration of the written exams, Executive Officer Pamela Ramsey noted that computerized testing may reduce cheating by reducing the need for non-English-speaking applicants to hire interpreters to help them take the exam, because the exam could be made available in different languages at each computer terminal. Additionally, electronic testing would reduce costs related to the high rate of no-shows at exam administrations. Under the new procedure, the applicant and vendor would negotiate a mutually agreeable test date after the Board approves the applicant for testing.

However, the efforts of DCA and its constituent boards to find a vendor for electronic test administration and photo licenses have yet to succeed. No qualified vendor responded to DCA's initial solicitation, and procedural errors during the bidding process required DCA to withdraw an award made after its second request for proposals. DCA released its third request for proposals in September 1995; of four bidders, two were disqualified. On November 22, DCA posted a notice of its intent to award the contract to Insurance Testing Corporation; however, the losing bidder and at least one of the disqualified bidders are expected to protest the award by the deadline of January 11, 1996. Because of the delay in selecting the exam vendor, BBC has been unable to finalize its rulemaking to establish the fee for the photographic license. [15:2&3 CRLR 44]

In a related matter, BBC authorized staff to pursue a regulatory change requiring applicants to pass the written examination prior to taking the practical examination at its September 17 meeting. DCA legal counsel Don Chang opined that BBC is not required to engage in rulemaking to convert to electronic administration of its written exam, but it must adopt regulatory changes to require passage of the written exam prior to permitting an applicant to take the practical examination. At this writing, staff has not yet published notice of this proposal in the *California Regulatory Notice Register*.

**Other BBC Rulemaking.** The following is a status update on other BBC rule-

making proceedings discussed in detail in previous issues of the *Reporter*.

• **Citation Appeal Regulations.** On November 7, the Office of Administrative Law (OAL) approved BBC's adoption of 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. Section 974.1 requires the Board president to appoint such committees and that the committees be formed of three members of the Board. Section 974.2 sets 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. [15:2&3 CRLR 44]

• **Cosmetology Externship Program.** On August 13, BBC held a public hearing on its proposed adoption of new Article 8.5 (sections 962-962.6), Division 9, Title 16 of the CCR, which establishes a voluntary cosmetology externship program to provide student externs with practical salon experience and exposure while simultaneously attending an approved cosmetology school. Among other things, the sections 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. BBC also amended section 974, Title 16 of the CCR, to provide for the issuance of citations and fines for violations of sections 965, 981, 983, and 988, Title 16 of the CCR. Following the hearing, the Board adopted these proposed regulatory changes; OAL approved them on December 28.

**BBC Submits Report on Merger.** AB 3008 (Eastin), the 1990 bill that created BBC, also required the Board and DCA to report to the legislature on or before June 30, 1995 on the results of the merger of the Board of Barber Examiners and the Board of Cosmetology. AB 3008 required BBC to address the merger's impact on licensees, the health and safety of the public, and any cost savings attributable to the merger.

On June 30, BBC submitted a four-page report to the Senate Business and Professions Committee noting the following accomplishments:

• As required by AB 2925 (Mojonnier) (Chapter 1647, Statutes of 1990), BBC contracted with the School of Public Health at UC Berkeley to create a course dealing with occupational hazards of the barbering and cosmetology professions. This curriculum,

published in 1993 and now a required course in barbering and cosmetology schools, is the first of its kind in the nation.

• BBC's new health and safety rules governing all seven categories of licensees were finally approved by OAL in November 1994. The Board disseminated the new rules to all licensees in April 1995. [15:2&3 CRLR 44]

• BBC adopted citation and fine regulations, which were approved by OAL in November 1994. [15:1 CRLR 45]

• The Board is still in the process of complying with its statutory mandates to issue photographic licenses to all licensees, inspect all licensed establishments once per year, and adopt regulations creating a cosmetology externship program (*see above*).

• BBC is engaged in an occupational analysis of barbering in order to update and validate its existing barber examinations. [15:1 CRLR 45]

• BBC is also participating in a pilot project to utilize the services of DCA's Consumer Information Center, which offers a single toll-free number enabling consumers to reach a number of occupational licensing agencies (*see below*).

## LEGISLATION

**AB 1100 (Speier).** The Unruh Civil Rights Act prohibits a business establishment from discriminating against a person because of the sex of the person, and specifies the remedies for a violation of this provision. As amended August 31, AB 1100 provides specifically that no business establishment may discriminate, with respect to the price charged for services of similar or like kind, against a person because of the person's gender, and specifies the remedies for a violation of this provision. The bill provides 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 was signed by the Governor on October 13 (Chapter 866, Statutes of 1995).

**AB 487 (V. Brown),** as introduced February 16, would direct DHS 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 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]

**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]

## RECENT MEETINGS

At its August 13 meeting, BBC re-elected Rosemary Faulkner as Board President and Daniel Sierras as Vice-President.

At BBC's November meeting, staff announced that the Board has been participating in the toll-free 800 number offered by DCA's Consumer Information Center since July 1; between July 1 and September 30, BBC received over 24,500 calls to the toll-free number, and mailed out 587 complaint forms in response to calls received.

At its November 6 meeting, BBC's Examination and Curriculum Committee set December 1996 as its goal for final editing and production of the *Student Handbook*, which is being developed to clarify the Board's application and examination process. [15:2&3 CRLR 45]

## FUTURE MEETINGS

January 28-29 in Long Beach.  
March 10-11 in Sacramento.  
May 5-6 in San Diego.  
July 14-15 in Burbank.  
September 8-9 in Santa Clara.  
November 17-18 in San Francisco.

## BOARD OF BEHAVIORAL SCIENCE EXAMINERS

*Executive Officer: Sherry Mehl*  
(916) 322-4910 and  
(916) 445-4933

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).

Currently, one LCSW position on the Board is vacant. At its November meeting, BBSE welcomed new public member Bettina Chandler; she replaces Thomas Knutson, Ph.D., whose term expired in June.

## MAJOR PROJECTS

**Enforcement Issues.** For the past several months, BBSE has been involved in a comprehensive effort to evaluate and improve its enforcement program. The following is a status update on several enforcement-related actions recently taken by the Board.

**Complaint Processing and Tracking.** At BBSE's July 7 meeting, Executive Officer Sherry Mehl reported that the special unit recently established within the Department of Consumer Affairs' (DCA) Division of Investigation (DofI) to receive, process, and track complaints against BBSE

licensees [15:2&3 CRLR 47; 15:1 CRLR 47] has been closed; BBSE is again conducting complaint handling from its office. Mehl stated that processing of the Board's enforcement cases had been so delayed by DofI that an 18-month backlog had accumulated and some cases may be too old to pursue at this time. Although initial investigative reports on these cases were completed by the DofI investigative unit, the Attorney General's Office requested further information which was not forthcoming from DofI. The Attorney General's Office recommended that the backlog of cases be prioritized and offered its assistance in the transition of the investigative unit back to the Board. At BBSE's August 25 meeting, staff reported that the Board's enforcement unit had been successfully restructured, with a four-fold increase in work output and a reduction in the case backlog.

**Disciplinary Guidelines.** For the past several months, BBSE has been updating its disciplinary guidelines which specify its preferred maximum and minimum penalties for various categories of violations, including sexual misconduct with a client, commission of an act punishable as a sexually related crime, substance abuse impairing the ability to function safely, use of drugs with a client, failure to comply with child abuse reporting requirements, conviction of a crime substantially related to the duties and functions of a licensee, commission of a dishonest or fraudulent act related to the duties and functions of a licensee, misrepresentation of license or qualifications, aiding and abetting unlicensed or unregistered activity, failure to maintain confidentiality, failure to provide a sexual misconduct brochure, and false or misleading advertising. [15:2&3 CRLR 46] The guidelines also define standard and optional probation conditions, toll the probation period if the respondent takes an extended leave of absence from the practice or moves out-of-state, and provide for reinstatement or reduction of penalty hearings. Among other things, BBSE's changes to the guidelines make them easier to follow, and add new provisions on cost recovery and tolling. At its August 25 meeting, BBSE approved the changes to its disciplinary guidelines. However, SB 523 (Kopp) (Chapter 938, Statutes of 1995) requires all agencies to adopt their disciplinary guidelines as regulations by July 1, 1997 (see agency report on DCA for related discussion); at this writing, BBSE has not yet published notice of its intent to formally adopt its guidelines as regulations.

**Intermediate Sanctions.** Over the past year, BBSE's Enforcement Commit-