



Code shall not apply to any clinical social worker from outside California, when in actual consultation with a licensed practitioner of this state, or when an invited guest of a professional association or educational institution for the sole purpose of engaging in professional education through lectures, clinics, or demonstrations, if he/she is at the time of the consultation, lecture, or demonstration is licensed to practice clinical social work in the state or country in which he/she resides; these clinical social workers would not be authorized to open an office or appoint a place to meet clients or receive calls from clients within the limits of this state. This bill was signed by the Governor on March 30 (Chapter 26, Statutes of 1994).

SB 133 (Hill). Existing law requires that applicants for MFCC licensure obtain certain supervised practical experience as a trainee or intern, and requires that interns receive fair remuneration from their employer. As amended May 2, this bill would repeal that requirement and instead authorize an intern to be either a paid employee or a volunteer, and would provide that employers are encouraged to provide fair remuneration. [A. Floor]

RECENT MEETINGS

At its February 24-25 meeting, BBSE held a strategic planning session and adopted a mission statement, goals, objectives, and strategies intended to ensure that BBSE is responsive to consumer needs and efficiently organized. The Board's mission is to protect the public by establishing and maintaining requirements and standards for professional licensure and practice regulated by the Board; inform consumers about the purposes and standards of the professions regulated by this Board with regard to the consumer's rights and responsibilities; collaborate with governmental and private sector organizations that deliver, utilize, or regulate related services; and deliver services in a competent and responsible manner to all involved parties for the public good. The Board's five goals include (1) promotion and maintenance of high standards of competence, service, and ethical behavior by the professions; (2) ensuring that applicants for licensure meet the requirements prescribed by law and regulation; (3) responding promptly to consumers; (4) development and implementation of communication strategies designed to collect, process, and disseminate information; and (5) simplification and clarification of existing legislation and regulations applicable to the Board.

Also at its February meeting, the Board agreed to seek legislation which would require a candidate for professional licensure from BBSE to have received an earned

bachelor's degree or its equivalency from an accredited institution of higher learning prior to attaining a master's degree.

At its February meeting, the Board engaged in a lengthy discussion of out-of-state MFCC experience and supervision provisions in the Board's regulations; specifically, staff asked for direction as to how to handle the verification of experience and supervision information that is submitted by MFCC applicants from out-of-state, especially from states which do not have MFCC licensing boards. Following a lengthy discussion, the Board unanimously directed staff to prepare an analysis of the issues and present it for discussion at the Board's May 19-20 meeting.

Also at its February meeting, the Board elected Dr. Judy Brislain to serve as BBSE chair for 1994. The Board's first vote for the vice-chair position resulted a tie, with Lori Rice and Janie Emerson each receiving five votes; a second vote also ended in a tie, with Emerson and Dr. Thomas Knutson each receiving five votes. On a third vote later in the day, Dr. Jerry Miller was finally elected vice-chair.

FUTURE MEETINGS

May 19-20 in Sacramento.
August 25-26 in Los Angeles.
November 17-18 in Sacramento.

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 approximately 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.

The Board is chaired by industry member Keith Hargrave. Other Board members

include industry member Steve Doukas and public members Herman Mitschke, Lilyan Joslin, Brian Armour, and Linda Trujillo.

MAJOR PROJECTS

Bill Calls for Abolition of Cemetery Board. Following the "Death Summit" sponsored by the Department of Consumer Affairs (DCA) in September 1993 and the October 1993 oversight hearing on the Board's performance by the Senate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions [14:1 CRLR 44-45; 13:4 CRLR 38], Senator Dan McCorquodale amended SB 2037 (McCorquodale) on April 5 to include a provision merging the Cemetery Board and the Board of Funeral Directors and Embalmers (BFDE) into a single bureau within the Department of Consumer Affairs (DCA). A bureau is not controlled by a multi-member policymaking board like the Cemetery Board, but is headed by a chief who functions under the direct supervision of the DCA Director.

Senator McCorquodale's bill adopted the recommendation of the Senate Subcommittee in its final report released on April 11. In that report, the Subcommittee found that the boards' investigation and enforcement activities are "ineffective and non-existent," neither board ensures the competence of its licensees in preneed/endowment care trust fund investment and management, and the boards are "very weak" in the area of setting standards for the industry. The Subcommittee's final report also indicated that it does not recommend a simple combination of two ineffective boards; it suggested that the new entity be required to adopt education, training, and testing standards to ensure licensee competence in their actual areas of practice; establish stringent disclosure requirements for preneed and endowment care contracts; and possibly impose a bond requirement to ensure that there is a fund from which injured consumers may be compensated should the licensee declare bankruptcy or otherwise leave the jurisdiction.

At a May 9 hearing on SB 2037 before the Senate Business and Professions Committee, Center for Public Interest Law Supervising Attorney Julianne D'Angelo testified in support of the proposed merger, noting that both boards have been given ample warning that their performance has been unsatisfactory for years. At last year's "Death Summit," both boards were given one final chance to take action to address their shortcomings, and were instructed to submit 30-, 60-, and 90-day reports to DCA on their actions; D'Angelo argued that neither board has made an adequate



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attempt to file timely reports, nor has either done anything else constructive to implement the recommendations made at the Summit. Given the growing number of complaints of industry abuses and the apparent inability or unwillingness of either board to ensure appropriate attention to the serious problems within the industry, D'Angelo urged the Committee to pass the bill, merge the boards, and direct the new agency to adopt stringent rules to protect consumers.

At the May 9 hearing, new Cemetery Board Executive Officer Raymond Giunta—in stark contrast to his counterpart at BFDE and funeral and cemetery trade association representatives—publicly apologized to the consumers of California. “We have failed; it’s broke; it needs to be fixed,” said Giunta, who took over as the Board’s new EO in mid-March (*see below*). However, citing an early May case in which the Board seized a cemetery on the same day it received a complaint about the facility from an Assembly member, Giunta stated that “business is *not* as usual at the Cemetery Board” since he has been EO, and urged the Committee to consider the new leadership at the Board before merging it with BFDE.

Following considerable testimony and opposition to the “bureau-izing” of the boards by industry members, the Committee agreed to amend the bill to merge the two boards into a single board (not a bureau). Committee Chair Senator Dan Boatwright also appeared interested in D’Angelo’s recommendation that the merged board be required to adopt standards ensuring that licensees who accept and invest preneed and endowment care trust funds have education and training in this area, and setting clear price and terms disclosure standards for goods, services, and especially preneed and endowment care trust contracts. At this writing, the Committee’s agreement has not yet been incorporated into the language of SB 2037.

In a related matter, the Cemetery Board approved its 60-day “Death Summit” report to DCA on February 16. The report contained some suggestions for Board action, including revision of its *Guide to Cemetery Purchases and Cremation Services* (*see below*) and use of a toll-free 800 number to facilitate the intake of consumer complaints. However, the bulk of the report consisted of a rehashing of the concerns raised at the Summit, with very little discussion of proactive solutions to these problems. The report contained no substantive decisions by the Board, was prepared by two industry members with virtually no input from other Board members, was ratified at a “workshop” at which

no public comment was allowed, and was not officially approved until over 150 days after the Summit.

Board Selects New Executive Officer. On March 22, the Board selected Raymond Giunta to serve as its new Executive Officer (EO). [14:1 CRLR 38] Giunta, who was chosen from over 120 applicants for the position, formerly served as executive director of the We Care Human Services Organization, where he dealt extensively with issues concerning cemeteries and funeral services. His past projects include the development of a training curriculum for those who work with the bereaved; Giunta also has experience in civil investigations, having served as a special investigator for several state agencies.

At the Board’s April 28 meeting, Giunta stressed that he wants to lead the Board in a new, proactive direction. His initial recommendations included working with the Senate Business and Professions Committee to develop a compromise to avoid abolition of the Board, and building on the Board’s 60-day Summit recommendations to address its most pressing needs (*see above*). Giunta stated that his first goal is to develop new procedures for complaint intake and analysis, and for analysis of the special care funds audit.

Giunta replaces former EO John Gill, who was forced to resign in March 1993 amid accusations that he failed to respond to consumer complaints and that he privately forewarned industry officials of upcoming Board inspections. [13:2&3 CRLR 57] James Diaz served as Acting EO in the interim.

Board Initiates Rulemaking Process to Raise License Fees to the Statutory Maximum. At its February 17 meeting, the Board agreed to initiate rulemaking to raise virtually all of the fees it charges its licensees to the statutory maximum established under Business and Professions Code sections 9750–70. This action came as a result of a report by Acting EO James Diaz that the Board would experience a \$60,000 operating deficit for 1993–94 unless the Board immediately raises its fees. According to Diaz, raising these fees to their statutory limits will only generate enough funds to “break even” in 1993–94; in order to avoid shortfalls in later years, the Board should sponsor legislation to raise the statutory limits even further. At this writing, however, no such legislation has been introduced.

On April 8, the Board published notice of its proposal to amend sections 2310–24, Title 16 of the CCR. Among other things, the action would raise the annual regulatory charge to be paid by all cemetery authorities falling under the Act from

\$300 to \$400, and raise additional charges presently set at \$0.40 per interment to \$0.50; impose an additional \$1 charge per cremation; raise the licensed crematory charge from \$300 to \$400, and raise additional charges per cremation from \$0.40 to \$0.50; raise the initial filing fee for each application for a certificate of authority to operate a cemetery or crematory from \$300 to \$400; raise the original cemetery broker license fee from \$225 to \$400; raise the broker license renewal fee from \$200 to \$300; and raise the broker re-examination fee from \$50 to \$100. Additionally, the Board’s action would increase its secondary broker license, branch office license, salesperson license, renewal, re-examination, reinstatement, transfer, change of name or address, and duplicate license fees to their statutory limits.

Diaz justified the substantial nature of the increases by noting that the Board has not raised many of its fees since the late 1970s or early 1980s, and that the costs of operating the Board long ago exceeded the income provided by the fees. At this writing, the Board is scheduled to hold a public hearing on the proposed fee increases on May 25 in Sacramento; if the Board adopts the changes, it will submit the rulemaking file to the Office of Administrative Law for review and approval.

Updated Consumer Guide Further Delayed by the Board. At its April 28 meeting, the Board tabled approval of its revised *Guide to Cemetery Purchases and Cremation Services*, a booklet designed to answer consumers’ most frequently asked questions concerning cemetery and cremation services. The guide was to have been completed last fall, but was delayed at that time due to the illness of Board member Brian Armour, who had primary responsibility for the revision. According to the Board, the proposed guide will undergo “minor changes” and will be considered at a future Board meeting.

The guide seeks to improve education and information regarding consumers’ rights and choices to cemetery services. It is written in a question-and-answer format designed to answer the questions most often asked by consumers. When completed, the guide will be distributed free of charge at licensed cemeteries and will be available directly through the Board. Some Board members, however, expressed concern that the guide should be distributed on a wider basis to have any significant benefit to consumers.

California and Hawaii Federation of Funeral and Memorial Societies representative Karen J. Leonard testified at the April 28 meeting that, while the question-and-answer format is easy to understand,



the guide does not answer several important questions consumers often ask, such as why most cemeteries refuse to give a refund if a consumer changes his/her mind about services, or why some final bills contain "back-loaded" costs that are not listed in the initial contract. Leonard also complained that the guide does not contain definitions of misleading industry terms, and does not clearly inform consumers of certain laws that are subject to wide-scale abuse. Specifically, Leonard urged the Board to clearly state that it is illegal for any cemetery or crematorium to charge "handling fees" for goods, such as caskets, purchased from third parties; the Board agreed to consider her recommendations.

■ LEGISLATION

SB 2037 (McCorquodale), as amended May 18, would (among other things) abolish the Cemetery Board and the Board of Funeral Directors and Embalmers, and create in their place a single Bureau of Funeral and Cemetery Services under the supervision of the DCA Director (*see* MAJOR PROJECTS). At the May 9 hearing of the Senate Business and Professions Committee, Senator McCorquodale tentatively agreed to amend SB 2037 to merge the two boards into one board (not a bureau); at this writing, this language is expected to be amended into SB 2037 when it reaches the Assembly. [*S. Appr*]

SB 2036 (McCorquodale), as amended May 18, would create a "sunset" review process for occupational licensing agencies within DCA, requiring each to be comprehensively reviewed every four years. In the event that SB 2037 (*see above*) is not enacted, SB 2036 would impose an initial "sunset" date of July 1, 1997 on the Cemetery Board; create a Joint Legislative Sunset Review Committee within the legislature, which would review the Board's performance approximately one year prior to its sunset date; and specify 11 categories of criteria under which the Board's performance will be evaluated. Following review of the agency and a public hearing, the Committee would make recommendations to the legislature on whether the Board should be abolished, restructured, or redirected in terms of its statutory authority and priorities. The legislature may then either allow the sunset date to pass (in which case the Board would cease to exist and its powers and duties would transfer to DCA) or pass legislation extending the sunset date for another four years. (*See* agency report on DCA for related discussion of the "sunset" concept.) [*S. Appr*]

SB 1562 (Mello). Existing law defines the terms "burial" and "grave" for pur-

poses of the law governing public cemetery districts. As amended April 27, this bill would require a district that inter a decedent in a manner other than burial in the ground, as prescribed, to comply with certain requirements pertaining to the regulation of private cemeteries. [*A. LGov*]

The following is a status update on bills reported in detail in CRLR Vol. 14, No. 1 (Winter 1994) at page 38:

AB 1807 (Bronshvag), as amended March 23, requires that the current address of the Cemetery Board and/or the Board of Funeral Directors and Embalmers, as appropriate, appear prominently on the first page of all contracts for specified goods and services. This bill was signed by the Governor on March 30 (Chapter 26, Statutes of 1994).

AB 1392 (Speier), as amended July 1, 1993, would—among other things—provide that the Cemetery Board's executive officer is to be appointed by the Governor, subject to Senate confirmation, and that the Board's executive officer and employees are under the control of the DCA Director. [*S. B&P*]

SB 155 (Boatwright), which would have deleted existing law which prohibits a crematory licensee from conducting any cremations of human remains more than 72 hours after death unless the remains have been preserved by refrigeration or embalming; provided that cremated remains may be disposed of by a cemetery authority or crematory after one year by burial at sea after certain notification requirements are met; and required funeral directors and crematories to faithfully carry out the instructions of the person who is the authorizing agent for cremation of the body of a deceased person, and provided that a funeral director who faithfully carries out those instructions is not liable for acts of the crematory, and the crematory that faithfully carries out those instructions is not liable for acts of the funeral director, died in committee.

■ RECENT MEETINGS

At its February 17 meeting, the Board elected industry members Keith Hargrave to serve as chair and Steve Doukas to serve as vice-chair for 1994.

Also at the February meeting, interim EO James Diaz offered a complaint analysis report, which listed a total of 74 complaints received over the past six months. Diaz noted that the majority of those complaints concern problems with contracts between consumers and cemeteries or crematories. The Board agreed that something must be done to encourage licensees to make contracts a top priority, and briefly discussed requiring licensees to

use a "plain language contract"; however, the Board took no action on this matter.

At the Board's April 28 meeting, new EO Raymond Giunta reported on the Hills of Peace Cemetery; the Board acts as conservator of this cemetery and has experienced numerous problems with the caretaker, who had allegedly threatened cemetery volunteers. [*14:1 CRLR 38-39*] Giunta reported that the caretaker did not pass an onsite inspection and was ordered to comply by May 1 or face removal. In a related problem, the City of Los Angeles served the caretaker with a notice to vacate, because the onsite building in which he was living was being used as a dwelling in violation of a City ordinance. DCA staff counsel warned that no further action may be taken by the Board until the caretaker's status is reviewed by the Attorney General's Office.

■ FUTURE MEETINGS

July 28 in Long Beach.

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/consumer education, enforcement, licensing, strategic planning, and legislation.

■ MAJOR PROJECTS

Board Registrar Passes Away. David R. Phillips, who served as CSLB Registrar since 1988, passed away suddenly on January 30. Phillips' 29-year career with CSLB started in 1965 when he was hired as a field investigator in Long Beach. In 1972,