and/or mail vote, shall be ratified at the next scheduled BBC meeting; and, in the event an issue has been voted on by the Board, that issue may not be brought up again for six months unless there is a material change in facts or law. After making minor modifications, the Board adopted the proposals as BBC procedural guidelines.

**Proposed New Qualifications for Cosmetology Instructors.** The Council for Private Postsecondary and Vocational Education (CPPVE), which approves schools of barbering and cosmetology, is considering a proposal which would require all cosmetology instructors to hold a cosmetology instructor license issued by BBC before being certified by CPPVE. However, Board staff believes that BBC’s enabling act does not require a cosmetology instructor to hold an instructor license issued by the Board prior to being certified by CPPVE, although it is one means of satisfying the CPPVE instructor requirements; according to BBC, instructors may also satisfy the CPPVE instructor certification requirements by having any combination of three years of training and/or experience in the field of instruction. Since imposing the license requirement appears to be outside CPPVE’s statutory jurisdiction, it has also asked BBC to consider an amendment to the Board’s enabling act to require cosmetology instructors to have a BBC-issued instructor license in order to qualify for CPPVE certification. Executive Officer Olivia Guebara was scheduled to attend a meeting with CPPVE officials in January to discuss this request; the Board was expected to discuss the proposed statutory amendment at its February meeting.

**LEGISLATION**

**Anticipated Legislation.** At BBC’s December 7 meeting, staff reported that the California Cosmetology Association is expected to sponsor legislation during the 1993–94 session similar to AB 3637 (Polanco), which died in committee during 1992; AB 3637 would have mandated that barbers and cosmetologists complete 16 hours of continuing education during every two-year renewal period. Additionally, the proposed bill would make the following legislative findings: that the practice of cosmetology, barbering, manicuring, and esthetics is rapidly changing; that the public health and safety of California consumers would be served by requiring persons licensed in these areas to take continuing education courses after receiving their initial license; that BBC and DCA are the most appropriate entities to establish comprehensive standards for continuing education for these professions; that specific continuing education is needed in the safe handling and use of hazardous materials, disinfection and sanitation, communicable diseases, and other health and safety topics related to cosmetology and barbering; and that a comprehensive program of continuing education will provide for communication of the latest information on health and safety topics to the professions and thus further BBC’s consumer protection mandate.

**RECENT MEETINGS**

At BBC’s November 2 meeting, Interim Executive Officer Rualatte White reported that staff was in the process of filling the fifteen new inspector positions acquired as a result of the BBE/BOC merger; at BBC’s December 7 meeting, Executive Officer Olivia Guebara reported that fourteen of those positions had been filled. Most of the positions filled were Inspector I and II positions; two authorized Inspector III positions will be filled after the examination process has been completed.

At BBC’s November 2 meeting, White also reported that the Board is very close to completing an automated scheduling program which should streamline the Board’s processing of examination applications. White also announced that staff had implemented a schedule of item writing workshops coordinated through DCA’s Central Testing Unit (CTU) to ensure that an ongoing bank of new test questions is available to integrate into the Board’s examination. BBC and CTU staff have also recommended that the Board conduct a complete analysis of the barber exam, which has not been revised in at least ten years.

At BBC’s December 7 meeting, Executive Officer Guebara reported that the Department of Finance (DOF) has approved the Board’s budget change proposal (BCP) for funding to implement the photographic license requirement throughout California, as mandated by AB 3062 (Wright) (Chapter 213, Statutes of 1992). The Board’s other BCP request, for funding of permanent clerical positions at BBC headquarters in Sacramento, is being considered by DOF for inclusion in the Governor’s 1993–94 proposed budget.

**FUTURE MEETINGS**

June 7 in southern California.

August 16 in northern California.

October 25 in southern California.

December 13 in northern California.

**BOARD OF BEHAVIORAL SCIENCE EXAMINERS**

Executive Officer: Kathleen Callanan

(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 public member seat and two MFCC seats are vacant on BBSE.

**MAJOR PROJECTS**

Board Expected to Pursue Legislative Proposal Regarding Petitions for Reinstatement. At its December 11 meeting, BBSE reaffirmed its intent to introduce proposed amendments to Business and Professions Code sections 4982.1 and 4982.2, regarding petitions for reinstatement, during the 1993–94 legislative session. [12:4 CRLR 62] Among other things, the amendments would delete language which currently provides that, one year after the date of revocation of a BBSE license or registration, the disciplined licensee may apply to the Board for reinstatement. The amendments would add language providing that an MFCC, LCSW, or LEP whose license has been revoked, suspended, or placed on probation may petition the Board for reinstatement or modification of penalty, including modification or termination of probation, after not less than the following minimum periods have elapsed from the effective date of the decision ordering that disciplinary action, or (if the order of the Board, or any portion of it, is stayed by the Board itself, or by the superior court) from the date the disciplinary action is actually implemented in its entirety:

- at least three years for reinstatement of a license which was revoked for unpro-
fessional conduct, except that the Board may, in its sole discretion at the time of adoption, specify in its order that a petition for reinstatement may be filed after two years;

-at least two years for early termination of any probation period of three years or more; or

-at least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination of probation of less than three years.

Board Continues Discussion of MFCC/LCSW Experience/Supervision Issues. At its December 11 meeting, BBSE continued to discuss possible legislative proposals to resolve several problems which have arisen with the existing MFCC/LCSW "supervised experience" statutory schemes.

One proposal would clarify the acceptability of out-of-state MFCC and LCSW experience gained by an individual who resides in California, has a qualifying degree from a California institution, and is under supervision by a California licen­see. Although Business and Professions Code section 4980.90 provides that BBSE “may allow any person to be examined who, in its opinion, has met the education and experience requirements for licensure while residing outside of California, or education outside California and experience within California, that are substan­tially the equivalent” of BBSE’s require­ments, the Code does not appear to address the Board’s authority to accept experience obtained outside California by California residents. [12:4 CRLR 62]

At its September meeting, BBSE consid­ered draft legislative amendments which would provide that MFCC experience gained outside California shall be accepted toward the licensure requirement if it is substantially the equivalent of BBSE’s requirement, provided that the applicant has gained a minimum of 250 hours of supervised experience in direct counseling within California while regis­tered as an intern with the Board. Similar proposed amendments would have provided that LCSW experience gained out­side of California shall be accepted toward the licensure requirement if it is substan­tially the equivalent of BBSE’s require­ment, provided that the applicant has gained a minimum of 250 hours of supervi­sed experience in direct clinical social work services while registered as an asso­ciate with the Board. The Board received a number of objections to the proposed requirement of 250 hours of supervised experience within California, since many persons seeking licensure in this state al­ready have years of experience in other states. [12:4 CRLR 63]

At the Board’s December 11 meeting, staff presented revised legislative propos­als concerning the out-of-state experience requirements for BBSE’s review. Regard­ing MFCC experience, the revised version retains the 250-hour requirement and per­mits BBSE to accept experience gained outside of California if it can be verified by the governmental agency which li­censes MFCCs in the state or country where the experience was gained. Regard­ing LCSWs, the revised proposal deletes the 250-hour requirement, and instead provides that experience gained outside of California shall be accepted toward the licensure requirement if it can be verified by the governmental agency which li­censes clinical social workers in the state or country where the experience was gained and is substantially the equivalent of BBSE’s requirements. Further, a person who is licensed in another state or country and who qualifies for licensure based on experience gained outside California would be able to apply for and receive an interim permit to practice clinical social work; such permit would be valid for a period of two years and would not be renewed or reissued. The Board tenta­tively agreed to pursue these proposals, subject to deletion of the references to verification of experience by a govern­mental agency and further discussion at the January meeting of BBSE’s Legisla­tive Committee.

In a related matter, BBSE’s Legislative Committee held workshops on October 23 and November 23 in order to solicit com­ments and proposals regarding several pre-licensure clinical experience and su­ervision issues. These issues have be­come serious problems in recent years be­cause of the statutory distinction between an MFCC candidate’s completion of BBSE’s “supervised experience” require­ment in private practice settings under Business and Professions Code section 4980.43(c), and in so-called “exempt” set­tings described in section 4980.43(b). In 1986, section 4980.43(c) was amended to ad­dress several provisions which protect both consumers and interns, such as required onsite supervision, a prohibition on in­terms paying for their own supervision, and a requirement that employers pay fair remuneration to interns. However, these protections apply only to private practice settings. In other “exempt” settings where MFCC interns and trainees are permitted to gain supervised experience (such as government entities, schools, colleges, nonprofit and charitable corporations, and licensed health facilities), supervisees are free to work with only one hour per week of offsite supervision, hire (and fire) their supervisor, and volunteer their time even if the services they perform are generating revenue for their employer. BBSE staff believes that these and other loopholes in its enabling act destroy the purpose of the “supervised experience” requirement, place interns and trainees in a vulner­able position, and threaten consumer protection.

As a result, BBSE has expended con­siderable time over the past year conduct­ing workshops to discuss key issues such as supervision in exempt settings, onsite supervision, competency of supervisors, competency of supervisees, and MFCC trainee registration. [12:4 CRLR 63–64] Approximately 45 people attended the October workshop; recommendations made by the attendees were presented to those attending the November workshop. At the November workshop, numerous modifications were suggested and ac­cepted, resulting in three broad recom­mendations:

- Deregulation of MFCC Trainees. MFCC trainees may currently perform services under supervision before completing any coursework and may gain 1,500 hours of the required 3,000 hours of supervised experience prior to completion of the degree. Workshop participants dis­cussed whether MFCC trainees should be allowed to practice on the public from the day they enroll in a master’s degree pro­gram, or whether MFCC trainees should be allowed to perform services only under the auspices of the academic program and only after the trainee has completed a speci­fied number of academic hours. Several workshop participants opined that al­lowing trainees to gather experience hours from the day of enrollment in a graduate program encourages inappropriate selec­tion of sites and supervisors, provides insuffi­cient guidance in the management of trainee registration and the trainee-supervi­sor relationship, allows the use of totally inexp­erience people in the field, and jeopardizes consumer protection. Further, workshop participants generally agreed that the current trainee registration pro­gram appears to focus more on the credit­ing of hours than on the quality of field work and the applicability of it to the academic program. Further, the registra­tion itself may appear to confer official pre-license status which may be misleading both to consumers and to the trainees themselves regarding their level of com­petence.

As a result of these findings, BBSE may seek legislation to terminate the trainee registration program and shift at­tention to the registration of supervisors (see infra); provide that no practicum or
experience may be obtained until after trainees have completed twelve semester or eighteen quarter units in the core area of their degree; and provide that a maximum of 750 hours may be earned pre-degree, and that those hours must be gained under the auspices and supervision of the academic institution.

- **Registration Program for Supervisors.** There was strong consensus among workshop participants that the burden of responsibility for good judgment and compliance with the law should shift to those with greater experience and credentials, and that supervisors should be responsible to BBSE and to the consumer for clinical services performed by interns and trainees. As a result, BBSE may seek legislation to establish a registration program for supervisors and require that individuals seeking registration (or biennial renewal of their supervisor registration) possess specified qualifications. Additionally, the Board may specify that the supervisor is responsible to the consumer for clinical services rendered by the supervisee; must be knowledgeable about laws, regulations, and ethics; must establish procedures which can be documented and demonstrated for monitoring the supervisee’s services; must approve assessment and treatment decisions; must have access to client records; must evaluate sites and determine (1) whether the site can provide MFCC experience, and (2) compliance with laws and regulations regarding MFCC experience being gained toward licensure; must make and document periodic site visits for experience gained away from the place where the intern is employed; and must have a written plan for handling emergencies, including an identification of who will provide assistance and how that assistance will be provided.

- **Offsite Experience and/or Supervision.** Recently, the Attorney General’s Office affirmed BBSE’s interpretation of Business and Professions Code section 4980.43(g), which restricts MFCC trainees and interns to performing services “at the place where their employer regularly conducts business.” BBSE has interpreted this language rather strictly, and has rejected hours of practice submitted by trainees and interns where the employer has permitted them to practice at multiple locations, including private residences, the offices of third parties with whom the employer has a contractual relationship, and other locations operated by the third parties. The AG’s Office agreed with BBSE that neither the plain meaning nor the offices of third parties with whom the employer has a contractual relationship, nor the plain meaning nor the legislative history of section 4980.43 authorizes MFCC trainees or interns to be employed and obtain licensure experience credit for hours obtained at multiple, non-recurring locations because this is how their employer “regularly conducts business.” Interns and trainees may not be assigned by their employer to perform services at locations operated by third parties solely because their employer, as a part of the regular conduct of the employer’s business, has a contract with the third party to provide services.

However, attendees at the October and November workshops generally agreed that excellent experience and invaluable community service to underserved populations would result if some types of controlled offsite experience were acceptable for licensure purposes. As a result, BBSE may seek legislation permitting MFCC interns and LCSW associates to gain supervised experience without onsite supervision provided that (1) a registered supervisor has evaluated and approved the site; (2) the offsite services rendered are services normally rendered by the agency; (3) a specific ratio of supervisor contact to hours of clinical contact is required; (4) an emergency protocol is established which assures access to a qualified supervisor; and (5) access to live data from therapy is ensured.

**Rulemaking Update.** On December 24, the Office of Administrative Law approved BBSE’s amendments to section 1833, Title 16 of the CCR, which prescribes the log sheet containing a weekly summary of hours of experience gained toward licensure as an MFCC. [12:2&3 CRLR 70] The amendments modified the form to provide a place for certain identifying information, a place to report telephone counseling and telephone praction, and a line showing the total number of hours earned per week.

**RECENT MEETINGS**

At BBSE’s December 11 meeting, staff reported that the development of a new written LCSW exam by Assessment Systems, Inc. (ASI) is proceeding on schedule. The first Examination Committee meeting was held on September 19–22; the goals of that meeting were to create outlines for each examination, link the knowledge base to the outlines, and determine the weightings for each area of the outlines. At this writing, ASI expected to complete the project in March.

**FUTURE MEETINGS**

- May 13–14 (location to be announced).
- September 16–17 (location to be announced).
- December 9–10 (location to be announced).

**CEMETARY BOARD**

**Executive Officer:** John Gill
(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 current members of the six-member Cemetery Board are industry member Iris Jean Sanders and public members Herman Mitschke, Lilyan Joslin, Brian Armour, and Linda Trujillo, who was recently appointed to the Board; at this writing, one industry member position on the Board is vacant.

**MAJOR PROJECTS**

**San Diego Union-Tribune’s “Death with Indignity” Series Criticizes Board.** In a five-day series of articles published in the San Diego Union-Tribune on December 6–10, the Cemetery Board and Board of Funeral Directors and Embalmers were criticized as ineffective institutions “more inclined to ignore complaints and side with the death industry than regulate it.” The articles described the Cemetery Board as an agency beset by incompetence and cronyism, even as complaints against its licensees escalate. Among the Board’s harshest critics is one of its own members, Lilyan Joslin, who charges that the Board is “spineless” and said it is “hand-holding and cheek-kissing the industry.” Another leading critic is Assemblymember Jackie Speier, who advocates legislation to change the way the Board operates.

Among the criticisms are accusations of flagrant and unchecked abuses within crematoriums. For example, as many as