



REGULATORY AGENCY ACTION

100,000 cremations may have been improperly conducted throughout southern California since the early 1980s, according to allegations in pending lawsuits. Currently, state investigators are reviewing operations at San Diego County's two largest cremation organizations in connection with allegations that they conducted thousands of illegal cremations, burning bodies simultaneously and mixing the ashes of strangers. Attorneys who have filed class actions alleging such misconduct contend that the Board has historically ignored complaints or delayed action when presented with evidence of desecration in the crematoriums.

The state's fiscal crisis and resulting cuts to the Cemetery Board's budget are expected to worsen its ability to enforce standards within the industry. The Board, which operates on a \$360,000 annual budget, historically relied on one inspector to examine the state's 188 cemeteries and 142 crematoriums and review the records of \$400 million set aside to maintain cemeteries. However, that inspector is now gone, forced to take an early retirement as a result of the budget crisis; his retirement prompted Executive Officer John Gill to acknowledge in a memo that there is currently a "potential of substantial consumer abuses" in the cremation industry. Gill, who has served as the Board's Executive Officer since 1972, recently began an investigation into allegations of abuse by the Neptune Society, which runs a crematorium in Lakeside, but only after the *San Diego Union-Tribune* questioned Board officials about the volume of cremations conducted by Neptune.

Recently, Gill has made some attempts to respond more readily to consumer complaints; however, his actions may be too little, too late. As the Board's composition changes, Gill may lose the majority support needed to keep his job. Over the last year, Gill's critics have accused him of tipping off industry officials about inspections and ignoring abuses at crematoriums, among other things.

Board Holds Hearing on Citation and Fine Rules. On September 30, the Board held a public hearing on its proposed citation and fine regulations, to be codified at Article 7.5, Division 23, Title 16 of the CCR. [12:4 CRLR 66] Board Chair Pro Tem Lilyan Joslin expressed deep dissatisfaction with the regulations as drafted, and recommended that the fines for all offenses be increased to \$2,500, the maximum permitted under the Cemetery Act. As drafted, the regulations have three tiers of violations with fines ranging from \$50-500, \$100-1,000, and \$150-1,500 depending on the type of of-

fense. Joslin also recommended that the regulations be amended to include sanctions for violations of ground maintenance standards. Executive Officer Gill explained that the Board currently has no statutory authority over ground maintenance under the Cemetery Act; Joslin responded that the Board should seek statutory amendments to the Act to permit the Board's regulation of ground maintenance.

Joslin also expressed dissatisfaction with proposed section 2384(d), which would provide that, in his/her discretion, the executive officer may issue an order of abatement without levying a fine for the first violation of any provision set forth in sections 2384(a)-(c). Joslin opined that a fine should be mandatory and recommended that subsection (d) be purged from the proposed regulations. Following discussion, the Board agreed to appoint a subcommittee to review comments regarding the proposed regulations and decide whether revisions are warranted.

LEGISLATION

Anticipated Legislation. The Board may seek legislation to amend its enabling statute so that it may exercise jurisdiction over ground maintenance at cemeteries and crematoriums. Despite increased concerns among Board members and the public over maintenance issues, the Board is currently powerless under its enabling statute to regulate in this area.

RECENT MEETINGS

At the Board's September 30 meeting, Executive Officer John Gill discussed the impact of the recent budget cuts on the Board's activities, noting that the Board's budget had been cut by 10% in addition to a 50% cut in travel. Gill stated that part of the 10% cut was absorbed by the retirement of the Board's field auditor; that position could be filled by late spring. However, in anticipation of more budget cuts in the next fiscal year, Gill recommended that the Board's auditor position be downgraded to an Auditor I position; this would result in an approximate \$18,000 savings to the Board. Gill further explained that during the period in which the Board's auditor position remains unfilled, he would be conducting inspections and consumer complaint investigations.

Also at the Board's September meeting, Executive Officer Gill reported that Department of Consumer Affairs (DCA) Director Jim Conran asked that all DCA boards adopt goals and objectives. Board member Brian Armour briefly reviewed his proposed mission statement, and recommended that this item be placed on the

agenda for the Board's workshop scheduled for January 7.

FUTURE MEETINGS

To be announced.

BUREAU OF COLLECTION AND INVESTIGATIVE SERVICES

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The Bureau of Collection and Investigative Services (BCIS) is one of 38 separate regulatory agencies within the Department of Consumer Affairs (DCA). The Chief of the Bureau is directly responsible to the DCA Director.

The Collection Agency Act, formerly codified at Business and Professions Code section 6850 *et seq.*, expired at midnight on June 30, 1992, by operation of a sunset provision in the law. Thus, although its official name still refers to collection agencies, BCIS is no longer authorized to regulate the collection industry. [12:4 CRLR 68-69]

The Bureau still regulates eight other industries, including private security services (security guards and private patrol operators), repossessors, private investigators, alarm company operators, protection dog operators, medical provider consultants, security guard training facilities, and locksmiths.

Private Security Services. Regulated by the Bureau pursuant to Business and Professions Code section 7544 *et seq.*, private security services encompass those who provide protection for persons and/or property in accordance with a contractual agreement. The types of services provided include private street patrols, security guards, watchpeople, body guards, store detectives, and escort services. Any individual employed to provide these services is required to register with the Bureau as a security guard. Any security guard who carries a firearm and/or baton on the job must possess a firearm permit issued by the Bureau. The Bureau operates to protect consumers from guards who unlawfully detain, conduct illegal searches, exert undue force, and use their authority to intimidate and harass.

Repossessors. Repossession agencies repossess personal property on behalf of a credit grantor when a consumer defaults on a conditional sales contract which contains a repossession clause. Any individ-



ual employed by these services is required to be registered with the Bureau. Pursuant to the Repossessors Act, Business and Professions Code section 7500 *et seq.*, the Bureau functions to protect consumers from unethical methods of repossessing personal property, such as physical abuse resulting in bodily harm, threats of violence, illegal entry onto private property, and misrepresentation in order to obtain property or information about property.

Private Investigators. Private investigators conduct investigations for private individuals, businesses, attorneys, insurance companies, and public agencies. The scope of their job generally falls within the areas of civil, criminal, and domestic investigations. Any private investigator who carries a firearm on the job must possess a firearm permit issued by the Bureau. Pursuant to Business and Professions Code section 7512 *et seq.*, the Bureau oversees private investigators to protect consumers and clients against investigators who misrepresent, impersonate, or make threats in order to obtain desired information; perform inadequate or incompetent investigations; fail to substantiate charges or charge more than the amount agreed upon; and alter, falsify, or create evidence.

Alarm Company Operators. Alarm company operators install, service, maintain, monitor, and respond to burglar alarms. These services are provided to private individuals, businesses, and public entities. Any employee responding to alarms who carries a firearm on the job must be registered by the Bureau and possess a Bureau-issued firearm permit. Pursuant to the Alarm Company Act, Business and Professions Code section 7590 *et seq.*, the Bureau regulates this industry in order to protect clients from potential theft or burglary, invasion of privacy or misrepresentation by alarm companies, and failure on their part to render service as agreed.

Protection Dog Operators. Protection dog operators train, lease, and sell dogs for personal and/or property protection. They also provide patrol services using trained dogs. Individuals employed by any of these services must be registered by the Bureau. These services are employed by private individuals, business entities, and law enforcement agencies. Pursuant to Business and Professions Code section 7550 *et seq.*, the Bureau serves to protect against possible violations in this industry, such as inadequately trained or physically abused dogs, overcharges for services, invasions of privacy, or potential theft or burglary of property.

Medical Provider Consultants. Medical provider consultants are contract col-

lectors who provide in-house collection services to medical facilities. They contact insurance companies and/or patients to try to collect on medical debts on behalf of the medical provider. Nevertheless, consultants cannot themselves collect on delinquent debts. Instead, they must turn the debt over to an independent, licensed collection agency in order to avoid any conflict of interest. Medical provider consultants may be licensed by the Bureau pursuant to Health and Safety Code section 1249.5 *et seq.*

Training Facilities and Instructors. These facilities provide required firearm training to licensed private investigators; power to arrest and firearm training to alarm agents who respond to alarm systems; and power to arrest, firearm, and baton training to security guards. Upon completion of training, individuals must pass examinations before they may be issued the appropriate permits. Pursuant to Business and Professions Code section 7552 *et seq.*, the Bureau regulates these facilities in order to ensure that required training is provided to licensed individuals, and that only those qualified possess the proper permits to provide service to the consumer.

Locksmiths. Locksmiths install, repair, open, modify, and make keys for locks. These services are provided to private individuals, businesses, and public entities. Effective January 1, 1993, any person who engages in the business of either installing, repairing, opening, and modifying locks or making keys for locks is required to obtain a permit from BCIS. Pursuant to Business and Professions Code section 6980 *et seq.*, the Bureau regulates this industry in order to protect clients from potential theft or burglary, invasion of privacy, and misuse of a locksmith's skills, tools, or facilities for the commission of a crime.

The purpose of the Bureau is to protect the health, welfare and safety of those affected by these industries. To accomplish this, the Bureau regulates and reviews these industries by its licensing procedures and by the adoption and enforcement of regulations. For example, the Bureau reviews all complaints for possible violations and takes disciplinary action when violations are found. The Bureau's primary method of regulating, however, is through the granting or denial of initial/renewal license or registration applications. Education is also utilized to assist in achieving Bureau goals.

Consumers and clients may pursue civil remedies to resolve complaints and disputes currently within the regulatory authority of the Bureau. In addition, class

action suits may be filed on behalf of consumers by the Attorney General's office and local district attorneys against businesses which engage in repetitive unethical business practices.

Two advisory boards previously functioned within the Bureau to advise the Chief and the DCA Director on policy matters relating to their respective industries. However, the Collection Agency Act's sunset provision included the repeal, as of June 30, 1992, of the Collection Agency Board; and ABX 66 (Vasconcelos) (Chapter 21X, Statutes of 1992) eliminated the Private Security Advisory Board as of January 1, 1993. [12:4 CRLR 68-69]

LEGISLATION

Future Legislation. During the 1993-94 legislative session, BCIS plans to propose major revisions to the Locksmith Act, codified at Business and Professions Code section 6980 *et seq.* According to BCIS, these statutory changes will provide a more comprehensive licensing and enforcement program to protect California consumers. In addition, the changes would facilitate the enforcement of SB 2044 (Boatwright) (Chapter 1135, Statutes of 1992), which—effective January 1, 1993—expands the statutory definition of "locksmith" and requires that any person who engages in the business of either installing, repairing, opening, and modifying locks or making keys for locks obtain a permit from BCIS. If approved by DCA, BCIS will pursue legislation which would help alleviate the significant expansion of regulatory and enforcement authority over California's locksmith industry that is expected to occur due to SB 2044's permit requirement. Specifically, BCIS is considering pursuing the following amendments to the Locksmith Act.

Current law restricts the issuance of a locksmith permit to individual persons who apply and qualify. BCIS' proposed amendments would instead provide for the issuance of a locksmith license to any qualified individual, company, association, partnership, or corporation. Thus, instead of the present permit system whereby each individual locksmith is required to obtain a permit, the Act would only require the actual business entity to become a licensee. An employee of a licensee who provides locksmith services would no longer be required to hold an individual locksmith permit, but would only be required to be registered with BCIS as a locksmith employee. Employees would be required to apply for registration within seven days of commencing employment with a licensee. Licensees



would have the burden of ensuring that employees subject to registration are currently registered or have made a timely application for registration with BCIS.

BCIS' amendments would also require separate licensure to operate a locksmith business under one or more fictitious trade names; each locksmith license would be location-specific. A separate branch office registration would be required for each location in which a licensee conducts business other than the principal place of business address listed on the licensee's primary license.

BCIS may also require that the name and license number of the licensee, as it appears in BCIS' records, be listed in every advertisement or solicitation by the licensee's locksmith business.

The proposed amendments would also specify that a licensee shall at all times be responsible for the actions of his/her employees performed in violation of the Act, when such employees are acting within the course and scope of their employment. Amendments would also provide that a license or registration of a locksmith shall be automatically suspended if the locksmith is convicted of a crime which is substantially related to the functions, duties, and responsibilities of a locksmith. The automatic suspension would be effective upon BCIS' mailing of a notice of conviction and suspension of license to the licensee at his/her address of record.

The proposal would give BCIS the authority to inspect, examine, or investigate relevant records, books, accounts, and files created and maintained by a locksmith; BCIS would have access to all business records necessary to the examination for the purpose of performing a random audit to ensure compliance with the Act.

Other proposed amendments would provide the following exemptions from licensure: any person or his/her agent or employee who is the manufacturer of a product, other than locks and keys, and who performs locksmith services for the locks of that product as a normal incident to its marketing; employees who are industrial or institutional locksmiths, provided that such employees provide locksmith services only to a single employer who does not provide locksmith services for hire to the public; tow truck operators who do not originate keys for locks and whose locksmith services are limited to motor vehicles; any person exclusively and regularly employed by a state correctional institution; and any person registered with BCIS as a repossessor under Chapter 11 of the Business and Professions Code, if the duties of that person's position which constitute locksmithing

are ancillary to the primary duties and functions of that person's position.

Repossessor Industry to Propose Fee Increase. The California Association of Licensed Repossessors (CALR) is expected to sponsor a bill in the 1993-94 legislative session which would increase licensing fees. Although the repossessor industry will be sponsoring the bill, the fee increase will affect most or all of the industries regulated by the Bureau. Whereas industry opposition defeated last session's proposed fee increase, this year's proposal appears to have some industry support; some of the support for this year's bill comes from the realization that if fees are not increased, BCIS may be forced to cease all functions except for licensing. According to CALR Legislative Liaison Ray Radford, BCIS' continued regulation benefits both the industries and consumers; if BCIS is forced to cease its enforcement activities, consumers may be left with little or no recourse from unscrupulous industry members. In addition, if BCIS does not continue to establish statewide standards for the industries, they may be subject to specific regulations of each individual municipality.

At this writing, CALR has not confirmed an author for its bill, but hopes to have it introduced as an urgency measure in the Senate.

RECENT MEETINGS

On December 22, BCIS' Private Security Advisory Board held its final meeting in Sacramento. Pursuant to ABX 66 (Vasconcellos) (Chapter 21X, Statutes of 1992), PSAB was formally abolished on December 31. At the meeting, staff presented final reports on the Private Security Training Committee and the Liaison with Law Enforcement Agencies Committee. PSAB Chair Bruce Westfall thanked all those who had assisted in the smooth operation of the Board during his tenure.

CONTRACTORS STATE LICENSE BOARD

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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 Pro-

fessions 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 maintains six committees: Administration, Enforcement, Legislation, Licensing, Public Information, and Strategic Planning. Beginning in October 1992, separate committee meetings will not be held; instead, all issues will be discussed and decided by the full Board at regular Board meetings.

The Board currently has vacancies for one labor member and one specialty contractor.

MAJOR PROJECTS

State Budget Cuts Continue to Plague Board. At its October 22 meeting, CSLB discussed its ongoing financial problems resulting from the state's budget cuts. Staff noted that because CSLB derives all of its funding from licensing fees, the state does not save any general fund money by cutting CSLB's budget; instead, the state is transferring CSLB's special fund resources away from the Board and depositing it into the general fund. [12:4 CRLR 1; 71] In its 1992-93 budget, the state took 10% of CSLB's annual \$38.7 million budget for general fund purposes; CSLB staff alerted the Board to the possibility that the state may repeat the 10% cut in the 1993-94 budget. Any such additional reduction would require drastic reductions in expenditures by CSLB, a significant increase in licensing fees, or both.

The Board discussed several possible areas where cuts could be made, such as enforcement activities (which comprise 70% of the Board's budget), personnel, consolidation of district offices, arbitration, Attorney General's Office costs, computer testing of applicants, data processing, and the toll-free phone system. The Board asked staff to look into each of these areas, along with other areas where reductions could be made, to see how the budget could be trimmed. Board member Steve Lazarian opined that it would be better to reduce programs across the board, as opposed to eliminating a few in their entirety, because of the difficulty in subsequently resurrecting any programs that are eliminated.

In addition to expenditure reductions, the Board also discussed the need to increase licensing fees. CSLB Administra-