



not being compensated for work yet to be performed, then it would have been compelled to litigate each of the claims and cross-complaints. The obvious result would be more litigation rather than less, the latter being the goal of the collateral estoppel doctrine of *res judicata*.

RECENT MEETINGS

At CSLB's October 22-23 meeting in Sacramento, Department of Consumer Affairs (DCA) Director Jim Conran complimented the Board on its accomplishments and commented on the positive relationship that has developed between the Board members, CSLB staff, and himself. He stated that there would be a follow-up meeting in November to Governor Wilson's Summit on "Jump Starting Construction"; Conran also announced that a plan will be submitted to the Governor by DCA to increase enforcement against unlicensed activity.

Registrar David Phillips reported that staff continues to make progress toward processing all complaints within six months. At the end of August, only three complaints were over one year old; nine of CSLB's fifteen districts have no complaints over nine months old. The San Diego District Office continues to be in the lead by being completely current on all complaints. Phillips also reported that a manual containing a summary of all relevant case law regarding contractor licensing has been distributed to all CSLB offices for use by staff engaged in disciplinary activities.

During the Strategic Planning and Administration Committee's portion of the meeting, staff announced that pending complaints are down to approximately 5,000 from approximately 13,000 pending three to five years ago. CSLB receives approximately 30,000 complaints per year; 30% involve unlicensed contractors. Staff also reported that CSLB's new automated testing system allows applicants to obtain immediate results from the exam and is capable of testing 6,000 applicants per month; the new testing system allows CSLB to issue licenses within two months. Staff also reported that the new automated phone system now enables CSLB to answer almost one million calls per year, up from 250,000 calls per year prior to bringing the new system on line. The automated phone system allows callers to check the validity of a license 24 hour per day.

During the Enforcement Committee's portion of the meeting, staff announced several goals and objectives for 1992-93. With respect to processing complaints, it is staff's goal to process 92% of all complaints in six months; reduce the median

age for case closures from 41 days to 38 days; eliminate all complaints over twelve months old; redirect 250 complaints (those with between \$5,000 and \$25,000 in dispute) to the Voluntary Arbitration Program; and reimplement the Mandatory Arbitration Program (for complaints with under \$5,000 in dispute) when and if funding becomes available. The Enforcement Committee also hopes to establish unlicensed activity units for the central and northern regions when and if funding becomes available; conduct one sting operation per month; and improve the collection rate on civil penalties for nonlicensee citations by collecting at least 10% of all penalties assessed.

The Licensing Committee announced several goals and objectives for 1992-93, including redefining the A-general engineering and B-general building contractor classifications (*see supra* MAJOR PROJECTS); ensuring the timely processing of license applications and renewals; completing the revision of the original contractor license application form to comply with legislation passed in the last three years; and exploring ways to automate much of the work in the workers' compensation unit by electronically transferring policy information from the state compensation insurance fund.

FUTURE MEETINGS

July 22-23 in Los Angeles.

BOARD OF DENTAL EXAMINERS

Executive Officer:
Georgetta Coleman
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The Board of Dental Examiners (BDE) is charged with enforcing the Dental Practice Act, Business and Professions Code section 1600 *et seq.* This includes establishing guidelines for the dental schools' curricula, approving dental training facilities, licensing dental applicants who successfully pass the examination administered by the Board, and establishing guidelines for continuing education requirements of dentists and dental auxiliaries. The Board is also responsible for ensuring that dentists and dental auxiliaries maintain a level of competency adequate to protect the consumer from negligent, unethical, and incompetent practice. The Board's regulations are located in Division 10, Title 16 of the California Code of Regulations (CCR).

The Committee on Dental Auxiliaries (COMDA) is required by law to be a part of the Board. The Committee assists in efforts to regulate dental auxiliaries. A "dental auxiliary" is a person who may perform dental supportive procedures, such as a dental hygienist or a dental assistant. One of the Committee's primary tasks is to create a career ladder, permitting continual advancement of dental auxiliaries to higher levels of licensure.

The Board is composed of fourteen members: eight practicing dentists (DDS/DMD), one registered dental hygienist (RDH), one registered dental assistant (RDA), and four public members. BDE's current members are Gloria Valde, DMD, president; Stephen Yuen, DDS, vice president; Pamela Benjamin, public member; John Berry, DDS; Victoria Camilli, public member; Joe Frisch, DDS; Peter Hartmann, DDS; Martha Hickey, public member; Virtual Murrell, public member; Jean Savage, DDS; Joel Strom, DDS; and Hazel Torres, RDA. Although the term of Dr. Savage has expired, it is anticipated that she will continue to serve on the Board during a one-year grace period until her replacement is appointed. In addition to Dr. Savage's position, BDE has one other DDS/DMD vacancy and one RDH vacancy.

MAJOR PROJECTS

Board Proposes Action to Reduce Fees. On December 4, the Board published notice of its intent to amend section 1021, Division 10, Title 16 of the CCR, to reduce its biennial license renewal fee, reduce the fee for the corporation annual report, and eliminate an obsolete provision regarding fictitious name permit renewal fees. This action was originally proposed in July, but was tabled at BDE's September 11 meeting because of uncertainty over the impact of the budget crisis and the impending transfer of BDE reserve funds to the state's general fund. [12:4 CRLR 75] However, at its November 13 meeting, BDE voted to approve the fee reduction proposal.

In addition to proposing the fee changes listed above, the proposed action would reduce the biennial renewal fee for a licensee who has practiced dentistry for twenty years or more in this state, has reached the age of retirement under the Social Security Act, and customarily provides his/her services free of charge or for a nominal charge, as specified, to any person, organization, or agency. This language implements AB 2847 (Felando) (Chapter 419, Statutes of 1992), which added section 1716.1 to the Business and Professions Code, authorizing this fee reduction.



The public comment period ended on January 19; no public hearing was scheduled. The Board was expected to vote on the proposed changes to section 1021 at its January 22 meeting.

Other BDE Rulemaking. At its November 13 meeting, BDE adopted three separate rulemaking proposals which are currently being reviewed by the Department of Consumer Affairs prior to submission to the Office of Administrative Law. The Board approved a proposed change to section 1043.2(b), Division 10, Title 16 of the CCR, to permit those dentists who have completed a course which meets the 1982 Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry of the American Dental Association to be conscious sedation evaluators. The Board also adopted an amendment to section 1017(d), Division 10, Title 16 of the CCR, clarifying the continuing education waiver for disabled licensees. Finally, BDE adopted sections 1023-1023.8, Division 10, Title 16 of the CCR, implementing SB 650 (Alquist) (Chapter 521, Statutes of 1991), which authorizes the Board to conduct inspections of dental offices and issue citations, orders of abatement, and administrative fines for violations of the Dental Practice Act or any regulation adopted by BDE pursuant to that law. [12:4 CRLR 74-75]

RECENT MEETINGS

At its November 13 meeting, BDE officially welcomed public member Virtual Murrell to the Board. Dr. Jean Savage then presented BDE member Gloria Valde with a plaque in recognition of her outstanding efforts in the difficult task of filling in for former BDE President James Dawson, DDS, upon his untimely death. [12:4 CRLR 76]

Also at the November 13 meeting, the Board resolved to reduce licensing fees for dental auxiliaries. Business and Professions Code section 1725 authorizes BDE to set dental auxiliary fees by resolution. The fees were increased by resolution on January 25, 1991, when COMDA's reserve fund had been almost depleted. Because the fund is once again healthy, BDE agreed that it is appropriate to reduce fees in order to avoid excessive reserves which might be captured by the state.

In addition, the Board discussed developing a protocol outlining procedures for dealing with candidates observed cheating on the written portion of the dental license exam. Although the Board has procedures for handling violations during the clinical portion of the exam, there currently exists no protocol for addressing violations on the written portion of the

examination. The matter was tabled until January to allow the Board to consider the most appropriate procedure for disciplining violators while at the same time causing the least amount of disruption to other candidates.

FUTURE MEETINGS

May 6-7 in Los Angeles.

July 8-9 in San Francisco.

September 9-10 in Los Angeles.

November 18-19 in San Francisco.

BUREAU OF ELECTRONIC AND APPLIANCE REPAIR

Chief: K. Martin Keller
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The Bureau of Electronic and Appliance Repair (BEAR) was created by legislative act in 1963. It registers service dealers who repair major home appliances, electronic equipment, cellular telephones, photocopiers, facsimile machines, and equipment used or sold for home office use. BEAR is authorized under Business and Professions Code section 9800 *et seq.*; its regulations are located in Division 27, Title 16 of the California Code of Regulations (CCR).

The Electronic and Appliance Repair Dealer Registration Law requires service dealers to provide an accurate written estimate for parts and labor, provide a claim receipt when accepting equipment for repair, return replaced parts, and furnish an itemized invoice describing all labor performed and parts installed.

The Bureau inspects service dealer locations to ensure compliance with BEAR's enabling act and regulations. It also receives, investigates, and resolves consumer complaints. If an investigation reveals an unregistered person engaged in activity for which BEAR registration is required, the Bureau is authorized to impose a fine not less than \$250 and not more than \$1,000. Grounds for revocation or denial of registration include false or misleading advertising, false promises likely to induce a customer to authorize repair, fraudulent or dishonest dealings, any willful departure from or disregard of accepted trade standards for good and workmanlike repair, and negligent or incompetent repair.

BEAR's Advisory Board was eliminated as of January 1 by ABX 66 (Vasconcellos) (Chapter 21X, Statutes of 1992). [12:4 CRLR 78]

MAJOR PROJECTS

BEAR Reviews Service Contract Summit Meeting and Submits Proposals to Governor. On November 6, BEAR held its first post-Advisory Board public meeting and reviewed the key points reached at BEAR's September 24 informational meeting on potential service contract legislation; the purpose of the September meeting was to determine whether and what kind of legislation is needed to protect consumers from losing the value of their service contracts when the responsible party is unable to perform its agreement to provide promised service during the life of the contract. The invitees at the September meeting included representatives of businesses involved in the administration, sale, or servicing of service contracts, professional associations, and public interest groups such as the Center for Public Interest Law and Consumer Action. [12:4 CRLR 77] According to BEAR Chief Marty Keller, the September "summit meeting" reaffirmed participants' support for a registration program initially presented at BEAR's February 1992 meeting, under which all service contract administrators and sellers would be required to register with BEAR. [12:2&3 CRLR 84] After much discussion at the summit meeting, the participants reached consensus to support legislation on two other key points: (1) all third-party administered contracts must be backed by insurance underwritten by a California-registered insurance company, and (2) all contracts sold directly must carry disclosure language notifying the consumer as to who bears the financial responsibility for carrying out the contract's provisions. At the close of the summit meeting, Keller appointed a committee to further review and refine the proposed legislative language.

On November 6, Keller noted that the major retailers have proposed a change which would require BEAR to implement disciplinary action short of revocation before action on revocation itself could be initiated; this proposed change is currently being reviewed by the Department of Consumer Affairs (DCA). At this writing, the original service contract proposals are being reviewed by the Governor's office; in the event the administration declines to approve the concept, industry interests have indicated that they may still pursue the legislation without BEAR's assistance.

BEAR Taking Active Role in Implementing SB 2044. Along with DCA's Bureau of Home Furnishings and Thermal Insulation and Tax Preparer Program, BEAR is participating in a pilot project to