require various agencies to undertake specific actions related to the inspection program, such as requiring the I/M Committee to examine tampering problems, ways to remove gross-polluting vehicles, implementation of the federal $450 repair cost waiver and improvements to decentralized testing, and requiring DCA to investigate on-board diagnostic systems in vehicles for detecting excess emissions and identifying needed repairs; and

make other miscellaneous and related changes to vehicle inspection provisions to implement the bill’s requirements and make them consistent with existing law.

[SB 1119 (Ferguson). Existing law establishes the motor vehicle inspection program, which provides for smog checks and repairs to be made by smog check station mechanics. As introduced March 2, this bill would designate those mechanics as technicians, designate that program as the basic program, and require an enhanced program of testing and retesting at test-only stations. The bill would delete provisions for a fee to be charged for a certificate of compliance or noncompliance, and instead provide for the electronic filing of a certificate of compliance. [A. Trans]]

[AB 8 (Lockyer). Existing law makes it unlawful for any automobile repair dealer to offer to any insurance agent, broker, or adjuster any fee, commission, profit sharing, or other form of direct or indirect consideration for referring an insured to that automobile repair dealer for vehicle repairs covered under a policyholder’s automobile physical damage coverage or automobile collision coverage. As amended April 13, this bill would make it a public offense for any automobile repair dealer or its employees or agents to knowingly offer or give any discount intended to offset a deductible required by a policy of insurance covering a motor vehicle for making repairs to the motor vehicle. [A. F&I]]

[SB 341 (Craven). Existing law authorizes the DCA Director to direct BAR to create an advisory committee to conduct a study on auto body repair; existing law also requires the Director to report findings and recommendations to the legislature by December 1, 1993. As introduced February 18, this bill would instead require the Director to report findings and recommendations to the legislature by January 1, 1994. [A. CPGE&ED]]

[SJR 10 (Committee on Transportation), as introduced March 11, would memorialize President Clinton and the EPA to give California increased flexibility in assessing the effectiveness of its current I/M program, redesigning the program, and meeting new federal performance standards for vehicle emission reduction; the measure would also request that EPA not impose a specified discount factor on months prior to the most recent transfer of ownership and registration. The bill would also require the transferor of a motor vehicle that is subject to emission certification requirements to sign a statement, under penalty of perjury, that he/she has not modified the emission system and does not have personal knowledge of anyone else modifying the emission system in a manner that causes the emission system to fail to qualify for the issuance of a certificate of compliance. The bill would also require the transferor to deliver the completed statement to the Department of Motor Vehicles. [S. Floor]]

[AB 2358 (Farr), as amended April 12, would require vehicles, trains, and commercial or other nonresidential facilities at fixed locations, if they have air-conditioning systems containing CFC-based refrigerants, to undergo inspection, biennially or upon transfer of ownership, for leaks of the air-conditioning system. The bill would require the removal of the refrigerant from, and would prohibit the addition of any refrigerant to, an air-conditioner that is in a status of noncompliance due to refrigerant leakage, and would prohibit the Department of Motor Vehicles from registering or reregistering a vehicle that is not in compliance. [A. NatRes]]

[SJF 574 (Boatwright), as amended May 17, would delete certain references to BAR’s Advisory Board, which was eliminated by ABX 66 (Vasconcellos) (Chapter 21X, Statutes of 1992). [12:4 CRLR 59] [A. CPGE&ED]]

BOARD OF BARBERING AND COSMETOLOGY

Executive Officer: Olivia Guebara
(916) 445-7061

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 persons engaged in the practice of barbering, cosmetology, and electrolysis. The Board is also 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.

In March, Governor Wilson appointed Joan Josef of Tolula Lake to fill a public member seat on BBC; Josef chairs the board of directors of Joseff-Hollywood, an international supplier of aircraft and missile castings. In addition, Joseff-Hollywood is an international distribution company for the rental of costume jewelry to the television and film industry. Also in March, Wilson appointed Philip Taylor of Studio City to fill an industry member seat on BBC; Taylor, co-owner of Papillons, a beauty supply store, received his cosmetology license in 1959. At this writing, the Governor has yet to fill one remaining industry member seat on BBC.

MAJOR PROJECTS

Board Adopts New Fee Regulations. Existing law (Chapter 10, Division 3 of Business and Professions Code) provides for the regulation of the practices of barbering, cosmetology, and electrolysis, but does not include a set fee schedule for BBC. On January 8, BBC published notice of its intent to repeal section 990, Title 16 of the CCR, which established fees for the now-defunct Board of Cosmetology, and adopt new section 998, to provide a schedule of fees to be charged for all BBC licenses. The proposed fees are within stat-

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regulatory limits and are expected to be sufficient to cover Board expenses incurred in performing its mandated duties. Among some of the new fees to be charged are a $9 pre-application fee for barbers, cosmetologists, estheticians, manicurists, and electrologists, and a $50 application, examination, and initial license fee for barbers, cosmetologists, and electrologists.

On February 22, BBC conducted a hearing on the proposed action; no public comments were submitted. BBC unanimously adopted the proposed changes, which await review and approval by the Department of Consumer Affairs (DCA) and the Office of Administrative Law (OAL).

Board Adopts New BBC Regulations. On January 29, BBC published notice of its intent to repeal Divisions 3 and 9, Title 16 of the CCR (formerly the regulations of BBE and BOC), and adopt new Division 9, Title 16 of the CCR, establishing a comprehensive regulatory scheme for BBC. [13:1 CRLR 24] Division 9 would consist of thirteen articles covering the following topics: administration; qualifications for examination; apprenticeship; mobile units; continuing education; curricula; licenses; disciplinary proceedings; administrative fines and citations; health and safety rules; and revenue.

BBC conducted public hearings on this proposed action on February 22 in San Diego and March 29 in San Francisco. At the hearings, the Board received numerous comments regarding the apprenticeship rules in proposed Article 3. Although BBE’s prior regulations contained provisions regarding an apprenticeship program, BOC’s regulations did not; BBC thus had to decide whether to retain BBE’s apprenticeship language, which would be applicable only to barbers, or adopt a new set of regulations establishing an apprenticeship program for both barbers and cosmetologists. Despite requests by barbers who wanted to retain the old apprenticeship regulations and several cosmetologists who opposed a cosmetological apprenticeship program, BBC voted to adopt new apprenticeship regulations for both barbers and cosmetologists and repeal the old barber apprenticeship regulations.

In response to substantial public comment contending that BBC was providing inadequate notice regarding the proposed curriculum changes in Article 8, especially the change in manicurist hours from 500 to 350 hours, BBC unanimously decided to review all public comments and suggestions regarding Article 8 before its adoption. Thus, BBC unanimously agreed to keep the old barber and cosmetology curricula in place until its June meeting, in order to give the Board and staff sufficient time to review comments and suggestions regarding the proposed curricula.

With the exception of Article 8, and subject to minor modifications, BBC adopted the rulemaking action following the March 29 public hearing. At this writing, the regulations await review and approval by DCA and OAL.

LAO Proposes To Eliminate BBC. In its Analysis of the 1993–94 Budget Bill, one of the recommendations made by the Legislative Analyst’s Office (LAO) for streamlining state government proposed that the legislature eliminate the state’s regulatory role in three currently-regulated areas. Particularly relevant to BBC is LAO’s recommendation that the state stop regulating several consumer-related business activities. In determining whether the state should continue to regulate a particular area, LAO recommended that the state consider whether the board or bureau protects the public from a potential health or safety risk that could result in death or serious injury; whether the board or bureau protects the consumer from severe financial harm; and whether there are federal mandates that require the state to regulate certain activities. Based on these criteria, LAO recommended that the state remove its regulatory authority over activities currently regulated by BBC, among other DCA bureaus and agencies. At this writing, LAO’s recommendations have not been amended into any pending legislation.

Legislation

AB 310 (Woodruff). The Filante Tanning Facility Act of 1988 regulates facilities which are used for tanning the skin and requires a tanning facility to report any patron injury requiring medical attention to DCA. As amended April 13, this bill would, under BBC’s jurisdiction, require records of tanning facilities to be open to inspection by the Board, as specified. It would reduce a violation of the Filante Tanning Facility Act from a misdemeanor to an infraction for a first violation, and set forth certain fine amounts. Subsequent violations of the Act would be misdemeanors, and continuing violations would constitute separate misdemeanors. The bill would also direct BBC to conduct a study and report to the legislature no later than July 1, 1994, with respect to certain tanning facility information. [A. Floor]

AB 292 (Polanco), as amended May 18, would require all licensed cosmetologists, manicurists, and estheticians to complete sixteen hours of continuing education (CE) during each license renewal period and all licensed barbers to complete eight hours of CE during each renewal period, as specified. [13:1 CRLR 25] The bill would provide for approval by BBC of a CE program on health and safety topics. The bill would exempt from these CE requirements those instructors who meet the requirements for continuing education under the Council for Private Postsecondary and Vocational Education. The bill would also require BBC to adopt regulations establishing standards for the approval of CE courses and for the effective administration and enforcement of its CE requirements. The bill would make specified findings related to the above, and provide that specified provisions of the bill shall become operative on July 1, 1996. [A. W&M]

SB 353 (Ayala), as amended April 29, would require BBC to administer the licensing examination not later than ten working days after graduation from an approved cosmetology, electrology, or barbering school to students who have submitted an application for admission for examination under the preapplication procedure. [A. CPGE&ED]

AB 1358 (Karnette). Existing law defines the term “employee” for purposes of unemployment insurance and personal income tax withholding. As amended April 15, this bill would further define the term “employee,” for purposes of unemployment insurance and personal income tax withholding, to include booth renters in the cosmetology industry, as defined, unless specified conditions and requirements are met that would result in them being considered independent contractors. [A. F&T]

SB 842 (Presley), as amended April 13, would permit BBC to issue interim orders of suspension and other license restrictions, as specified, against its licensees. [A. CPGE&ED]

Recent Meetings

At BBC’s February 21 meeting, Executive Officer Olivia Guebara announced that BBC will have five two-member committees. Board President Carole Matchette stated that the Administrative Committee will consist of Paul Schwager and DiAnn Eastman, the Consumer Services Committee will consist of Jeanette Keaton and Howard Stein, the Curriculum/Examination Committee will consist of Daniel Sirells and Eastman, and the Legislation/Regulations Committee will consist of Schwager and Matchette. Matchette stated that she would wait until Governor Wilson had appointed the final three Board members before appointing members to the Enforcement Committee.
Petitions for Reinstatement and Out-of-State LCSWs, one LEP, and two MFCCs. The Board's regulations appear in Division 18, two MFCC seats are vacant on BBSE.

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Currenty, one public member seat and two MFCC seats are vacant on BBSE.

FUTURE MEETINGS

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

Legislation Introduced Regarding Petitions for Reinstatement and Out-of-State Experience Issues. At long last, BBSE has succeeded in having legislation introduced which will clarify issues concerning petitions for reinstatement and out-of-state experience. [13:1 CLR 25] AB 1807 (Bronshvag), the Department of Consumer Affairs’ (DCA) omnibus bill, addresses many issues which BBSE has been struggling to resolve for the past two years. Among other things, AB 1807 would make the following changes:

• Business and Professions Code section 4982.2 currently provides that BBSE may place a license or registration on probation under specified circumstances. AB 1807 would renumber this section as 4982.15, and amend it to delete existing section 4982.2(d), regarding petitions for reinstatement. Instead, AB 1807 would add new section 4982.2 to provide that an MFCC, LCSW, or LEP whose license has been revoked or suspended or who has been placed on probation may petition BBSE for reinstatement or modification of penalty, including modification or termination of probation, after a period not less than the following minimum periods has elapsed from the effective date of the decision ordering the disciplinary action (or, if the order of BBSE, or any portion thereof, is stayed by the Board or by the superior court, from the date the disciplinary action is actually implemented in its entirety): (1) at least three years for reinstatement of a license which was revoked for unprofessional conduct, except that BBSE 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; (2) at least two years for early termination of any probation period of three years or more; and (3) 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.

New section 4982.2(b)-(1) would address the procedure for hearing and deciding the petition for reinstatement. For example, section 4982.2 provides that the petition may be heard by the Board itself, or BBSE may assign the petition to an administrative law judge pursuant to Government Code section 11512. Also, section 4982.2(f) would require that the petition be submitted on a form provided by BBSE, and state any facts and information as may be required by BBSE including, but not limited to, proof of compliance with the terms and conditions of the underlying disciplinary order.

• Regarding the acceptability of out-of-state LCSW experience gained by an individual seeking licensure in California, AB 1807 would amend Business and Professions Code section 4980.90 to provide that experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by BBSE, provided that the applicant has completed (1) a two-quarter unit course in California law and professional ethics for MFCCs, as specified; (2) a minimum of seven contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified. With respect to human sexuality and alcoholism and other chemical dependency, BBSE may accept training or coursework acquired out-of-state.

• Regarding the acceptability of out-of-state MFCC experience and/or education gained by an individual seeking licensure in California, AB 1807 would amend Business and Professions Code section 4996.17 to provide that experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to BBSE’s education requirements, provided that the applicant has completed (1) a two-quarter unit course in California law and professional ethics for MFCCs, as specified; (2) a minimum of seven contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified. With respect to human sexuality and alcoholism and other chemical dependency, BBSE may accept training or coursework acquired out-of-state.

• Business and Professions Code section 4996.16 and adopt new section 4996.16, which would provide that the licensure requirements set forth in Chapter 14 of the Business and Professions 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; section 4996.16 would provide that these clinical social workers shall not open an office or appoint a place to meet clients or receive calls from clients within the limits of this state.