



REGULATORY AGENCY ACTION

The Office of Administrative Law approved the Board's citation and fine regulations on May 26.

LEGISLATION

AB 598 (Speier), as amended May 13, would toughen the state's cremation laws to prevent consumer abuse. Among other things, it would increase the Board's enforcement revenue by raising the per cremation regulatory fee from 50 cents to \$1; require the Cemetery Board to annually conduct a minimum of one unannounced inspection of each licensed crematory; add jewelry and mementos to the list of items which it is a crime to remove from human remains without the permission of the person having the right to control those remains; and require that any dental gold or silver, jewelry, or mementos removed from human remains be returned to the cremation container or urn, unless otherwise directed by the person having the authority to control the disposition of the remains.

Existing law prohibits the removal of cremated remains or charging for a cremation unless the cremated remains have been processed so they are suitable for interment; AB 598 would instead require that the remains be processed so they are suitable for placement in a cremated remains container, as defined, or an urn, as defined, and would require written notification regarding the processing of the remains to the person having the authority to control the remains.

Existing law prohibits certain types of commingling of the human remains of more than one person, and provides that violation of those provisions is a misdemeanor. This bill would revise those provisions and make them inapplicable to "residue," as defined. The bill would also require that a prescribed written acknowledgement, on a form including specified information, be filed and retained for at least five years by the person who disposes of or interts the remains.

AB 598 would prohibit a crematory from accepting human remains unless certain requirements are met, including accompaniment of the remains by specified documents. This bill would prohibit a crematory from holding human remains prior to cremation for more than 24 hours unless specified storage conditions are met. The bill would also require crematory operators to provide a written list of prices for various charges related to cremation, and to include a specified statement identifying the Cemetery Board as a source of information. AB 598 would also require crematory licensees to provide specified instruction to all crematory personnel, and

maintain a written plan of instruction for employees and a record to document that employees received training. [A. W&M]

AB 654 (Speier). The existing Private and Community Mausoleum and Columbarium Law sets different construction standards for mausoleums (buildings or structures used for the interment of uncremated human remains) and columbariums (buildings or structures used for the interment of cremated human remains). As amended April 12, this bill would revise these standards to reference recent codes, delete the distinction between community and private mausoleums and columbariums, revise certain procedures specifically related to mausoleums and columbariums (e.g., waterproofing, marble floor bases, crypt standards, skylight frames), and add certain requirements (e.g., crypt vents, skylight materials). [S. H&UA]

SB 155 (Boatwright). Existing law 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; this bill would delete this requirement. Existing law also prohibits a crematory licensee from conducting cremations unless the licensee has a contractual relationship with a cemetery authority for final disposition of cremated remains that are not lawfully disposed of or claimed by persons entitled to custody of the remains within 90 days; this bill would provide that notwithstanding that provision, cremated remains may be disposed of by a funeral director, cemetery authority, or crematory, after one year, by burial at sea, after certain notification requirements are met.

Among other things, this bill would also require 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 provide 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. [S. B&P]

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

RECENT MEETINGS

At the Board's March 26 meeting, Karen Leonard, representing the California Federation of Funeral and Memorial Societies, urged Board members to take a more active role in reviewing complaints

received against the death industry. She also stated that the Board should be comprised only of public members who have no pecuniary stake in governmental decisions affecting the death industry; she recommended that an advisory panel of industry experts could be formed to advise the Board on industry-related issues.

FUTURE MEETINGS

September 9 in Los Angeles.
December 1 in Sacramento.

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), repossessioners, 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 individual 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 7540 *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 collectors 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.

MAJOR PROJECTS

Collection Agency Regulations Repealed. As of July 1, 1992, BCIS lost its authority to regulate collection agencies due to a sunset provision in the Collection Agency Act, formerly codified at Business and Professions Code section 6850 *et seq.*, which repealed the Act at midnight on June 30, 1992. [12:4 CRLR 68] Since the Bureau no longer has the authority to regulate collection agencies, it repealed all of the regulations in Title 16 of the California Code of Regulations concerning the regulation of collection agencies. On January 12, the Office of Administrative Law approved the action, which took effect immediately. Several bills are currently pending in the legislature which would reinstate regulation of collection agencies (*see* LEGISLATION). However, at this writing, collection agencies are not subject to regulation by any state agency.

LAO Proposes To Eliminate BCIS. 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 thirteen currently-regulated areas. 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 this criteria, LAO recommended that the state remove its regulatory authority over activities currently licensed by BCIS, among other bureaus and agencies. At this writing, LAO's recommendation has not been amended into any pending legislation (although SB 574 [*see* LEGISLATION] would eliminate BCIS' regulation of protection dog operators and medical provider consultants).



LEGISLATION

AB 2226 (Frazee). Existing law requires every person licensed as a private investigator, private patrol operator, protection dog operator, or armored contract carrier who carries a firearm in the course of employment to have a valid firearms qualification card and, among other things, requires completion of a course of training in the carrying and use of firearms and the passage of a written test, as prerequisites to obtaining the qualification card. As introduced March 5, this bill would provide that any person who, while a peace officer, completed a course of training and obtained the basic certificate prescribed by the Commission on Peace Officer Standards and Training shall, upon presentation of proof to the Bureau, be exempt from those training and testing requirements. [A. CPGE&ED]

SB 574 (Boatwright), as amended May 17, would revise certain experience requirements and renewal periods with respect to repossession agencies and repossessioners; remove from licensure and regulation protection dog operators; remove and revise various provisions concerning the licensure of alarm company operators; and eliminate licensure and regulation of medical provider consultants. [A. CPGE&ED]

AB 89 (Conroy), as amended March 31, would authorize specific entities or persons to release information (regarding residence addresses) obtained pursuant to existing law to private investigators, if the private investigator agrees to and signs a nondisclosure statement setting forth the conditions for the release, keeps the nondisclosure statement on file, and the information is used only for specified purposes. [A. PubS]

AB 117 (Murray). Existing law relating to the licensure of private investigators, patrol operators, and related persons authorizes the DCA Director to adopt rules and regulations establishing the qualifications of persons eligible to carry firearms while employed by a private patrol operator, any lawful business as a security guard or patrolperson, or an armored contract carrier; adopt procedures governing the filing of charges by local authorities with respect to applicants for registration with BCIS for failure to meet standards for registration; and adopt recordkeeping requirements for identifying all firearms in the possession or control of specified employees. As amended May 4, AB 117 would extend that rulemaking authority to cover private investigators and their employees, and would make related changes. It would also extend the rulemaking authority to fixing qualifications for

bodyguards and to the establishment of procedures, qualifications, fees, and conditions under which licensed private investigators or bodyguards who hold valid firearms qualification cards will be issued a permit by the Director to carry a concealed firearm. The bill would specify that, after January 1, 1994, these procedures are the exclusive means whereby those licensees, acting within the scope of the activities for which they are licensed, and going to or from home or work, may carry a concealed firearm.

Existing law also provides that a private investigator may only provide services to protect a person, but not property, when incidental to an investigation. AB 117 would instead provide that a private investigator may provide services to protect a person even when he/she does not protect property and when it is incidental to an investigation, or when he/she is also licensed as a private patrol operator. AB 117 would also require licensees carrying or using a firearm to comply with certain insurance requirements. [A. CPGE&ED]

SB 842 (Presley), as amended April 13, would authorize BCIS to issue interim orders of suspension and other restrictions, as specified, against its licensees. (See agency update on DCA for more information.) [A. CPGE&ED]

SB 393 (Deddeh), as introduced February 23, would enact a new Debt Collection Practices Act, under which third-party debt collectors would be regulated. Among other things, the Act would provide for regulation by BCIS, exemptions from regulation, and the imposition of fees which would be deposited into a continuously appropriated fund. If enacted, the bill's provisions would take effect immediately as an urgency measure and remain operative until July 1, 1995. [S. InsCl&Corps]

SB 394 (Deddeh), as amended April 22, would require any person engaged in the business of collecting claims for others or conducting the activities of a collection agency, as defined, to record a verified certificate of operation as a collection agency with the recorder's office of the county of the collection agency's principal place of business. This bill would exempt from this requirement specified persons or entities that engage in collection activities that are minor and incidental to other primary business activities, and would also require a collection agency to maintain a bond in the amount of \$10,000. This bill would take effect immediately as an urgency measure. [A. F&I]

AB 561 (Speier), as amended April 14, would enact a Collection Agency Act under which BCIS would license and reg-

ulate persons engaged in the business of collecting claims for others or conducting a collection agency. The bill would provide that, effective April 1, 1994, no person shall engage in the business of collecting claims for others or conduct a collection agency, as defined, relating to any person either as debtor or creditor, present in this state, unless he/she holds a valid collection agency license. [A. W&M]

AB 936 (Rainey), as introduced March 1, would repeal, reenact, reorganize, and revise existing provisions which require an individual to obtain a permit from BCIS to lawfully perform his/her trade as a locksmith. This bill would require a locksmith, including an individual, company, association, partnership, or corporation, to be licensed and would require an employee of a locksmith to be registered. [A. Floor]

AB 1972 (Horcher). Existing law provides that any person who knowingly engages a nonexempt unlicensed repossession agency, after being notified by BCIS in writing of that agency's unlicensed status, is guilty of a misdemeanor. As amended May 10, this bill would delete the requirement of written notice by BCIS of the agency's unlicensed status. AB 1972 would also amend the list of prohibited acts by employees of repossession agencies to include failing to report a violent act involving the employee to the licensee or the licensee's qualified certificate holder within 24 hours. This bill would also require any licensee and other specified individuals, including immediate family members, to dispose of any financial interest in any repossession agency within a specified time period after revocation of the license, and would also prohibit those individuals from acquiring any interest in a repossession agency during a period of suspension or revocation of the license. [A. Floor]

SB 756 (Kelley), as amended April 12, would provide for an increase in fees, as of January 1, 1995, for persons licensed as private investigators, private patrol operators, and related capacities. [S. Floor]

CONTRACTORS STATE LICENSE BOARD

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The Contractors State License Board (CSLB) licenses contractors to work in California, handles consumer com-