



REGULATORY AGENCY ACTION

not be credited towards training in an apprenticeship. However, at its August meeting, the Board decided to convene a committee to review the proposed language and recommend to the Board whether this change is appropriate.

At this writing, BBC has submitted the approved sections of Article 8 and the other twelve articles of its new regulations to the Department of Consumer Affairs for review and approval; thereafter, the regulations must be approved by OAL.

■ LEGISLATION

AB 310 (Woodruff). The Filante Tanning Facility Act of 1988 regulates tanning facilities; any violation of the Act is a misdemeanor. As amended August 17, this bill places tanning facilities under the jurisdiction of BBC, and requires records of tanning facilities to be open to inspection by the Board; reduces a violation of the Filante Tanning Facility Act of 1988 from a misdemeanor to an infraction for a first violation of the Act and sets forth certain fine amounts; authorizes BBC to adopt regulations concerning the operation of tanning facilities in establishments licensed under the Barbering and Cosmetology Act; and directs BBC to conduct a study and report to the legislature no later than July 1, 1994, with respect to certain tanning facility information. This bill was signed by the Governor on September 26 (Chapter 521, Statutes of 1993).

SB 353 (Ayala), as amended July 13, requires BBC to administer its 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 Board's preapplication procedure. This bill was signed by the Governor on October 1 (Chapter 700, Statutes of 1993).

SB 842 (Presley), as amended July 14, permits BBC to issue interim orders of suspension and other license restrictions, as specified, against its licensees. This bill was signed by the Governor on October 5 (Chapter 840, Statutes of 1993).

AB 1392 (Speier), as amended July 1, would—among other things—provide that BBC's executive officer is to be appointed by the Governor, subject to Senate confirmation, and that the Board's executive officer and employees are under the control of the Director of the Department of Consumer Affairs. [S. B&P]

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. [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. [S. B&P]

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&I]

■ RECENT MEETINGS

At BBC's June 7 meeting, Board member Jeanette Keaton reported that she had accompanied a Board inspector on routine inspections in San Mateo County. She reported that the most common violation is unlicensed activity, and suggested the implementation of a photo identification system for barbers and cosmetologists to discourage unlicensed activity. To raise public awareness, she also suggested the creation of a hotline available to consumers from 9:00 a.m. to 5:00 p.m. to answer licensing questions and requests for information.

At BBC's August 15-16 meeting, Enforcement Coordinator Shirley Thomas explained the various functions of the Board's Enforcement Division. Thomas explained that the Division has been reorganized into two sections: the Complaint Section handles complaints regarding consumer harm and dissatisfaction with services, and the Health and Safety and Unlicensed Section handles consumer complaints concerning health and safety, unlicensed activity, and related inspection violations. Thomas reported that the Board has fifteen inspectors working in the field and two supervising inspectors, one in northern California and one in southern California. She stated that the

Board will be able to meet its mandate of inspecting each school for health and safety violations on an annual basis, and new establishments within 90 days, with its present staffing. Department of Consumer Affairs legal counsel Donald Chang noted that BBC inspectors currently are not able to issue a citation when they see a violation in a shop. However, BBC has statutory authority to issue citations and will be able to do so as soon as it adopts regulations to implement this authority.

At BBC's August 15-16 meeting, President Carole Matchette made appointments to the Board's five subcommittees. The Administration Committee will consist of Paul Schwager and Di Ann Eastman; the Consumer Service Committee will consist of Jeanette Keaton; the Curriculum/Examination Committee will consist of Daniel Sieras and Di Ann Eastman; the Legislation Committee will consist of Carole Matchette, Howard Stein, and Joan Joseff; and the Enforcement Committee will consist of Rosemary Faulkner and Philip Taylor. Also in August, the Board re-elected Carole Matchette as BBC President and Di Ann Eastman as Vice President.

Also at BBC's August meeting, Executive Officer Olivia Guebara reported that the waiting period for applicants to take the licensing examination has been reduced from 75 to 41 days. Finally, the Board decided to schedule a meeting to develop its goals and objectives; at this writing, this meeting is scheduled for October 24.

■ FUTURE MEETINGS

December 13 in northern California.

BOARD OF BEHAVIORAL SCIENCE EXAMINERS

Executive Officer:
Kathleen Callanan
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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).

The current members of BBSE are Judy Brislain, LEP; Karen Walton, LCSW; Selma Fields, MFCC; Zalia Lipson, MFCC; and public members Thomas Knutson, Jerry Miller, Lorie Rice, Jane Emerson, Jeanne Smith, and Stephanie Carter. Currently, one LCSW seat is vacant on BBSE.

LEGISLATION

AB 1885 (V. Brown), as amended August 17, is a BBSE-sponsored bill which overhauls the supervised experience requirement for MFCC candidates. This bill, which was signed by the Governor on October 10 (Chapter 1054, Statutes of 1993), was the product of numerous public hearings held by the Board over the past two years, and is intended to ensure adequate supervision of MFCC trainees who have not received their required master's or doctoral degrees, and to limit the level of services being provided to clients by these unlicensed individuals. [13:2&3 CRLR 55; 13:1 CRLR 26]

Under existing law, applicants for MFCC licensure are required to complete 3,000 hours of supervised experience in direct client counseling (including 1,500 hours as a "trainee" prior to completion of the graduate degree program). Trainees are required to receive only one hour of direct supervision for each week of supervision claimed. Under this scheme, individuals who enroll in a master's degree program in counseling or a related field may immediately register as a trainee with BBSE and begin to counsel clients, without having completed any coursework and subject to only one hour per week of actual supervision. Further, trainees may gain the required practical experience in any type of setting, including private practice settings subject to the Board's jurisdiction and so-called "exempt settings" (as an employee of a governmental or school entity or nonprofit or charitable corporation) which are not subject to the Board's jurisdiction. In exempt settings, trainees may actually hire, pay, and fire their supervisors; volunteer their time even though their services are generating revenue for their employer; and work free from onsite supervision. For several years, BBSE staff have argued that these and other loopholes undermine both the intent of the supervised experience requirement and public safety.

Among other things, AB 1885 specifies that an MFCC candidate must be currently enrolled in a designated graduate degree program and have completed at

least twelve semester units or eighteen quarter units of coursework in that program before the candidate may earn supervised experience hours toward licensure. The bill repeals the requirement that trainees register with BBSE, and instead requires the trainee's educational institution to take more responsibility for the trainee's supervised experience. Effective January 1, 1995, all hours of experience gained as a trainee must be coordinated between the school and the site where the hours are being accrued. The school shall approve the site and enter into a written agreement with the site which details each party's responsibilities, including the methods by which supervision shall be provided. Additionally, a trainee must gain a minimum of 150 hours and may gain a maximum of 750 of the required 3,000 hours prior to the granting of the qualifying master's or doctoral degree.

Trainees may gain experience either as an employee or as a volunteer at a government entity, a school, college or university, a nonprofit and charitable corporation, or a licensed health facility, if the experience is gained by the trainee solely as part of the position for which he or she is employed; the trainee's academic institution must approve the site. Interns (MFCC candidates who have acquired the requisite academic degree, registered as interns with BBSE, and are still in the process of completing the supervised experience requirement) may gain experience in any of the settings described above or in specified private practice settings. Neither trainees nor interns may gain experience as an independent contractor. An intern employed in a private practice setting shall not pay his/her employer for supervision and shall receive fair remuneration from his/her employer.

"Supervision" must include at least one hour of direct supervisor contact for each week of experience claimed. In addition, on and after January 1, 1995, a trainee must receive at least one hour of direct supervisor contact for every five hours of client contact in each setting in which experience is gained, and an intern must receive an average of at least one hour of direct supervisor contact for every ten hours of client contact in each setting in which experience is gained. Trainees and interns may perform services only at the place where their employer regularly conducts business; trainees and interns shall have no proprietary interest in that business.

In addition to the assumption of more responsibility for supervised experience by educational institutions, AB 1885 requires supervisors to more closely monitor the scope of a supervisee's activities.

Under the bill, supervisors are responsible for ensuring that the extent, kind, and quality of counseling being performed is consistent with the training and experience of the person being supervised, and are responsible to BBSE for compliance with all laws, rules, and regulations governing MFCC counseling. AB 1885 defines as unprofessional conduct for supervisors the violation of any statute or regulation governing the gaining and supervision of experience.

Also under AB 1885, a qualifying supervisor does not include an individual who has provided therapeutic services to the trainee or registrant; and educational institutions which prepare applicants for MFCC licensure are required to encourage students to undergo counseling or therapy.

AB 890 (B. Friedman), as amended September 1, requires a qualifying degree curriculum for MFCC licensure to contain a course in spousal or partner abuse assessment, detection, and intervention; and also requires the inclusion of spousal or partner abuse assessment, detection, and intervention in the education, instruction, and training of LCSWs. The bill would also have required BBSE to encourage MFCCs and LCSWs to take continuing education classes in spousal or partner abuse detection and treatment if SB 404 (Killea) had been signed (*see below*). This bill was signed by the Governor on October 11 (Chapter 1234, Statutes of 1993).

SB 404 (Killea), as amended August 31, would have, on and after January 1, 1998, prohibited BBSE from renewing a LCSW or MFCC license unless the applicant certifies to the Board that he/she has completed not less than 36 hours of approved continuing education (CE) in the preceding two years; required applicants to maintain records of completion of required CE coursework for a minimum of two years; authorized BBSE to audit the records of any applicant to verify completion of the requirement; and required BBSE to establish a procedure for approving providers of CE courses for LCSWs and MFCCs. This bill was vetoed by Governor Wilson on September 25.

SB 842 (Presley), as amended July 14, permits BBSE to issue interim orders of suspension and other license restrictions, as specified, against its licensees. This bill was signed by the Governor on October 5 (Chapter 840, Statutes of 1993).

SB 792 (Bergeson). SB 1148 (Bergeson) (Chapter 1353, Statutes of 1992) substantially revised the state's comprehensive statutory scheme regulating independent adoptions, and amended Business and Professions Code section 4996.21, effective January 1, 1994 to provide that



BBSE shall certify as an adoption service provider any LCSW seeking certification whom it determines to be qualified as an adoption service provider, as defined in Civil Code section 220.20. As amended September 7, this bill repeals section 4996.21 and revises provisions concerning unprofessional conduct of LCSWs and LCSW corporations. This bill was signed by the Governor on October 2 (Chapter 758, Statutes of 1993).

AB 1807 (Bronshvag), as amended September 8, is a Department of Consumer Affairs omnibus bill which stalled on the Assembly floor in the last days of the legislative year. Among other things, AB 1807 would provide that MFCC experience gained outside of California shall be accepted toward licensure if it is substantially equivalent to that required by Chapter 13 of the Business and Professions Code, 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; education gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of Chapter 13, provided that the applicant has completed specified educational requirements.

AB 1807 would also 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.

AB 1807 would also provide that the LCSW 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 prac-

itioner 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; these clinical social workers would not be authorized to open an office or appoint a place to meet clients or receive calls from clients within the limits of this state. [A. Inactive File]

AB 1490 (Gotch), as amended June 21, is no longer relevant to BBSE.

SB 133 (Hill). Existing law requires that applicants for licensure as an MFCC obtain certain supervised practical experience as a trainee or intern, and requires that these services be performed in the place where the employer of the intern or trainee regularly conducts their business. As amended July 13, this bill would provide that services performed at the place where the employer regularly conducts business may include other locations if the services are performed pursuant to the direction and under the control of their employer and supervisors. The bill would prohibit trainees and interns from having a proprietary interest in the employer's business.

Existing law also requires that an intern receive fair remuneration from his/her employer; this bill would repeal that requirement. [A. Floor]

RECENT MEETINGS

BBSE has not met since May 14.

FUTURE MEETINGS

To be announced.

CEMETERY BOARD

Interim Executive Officer:
James Diaz
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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.

At the Board's July 23 meeting, President Iris Jean Sanders submitted her resignation, creating an industry member vacancy on the six-member Board. Other Board members are industry member Keith Hargrave and public members Herman Mitschke, Lilyan Joslin, Brian Armour, and Linda Trujillo; Armour replaced Sanders as the Board's President.

MAJOR PROJECTS

DCA Convenes "Death Summit." On September 22 in San Diego, the Department of Consumer Affairs (DCA) brought together members of the Cemetery Board and the Board of Funeral Directors and Embalmers (BFDE), death industry leaders, and consumer advocates at a "Summit on Funeral and Cemetery Services" to develop a plan to improve the performance of the two boards. At the beginning of the meeting, DCA Director Jim Conran warned that unless swift and sweeping reform occurs, the boards would face abolition or reformation into bureaus. Both boards have been under fire for failing to respond to consumer complaints, ineffective enforcement of regulations, and domination by the industries they are charged with regulating. The executive officers of both boards have been forced to resign in light of accusations that both failed to protect consumer interests and had become too cozy with the death industry. [13:2&3 CRLR 57, 68-69]

Through a facilitated process of reviewing a variety of comments and recommendations, Summit participants identified at least five areas for reform: scope of regulatory powers of the boards; consumer services; investigation; funding; and organization. Specific recommendations include revision of the regulatory structures of both boards to allow more efficient operation; the development of heightened consumer awareness of the boards and placing greater emphasis on addressing and resolving consumer complaints; the sharing of investigative resources between the two boards; and the establishment of uniform enforcement standards.

Center for Public Interest Law Supervising Attorney Julianne D'Angelo called for the most sweeping changes, stating that both boards had "utterly failed" in their obligation to protect consumers from industry abuses. This failure is most ap-