



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AB 1807 would also provide that an MFCC, LCSW, or LEP whose license has been revoked or suspended or who has been placed on probation may petition BBSE for reinstatement or modification of penalty, including modification or termination of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action is actually implemented in its entirety): (1) at least three years for reinstatement of a license which was revoked for unprofessional conduct, except that BBSE may, in its sole discretion at the time of adoption, specify in its order that a petition for reinstatement may be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
(916) 263-2660

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-



parent, D'Angelo noted, in recent reports of industry abuse and mismanagement of preneed and endowment care trust funds, which are collected by mortuaries and cemeteries from consumers for prepaid funeral arrangements and perpetual maintenance of cemeteries. D'Angelo stated that these trust agreements are especially susceptible to abuse because consumers are uninformed as to their rights and responsibilities under these agreements, and because industry professionals are not required to be trained or tested in the management of such funds. D'Angelo challenged the boards to either prohibit these trust agreements entirely, or require the industries to provide adequate consumer education, draft "plain English" contracts, and post cash bonds which increase in relation to the size of the trust.

Industry representatives defended the trust agreements on the basis that they allow consumers to make funeral and cemetery arrangements free of the emotional distractions surrounding death. Industry leaders suggested that heightened investigation and stricter enforcement from the boards, coupled with industry "self-regulation" through organizations such as the California Funeral Directors Association, could serve to minimize abuses. However, Cemetery Board Interim Executive Officer Jim Diaz indicated that his board's operating budget is already strapped, and that expansion of investigation or enforcement services would require substantial license fee increases.

Consumer advocates also recommended the abolition of the practice of appointing industry representatives to serve as board members, and urged a merger of the two boards; they contend that combining the boards would improve operating efficiency and enable the boards to share investigative and enforcement resources, particularly in light of the fact that many funeral directors are also licensed as crematory or cemetery operators. Industry representatives generally expressed opposition to the proposed merger, arguing that cemeteries and mortuaries perform different functions, and that the boards currently employ different licensing and investigatory practices.

While expressing support for the two boards, DCA Director Jim Conran also made it clear that they must "clean up their own acts" if they are to survive. Conran closed the meeting by requesting reports from both boards outlining specific action plans to address areas of concern identified at the Summit. (See agency report on BFDE for related discussion.)

Board Expects to Name New Executive Officer Shortly After January 1. According to Board President Brian Arm-

our, the Cemetery Board has begun working with DCA to assemble a list of candidates for the position of executive officer (EO); Armour is hopeful that the new vacancy will be filled shortly after the first of the year. The selection process has been delayed because the Board has also been involved in interviewing candidates for its auditor position; Armour stated that the Board wants to fill that position before the first of the year, after which it can devote its energies to selecting an EO.

Selection of a new EO has also been delayed because of the terms of outgoing EO John Gill's resignation agreement. Gill's resignation was effective as of March 24; however, he remained on the Board's payroll until October 15, due to his accrual of vacation time. [13:2&3 CRLR 57] This arrangement has precluded the Board from acting to replace Gill for budgetary reasons. Gill was forced to resign following accusations from the media and members of the legislature that the Board failed to respond to consumer complaints and had become dominated by the industry it regulates. [13:1 CRLR 27-28] Gill had been accused, among other things, of tipping off industry officials to upcoming inspections and ignoring crematorium abuses; Gill denies these charges. James C. Diaz, Chief of DCA's Bureau of Security and Investigative Services, will continue to serve as interim EO until Gill's permanent replacement is named.

LEGISLATION

AB 598 (Speier). Existing law requires every cemetery authority operating a cemetery to pay annual regulatory charges fixed by the Board, plus an additional charge of \$0.50 for each burial, entombment, inurnment, or cremation during the preceding calendar year. As amended July 1, this bill increases the additional fee per cremation to \$1.

Existing law requires the Cemetery Board to inspect the records and premises of any crematory licensed or holding a certificate of authority to operate a crematory. This bill requires that the Board annually conduct a minimum of one unannounced inspection of each licensed crematory.

Existing law makes it a crime to remove any human remains from the place they are interred, or from the place they are deposited while awaiting interment or cremation, with intent to sell or dissect those remains, and without authority of law or written permission. This bill provides that the removal of foreign materials, pacemakers, or prostheses by an employee of a licensed crematory prior to final processing is not within these definitions of crimes. This bill requires that any

dental gold or silver, jewelry, or mementos removed be returned to the cremation container or urn unless otherwise directed by the person having the authority to control the disposition of remains.

Existing law also makes it a crime to remove dental gold or silver from human remains without the permission of the persons having the right to control those remains. This bill adds jewelry and mementos to the items prohibited from being removed.

Existing law also provides that it is a felony to mutilate, disinter, or remove human remains without authority of law, except the removal of a relative or friend for reinterment. This bill revises this provision to apply only to willful conduct, and to instead except the removal of remains under authority of law and the performance of cremation.

Existing law prohibits removal of cremated remains or charging for a cremation unless the cremated remains have been processed so they are suitable for inurnment, and authorizes a contract for cremation to include specific written authorization for the processing of the remains. This bill instead requires that the remains be processed so they are suitable for placement in a cremated remains container, as defined, or an urn, as defined, and requires 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 revises those provisions, and makes those provisions inapplicable to residue, as defined. This bill also requires 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.

Existing law lists the person or persons who may, in a specified order of succession, control the disposition of the remains of a deceased person. This bill authorizes a funeral director or cemetery authority to rely on the instructions given by a surviving child or children who make certain representations, in the absence of knowledge to the contrary. This bill also gives the funeral director or cemetery authority complete authority to control the disposition of the remains and proceed to recover the cost of the disposition in prescribed circumstances.

Existing law requires that any person signing an authorization for the interment of remains warrants the truthfulness of any fact set forth in the authorization, the iden-



tity of the person whose remains are to be interred, and his/her authority to order interment, and makes the person personally liable for all damage occasioned by the breach of that warranty. This bill makes this requirement also applicable to authorizations for cremation.

Existing law provides that no action shall lie against any cemetery authority relating to cremated remains left in its possession for five years, unless a written contract has been entered into or permanent interment has been made. This bill decreases that time period to one year.

This bill requires that a crematory maintain on its premises an accurate record of all cremations, including specified information. The bill requires that the information be maintained for at least ten years and be subject to inspection by the Cemetery Board. The bill authorizes the records to be kept by any method that can produce accurate reproduction of the original record. The bill further requires that a crematory maintain a system of identification of human remains throughout the process of cremation.

This bill requires that crematories knowingly cremate only human remains in specified containers, along with negligible amounts of chlorinated plastic pouches for disease control.

Under existing law, a crematory licensee is prohibited from conducting any cremations of human remains more than 72 hours after death unless the remains have been preserved by refrigeration or embalming. Existing law requires that cremated remains not removed for interment or burial at sea be disposed of within a reasonable time. This bill prohibits a crematory from accepting human remains unless certain requirements are met. This bill prohibits a crematory from holding human remains prior to cremation for more than 24 hours unless specified storage conditions are met. This bill requires that cremated remains not disposed of within one year be interred.

This bill requires 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 further information.

AB 598 also requires that each crematory licensee 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. This bill requires that on or after March 1, 1994, any crematory that fails to produce a written plan or record of training shall have 15 days to produce a plan or training record for inspection, and

shall have its license suspended for failure to produce that plan or training record. This bill was signed by the Governor on October 11 (Chapter 1232, Statutes of 1993).

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 revises these standards to reference recent codes, deletes the distinction between community and private mausoleums and columbariums, revises certain procedures specifically related to mausoleums and columbariums (e.g., waterproofing, marble floor bases, crypt standards, skylight frames), and adds certain requirements (e.g., crypt vents, skylight materials). This bill was signed by the Governor on September 8 (Chapter 350, Statutes of 1993).

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

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]

AB 1392 (Speier), as amended July 1, would—among other things—provide

that the Cemetery Board'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 1807 (Bronshvag), as amended September 8, would require that the current address of the Cemetery Board and/or the Board of Funeral Directors and Embalmers, as appropriate, appear prominently on the first page of all contract for specified goods and services. [A. Inactive File]

RECENT MEETINGS

At its July 23 meeting in San Diego, the Board announced its intention to demonstrate a "new proactive stance" after a year of criticism and controversy. Board President Brian Armour noted that with a new investigator in the field, a new set of regulations authorizing citations and fines, and the resignation of Executive Officer John Gill, the Board is ready to assume its role as a consumer protector. [13:2&3 CRLR 57-58]

Among other things, the Board approved the tentative adoption of a new policy and procedures manual and announced the initiation of eleven investigations of licensees, which included unannounced visits to crematories and cemeteries and the issuance of five notices of warning against cemetery industry businesses. The Board is also undertaking a revision of its consumer information pamphlet, and has pledged to respond to all consumer complaints within thirty days. Critics of the Board contended, however, that until the Board shows that it has removed itself from industry influence, it will remain ineffective as a regulator.

FUTURE MEETINGS

To be announced.

CONTRACTORS STATE LICENSE BOARD

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(916) 255-3900
Toll-Free Information Number:
1-800-321-2752

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-