



REGULATORY AGENCY ACTION

(Fall 1991) p. 63 for background information.)

LEGISLATION:

Future Legislation. At BBE's December 9 meeting in Long Beach, the Board voted to pursue urgency legislation proposed by BOC, consisting of four clean-up amendments to the merger bill, AB 3008 (Eastin) (Chapter 1672, Statutes of 1990). In support of the proposed amendments, the boards agree that AB 3008 contains "several provisions and oversights which frustrate the effective and efficient implementation of the legislature's intent in combining the boards."

Specifically, the boards propose to amend Business and Professions Code section 7347, which concerns the fee and application for licensure to operate an establishment. The proposed amendment would clarify that an application is required whether a person, firm, or corporation is applying to operate a new establishment or obtain ownership of an existing establishment; and that where the application is for an existing establishment, BBC may establish a fee in an amount less than the fee established by AB 3008. BBE agreed to pursue this amendment if the language is clarified to indicate that BBC may not establish inconsistent licensing fees for applicants seeking to operate an existing establishment.

Business and Professions Code section 7396 concerns the form and content of licenses issued by BBC. The proposed amendment would delete the requirement that the license contain a photograph of the licensee, and allow BBC to utilize any method as it deems appropriate to verify licensure status.

BOC and BBE propose to add new section 7427 to the Business and Professions Code, to allow BBE's fees in effect prior to June 30, 1992, to remain in effect until they are changed by BBC.

The boards also propose to add new section 94330.5 to the Education Code to require that before the Council for Private Postsecondary and Vocational Education (CPPVE) may issue a license to a cosmetology or barbering school, the school must comply with the provisions of Division 3, Chapter 10 of the Business and Professions Code, as enacted by AB 3008, and that CPPVE shall notify BBC in writing of the licensure of any school and of any disciplinary action taken against a school.

RECENT MEETINGS:

At BBE's October 21 meeting, Board member Elton Pamplin raised an issue concerning the use of interpreters at ad-

ministrative hearings, suggesting that a BBE staff member always call to determine whether an interpreter would be needed for each hearing. At a previous hearing, a problem arose when there was no interpreter for a respondent who stated that he did not understand English. BBE legal counsel Gus Skarakis commented that the notice of hearing sent to each respondent states that the person should contact BBE and that the Board will supply an interpreter if needed; Skarakis stated that BBE's policy is adequate and complies with the law.

The Board also discussed the transfer of student hours completed at barber colleges, which require 1,500 hours, to apprenticeship programs, which require 2,000 hours. Although section 266, Title 16 of the CCR, prohibits the transfer of hours between a barber college and an apprentice training program, the regulation does not address the special circumstances involved when a school closes. The Board discussed whether, in this limited situation, students with at least 750 hours should be permitted to transfer those hours to an apprenticeship program, but made no decision on this matter.

Also at the October meeting, BBE continued its ongoing discussion regarding the shave requirement on the barber licensing examination. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 59; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 73-74; and Vol. 9, No. 4 (Fall 1989) p. 46 for background information.) This time, the discussion focused on the tools used to perform the shave. For various reasons, including the AIDS problem, the Board discussed the possibility of giving barber students a choice of razors to use, including safety razors and electric razors. Students are now required to use a traditional barber's razor or a modern version called an injector razor. Board member Edna Mayhand noted that authorizing the use of safety razors would require a change to BBE's licensing examination, as several requirements on the exam cannot be performed with a safety razor. The Board postponed further action on this issue until a future meeting.

At the Board's December meeting, some BBE members expressed confusion as to BBC's jurisdiction over barber schools following the merger, contending that BBC will retain some sort of joint approval authority with CPPVE regarding the accreditation and licensure of barber/cosmetology schools. However, the confluence of SB 190 (Morgan) (Chapter 1307, Statutes of 1989), AB 1402 (M. Waters) (Chapter 1239,

Statutes of 1989) and subsequent clean-up legislation appear to have transferred both BBE's and BOC's jurisdiction over the approval and discipline of schools to CPPVE. (See CRLR Vol. 10, No. 4 (Fall 1990) pp. 69-70 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 82-83 for background information.) Thus, it appears that BBC will have an impact on schools only in that it is authorized to establish the required curriculum for admission to examinations and licensure, and may refuse admission to examinations to those who have completed a curriculum which does not fulfill the requirements set forth in BBC regulations.

FUTURE MEETINGS:

To be announced.

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).

MAJOR PROJECTS:

Board Creates Task Force to Address MFCC/LCSW Experience/Supervision Issues. For well over one year, BBSE has struggled with several issues related to the prelicensure experience requirements for MFCCs and LCSWs. The precise issues raised pertain to the fine details of the extremely complex licensure scheme for MFCCs and LCSWs, as recently overhauled in AB 3657 (Vasconcellos) (Chapter 1356, Statutes of 1986) and SB 2658 (Watson) (Chapter 1091, Statutes of 1988), respectively. However, the Board's inability to resolve the details appears to have given rise to a wholesale reexamination of both licensure schemes, with particu-



lar focus on their supervised experience components.

In addition to the passage of written and oral examinations, licensure as either an MFCC or LCSW must be preceded by a qualifying postgraduate degree and a significant amount of supervised experience. Business and Professions Code section 4980.43 requires an MFCC candidate to complete a minimum of two calendar years of supervised experience, consisting of 3,000 hours obtained over a period of not less than 104 weeks. The applicant must complete at least 1,500 of these hours after he/she has been granted the qualifying master's degree or doctorate. Business and Professions Code section 4996.20 requires an LCSW candidate to complete at least 3,200 hours of post-master's degree supervised experience. Both enabling acts specify time periods within which the supervised experience must be gained.

Over the past year, two seemingly minor issues related to supervised experience have occupied a disproportionate amount of the Board's time. First, BBSE sought to close what it viewed as a loophole in the law which allowed some supervisees to pay their licensee supervisors for the privilege of being supervised. Sections 4980.43(c) and 4996.20 of the Business and Professions Code prohibit MFCC and LCSW candidates, respectively, from paying their supervisors in private practice settings, and in fact require the supervisor/employer to pay the supervisee for his/her work. However, the two sections are silent as to whether MFCC interns and associate LCSWs may pay their supervisors in non-private practice settings, such as a governmental entity, licensed health facility, school, or nonprofit charitable corporation. Board staff believes that payment for supervision in any setting undermines the supervisor/supervisee relationship, as the intern or associate may hire and fire the supervisor. Thus, BBSE commenced a rulemaking proceeding during the spring of 1991 to amend section 1833 and add new section 1875, Division 18, Title 16 of the CCR, to close the loophole and deny credit for non-private practice setting supervised experience in which the supervisee has paid the supervisor. While BBSE's proposal appears rational, was strongly supported by the vast majority of witnesses at a July 1991 public hearing, and is consistent with the rules of the Board of Psychology (which ban payment from supervisee to supervisor during a similar supervised experience requirement), the California Association of

Marriage and Family Therapists (CAMFT) strongly objects to a ban on supervisor payments. CAMFT's opposition caused BBSE to halt its rulemaking proceeding and refer the matter to a subcommittee consisting of BBSE members Joyce Deshler and Sarah Flores.

The other issue which has caused much controversy concerns out-of-state experience submitted by MFCC candidates as qualifying toward the supervised experience requirement. With regard to out-of-state education and experience, section 4980.90 of the Business and Professions Code authorizes BBSE to admit to the MFCC examination two types of applicants: (1) a person who has met the education and experience requirements for licensure while residing outside of California; and (2) a person who has met the education requirements outside of California but has met the experience requirement "within California." The section does not expressly address the situation of an applicant who is a California resident, has a qualifying degree from a California institution, is being "supervised" by a California licensee, but is gaining the "supervised" experience outside of California. Thus, BBSE staff has adopted a policy of rejecting out-of-state "supervised" hours—another action strongly opposed by CAMFT. The two-member subcommittee assigned to study the payment-for-supervision issue was directed to tackle the offsite supervision issue as well.

At the Board's November 1 meeting, the subcommittee presented its report and recommendations. The subcommittee expressed its belief that the Board should recognize the importance of supervision in the training of psychotherapists, and that the supervised experience requirement is an essential part of a therapist's training which requires more attention than the two-member subcommittee can devote. The subcommittee also opined that, due to the proliferation of theories and models of practice, the practice of clinical work has become so complex that "it is unrealistic to expect a two-year educational program and the present required hours of postgraduate supervision to adequately prepare the licensees for independent practice. The depth and breadth of knowledge and skills needed for competent practice argues for expanded professional education and supervised training."

The subcommittee advanced two recommendations: (1) BBSE should carefully review all complaints, disciplinary actions, and files of candidates who

have failed the licensing exam to determine whether a pattern emerges which is indicative of the failures of the current training system; and (2) BBSE should appoint a 35-member task force to develop models for the education, experience, and supervision factors which eliminate the problems or failures of the current training system. The task force, which would be comprised of LCSWs, MFCCs, educators, trade association representatives, associate LCSWs, MFCC interns, and other professionals, would be organized by July 1992 and required to report its findings to the Board by July 1993.

Following discussion, BBSE adopted the subcommittee's recommendation to review its data to discern the failures of the current system, but approved the formation of the task force in concept only, directing the subcommittee to prepare recommendations regarding the task force's composition, the process to be followed, and budgetary implications; the subcommittee was scheduled to present its recommendations to the Board at its January meeting.

With regard to the out-of-state experience issue, BBSE unanimously agreed to require applicants to submit necessary information to enable staff to evaluate equivalency of out-of-state experience and that such cases be referred to the Board's Credentials-Qualifications Committee for consideration; the Committee will be required to make a recommendation to the Board regarding each application. The Board also approved a form which applicants may use to provide the necessary documentation.

BBSE to Implement Fingerprinting Program. At its November 1 meeting, BBSE discussed implementation of its fingerprinting program, which will coincide with the availability of revised application forms for registration, licensure, and re-examination. All applicants for licensure will be required to submit one completed fingerprint card and a nonrefundable \$27 fingerprint processing fee with their related documents. BBSE will submit the fingerprint cards to the California Department of Justice (DOJ) for processing. DOJ will conduct background checks on applicants; the average processing time for fingerprint cards by the DOJ is four to six weeks. The processing time may be longer if there is a criminal conviction record, the fingerprint card is incomplete, or the fingerprints are not legible. In addition, DOJ will notify the Board whenever one of its licensees is arrested in the future. An applicant or licensee with criminal convictions substantially related to the practice of psychotherapy



REGULATORY AGENCY ACTION

will be subject to possible denial or revocation of his/her license.

BBSE Seeks Revision to MFCC Weekly Log Sheet. On December 13, BBSE was scheduled to hold a public hearing on its proposed amendment to section 1833, Title 16 of the CCR, which prescribes the log sheet containing a weekly summary of hours of experience gained toward licensure as an MFCC. The proposed amendments would modify the form to provide a place for certain identifying information; would add in a place to report telephone counseling and telephone practicum and a line showing the total number of hours per week; and would make other technical, nonsubstantive changes to the form. Due to a lack of a quorum at BBSE's December 13 meeting, consideration of the proposed amendment was postponed until the Board's January meeting.

Budget Change Proposals Pending. At BBSE's November 1 meeting, staff noted that two budget change proposals (BCPs) were under review by the Department of Finance. The first proposal would make two limited-term enforcement positions permanent. The second BCP would make one current limited-term receptionist position permanent, as well as add two additional permanent staff positions to handle the file room and miscellaneous support staff functions.

LEGISLATION:

SB 664 (Calderon) would prohibit MFCCs and LCSWs, among others, from charging, billing, or otherwise soliciting payment from any patient, client, customer, or third-party payor for any clinical laboratory test or service if the test or service was not actually rendered by that person or under his/her direct supervision, except as specified. This bill is pending in the Senate Business and Professions Committee.

AB 756 (Bates) would provide that on or after January 1, 1993, any person applying for or renewing a license, credential, or registration as an LCSW, MFCC, school counselor, school psychologist, or school social worker, shall, in addition to all other requirements for licensure or renewal, have completed coursework or training in suicide prevention and intervention. This bill is still pending in the Assembly Health Committee.

AB 1106 (Felando) would create the Alcohol and Drug Counselor Examining Committee within BBSE and require the Committee to adopt regulations establishing certification standards and requirements relating to education,

training, and experience for persons who practice alcohol and drug abuse counseling. AB 1106 is still pending in the Assembly Health Committee.

SB 738 (Killea) would require BBSE and the Board of Psychology to establish required training or coursework in the area of domestic violence assessment, intervention, and reporting for all persons applying for an initial license and the renewal of a license of a psychologist, LCSW, or MFCC. This bill is still pending in the Senate Business and Professions Committee.

AB 2085 (Polanco), as amended April 15, would require the trustees of the California State University and the regents of the University of California to collaborate with the California Conference of Local Mental Health Directors to develop a curriculum and practicum within their respective graduate social work programs to train social workers to work with seriously emotionally disturbed children and severely mentally ill adults, and to provide culturally appropriate services to ethnic minority populations. This bill is pending in the Assembly Higher Education Committee.

RECENT MEETINGS:

At BBSE's November 1 meeting, the Board welcomed three new members: Jerry Miller, President of California Lutheran University in Thousand Oaks; Lorie Rice, Assistant Dean for Professional Relations, School of Pharmacy, University of California, San Francisco; and Jai Lee Wong, a consultant to the Los Angeles County Commission on Human Relations. The Board currently has one public member and two MFCC member vacancies.

Also at the November meeting, Department of Consumer Affairs (DCA) Director Jim Conran addressed the Board, stating DCA's support for the Board's efforts to promote consumer protection.

Also at the November meeting, staff reported on the status of BBSE's request for proposals which had been issued to test consultant companies to assist BBSE in developing a new occupational analysis for the MFCC program and redesigning a new written test based on the data collected. BBSE Executive Officer Kathleen Callanan reported that two bids were submitted and CTB MacMillan/McGraw-Hill (CTB) was chosen. Dr. Callanan noted that a questionnaire concerning the importance and frequency of identified tasks was mailed to a sample of 1,500 MFCCs; data from those questionnaires was to be evaluated by CTB and incorporated

into a new written exam in time for the March administration.

Also at its November meeting, the Board discussed its requirements for licensure as an LEP; staff estimated that no similar Board review had been conducted during the last decade. Staff noted that terms such as "equivalent degree" or "equivalent experience" are not adequately defined as they relate to LEP licensing requirements; the Board created an ad hoc committee to review the matter.

FUTURE MEETINGS:

April 23-24 in Sacramento.
August 6-7 in San Diego.
November 5-6 in Sacramento.

CEMETERY BOARD

*Executive Officer: John Gill
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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.

MAJOR PROJECTS:

Crematory Enforcement Program Attacked. At an October 17 interim hearing before the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development, both private individuals and state officials called into question the Board's ability to effectively monitor and regulate its licensees. The Committee conducted the hearing to evaluate the respective performances of the Cemetery Board and the Board of Funeral Directors and Embalmers (BFDE), and heard lengthy testimony regarding alleged violations of the law by Board licensees and the Board's failure to respond meaningfully to consumer complaints. Wit-