



Cost Accounting Commission. This bill is pending in the Senate Business and Professions Committee.

AB 1969 (Arias), as amended June 26, is a CSLB-sponsored bill which would appropriate \$500,000 from the Contractors License Fund to CSLB, without regard to fiscal year, to be made available for expenditure in the event of a state of emergency declared by the Governor, to fund the programs and activities of CSLB related to the emergency. This bill is pending in the Senate Appropriations Committee.

SB 56 (Ayala). Existing law authorizes the Registrar to deny, suspend, or revoke the license of any contractor for a willful departure in any material respect from accepted trade standards for good and workmanlike construction, unless the departure is in accordance with plans and specifications prepared by or under the direct supervision of an architect. As amended May 21, this bill would define "willful," as applied to the intent with which an act is done or omitted, as a purpose or willingness to knowingly commit an act or make an omission. This bill is pending in the Assembly Consumer Protection Committee.

AB 1746 (Eaves). Existing law requires every employer, at the time of each payment of wages, to furnish each employee with an itemized written statement showing specified information, and to keep those records for at least three years. As amended April 30, this bill would provide that any holder of a state contractor's license who violates the statement or records requirement twice within a five-year period shall, upon notice by the Labor Commissioner to CSLB, be ineligible for license renewal by CSLB. This bill is pending in the Senate Business and Professions Committee.

Future Legislation. At this writing, the Board is seeking an author to introduce legislation to double the existing statutory ceilings on licensing fees; current licensing fees are set at their statutory limits. The Board is also seeking an author to introduce legislation to increase the maximum civil penalty from \$4,500 to \$15,000 for licensed and unlicensed contractors who violate Business and Professions Code sections 7114 or 7118.

LITIGATION:

On September 5, the California Supreme Court denied CSLB's petition for review of the Third District Court of Appeal's decision in *Pinney v. Registrar of Contractors*, No. C007052 (June 6, 1991), in which the appellate court struck down the Board's disci-

plinary action against a licensed contractor for his failure to produce documents demanded by the Registrar without a search warrant or administrative subpoena. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 72 for background information.)

RECENT MEETINGS:

At its October 11 meeting, CSLB adopted staff's recommendation to change the method in which the Board tracks and reports the pendency of consumer complaints to a time-sensitive method, rather than simply counting the number of complaints without regard to age. The assumption underlying such a policy is that most consumers are interested in how quickly complaints are processed, not in how many complaints are in the pipeline or backlog. CSLB's Enforcement Committee has established a new goal to process 90% of all complaints in less than 180 days and to reduce the median number of days to process a complaint to 40. Complaints older than 180 days will be considered aged complaints and will be given priority attention. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 73 for background information.)

CSLB's Public Information Committee distributed the Board's booklet entitled *The 51 Most Commonly Asked Questions About Getting a California Contractors License*, which is available from CSLB and provides information regarding the licensing procedure. The Committee also distributed the second edition of its *Consumer Guide to Asbestos*, which provides important information to consumers regarding asbestos and health, where asbestos can be found in the home, general guidelines for handling products containing asbestos, disposal, and choosing a contractor competent to work with asbestos.

At CSLB's October 11 meeting, the Board approved the Administration/Budget Committee's 1991-92 strategic goals, which are to effectively manage fiscal resources; enhance all programs through additional automation; and ensure that the examination program is relevant and timely. The Board also approved the Public Information Committee's goals, which are to increase consumer and contractor awareness of and cooperation with CSLB by means of increased statewide public education, and to obtain resources to accomplish specified tasks. Also, the Board approved the Licensing Committee's goals, which are to ensure that the sections of law defining the general licensing classifications reflect the scope of work performed by

those classifications; ensure that the regulation defining the C-36 plumbing contractor classification reflects the scope of work performed by those contractors; eliminate certification requirements for contractors who only bid on asbestos-related work but who do not perform the work; ensure that a qualifying individual has direct participation in the activities of the entity he/she is qualifying for; and ensure timely processing and issuance of applications and renewals. CSLB also approved the goals of its Enforcement Committee, which are to ensure prompt resolution of complaints; reduce unlicensed contracting; and improve field office services to the public. Finally, the Board approved the goals of its Legislative Committee, which are to assist staff in developing statutory and regulatory changes and continue to improve CSLB's relationship with legislators and their staffs.

Also at CSLB's October 11 meeting, Registrar David Phillips reported that staff is continuing to reduce the number of aged complaints pending in its backlog. According to Phillips, four districts had fewer than fifteen complaints over six months old and three districts eliminated all complaints over twelve months old. Phillips also noted that staff had obtained a median closure of 48 days, compared to 158 days in prior years.

FUTURE MEETINGS:

April 24 in Oakland.
July 17 in Los Angeles.

BOARD OF COSMETOLOGY

Executive Officer: Denise Ostton
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In 1927, the California legislature enacted the Cosmetology Act, establishing the Board of Cosmetology (BOC). The Board is empowered to require reasonably necessary precautions designed to protect public health and safety in establishments related to any branch of cosmetology. BOC's enabling legislation is found in Business and Professions Code section 7300 *et seq.*; the Board's regulations are codified in Division 9, Title 16 of the California Code of Regulations (CCR).

Pursuant to this legislative mandate, the Board regulates and issues separate licenses to salons, electrologists, manicurists, cosmetologists, and cosmeticians. It sets training requirements, examines applicants, issues certificates of registration and licenses, hires investigators from the Department of



REGULATORY AGENCY ACTION

Consumer Affairs (DCA) to investigate complaints, and disciplines violators with licensing sanctions.

The Board is comprised of seven members—four public members and three from the industry. It is required to hold meetings at least four times per year.

On July 1, 1992, BOC and the Board of Barber Examiners (BBE) will merge, pursuant to AB 3008 (Eastin) (Chapter 1672, Statutes of 1990). The Business and Professions Code sections which establish BBE and BOC will be repealed and replaced with an enabling act creating the Board of Barbering and Cosmetology (BBC), which will provide for the licensure and regulation of persons engaged in the practice of performing specified acts relating to barbering, cosmetology, and electrolysis.

MAJOR PROJECTS:

Strategic Planning Sessions. On October 7 and 8, BOC and BBE held strategic planning sessions to facilitate the boards' upcoming merger. Among other things, the boards addressed the merger of both boards' funds, examination and licensing requirements, increasing the number of BOC and BBE inspectors, and the possibility of moving BBE's examination sites to BOC's examination sites. Although no actual agreements were reached, the meeting did produce some possible solutions which are being examined, including the following:

-Arrange to have a full-blown management feasibility analysis conducted. The boards believe that a comprehensive analysis is necessary to discern how to best mesh and reorganize the various staffs of the two boards by July 1. However, the boards agreed that a management analysis done by an outside consultant would be too expensive; instead, the boards may create a task force to conduct an independent study on a smaller, less costly scale.

-Gather information to determine the need for weekend inspections. Currently, Business and Professions Code section 7313 expresses the intent of the legislature that BBC conduct inspections on Saturdays and Sundays, as well as weekdays, if collective bargaining agreements and civil service provisions permit. However, BOC conducts Saturday and Sunday inspections only when warranted by actual complaints. BOC has suggested that a five-month pilot program be implemented, running from January through May, which would allow BOC to gather statistics as to whether unlicensed activity increases on weekends, and to reach a voluntary

cooperative agreement with its inspectors regarding weekend inspections. BOC's ultimate goal is to work out an agreement to implement the law if weekend inspections appear to be warranted. In July 1992, BBC will receive a number of new inspectors; these newly-hired inspectors will be made aware that they may have to work some weekends.

Consumer Outreach Plan for the 1991-92 Fiscal Year. On November 16, BOC's Consumer Services Committee met to discuss ways to make consumers more aware of the existence and functions of BOC. The Committee wants to reach out to consumers and educate them about the wide variety of chemicals used in today's cosmetology establishments and schools, the many services available to them, and the need to ensure that anyone who provides such services is licensed and follows proper sanitation procedures. The Committee is looking into drafting a one-page informational sheet describing the Board and defining various cosmetological procedures. In this manner, consumers may become more aware of the services a cosmetologist or manicurist may and may not provide. The sheet would also contain information concerning the types of health hazards or safety features a consumer should look for when receiving services, such as valid licenses posted on the wall and proper sterilization methods. The Committee believes that if consumers are more aware of health hazards and safety measures, they will know when violations are occurring and how to complain to BOC. The Committee hopes to create these informational sheets before the merger, but plans to design them so they can be used after the merger as well. BOC unanimously agreed to support the Committee in creating prototypes for the one-page information sheet.

Possible Guidelines Concerning Chemical Skin Peeling. The Food and Drug Branch of the Department of Health Services recently asked BOC to inform the public about the dangers of chemical skin peeling. BOC Executive Officer Denise Ostton responded with a November 12 press release in which BOC explained chemical skin peeling and warned consumers of the potential dangers associated with the process.

As performed by licensed estheticians and cosmetologists, chemical skin peeling is a process by which the upper, non-living layers of facial skin are removed with commercially available chemical products (skin peel acids). Following application of the acid, the skin reddens like a sunburn, darkens, and peels away, revealing a layer of

sensitive new skin. Recovery time varies from days to weeks or even longer depending on the depth of the peel. The purpose of the process is cosmetic, but is not the same as "deep cleaning" facials (also known as masks or facial peels) which do not remove layers of skin but simply cleanse and condition.

Chemical skin peeling as performed by medical professionals such as plastic surgeons and dermatologists differs from both of the above-mentioned procedures in that the chemical peels are generally stronger and active at deeper levels of the skin. A major concern is that cosmetic peels are also capable of acting on living skin cells at very deep levels; to do so, however, constitutes the practice of medicine and is beyond the scope of practice for non-physicians.

At present, chemical skin peeling is not regulated by BOC, is not taught in cosmetology schools, and is not tested on the state licensing examination. According to BOC, whatever training practitioners are receiving, if any, may be provided by product manufacturers whose priority is likely to be profit rather than consumer safety.

The Board is concerned that consumers understand the implications of each procedure and determine in advance exactly which procedure they choose to have. BOC will examine advertisements for chemical skin peeling to ensure that consumers are not misled. Also, because chemical skin peeling is potentially harmful, BOC is concerned about determining exactly which activities Board licensees are capable of performing. At its November 17 meeting, BOC unanimously voted to create a task force to investigate all unregulated activities being performed by licensees, including chemical skin peels, and determine whether they are within a cosmetologist's scope of practice. BOC wants to establish guidelines for its licensees, and determine whether legislation is needed to better protect the public.

Budget Change Proposals. BOC has submitted seven budget change proposals (BCPs) to the Department of Finance (DOF). To date, DOF has acted on the BCPs as outlined below:

-Hazardous Substances. BOC requested \$23,000 (\$12,000 in fiscal year 1991-92 and \$11,000 in fiscal year 1992-93) to fund a health survey that would identify the scope of serious health problems caused by exposure to hazardous substances in the workplace. DOF deferred the request until after the merger and advised BOC to resubmit this BCP next year.

-Office Automation Needs. BOC requested funding for a permanent ana-



lyst position in fiscal year 1992-93 at a cost of \$50,000 to address the merged board's office automation needs. Although DCA supports the request, DOF is expected to disapprove it, as it has indicated that alternative means may exist at the Department level to obtain such a position through a Department deficiency bill. At this writing, BOC does not expect to have further information on this BCP until January.

-Examination Facilities Staffing. The Board requested funding to establish a supervising examiner position in each facility at a cost of \$110,000 to handle workload increases. DOF approved this proposal as submitted.

-Health and Safety Rules. BOC requested a one-time budget augmentation of \$97,000 to print and mail its health and safety rules to all licensees of the merged board as mandated in AB 3008 (Eastin), the merger bill. DOF approved this proposal as submitted.

-Inspections. AB 1161 (Eastin) (Chapter 1172, Statutes of 1991) changed the inspection mandate of AB 3008 from twice yearly to annual inspections. The Board requested ten new inspector positions and \$550,000 in fiscal year 1992-93 to provide the merged board with positions and funding to meet its legislative mandate. DOF approved nine positions and \$507,000 in increased funding.

-Rent Augmentation. The Board proposed to relocate its northern California examination facility due to health risks associated with the current site in San Francisco. This proposal required mid-year deficiency funding of \$72,000 in fiscal year 1991-92 and ongoing funding of \$128,000 in fiscal year 1992-93 for a suitable site in Fairfield. DOF approved the BCP as submitted.

-Preapplication Process. SB 985 (Deddeh) (Chapter 1015, Statutes of 1991) requires the Board to establish preapplication regulations for its licensing examinations and requires the merged board to do the same. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 74 and Vol. 11, No. 3 (Summer 1991) p. 72 for background information.) BOC requested funding of \$89,000 and two positions in fiscal year 1992-93 to implement SB 985. At this writing, DOF has not made a decision on this proposal.

Regulatory Update. On October 25, the Office of Administrative Law approved BOC's adoption of new section 963.5, Title 16 of the CCR, which specifies the proof of training which BOC requires for admission to licensure examinations, and provides that such proof must be in the form of a document gen-

erated by the school in which the applicant finished training which contains specified required information about the applicant's training. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 74 and Vol. 11, No. 3 (Summer 1991) p. 72 for background information.)

LEGISLATION:

AB 223 (Felando), as amended September 3, permits persons who have completed an apprenticeship program in cosmetology, skin care, nail care, or electrology to be examined and licensed as cosmetologists, estheticians, manicurists, and electrologists, and would require minimum preapprentice training as established by BBC. This bill was signed by the Governor on October 11 (Chapter 830, Statutes of 1991).

BOC is aware that the Department of Industrial Relations (DIR) contends that too few hours are required for skin care and nail care for them to be considered apprenticeable occupations. DIR will probably introduce legislation during 1992 to remove skin care and nail care from the scope of AB 223's coverage. This would not represent a change from current practice for BOC since currently there are no junior operator-type programs for estheticians or manicurists. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 73 for background information.)

Future Legislation. At its November 17 meeting, BOC discussed the fact that many provisions of AB 1161 (Eastin) (Chapter 1172, Statutes of 1991) should be further clarified before the merger with BBE takes place on July 1. For example, no provision in AB 1161 establishes change of ownership procedures. BOC recommends that language describing change of ownership procedures be enacted. Also, pursuant to Business and Professions Code section 7396, all licenses will be required to contain a photograph of the licensee. Board members noted that this photographic identification requirement is vague, and that legislation is needed to clarify how current the photograph must be, whether the photograph must be stamped with the state seal, and whether the photograph should be attached to the license itself or merely hang beside it. The Board may seek urgency legislation in 1992 to effect these changes.

RECENT MEETINGS:

At its November 17 meeting, BOC pledged to continue participating in various trade shows throughout the state, including the consumer fair sponsored by the Department of Consumer Affairs. Because the Board is often re-

quested to speak at industry-related functions, sponsor booths at trade shows, or represent BOC at seminars, it has developed a Speakers' Bureau comprised of Board members, the Executive Officer, and administrative staff.

The Board also noted that in September, the number of inspections increased dramatically because six inspectors were in the field, two of whom were on loan from the Funeral Board. The number of violations remained about the same as in previous months; improper disinfection procedures continue to be the most common violations.

Finally, the Board noted that it is currently working with its schools to create an all-Spanish exam, which would be offered on Mondays. BOC hopes to implement this program soon.

FUTURE MEETINGS:

May 3 in Redding.

BOARD OF DENTAL EXAMINERS

Executive Officer: Georgetta Coleman (916) 920-7197

The Board of Dental Examiners (BDE) is charged with enforcing the Dental Practice Act, Business and Professions Code section 1600 *et seq.* This includes establishing guidelines for the dental schools' curricula, approving dental training facilities, licensing dental applicants who successfully pass the examination administered by the Board, and establishing guidelines for continuing education requirements of dentists and dental auxiliaries. The Board is also responsible for ensuring that dentists and dental auxiliaries maintain a level of competency adequate to protect the consumer from negligent, unethical, and incompetent practice. The Board's regulations are located in Division 10, Title 16 of the California Code of Regulations (CCR).

The Committee on Dental Auxiliaries (COMDA) is required by law to be a part of the Board. The Committee assists in efforts to regulate dental auxiliaries. A "dental auxiliary" is a person who may perform dental supportive procedures, such as a dental hygienist or a dental assistant. One of the Committee's primary tasks is to create a career ladder, permitting continual advancement of dental auxiliaries to higher levels of licensure.

The Board is composed of fourteen members: eight practicing dentists (DDS/DMD), one registered dental hygienist (RDH), one registered dental