



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



## REGULATORY AGENCY ACTION

assistant (RDA), and four public members. The current members are James Dawson, DDS, president; Gloria Valde, DMD, vice-president; Hazel Torres, RDA, secretary; Pamela Benjamin, public member; Victoria Camilli, public member; Joe Frisch, DDS; Henry Garabedian, DDS; Martha Hickey, public member; Carl Lindstrom, public member; Alfred Otero, DDS; Evelyn Pangborn, RDH; Jack Saroyan, DDS; Jean Savage, DDS; and Albert Wasserman, DDS.

### MAJOR PROJECTS:

**Board Approves Proposal to Revise CE Program.** At BDE's November 15 meeting, the Board's Continuing Education (CE) Subcommittee presented a report and recommendations based on testimony it has received over the past fourteen months regarding mandatory continuing dental education. The Subcommittee ultimately focused on two issues: (1) how to modify the Board's mandatory CE program to emphasize the practitioner's need to be aware of new developments in the practice of dentistry; and (2) whether other miscellaneous changes in the CE program and its regulations may be necessary.

As one method of accomplishing the first goal, the Subcommittee proposed that a portion of the Board's CE program consist of required courses in specific areas selected by the Board upon the annual recommendation of a course selection committee. These "mandatory courses" fall into three categories—patient care, health and safety, and law and ethics. These courses would not exceed 30% of the current CE requirements. The Subcommittee also recommended the creation of a course selection committee consisting of four Board members—the two members of the CE Subcommittee plus one auxiliary member and one public member. The committee would focus on new developments in each of the three "mandatory course" areas and recommend to BDE how many hours of "mandatory course" CE should be required and in which areas/subjects. The Board agreed to pursue the recommended changes and instructed staff to draft proposed legislation to effect the proposals.

In addition, the Subcommittee made miscellaneous recommendations regarding BDE's existing CE program, including proposals that disabled licensees who seek a waiver of CE based on disability must provide documentation of the disability from a licensed physician; CPR should not necessarily continue to be a CE requirement; a CPR course which does not require perfor-

mance on a mannequin should be acceptable; and dental and dental auxiliary faculty members should be able to apply a maximum of twenty hours of their educational enhancement courses in educational research protocol and teaching methodology toward fulfillment of their CE requirements. BDE approved these proposals, and directed staff to proceed with the rulemaking process.

**RDA Practical Examination Amendment Approved.** After a November 15 public hearing in San Francisco, the Board unanimously adopted a proposed amendment to section 1081.1, Title 16 of the CCR, regarding the requirements necessary to sit for the RDA practical examination. The amendment would delete the requirement that an RDA candidate successfully complete a written examination before that person is eligible to sit for the practical examination. The amendment to section 1081.1 would thus permit RDA candidates to take the practical portion of the examination without first passing the written examination. Traditionally, the written examination is given in January and July, and the practical exam is given in April and October. A candidate who fails the written portion of the examination could become licensed at least six months earlier if he/she is permitted to take the practical exam without first passing the written exam. At this writing, the proposed amendment awaits review and approval by the Office of Administrative Law (OAL).

**Board Adopts Disciplinary/Probation Guidelines.** At its November 15-16 meeting, the Board adopted disciplinary guidelines for use by administrative law judges, attorneys, and licensees involved in the prosecution or settlement of BDE disciplinary and statement of issues proceedings. BDE emphasized that the guidelines are merely suggestions, and that there may be departures in individual cases depending upon mitigating or aggravating circumstances. The Board divided probation conditions into two categories: (1) standard conditions to be used in all probation cases; and (2) optional conditions to be imposed depending on the circumstances and nature of an individual case. Optional conditions may be used to define the extent of the disciplinary action if a given case warrants a penalty above the established minimum but below the established maximum.

The seven standard conditions of probation require the probationer to obey all laws, submit quarterly declarations of compliance with the terms of probation, comply with probation surveil-

lance, appear for interviews, submit change of place of practice notices, comply with absence from state/practice certification requirements, and continue the probationary term until it is completed. Optional probation conditions include license suspension, remedial education, re-examination, work in a supervised environment, restricted practice requirements, the sale of one's office and/or practice, restitution, cost recovery, community service, patient notification, psychological evaluation, psychotherapy, diversion program, biological fluid testing, abstinence from use of alcohol and drugs, and the surrender of one's Drug Enforcement Agency permit.

**Board Adopts a Six-Point Grading System.** At its November 15 meeting, the Board adopted a new six-point grading system for the dental licensing examination. In 1990, the Board switched from an eight-point system, which had been used for several years, to a five-point grading system. The numerical scores of the five-point system were as follows: 5 (or 95% equivalent), 4 (85% equivalent), 3 (75% equivalent), 2 (70% equivalent), and 0 (0% equivalent). According to BDE, the new system was not evenly balanced because of the very small differentiation between a minimal passing score of 3 (with a value of 75%) and a minimal fail score of 2 (with a value of 70%). Furthermore, the five-point system only allowed examiners to choose minimal fail (70%) or gross fail (0%) for candidates' work that is not of passing quality. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 70-71 for background information.)

The Department of Consumer Affairs' Central Testing Unit (CTU) evaluated the five-point grading system and determined that a measuring system with more scores is more reliable than a system with fewer scores. CTU also recommended that the distance between each of the scores be equalized. As a result, the Board adopted a six-point grading system which adds the score of 1 (55% equivalent) and changes the score of 2 to equal 65% (still a failing grade).

**Board Seeks to Revise Foreign-Trained Applicant Regulation.** On January 23, BDE was scheduled to hold a public hearing on its proposed amendments to section 1041, Title 16 of the CCR, regarding examination requirements for applicants who are graduates of foreign dental schools. The proposed amendments would modify the requirements of the restorative technique examination to delete the gold foil; modify the amalgam procedure; require two cast restoration procedures; add a



wax-up; modify the typodont requirements and require the typodont to be equilibrated in centric; delete the specific time periods for each procedure and specify instead the total length of the examination; and make other technical, nonsubstantive changes. The deadline for submitting written comments on the proposed amendments was January 21.

**BDE Seeks RDHEF Rule Changes.** In July 1991, BDE adopted proposed new regulatory subsections 1089(c) and (d), amendments to sections 1082.2(a), 1082.2(c), and 1083(d), and the repeal of subsections 1067(g), (r), and (s), regarding registered dental hygienists in extended functions (RDHEF). (See CRLR Vol. 11, No. 4 (Fall 1991) p. 75; Vol. 11, No. 3 (Summer 1991) pp. 73-74; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 85 for background information.) At this writing, the proposed revisions still await review and approval by OAL.

## LEGISLATION:

**SB 664 (Calderon)** would prohibit dentists, 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.

**SB 1004 (McCorquodale)**, as amended May 7, would prohibit health facilities from denying, restricting, or terminating a dentist's staff privileges on the basis of economic criteria unrelated to his/her clinical qualifications or professional responsibilities. This bill would define economic criteria as factors related to the economic impact on the health facility of a dentist's exercise of staff privileges in that facility, including, but not limited to, the revenue generated by the dentist, the number of Medi-Cal or Medicare patients treated by the dentist, and the severity of the patients' illnesses treated by the dentist. This bill is pending in the Senate Health and Human Services Committee.

**AB 194 (Tucker)** would provide that, on and after January 1, 1993, an applicant for a license to practice dentistry in this state who fails to pass the skills examination after three attempts shall not be eligible for further reexamination until the applicant has successfully completed a minimum of 50 hours of additional education at an approved dental school. A foreign-trained dental ap-

plicant who fails to pass the required restorative technique examination after three attempts would not be eligible for further reexamination until the applicant has successfully completed a minimum of two academic years of education at an approved dental school. This bill is pending in the Assembly Ways and Means Committee.

**AB 2120 (Cortese)**, as amended September 11, would, among other things, require the licensure of dental assistants; create a new licensure category of RDAs in orthodontic practice; prescribe the functions that may be performed by dental assistants, RDAs, and RDAs in orthodontic practice under direct and general supervision; and authorize BDE to adopt regulations relating to these functions. This bill would also require COMDA to adopt regulations to establish minimum qualifications for licensure of dental assistants; require COMDA to establish the minimum qualifications for licensure of RDAs in orthodontic practice; and authorize COMDA to adopt licensing regulations for RDAs in orthodontic practice by January 30, 1993. This bill is pending in the Assembly Health Committee.

**SB 777 (Robbins)** would, commencing July 1, 1992, provide for the certification and licensure of dental technicians and dental laboratories under the Board's jurisdiction. As amended April 29, the bill would enlarge the membership of the Board by adding a certified dental technician as a member, and would create a Dental Laboratory and Technology Committee, commencing July 1, 1992, under the Board's jurisdiction, consisting of five members appointed by the Board. This bill, which is opposed by the Board, is still pending in the Senate Business and Professions Committee.

**AB 91 (Moore)**, as amended August 28, would require a dentist, dental health professional, or other licensed health professional to sign his/her name or enter his/her identification number and initials in the patient's record next to the service performed, and to date those treatment entries. This bill was passed by both houses and awaits the Assembly's concurrence in Senate amendments.

**SB 934 (Watson)**, as amended May 22, would prohibit a dentist from using any toxic and carcinogenic materials to repair a patient's oral condition or defect unless the dentist obtains prior informed consent from the patient. This bill, which the Board opposes, is still pending in the Senate Business and Professions Committee.

## RECENT MEETINGS:

At the Board's November 15 meeting in San Francisco, Board member Jean Savage led the Board's discussion regarding licensure applicants who have the HIV virus or hepatitis. Dr. Savage voiced the Board's concern over the lack of scientific basis for various reports on these diseases and their possible transmission to patients during exposure-prone invasive procedures. Board members declined to take any action on this issue until the Department of Health Services, the Department of Consumer Affairs, and various healing arts boards meet to discuss the handling of infected applicants. The Board was scheduled to discuss this issue at its January meeting.

The Board postponed its scheduled discussion of laser use by RDHs, stating that the complex issues involved warrant referral to a subcommittee to study the issue; the subcommittee was expected to report back to the Board at its March meeting. Audience members argued that laser use by unlicensed persons is dangerous and urged the Board to adopt a policy specifying which licensees are qualified to use lasers.

Finally, the Board elected its 1992 officers at the November meeting. W. James Dawson was reelected president; Gloria Valde was reelected vice-president; and Joe Frisch was elected secretary.

## FUTURE MEETINGS:

May 8 in Sacramento.  
July 24 in Los Angeles.  
September 11 in San Diego.  
November 13 in San Francisco.

## BUREAU OF ELECTRONIC AND APPLIANCE REPAIR

Chief: K. Martin Keller  
(916) 445-4751

The Bureau of Electronic and Appliance Repair (BEAR) was created by legislative act in 1963. It registers service dealers who repair major home appliances and electronic equipment. BEAR is authorized under Business and Professions Code section 9800 *et seq.*; BEAR's regulations are located in Division 27, Title 16 of the California Code of Regulations (CCR).

The Electronic and Appliance Repair Dealer Registration Law requires service dealers to provide an accurate written estimate for parts and labor, provide a claim receipt when accepting equipment for repair, return replaced parts, and furnish an itemized invoice