



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  
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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



## REGULATORY AGENCY ACTION

describing all labor performed and parts installed.

The Bureau continually inspects service dealer locations to ensure compliance with BEAR's enabling act and regulations. It also receives, investigates, and resolves consumer complaints. Grounds for revocation or denial of registration include false or misleading advertising, false promises likely to induce a customer to authorize repair, fraudulent or dishonest dealings, any willful departure from or disregard of accepted trade standards for good and workmanlike repair, and negligent or incompetent repair.

The Bureau is assisted by an Advisory Board comprised of two representatives of the appliance industry, two representatives of the electronic industry, and five public representatives, all appointed for four-year terms. Of the five public members, three are appointed by the Governor, one by the Speaker of the Assembly, and one by the Senate President pro Tempore.

At its October 4 meeting, the Advisory Board welcomed Monta Huber, a new public member, and Mike Salerno, a new electronic industry member.

### MAJOR PROJECTS:

**BEAR Holds Public Hearings on Key Issues.** From October through December, BEAR conducted four public hearings throughout the state to receive comments on issues related to service contracts, increased BEAR enforcement authority, technician certification, and expansion of BEAR's mandate. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 77 for background information.)

On October 25 in San Francisco and November 8 in Los Angeles, BEAR heard testimony regarding regulation of third-party service contracts. According to BEAR, existing statutes covering the sale of service contracts are contained in the Civil Code, and do not fall under the jurisdiction of any regulatory/enforcement agency. Consumers have no recourse against faulty service contracts and bankrupt service contract administrators except through the court system, and are not told how to exercise their rights in invoking the provisions of their service contracts. Therefore, BEAR asked participants to discuss whether the state has an overriding interest in the regulation of service contracts sold in California, and whether such regulation should be incorporated into the Business and Professions Code under the jurisdiction of a regulatory agency or into the Insurance Code under the jurisdiction of the Insurance Commissioner. Other proposals include

requiring service contract dealers to post a bond with BEAR, increasing warranty disclosure laws applicable to service contracts, and enforcing existing contract law against a service dealer who sells a third-party contract in the event the third-party administrator goes out of business. The insurance regulation proposal was the most controversial—while proponents stated that most contractors are insurance companies which are engaging to a small extent in appliance and electronic repair, opponents noted that the Department of Insurance is already overburdened and high costs involved in insurance would be passed on to consumers.

BEAR heard testimony regarding the Service Contract Industry Council's (SCIC) model legislation which would regulate service contracts, require service contract sellers to be insured or otherwise prove financial responsibility, require service contract administrators to comply with directives issued by the Department of Insurance, require specified disclosures on service contracts, and impose civil penalties. SCIC may attempt to introduce its proposal in the 1992 legislative session.

BEAR also received testimony regarding efforts to enhance its enforcement authority. Many of the participants urged BEAR to strengthen its citation and fine program and apply it to both registered and unregistered dealers.

At the hearings devoted to the technician certification issue, BEAR asked participants to testify whether there is a compelling state interest in creating a new bureaucracy to implement and monitor a certification program for technicians; the nature of the relationship between BEAR's current service dealer registration program and a technician certification program; whether a blanket certificate covering all technicians is sufficient, or a multi-leveled certificate program is necessary; whether a "grandparent" clause is necessary; whether a continuing education component is necessary; and the costs of implementing and maintaining a technician certification program. The California State Electronics Association (CSEA) has drafted proposed legislation which would establish an academic standard for technicians and require mandatory continuing education for all consumer electronics technicians; although BEAR and the Department of Consumer Affairs (DCA) are not including this proposal in their legislative packages, they have cooperated with CSEA in finding an author and obtaining public comments regarding such a proposal. (See CRLR Vol. 11,

No. 3 (Summer 1991) p. 77; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 88-89; and Vol. 10, No. 1 (Winter 1990) p. 67 for background information.)

Finally, BEAR received testimony regarding the possibility of expanding its mandate to cover commercial repair; whether businesses need the recourse for complaint resolution that the Bureau can offer; and, if expansion to commercial repair is not justified, how home office repairs should be handled.

BEAR's Advisory Board was scheduled to discuss the comments received at the hearings and make its recommendations for change at its February 21 meeting in Riverside.

**BEAR Enforcement Activities.** BEAR reported the following enforcement activities during November and December:

-On November 7, DCA announced that Ronald and Priscilla Wenzel, owners of One Stop in Downey, were ordered to pay restitution, return goods to four consumers, and cease operating their electronics repair shop for five years. Consumers complained to BEAR that after they took their goods to One Stop and paid for the repairs, the store closed and the Wenzels left with the consumers' property and money.

-On November 15, DCA announced that John and Paul Fortino, owners of Paul's TV & Stereo in Clearlake, were sentenced to ninety days in jail and ordered to pay restitution to four consumers after being convicted of grand theft; the brothers pled guilty to three additional counts of theft involving television repairs. The grand theft conviction stemmed from the Fortinos' charging a consumer \$400 for a replacement television tube which was never actually replaced.

-On November 25, Allen Wolff of Omnifix Corporation in Huntington Beach was sentenced to a thirty days in jail suspended sentence and ordered to pay \$2,000 in investigative costs after being found guilty of a probation violation; Wolff was found guilty of repairing consumer goods in violation of his 1990 condition probation forbidding him to do so for three years.

-On December 16, DCA announced that the telephones of High Tech Quality Service of San Francisco were disconnected by order of the superior court for operating without a valid service dealer's registration; the firm was linked to Rodolfo Valderrama, whose BEAR registration was previously revoked for fraud and disregard of accepted trade standards. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 72-73 for background



information on BEAR's use of telephone disconnects in enforcement.)

## RECENT MEETINGS:

At its October 4 meeting, BEAR's Advisory Board was addressed by Bonnie Guiton, Secretary of the State and Consumer Services Agency, DCA Director Jim Conran, DCA Chief Deputy Director C. Lance Barnett, and DCA Deputy Director of Consumer Services Linda Smith-Gaston, among others. These guests generally voiced their intention to ensure that DCA's boards, bureaus, and agencies are committed to protecting California consumers.

Also at its October 4 meeting, BEAR's Advisory Board discussed service contract administration and the Bureau's plans to conduct several public hearings to receive testimony on related issues. (See *supra* MAJOR PROJECTS.) Representatives from several third-party service contract administrators, including Maycor Appliance Parts and Service Co., Inc. and General Electric Consumer Service, addressed the Board regarding service contract administration, responding to Board inquiries regarding the necessity and stability of such companies. BEAR's Manufacturer and Service Contractors Liaison Committee reported that it is currently compiling a list of companies which sell service contracts in California and researching legislation from other jurisdictions pertaining to service contracts.

Also at its October meeting, the Advisory Board discussed methods of providing BEAR with more meaningful authority to enforce statutes and regulations relating to the electronic and appliance repair industry, including unregistered activity. DCA Deputy Director Tom Maddock suggested creating an infraction penalty to cover first and second offenses; these penalties would require court appearances within fourteen days, and a misdemeanor bench warrant could be issued by the court for failure to appear. BEAR Deputy Chief Curt Augustine noted that DCA may seek legislation which would allow the Bureau to disconnect telephones of unregistered dealers who advertise in media such as the Yellow Pages; currently, BEAR is using telephone disconnection as a form of enforcement against registered dealers who are in violation of state regulations. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 72-73 for background information.) DCA may also seek legislation to extend BEAR's jurisdiction to include repairs to facsimile machines, photocopiers, and cellular telephones.

BEAR Chief Marty Keller announced that the Bureau may seek legislation to raise its fee ceiling to offset potential financial difficulties during the 1992-93 fiscal year. However, Keller expressed his commitment to avoiding fee increases if at all possible.

Also at its October 4 meeting, the Board reelected Fay Wood as president and elected Ted Linton as vice-president for 1992.

## FUTURE MEETINGS:

May 1 in San Jose.  
August 7 in San Diego.  
November 6 in Los Angeles.

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

*Executive Officer: James B. Allen*  
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The Board of Funeral Directors and Embalmers licenses funeral establishments and embalmers. It registers apprentice embalmers and approves funeral establishments for apprenticeship training. The Board annually accredits embalming schools and administers licensing examinations. The Board inspects the physical and sanitary conditions in funeral establishments, enforces price disclosure laws, and approves changes in business name or location. The Board also audits preneed funeral trust accounts maintained by its licensees, which is statutorily mandated prior to transfer or cancellation of a license. Finally, the Board investigates, mediates, and resolves consumer complaints.

The Board is authorized under Business and Professions Code section 7600 *et seq.* The Board consists of five members: two Board licensees and three public members. In carrying out its primary responsibilities, the Board is empowered to adopt and enforce reasonably necessary rules and regulations; these regulations are codified in Division 12, Title 16 of the California Code of Regulations (CCR).

## MAJOR PROJECTS:

*Assembly Committee Drafts Legislation to Implement Industry Reforms.* On October 17, the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development held a public hearing to address various complaints regarding the performance of the Board of Funeral Directors and Embalmers and the Cemetery Board. Hearing participants contended that the Board of Funeral Directors and Embalmers has failed to follow up on consumer complaints; has

not conducted any investigations since its inspectors were laid off last May; and has ignored evidence of fraud, kickbacks by florists, and mutilation of corpses.

Donald Hudgens, a former inspector for the Board, testified that regulation of the industry has been so lax that funeral homes often violate regulations repeatedly because they know that no disciplinary action will be taken against them. Two investigators from the Assembly Office of Research confirmed Hudgens' statements and testified that their initial examination of Board investigatory files indicated that no action had been taken on certain complaints; however, an examination three weeks later revealed that letters had been added to the files indicating that action had been taken. Although the investigators implied that these letters might have been backdated and added to the file after their initial review, Board Executive Officer James Allen emphatically denied those allegations. However, Allen acknowledged that the Board transferred all of its inspectors and auditors to other state agencies in May 1991, because it had run out of money and expected no incoming revenue until license fees became due in January 1992. In the meantime, consumer complaints accumulated; 187 cases awaited inspection as of September. Allen also admitted that much of the criticism aimed at the Board is accurate, stating that "previous administrations have not been supportive of the Board's effort to make improvement." Allen further blamed the Board's troubles on budget constraints, lack of Board staff, and the funeral industry's ability to successfully lobby against increased fees and industry reform.

Committee Chair Jackie Speier characterized the Board's actions as "scandalous and unacceptable," and noted that the Board should have anticipated its budget needs more competently and increased its fees to pay for inspections. However, Speier concluded that even when the agency had inspectors on its staff, there was little evidence that it adequately disciplined funeral homes that violated regulations.

As a result of Speier's investigation, her office is in the process of drafting legislation for the 1992 session which would dissolve the Cemetery Board and the Board of Funeral Directors and Embalmers and create the Board of After-Death Goods and Services (BADGS), an eight-member board consisting of a licensed funeral director appointed by the Governor, an owner/operator of a licensed crematorium appointed by the Governor, an owner/manager of a