



ing in a telephone directory with respect to the offering or performance of services, without being properly licensed by the Bureau to offer or perform those services, the Bureau may issue a citation containing an order of correction which requires the violator to cease the unlawful advertising and notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising. [A. CPGE&ED]

AB 2489 (Hayden), as amended April 21, would require the California Environmental Protection Agency to prepare a list of chlorofluorocarbons (CFCs) for which substitutes are available and dates by which their implementation would be feasible. CFCs are frequently used in automobile air conditioning systems. Cal-EPA would also be required to develop programs to implement earlier phaseout dates for instances where there are known, nonhazardous alternatives to CFCs. [A. W&M]

AB 2743 (Lancaster), as amended April 9, is the Department of Consumer Affairs' omnibus bill. The bill would permit DCA licensing boards involved in disciplinary proceedings to request that an administrative law judge direct a licensee found to have committed a violation of the board's licensing act to pay the board for the reasonable costs of investigation and enforcement of the case. It would also provide, as grounds for denial of a license, knowingly omitting to state a fact required to be revealed in a license application. The bill authorizes a board to revoke, suspend, or restrict a license if the licensee secured the license by fraud, deceit or misrepresentation. [A. W&M]

The following is a status update on bills reported in detail in CRLR Vol. 12, No. 1 (Winter 1992) at pages 46-47:

AB 598 (Elder), as amended August 19, would require ARB to prepare a list of models of motor vehicles that are significant sources of air pollution, and require the Department of Motor Vehicles (DMV) to develop and implement a program to acquire and scrap the designated vehicles. DMV would also be required to assess a pollution mitigation fee on an individual if the cost of repairing his/her vehicle in order to bring it into compliance with emission standards exceeds the prescribed cost limitations. [S. Trans]

AB 1828 (Areias), as amended May 20, 1991, would provide that in all instances where nonoriginal equipment manufacturer aftermarket crash parts are intended for use by an insurer in the repair of an insured's motor vehicle, a disclosure document containing specified informa-

tion and printed in a specified type must be attached to the insured's copy of the estimate and be acknowledged by the insured. [S. InsCl&Corps]

The following bills died in committee: **AB 624 (Bane)**, which, among other things, would have prohibited automobile repair dealers from offering discounts to offset auto insurance deductibles; **AB 1989 (Baker)**, which would have exempted, from provisions prohibiting the release of residence and mailing addresses by the Department of Motor Vehicles, persons engaged in the sale or marketing of services related to the Smog Check Program; **SB 295 (Calderon)**, which would have limited the cost of a Smog Check test only to \$50, exclusive of the charge for the certificate; **AB 691 (Hayden)**, which would have required the use of refrigerant recycling equipment approved by ARB on and after January 1, 1993, in the servicing of vehicle air conditioners and other specified activities; **SB 573 (Rosenthal)**, which would have required BAR to establish a program for certifying a third party dispute resolution process for arbitrating disputes relating to the warranties on used cars; and **AB 1118 (Johnson)**, which would have required DCA to publish the rules and regulations to be followed in order to suspend or revoke the license of a Smog Check station or mechanic.

FUTURE MEETINGS:

August 28 in Orange County.

November 20 in San Luis Obispo.

BOARD OF BARBER EXAMINERS

Executive Officer: Lorna P. Hill
(916) 445-7008

In 1927, the California legislature created the Board of Barber Examiners (BBE) to control the spread of disease in hair salons for men. The Board, which consists of three public and two industry representatives, regulates and licenses barber schools, instructors, barbers, and shops. It sets training requirements and examines applicants, inspects barber shops, and disciplines violators with licensing sanctions. The Board licenses approximately 23,519 barbers, 5,855 shops, and 19 schools.

BBE's enabling act is currently found at Business and Professions Code section 6500 *et seq.*; the Board's regulations are located in Division 3, Title 16 of the California Code of Regulations (CCR).

On July 1, 1992, BBE and the Board of Cosmetology (BOC) 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:

Merger Preparation Continues. At its February 2 meeting, BBE reviewed the status of various merger-related issues. For example, after BBE and BOC visited each other's examination facilities to assess the feasibility of combining the sites, BBE determined that the sites should be kept separate for at least the first six months after the merger. This decision is based on BBE's findings that the barber examination requires a site where the chairs have adjacent sinks; the lengthy waiting period to take the BOC examination should not adversely affect administration of the barber examination; and the substantial difference in the administration of the two examinations would make it difficult to have both examinations administered at the same time at the same location.

BBE staff also addressed the issue of consumer protection, suggesting that the barbering and cosmetology licensing examinations be evaluated every four years to eliminate portions of the examinations that do not relate to protecting the public from harm. According to BBE, demonstrated competence is necessary in the areas of shaving and chemical applications; however, the public may not be irreparably harmed if the scalp massage, haircut, or hairstyle demonstration were removed from the barber examination. BBE contends that the marketplace would automatically react to those licensees who give a bad haircut or hairstyle.

BBE also discussed enforcement concerns, and reviewed proposed Inspector Territorial Assignments for the new board. Such assignments take into account that each territory is different (*i.e.*, some areas are densely populated and others are not), and that various lengths of time to travel and to inspect are necessary. BBE is still concerned that the quality and frequency of barber shop inspections will decrease after the merger.

BBE received a final recommendation report from Systems Excellence (Systex), the private consulting firm hired by BBE to develop an organizational structure for BBC. Specifically, Systex assessed the job functions performed by BBE and BOC staff, the current workloads of each board,



and the staffing levels required by each workload. Among other things, Systex recommended that a merged structure be approved well before July 1; BBC should operate with considerable delegation and decentralization; and the Department of Consumer Affairs (DCA) should seek the removal of the bureaucratic requirement that boards under its jurisdiction submit budgets to the legislature in order to receive their own money. The study concluded that the new board would run more efficiently and effectively without the control system and compartmentalization present within BOC, and should operate with the delegation and decentralization found within BBE.

On March 16, BOC and BBE held a joint public meeting in Fresno to further discuss proposed draft regulations which were formulated by DCA consultant Kirk Marston for BBC. [11:4 CRLR 63] The proposed regulations primarily consist of all of the existing BBE and BOC regulations condensed into one document. Because many of the regulations are duplicative or in conflict, the merged Board is expected to substantially revise the existing regulations as appropriate following the merger.

Board Proposes Fee Regulation. When BBC comes into existence on July 1, it will retain the authority to operate under and enforce both boards' regulations existing prior to July 1, until BBC promulgates new regulations. Currently, BBE—unlike BOC—does not set its fees by regulation, but by Board policy. On March 6, BBE published notice of its intent to adopt section 299, Title 16 of the CCR, which would specify its fees in regulation. For example, section 299 would set the application, examination, and initial license fees for barber or instructor applicants at \$50; the application and initial license fee for apprentice applicants would be \$25; and the license renewal fee for barbers or instructors would be \$40. Section 299 would also specify the fees for establishment licenses, license renewal delinquencies, and duplicate licenses. At its April 26 meeting, BBE held a public hearing on the proposed adoption of section 299. Following that hearing, the Board modified section 299 slightly to reduce the proposed establishment licensing fees. The Board released the modified text for an additional fifteen-day public comment period, which ended on May 11. At this writing, proposed section 299 awaits review and approval by the Office of Administrative Law.

LEGISLATION:

AB 3062 (Wright), as amended March 25, would make clarifying changes to the Barbering and Cosmetology Act. For example, the bill would require an application for a license to be made whether the person is operating a new establishment or obtaining ownership of an existing establishment; require BBC to establish methods deemed appropriate for utilizing a photograph of the licensee to verify licensure status; authorize fees for a photographic license or change of ownership of an existing establishment to be established by BBC in an amount sufficient to cover processing costs; and would allow current fees established by BBE to remain in effect until they are changed by BBC. [12:1 CRLR 48] The bill's provisions would become effective on July 1, 1992. [S. B&P]

SB 2044 (Boatwright), as amended April 2, would declare legislative findings regarding unlicensed activity and authorize all DCA boards, bureaus, and commissions, including BBC, to establish by regulation a system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee or registrant under the jurisdiction of that board, bureau, or commission. This bill would also provide that the unlicensed performance of activities for which a BBC license is required may be classified as an infraction punishable by a fine not less than \$250 and not more than \$1,000. Also, SB 2044 would provide that if, upon investigation, BBC has probably cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by the Board to offer or perform those services, the Board may issue a citation containing an order of correction which requires the violator to cease the unlawful advertising and notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising. [A. CPGE&ED]

RECENT MEETINGS:

On April 26, the Board heard appeals from six persons who had taken the barber exam that day, and one person who took the instructor exam; according to BBE, appeals of examination scores are rare, as are seven failures in one day. Among other things, the appellants complained that some of the questions were not job-related to the barber profession; there was adverse discrimination by the examiners; and substantial errors were made in the grading of the practical portion of the exam. All of the

appellants requested to see their examinations, which is against BBE policy. Under section 283, Title 16 of the CCR, persons who fail the exam may appeal their score within fifteen days of receiving their results; however, BBE regulations do not expressly permit persons to review their written exam papers.

Board member Elton Pamplin made a motion to allow barber students who do not pass the examination to see their written exams and the notes made by the examiner grading the practical portion of the exam, at the exam facilities with a BBE representative present. Although Board action on this change in policy was not on the agenda as required by the Bagley-Keene Open Meeting Act, Pamplin's motion was passed by a vote of 2-1 with one abstention; however, at this writing, it is unclear how BBE plans to implement this newly-adopted policy.

In closed session, the Board reviewed the examinations and decided to grant two of the appeals and deny the other four; no reasons were given for the decisions. The seventh appeal was considered moot by BBE since the appellant immediately retook and passed the licensing examination.

FUTURE MEETINGS:

The Board's last meeting was scheduled for June 22 in Sacramento.

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).

At its January 23-24 meeting in Los Angeles, the Board welcomed new member Dr. Thomas J. Knutson, a professor of communications at the California State University at Sacramento.