



REGULATORY AGENCY ACTION

any clinical laboratory test or service if the test or service was not actually rendered by that person or under his/her direct supervision, unless the patient is apprised at the first solicitation for payment of the name, address, and charges of the clinical laboratory performing the service. As amended March 12, this bill would also make this prohibition applicable to any subsequent charge, bill, or solicitation. This bill would also make it unlawful for any MFCC or LCSW to assess additional charges for any clinical laboratory service that is not actually rendered by the MFCC or LCSW to the patient and itemized in the charge, bill, or other solicitation of payment. This bill passed both the Senate and the Assembly; at this writing, it is pending Senate concurrence in Assembly amendments.

The following bills died in committee: **AB 756 (Bates)**, which would have provided 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; **AB 1106 (Felando)**, which would have created the Alcohol and Drug Counselor Examining Committee within BBSE and required 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; **SB 738 (Killea)**, which would have required 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; and **AB 2085 (Polanco)**, which would have required 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.

RECENT MEETINGS:

At its January 23-24 meeting in Los Angeles, the Board elected Dr. Joyce Deshler as Board chair and Sarah Flores as vice-chair for 1992.

Also at the Board's January 23-24 meeting, Executive Officer Kathleen Callanan reported that the Board is going to offer its licensing examinations every four months, rather than every six months as is now the case. Dr. Callanan also noted that the Board is in the process of implementing year-round oral examinations.

At its April 30 meeting, BBSE considered a request of the California Society for Clinical Social Work (CSCSW) that BBSE consider board-certified diplomate status conferred by the American Board of Examiners in Clinical Social Work (ABECSW) as evidence that an individual has met or exceeded minimum requirements to sit for the LCSW licensure examination; this proposal is based on the assumption that the individual has taken all additional courses required by law. According to CSCSW's Executive Director, ABECSW is a free-standing accrediting body, unaffiliated with any membership organization, which functions solely to promote and protect a minimum national advanced standard for clinical social work practice. BBSE took no action on this request.

FUTURE MEETINGS:

August 6-7 in San Diego.

November 5-6 in Sacramento.

CEMETERY BOARD

Executive Officer: John Gill
(916) 920-6078

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:

DCA Expresses Concern About Ef-

fectiveness, Public Image of the Board.

In a January 8 letter to all Board members, Department of Consumer Affairs (DCA) Director Jim Conran noted current public discontent with the Cemetery Board's ability to protect consumer interests and proposed several actions to remedy the problem. Conran's recommendations included conducting an education campaign to better inform consumers about the Board and the cemetery industry in general; adopting citation and fine regulations; adopting regulations that require licensed cemeteries and crematories to post the Board's telephone number; adopting regulations to require all industry contracts to include the Board's telephone number; and raising licensing fees to accomplish the above goals.

The Board is currently considering a tentative draft of citation and fine regulations that would enhance its enforcement powers over Board licensees. [12:1 CRLR 51] These regulations would implement Business and Professions Code section 125.9, which enables the Board to fine licensees who violate its statutes or regulations. The tentative citation and fine regulations the Board is reviewing are modeled largely upon other regulatory agency implementations of section 125.9.

Conran's criticisms of the Board are in no way an isolated event. The Cemetery Board, which has traditionally enjoyed a relatively low profile in California's regulatory system, has been steadily gaining the attention of lawmakers, consumers, and the media. This increased attention is due largely to a flurry of complaints and lawsuits involving the mishandling of remains and lack of ground maintenance by licensees. (See *infra* LITIGATION.) The Board has also come under heightened scrutiny from the legislature; last October, the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development held interim hearings to evaluate the respective performances of the Cemetery Board and Board of Funeral Directors and Embalmers. The hearings were peppered with consumer, agency, and industry criticism of the boards' enforcement and monitoring programs [12:1 CRLR 50], and have resulted in the introduction of a number of bills to reform the Board and its enforcement system (see *infra* LEGISLATION). The Cemetery Board's more prominent profile will likely continue until consumer interests are more adequately protected from industry abuse.

Complaints for 1990-91 Fiscal Year Reviewed. At the Board's March 6 meeting, Executive Officer John Gill presented a summary of the complaints received



from consumers in fiscal year 1990-91. During this period, the Board received 112 complaints, each of which was addressed by the Board's staff in an average of 28 days. The complaints ranged from poor maintenance of grave sites to accusations of burials in graves filled with water. The report contains complaints that date back to July 1990; the considerable delay in publishing this information was noted by the Board, which may advise the Executive Officer to produce the report on a more frequent basis.

LEGISLATION:

AB 2599 (Elder), as amended April 30, would require the Board to provide an annual report of complaints to specified legislative oversight committees. [A. W&M]

AB 3745 (Speier), as amended March 31, would, effective January 1, 1994, create within DCA a Division of Compliance having regulatory jurisdiction over the Cemetery Board and the Board of Funeral Directors and Embalmers. [A. Floor]

AB 3746 (Speier), as amended April 9, would require the Cemetery Board to promulgate regulations by July 1994 on standards for the burial depth of graves; certain definitions concerning incidental remains; and minimum training required for crematory operators.

Existing law requires that an endowment care cemetery have specified monetary amounts deposited in its endowment care fund for each kind of plot sold. This bill would increase these amounts.

This bill would also require every crematory licensee who prohibits relatives or the responsible party from viewing the cremation process to disclose that fact in writing to the person(s) entitled to the custody of the remains prior to the signing of any contract. [A. Floor]

AB 1981 (Elder), as amended March 30, would preempt any conflicting local or private rules or regulations on burial requirements and would impose a requirement on all cemeteries that a minimum amount of dirt cover the top of all vaults and coffins, with certain exceptions where specified alternative standards must be met. Any person who violates these requirements would be subject to discipline by the Cemetery Board and liable for a civil penalty. This bill would also provide that no person shall inter the remains of more than one body in a single plot, or place a coffin or other human remains in an already occupied grave, except with certain express authorization; violation of this requirement would be a crime punishable as either a misdemeanor or felony. [S. Appr]

SB 2044 (Boatwright), as amended April 2, would declare legislative findings regarding unlicensed activity and authorize all DCA boards, bureaus, and commissions, including the Cemetery Board, 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 Cemetery Board license is required may be classified as an infraction punishable by a fine not less than \$250 and not more than \$1,000. [A. CPGE&ED]

SB 1482 (Johnston), as amended April 9, would authorize the Cemetery Board to maintain, regulate, operate, and control a certain property in Amador County for purposes of protecting the human remains resting on the property and preserving the property in its natural state. The bill would authorize the Board to so administer and supervise endowment care funds established by a prescribed court order for the property. This bill would also make a legislative finding and declaration of unique circumstances. [A. CPGE&ED]

AB 1540 (Speier), which would have repealed the enabling statutes of the Cemetery Board and the Board of Funeral Directors and Embalmers and enacted the Cemeteries, Funeral Directors and Embalmers Act, died in committee.

LITIGATION:

On February 19, Los Angeles Superior Court Judge Barnet M. Cooperman approved a \$15.44 million settlement involving more than one hundred mortuaries that allegedly mishandled human remains. Relatives of up to 20,000 people whose remains were allegedly mishandled by companies associated with the Lamb Funeral Home, a Pasadena mortuary, will share in the award. [12:1 CRLR 62; 11:3 CRLR 65; 11:2 CRLR 62] A total of eighteen cases, known as the *Sconce/Lamb Cremation Cases*, Judicial Council Coordination Proceeding 2085, were consolidated before Judge Cooperman. Criminal prosecutions are pending against some members of the Sconce family.

In response to defense counsel liaison Louis M. Marlin's claim that the mortuaries are not admitting any wrongdoing, Richard E. Brown, one of the attorneys for the class of plaintiffs, contended that "you don't pay \$15 million if there was no wrongdoing." In any event, Judge Cooperman found "that the settlement that has been proposed...[is] fair, reasonable

and adequate, and in the best interest of the plaintiffs' settlement class as a whole." As of February 18, 5,237 claims had been filed; potential class members had until May to file claims. Those filing claims will be given \$50 per body in restitution for cremation fees.

RECENT MEETINGS:

Assemblymember Dave Elder was present at the Board's March 6 meeting in Sacramento; he criticized the ineffectiveness of the current Board and proposed several changes in its structure. First, he recommended that the number of members on the Board be increased in order to facilitate its decisionmaking ability. Second, he suggested that the Board form a technical advisory committee made up of consumers and industry members; this committee would allow discussion in an open forum, beyond the confines of the Cemetery Board's agenda. Third, he recommended that the Board institute a toll-free 800 number for complaints and questions. Executive Officer John Gill noted that Elder was the first legislator to address the Board during Gill's tenure with the Board; Assemblymember Elder responded that he would not be the last.

Due to a lack of quorum, the Board was unable to take any formal action at its March 6 meeting.

FUTURE MEETINGS:

To be announced.

BUREAU OF COLLECTION AND INVESTIGATIVE SERVICES

Chief: James C. Diaz
(916) 739-3028

The Bureau of Collection and Investigative Services (BCIS) is one of 38 separate regulatory agencies within the Department of Consumer Affairs (DCA). The Chief of the Bureau is directly responsible to the DCA Director.

Pursuant to the Collection Agency Act, Business and Professions Code section 6850 *et seq.*, the Bureau regulates the practices of collection agencies in California. Collection agencies are businesses that collect debts owed to others. The responsibility of the Bureau in regulating collection agencies is twofold: (1) to protect the consumer/debtor from false, deceptive, and abusive practices and (2) to protect businesses which refer accounts for collection from financial loss. The Bureau also plays an important role in protecting collection agencies from unlawful competition by the detection and prohibition of unlicensed activity within