



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
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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



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the industry.

In addition, eight other industries are regulated by the Bureau, including private security services (security guards and private patrol operators), repossessors, private investigators, alarm company operators, protection dog operators, medical provider consultants, security guard training facilities, and locksmiths.

Private Security Services. Regulated by the Bureau pursuant to Business and Professions Code section 7544 *et seq.*, private security services encompass those who provide protection for persons and/or property in accordance with a contractual agreement. The types of services provided include private street patrols, security guards, watchpeople, body guards, store detectives, and escort services. Any individual employed to provide these services is required to register with the Bureau as a security guard. Any security guard who carries a firearm and/or baton on the job must possess a firearm permit issued by the Bureau. The Bureau operates to protect consumers from guards who unlawfully detain, conduct illegal searches, exert undue force, and use their authority to intimidate and harass.

Repossessors. Repossession agencies repossess personal property on behalf of a credit grantor when a consumer defaults on a conditional sales contract which contains a repossession clause. Any individual employed by these services is required to be registered with the Bureau. Pursuant to the Repossessors Act, Business and Professions Code section 7500 *et seq.*, the Bureau functions to protect consumers from unethical methods of repossessing personal property, such as physical abuse resulting in bodily harm, threats of violence, illegal entry onto private property, and misrepresentation in order to obtain property or information about property.

Private Investigators. Private investigators conduct investigations for private individuals, businesses, attorneys, insurance companies, and public agencies. The scope of their job generally falls within the areas of civil, criminal, and domestic investigations. Any private investigator who carries a firearm on the job must possess a firearm permit issued by the Bureau. Pursuant to Business and Professions Code section 7512 *et seq.*, the Bureau oversees private investigators to protect consumers and clients against investigators who misrepresent, impersonate, or make threats in order to obtain desired information; perform inadequate or incompetent investigations; fail to substantiate charges or charge more than the amount agreed upon; and alter, falsify, or

create evidence.

Alarm Company Operators. Alarm company operators install, service, maintain, monitor, and respond to burglar alarms. These services are provided to private individuals, businesses, and public entities. Any employee responding to alarms who carries a firearm on the job must be registered by the Bureau and possess a Bureau-issued firearm permit. Pursuant to the Alarm Company Act, Business and Professions Code section 7590 *et seq.*, the Bureau regulates this industry in order to protect clients from potential theft or burglary, invasion of privacy or misrepresentation by alarm companies, and failure on their part to render service as agreed.

Protection Dog Operators. Protection dog operators train, lease, and sell dogs for personal and/or property protection. They also provide patrol services using trained dogs. Individuals employed by any of these services must be registered by the Bureau. These services are employed by private individuals, business entities, and law enforcement agencies. Pursuant to Business and Professions Code section 7550 *et seq.*, the Bureau serves to protect against possible violations in this industry, such as inadequately trained or physically abused dogs, overcharges for services, invasions of privacy, or potential theft or burglary of property.

Medical Provider Consultants. Medical provider consultants are contract collectors who provide in-house collection services to medical facilities. They contact insurance companies and/or patients to try to collect on medical debts on behalf of the medical provider. Nevertheless, consultants cannot themselves collect on delinquent debts. Instead, they must turn the debt over to an independent, licensed collection agency in order to avoid any conflict of interest. Medical provider consultants may be licensed by the Bureau pursuant to Health and Safety Code section 1249.5 *et seq.*

Training Facilities and Instructors. These facilities provide required firearm training to licensed private investigators; power to arrest and firearm training to alarm agents who respond to alarm systems; and power to arrest, firearm, and baton training to security guards. Upon completion of training, individuals must pass examinations before they may be issued the appropriate permits. Pursuant to Business and Professions Code section 7552 *et seq.*, the Bureau regulates these facilities in order to ensure that required training is provided to licensed individuals, and that only those qualified possess the proper permits to provide ser-

vice to the consumer.

Locksmiths. Locksmiths install, repair, open, modify, and make keys for locks. These services are provided to private individuals, businesses, and public entities. Pursuant to Business and Professions Code section 6980 *et seq.*, the Bureau regulates this industry in order to protect clients from potential theft or burglary, invasion of privacy, and misuse of a locksmith's skills, tools, or facilities for the commission of a crime.

The purpose of the Bureau is to protect the health, welfare and safety of those affected by these industries. To accomplish this, the Bureau regulates and reviews these industries by its licensing procedures and by the adoption and enforcement of regulations. For example, the Bureau reviews all complaints for possible violations and takes disciplinary action when violations are found. The Bureau's primary method of regulating, however, is through the granting or denial of initial/renewal license or registration applications. Education is also utilized to assist in achieving Bureau goals.

Consumers and clients may pursue civil remedies to resolve complaints and disputes currently within the regulatory authority of the Bureau. In addition, class action suits may be filed on behalf of consumers by the Attorney General's office and local district attorneys against businesses which engage in repetitive unethical business practices.

Two advisory boards function within the Bureau to advise the Chief and the DCA Director on policy matters relating to their respective industries. The Collection Agency Board (CAB) acts pursuant to Business and Professions Code section 6863.5 *et seq.*, and the Private Security Advisory Board (PSAB) is created under Business and Professions Code section 7516 *et seq.*

MAJOR PROJECTS:

Permit Processing Time Regulations. On February 4, the Office of Administrative Law approved BCIS' repeal of section 613.5 and adoption of new section 601.4, Title 16 of the California Code of Regulations. To comply with the Permit Reform Act of 1981, Government Code section 15374 *et seq.*, section 601.4 sets processing times for applications for licensure or registration, and provides maximum time periods for notifying an applicant whether an application is complete and time periods for issuing or denying a license or registration. [12:1 CRLR 52]

Bureau Faces Fee Increases or Deregulation of Security Guards, Private Investigators, Training Facilities, and



Instructors. At PSAB's April 23 meeting and CAB's May 13 meeting, the boards received unpleasant budget news. Bureau Chief James Diaz commented that due to a large and growing budget deficit, BCIS' private security program is faced with limited options if it is to continue to function. Bureau staff reiterated that the program's current revenues are insufficient to maintain all of the required administrative and regulatory requirements. Without sufficient funds to maintain itself, the Bureau is faced with either increasing licensing fees or cutting back services. PSAB members commented that if the Bureau is unable to solve its budgetary problems, deregulation of parts of the private security industry may become a reality. BCIS has since proposed a fee increase in an attempt to meet its rising costs of operation, which has been amended into AB 3131 (Hunter), a measure pending in the Assembly Ways and Means Committee (*see infra* LEGISLATION).

License Reinstatement Option for Operation Desert Storm Participants. In January, BCIS announced that licensees and registrants who actively served in the Persian Gulf during Operation Desert Storm may be eligible to reinstate their license or registration without examination or penalty. The conditions that such licensees must meet include the following: (1) the license or registration was valid at the time the individual entered the armed services; (2) the application for reinstatement is made while the individual is serving in the armed services, or no later than one year from the date of discharge from active service or return to inactive military status; and (3) the application for reinstatement is accompanied by an affidavit showing the date of entrance into the service, current status or date of discharge, and the renewal fee for the renewal period in which the application is filed. If an application for reinstatement is filed more than one year after discharge or return to inactive status, BCIS may require the individual to pass an examination.

LEGISLATION:

AB 3131 (Hunter), as amended April 28, would increase various licensing, registration, and other fees for locksmiths, repossessors, protection dog operators, and private detectives. [*A. W&M*]

SB 2044 (Boatwright), as amended April 2, would declare legislative findings regarding unlicensed activity and authorize all DCA boards, bureaus, and commissions, including BCIS, to establish by regulation a system for the issuance of an administrative citation to an un-

licensed 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 specified activities for which a BCIS license or registration is required may be classified as an infraction punishable by a fine not less than \$250 and not more than \$1,000. SB 2044 would also provide that if, upon investigation, BCIS has probable 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 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.

This bill would also require licensed locksmiths, when providing access to a vehicle or certain registered personal property, residence, or commercial establishment for another person, to verify identification of clients and maintain work orders containing specified information.

Existing law provides that it is a crime to violate or conspire to violate provisions regarding private investigator and private patrol operator licensure or to engage an unlicensed private investigator or private patrol operator, after notification. This bill would also make it a crime to commit these same acts regarding protection dog operators. This bill would also require that an application for registration as an employee of a protection dog operator be accompanied by two classifiable fingerprint cards and require a licensee to maintain a supply of applications and fingerprint cards.

Existing law requires every agreement, including labor, services, and materials to be provided for installation of an alarm system by an alarm company operator, to be in writing and specifies the contents of the agreement. This bill would require lease agreements for alarm systems to be in writing and specify the contents of the agreement. [*A. CPGE&ED*]

AB 2917 (T. Friedman), as amended April 6, would provide that, effective July 1, 1992, BCIS shall not issue a firearms permit qualification card to persons prohibited from carrying a firearm under specified law. This bill would also require BCIS to supply the Department of Justice (DOJ) with the name, address, social security number, and fingerprints of each applicant for a firearms qualification card,

and would require DOJ to inform BCIS, within sixty days of the receipt of this information, if an applicant is prohibited from possessing, receiving, or purchasing a firearm pursuant to specified law. This bill would allow DOJ to charge a fee sufficient to reimburse its costs of furnishing firearm eligibility information and would require BCIS to increase the fingerprint processing fee to cover its costs of obtaining that information from DOJ. [*A. Floor*]

AB 2443 (Horcher). Regarding repossessors, existing law provides that if an applicant's residence address, telephone number, or driver's license number is required by BCIS for licensing purposes, that information shall be confidential. As amended April 8, this bill would instead provide that such information of any licensee, principal owner of a licensee, qualified certificate holder, or applicant for a qualification certificate shall be confidential if requested.

Existing law permits certain employees who were registrants of a licensed repossession agency within the past thirty days to return to the agency and be assigned to work with a temporary registration issued by a certificate holder for thirty days. This bill would delete those provisions and revise other temporary registration provisions to permit employees to be employed by an agency and be assigned to work with a temporary registration on a form prescribed by the BCIS Chief and issued by a certificate holder for a period not to exceed ninety days. [*A. Floor*]

AB 3821 (Hughes), as introduced February 21, would allow outstanding government fees, fines, or penalties to be accepted as claims by collection agencies. [*A. Floor*]

SB 1766 (Dills), as amended May 4, would have specifically excluded the following from the definition of a repossession agency: (1) the legal owner and the registered owner of a vehicle who have agreed to the return of the vehicle and where a tow truck operator has a signed authorization from the registered and legal owner to pick up the vehicle at a designated location; and (2) the legal owner of a vehicle who requests the removal of the vehicle that has been stored pursuant to specified provisions and where all interested parties have been notified of the vehicle's location and the right to removal, and the registered owner of the vehicle has not made any attempt to recover the vehicle. This bill was rejected by the Senate Business and Professions Committee on May 11.

The following is a status update on bills discussed in detail in CRLR Vol. 12,



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No. 1 (Winter 1992) at page 53:

AB 1180 (Murray), as amended May 7, would amend Business and Professions Code section 7548 to provide that no licensed private patrol operator, qualified manager, or registered security guard shall, during the course and scope of licensed activity, carry a concealed weapon, unless the person has been issued a permit to carry a pistol, revolver, or other firearm capable of being concealed upon the person in a concealed manner by a local law enforcement agency pursuant to Penal Code section 12050. [S. Jud]

SB 315 (Deddeh) would exclude newspaper carriers and other independent delivery contractors engaged in the collection of subscriptions or wholesale payments for newspapers from the term "collection agency" as used in the Collection Agency Act. SB 315 would also extend the sunset date of the Collection Agency Act from June 30, 1992 until June 30, 1993. [A. BF&BI]

SB 1083 (Robbins) would have provided that persons licensed as collection agencies are deemed to be attorneys-in-fact for purposes of depositing or transferring client funds to or from individual or pooled client trust deposits with banks, and that the authorized signatures and instructions of these licensees on items deposited and transfers made to and from the trust deposits of their clients are valid, whether or not the principal-agent relationship is indicated on the item or instruction. This bill died in committee.

RECENT MEETINGS:

At PSAB's January 17 meeting, the Board reviewed and approved the following as its goals for 1992: (1) pursuing more input from industry members, specifically regarding training, discipline, and BCIS services; (2) having each member of the Board's committees monitoring Discipline Review Committee (DRC) operations attend one DRC meeting during the year; (3) encouraging interaction between the private security industry and law enforcement agencies, with a focus on new techniques, information sharing, and safety issues; (4) establishing a proposed private security training program by the end of the year; (5) continuing a closer relationship between the Advisory Board and the DRCs; and (6) involving all Board members in committee assignments. PSAB also formed a new committee to promote a liaison with law enforcement agencies.

Also at its January 17 meeting, PSAB unanimously re-elected Bruce Westphal as Chair; Alex Stiglitz as Vice-Chair; and Francis Stoffels as Secretary.

At CAB's February 5 meeting, DCA Director Jim Conran addressed the Board, emphasizing his intent to work with all of the DCA boards, bureaus, and agencies in a proactive manner. Conran also noted that he will be taking an active role in addressing many of the concerns of DCA agencies.

Also at its February 5 meeting, CAB discussed medical provider consultants (MPCs) who receive and deposit funds in their own accounts to be held for the provider, noting that such consultants must be licensed as collection agencies. However, Health and Safety Code section 1249.51 provides that so long as the activities of a MPC licensee are limited to authorized activities, the MPC is not required to be licensed as a collection agency. The Board expressed concern that many unlicensed companies are presently engaged in activities which require licensure as a MPC, collection agency, or both. Chief Diaz noted that staff will thoroughly investigate this issue and present its findings at a future meeting.

FUTURE MEETINGS:

PSAB: October 9 in Bakersfield.

CAB: October 9 in Palm Desert.

CONTRACTORS STATE LICENSE BOARD

Registrar: David Phillips

(916) 366-5153

Toll-Free Information Number: 1-800-321-2752

The Contractors State License Board (CSLB) licenses contractors to work in California, handles consumer complaints, and enforces existing laws pertaining to contractors. The Board is authorized pursuant to the Contractors State License Law (CSLL), Business and Professions Code section 7000 *et seq.*; CSLB's regulations are codified in Division 8, Title 16 of the California Code of Regulations (CCR).

The thirteen-member Board, consisting of seven public members, five contractors and one labor member, generally meets every other month. The Board maintains six committees: legislative, enforcement, licensing, public information, strategic planning, and budget/administration. In addition, the Board maintains a Fire Protections Systems Ad Hoc Committee. Committees meet every one to three months, and present recommendations for requested action at the full Board meetings.

MAJOR PROJECTS:

OAL Approves Revised CSLB Com-

plaint Disclosure Policy. At its January 17 meeting, CSLB unanimously adopted proposed amendments to its complaint disclosure policy, codified at section 863, Division 8, Title 16 of the CCR (Rule 863). The amendments preclude CSLB from disclosing pending complaints against a contractor until such complaints are fully investigated and referred for legal action. "Legal action" means referral of the complaint for the issuance of a citation, accusation, statement of issues, or the initiation of criminal action or injunctive proceedings. Previously, CSLB staff were authorized to disclose to an inquiring consumer the fact that a complaint had been filed against a contractor once the complaint had survived a screening process and been assigned to a CSLB deputy registrar for formal investigation. [12:1 CRLR 53; 11:4 CRLR 70-71; 11:3 CRLR 69]

The Board's decision followed an October 3 meeting between the staffs of the Department of Consumer Affairs (DCA) and CSLB, during which DCA staff expressed an unfavorable opinion of the proposed amendments. When questioned by Center for Public Interest Law intern Marc Doss at its January 17 meeting, neither the Board nor staff would explain the reasons for DCA's dissatisfaction with the amendment. Without discussion, the Board voted to submit the rulemaking file to DCA Director Jim Conran, who approved the amended version of Rule 863; the Office of Administrative Law (OAL) approved the amendment on April 10. Accordingly, as of July 1, pending complaints against contractors will not be disclosed to inquiring consumers until an investigation has been completed and the complaint has been referred for legal action.

Other Regulatory Action. Following a January 17 public hearing, the Board approved its proposed amendment to section 832.07, Title 16 of the CCR, regarding Class C-7 Low Voltage Contractors. [12:1 CRLR 53-54] C-7 contractors are currently authorized to install and maintain low voltage systems which are energy limited and do not exceed 91 volts, including low voltage fire alarms; the proposed changes would delete authorization for C-7 low voltage contractors to install low voltage fire alarm systems. Because of the safety considerations involved in fire alarm installation, representatives from the State Fire Marshal's office, several fire departments, and the fire alarm industry expressed support for removing low voltage fire alarm systems from the scope of the C-7 classification.

At the January 17 hearing, contractors