



tract price or the demand for damages is equal to or less than \$5,000. [S. B&P]

**AB 2192 (Frazee)**, as amended April 20, would require CSLB to provide for and collect \$3 from applicants for new or renewal licenses issued under the CSLL, to be deposited by the Controller into a Trust Account in the Special Deposit Fund for the exclusive support of the California Uniform Construction Cost Accounting Commission. [S. B&P]

**AB 1969 (Areias)**, as amended January 6, is a CSLB-sponsored bill which would appropriate \$100,000 from the Contractors License Fund to CSLB, without regard to fiscal year, to be made available for expenditure in the event of a state of emergency declared by the Governor, to fund the programs and activities of CSLB related to the emergency. [S. Appr]

**SB 56 (Ayala)**. Existing law authorizes the Registrar to deny, suspend, or revoke the license of any contractor for a willful departure in any material respect from accepted trade standards for good and workmanlike construction, unless the departure is in accordance with plans and specifications prepared by or under the direct supervision of an architect. As amended April 20, this bill would define "willful," as applied to the intent with which an act is done or omitted, as a purpose or willingness to knowingly commit an act or make an omission.

Existing law exempts from licensure under the CSLL any work or operation on one undertaking or project by one or more contracts, if the aggregate contract price is less than \$300. This bill would require any person providing or performing any contracting work or operation pursuant to that exemption who advertises for the performance of that work or operation to prominently disclose that he/she is not a licensed contractor. [A. CPGE&ED]

**AB 1746 (Eaves)**. Existing law requires every employer, at the time of each payment of wages, to furnish each employee with an itemized written statement showing specified information, and to keep those records for at least three years. As amended April 30, this bill would provide that any holder of a state contractor's license who violates the statement or records requirement twice within a five-year period shall, upon notice by the Labor Commissioner to CSLB, be ineligible for license renewal by CSLB. [S. B&P]

## RECENT MEETINGS:

At CSLB's January 17 meeting, staff reported that field offices are continuing to make progress in reducing the number of aged complaints. For example, staff

stated that a number of district offices had eliminated all complaints over one year old and that other offices were beginning to eliminate all complaints over six months old. [12:1 CRLR 55; 11:4 CRLR 73]

At CSLB's April 24 meeting in Berkeley, numerous licensees expressed their outrage at the number of unlicensed contractors doing business in the state. Phil Meyer of Phil Meyer Floors in Lafayette complained that he had carefully documented and sent to CSLB evidence of unlicensed activity by 34 contractors; Meyer alleged that the Board's only response was to send the unlicensed contractors application forms. A general contractor also complained that when cities are willing to grant permits to unlicensed contractors, it creates a disadvantage for licensed contractors. Although acknowledging the unfair competition posed by unlicensed contractors, Registrar David Phillips reminded the audience that the Board's first priority is to respond to the 31,000 annual consumer complaints against licensed contractors.

## FUTURE MEETINGS:

To be announced.

## BOARD OF COSMETOLOGY

*Executive Officer: Denise Brown (916) 445-7061*

In 1927, the California legislature enacted the Cosmetology Act, establishing the Board of Cosmetology (BOC). The Board is empowered to require reasonably necessary precautions designed to protect public health and safety in establishments related to any branch of cosmetology. BOC's enabling legislation is found in Business and Professions Code section 7300 *et seq.*; the Board's regulations are codified in Division 9, Title 16 of the California Code of Regulations (CCR).

Pursuant to this legislative mandate, the Board regulates and issues separate licenses to salons, electrologists, manicurists, cosmetologists, and cosmeticians. It sets training requirements, examines applicants, issues certificates of registration and licenses, hires investigators from the Department of Consumer Affairs (DCA) to investigate complaints, and disciplines violators with licensing sanctions.

The Board is comprised of seven members—four public members and three from the industry. It is required to hold meetings at least four times per year.

On July 1, 1992, BOC and the Board

of Barber Examiners (BBE) 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:

**Consumer Awareness Plan.** At BOC's direction, its Consumer Services Committee has drafted one-page fact sheets containing consumer information on nail services, esthetics, pedicuring, chemical services, electrolysis, and in-home services for the physically incapacitated; BOC is also preparing a fact sheet on chemical skin peeling (*see infra*). [12:1 CRLR 56] These sheets define and describe the various services, specify who may perform them, and convey miscellaneous information concerning the services. The sheets also describe the boundaries of BOC's jurisdiction and provide the Board's address and phone number for persons wanting further information or guidance. At its March 15 meeting, the Committee presented to BOC the brochure it had created from these fact sheets. The Board plans to make these informational brochures available to all interested consumer groups and distribute them at all cosmetology and electrology establishments.

**Task Force on Chemical Skin Peeling.** On January 4, BOC convened a meeting of its Task Force on Chemical Skin Peeling; the purpose of the meeting was to develop, if appropriate, guidelines on the safe and proper use (or non-use) of chemical substances by licensed estheticians and cosmetologists for the purpose of skin peeling and/or deep exfoliation. [12:1 CRLR 56]

At BOC's March 15 meeting, the Task Force presented its recommendations and proposed guidelines to the Board. The Board agreed that the proposed guidelines were generally acceptable, but that they needed to be amended to clarify that licensees are authorized to safely remove layers of dead skin only, as opposed to living tissue. The Board also directed the Task Force to delete definitions of the terms "peeling" and "exfoliation."

At BOC's May 3 meeting, the Task Force presented the following revised guidelines to the Board:

—Licensees of the Board should be prohibited from using any chemical sub-



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stances, equipment, preparations, or procedures for the purpose of removing living tissue.

—Board staff will examine the current curriculum to ensure that (1) licensees are receiving adequate training in safely removing layers of dead skin; (2) students know the difference between removing dead skin and removing living tissue; and (3) training includes procedures for using chemical products. If the curriculum is not adequate in these areas, staff will develop curriculum requirements which ensure that these areas are covered in the school curriculum.

—The Board will adopt regulations specifying that (1) only the non-living, uppermost layers of the epidermis may, by whatever method or means, be removed for the purpose of beautification; (2) affecting tissues below the epidermis constitutes the practice of medicine; and (3) only pre-packaged chemical products may be used for the removal of dead skin.

—Once regulations are adopted, Board staff will write an article on them for inclusion in its newsletter and dissemination to all licensed establishments. Staff will also develop a consumer fact sheet on skin peeling.

These revised guidelines were approved by BOC at its May 3 meeting. Once the Board merges with BBE, it is expected to look into drafting the proposed regulations.

**Saturday Inspection Pilot Program.** The new Barbering and Cosmetology Act, effective July 1, 1992, states that it is the intent of the legislature that BBC conduct inspections on Saturdays and Sundays, as well as weekdays. [12:1 CRLR 56] At its January 5 meeting, BOC decided to implement a four-month-long pilot program during which each inspector will conduct inspections on one or more Saturdays per month. BOC anticipates that the results of the pilot program will be useful to the merged board in its efforts to meet this mandate.

**Update on Merger Activities.** The following update on the upcoming BOC/BBE merger was presented to BOC at its May 3 meeting:

—A proposed merged organizational chart has been prepared by BOC and the Department of Consumer Affairs (DCA), and has been submitted to the Department of Personnel Administration.

—BOC's office manager is working with DCA's accounting office to make certain all accounting codes and fees are correct for reports generated to the Controller's Office. The office manager has also completed work with DCA's Information Systems Division to make certain

all licenses and renewal forms are properly printed.

—The final draft of BBC's proposed regulations was reviewed by both boards in March.

—Cross-training for barber and cosmetology staff started on April 22.

—The enforcement coordinator is working on revisions and procedures for the complaint, cite and fine, and site inspection tracking systems so they will be ready to accept records for the new board. The enforcement coordinator also held a joint meeting of all barber and cosmetology inspectors on April 16-17.

**Proposed Regulatory Changes.** On January 24, BOC published notice of its intent to repeal section 910, adopt a new section 910 as well as new section 963.6, and amend section 990, Title 16 of the CCR.

Existing section 910 describes the application process required for a license to conduct a school of cosmetology. However, effective January 1, 1991, AB 2925 (Mojonnier) (Chapter 1674, Statutes of 1990), repealed BOC's authority to license schools of cosmetology, instead granting that responsibility to the Council for Private Postsecondary and Vocational Education. [10:4 CRLR 70] However, AB 2925 added language to the Cosmetology Act providing for the "approval" of schools by BOC and specified certain requirements that schools must meet to obtain that approval. However, according to BOC, existing regulations do not provide for a process by which schools shall verify that they meet all requirements and obtain approval from the Board. Therefore, BOC has proposed the adoption of new section 910 to establish that process, which it contends would provide a simple and effective procedure for the approval of schools of cosmetology and electrology and would help ensure that such schools meet the requirements specified in law.

SB 985 (Deddeh) (Chapter 1015, Statutes of 1991) requires BBC, after July 1, 1992, to adopt regulations providing for the submittal of "pre-applications" for admission to the examination from students of approved cosmetology, electrology, or barbering schools who have completed at least 75% of the required course clock hours and curriculum requirements (60% for students of the manicurist course). [11:4 CRLR 74] Because the waiting period to take BOC's licensing examination is often between two to four months, SB 985 was enacted to authorize the Board to accept applications from students before they graduate, thus allowing applicants to enter the process earlier and reducing the time after graduation during

which applicants must wait to take the exam. BOC's proposed new section 963.6 would provide for the submittal of such pre-applications. In conjunction with the adoption of section 963.6, BOC is proposing to amend section 990, to require a \$9 fee to cover the costs of processing pre-applications.

On March 15, BOC conducted a public hearing on these proposed regulatory changes. No public comment was offered on any of the proposals; the Board unanimously adopted all of the revisions. At this writing, the rulemaking package awaits review and approval by the Office of Administrative Law.

### LEGISLATION:

**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. SB 2044 would also provide that if, upon investigation, BBC 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 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]

**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 allow current fees established by BBE to remain in effect until they are changed by BBC.



The bill's provisions would become effective on July 1, 1992. [S. B & P]

## RECENT MEETINGS:

At its January 5 meeting, BOC unanimously agreed to support legislation that would grant BBC the authority to order an unlicensed person who is advertising cosmetology services in the telephone directory to request that the phone company disconnect telephone service at the unlicensed business (see *supra* LEGISLATION).

On May 3 in Redding, BOC conducted its final meeting. The Board took that opportunity to review various accomplishments made by BOC during its 65-year existence, such as being the first cosmetology board in the nation to develop and require a specific course on health and safety and hazardous substances in the cosmetology workplace to be taught in schools; adopting regulatory changes to ensure the highest practical level of disinfection and sterilization possible to specifically deal with the prevention of bloodborne diseases; promoting consumer and licensee awareness on a variety of subjects; developing a job-related, health and safety-oriented licensing examination; supporting the merger of BOC and BBE; and automating various Board functions to increase service and productivity.

## BOARD OF DENTAL EXAMINERS

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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 assistant (RDA), and four public members. At its January 24 meeting, BDE welcomed new members Joel Strom, DDS, and Stephen Yuen, DDS. On February 20, Governor Wilson announced his appointment of John Berry, DDS, and Peter Hartman, DDS, to the Board. The remaining 1992 members are James Dawson, DDS, president; Gloria Valde, DMD, vice-president; Joe Frisch, DDS, secretary; Pamela Benjamin, public member; Victoria Camilli, public member; Martha Hickey, public member; Carl Lindstrom, public member; Evelyn Pangborn, RDH; Jean Savage, DDS, and Hazel Torres, RDA.

## MAJOR PROJECTS:

**Board Discusses Citation and Fine Mechanism.** At its May 8 meeting in Sacramento, the Board held an informational hearing to discuss proposed regulatory language to implement SB 650 (Alquist) (Chapter 521, Statutes of 1991). SB 650 authorizes BDE to establish by regulation a system for issuing a citation, which may contain an order of abatement or an order to pay an administrative fine, for violation of the Dental Practice Act or any regulation adopted by BDE pursuant to that law. In order to implement SB 650, BDE developed a draft proposal of regulatory language and requested that interested parties submit comments on the proposal at the May 8 informational meeting. Among other things, the proposed language addresses the citation format; civil penalties for citations; the factors to be considered in assessing a citation; and the process of contesting a citation. BDE anticipates holding a formal regulatory hearing on the proposal in September; at this writing, the Board has not yet published notice of its intent to pursue this regulatory action in the *California Regulatory Notice Register*.

**BDE Proposes Amendment to Conscious Sedation Evaluator Regulation.** The passage of AB 1417 (Speier) (Chapter 526, Statutes of 1989) added sections 1647.2-1647.9 to the Business and Professions Code, requiring BDE to establish a permit procedure for the use of conscious sedation by dentists by January 1, 1992. [10:4 CRLR 71] Conscious sedation (CS) differs from general anesthesia

(GA) in that, under CS, patients are able to maintain an airway independently and continuously, and respond appropriately to physical stimulation and verbal command. Under GA, patients are in a controlled state of depressed consciousness or unconsciousness, accompanied by partial or complete loss of protective reflexes.

Under Business and Professions Code section 1647.3, in order to become eligible for a CS permit, a dentist must submit evidence showing that his/her office has the appropriate equipment and drugs required by the Board; and that he/she has satisfactorily completed a 60-hour course of instruction in CS which includes at least 20 cases of administration of CS for a variety of dental procedures and complies in all respects with the requirements of the 1985 Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry of the American Dental Association (ADA). In determining whether a dentist is eligible for a CS permit, BDE may, at its discretion, require an onsite inspection and evaluation of the licensee and the facility, equipment, personnel, and procedures utilized by the licensee.

Under Business and Professions Code section 1647.4, dentists who had been using CS prior to 1990 were permitted to apply for a temporary permit on or before June 30, 1991, to enable them to continue administering CS; that temporary permit, good for one year, was available to dentists who could document 20 cases of CS performed subsequent to January 1, 1989, and successful completion of a course of study equivalent to the ADA's 1982 guidelines.

At BDE's May meeting, its Conscious Sedation Committee proposed that the Board amend section 1043.2, Division 10, Title 16 of the CCR, which addresses the composition of an onsite inspection and evaluation team. Specifically, section 1043.2(b) states, in part, that in order to become an evaluator for conscious sedation, an applicant must meet the CS permit requirements as stated in Business and Professions Code section 1647.3, which requires completion of a course of training equivalent to the 1985 ADA guidelines. As such, BDE contends that the pool of potential experienced evaluators is limited. According to BDE, the permittees who qualified for a temporary permit under Business and Professions Code section 1647.4(b) should also be eligible to become an evaluator, since these applicants were also required to complete an ADA-approved course of instruction. The major difference between the two ADA-approved guidelines for the courses is the number of cases performed during the