



REGULATORY AGENCY ACTION

by the Governor on September 12 (Chapter 674, Statutes of 1992).

AB 2483 (Bentley) prohibits antifreeze and coolant from containing suspended matter or sediment; provides that alcohol-based coolants and antifreeze, excluding glycols, are not suitable for use in automotive engines and prohibits their sale and distribution; changes the labeling requirements for engine coolants, antifreeze, and prediluted engine coolants; and makes it unlawful for any person or other legal entity to make any deceptive, false, or misleading statement by any means whatever regarding quality, quantity, performance, price, discount, or savings in the sale or selling of any regulated automotive product. This bill was signed by the Governor on July 23 (Chapter 322, Statutes of 1992).

SB 1294 (Presley). Existing law establishes BAR's I/M Review Committee to analyze the effect of the Smog Check Program on motor vehicle emissions and air quality; the Committee is required to prepare and submit to the legislature on or before December 31, 1992, a report on the effect of existing cost limitations for repairs required under the program. This bill requires the Review Committee, in consultation with ARB and DCA, to include in that report its recommendations for improving the effectiveness and cost-effectiveness of the program, including, at a minimum, prescribed information. The report is expected to be an outline of proposed legislation for 1993 which will address an enhanced and revised Smog Check Program which conforms with the performance standards to be established by EPA under the 1990 Clean Air Act Amendments (*see supra* MAJOR PROJECTS). This bill was signed by the Governor on September 12 (Chapter 677, Statutes of 1992).

SB 1404 (Hart) authorizes ARB, in consultation with DCA, to adopt non-regulatory guidelines specifying the amount and types of pollutants that qualify a motor vehicle as a gross polluter, as defined. The bill also authorizes DCA, in cooperation with law enforcement authorities, to conduct programs using remote sensing devices or other methods to identify gross polluters, and requiring gross polluters to be tested and repaired. This bill was signed by the Governor on September 26 (Chapter 972, Statutes of 1992).

SB 2044 (Boatwright) declares legislative findings regarding unlicensed activity and authorizes all DCA boards, bureaus, and commissions, including BAR, to establish by regulation a system for the issuance of an administrative cita-

tion 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 also provides that the unlicensed performance of activities for which a BAR 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 provides that if, upon investigation, BAR 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 was signed by the Governor on September 28 (Chapter 1135, Statutes of 1992).

AB 2743 (Frazee) is the Department of Consumer Affairs' omnibus bill. The bill permits a DCA licensing board 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 also provides, 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. This bill was signed by the Governor on September 30 (Chapter 1289, Statutes of 1992).

AB 598 (Elder) was substantially amended and is no longer relevant to BAR.

The following bills died in committee: **AB 2489 (Hayden)**, which would have required the California Environmental Protection Agency to prepare a list of chlorofluorocarbons for which substitutes are available and dates by which their implementation would be feasible, and **AB 1828 (Areias)**, which would have provided that in all instances where non-original 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 information and printed in a specified type must be attached to the insured's copy of the estimate and be acknowledged by the insured.

BOARD OF BARBERING AND COSMETOLOGY

Interim Executive Officer:
Rualette White
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On July 1, 1992, pursuant to AB 3008 (Eastin) (Chapter 1672, Statutes of 1990), the enabling statutes of the Board of Barber Examiners (BBE) and the Board of Cosmetology (BOC) were repealed and replaced with an enabling act creating the Board of Barbering and Cosmetology (BBC); that act is found at Business and Professions Code section 7301 *et seq.* The newly-created BBC provides for the licensure and regulation of persons engaged in the practice of performing specified acts relating to barbering, cosmetology, and electrolysis. The Board is also authorized to conduct and administer examinations, adopt regulations governing public health and safety, and discipline persons in violation of its statutes or regulations. BBC represents the first merger of two California regulatory agencies. The Board consists of nine members, five public and four representing the professions, and will hold meetings at least four times per year.

MAJOR PROJECTS

New Members Appointed to BBC. Pursuant to AB 3008, BBC consists of nine members—five public and four industry members. The Governor is authorized to appoint three of the public members, two licensed cosmetologists, and two licensed barbers; the Senate Rules Committee and the Speaker of the Assembly are each authorized to appoint one public member. At BBC's first meeting on September 14, only six of the Board members had been appointed:

- Paul Schwager, Assembly Speaker Willie Brown's appointee, will serve as a public member. Schwager, who resides in Orange, is a labor representative to the United Food and Commercial Workers Union Local 324. Schwager served as a public member on BBE prior to the merger.

- Howard Stein, DDS, the Senate Rules Committee's appointee, is a retired dentist who will serve as a public member. Stein, of Huntington Beach, is currently the chief executive officer of Ramstone Management Company, Inc. Stein served as a public member on BOC prior to the merger.

- Carole Matchette, Governor Wilson's appointee, will serve as a public member. Matchette, from Tarzana, served for nine years as a sales advisor and recruiting and



training director for Vanda Beauty Counselor, a division of Dart Industries.

- Jeanette Keaton, Governor's Wilson's appointee, will serve as a public member. Keaton is a realtor from San Francisco.

- DiAnn Eastman, Governor Wilson's appointee, will serve as a representative from the cosmetology industry. Eastman, from Pleasanton, has been a self-employed cosmetologist since 1973.

- Daniel Sierras, Governor Wilson's appointee, will serve as a representative of the barber industry. Sierras, from Sacramento, has been a licensed barber for 27 years.

BBC Reviews Applications for a New Executive Officer. AB 3008 provides for the appointment of a new executive officer by BBC, subject to confirmation by the Director of the Department of Consumer Affairs (DCA). At its September 14 meeting, BBC discussed the selection process for finding a new executive officer. DCA personnel analyst Debi Robinson announced that the Department had already circulated an advertisement regarding the position in the *Sacramento Bee*, *Los Angeles Times*, and *San Francisco Chronicle*; the ad requested that all applicants possess a bachelor's degree in specified areas or postsecondary education and experience in preparation for a management or leadership role, knowledge of current consumer issues in the barbering and cosmetology professions, legislative or lobbying experience, administrative experience, and management skills. As the intent of the DCA personnel office was to present the Board with a pre-screened group of applicants, the deadline for applications was June 15. The personnel office received 320 applications, 255 of which were considered not to meet the minimum qualifications for the job.

The Board established an ad hoc committee consisting of DiAnn Eastman and Daniel Sierras to review the applications and select a number of finalists to be reviewed by the entire Board. The Board also directed the ad hoc committee to keep the pre-screened "qualified" and "non-qualified" applications separate, but to review every application. The committee hoped to present a list of finalists for the Board to review at its November meeting.

DCA Files Merger Report. DCA Director Jim Conran recently submitted a report to the Senate Business and Professions Committee and the Assembly Committee on Consumer Protection, Governmental Efficiency, and Economic Development regarding the hours and curriculum required by California schools of barbering and cosmetology, an assess-

ment of their appropriateness, and recommendations on the need to revise the current hour and curriculum requirements. The report noted that authority for licensing cosmetology and barbering schools in California is now vested in the Council for Private Postsecondary and Vocational Education (CPPVE); however, BBC will regulate the curriculum of barbering and cosmetology schools in the state, including the minimum hours of technical instruction and practical operations for each subject. The number of required hours for BBC applicants remains the same in all but two categories: AB 3008 increased the required number of hours for the barbering instructor course from 400 to 600 hours, and increased the electrolysis course from 500 to 600 hours. Due to the increasing failure rate of cosmetology examinees and the emphasis on consumer protection issues, the former BOC implemented a number of changes and additions to cosmetology course content requirements such as requiring instruction in hazardous substances, disinfection, sanitation methods, and communication skills.

OAL Approves BOC Regulatory Action. On May 29, the Office of Administrative Law (OAL) approved BOC's proposal to adopt sections 910 and 963.6, amend section 990, and repeal section 910, Title 16 of the CCR. This regulatory action sets forth the procedures for schools of cosmetology or electrology to obtain Board approval and sets forth the procedures and fee for preapplication for examination for licensure. [*12:2&3 CRLR 80*]

BBE Rulemaking Wrap-Up. When BBC came into existence, it retained the authority to operate under and enforce both BBE and BOC's regulations existing prior to July 1, until BBC promulgates new regulations. Prior to its expiration, BBE commenced the rulemaking process to adopt section 299, Title 16 of the CCR, which would specify its licensing fees in regulation. [*12:2&3 CRLR 69*] Because BBE did not forward the rulemaking file to OAL for review and approval prior to July 1, the rulemaking proposal died when BBE sunsetted. However, AB 3062 (Wright) was amended to provide that BBE's fees will remain in effect until they are changed by BBC (*see infra* LEGISLATION).

LEGISLATION

The following is a status update on bills reported in detail in CRLR Vol. 12, Nos. 2 & 3 (Spring/Summer 1992) at pages 69 and 80:

SB 2044 (Boatwright) declares legislative findings regarding unlicensed ac-

tivity and authorizes 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 also provides 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 also provides 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. This bill was signed by the Governor on September 28 (Chapter 1135, Statutes of 1992).

AB 3062 (Wright) makes clarifying changes to the Barbering and Cosmetology Act. For example, the bill requires an application for a license to be made whether the person is operating a new establishment or obtaining ownership of an existing establishment; requires BBC to establish methods deemed appropriate for utilizing a photograph of the licensee to verify licensure status; authorizes 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 allows current fees established by BBE to remain in effect until they are changed by BBC. The bill, which was signed by the Governor on July 14 (Chapter 213, Statutes of 1992), became effective on July 1, 1992.

RECENT MEETINGS

At its final meeting on June 22, BBE discussed the California Barber College Association's proposal to seek amendments to Business and Professions Code section 7362.5(a) to lower the minimum required number of hours of barber training from 1,500 to 1,000; Association President Don Knauss noted that such a move could make the barber industry more competitive. During BBE's discussion regarding possible support for the proposal, DCA Director Jim Conran commented that a vote on this issue would be meaningless since BBE would no longer



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be in existence and would not be able to lobby in support of the proposal; Conran opined that this issue should be left to BBC to resolve. However, Board members noted that because they are familiar with the issues involved, they should voice their opinion; BBE subsequently agreed to support the proposal, even if such support is only symbolic.

At BBC's first meeting on September 14, DCA Director Conran discussed the goals of the Board, commenting that the most important function of BBC is to ensure that the public is protected against health hazards and inefficient licensees; Conran opined that the newly-implemented annual inspection requirement for cosmetology salons and barber shops will improve health standards. Conran also noted that BBC's most pressing task is to select a new executive officer who will ensure that BBC is efficient and effective in serving both the public's and the industry's needs. Conran also asked BBC to examine the content and methods of teaching in barbering and cosmetology schools; Conran noted that some schools focus too much on business skills, instead of training competent professionals. Finally, Conran requested that the Board look into inactive licensing procedures.

Although BBC will not elect its officers until its November meeting, Dr. Stein was selected to serve as interim chair. Stein proposed that the Board postpone election of officers until Governor Wilson appoints the final three Board members; however, DCA legal counsel Dan Buntjer stated that Business and Professions Code section 7307 requires BBC to select a President and Vice-President at its second meeting, regardless of how many Board members have been appointed.

Interim Executive Officer Rualette White informed the Board that 400,000 BBE and BOC licensing files had been integrated into one filing system; an automated telephone system had been developed and implemented; a new organizational structure is being reviewed to ensure the efficient handling of all regulatory tasks for the large number of BBC licensees; and BBC is working with the labor occupational health program at UC Berkeley to develop a new health and safety curriculum for BBC licensees. White also announced that the number of BBC inspectors will increase from ten to seventeen by the end of 1992; therefore, more cosmetology and barber shops will be inspected each year. Finally, White discussed the development of a task force to improve communication among BBC, examiners, and schools; White opined that

examiners should have more input regarding the required curriculum, and students should be provided with examination performance criteria in order to better prepare them for their exams.

■ FUTURE MEETINGS

To be announced.

BOARD OF BEHAVIORAL SCIENCE EXAMINERS

Executive Officer:
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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).

■ MAJOR PROJECTS

Board Reviews Legislative Proposal Regarding Petitions for Reinstatement.

At its September 24 meeting, BBSE reviewed a draft legislative proposal regarding petitions for reinstatement; specifically, the proposal would revise Business and Professions Code sections 4982.1 and 4982.2. Existing section 4982.2, regarding circumstances under which BBSE may place a license or registration on probation, would be renumbered as section 4982.1. Existing section 4982.2(d) would be deleted. That section currently provides that one year after the date of revocation of a BBSE license or registration, the disciplined licensee may apply to the Board for reinstatement; the Board may accept or reject an application for reinstatement and may require an examination for reinstatement; and the Board shall not consider any application for reinstatement if the applicant is under criminal probation or parole at that time.

New section 4982.2 would provide that an MFCC, LCSW, or LEP whose license has been revoked or suspended or who has been placed on probation may petition the Board for reinstatement or modification of penalty, including modification or termination of probation, after not less than the following minimum periods have elapsed from the effective date of the decision ordering that disciplinary action, or (if the order of the Board, or any portion of it, is stayed by the Board itself, or by the superior court) from the date the disciplinary action is actually implemented in its entirety:

-at least three years for reinstatement of a license which was revoked for unprofessional conduct, except that the Board may, in its sole discretion at the time of adoption, specify in its order that a petition for reinstatement may be filed after two years;

-at least two years for early termination of any probation period of three years or more; or

-at least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination of probation of less than three years.

Section 4982.2 would also provide that the petition must be submitted on a form provided by BBSE and shall state such facts and information as may be required by the Board, including but not limited to proof of compliance with the terms and conditions of the underlying disciplinary order. Section 4982.2 would also provide that the petition may be heard by the Board itself, or the Board may assign the petition to an administrative law judge pursuant to Government Code section 11512.

At BBSE's September 24 meeting, Deputy Attorney General (DAG) Earl Plowman noted that this proposal might help reduce BBSE's administrative costs, since it would decrease the number of petitions for reinstatement eligible for review to those meeting the specified requirements. At this writing, BBSE is expected to pursue these amendments in the upcoming legislative session.

Board Continues Discussion on MFCC/LCSW Experience/Supervision Issues. At its September 24-25 meeting, BBSE continued its year-long discussion regarding several issues related to the prelicensure supervised experience requirements for MFCCs and LCSWs. For example, BBSE is attempting to determine the acceptability of out-of-state MFCC and LCSW experience gained by an individual who resides in California, has a qualifying degree from a California institution, and is under supervision by a