



REGULATORY AGENCY ACTION

and the Bureau from adequately regulating the collection agency industry. According to Wilson, in the absence of a state regulatory agency, state and federal law will continue to control collection practices as enforced by appropriate law enforcement agencies." (See *supra* MAJOR PROJECTS.)

SB 2044 (Boatwright) declares legislative findings regarding unlicensed activity and authorizes all DCA boards, bureaus, and commissions, including BCIS, 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 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 also provides 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 also requires 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 also makes it a crime to commit these same acts regarding protection dog operators. This bill also requires that an application for registration as an employee of a protection dog operator be accompanied by two classifiable fingerprint cards and requires 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 provides that the

DCA Director may refuse to issue a license pending final disposition of any investigation of any criminal activity and subjects certain licensees, certificate holders, and registrants to payment of fees and fines, as specified. This bill also requires lease agreements, monitoring, and service agreements for alarm systems to be in writing and specifies the contents of the agreement.

This bill also eliminates PSAB, reinstates BCIS' Private Security Disciplinary Review Committees, and requires the Governor to appoint the members of those two committees and BCIS' alarm company operator disciplinary review committee. This bill was signed by the Governor on September 28 (Chapter 1135, Statutes of 1992).

AB 2917 (T. Friedman) provides that, effective October 1, 1993, BCIS shall not issue a firearms permit qualification card to persons prohibited from carrying a firearm under specified law. This bill also requires BCIS to supply the Department of Justice (DOJ) with information to identify the applicant, and requires DOJ to inform DCA, 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 allows DOJ to charge a fee sufficient to reimburse its costs of furnishing firearm eligibility information and requires BCIS to increase the fingerprint processing fee to cover its costs of obtaining that information from DOJ. This bill was signed by the Governor on September 30 (Chapter 1341, Statutes of 1992).

AB 2443 (Horcher). Regarding repossession, 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. This bill instead provides that such information of any licensee, principal owner of a licensee, qualified certificate holder, or applicant for a qualification certificate shall be confidential.

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 deletes those provisions and revises 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. This bill was signed by the Governor on September 27 (Chapter 1072, Statutes of 1992).

AB 1180 (Murray)—among other things—amends 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 pistol, revolver, or other firearm capable of being concealed upon the person unless the person has been issued a permit to carry the weapon by a local law enforcement agency pursuant to Penal Code section 12050. This bill was signed by the Governor on September 30 (Chapter 1340, Statutes of 1992).

The following bills died in committee: **AB 3131 (Hunter)**, which would have increased various licensing, registration, and other fees for locksmiths, repossessioners, protection dog operators, and private detectives; and **AB 3821 (Hughes)**, which would have allowed outstanding government fees, fines, or penalties to be accepted as claims by collection agencies.

RECENT MEETINGS

At its July 16 meeting, PSAB established a committee to improve communication between law enforcement and private security officers and to foster a better working relationship; Committee Chair Lawrence Richman has already sent letters to all police chiefs and sheriff's departments in California. This committee may survive PSAB's abolition through BCIS' establishment of an ad hoc committee.

CONTRACTORS STATE LICENSE BOARD

Registrar: David Phillips
(916) 255-3900

Toll-Free Information Number:
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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, two General Building-B Contractors, two specialty



contractors, one General Engineering-A Contractor, and one member from a labor organization representing building trades—generally meets four times per year. The Board maintains six committees: legislative, enforcement, licensing, public information, strategic planning, and budget/administration. In addition, CSLB maintains a Fire Protection Systems Ad Hoc Committee. Beginning in October 1992, the committees will meet along with the full Board in combined two-day meetings.

Governor Wilson recently appointed public members Nettie Becker and Robert Laurie and general building contractor Nina Tate to the Board. Assembly Speaker Willie Brown recently appointed John Chalker, a public member, to the Board. Currently, the Board has vacancies for one labor member and one specialty contractor.

MAJOR PROJECTS

State Budget Cuts Plague Board.

CSLB is wrestling with the 10% budget cut that has been mandated by the new state budget for special-funded agencies (see *supra* COMMENTARY); additionally, the Board must reduce its travel expenditures by 50%. At its July 17 meeting, CSLB discussed several possible ways to reduce costs, such as purchasing no new office equipment, eliminating the consumer newsletter, prohibiting staff from working overtime, and limiting the number of telephone lines available to consumers calling CSLB's toll-free number (which will result in only 40% of the callers getting through instead of the current 70%). The budget was scheduled to be a major item of discussion at the Board's October 22-23 meeting in Sacramento.

Report of Enforcement Activities. In the summer 1992 issue of its *California Licensed Contractor* newsletter, CSLB reported its 1992 first quarter license enforcement activities. From January 1 to March 31, CSLB suspended 107 licenses for failure to comply with a citation, 46 licenses for failure to comply with the award of an arbitrator, and one license as a result of disciplinary action. During this same three-month period, CSLB deputies issued 532 citations to unlicensed contractors.

Radical License Classification Changes Proposed. At its June 18 meeting, CSLB's Licensing Committee introduced and discussed a proposal that would completely modify the current General Engineering-A and General Building-B contractor classifications. The proposed revisions grew out of recent concern over

public contracts and the inability of public works officials to accurately distinguish between A and B work. Complex projects, such as airports, multi-story buildings, and structures with elaborate foundations, frequently have the attributes of traditional A and B jobs but, ultimately, only one of the license classifications is chosen by the public agency as appropriate for the project. With recent changes in state law which make contracting out of license class equal to unlicensed contracting, legitimate contractors have been put in jeopardy. Under state law, unlicensed contractors have no standing to sue for their compensation in court; similarly, licensed contractors working out of their license class would likely have no standing to sue.

Thus, the purposes of the proposal, which generated significant debate, are to revise the general classifications to eliminate confusion when bidding on public works projects; make it possible for general contractors to be properly licensed and classified in order to have standing in court to sue for compensation; abandon the "engineering knowledge" and skill terminology in the engineering contractor definition and the "people and animal" terminology from the building contractor classification definition; raise the application standards to a higher level which will afford greater protection to the public and industry; create a natural alignment to the general contractor classifications to conform to the marketplace; and focus enforcement on the residential sector to maximize the resources of the Board.

The four new classes would be as follows:

(1) The AB-General Construction Contractor, the so-called "super general class," would be able to undertake any project of a general nature. The requirements for qualification would be more strict, requiring a significant amount of experience and a higher financial solvency level. The requirement relative to the use of specialty classes would be similar to those for the general building contractor; an application for an additional classification would be required.

(2) The A-General Engineering Contractor classification would remain substantially the same as presently exists, except that the term "requiring specialized engineering knowledge and skill" would be removed.

(3) The B-General Building Contractor classification would be revised only to the extent of cleaning up some language and putting it in a form that coincides with present administrative interpretation. This contractor would be required to use licensed specialty contractors to perform

all C-4, C-10, C-20, and C-36 work on a project.

(4) The R-Residential/Home Improvement Contractor would be similar to the B-General Building Contractor but would be restricted to single-family residences and home improvement projects. This contractor would not be required to use licensed specialty contractors but would be free to do all work on projects that involve three or more unrelated trades or crafts.

The Licensing Committee ended its discussion of the topic by sending the proposal back to staff to consider the comments from participants at the meeting, and to perhaps bifurcate the issues to allow more time to explore the home improvement issue. Sources at CSLB state that it is unlikely that any of these proposed changes will be adopted in their present form.

CSLB Rulemaking. At this writing, CSLB's proposed amendments to section 832.07 and proposed adoption of section 832.28, Title 16 of the CCR, have not yet been submitted to the Department of Consumer Affairs (DCA) for review and approval. The proposed amendments to section 832.07 would delete authorization for Class C-7 low voltage contractors to install low voltage fire alarm systems. Proposed new section 832.28 would create a new specialty license classification for Class C-28 lock and security equipment contractors. [12:2&3 CRLR 76-77] Upon receipt of DCA's approval, the rulemaking proposals will be forwarded to the Office of Administrative Law for review and approval.

LEGISLATION

AB 2743 (Frazee) authorizes CSLB to require a licensee found in violation of the CSLB to pay the Board's costs of investigation and enforcement, as specified; provides that knowingly making a false statement or knowingly omitting to state a material fact required to be revealed in a license application is grounds for the denial of a license; and authorizes CSLB to revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact, or that the licensee, in support of another person's license, knowingly made a false statement of a material fact or knowingly omitted to state a material fact to the Board regarding the application. This bill was signed on the Governor on September 30 (Chapter 1289, Statutes of 1992).

AB 3487 (Friedman). Existing law requires Cal-OSHA's Division of Occupa-



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tional Safety and Health (DOSH) to require a permit for employments or places of employment that by their nature involve a substantial risk of injury, limited to (a) the construction of trenches or excavations, as specified, (b) the construction or demolition of any building structure, falsework, or scaffolding more than a specified height, and (c) the underground use of diesel engines in work in mines and tunnels. This bill would have added lead-related work, as defined, to the list of employments or places of employment that require the issuance of a permit on or after January 1, 1994; required DOSH to propose a regulation containing specified requirements relating to lead-related work to Cal-OSHA's Occupational Standards Board for its review and adoption; required the owner or specified persons to inspect, or cause to be inspected, an building, structure, or soil before any contract is bid or entered into or any work begins, for the presence of dangerous amounts of lead, and provide written notice of the results, as specified; prohibited a contractor from entering into a contract or agreement for contracting services with the owner of a building or structure, or the owner's designated representative, if the owner or the owner's designated representative fails to promptly provide the results of any inspection performed pursuant to these provisions to the contractor, upon the contractor's request, and required that the contractor report the owner's failure to provide the inspection results to DOSH; and provided that if the owner or the owner's designated representative represents that no lead contamination exists in a building or structure, a contractor who discovers lead in the course of his/her work may cease work and recover from the owner any costs incurred by the contractor prior to the cessation of work and, if work is to continue, any costs incurred in order to comply with any lead-abatement work requirements.

Existing law prohibits any contractor from engaging in asbestos-related work unless the qualifier for the license passes an asbestos certification examination, and prohibits any contractor from engaging in a removal or remedial action unless the applicant for the license has passed an approved hazardous substance removal certification examination. This bill would have required any contractor who bids for or engages in lead-related work on or after January 1, 1994, to take and pass a lead-related work certification examination administered by CSLB, and would have authorized CSLB to assess each contractor taking the lead-related certification examination a reasonable fee to cover costs

associated with certification and the administration of the examination. Finally, the bill would have required CSLB to deliver a booklet containing information regarding lead-related work to all contractors, and to maintain and periodically update the list of contractors certified to engage in lead-related work. This bill was vetoed by the Governor on September 30.

AB 3745 (Speier) authorizes CSLB to require licensees who are found in violation of the CSLB to pay the costs of the Board's investigation and enforcement, as specified. This bill was signed by the Governor on September 27 (Chapter 1059, Statutes of 1992).

SB 1840 (Petris). Existing law provides, with respect to works of improvement, including home improvements, that the obtaining of a false completion certificate is a misdemeanor, and specifies certain requirements for a written home improvement contract. This bill would have additionally provided that a violation of certain of those provisions would be a misdemeanor subject to a specified fine based upon the defendant's ability to pay or by imprisonment in the county jail, or both, with respect to acts or violations in connection with damage caused by a natural disaster. This bill was vetoed by the Governor on September 30.

The following is a status update on bills reported in detail in CRLR Vol. 12, Nos. 2 & 3 (Spring/Summer 1992) at pages 77-79:

AB 3155 (Cannella). Existing law requires a licensed contractor to include on all written contracts with respect to which the person is a prime contractor a statement specifying that contractors are required by law to be licensed and regulated by CSLB. This bill requires, in addition, that this statement also specify that CSLB has jurisdiction to investigate complaints against contractors if a complaint is filed within three years of the date of the alleged violation. This bill was signed by the Governor on July 22 (Chapter 312, Statutes of 1992).

AB 2491 (Mountjoy) provides that the failure of a CSLB licensee to notify the Registrar in writing of any entered and unsatisfied judgments within 90 days from the date of judgment shall automatically prohibit the licensee from serving as the responsible managing officer, responsible managing partner, or responsible managing employee for any other licensee. This bill was signed by the Governor on September 27 (Chapter 1045, Statutes of 1992).

AB 2413 (Lancaster). With certain exceptions, existing law provides that a person who engages in the business or acts

in a capacity for which a contractor's license is required may not bring an action for compensation for performance of any act or contract for which a license is required without alleging and proving that he/she was licensed during the time of the performance of the act or contract. This bill eliminates the requirement of proving licensure and instead provides that if licensure or proper licensure is controverted, then proof of licensure shall be made. This bill was signed by the Governor on July 16 (Chapter 229, Statutes of 1992).

AB 2424 (Mountjoy). Existing law allows a contractor's license number to be reissued after cancellation, revocation, suspension, or expiration beyond the specified renewal period only under enumerated circumstances, including to a corporation when the parent corporation has merged or created a subsidiary to act as the licensed contractor and the new entity is being formed to continue the business. This bill instead allows a license number to be reissued after cancellation, revocation, suspension, or expiration to a corporation if there is no change in the status of the corporation as registered with the California Secretary of State. This bill also specifies conditions under which a license number may be reissued or reassigned to a different entity. This bill was signed by the Governor on September 17 (Chapter 746, Statutes of 1992).

AB 2710 (T. Friedman) provides that nothing in the Business and Professions Code shall be interpreted to prohibit cities, counties, and cities and counties from requiring contractors to show proof that they are in compliance with local business tax requirements of the entity prior to issuing any city, county, or city and county permit. This bill also provides that any business tax required or collected as part of this process shall not exceed a specified amount. This bill was signed by the Governor on July 23 (Chapter 325, Statutes of 1992).

AB 2347 (Frazee). Existing law requires an applicant for a contractor's license, restoration of a license, or continued use of a license after discipline to file a bond in addition to other required bonds; this requirement is applicable to discipline for violation of the CSLB. Among other things, the requirement applies to any person who was a qualifying individual for a licensee at the time of the violation and who had knowledge of or participated in the violation. This bill deletes the reference to violations of the CSLB, and makes the requirement applicable to a qualifying individual regardless of knowledge of the violation. This



bill was signed by the Governor on July 22 (Chapter 294, Statutes of 1992).

AB 513 (Chandler) would have deleted existing law which provides for a separate enforcement unit in CSLB to operate as a demonstration project only in southern California, and increased various fees in connection with the licensure of contractors. This bill was vetoed by the Governor on September 27.

AB 1352 (Eastin). Under existing law, with respect to all contracts relating to the construction of any private work of improvement entered into on or after July 1, 1991, any retention withheld by the owner is required to be released within 45 days after the date on which a certificate of occupancy is issued for the work of improvement. This bill instead requires that the retention withheld by the owner be released within 45 days after the date of completion, as defined, with regard to those contracts entered into on or after January 1, 1993. This bill was signed by the Governor on July 29 (Chapter 387, Statutes of 1992).

AB 2966 (Horcher) provides that any person who knowingly makes a false report or causes a false complaint to be filed with CSLB against a licensed contractor shall be guilty of an infraction punishable by a fine not to exceed \$1,000, and provides that CSLB may notify the appropriate district attorney or city attorney of that false report or complaint. This bill also requires CSLB to report to the appropriate policy committees of each house of the legislature, by July 1 of each year, the number of false complaints the Board has received against licensed contractors for the last three fiscal years and the number of false complaints the Board has referred to the appropriate district attorney or city attorney. This bill was signed by the Governor on August 3 (Chapter 437, Statutes of 1992).

AB 3240 (Eastin). Existing law authorizes the CSLB Registrar to issue a citation to unlicensed contractors and others under specified circumstances; the citation is required to contain an order of abatement and an assessment of a civil penalty in an amount not less than \$200 nor more than \$4,500. This bill increases the maximum amount of the civil penalty to \$15,000.

Existing law requires CSLB to promulgate regulations covering the assessment of civil penalties with respect to disciplinary proceedings against licensees; in no event may a civil penalty be assessed in an amount greater than \$2,000. This bill increases the maximum amount of that civil penalty to \$15,000. This bill was signed by the Governor on September 8 (Chapter

606, Statutes of 1992).

AB 2736 (Becerra). Under existing law, a licensed contractor is required, prior to entering into a contract with an owner for home improvement or swimming pool construction work, to give a notice regarding the state's mechanics' lien laws, as prescribed by CSLB regulation, to the owner, the owner's agent, or the payer. This bill substantially codifies the regulation setting forth the contents of that notice and requires additional information in the notice concerning the recording of mechanics' liens, payment and performance bonds, funding services for payments, and the release of mechanics' liens. The bill also provides that failure to provide the notice as required shall constitute grounds for disciplinary action. This bill was signed by the Governor on September 20 (Chapter 788, Statutes of 1992).

SB 2044 (Boatwright) declares legislative findings regarding unlicensed activity and authorizes all DCA boards, bureaus, and commissions, including CSLB, 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 was signed by the Governor on September 28 (Chapter 1135, Statutes of 1992).

AB 3412 (Eastin). Under existing law, an attorney filing an action for professional negligence against a licensed architect, professional engineer, or land surveyor is required to file a certificate with the complaint or cross-complaint declaring either (1) that, on the basis of a consultation with a prescribed expert, the attorney believes there is a reasonable and meritorious cause of action, or (2) one of the reasons permitted by law for not obtaining the consultation. This bill makes similar provisions applicable to certain actions against contractors for negligence. This bill was signed by the Governor on September 30 (Chapter 1278, Statutes of 1992).

AB 497 (Bentley) permits the CSLB Registrar to refer specified complaints to arbitration if there is evidence that the complainant has suffered or is likely to suffer damages in an amount greater than \$5,000 and less than \$25,000, and provides for mandatory referral to arbitration when the contract price or the demand for damages is equal to or less than \$5,000. This bill was signed by the Governor on September 8 (Chapter 597, Statutes of 1992).

AB 1969 (Areias) is a CSLB-sponsored bill which would have appropriated \$10,000 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. This bill was vetoed by the Governor on September 12.

SB 56 (Ayala) inserts a provision in the California State University Contract Law providing that the California State University or the Controller pay interest on overdue progress payments on construction contracts, and expresses legislative intent to require all local governments to pay their construction contractors on time so that these contractors can meet their own obligations. This bill was signed by the Governor on September 21 (Chapter 799, Statutes of 1992).

The following bills died in committee: **AB 3667 (Connelly)**, which would have required the CSLB Registrar to disqualify a licensee from bidding on public works projects upon specified findings; **AB 3300 (Eastin)**, which would have generally provided that, with respect to all contracts between owners and original contractors for the construction of any private work of improvement, excluding residential construction, entered into on or after July 1, 1993, the retention proceeds withheld by the owner from the original contractor or by the original contractor from any subcontractor from any payment shall not exceed 5% of the payment and in no event shall the total retention withheld exceed 5% of the contract price; **AB 2192 (Frazee)**, which would have required 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; and **AB 1746 (Eaves)**, which would have provided 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.

RECENT MEETINGS

At CSLB's July 17 meeting in Burbank, Registrar David Phillips reported that the Board's enforcement program has steadily reduced the number of unresolved consumer complaints. Ten districts have disposed of all consumer complaints over one year old, and seven districts have completed the processing of complaints over nine months old. The Registrar also discussed CSLB's new complaint disclosure policy, under which pending com-



plaints against licensed contractors are not disclosed to the public until the complaints are fully investigated and a determination is made that the complaint is valid and warrants legal action. [12:2&3 CRLR 76]

The Registrar also discussed the status of CSLB's new computerized testing system for contractor licensure. The new system will allow applicants to learn the results of their test immediately, and would permit unsuccessful applicants to retake the test sooner than is currently possible. In addition, Phillips mentioned that beginning in September, the redesigned exam will have 500 new test questions.

Also at the July meeting, CSLB's Licensing Committee reported some problems with its new workers' compensation unit. Since January 1, Business and Professions Code section 7125.1 requires a contractor to have workers' compensation insurance in order to be licensed by CSLB, unless the contractor certifies under penalty of perjury that he/she has no employees. The Committee reported an overwhelming workload in meeting the requirement that CSLB maintain an original copy of the required certificate of insurance on file for all contractors; approximately 40,000 of the certificates received were flawed in some way and had to be sent back for correction.

The Board elected its officers for 1992-93: General Engineering-A contractor Joe Valverde was elected Chair, and Mrs. Phil Moore, public member, was elected Vice-Chair.

Finally, CSLB reported that Marla Marshall is resigning from the Board and that Jack Fenton, John Lazzara, and Skip Michael are leaving the Board because their terms expired on June 1.

■ FUTURE MEETINGS

January 21-22 in Ontario.

April 22-23 in Oakland.

July 22-23 in Los Angeles.

BOARD OF DENTAL EXAMINERS

Executive Officer:
Georgetta Coleman
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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 train-

ing 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. BDE's 1992 members are Gloria Valde, DMD, acting president; Joe Frisch, DDS, secretary; Pamela Benjamin, public member; John Berry, DDS; Victoria Camilli, public member; Peter Hartmann, DDS; Martha Hickey, public member; Evelyn Pangborn, RDH; Jean Savage, DDS; Joel Strom, DDS; Hazel Torres, RDA; and Stephen Yuen, DDS. On September 14, Assembly Speaker Willie Brown appointed public member Virtual Murrell to the Board; Mr. Murrell is with V.M. & Associates in Oakland, and replaces public member Carl Lindstrom on the Board. The Board currently has one vacancy due to the July 19 death of BDE President James Dawson, DDS. New officers for 1993 will be selected in January.

■ MAJOR PROJECTS

Board Proposes Citation and Fine Regulations. On July 24, BDE published notice in the *California Regulatory Notice Register* of its intent to pursue regulations establishing an administrative citation and fine program. [12:2&3 CRLR 81] The proposed regulations would implement SB 650 (Alquist) (Chapter 521, Statutes of 1991), which 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. The proposed language would add Article 7, consisting of

new sections 1023—1023.8, to Chapter 1, Division 10, Title 16 of the CCR.

The cite and fine program would allow the Board to take action against a licensee and persons acting as licensees without the cost and punitive implications of taking formal disciplinary action against violators. Any such BDE action would be in response to a confirmed violation of any enforceable statute or regulation which does not warrant more severe disciplinary action. Among other things, BDE's proposed regulations address the citation format; civil penalties for citations; the factors to be considered in assessing the amount of a citation; the procedure for contesting a citation; and consequences of failure to comply with an order.

The format of the citation and fine mechanism includes class "A" and "B" violations. Class "A" violations involve persons who have violated a BDE statute and/or regulation and either the violation presents a substantial probability of death or serious physical harm to the patient, or the person has been issued three class "B" violations within a 24-month period immediately preceding the act constituting the violation. A class "A" violation is subject to a civil penalty in an amount not less than \$1,000 and not exceeding \$2,500 for each citation. At BDE's September 11 meeting, staff presented a table indicating activities constituting class "A" violations, such as failure to possess a valid general anesthesia (GA) permit when administering GA; failure to possess a valid conscious sedation (CS) permit when administering CS; aiding and abetting an unlicensed practitioner to practice dentistry; ordering the administration of GA or CS without being physically present; committing acts of unprofessional conduct, gross negligence, or incompetence; failure to report a patient death related to a dental procedure being performed; and failure to report to BDE the death or removal of a patient to a hospital or emergency center after administration of CS or GA.

Class "B" citations will be issued to persons who have violated a BDE statute and/or regulation relating to the practice of dentistry which does not present a substantial probability of resulting in death or serious physical harm to the patient. A Class "B" violation is subject to a civil penalty not less than \$50 and not exceeding \$2,500 for each citation. Class "B" violations include, among other things, cheating during a license examination; soliciting payment for laboratory services not rendered; making false or misleading statements in advertising; failure to provide copies of patient records; and dis-