



REGULATORY AGENCY ACTION

since that time. Enrollment for fiscal year 1989-90 was 614.

BBE's Sunday, October 14 meeting in Monterey was scheduled to begin at 4:00 p.m. at the Hyatt Regency Hotel, and continue the following day at 9:00 a.m. at the Department of Parks and Recreation. However, the Sunday meeting was cancelled without notice, and the Monday meeting, which included all of Sunday's agenda, lasted only one hour.

FUTURE MEETINGS:

To be announced.

BOARD OF BEHAVIORAL SCIENCE EXAMINERS

Executive Officer: Kathleen Callanan (916) 445-4933

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:

Enforcement Program. After BBSE distributed its consumer brochure on psychotherapist sexual misconduct entitled *Professional Therapy Never Includes Sex!*, the number of complaints made against psychotherapists rose substantially. In response to the increase in complaints, BBSE recognized the need for a more comprehensive enforcement program. (See CRLR Vol. 10, No. 4 (Fall 1990) pp. 58-59; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 74; and Vol. 9, No. 4 (Fall 1989) p. 47 for background information.)

The Department of Finance recently approved the Board's budget change proposal requesting an additional \$113,000 for fiscal year 1990-91 and \$232,000 for fiscal year 1991-92 to augment its enforcement program. The Board is also developing draft legislation to create a cost recovery program,

which would allow the Board to collect its investigation costs from disciplined licensees in specific cases.

Dual Relationships. The enforcement programs of both the Board of Psychology (BOP) and BBSE are faced with many consumer complaints and disciplinary cases wherein various types of "dual relationships" between psychotherapists and patients have resulted in patient harm. The boards share the belief that public protection requires further clarification of the nature and consequences of dual relationships.

In response to the problems arising from dual relationships, BOP, with assistance from the Office of the Attorney General, professional associations, licensees, and members of the public, drafted a proposed regulation addressing dual relationships. Among other things, the draft language defines the term "dual relationship," and provides that licensee involvement in a dual relationship with a patient is prohibited and constitutes unprofessional conduct and grounds for disciplinary action.

On December 7, BOP and BBSE held a joint informal public hearing to discuss and receive input on the proposed regulation. As a result of the public hearing, the boards will continue to discuss the issues concerning dual relationships before formally pursuing regulatory amendments.

FUTURE MEETINGS:

April 12 (location to be announced).

July 19 (location to be announced).

CEMETERY BOARD

Executive Officer: John Gill (916) 920-6078

The Cemetery Board's enabling statute is the Cemetery Act, Business and Professions Code section 9600 *et seq.* The Board's regulations appear in Division 23, Title 16 of the California Code of Regulations (CCR).

In addition to cemeteries, the Cemetery Board licenses cemetery brokers, salespersons, and crematories. Religious cemeteries, public cemeteries, and private cemeteries established before 1939 which are less than ten acres in size are all exempt from Board regulation.

Because of these broad exemptions, the Cemetery Board licenses only about 185 cemeteries. It also licenses approximately 45 crematories, 200 brokers, and 1,200 salespersons. A license as a broker or salesperson is issued if the candidate passes an examination testing knowledge of the English language and ele-

mentary arithmetic, and demonstrates a fair understanding of the cemetery business.

MAJOR PROJECTS:

Proposed Rulemaking. On December 4, the Board held a public hearing regarding three proposed amendments to its regulations. First, the Board proposes to repeal section 2317, which implements Business and Professions Code section 9757.5. Section 9757.5, which authorizes the Board to set the temporary cemetery salesperson's license fee, was repealed by AB 3427 (Assembly Committee on Governmental Efficiency and Consumer Protection) (Chapter 1393, Statutes of 1990), which took effect on January 1. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 61 for background information on AB 3427.)

Second, Business and Professions Code section 9756, which authorizes the Board to set the fees for the cemetery salesperson's license, was amended by AB 3427 to increase the maximum cemetery license fee to \$30. Regulatory section 2318 currently sets the fee for a cemetery salesperson's original license at \$20. The Board proposes to amend this section to increase this fee and delete the word "original."

Finally, Health and Safety Code section 8738 requires that funds received by a cemetery licensee for endowment care must be placed in the licensee's endowment care fund no later than completion of the initial sale; however, the statute does not define when the initial sale is complete. The Board has proposed the adoption of section 2376 to define the point at which an initial sale will be deemed complete and to specify the time within which money collected must be deposited in the endowment care fund.

Following the December 4 public hearing, the Board adopted these proposed changes. At this writing, the Board is awaiting approval from the Office of Administrative Law regarding the proposed adoption of section 2376, and is preparing the rulemaking file for the proposed repeal of section 2317 and amendment to section 2318.

Rulemaking Update. According to Executive Officer John Gill, OAL approved the Board's proposed repeal of section 2370(e), pertaining to the handling of trusts. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 76 for background information.)

LITIGATION:

In Christensen, et al. v. Superior Court, real party in interest Pasadena Crematorium asked the California Supreme Court to review the Second