



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



District Court of Appeal's June 1990 decision which substantially expanded the plaintiff class in this multimillion-dollar tort action against several Board licensees. (See CRLR Vol. 10, No. 4 (Fall 1990) pp. 61 and 75 for background information on this case, which is reported at 271 Cal. Rptr. 360.) On October 11, the Supreme Court granted review (No. S016890). Briefing has begun, with final reply briefs due on March 1.

RECENT MEETINGS:

At its December 4 meeting, the Board discussed the upcoming release of its new consumer pamphlet, which will be an updated guide to cemetery purchases. The Board expects to release the pamphlet by April.

FUTURE MEETINGS:

To be announced.

BUREAU OF COLLECTION AND INVESTIGATIVE SERVICES

Chief: *Alonzo Hall*
(916) 739-3028

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 the industry.

In addition, eight other industries are regulated by the Bureau, including private security services (security guards and private patrol operators), repossession, 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.

Repossession. 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 Repossessions 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 service 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