



# REGULATORY AGENCY ACTION

direct individual supervision for each week of experience claimed. As introduced March 8, this bill would permit up to one-half of the hours of supervision to be by group supervision. This bill is pending in the Assembly Health Committee.

## RECENT MEETINGS:

At its January 18 meeting, BBSE elected Karen Walton as Chair and Jack Fujimoto as Vice Chair.

## FUTURE MEETINGS:

July 19 (location to be announced).

October 18 (location to be announced).

## CEMETERY BOARD

*Executive Officer: John Gill*  
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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 elementary arithmetic, and demonstrates a fair understanding of the cemetery business.

## MAJOR PROJECTS:

*Regulatory Update.* On February 5, the Office of Administrative Law (OAL) approved the Board's amendment to section 2318 and repeal of section 2317, Title 16 of the CCR. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 52 for background information.) Section 2317 set the temporary cemetery salesperson's license fee; amendments to section 2318 increase the fee for a cemetery salesperson's original license.

At this writing, the Board is still awaiting approval from OAL regarding the proposed adoption of section 2376, Title 16 of the CCR, which would define the point at which an initial sale will be deemed complete and specify the time within which money collected must be deposited in an endowment care fund.

(See CRLR Vol. 11, No. 1 (Winter 1991) p. 52 for background information.)

## LEGISLATION:

*AB 1540 (Speier).* Existing law provides for the regulation and licensure of funeral directors and embalmers by the Board of Funeral Directors and Embalmers and the regulation and the licensure of cemetery brokers and salespersons by the Cemetery Board. As introduced March 7, this bill would repeal those provisions and enact the Cemeteries, Funeral Directors and Embalmers Act, with unspecified contents. This bill is pending in the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development.

## LITIGATION:

In *Christensen, et al. v. Superior Court*, the California Supreme Court is reviewing 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.) The final reply briefs were filed on March 4; at this writing, the court has not yet scheduled oral arguments.

## FUTURE MEETINGS:

To be announced.

## BUREAU OF COLLECTION AND INVESTIGATIVE SERVICES

*Chief: Alonzo Hall*  
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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 detec-

tion 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 Repossessors 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 quali-

fied 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 accomplish this, the Bureau regulates and reviews these industries by its licensing procedures and by the adoption and enforcement of regulations. For example, the Bureau reviews all complaints for possible violations and takes disciplinary action when violations are found. The Bureau's primary method of regulating, however, is through the granting or denial of initial/renewal license or registration applications. Education is also utilized to assist in achieving Bureau goals.

Consumers and clients may pursue civil remedies to resolve complaints and disputes currently within the regulatory authority of the Bureau. In addition, class action suits may be filed on behalf of consumers by the Attorney General's office and local district attorneys against businesses which engage in repetitive unethical business practices.

Two advisory boards function within the Bureau to advise the Chief and the DCA Director on policy matters relating to their respective industries. The Collection Agency Board (CAB) acts pursuant to Business and Professions Code section 6863.5 *et seq.*, and the Private Security Advisory Board (PSAB) is created under Business and Professions Code section 7516 *et seq.*

#### MAJOR PROJECTS:

**Security Guard Training Proposals.** PSAB once again discussed the issue of security guard training at its January 18 meeting. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 54; Vol. 10, No. 1 (Winter 1990) p. 61; and Vol. 9, No. 4 (Fall 1989) p. 50 for background information.) The California Contract Security Guard Association presented a proposal on training needs, consisting of a four-step process by which uniform training would be implemented within the industry. The first step would consist of BCIS, under the authority of Business and Professions Code section 7545.2(b), developing appropriate course material,

using input from PSAB, the industry, and instructors. Under step two, BCIS would distribute the course material for use on a voluntary basis. Under step three, BCIS would then modify and fine-tune the course material after it has been used. Then, as step four, BCIS and other interested parties would jointly sponsor legislation to require training through BCIS-approved courses; define the responsibilities of a private patrol operator; set forth the qualifications of instructors; provide for certification of outside instruction schools; and set forth enforcement provisions and penalties for noncompliance. The contents of the proposed course include ethics, responsibilities, and basic job profile of a security guard (two hours of instruction on what the public, client, and employer expect of the officer); basic security functions (four hours of instruction on basic access, loss and fire control principles, and patrolling principles); and reporting (two hours of instruction on how to call for assistance, and basic field note taking and report writing).

Following the presentation, PSAB Chair Bruce Westphal appointed Board member Stephen Geil as chair of the Private Security Training Committee, a task force established to address training needs of the security guard industry. The task force is to work with BCIS in developing a training proposal that would be acceptable to the industry and would also meet the criteria required by the Bureau.

**BCIS Releases Private Investigator Bulletin.** In early 1991, BCIS released its December 1990 *Private Investigator Information Bulletin* which reports, among other things, that the private investigator licensing examination has been revised by the Private Investigator Examination Re-Write Committee, consisting of members of the California Association of Licensed Private Investigators, Inc., industry members, and public members. The Committee revised existing questions and developed new ones in establishing a pool of over 500 test questions from which the Bureau may create a variety of 150-question multiple choice exams. The exam, implemented in September 1989, covers the areas of terminology, civil and criminal liabilities, laws and regulations, and technical skills such as interviewing techniques and conducting an undercover investigation.

The *Bulletin* states that as of December 1990, the Bureau had a total of 6,422 private investigator licensees; 6,180 hold a private investigator license and 242 hold a branch office certificate.



## REGULATORY AGENCY ACTION

The *Bulletin* also provides complaint statistics, stating that between the months of July and October 1990, the Bureau received 20 complaints concerning private investigators. Complaints regarding private investigators are divided into four categories: consumer related (improper use of force or violence, criminal conviction, invasion of privacy); client related (failure to perform as agreed); administrative/technical (advertising violations, failure to submit change of address); and unlicensed activity (practicing without a license, aiding and abetting another to practice without a license). The *Bulletin* advises that a complaint may be registered by calling the Bureau at (916) 739-3100 and requesting a consumer complaint form. The Bureau's Compliance Unit handles routine cases; more serious or sensitive cases, such as those involving repeat violations of the law and public endangerment, are sent to the Department of Consumer Affairs' Division of Investigation (D of I). D of I investigators are authorized to conduct investigations, issue criminal citations, and make arrests. Between July and October 1990, eight private investigator cases were referred to the D of I.

**Permitting of Locksmiths.** In order to alleviate confusion regarding who must apply for a Bureau-issued locksmith permit, the Bureau clarified in its December 1990 *Locksmith Information Bulletin* that a person needs a permit only if he/she performs all the functions of a locksmith as defined in Business and Professions Code section 6980.2 (a person who engages in installing, repairing, opening, and modifying locks and making keys for locks).

In December 1990, the Bureau had a total of 3,509 locksmith permittees. During the months of July to September 1990, the Bureau received two complaints against locksmiths, each involving alleged unlicensed activity. In fiscal year 1989-90, the Bureau received 24 complaints: five were related to fraud or misrepresentation; two were for major violations, such as using or allowing someone else to use locksmithing skills, tools, or facilities for the commission of a crime; and seventeen complaints were related to unlicensed activity. The Bureau believes the high number of complaints alleging unlicensed activity may be due to the confusion over who must apply for a permit.

**Protection Dog Operators.** In its December 1990 *Protection Dog Operator Information Bulletin*, BCIS released statistics on its 235 licensees. As of December 1990, the Bureau had issued 95 protection dog operator licenses, one

branch office certificate, and 139 employee registrations. During the months of July to September 1990, BCIS received two complaints against protection dog operators and their employees. In fiscal year 1989-90, 24 such complaints were received, 21 involving unlicensed activity and three alleging client related and administrative violations such as failure to perform agreed services or to submit a change of address.

**Alarm Company Operator Disciplinary Review Committee.** According to the Bureau's December 1990 *Alarm Company Operator Information Bulletin*, the purpose of the alarm company operator disciplinary review committee (DRC) is to affirm, rescind, or modify appealed disciplinary actions taken by BCIS against licensees and registrants whose licenses, registrations, and/or permits have been denied, suspended, or revoked, or who have had fines assessed against them. The alarm company operator DRC is similar to those in place for the private security section of BCIS. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 54; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 77-78; and Vol. 7, No. 2 (Spring 1987) p. 45 for background information.) The DRC is appointed by PSAB and consists of three alarm company operators and two public members, who meet bimonthly or as needed and serve a four-year term.

### LEGISLATION:

**AB 1180 (Murray).** Existing law relating to the licensure of private investigators, patrol operators, and related persons authorizes DCA to adopt rules and regulations establishing the qualifications of persons eligible to carry firearms while employed by a private patrol operator, by any lawful business as a security guard or patrolperson, or by an armored contract carrier; procedures governing the filing of charges by local authorities with respect to applicants for registration with BCIS for failure to meet standards for registration; and recordkeeping requirements for identifying all firearms in the possession or control of specified employees. As introduced March 6, this bill would extend that rulemaking authority to cover private investigators and their employees; extend that rulemaking authority to the establishment of procedures, qualifications, fees, and conditions under which licensed private investigators and security guards who hold valid firearms qualifications cards will be issued a permit by the DCA Director to carry a concealed firearm; and specify that these procedures are the exclusive means whereby those licensees, acting within the scope

of the activities for which they are licensed, may carry a concealed firearm.

Existing law requires private investigators to comply with all of specified provisions of law generally applicable to private patrol operators if the investigator provides specified personal protection. This bill would instead require private investigators to comply with those requirements of law applicable to private investigator licensees and qualified managers with respect to the completion of courses of training in the exercise of powers to arrest and the carrying and use of firearms.

Existing law prohibits the carrying of a concealed weapon by any person who is not licensed to carry a concealed weapon or exempt; this bill would include within the exemptions persons licensed as private investigators and security guards who are authorized to carry concealed firearms and who have in their possession a valid permission to do so. This bill is pending in the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development.

**SB 560 (Vuich).** Existing law provides that any person who violates or conspires to violate any provision of the Repossessor Act, or who knowingly engages an unlicensed repossession agency after being notified by BCIS of that agency's unlicensed status, is guilty of a misdemeanor punishable by a fine of \$1,000 or imprisonment for not more than one year, or both. It provides that a financial institution that knowingly engages such an agency is punishable by a fine of \$1,000. As introduced February 28, this bill would increase the fine imposed for the misdemeanor to \$10,000 and would provide that the Attorney General, or any district attorney or city attorney, and certain city prosecutors, may bring an action to impose the penalties.

This bill would also require BCIS to deliver to Repossessor Act licensees and registrants a renewal form at least 60 days prior to the expiration of the license or registration; provide that upon the issuance of the initial or renewal license or qualification certificate, or registration or reregistration, BCIS shall issue a suitable pocket identification card which includes a photograph of a size prescribed by BCIS; provide that the disclosure to consumers required upon the recovery of repossessed personal property shall include the statement: "[n]ormal wear and tear and mechanical failures not caused by the negligence of the repossession agency are not the responsibility of the repossession agency"; increase the fees for registration,



reregistration and renewal of registration by \$5; and establish the Advisory Board on Repossession Agency Services, consisting of seven members, to meet as necessary to make certain inquiries and policy recommendations, and to assist and advise the BCIS chief. This bill is pending in the Senate Business and Professions Committee.

**SB 315 (Deddeh).** The Collection Agency Act, which provides for the licensing and regulation of collection agencies, sunsets on June 30, 1992. As introduced February 7, this bill would extend that repealing date until June 30, 1993. This bill is pending in the Senate Committee on Insurance, Claims and Corporations.

## RECENT MEETINGS:

At its January 31 meeting, CAB elected its 1991 officers; Bette Myers was elected Chair, John Espinosa was elected Vice Chair, and Esther Winston was elected Secretary.

At its January 18 meeting, PSAB elected as its 1991 officers Bruce Westphal as Chair, Alex Stiglitz as Vice Chair, and Francis Stoffels as Secretary. Two new Board members, public member Alfred MacBride and industry member Stephen Geil, were introduced at the January meeting. Board member John Taylor announced his plans to not seek reappointment to the Board when his term expires.

Also at its January meeting, PSAB members reviewed the progress made toward achieving their 1990 goals of encouraging more input and meeting attendance from the industry and encouraging more interaction between law enforcement and the private security industry. The Board discussed some forms of cooperation which are already in place, including the use of private security services in city halls and judicial buildings.

At both CAB's and PSAB's January meetings, Chief Alonzo Hall informed the boards that BCIS has gained an additional 22.5 positions. He noted that this should improve the turnaround time for application processing and complaint response/resolution. Two of the positions are auditors to work on the trust reconciliation/conservatorship problem in the collection agency industry. (See CRLR Vol. 10, No. 4 (Fall 1990) pp. 62-63; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 78; and Vol. 10, No. 1 (Winter 1990) p. 62 for background information.) One auditor will be appointed to the Los Angeles office, the other to the Sacramento office; BCIS will now have a total of five auditors.

Chief Hall also reported that BCIS currently has 17 collection agencies under conservatorship, and noted that the conservatorship program has caused a large increase in the Bureau's enforcement costs. This will probably result in an increase in either an agency's required bond or in licensing fees.

## FUTURE MEETINGS:

**CAB:** April 5 in Oakland.  
June 21 in Costa Mesa.  
September 13 in Pasadena.  
January 1992 in Sacramento.

**PSAB:** April 12 in Sacramento.  
July 12 in Los Angeles.  
October 11 in San Francisco.  
January 17 in Fresno.

## CONTRACTORS STATE LICENSE BOARD

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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, five contractors and one labor member, generally meets every other month. The Board maintains six committees: legislative, enforcement, licensing, public information, strategic planning, and budget/administration. In addition, the Board maintains a Fire Protections Systems Ad Hoc Committee. Committees meet every one to three months, and present recommendations for requested action at the full Board meetings.

## MAJOR PROJECTS:

**CSLB Complaint Disclosure Policy.** At its January 18 meeting, the full Board addressed the recommendation of the Enforcement Committee that CSLB seek a regulatory or legislative change to amend its current complaint disclosure policy, now codified at section 863, Division 8, Title 16 of the CCR ("Rule 863"). Rule 863 currently requires CSLB staff to disclose complaint information about a licensed contractor to an inquiring consumer on all complaints which survive initial screening, pass through preliminary investigation, and are assigned to a CSLB deputy for formal investigation; such information may

be disclosed (with a disclaimer that the complaint is still under investigation and no findings have been made or legal action taken) upon request until the complaint is found to be without merit. At a December 1990 meeting, the Enforcement Committee had agreed to recommend to the Board that the policy be amended to prohibit disclosure of a complaint to an inquiring consumer until it has been fully investigated and adjudicated, unless multiple complaints or a serious threat to health and safety are involved. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 55 and Vol. 10, No. 4 (Fall 1990) p. 65 for background information.)

At the January CSLB meeting, industry members argued that the current policy is unfair to contractors, and that disclosure of a complaint prior to final adjudication is tantamount to branding a licensee "guilty until proven innocent." Board member Frank Geremia stated that releasing complaint information before a final decision is made deprives a contractor of due process. Center for Public Interest Law representative Cheryl Forbes urged the Board to retain its current policy, as it assists consumers in making an informed decision about whether to hire a contractor. Forbes noted that the Board exists to protect consumers from incompetent contractors, and that Rule 863 furthers that interest while still prohibiting disclosure of frivolous complaints (which are screened out during preliminary investigation).

Following lengthy debate, the full Board generally agreed with the Enforcement Committee's recommendation, and referred the matter to the Legislative Committee for the drafting of legislation which would permit the Board to withhold complaint information until after a complaint has been adjudicated. However, following the January meeting, the Board decided to delay referral of the issue to the Legislative Committee until more public comment could be received by the Enforcement Committee.

On February 19 in Sacramento and March 13 in San Diego, the Enforcement Committee held special meetings for the purpose of receiving testimony on the Board's proposal to stiffen its complaint disclosure policy. At the February 19 meeting, Department of Consumer Affairs (DCA) Supervising Attorney Dan Buntjer presented a brief overview of the legislative history behind the Board's complaint disclosure policy, and described two relevant statutes. Business and Professions Code section 7124.5, enacted in 1979, prohibits the Board