



59-60; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 73-74; and Vol. 9, No. 4 (Fall 1989) p. 46 for background information.) The committee stated that it found no evidence that the shaving portion of the examination significantly hinders examinees from passing the test; the average pass rate for the shave requirement is 91.4%. The committee noted that all sources consulted stated that shaving is one of the primary functions of a barber and that it should continue to be part of the licensing examination regardless of the public demand for the service.

LEGISLATION:

SB 985 (Deddeh), as amended May 30, would require BBC, after July 1, 1992, to adopt regulations providing for the submittal of applications for admission to the examination of students of approved cosmetology, electrology, or barbering schools who have completed at least 75% of the required course clock hours and curriculum requirements. The bill provides that the applicant must satisfy all requirements for licensure before the applicant may be examined, and authorizes BBC to charge a special "preapplication" fee to process such an application. This bill is pending on the Senate floor.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 2 (Spring 1991) at page 60:

AB 1161 (Eastin), as amended May 2, would specify that both a rejection and a recommendation for dismissal of BBC's executive officer by the Director of the Department of Consumer Affairs must be for good cause and specifically stated to the Board in writing. This bill would also require BBC to inspect every establishment where any licensed barbering or cosmetology activity is practiced for compliance with applicable laws relating to the public health and safety at least once per year, rather than twice per year. This bill is pending on the Assembly floor.

AB 2180 (Baker) was substantially amended on April 17 and no longer pertains to BBE.

RECENT MEETINGS:

At its April 20-21 meeting in Napa, the Board announced that its fund balance of \$137,000, effective July 1, will be insufficient for BBE's first-quarter operations of the next fiscal year. Therefore, BBE agreed that no Board meetings will be held during that period; available funds will be used to pay staff salaries. BBE's previous decision to raise its fees to the statutory maximum will not affect the Board's current fiscal

crisis. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 60 for background information.)

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:

Supervision Issues. At its January meeting, BBSE discussed whether MFCC interns in non-private practice settings may pay their supervisors for the supervision. Business and Professions Code section 4980.43(c) prohibits interns in private practice settings from paying their supervisors, but the section is silent as to whether interns gaining experience in other settings may do so. According to BBSE, payment for such supervision undermines the supervisor/intern relationship since the intern may hire and fire his/her supervisor as he/she chooses. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 61 and Vol. 10, No. 4 (Fall 1990) p. 59 for background information.)

At its April 12 meeting, BBSE reviewed proposed amendments to regulatory section 1833(b)(4) which would provide that no credit shall be given for hours of experience obtained under the supervision of a person who has received monetary payment or other consideration from the trainee or intern for the purpose of rendering the supervision. The proposed amendments would also add new section 1833(b)(5), which would require that when an MFCC intern is employed in a setting which is

not private practice, his/her supervisor shall be employed by the intern's employer on either a paid or voluntary basis, and would require a written agreement between the supervisor and the supervisor's employer in which the supervisor agrees to ensure that the extent, kind, and quality of counseling performed by the supervisee is consistent with the supervisee's training, education, and experience, and is appropriate in extent, kind, and quality. BBSE also approved draft language of new regulatory section 1875, which would set forth the same prohibition and requirements as to registered associate clinical social workers. The Board scheduled a July 18 hearing on these proposed regulatory changes.

With respect to MFCC interns, the Board reviewed proposed changes to regulatory section 1833(b), which would define the term "group supervision" to mean one supervisor meets with one supervisee at a time. "Group supervision" means one supervisor meets with a group of no more than eight supervisees at one time. BBSE was scheduled to hold a public hearing on this proposed regulatory change on July 18.

Dual Relationships. The enforcement programs of both BBSE and the Board of Psychology (BOP) 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. (See *infra* agency report on BOP; see also CRLR Vol. 11, No. 2 (Spring 1991) p. 92 and Vol. 11, No. 1 (Winter 1991) p. 52 for background information.)

Recently, BOP Executive Officer Thomas O'Connor proposed to change the focus from "dual relationships" to "conflicts of interest," due to definitional problems which the boards have encountered in attempting to draft regulations which will define and prohibit inappropriate "dual relationships." At its April 12 meeting, BBSE discussed this suggestion, but decided to remain focused on the "dual relationship" terminology. BBSE further decided to place more emphasis on working with professional associations and educational institutions to better educate licensees regarding what constitutes an unacceptable "dual relationship."

Applicants Suffering From Mental Illness. Currently, no statute expressly allows BBSE to deny registration or licensure to an applicant on grounds that the applicant suffers from a mental



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illness which would impair the applicant's ability to practice safely. At its April 12 meeting, BBSE decided that statutory authority is necessary to permit the Board to require an applicant to undergo a psychological evaluation to determine whether the applicant is fit to practice, and to allow the Board to deny licensure to those who fail such an evaluation. BBSE hoped to review draft legislation on this subject at its July 19 meeting.

Continuing Education. AB 3314 (Harris) (Chapter 1005, Statutes of 1990) required BBSE to consider requiring courses in the recognition of chemical dependency and proper steps for early intervention as part of its continuing education program which must be completed for license renewal. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 59 for background information.) AB 3314 required the Board to report to the legislature on or before June 30 indicating whether it has adopted such requirements. At its April 12 meeting, BBSE noted that chemical dependency training is currently required by law for all BBSE licenses, and that it has been incorporated into the curriculum requirements for everyone who entered graduate degree programs after January 1, 1986. Board members also noted that most academic institutions offer expanded programs and certificates in alcohol and chemical dependency; most professional associations regularly offer workshops and training in this area; and training in the chemical dependency field is widely available. After considerable discussion, BBSE decided not to adopt the proposed requirements, and to remain with its current continuing education policy.

LEGISLATION:

SB 664 (Calderon), as introduced March 5, would prohibit MFCCs and LCSWs, among others, from charging, billing, or otherwise soliciting payment from any patient, client, customer, or third-party payor for any clinical laboratory test or service if the test or service was not actually rendered by that person or under his/her direct supervision, except as specified. This bill is pending in the Senate Business and Professions Committee.

AB 1893 (Lancaster), as amended May 24, is the Department of Consumer Affairs' omnibus bill. With respect to BBSE, it would amend Business and Professions Code section 4996.20 to specify, for purposes of qualifying LCSW post-master's degree supervised experience, that not less than one-half of the required hours of supervision shall be individual supervision; the remaining

hours may be group supervision. The bill also defines "individual supervision" to mean one supervisor meets with one supervisee at a time; "group supervision" means a supervisor meets with a group of no more than eight supervisees at a time. This bill is pending in the Assembly Ways and Means Committee.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 2 (Spring 1991) at pages 61-62:

AB 756 (Bates), as introduced February 26, would provide that on or after January 1, 1993, any person applying for or renewing a license, credential, or registration as an LCSW, MFCC, school counselor, school psychologist, or school social worker, shall, in addition to all other requirements for licensure or renewal, have completed coursework or training in suicide prevention and intervention. This bill is still pending in the Assembly Health Committee.

AB 1106 (Felando), as introduced March 5, would create the Alcohol and Drug Counselor Examining Committee within BBSE and require the Committee to adopt regulations establishing certification standards and requirements relating to education, training, and experience for persons who practice alcohol and drug abuse counseling. AB 1106 is still pending in the Assembly Health Committee.

SB 686 (Boatwright), as amended April 30, would enable BBSE to implement a "cost recovery" system; that is, it would authorize BBSE, in any order issued in resolution of a disciplinary proceeding before the Board, to request the administrative law judge to direct any registrant or licensee found to have violated certain provisions to pay BBSE a sum not to exceed the actual and reasonable costs of its investigation and prosecution, and specify procedures to enforce an order for payment. This bill passed the Senate on May 16 and is pending in the Assembly Health Committee.

SB 738 (Killea), as introduced March 6, would require BBSE and BOP to establish required training or coursework in the area of domestic violence assessment, intervention, and reporting for all persons applying for an initial license and the renewal of a license of a psychologist, LCSW, or MFCC. This bill is still pending in the Senate Business and Professions Committee.

SB 899 (Boatwright), as introduced March 7, would permit an MFCC intern to annually extend his/her intern registration with BBSE beyond the existing six-year maximum so long as the intern meets the educational requirements in effect at the time of the application for

extension and no grounds exist for its denial, suspension, or revocation. This bill would also require persons who enroll in a qualifying MFCC degree program on or after January 1, 1990, to register with the Board prior to the commencement of gaining trainee hours of experience. This bill passed the Senate on May 30 and is pending in the Assembly Health Committee.

SB 1112 (Mello). Existing law permits the Department of Mental Health to waive BBSE's licensure requirements for persons employed or under contract to provide mental health services under the Short-Doyle program for a specified period of time. As amended May 8, this bill would provide that the licensure requirements would not be applicable, for a period not to exceed five years from the date employment under the program commences, to MFCC registered interns or to associate social workers who are gaining qualifying experience for licensure under supervision. This bill passed the Senate on May 24 and is pending in the Assembly Health Committee.

AB 2085 (Polanco) was substantially amended on April 15. This bill would now require the trustees of the California State University and the regents of the University of California to collaborate with the California Conference of Local Mental Health Directors to develop a curriculum and practicum within their respective graduate social work programs to train social workers to work with seriously emotionally disturbed children and severely mentally ill adults, and to provide culturally appropriate services to ethnic minority populations. This bill is pending in the Assembly Higher Education Committee.

RECENT MEETINGS:

At its April meeting, the Board revisited a matter initially raised at its January meeting by the California Association of Marriage and Family Therapists (CAMFT), regarding the acceptability of MFCC experience gained in Mexico by an individual while residing in California and under supervision in California by a California licensee. At the January meeting, the Board had tentatively agreed that the circumstances of the employment in Mexico and the supervision arrangement would not meet the requirements set forth in Business and Professions Code sections 4980.40, 4980.43, and 4980.90. In March, CAMFT submitted a request for "corrective action," on grounds that "legitimate hours of experience will be inappropriately denied to a large number of applicants who will be applying for licensure



in the months and years ahead." At its April meeting, the Board agreed with Deputy Attorney General Earl Plowman that it should not accept illegally-obtained experience; that is, a person practicing without a license in another country, in violation of that country's laws, should not get credit here towards licensure. Contrary to CAMFT's assertions, BBSE determined that its decision applies to only one individual, and that one individual has not even submitted an application for acceptance of those hours yet. The Board reaffirmed its January decision, and decided to put the larger issue of in-state versus out-of-country experience on the agenda for its July meeting.

Also at its April 12 meeting, the Board announced that it would be moving to a new location in late May. BBSE's phone number will remain the same, but its new address will be 400 R Street, Suite 3150, Sacramento, CA 95814.

FUTURE MEETINGS:

October 17-18 in Sacramento.

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

MAJOR PROJECTS:

OAL Disapproves Proposed Regulation. On April 1, OAL disapproved the Board's 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. 2 (Spring 1991) p. 62 and Vol. 11, No. 1 (Winter 1991) p. 52 for background information.) OAL rejected section 2376 on the basis that the proposed regulation is inconsistent with Health and Safety Code section 8738, the statute which section 2376 is intended to interpret.

Section 8738 provides that an endowment care cemetery is one which has deposited in its endowment care fund the minimum amounts required by law and requires that such a cemetery deposit specified amounts into its endowment care fund "at the time of or not later than the completion of the initial sale" of a plot. However, cemetery operators are apparently uncertain as to exactly when received endowment care funds must be deposited into the endowment care trust fund.

Proposed section 2376 would have provided that an initial sale shall be deemed complete upon receipt of all monies allocated in the contract for the purchase of the interment plot, provided, however, that any monies collected to provide for the care, maintenance, or embellishment of the cemetery shall be deposited in the endowment care fund not later than 30 days from the end of the month in which they were collected. According to OAL, the Board interpreted this 30-60 day time lag to be equivalent to "not later than" the date the funds were collected; OAL found this interpretation to be in conflict with and contradictory to section 8738. At this writing, it is not known whether the Board will attempt to revise proposed section 2376 to comply with OAL's findings.

LEGISLATION:

AB 1540 (Speier), as introduced March 7, would repeal the enabling statutes of the Cemetery Board and the Board of Funeral Directors and Embalmers, and enact the Cemeteries, Funeral Directors and Embalmers Act, with unspecified contents. This bill is still pending in the Assembly Committee on Consumer Protection, Governmental Efficiency, and Economic Development.

LITIGATION:

At this writing, the California Supreme Court has yet to schedule oral argument in *Christensen, et al. v. Superior Court*, No. S016890. The Supreme Court granted the request for review by real party in interest Pasadena Crematorium, and will examine the Second District Court of Appeal's June 1990 decision which substantially expanded the plaintiff class in this multi-million dollar tort action against several Board

licensees. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 62 and Vol. 10, No. 4 (Fall 1990) pp. 61 and 75 for background information.)

FUTURE MEETINGS:

To be announced.

BUREAU OF COLLECTION AND INVESTIGATIVE SERVICES

Chief: James C. Diaz
(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,