



## REGULATORY AGENCY ACTION

possession of a concealed weapons permit.

**Stun Gun Use by Private Patrol Operators.** The April 1991 *Private Patrol Operator/School Program Information Bulletin* also reported that BCIS has been asked whether a registered security guard employed by a private patrol operator may possess or use a stun gun while on duty. According to Business and Professions Code section 7544.5(f), a registered security guard employed by a private patrol operator must obtain (1) a certificate from an approved training facility certifying that such employee is proficient in the use of that specified caliber of firearm, and (2) a current and valid firearm qualification permit issued by DCA. However, the *Bulletin* noted that since the Bureau has never approved a course for carrying and using a stun gun, the DCA Director is unable to issue the required certificate of training. Therefore, the *Bulletin* concluded that stun guns may not be carried or used by registered security guards employed by private patrol operators.

**Security Guard Training Proposals.** At PSAB's April 12 meeting, Board member Stephen Geil reported on the progress of the Private Security Training Committee, a task force established to address training needs of the security guard industry. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 63; Vol. 11, No. 1 (Winter 1991) p. 54; and Vol. 10, No. 1 (Winter 1990) p. 61 for background information.) At the Committee's first meeting in March, three basic security officer categories were identified: commercial/industrial, street/vehicle patrol, and other. The Committee also identified fourteen basic areas in which every security officer should be trained in order to perform security functions at any job location. These areas are powers to arrest; uniform; ethics and responsibilities; role understanding; civil rights; communication; basic law; access control; foot patrol; fire and safety; emergency procedures; public relations; loss control; and observation. At future meetings, the Committee will prioritize these training areas and formulate a plan identifying specific training needs. Mr. Geil anticipates presenting this plan to the Board at its January 1992 meeting.

**BCIS Gets New Chief.** On May 2, Governor Wilson announced the appointment of James C. Diaz of Clayton as the new BCIS Chief; this appointment is subject to Senate confirmation. Diaz, former Director of Human Resources at Pacific Bell/Pacific Telesis Group, will receive an annual salary of \$71,220.

**BCIS Change of Address.** BCIS is moving its offices to 400 R Street, Suite 2001, Sacramento, CA 95814; the move should be completed by midsummer.

### LEGISLATION:

**SB 1083 (Robbins)**, as introduced March 8, would provide that persons licensed as collection agencies are deemed to be attorneys-in-fact for purposes of depositing or transferring client funds to or from individual or pooled client trust deposits with banks, and that the authorized signatures and instructions of these licensees on items deposited and transfers made to and from the trust deposits of their clients are valid, whether or not the principal-agent relationship is indicated on the item or instruction. This bill is currently pending in the Senate Judiciary Committee.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 2 (Spring 1991) at pages 64-65:

**AB 1180 (Murray)**, as amended May 15, would substantially revise existing law applicable to private investigators. For example, AB 1180 would extend DCA's 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. This bill is pending in the Assembly Ways and Means Committee.

**SB 560 (Vuich)**, as amended May 6, would increase from \$1,000 to \$10,000 the fine imposed against 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. This bill, which would make a number of other changes to the Repossessor Act, passed the Senate on May 16 and is pending in the Assembly Committee on Consumer Protection, Governmental Efficiency, and Economic Development.

**SB 315 (Deddeh)**, as introduced February 7, would extend the repealing date of the Collection Agency Act from June 30, 1992 until June 30, 1993. This bill passed the Senate on April 22 and is pending in the Assembly Committee on Banking, Finance, and Bonded Indebtedness.

### RECENT MEETINGS:

At CAB's April 5 meeting, BCIS Program Manager Steve Baker reported that staff is in the process of categorizing consumer complaints received, and is setting up a tracking system to follow the progress of complaints as they are handled by the Bureau. Of the 2,640 complaints received during fiscal year 1990-91, BCIS has issued 68 notices of warning and 83 suspensions.

Also at CAB's April 5 meeting, industry member Jerry Springer commented that his term, as well as the terms of public members Rigoberto Banuelos and Robert Hanson, will expire as of June 30. All three members have served two consecutive terms on CAB, the maximum term allowed by law.

At its April 12 meeting, PSAB introduced its new public member, Charles Mier of Sacramento.

At PSAB's April 12 meeting, Deputy Chief Ernest Luzania reported that staff is preparing a revision of BCIS' firearms manual and expects to distribute the revised manual by June.

### FUTURE MEETINGS:

CAB: September 13 in Pasadena.

January 1992 in Sacramento.

PSAB: October 11 in San Francisco.  
January 17 in Fresno.

### CONTRACTORS STATE LICENSE BOARD

Registrar: David Phillips

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Toll-Free Information Number:  
1-800-321-2752

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 April 19 meeting, CSLB considered the Enforcement Committee's proposal to amend the Board's 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 registrar 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. The Enforcement Committee has recommended that the policy be amended to prohibit disclosure of pending complaints to an inquiring consumer until such complaints are fully investigated and referred for legal action. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 65-66; Vol. 11, No. 1 (Winter 1991) p. 55; and Vol. 10, No. 4 (Fall 1990) p. 65 for extensive background information.)

At the April meeting, CSLB legal counsel Gus Skarakis stated that, for clarification purposes, the term "legal action" should be defined to precisely indicate when complaint information may be released to an inquiring consumer. He recommended that additional language be included which would define "legal action" to mean referral of the complaint for the issuance of a citation, accusation, statement of issues, or for the initiation of criminal action or for injunctive proceedings. The Board accepted this amendment to the proposed language.

Center for Public Interest Law (CPIL) intern Cheryl Forbes voiced CPIL's continuing opposition to CSLB's proposed amendments; according to CPIL, the Board's current regulation regarding complaint disclosure is in compliance with CSLB's statutes and Department of Consumer Affairs (DCA) policy. Forbes stated that withholding disclosure of pending complaints until they are referred for legal action does not benefit or protect the public from incompetent or dishonest contractors, which is the reason for the Board's existence. Mike Dorais of the California Newspaper Publishers Association also voiced opposition to the Board's proposed regulatory change, noting that CSLB has produced no evidence of abuse under the current policy. He also stated that the proposed rule change

would reduce the amount of helpful, accurate information currently available to California consumers. Mr. Dorais argued that the proposal would be harmful to contractors because the public would not be able to tell who the "bad apples" are. He further noted that the change may also reduce the Board's effectiveness, since licensees who know that a complaint will not be disclosed until legal action is taken may not be as likely to cooperate with the Board in resolving the matter.

Board member Frank Geremia argued that, while the current policy does provide information to the public regarding bad contractors, it may harm legitimate contractors since complaint information is disclosed prior to CSLB's final determination that a complaint is valid. Mr. Geremia opined that a complaint should not be disclosed until it is fully investigated and CSLB determines that there is cause for legal action.

Board members Benny Yee and John Moore agreed that CSLB should disclose complaint information to the public, but only after careful screening of the complaint is completed and CSLB finds that further action is required.

The Board accepted the Enforcement Committee's report and voted to pursue the proposed regulatory amendments to change CSLB's complaint disclosure rule. Following the Board's approval of the recommendation, Board member Steve Lazarian voiced concerns that the proposed regulatory language does not address the situation where multiple complaints are pending against a contractor, or where a pending complaint is serious and threatens public health and safety. Lazarian also stated that the Board should make sure there is a uniform policy regarding the processing of complaints. Registrar David Phillips stated that cases involving health and safety issues and/or multiple complaints are currently considered priority complaints, but that CSLB staff would develop a "uniform policy" for prioritizing and disclosing complaint information. At this writing, it is not known whether this "uniform policy" will be included in the Board's proposed regulatory language, or how such a policy will be implemented in relation to the proposed complaint disclosure system.

A public hearing on the Board's proposed regulatory language was scheduled for July 19 in Ontario.

**CSLB Complaint Backlog Terminology.** CSLB maintains a constant level of 6,000 complaints in its discipline system at any given time, and it publishes as its "complaint backlog" only the number of pending complaints in excess of 6,000.

Historically, the Board computed its complaint backlog only in relation to the 6,000-complaint "pipeline" figure, and the origin of that figure is unclear. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 66 for background information.) At the Board's April 19 meeting, Registrar David Phillips suggested that CSLB change the terminology used when referring to complaints over the 6,000 pipeline figure; he would prefer to refer to those complaints as "aging" instead of "backlogged." The Board formally adopted the Registrar's suggestion to refer to complaints over 180 days old as "aged" complaints; such complaints will receive priority investigation. According to the Registrar, use of the new term will make more sense to the public, control agencies, and others.

**Administration/Budget.** At its April 19 meeting, the Board reviewed and adopted nine budget change proposals (BCPs) for fiscal year 1992-93. The BCPs, which total roughly \$4.2 million, include a request for a \$743,000 allocation to provide ongoing support for CSLB's existing complaint arbitration programs; \$1.5 million and 15.2 personnel years to expand the Board's Unlicensed Activity Unit (UUA) on a statewide basis; \$326,000 for ongoing support of CSLB's automated phone response system; and \$556,000 and 2.8 personnel years for the implementation of CSLB's Public Information Plan. The BCPs were submitted to DCA on May 31; at this writing, CSLB is awaiting DCA's approval, and will then submit them to the Department of Finance.

At the April 19 Board meeting, Board member Roger Lighthart reported on an analysis of CSLB's fund condition; the analysis showed that in order for the Board to maintain a six-month fund balance (currently there is a one-year balance) into the year 2001, license application and issuance fees must be raised from \$150 to at least \$175 and renewal fees from \$200 to \$250. Mr. Lighthart noted that this should occur around 1995; however, he stated that this forecast could change if the Board's proposed budget for 1991-92 is modified during the legislature's budget negotiations.

**Separate License for Locksmiths Considered.** At its April 18 meeting, a group of locksmiths approached CSLB's Licensing Committee with a proposal for a separate locksmith license. Locksmiths are currently licensed under provisions of the C-61 Specialty Class; however, according to CSLB, many of them are required to hold three or more C-61 subclass licenses in order to perform their work. Besides being licensed by CSLB,



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locksmiths must also comply with the National Fire Protection Act codes as they relate to Title 24 of the CCR; further, locksmiths are required to be registered with the Bureau of Collection and Investigative Services (BCIS). (See *supra* agency report on BCIS.) The Committee agreed that the locksmiths' request has merit, and requested that the locksmiths provide CSLB staff with sufficient information to further develop the request. After complete information is submitted, the Committee will review it to determine whether a separate license is warranted.

### LEGISLATION:

**SB 618 (Mello)**, as amended May 1, would provide that every contract (and any changes in a contract) between an owner and a contractor for the construction of a single-family dwelling to be used by the owner shall be in writing and signed by both parties and shall contain specified information. The bill would also require the writing to contain, in specified form, a notice stating that the owner has the right to require the contractor to have a performance and payment bond and that the expense of the bond may be borne by the owner. This bill passed the Senate on May 9 and is pending in the Assembly Committee on Consumer Protection, Governmental Efficiency, and Economic Development.

**AB 1439 (Archie-Hudson)**. The Target Area Contract Preference Act authorizes the state to award preferences on certain contract bids where the work performed is at worksites in a distressed area; the CSLL requires the posting of a contractor's bond. As introduced March 7, this bill would require the Registrar to, on or before July 1, 1992, adopt regulations exempting bidders under the Target Area Contract Preference Act from bonding requirements subject to specified conditions. This bill is pending in the Assembly Consumer Protection Committee.

**AB 2190 (Frazee)**, as introduced March 8, would consolidate and renumber some of the CSLL's provisions; make technical and related changes to the CSLL; and add new crimes. This bill passed the Assembly on May 16 and is pending in the Senate Business and Professions Committee.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 2 (Spring 1991) at pages 67-68:

**AB 425 (Mountjoy)**. Existing law provides that a contractor's license may be issued to copartnerships and corporations, so long as the applicant qualifying on behalf of the entity meets certain requirements. As amended May 28, this

bill would limit the number of firms a qualifying person may act as qualifier for to three in any one-year period and would provide that a qualifier who is acting as a qualifier for more than three firms on January 1, 1992, shall comply with this provision by January 1, 1993. This bill would provide that failure to comply with this provision shall result in the disassociation of the qualifying individual and automatic suspension of the licensee's contractor's license. This bill passed the Assembly on May 2 and is pending in the Senate Business and Professions Committee.

**AB 497 (Bentley)**, as introduced February 13, would permit the 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 would provide for mandatory referral to arbitration when the contract price or the demand for damages is equal to or less than \$5,000. This bill is pending in the Assembly Consumer Protection Committee.

**AB 1071 (Mountjoy)**, as amended April 30, would reinstate and revise prior law to provide that failure of a licensee to notify the Board within 90 days of any entered and unsatisfied judgment shall result in the automatic suspension of his/her license. This bill would provide that the suspension shall not be removed until proof of satisfaction of the judgment is submitted to the Registrar. This bill passed the Assembly on May 29 and is pending in the Senate Business and Professions Committee.

**AB 2192 (Frazee)**, as amended May 6, would require CSLB to provide for and collect a voluntary contribution not to exceed \$3 from applicants for new or renewal licenses issued under the CSLL, to be transferred to the Controller for the exclusive support of the California Uniform Construction Cost Accounting Commission. This bill is pending in the Assembly Ways and Means Committee.

**AB 513 (Mountjoy)**, as amended May 16, would define "contractor" to include any person not otherwise exempt under the CSLL who performs tree removal, tree pruning of trees measuring over 25 feet in height after planting, stump removal, or engages in tree or limb guying of trees over 25 feet in height after planting. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 55 for background information.) This bill would also exclude from the definition of contractor a person performing the activities of a gardener or nurseryman whose activities do not include certain enumerated activi-

ties specified in the CSLL. This bill is pending on the Assembly floor.

**AB 1969 (Areias)**, as amended May 15, would appropriate \$500,000 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 is pending in the Assembly Ways and Means Committee.

**SB 56 (Ayala)**. Existing law authorizes the Registrar to deny, suspend, or revoke the license of any contractor for a willful departure in any material respect from accepted trade standards for good and workmanlike construction, unless the departure is in accordance with plans and specifications prepared by or under the direct supervision of an architect. As amended May 21, this bill would define "willful," as applied to the intent with which an act is done or omitted, as a purpose or willingness to knowingly commit an act or make an omission. This bill passed the Senate on April 25 and is pending in the Assembly Consumer Protection Committee.

**AB 800 (Frazee)**, as amended May 13, would require a public agency, prior to awarding a contract or issuing a purchase order, to verify that the contractor was properly licensed when the contractor submitted the bid, subject to specified exceptions. This bill would provide that any contract awarded or purchase order issued to an unlicensed contractor is void, and would require the Registrar to issue a citation to any employee of a public entity who knowingly awards a contract or issues a purchase order to an unlicensed contractor, subject to civil penalties. This bill is pending in the Assembly Ways and Means Committee.

**AB 1382 (Lancaster)**, as amended May 15, would provide that the judicial doctrine of substantial compliance may apply in cases involving a person who engages in the business or acts in a capacity for which a contractor's license is required without being so licensed, if the court makes specified determinations. This bill passed the Assembly on May 30 and is pending in the Senate Business and Professions Committee.

**AB 1746 (Eaves)**. Existing law requires every employer, at the time of each payment of wages, to furnish each employee with an itemized written statement showing specified information, and to keep those records for at least three years; the law provides for specified penalties for violations of these provisions. As amended April 30, this bill would additionally provide 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. This bill would provide that any person who becomes ineligible for license renewal pursuant to this provision shall thereafter become eligible for consideration for license renewal by CSLB upon notice by the Labor Commissioner to CSLB that penalties assessed with respect to the violations have been paid in full. This bill passed the Assembly on May 30 and is pending in the Senate Business and Professions Committee.

**AB 506 (Mountjoy)**, as amended May 29, would exempt nonprofit and public organizations providing weatherization services at no cost to households under federally funded low-income programs administered by the Department of Economic Opportunity from the CSLL. This bill is pending in the Assembly Ways and Means Committee.

**Proposed Legislation.** At its April 19 meeting, the Board approved the Legislative Committee's recommendation to seek legislative amendments to Business and Professions Code section 7031, which provides that, in any action pending in any court of this state for the collection of compensation for the performance of any act or contract for which a contractor's license is required, proof of licensure shall be made by production of a verified certificate of licensure from CSLB which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at the times during the performance of any act or contract covered by the action. CSLB's proposed amendment would require the production of the verified certificate only if license status is raised as one of the issues in a lawsuit.

CSLB also agreed to seek legislative amendments next year which would increase the civil penalty for licensed and unlicensed contractors who contract with unlicensed contractors to a maximum of \$15,000.

## RECENT MEETINGS:

At CSLB's April 19 meeting, Associated General Contractors of California (AGCC) representative Don Reid presented the Board with AGCC's position in regard to CSLB's reserve fund. AGCC does not want the fund used for any activities other than those "for which they were originally intended, i.e., consumer protection and improving the professionalism of the construction industry in California...." AGCC supports the Board's current Fund Policy (see CRLR Vol. 10, Nos. 2 & 3

(Spring/Summer 1990) p. 80 and Vol. 9, No. 4 (Fall 1989) p. 52 for background information), and contends that the reserve fund would best be utilized for education programs for both consumers and contractors; increased enforcement activities against unlicensed contractors; increased automation of many of the Board's functions, such as information disbursement, license and application tracking, testing, etc.; continuous updating of the license examinations to ensure that the license process is relevant to changing conditions in the construction industry; continuous revisions to both the list of licensed contractors and the CSLL reference book; and the creation and staffing of centers to provide relief during such natural disasters as earthquakes, fires, and floods. According to AGCC, the CSLB reserve fund constitutes money paid by California contractors for specific services and, since there is a continuing need for those services, "any attempt to use the funds for any other purpose would represent a serious abuse of public trust." AGCC's comments were a response to the proposal of the Governor and legislature to take the surplus reserve funds of most occupational licensing agencies to help balance the \$14.3 billion budget deficit.

Board member Phil Moore presented the Public Information Committee's report at the Board's April 19 meeting, and announced that the Spring 1991 issue of CSLB's *California Licensed Contractor*, mailed during the week of April 8, includes an extensive list of unlicensed contractor citations and licensed contractor revocations; she attributed this to the fact that the newsletter documents CSLB's disciplinary action over a six-month period rather than a three-month period. Ms. Moore also stated that as a result of an article in the April 1 issue of *U.S. News and World Report*, CSLB received about 500 requests for copies of *What You Should Know Before You Hire a Contractor*.

In addition, Ms. Moore announced that CSLB is working with new DCA Director Jim Conran to ensure that CSLB's consumer protection materials are made available through banks and lending agencies regulated by the state. CSLB sent copies of *What You Should Know Before You Hire a Contractor*, with a cover letter requesting cooperation in publicizing the booklet, to the State Banking Superintendent, the Savings and Loan Commissioner, and the Insurance Commissioner. Through these outreach efforts, CSLB is attempting to make consumer contact where many home improvement and home repair pro-

jects are being financed, before any damage is done.

## FUTURE MEETINGS:

To be announced.

## BOARD OF COSMETOLOGY

*Executive Officer: Denise Ostton*  
(916) 445-7061

In 1927, the California legislature enacted the Cosmetology Act, establishing the Board of Cosmetology (BOC). The Board was empowered to require reasonably necessary precautions designed to protect public health and safety in establishments related to any branch of cosmetology. BOC's enabling legislation is found in Business and Professions Code section 7300 *et seq.*; the Board's regulations are codified in Division 9, Title 16 of the California Code of Regulations (CCR).

Pursuant to this legislative mandate, the Board regulates and issues separate licenses to salons, electrologists, manicurists, cosmetologists, and cosmeticians. It sets training requirements, examines applicants, issues certificates of registration and licenses, hires investigators from the Department of Consumer Affairs to investigate complaints, and disciplines violators with licensing sanctions.

The Board is comprised of seven members—four public members and three from the industry. It is required to hold meetings at least four times per year.

On July 1, 1992, BOC and the Board of Barber Examiners (BBE) will merge, pursuant to AB 3008 (Eastin) (Chapter 1672, Statutes of 1990). The Business and Professions Code sections which establish BBE and BOC will be repealed and replaced with an enabling act creating the Board of Barbering and Cosmetology (BBC), which will provide for the licensure and regulation of persons engaged in the practice of performing specified acts relating to barbering, cosmetology, and electrolysis.

## MAJOR PROJECTS:

**BOC/BBE Hold Joint Hearing on Draft BBC Regulations.** On May 20 in Sacramento, BOC and BBE held a joint public hearing to discuss and receive comments on proposed draft regulations which have been formulated for BBC. The proposed regulations and issues relating to them were discussed extensively during the hearing. Specific regulatory proposals which received considerable attention at the hearing include the following: