



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

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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:



## REGULATORY AGENCY ACTION

-Proposed section 75, regarding leasing and rental agreements, would prohibit the carrying out of any agreement, whether it be with respect to the renting or leasing of chairs or otherwise, which divides, limits, or restricts the authority or duties of the licensee supervising and managing the establishment. The discussion at the May 20 hearing focused on whether or not this regulatory section would prohibit the use of booth rentals to conduct the practice of barbering and/or cosmetology.

-Proposed section 97 sets forth the requirements which must be met for a barber college seeking to teach the 400-hour course prescribed in Business and Professions Code section 7321.5; proposed section 105 sets forth the curriculum for students enrolled in a cosmetology crossover course for barbers. Members of the boards and the public discussed whether the number of curriculum hours for cosmetology crossover courses should remain at 400 or be increased to 600.

-Proposed section 108 specifies that a student enrolled in a school specified in the Barbering and Cosmetology Act shall not be permitted to work upon a patron paying for services until he/she has completed the freshman period of 150 hours of training and instruction. At the hearing, discussion centered on whether completion of a 150-hour freshman period provides enough training and instruction to allow students to work upon patrons paying for services.

Another joint public hearing to receive additional comments was scheduled for June 17 in El Segundo.

**Other Regulatory Changes.** On May 19, BOC held a public hearing on its proposal to adopt section 963.5, Division 9, Title 16 of the CCR. Existing law requires every application for admission to examination for a license to contain proof of the applicant's qualifications, and specifies what qualifications every applicant for admission to examination must meet, including training in a school of cosmetology or school of electrology approved by the Board. Pursuant to AB 2925 (Mojonnier) (Chapter 1674, Statutes of 1990), BOC was stripped of its authority to license cosmetology schools and specify the types of student records which must be retained by schools. (See CRLR Vol. 10, No. 4 (Fall 1990) pp. 69-70 for background information.)

As a result, new section 963.5 would specify what proof of training BOC requires, and provide that such proof must be in the form of a document generated by the school in which the applicant finished training which contains

specified required information about the applicant's training, including the total number of hours of training received by the student; the date the student completed 75% of the clock hours required for the course; and a statement, signed under penalty of perjury by the school and the student, that all the information on the document is true and correct and that the student has met the course curriculum requirements set forth by BOC. Following the hearing, the Board adopted the new section; at this writing, the rulemaking record is being prepared for submission to the Office of Administrative Law (OAL).

On May 10, OAL approved BOC's proposed changes to section 990, Division 9, Title 16 of the CCR, which increase the renewal fees for cosmetology establishment and individual licenses expiring on or after July 31 from \$20 to \$36; the renewal delinquency fee from \$10 to \$18; and the registration fee for cosmetology establishments from \$20 to \$36. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 69 and Vol. 11, No. 1 (Winter 1991) p. 57 for background information.)

**Hazardous Substances Project.** At its May 19 meeting, BOC discussed its progress in developing a health and safety course on hazardous substances in the cosmetology workplace to be taught in licensed cosmetology schools, as required by AB 2925 (Mojonnier) (Chapter 1647, Statutes of 1990). With a \$70,000 budget change proposal (BCP), the Board was able to contract with the Labor Occupational Health Program (LOHP), a part of the Northern California Occupational Health Center of UC Berkeley for development of the course. The course is being developed in four phases: (1) needs assessment and curriculum planning; (2) curriculum development (writing, review, and revision); (3) pilot testing of the curriculum; and (4) a "train the trainers" program in which designated staff are trained to prepare instructors to use the curriculum.

During Phase I, LOHP has established an advisory committee, developed a sample curriculum and submitted it to the advisory committee for review, acquired consultants for special areas such as graphic arts and low-literacy education, reviewed written materials, and conducted onsite observations of cosmetology classes. Staff reported that Phase I is nearing completion, and that Phase II is scheduled to begin in early July.

Staff also reported that it is looking into the feasibility of resubmitting a BCP rejected last year which would provide funding to address the problem of edu-

cating the current licensed population on hazardous substances in the workplace. BOC would develop a hazardous substances course for current licensees and provide associated educational information to both licensees and consumers.

### LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 2 (Spring 1991) at pages 69-70:

**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 223 (Felando)**, as amended May 2, would permit persons who have completed an apprenticeship program in cosmetology, skin care, nail care, or electrology to be examined and licensed as cosmetologists, estheticians, manicurists, and electrologists, and would require minimum preapprentice training as established by the Board. This bill passed the Assembly on May 29 and is pending in the Senate Business and Professions Committee.

**SB 985 (Deddeh)**, as amended May 30, would require BOC (and 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 (60% for students of the manicurist course). The bill provides that the applicant must satisfy all requirements for licensure before the applicant may be examined, and authorizes the Board to charge a special "preapplication" fee to process such an application. Earlier versions of this bill would have provided for the issuance of a temporary license to students who have graduated from cosmetology school and are awaiting examination. At its January meeting, the Board decided to oppose the "temporary license" concept (see CRLR Vol. 11, No. 2 (Spring 1991) p. 69 for background information); however, at its May meeting, BOC agreed to the "preapplication" compromise, and now supports SB 985. This bill is pending on the Senate floor.



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

## RECENT MEETINGS:

At BOC's March 10 meeting, Jerry Tabaracci, the State Director of the U.S. Department of Labor's Bureau of Apprenticeship and Training gave the Board a presentation on the provisions of the Shelley-Maloney Apprentice Labor Standards Act of 1939, Labor Code section 3070 *et seq.*, the statute which governs apprenticeships in California. Partly due to the pendency of AB 223 (*Felando*) (see *supra* LEGISLATION), BOC is interested in learning about the apprenticeship concept as an alternative to formal vocational education for persons who live in areas where state or private educational programs are not available. Also, the merger bill creating BBC has wiped out BOC's "junior operator" program under Business and Professions Code section 7331, which permitted persons who have spent two years learning or acquiring knowledge of the occupation of a cosmetologist in a licensed cosmetology establishment under the supervision of a licensed cosmetologist to be admitted to BOC's examination. Following Tabaracci's presentation, Board members agreed to take no action on the concept at this time, but to revisit the matter at a future meeting. The Board also agreed to support AB 223.

## FUTURE MEETINGS:

September 8 in Los Angeles.  
November 17 in San Francisco.

## BOARD OF DENTAL EXAMINERS

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The Board of Dental Examiners (BDE) is charged with enforcing the Dental Practice Act, Business and Professions Code sections 1600 *et seq.* This includes establishing guidelines for the dental schools' curricula, approving dental training facilities, licensing dental applicants who successfully pass the examination administered by the Board, and establishing guidelines for continuing education requirements of dentists and dental auxiliaries. The Board is also responsible for ensuring that dentists and dental auxiliaries maintain a level of competency adequate to protect the consumer from negligent, unethical, and incompetent practice. The Board's regu-

lations are located in Division 10, Title 16 of the California Code of Regulations (CCR).

The Committee on Dental Auxiliaries (COMDA) is required by law to be a part of the Board. The Committee assists in efforts to regulate dental auxiliaries. A "dental auxiliary" is a person who may perform dental supportive procedures, such as a dental hygienist or a dental assistant. One of the Committee's primary tasks is to create a career ladder, permitting continual advancement of dental auxiliaries to higher levels of licensure.

The Board is composed of fourteen members: eight practicing dentists (DDS/DMD), one registered dental hygienist (RDH), one registered dental assistant (RDA), and four public members. The 1991 members are James Dawson, DDS, president; Gloria Valde, DMD, vice-president; Hazel Torres, RDA, secretary; Pamela Benjamin, public member; Victoria Camilli, public member; Joe Frisch, DDS; Henry Garabedian, DDS; Martha Hickey, public member; Carl Lindstrom, public member; Alfred Otero, DDS; Evelyn Pangborn, RDH; Jack Saroyan, DDS; and Albert Wasserman, DDS. At this writing, one practicing dentist position is vacant.

## MAJOR PROJECTS:

*Board Adopts Fee Increases.* At its May 10 meeting, the Board held a public hearing on proposed amendments to section 1021, Division 10, Title 16 of the CCR, which would increase BDE's various fees as follows:

- the initial application fee for the clinical examination for all dentists (not just U.S.-trained dentists) would be \$100;
- the initial application fee for the restorative technique examination for all dentists would be \$250;
- the fee for an application for reexamination would be set at \$75;
- the clinical examination or reexamination fee would increase from \$150 to \$450;
- the restorative technique examination or reexamination fee would be \$250;
- the biennial license renewal fee would increase from \$135 to \$150; for renewal periods commencing on or after October 1, 1991, the biennial fee would be \$240;
- the fee for initial licensure would increase from \$150 to \$240;
- the delinquency fee for license renewal would be changed from \$25 to "the amount prescribed by section 163.5 of the [Business and Professions] Code" (currently, 50% of the renewal fee for

the license in effect on the date of the renewal of the license, but not less than \$25 and not more than \$150);

-the fee for restoration of a license forfeited for failure to register would be deleted;

-the fee for a substitute certificate would increase from \$25 to \$50;

-the fee for a late change of practice registration would increase from \$25 to \$50;

-the fee for biennial renewal of a fictitious name permit, for renewal periods commencing on or after October 1, 1991, would be \$150;

-the delinquency fee for fictitious name permits which expire on or after October 1, 1991 would be one-half of the fictitious name permit renewal fee;

-the continuing education provider fee for all providers would increase from \$100 to \$250; and

-the continuing education nonregistered provider fee would be deleted.

At the May 10 hearing, the Board voted unanimously to adopt the above-described regulatory changes, and directed staff to release for a 15-day public comment period any adopted language which differed from the noticed language. At this writing, the proposed regulatory revisions await approval by the Department of Consumer Affairs and the Office of Administrative Law (OAL).

*BDE Seeks RDHEF Rules Changes.* On May 31, BDE published notice of its intent to seek revisions to its regulations affecting registered dental hygienists in extended functions (RDHEF). Existing regulations, adopted in 1976, list the duties which may be assigned to an RDHEF and the settings in which they may be undertaken. However, these regulations were invalidated in 1989 in *Californians for Safe Dental Regulation v. Board of Dental Examiners*, No. 336624 (Sacramento County Superior Court), based on lack of a rulemaking record. Specifically, the court invalidated section 1089(c) and (d), Division 10, Title 16 of the CCR, because the rule-making file before the court did not contain sufficient facts from which the court could determine whether the RDHEF regulations were consistent with the standards of good dental practice and the health and welfare of patients, as required by Business and Professions Code section 1762.

Following the court's ruling, BDE delegated to COMDA the responsibility of evaluating all possible RDHEF duties in order to recommend a course of action to the Board. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 85 for background information.) COMDA