



REGULATORY AGENCY ACTION

authorizes BDE to issue a special permit if the applicant furnishes evidence satisfactory to the Board that he/she meets certain eligibility requirements. This bill, which provides that every provision of the Dental Practice Act applicable to a person licensed to practice dentistry is applicable to a person to whom a special permit is issued, was signed by the Governor on October 6 (Chapter 629, Statutes of 1991).

SB 650 (Alquist), as amended April 15, authorizes BDE to establish by regulation a system for issuing a citation, which may contain an order of abatement or an order to pay an administrative fine, for violation of the Dental Practice Act or any regulation adopted pursuant to that law. This bill was signed by the Governor on October 5 (Chapter 521, Statutes of 1991).

SB 664 (Calderon), as introduced March 5, would prohibit dentists, 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.

SB 1004 (McCorquodale), as amended May 7, would prohibit health facilities from denying, restricting, or terminating a dentist's staff privileges on the basis of economic criteria unrelated to his/her clinical qualifications or professional responsibilities. This bill would define economic criteria as factors related to the economic impact on the health facility of a dentist's exercise of staff privileges in that facility, including, but not limited to, the revenue generated by the dentist, the number of Medi-Cal or Medicare patients treated by the dentist, and the severity of the patients' illnesses treated by the dentist. This bill is pending in the Senate Health and Human Services Committee.

AB 194 (Tucker), as introduced January 4, would provide that, on and after January 1, 1993, an applicant for a license to practice dentistry in this state who fails to pass the skills examination after three attempts shall not be eligible for further reexamination until the applicant has successfully completed a minimum of 50 hours of additional education at an approved dental school. A foreign-trained dental applicant who fails to pass the required restorative technique examination after three attempts would not be eligible for further reexamination until the applicant has successfully completed a minimum of two

academic years of education at an approved dental school. This bill is pending in the Assembly Ways and Means Committee.

AB 2120 (Cortese), as amended September 11, would, among other things, require the licensure of dental assistants; create a new licensure category of RDAs in orthodontic practice; prescribe the functions that may be performed by dental assistants, RDAs, and RDAs in orthodontic practice under direct and general supervision; and authorize BDE to adopt regulations relating to these functions. This bill would also require COMDA to adopt regulations to establish minimum qualifications for licensure of dental assistants; require COMDA to establish the minimum qualifications for licensure of RDAs in orthodontic practice; and authorize COMDA to adopt licensing regulations for RDAs in orthodontic practice by January 30, 1993. This bill is pending in the Assembly Health Committee.

SB 777 (Robbins) would, commencing July 1, 1992, provide for the certification and licensure of dental technicians and dental laboratories under the Board's jurisdiction. As amended April 29, the bill would enlarge the membership of the Board by adding a certified dental technician as a member, and would create a Dental Laboratory and Technology Committee, commencing July 1, 1992, under the Board's jurisdiction, consisting of five members appointed by the Board. This bill, which is opposed by the Board, is still pending in the Senate Business and Professions Committee.

AB 91 (Moore), as amended August 28, would require a dentist, dental health professional, or other licensed health professional to sign his/her name or enter his/her identification number and initials in the patient's record next to the service performed, and to date those treatment entries. This bill was passed by both houses and awaits the Assembly's concurrence in Senate amendments.

SB 934 (Watson), as amended May 22, would prohibit a dentist from using any toxic and carcinogenic materials to repair a patient's oral condition or defect unless the dentist obtains prior informed consent from the patient. This bill, which the Board opposes, is still pending in the Senate Business and Professions Committee.

RECENT MEETINGS:

At BDE's July 26 meeting, Executive Officer Georgetta Coleman reported that the Department of Consumer Affairs' Internal Audits Division recently

completed an audit of the Board's internal controls. Ms. Coleman noted that the audits are intended to provide an assessment of the Board's system of internal accounting and administrative controls. Ms. Coleman reported that, in general, BDE received a passing grade.

At BDE's September 20 meeting, the Board discussed Business and Professions Code section 1715.1, which allows a five-year delinquency period prior to the cancellation of an "Additional Office Permit"; the Board noted that existing law does not specify a length of time during which other Board-issued permits may remain delinquent before they may be cancelled by the Board. To remedy this situation, the Board agreed to seek a legislative amendment to section 1715.1, to provide that the delinquent period for most of the Board-issued permits is five years.

FUTURE MEETINGS:

To be announced.

BUREAU OF ELECTRONIC AND APPLIANCE REPAIR

Chief: K. Martin Keller
(916) 445-4751

The Bureau of Electronic and Appliance Repair (BEAR) was created by legislative act in 1963. It registers service dealers who repair major home appliances and electronic equipment. BEAR is authorized under Business and Professions Code section 9800 *et seq.*; BEAR's regulations are located in Division 27, Title 16 of the California Code of Regulations (CCR).

The Electronic and Appliance Repair Dealer Registration Law requires service dealers to provide an accurate written estimate for parts and labor, provide a claim receipt when accepting equipment for repair, return replaced parts, and furnish an itemized invoice describing all labor performed and parts installed.

The Bureau continually inspects service dealer locations to ensure compliance with BEAR's enabling act and regulations. It also receives, investigates, and resolves consumer complaints. Grounds for revocation or denial of registration include false or misleading advertising, false promises likely to induce a customer to authorize repair, fraudulent or dishonest dealings, any willful departure from or disregard of accepted trade standards for good and workmanlike repair, and negligent or incompetent repair.

The Bureau is assisted by an Advisory Board comprised of two represen-



tatives of the appliance industry, two representatives of the electronic industry, and five public representatives, all appointed for four-year terms. Of the five public members, three are appointed by the Governor, one by the Speaker of the Assembly, and one by the Senate President pro Tempore.

MAJOR PROJECTS:

BEAR Schedules Public Hearings on Key Issues. In September, BEAR announced that it would hold public hearings in upcoming months on third party service contracts, enhancing BEAR's enforcement authority, technician certification, and extending BEAR's mandate. (See CRLR Vol. 11, No. 3 (Summer 1991) pp. 75-76 for background information.) On October 25 in San Francisco and November 8 in Los Angeles, the agenda will focus on service contracts and enhanced enforcement authority. On November 22 in San Jose and December 13 in Orange County, technician certification and extending BEAR's mandate are the topics slated for discussion. BEAR encourages written testimony from interested parties who are unable to attend one of the hearings.

New BEAR Chief Marty Keller has identified specific issues within each area which he would like to see addressed. Regarding service contract administrators, these issues include the possibility of classifying service contracts as insurance (which may involve Department of Insurance jurisdiction or overlap) and an expansion of BEAR's authority to require audits of service contract administrators. BEAR would like feedback on several proposals to enhance and simplify its enforcement authority, such as peace officer status for BEAR field representatives, adoption of a phone disconnect program for unregistered dealers, recovery of a customer's goods from fraudulent dealers, and recovery of costs incurred as a result of enforcement procedures. Regarding technician certification, BEAR expects to discuss the possible benefits and detriments to the consumer and the industry of the California State Electronic Association's proposed legislation which would authorize BEAR to test and certify or register service technicians. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 76; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 88-89; and Vol. 10, No. 1 (Winter 1990) p. 67 for background information.) Finally, BEAR requests testimony on the expansion of the Bureau's mandate to include "commercial" repair firms and various new consumer technologies.

OAL Approves Rulemaking Package. On May 16, BEAR resubmitted its revised rulemaking package of modifications and additions to ten sections of Division 27, Title 16 of the CCR. The package involves changes to sections 2702 (definitions); 2713 (place of business to include location where items accepted for repair); 2721 (receipt requirement for appliances taken out of the home); 2724 (retention of work invoice for two years); 2730 (picture tube); 2736 (default warranty if work order is silent); 2741 (requirements for use of clamp-on piercing valve); 2751 (advertising standards); 2754 (definition of "alignment"); and 2765 (hazardous or toxic parts need not be returned to the customer). The resubmitted package did not include two prior proposed amendments to sections 2710 (prohibiting an officer of an accused corporation from registering) and 2717 (prohibition on issuance of registration to someone using same name and telephone number as an accused dealer). OAL rejected these two proposals in February and BEAR dropped them from its package. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 76; Vol. 11, No. 2 (Spring 1991) p. 72; and Vol. 11, No. 1 (Winter 1991) p. 60 for detailed background information.)

On June 12, OAL approved the package and forwarded the amendments to the Secretary of State for inclusion in the CCR. However, at the end of August, BEAR Program Manager George Busman discovered a technical numbering problem with the new provisions. He contacted OAL, which then transferred the package back to BEAR for the necessary revisions. BEAR resubmitted the package, and OAL approved it on September 26.

LEGISLATION:

AB 1893 (Lancaster), as amended August 19, creates a cyclical renewal system under which BEAR registrations will expire (and must be renewed) one year from the date of original issuance. This bill was signed by the Governor on October 7 (Chapter 654, Statutes of 1991).

FUTURE MEETINGS:

February 21 in Riverside.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Executive Officer: James B. Allen
(916) 445-2413

The Board of Funeral Directors and Embalmers licenses funeral establish-

ments and embalmers. It registers apprentice embalmers and approves funeral establishments for apprenticeship training. The Board annually accredits embalming schools and administers licensing examinations. The Board inspects the physical and sanitary conditions in funeral establishments, enforces price disclosure laws, and approves changes in business name or location. The Board also audits preneed funeral trust accounts maintained by its licensees, which is statutorily mandated prior to transfer or cancellation of a license. Finally, the Board investigates, mediates, and resolves consumer complaints.

The Board is authorized under Business and Professions Code section 7600 *et seq.* The Board consists of five members: two Board licensees and three public members. In carrying out its primary responsibilities, the Board is empowered to adopt and enforce reasonably necessary rules and regulations; these regulations are codified in Division 12, Title 16 of the California Code of Regulations (CCR).

MAJOR PROJECTS:

Proposed Regulatory Changes. The Board has not yet completed the rulemaking file on its proposed amendments to section 1257, Title 16 of the CCR, which would increase the various licensing fees of funeral directors and embalmers to the statutory maximum. Once the Board completes the package, it will submit section 1257 along with proposed section 1259, Title 16 of the CCR, which would convert the Board's present annual license renewal schedule to an anniversary date renewal schedule, to the Office of Administrative Law for approval. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 77; Vol. 11, No. 2 (Spring 1991) p. 74; and Vol. 11, No. 1 (Winter 1991) p. 61 for background information.)

LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at page 77:

SB 637 (Roberti), as amended April 30, would require, on and after July 1, 1995, that an applicant for licensure as an embalmer submit evidence to the Board that he/she has attained an associate of arts degree, an associate of science degree, or an equivalent level of higher education; require that such applicants complete a course of instruction of not less than one academic year in a Board-approved embalming school; authorize the Board to require such applicants to pass the National Board exam; and require the Board to adopt