



BBE's enabling act is found at Business and Professions Code section 6500 *et seq.*; the Board's regulations are located in Chapter 3, Title 16 of the California Code of Regulations (CCR).

## MAJOR PROJECTS:

*Merger Proposal Submitted.* Fifty years after merger with the Board of Cosmetology (BOC) was first suggested, a BBE committee has finally created a concrete proposal for a new merged board of cosmetologists and barbers. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 46; Vol. 9, No. 3 (Summer 1989) p. 41; and Vol. 7, No. 1 (Winter 1987) for background information.)

BBE has long been opposed to the merger concept. At an October 25 oversight hearing conducted by the Senate Business and Professions Committee (see CRLR Vol. 9, No. 4 (Fall 1989) p. 46 for background information), BBE President Paul Schwager testified that barbers, who are vastly outnumbered by cosmetologists, believe that their interests would be ignored by a merged board. The Committee warned BBE that legislative action to merge the boards could occur without the Board's consent, and encouraged BBE to cooperate with the legislature.

Following the Committee hearing, a BBE committee consisting of industry member Elton Pamplin and public member Edna Mayhand drafted two proposed merger plans, which were subsequently discussed at BBE's December 4 meeting. Pamplin's proposal calls for a five-member board consisting of three industry members (one owner of a hair care business, one hair care licensee, and one hair care school owner or manager) and two public members. The industry members would be appointed by the Governor; the public members would be appointed by the Assembly Speaker and the Senate Rules Committee. All present BBE and BOC members could finish their terms, but would not be replaced at the end of their terms until the new five-member board has reached its proposed constituency. The position of Executive Officer (EO) of the merged board would be filled by the current EO with the most longevity in the position of EO (as between the BBE and BOC EOs); the other EO would become Assistant EO of the merged board. All present staff of both boards would remain as staff of the merged board.

Mayhand's proposal is essentially the

same as Pamplin's, except with respect to board membership. Mayhand suggested that the merged board consist of five public members, and that advisory panels of industry members be created to assist the board in its deliberations.

At the December 7-8 oversight hearing of the Assembly Committee on Governmental Efficiency and Consumer Protection (see CRLR Vol. 9, No. 4 (Fall 1989) p. 46 for background information), BBE EO Lorna Hill presented the Committee with draft legislative language creating a new "Board of Professional Hair and Body Care" and a timetable of meetings, hearings, and other events designed to result in the introduction of proposed legislative language by January 1991 and the creation of the new board by January 1992. Hill advised the Committee that BBE has "received the message of the Committee [regarding merger] loud and clear." In 1989, the Committee refused to approve AB 1108 (Epple), BBE's fee bill, unless the bill were amended to require merger. BBE agreed to commit to the merger timetable in exchange for removal of the merger language from AB 1108; the merger language has been removed and the bill is moving through the legislature at this writing.

The draft legislative language proposed by BBE would create a fully merged "Board of Professional Hair and Body Care," which would issue separate licenses to hair care professionals, body care professionals, electrologists, manicurists, and cosmeticians. The new board would also license instructors and schools in all of the above-described categories.

At this writing, Assemblymember Delaine Eastin is preparing legislation to finalize the merger timetable (*see infra* LEGISLATION).

*Regulatory Change Approved.* On October 13, the Office of Administrative Law approved BBE's amendment to section 204.6(b), Chapter 4, Title 16 of the CCR. The amendment increases the required assessment on barber colleges for deposit into BBE's Student Security Trust Fund. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 46 for background information.)

## LEGISLATION:

The following is a status update of bills described in detail in CRLR Vol. 9, No. 4 (Fall 1989) at page 46:

AB 1108 (Epple), as amended on January 10, would delete existing maxi-

mum limits on licensing fees charged by BBE until January 1994, and would increase the maximum fees effective January 1, 1992. Language directing a merger of BBE and BOC was deleted from the bill following BBE's presentation of its merger proposal at the December 7-8 hearing of the Assembly Committee on Governmental Efficiency and Consumer Protection (*see supra* MAJOR PROJECTS). At this writing, AB 1108 is pending on the Assembly floor.

AB 459 (Frizzelle) would have provided that a previously licensed individual may renew his/her license at any time after license expiration upon payment of the applicable fees and satisfaction of continuing education requirements. This bill was dropped by its author.

*Anticipated Legislation.* BBE anticipates the introduction of a bill that will officially set the timetable and requirements for the BBE/BOC merger. Assemblymember Delaine Eastin is preparing to introduce this bill with the assistance of Assemblymember Robert Frazee, BBE Executive Director Lorna Hill, and BOC Executive Director Denise Ostton. BBE anticipates that the merger law will take effect by 1991, and that the new board will be fully operative by 1992.

## 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 Chapter 18, Title 16



of the California Code of Regulations (CCR).

## MAJOR PROJECTS:

**Regulatory Changes.** On November 16, BBSE submitted to the Office of Administrative Law (OAL) its final rulemaking package on several proposed regulatory changes which implement SB 2658 (Watson) (Chapter 1091, Statutes of 1988), which substantially changed the licensure requirements for LCSWs. Specifically, the Board adopted new section 1874 and amended existing sections 1876 and 1873. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 47 and Vol. 9, No. 3 (Summer 1989) p. 42 for background information.) OAL approved these regulations on December 18.

At this writing, Board staff is still preparing the final rulemaking record on three other packages of regulatory changes which were adopted as far back as March 1989. Included in these regulatory changes are new provisions to implement the Permit Reform Act of 1982; regulations implementing AB 3657 (Vasconcellos) (Chapter 1365, Statutes of 1986), which rewrote the laws governing the experience requirements for MFCC licensure; and amendments to several existing regulations regarding abandonment of applications and conduct substantially related to the qualifications and duties of BBSE licensees for purposes of license denial, revocation, or suspension. (See CRLR Vol. 9, No. 3 (Summer 1989) pp. 41-42 and Vol. 8, No. 4 (Fall 1988) p. 46 for extensive background information on these regulatory changes.)

## LEGISLATION:

The following is a status update on bills reported in CRLR Vol. 9, No. 4 (Fall 1989) at page 47:

**AB 1174 (Klehs)** would permit BBSE to develop a diversion program for the rehabilitation of its licensees who are impaired due to abuse of drugs or alcohol. This bill would require BBSE to contract with one or more employee assistance programs to administer such a program for impaired practitioners and would specify the duties and responsibilities of the program. It would also require BBSE to contract with professional associations to coordinate participation in the program, to recruit volunteers to assist in the program, and to promote the program. Finally, this bill would provide that the program is to be operative only until January 1, 1994.

AB 1174 is pending in the Senate Business and Professions Committee.

**AB 2422 (Polanco)** would assess a 10% surcharge on the licensing fees of a number of health professions, including MFCCs, LCSWs, and LEPs, in order to fund a student financial assistance project to assist bilingual and bicultural students considering the mental health professions and to encourage currently employed bilingual and bicultural mental health paraprofessionals to pursue advanced degrees in the mental health field. The bill would require that 60% of the funds obtained pursuant to this surcharge will be used to support the training of students selected from professional fields in proportion to the contributions received from each professional group, and 40% will be used to support training of mental health professionals with other underrepresented areas of expertise, and to attract individuals to the mental health profession. This surcharge would remain in effect only until January 1, 1994. AB 2422 is pending in the Assembly Ways and Means Committee.

**AB 1266 (Tucker)**, concerning the licensing of alcohol and drug counselors, is pending in the Assembly Health Committee.

## LITIGATION:

In November, a San Diego County Superior Court jury rendered a record \$3.38 million civil judgment against a marriage counselor who is past president of the 15,000-member California Association of Marriage and Family Therapists. Gerald Allen Kersbrock, Ph.D., 51, resigned from his leadership post on September 27, 1989 after public release of alleged sexual misconduct with a married female patient.

The Rancho Penasquitos couple sued Kersbrock separately. The wife's claim settled at \$375,000 in compensatory damages. However, the jury awarded the husband \$1.85 million in compensatory damages and \$1,538,000 in punitive damages.

At this writing, BBSE is still investigating the case; if it find sufficient evidence of a disciplinable offense, it will recommend the filing of a formal accusation against Kersbrock to the Attorney General's office. Until the accusation is filed, a hearing is held, and a final decision is reached—which can take three to five years—Dr. Kersbrock may continue to practice as a licensed therapist in the state of

California.

**SB 1004 (Boatwright)** (Chapter 795, Statutes of 1989), effective January 1, makes it a misdemeanor or a felony offense for any psychotherapist to commit specified acts of sexual exploitation with a current patient or client, or with a former patient or client when the relationship was terminated primarily for the purpose of engaging in these acts, unless the psychotherapist has referred the patient or client to an independent psychotherapist. The new law is the result of a large number of alleged sexual misdeeds by therapists licensed by BBSE, the Board of Psychology, and the Medical Board of California.

## FUTURE MEETINGS:

April 20 in San Francisco.

July 13 in San Diego.

September 14 in Sacramento.

## 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 Chapter 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 Changes Approved.** Following a public hearing at its December 5 meeting in Los Angeles, the Board adopted several proposed changes to its regulations regarding crematory recordkeeping. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 48 and Vol. 9,