



REGULATORY AGENCY ACTION

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 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. At its March 22 meeting in San Francisco, the Board held a public hearing on the proposed repeal of section 2370(e) of its regulations, because it refers to obsolete Civil Code sections 2228-2239 and 2261. Section 2370(e) pertains to the handling of trusts. Following the hearing, the Board approved the repeal; at this writing, the Board is preparing the rulemaking file on this change for submission to the Office of Administrative Law (OAL).

On March 30, OAL approved the Board's amendments to section 2340 of its regulations, regarding crematory recordkeeping. (See CRLR Vol. 10, No. 1 (Winter 1990) pp. 59-60; Vol. 9, No. 4 (Fall 1989) p. 48; and Vol. 9, No. 3 (Summer 1989) p. 43 for background information.) These regulatory changes are now in effect.

Endowment Care Fund Rates. The Board was unsuccessful in obtaining an author to introduce legislation to amend section 8738 of the Health and Safety Code to increase endowment care fund rates. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 60 and Vol. 9, No. 4 (Fall 1989) p. 48 for background information.) The Board hopes to introduce this legislation next year. Along with increasing endowment care fund rate minimums, the Board also seeks to clarify when this money is due. The Code says the money is due "when the sale is

complete." However, differing opinions as to when a sale is considered complete are causing enforcement problems for Executive Officer John Gill. The Board may attempt to clarify this phrase administratively.

Accusation Filed Against Pomona Cemetery Association. John Gill has brought a disciplinary accusation against the Pomona Cemetery Association. The complaint alleges that the Association engaged in commingling human remains by placing ashes from various cremations in aluminum cans and burying them across the street from the cemetery. A hearing on the matter is scheduled for September 19-21 before an administrative law judge.

LEGISLATION:

SB 2244 (Davis), as amended May 30, would increase fees for permits to dispose of human remains, and specify how the fees are to be allocated. The bill also establishes the Commission on Peace Officer Standards and Training (POST) Fund in the general fund for purposes of coroner education and training. This bill is pending in the Senate Appropriations Committee.

AB 2801 (Hauser), as introduced February 7, would exempt the reburial of Native American human remains, under an agreement or recommendation between landowners and Native Americans, from misdemeanor charges for depositing human remains in a place other than in a cemetery. This bill is pending in the Senate Health and Human Services Committee.

AB 2758 (Eastin), as amended June 7, would exempt a cemetery which disposes specified materials on cemetery grounds from the Solid Waste Disposal Site Hazard Reduction Act of 1989. This bill has been passed by both houses and has been returned to the Assembly for a concurrence vote.

AB 3427 (Eastin), as amended May 25, would provide that an applicant for a temporary cemetery salesperson's license shall pay the same fee as that of an applicant for a cemetery salesperson's license, provide that the fee shall be fixed by the Board at no more than \$30, and make other technical, corresponding changes. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 60 and CRLR Vol. 9, No. 4 (Fall 1989) p. 48 for background on salesperson licensing.) This bill is pending in the Senate Business and Professions Committee.

RECENT MEETINGS:

At its March 22 meeting, the Board considered a number of licensing appli-

cations, including two applications for certificates of authority, three applications for crematory licenses, eight applications for corporate cemetery broker licenses, and two applications for an individual cemetery broker license.

FUTURE MEETINGS:

To be announced.

BUREAU OF COLLECTION AND INVESTIGATIVE SERVICES

Chief: Alonzo Hall
(916) 739-3028

The Bureau of Collection and Investigative Services (BCIS) is one of over forty separate regulatory agencies within the Department of Consumer Affairs (DCA). The Chief of the Bureau is directly responsible to the director of the Department.

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 two-fold: (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), repossessioners, 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, and use their authority to intimidate and harass.

Repossessors. Repossession agencies repossess personal property on behalf of a credit grantor when a consumer defaults on a conditional sales contract which contains a repossession clause. Any individual employed by these services is required to be registered with the Bureau. Pursuant to the Repossessors Act, Business and Professions Code section 7500 *et seq.*, the Bureau functions to protect consumers from unethical methods of repossessing personal property, such as physical abuse resulting in bodily harm, threats of violence, illegal entry onto private property, and misrepresentation in order to obtain property or information about property.

Private Investigators. Private investigators conduct investigations for private individuals, businesses, attorneys, insurance companies, and public agencies. The scope of their job generally falls within the areas of civil, criminal, and domestic investigations. Any private investigator who carries a firearm on the job must possess a firearm permit issued by the Bureau. Pursuant to Business and Professions Code section 7540 *et seq.*, the Bureau oversees private investigators to protect consumers and clients against investigators who misrepresent, impersonate, or make threats in order to obtain desired information; perform inadequate or incompetent investigations; fail to substantiate charges or charge more than the amount agreed upon; and alter, falsify, or create evidence.

Alarm Company Operators. Alarm company operators install, service, maintain, monitor, and respond to burglar alarms. These services are provided to private individuals, businesses, and public entities. Any employee responding to alarms who carries a firearm on the job must be registered by the Bureau and possess a Bureau-issued firearm permit. Pursuant to the Alarm Company Act, Business and Professions Code section 7590 *et seq.*, the Bureau regulates this industry in order to protect clients from potential theft or burglary, invasion of privacy or misrepresentation by alarm companies, and failure on their part to render service as agreed.

Protection Dog Operators. Protection dog operators train, lease, and sell dogs for personal and/or property protection. They also provide patrol services using trained dogs. Individuals employed by any of these services must be registered by the Bureau. These services are employed by private individu-

als, business entities, and law enforcement agencies. Pursuant to Business and Professions Code section 7550 *et seq.*, the Bureau serves to protect against possible violations in this industry, such as inadequately trained or physically abused dogs, overcharges for services, invasions of privacy, or potential theft or burglary of property.

Medical Provider Consultants. Medical provider consultants are contract collectors who provide in-house collection services to medical facilities. They contact insurance companies and/or patients to try to collect on medical debts on behalf of the medical provider. Nevertheless, consultants cannot themselves collect on delinquent debts. Instead, they must turn the debt over to an independent, licensed collection agency in order to avoid any conflict of interest. Medical provider consultants may be licensed by the Bureau pursuant to Health and Safety Code section 1249.5 *et seq.*

Training Facilities and Instructors. These facilities provide required firearm training to licensed private investigators; power to arrest and firearm training to alarm agents who respond to alarm systems; and power to arrest, firearm, and baton training to security guards. Upon completion of training, individuals must pass examinations before they may be issued the appropriate permits. Pursuant to Business and Professions Code section 7552 *et seq.*, the Bureau regulates these facilities in order to ensure that required training is provided to licensed individuals, and that only those qualified possess the proper permits to provide service to the consumer.

Locksmiths. Locksmiths install, repair, open, modify, and make keys for locks. These services are provided to private individuals, businesses, and public entities. Pursuant to Business and Professions Code section 6980 *et seq.*, the Bureau regulates this industry in order to protect clients from potential theft or burglary, invasion of privacy, and misuse of a locksmith's skills, tools, or facilities for the commission of a crime.

The purpose of the Bureau is to protect the health, welfare and safety of those affected by these industries. To accomplish this, the Bureau regulates and reviews these industries by its licensing procedures and by the adoption and enforcement of regulations. For example, the Bureau reviews all complaints for possible violations and takes disciplinary action when violations are found. The Bureau's primary method of regulating, however, is through the granting or denial of initial/renewal

license or registration applications. Education is also utilized to assist in achieving Bureau goals.

Consumers and clients may pursue civil remedies to resolve complaints and disputes currently within the regulatory authority of the Bureau. In addition, class action suits may be filed on behalf of consumers by the Attorney General's office and local district attorneys against businesses which engage in repetitive unethical business practices.

Two advisory boards function within the Bureau to advise the Chief and the DCA Director on policy matters relating to their respective industries. The Collection Agency Advisory Board (CAAB) acts pursuant to Business and Professions Code section 6863.5 *et seq.*, and the Private Security Services Advisory Board (PSSAB) is created under Business and Professions Code section 7516 *et seq.*

MAJOR PROJECTS:

Status of Instructional Manuals. At PSSAB's April 19 meeting, Chief Hall announced that the revised versions of the Bureau's firearms, baton, and power to arrest training manuals had been approved by the Bureau and by DCA. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 50; Vol. 9, No. 3 (Summer 1989) p. 44; and Vol. 9, No. 2 (Spring 1989) p. 51 for background information.) Board member John Taylor requested that the revised manuals be submitted to PSSAB for review; thus, PSSAB appointed a subcommittee to review the three manuals.

At PSSAB's January 18 meeting, Chief Hall described the process by which training manuals are revised. The Bureau updates instructional manuals when substantial changes have occurred in the law which might affect a specific procedure in a regulated field. The revised manuals also contain updated examination questions which have been approved and validated by Bureau personnel.

Appointments to the Disciplinary Review Committees (DRCs). PSSAB currently appoints public members as well as industry participants to three DRCs. The northern and southern DRCs examine disciplinary cases against private patrol services only. The alarm industry has a separate statewide DRC composed of public members and members of the alarm industry.

The DRCs provide an intermediate step in the disciplinary process (revocation or denial of licensure) between the Bureau chief and an administrative law judge (ALJ). The DRCs review disciplinary action taken by the Bureau and



may reverse the decision if deemed unjustified. If the DRC upholds the Bureau's decision, the applicant or licensee may appeal to an ALJ. (See CRLR Vol. 7, No. 2 (Spring 1987) p. 45 for background information.)

At its January 18 meeting, PSSAB reappointed two members to the southern private patrol and statewide alarm DRCs, respectively. Additionally, Lewis W. Koldewey was unanimously appointed as a new public member to the northern private patrol DRC. Mr. Koldewey holds a juris doctor degree and has returned from the FBI following thirty years of service. Mr. Koldewey currently conducts personnel and security investigations for the U.S. Department of Defense.

In response to questions regarding notice of vacancies on these committees, Chief Hall agreed to incorporate such information in the Bureau's *Industry Bulletin* as the vacancies arise. The Bureau's intent is to solicit and encourage those interested persons to submit their applications to the various positions on the DRCs as they become available.

Conservatorships. At CAAB's January 17 meeting, Chief Hall updated the members of the Board as well as those in the audience on the issue of conservatorships. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 62; Vol. 8, No. 4 (Fall 1988) p. 48; and Vol. 8, No. 3 (Summer 1988) pp. 51-52 for background information.) Hall reported the placement of a total of nine agencies under conservatorship, with thirty more on the way. Collection agencies may request a list of those companies under conservatorship by sending a letter to the Bureau. Chief Hall has begun a training program for conservators to help them "do things in a timely fashion."

At CAAB's May 18 meeting, Chief Hall reported an alarming increase in the number of collection agencies requiring conservators; an additional 33-35 agencies were added to the list during the last reporting period. Further, auditors reviewing financial statements from these agencies often found substantial evidence of embezzlement of massive amounts of monies, rather than mere accounting or bookkeeping errors.

DCA Legal Department Deputy Director Jeff Marschner addressed CAAB on this issue, which is of great concern to the DCA Director and the Bureau. When evidence of criminal intent and conduct surfaces, DCA intends to refer the matter to its Division of Investigation, and then to the local district attorney for criminal prosecu-

tion. According to Marschner, these matters should not be addressed merely on the administrative or disciplinary level; the Bureau should institute a disciplinary proceeding, but may have to hold it in abeyance pending conclusion of the criminal action. The long-range impact of this policy will hopefully be deterrence of criminal conduct by Bureau licensees, and reduction in the number of expensive conservatorships imposed by the Bureau.

Qualified Manager (QM) Examination. Per Chief Hall's earlier request that members of the collection agency industry contribute to the revision of the QM exam, industry members from northern California met in San Francisco and contributed 250 questions to the revised examination. However, Hall stated that he was "greatly disappointed" in the lack of participation from the southern sector of the state thus far. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 50; Vol. 9, No. 2 (Spring 1989) p. 51; and Vol. 8, No. 3 (Summer 1988) p. 51 for background information.)

During the March 9 meeting, there was heated debate with respect to some of the general business questions that are included on the QM examination. Chief Hall insisted that such questions will help to improve the overall professionalism of the industry by ensuring some minimal level of business competence, thereby reducing the number of out-of-trust agencies requiring conservatorship assistance. Bob Morris, speaking on behalf of the industry, stated that he resents business questions which seem to require an unusual level of business acumen. Collection agencies, argues Morris, "ought to have the right to go broke" like any other business. Industry member Jerry Springer, however, agreed with Hall that the qualified manager has a unique fiduciary responsibility to the agency's clients and debtors which justifies such questions. Finally, an industry member from the audience suggested that, given the nature of the power such collection agencies have (use of mail/telephone to contact debtors, etc.), a heightened standard of professionalism is warranted.

Following the compilation of 500 questions, DCA's Central Testing Unit will review the questions and select a total of 100 questions to include on the revised QM exam.

Task Force For Unlicensed Activity. The problem of unlicensed businesses engaged in the collection of medical bills has recently increased. To prevent such activity from unfairly competing with licensed collection agencies performing similar services, CAAB has

created a special task force to be headed by public member Bob Hanson, who has had prior experience in this area.

LEGISLATION:

SB 2101 (Deddeh). Section 6872 of the Business and Professions Code currently authorizes the superior court of any county in which a person is operating or attempting to operate a business as a collection agency without a license, upon application of the DCA Director or specified persons, to issue an injunction or other appropriate order restraining that conduct, and to impose civil fines not to exceed \$10,000. As amended April 16, this bill would further provide that such an action may also be brought by the Attorney General, a district attorney, a city attorney, or city prosecutor, and would provide for distribution of the fines depending on who brings the action. This bill is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

SB 2106 (Doolittle), as introduced February 21, would make a technical change in existing law which provides that all collection agency applications for registration or licensure shall contain a statement informing the applicant that the address and phone number provided on the application may be given to persons requesting that information. This bill is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

AB 3242 (Lancaster) is DCA's omnibus bill. As amended May 15, it would make numerous minor changes in statutes affecting Bureau licensees.

Among other things, it would require any applicant for a collection agency license to submit specified documents to the Bureau rather than requiring only applicants for examinations to submit those documents; delete bad moral character, intemperate habits, or a bad reputation as grounds for the refusal of permission to take the collection agency examination or to issue a qualification certificate; delete an obsolete provision relating to approval of an application for a collection agency certificate; delete an exemption for a collection agency licensed prior to May 2, 1941, from the requirement that every office be under the charge of a qualified certificate holder; provide that the license of a locksmith shall expire two years from the date of issuance or an assigned date; delete the requirement that private patrol operators must report the loss or theft of a deadly weapon to the Bureau Chief; provide that a specified training requirement for purposes of the Private Investigator Act applies to the carrying



of a firearm rather than the carrying of a deadly weapon in the course of employment as a security guard or patrolperson; and expand the exemption from licensure as an alarm company operator to include any entity retained by the alarm company operator to monitor alarm systems, as specified. At this writing, AB 3242 is pending in the Senate Business and Professions Committee.

SB 2525 (Vuich). Existing law provides for the licensing and regulation of repossession agencies and their employees by the Bureau. The law requires each repossession agency to be managed or controlled by a person registered as a qualified manager. As amended May 25, this bill would provide that an assignment, for purposes of recovering personal property sold under a security agreement, means an authorization by the lessee, in addition to the legal owner, lienholder, or lessor; and that an assignment also includes an authorization by a registered owner to recover personal property registered under the Vehicle Code where there is or was an employer-employee relationship between the registered owner and the possessor of the property. This bill would also authorize superior courts to enjoin unlicensed repossession agency activity and to impose civil fines, as specified; increase the experience requirement for a qualification certificate to two years of lawful experience for those applying on or after January 1, 1992; increase the time in which an applicant has to file with the Bureau in order that he/she may be eligible for examination to not later than 30 days prior to the next scheduled examination; provide that employees of a multiple licensee, as defined, need only file one application for registration for each multiple licensee; and exempt employees of a licensee who engage exclusively in-office skiptracing from registration.

This bill is currently pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

SB 2420 (Royce), as introduced February 28, would provide that specified requirements relating to licensure by the Bureau apply to security guard registrants and applicants for registration as a security guard, and require that applicants for an alarm company operator or alarm agent license be at least 18 years old. The bill is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

AB 4001 (Katz) would have made numerous changes to statutes pertaining to the licensing and regulation of private patrol operators, but was rejected on

June 13 by the Assembly Ways and Means Committee.

The following is a status update of bills discussed in detail in CRLR Vol. 10, No. 1 (Winter 1990) at page 62:

AB 1644 (Peace), as amended January 10, would amend section 7546.3 of the Business and Professions Code to authorize the Bureau to ascertain from governmental or other official documents whether an applicant for a position as a security guard has been convicted of a criminal offense outside California. The bill is now pending in the Senate Business and Professions Committee.

SB 104 (Robbins) would permit the filing of an approved insurance policy in lieu of the \$10,000 surety bond now required of collection agency licensees. This bill has been pending in the Assembly Finance and Insurance Committee for over one year; no hearing date has been set at this writing.

AB 255 (Floyd), which would have permitted DCA to adopt rules requiring private investigators to comply with the training requirements regarding the exercise of powers to arrest and the carrying and use of firearms applicable to private patrol operators, died in committee.

SB 141 (Deddeh), which would have set new expiration dates for qualification certificates and extended reporting and/or registration deadlines for collection agency licensees, died in committee.

RECENT MEETINGS:

At its January 18 meeting in San Bernardino, PSSAB elected Bruce Westphal as its new chair. John Taylor and Francis Stoffels were elected as Vice-Chair and Secretary, respectively.

Chief Hall indicated that the *Industry Bulletin* would not be a monthly publication, as the Bureau has limited time and resources. The *Bulletin* "will be a publication that will be sent out only as changes occur." Hall indicated that the *Bulletin* would be sent out at least three times per year depending on the extent of industry changes between issues. (See CRLR Vol. 9, No. 3 (Summer 1989) p. 44 for background information.)

At the March 9 CAAB meeting, the Board reelected public member Esther Winston to another term as Chair. The Board also elected industry member Bette Myers as Vice-Chair and public member John Espinosa as Secretary.

At its May 18 meeting, CAAB discussed the fact that the Bureau's enabling statute sunsets in 1991. Chief Hall reported that DCA plans to introduce legislation removing the sunset date or extending it further.

FUTURE MEETINGS:

PSSAB: October 18 in San Francisco; January 17 in Los Angeles.

CAAB: September 14 in Fresno; January 1991 in San Diego.

CONTRACTORS STATE LICENSE BOARD

Registrar: David Phillips
(916) 366-5153

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 Business and Professions Code section 7000 *et seq.*; CSLB's regulations are codified in Chapter 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:

Alternate Testing Methods. On January 30, the Office of Administrative Law (OAL) rejected the Board's proposed amendment to section 829, Chapter 8, Title 16 of the CCR, which would establish an alternate method of establishing a minimum competence level other than passing the licensing examination. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 51 for background information.) OAL disapproved the proposed regulatory change because the Board failed to comply with the clarity and reference standards of Government Code section 11349.1, and because the Board failed to fully summarize and/or respond to all public comments.

On March 21, CSLB released modified language of section 829 for a fifteen-day comment period. Under the revised section, if an applicant fails to pass the trade examination, the CSLB Registrar shall evaluate the applicant's construction experience and, provided the experience is clearly described on the application and verified by certificates, add to the exam grade credit for experience of one-half percentage point for each year of experience, commencing