



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:

Board Rulemaking. On August 15, the Board submitted to the Office of Administrative Law (OAL) for approval its proposed repeal of section 2370(e), pertaining to the handling of trusts, because it refers to obsolete sections of the Civil Code. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 76 for background information.) At this writing, OAL has not yet published its decision.

Endowment Care Fund Rates. The Board is currently searching for a legislative author to carry a bill to amend section 8738 of the Health and Safety Code to increase endowment care fund rates. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 76; Vol. 10, No. 1 (Winter 1990) p. 60; and Vol. 9, No. 4 (Fall 1989) p. 48 for background information.) At its July meeting, the Board passed a motion to draft regulatory changes to clarify when endowment care fund collections are due.

LEGISLATION:

The following is an update on bills described in detail in CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) at page 76:

SB 2244 (Davis), as amended August 28, increases the fee for a permit to dispose of human remains by \$3; it further requires the local registrar to pay \$1 of that additional fee into the Peace Officers' Training Fund, and the other \$2 to

the county treasury for indigent burials. This bill was signed by the Governor on September 17 (Chapter 990, Statutes of 1990).

AB 2801 (Hauser) exempts the reburial of Native American remains, under an agreement or recommendation between landowners and Native Americans, from misdemeanor charges for depositing human remains in a place other than a cemetery. This bill was signed by the Governor on July 16 (Chapter 277, Statutes of 1990).

AB 2758 (Eastin) exempts a cemetery which disposes specified materials on cemetery grounds from the Solid Waste Disposal Site Hazard Reduction Act of 1989. This bill was signed by the Governor on June 29 (Chapter 183, Statutes of 1990).

AB 3427 (Assembly Committee on Governmental Efficiency and Consumer Protection), as amended August 23, provides 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; that fee shall be fixed by the Board at no more than \$30. This bill, which also makes other technical, corresponding changes, was signed by the Governor on September 26 (Chapter 1393, Statutes of 1990).

LITIGATION:

In *Unidentified Relatives or Family Members Who Claim Standing as Individual Plaintiffs in Sconce/Lamb Cremation Cases v. Superior Court of the State of California for Los Angeles County*, No. B042719 (June 28, 1990), the Second District Court of Appeal reversed the trial court's ruling on the standing of various individuals to sue several mortuaries and crematories for mishandling human remains.

The underlying action is a class action in which the family and friends of 16,000 decedents sued several crematory businesses (including Pasadena Crematorium of Altadena) owned by David W. Sconce, mortuary businesses owned by members of the Lamb family (who are related to Sconce), and a North Carolina biological supply company which allegedly purchased body parts and organs from the crematory defendants. Plaintiffs allege that defendants systematically commingled ashes from cremations, extracted gold and silver from decedents' mouths, stole decedents' personal effects, and disposed of bodies in a disrespectful and undignified manner. The trial court limited standing to those plaintiffs who were entitled to control disposition of their decedent's remains under Health and Safety Code section 7100, or who actually contracted for

such disposition; plaintiffs appealed that ruling.

The appellate court held that close family members (including grandchildren) have standing to sue for negligent mishandling of human remains, under *Thing v. La Chusa*, 48 Cal. 3d 583 (1989), and *Quesada v. Oak Hill Improvement Co.*, 213 Cal. App. 3d 596 (1989). With regard to the tort of intentional mishandling of human remains, the court expanded the standard to include all family members and close friends of the deceased. In so ruling, the court noted that "[m]ortuaries accept human remains for disposition with the knowledge that mishandling will cause distress not only to the person with whom the mortuary contracted or the section 7100 right holder, but potentially to all persons bereaved by the death."

FUTURE MEETINGS:

December 4 in San Diego.

BUREAU OF COLLECTION AND INVESTIGATIVE SERVICES

Chief: Alonzo Hall
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The Bureau of Collection and Investigative Services (BCIS) is one of 38 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.*,