



REGULATORY AGENCY ACTION

apprenticeship training, annually accredits its embalming schools and administers the licensing examinations. The Board inspects the physical and sanitary conditions in a funeral establishment, enforces price disclosure laws and audits preneed funeral trust accounts maintained by its licensees. (A Board audit of a licensed funeral firm's preneed trust funds is statutorily mandated prior to transfer or cancellation of the license.) In addition, the Board investigates and resolves consumer complaints.

Assembly Speaker Willie L. Brown, Jr. recently appointed Wesley Sanders, Jr. of Compton to the Board. Mr. Sanders has served as the City Treasurer of Compton.

MAJOR PROJECTS:

Preneed Trust Regulation Change. At its January 26 meeting in Sacramento, the Board held a lengthy discussion on the latest draft recommendations of the Preneed Committee relating to the use of income from a preneed trust. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 55 for background information.)

The Committee's latest version of amended section 1265, Chapter 12, Title 16 of the California Code of Regulations (CCR), would increase the annual fee for administering a trust to not more than 4% of the trust balance at the close of the year for which the administrative fee is charged.

Robert Green, representing the California Federation of Memorial and Funeral Societies, objected to the 4% annual fee, stating that 4% of the trust corpus far exceeds the fees normally charged for other types of trusts. He further stated that this proposed charge is unreasonable, arbitrary, and unfair to consumers. Several Board members disagreed, insisting that the 4% administrative charge is a reasonable fee. A representative of the California Funeral Directors Association (CFDA) was vehemently opposed to Mr. Green's viewpoint. He argued that the sale of preneed services is necessary for individual mortuaries to survive and that the 4% figure is very reasonable. He urged the Board to "examine what's needed and what's fair, and not adopt the view that mortuaries are crooks and rip-off artists."

The Board also discussed the Committee's latest draft of changes to section 1275, which would set forth the requirements of a preneed trust agreement. Under the draft rule, the agreement must include a statement, in clear nontechnical language, that the contract is either a guaranteed preneed contract or that it

is a nonguaranteed preneed contract, and, if guaranteed only in part, services or merchandise excluded from the guarantee shall be specified. This statement shall be printed in at least ten-point bold face type and shall be located on the first page of the contract. If the contract is guaranteed, there shall be included in the contract a complete explanation of all terms and conditions limiting the guarantee. If the contract is not guaranteed, there shall be included in the contract a complete explanation of how the trust balance will be applied to pay for services and merchandise provided at the beneficiary's death and that there may be additional payments required or a refund due.

Following lengthy discussion, the Board unanimously approved both draft versions of the two regulatory sections at issue. At this writing, the Board plans to publish its proposed regulatory changes in the *Notice Register* shortly.

Sealing Casket Disclaimer. Also at its January 26 meeting, the Board discussed the requirement of section 1258, Title 16 of the CCR, which states: "There shall be prominently displayed on each casket having or represented as having a sealing device of any kind, a notice stating that there is no scientific or other evidence that any casket with a sealing device will preserve human remains."

Board member Stricklin expressed his view that the requirement of section 1258 is "ridiculous" and that the section should be repealed. However, many felt that the original intent of the section is important and should be retained. The intent of the section is twofold: to inform the public, and to protect funeral directors in terms of liability if for some reason decomposition is discovered at disinterment by family members who did not believe this could occur. The Board made no decision and will discuss the issue at a future meeting.

Written and Oral Embalming Authorization. Section 1214 of the CCR states that "except as otherwise provided in Health and Safety Code section 7304, a dead human body shall not be embalmed without the express authorization of a person having the legal right to control disposition of the remains. Such authorization shall be secured by use of the form prescribed by the Board, attached hereto as Exhibit 1, and made a part of this regulation." The purpose of the section is to ensure that the public is correctly informed and aware that the law does not require a dead human body to be embalmed. Exhibit 1 includes a form for written authorization; Board debate at the January meeting centered on

whether the regulation should be amended to provide an additional form with consistent language for oral authorization. Board members also questioned whether two signatures should be required—one signature for the basic contract, and another for the embalming. The Board made no final decision on the regulation.

LEGISLATION:

AB 2271 (Farr) would amend section 7737 of the Business and Professions Code to authorize that a trustor in a preneed funeral trust may, for any reason, elect that the trust is irrevocable. This bill is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

RECENT MEETINGS:

At its January meeting, the Board discussed whether it should publish a consumer guide, as is the practice in many other states. It was noted that such a guide could be very helpful to consumers in need of pre-planning their own funeral or those of relatives. If published, it was suggested that the guide be written in neutral, easy-to-read language stating information on the various options and processes.

One problem noted in creating a consumer guide is the danger that it will become outdated soon after publication. Several Board members felt that it would be better to publish a newsletter rather than a consumer guide. The Board decided to form a committee to discuss the two options: publication of a quarterly newsletter, which would be sent to all licensees and interested parties and include notice of Board meetings and pending legislation; and investigation of the development of a consumer pamphlet.

FUTURE MEETINGS:

July 20 in Ventura.

September 28 in Monterey.

November 30 in San Diego.

BOARD OF REGISTRATION FOR GEOLOGISTS AND GEOPHYSICISTS

Executive Officer: John E. Wolfe
(916) 445-1920

The Board of Registration for Geologists and Geophysicists (BRGG) was created by statute in 1969. This eight-member Board licenses geologists and geophysicists and certifies engineering geologists. In addition to successfully passing the Board's written examination, an applicant must have fulfilled specified educational requirements and have the equivalent of seven years of professional



experience in his/her field. This requirement may be satisfied with a combination of education from a school with a Board-approved program in geology or geophysical science, and qualifying field experience.

The Board has the power to discipline licensees who act in violation of the Board's licensing statutes. The Board may issue a citation to licensees or unlicensed persons for violations of Board rules. These citations may be accompanied by an administrative fine of up to \$2,500.

The Board is composed of five public members and three professional members. BRGG's staff consists of two full-time employees (Executive Officer John Wolfe and his secretary) and two part-time personnel. The Board's committees include the Professional Practices, Legislative, and Examination Committees. BRGG is funded by the fees it generates.

MAJOR PROJECTS:

Examinations. The Board's staff has finished processing the last set of examinations administered. BRGG voted to approve those candidates who successfully passed the exam by receiving a grade of 70% or better. Letters of notification were mailed in late February.

At BRGG's January meeting, Executive Officer John Wolfe reported that the Board's Examination Committee had reviewed the exams, and decided that the basic format of the questions was good. In order to simplify grading, part of the test will be changed to include more multiple choice questions. The Board hopes that by streamlining the grading process, two exams may be administered each year. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 47 for background information.)

Arizona's Board of Technical Registration has requested a copy of BRGG's geologic engineering exam in order to review it for equivalency purposes. Upon reviewing Arizona's criteria for licensing an engineering geologist, however, BRGG felt that the contents of its confidential exam are incompatible with Arizona's needs. The Board directed Executive Officer Wolfe to refer Arizona to the Board of Registration for Professional Engineers and Land Surveyors for its geotechnical exam.

Enforcement. In August 1987, the Board filed a complaint against Richard Ramirez, alleging that Ramirez failed to identify and/or completely remove a pre-existing landslide, and allowed the commencement of filling and grading operations without assuring that all slide

debris had been removed. At its February meeting, the Board decided to adopt the decision of the administrative law judge (ALJ) dismissing the complaint. The ALJ decided that the evidentiary record did not support the contentions of the complaint, and that Ramirez was neither responsible for the difficulties of the project, nor was he in a position to resolve them.

Guidelines. The Board recently adopted guidelines for the preparation and review of groundwater investigations reports, engineering geologic reports, geophysical studies, and geological reports. (See CRLR Vol. 9, No. 1 (Winter 1989) pp. 47-48 for background information.) At its February 21 meeting, the Board unanimously approved introductions to the four sets of guidelines, which were prepared by the Professional Practices Committee.

Notification Regarding Application. The Board has recently received complaints that when it has processed a candidate's application and found a required element missing, it does not notify the candidate in sufficient time to enable him/her to remedy the fault before the application process is closed. In an attempt to make the process more "user friendly," the Board has developed a postcard which will be mailed to each candidate, indicating whether the candidate's application is complete.

LEGISLATION:

AB 469 (Harvey) would increase the maximum fee for the filing of an application for registration as a geologist or geophysicist from \$60 to \$100, the registration renewal fee from \$100 to \$200, and the specialty renewal fee from \$20 to \$50. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 48 for details.) This bill is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

AB 459 (Frizzelle) would add section 121.5 to the Business and Professions Code. Existing law regarding various occupational licenses issued under the Business and Professions Code provides that a license may not be renewed after a specified period of time (usually five years), and that if the license is to be reissued, the applicant may be required to meet specified requirements including reexamination and/or all criteria required of a new applicant for licensure. This bill, which is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection at this writing, would recharacterize a renewed occupational license as a "state business permit,"

and provide that any state business permit may be renewed at any time after its expiration and without limitation as to time, and without the requirement of reexamination, upon the payment of any applicable fees and the satisfaction of continuing education requirements.

The Board has taken a formal position against AB 459, concerned that allowing an unlimited delinquency period would have a serious negative effect on the Board and the public. The Board believes the public would not be adequately protected because a delinquent licensee could resurface after a number of years of being out of the profession, and would be entitled to a license without any showing of competence or knowledge of the latest developments in the field. The Board directed its Executive Officer to write a letter to Assemblymember Frizzelle expressing its opposition.

RECENT MEETINGS:

The Board is currently working with the state Board of Forestry to determine whether foresters are performing work which is actually within the purview of geologists. In order for a stand of timber to be harvested, a timber harvesting plan (THP) must be filed with the state Department of Forestry. The THP is required to contain certain evaluations, including "soil erosion control for site preparation that involves disturbance of the soil..., for watershed quality and watershed control, [and] for flood control," under section 4551.5(c) of the Forest Practice Act.

The boards are specifically concerned with the effects of road and landing construction, erosion hazard ratings, and protection against mass wasting (landslides) in timber harvesting. A registered professional forester (RPF) is required to evaluate these factors in preparing a THP. There is some concern that RPFs are insufficiently trained in this geologic work, and that these evaluations are within province of a professional geologist. Both boards recognize that requiring a certified geologist to complete the specified evaluations would be undesirable. First, it would add considerable expense to the cost of preparing a THP. Second, if a geologist is required to make the evaluation, the timber industry could generate intense pressure in the legislature to change the requirements of the THP so that such geologic evaluations would no longer be required. These assessments are considered essential to the consideration of a proposal to harvest timber. The boards are working



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together to develop a Technical Rule Addendum for the Board of Forestry that will satisfy the needs of both boards.

The Board is still in the process of drafting an informational pamphlet which is intended to inform the public about the existence and jurisdiction of the BRGG. Two drafts have been received so far, but the Board has set no date for estimated completion.

FUTURE MEETINGS:

To be announced.

BOARD OF GUIDE DOGS FOR THE BLIND

Executive Officer: Manuel Urena (916) 445-9040

The Board of Guide Dogs for the Blind has three primary functions. The Board protects the blind guide dog user by licensing instructors and schools to ensure that they possess certain minimum qualifications. The Board also enforces standards of performance and conduct of these licensees as established by law. Finally, the Board polices unlicensed practice.

There are three guide dog schools in California. These schools train the blind in the use of guide dogs. Each school also trains its own dogs. Each blind person is then matched with a dog using factors such as size and temperament. To provide this specialized service, the schools must have special facilities, which are inspected by the Board members as needed.

The Board consists of seven members, two of whom must be dog users (Business and Professions Code section 7200).

LEGISLATION:

AB 329 (Statham), which would have authorized any person approved by a school licensed for the training of guide dogs for the blind to take the school's dogs into places of public access for the purpose of teaching the guide dogs social skills prior to structured guide dog instruction for which a license is required, was dropped.

AB 676 (Filante), as amended March 28, would authorize the Board to adopt regulations to allow schools which furnish guide dogs or instructors employed by those schools to send trainers to the homes of blind persons to provide training in the use of guide dogs. This bill is pending in the Assembly Ways and Means Committee.

BUREAU OF HOME FURNISHINGS AND THERMAL INSULATION

Chief: Gordon Damant (916) 920-6951

The Bureau of Home Furnishings and Thermal Insulation (BHF) regulates manufacturers, wholesalers, dealers, upholsterers, retailers, renovators, and sterilizers of furniture and bedding. In addition, the Bureau establishes rules regarding labeling requirements approved by the state Department of Public Health pertaining to furniture and bedding.

To enforce its regulations, the Bureau has access to premises, equipment, materials, and articles of furniture.

The chief or any inspector may open, inspect and analyze the contents of any furniture or bedding and may condemn, withhold from sale, seize or destroy any upholstered furniture or bedding or any filling material found to be in violation of Bureau rules and regulations. The Bureau may also revoke or suspend registration for violation of its rules.

The Bureau is assisted by a thirteen-member Advisory Board consisting of seven public members and six industry representatives.

MAJOR PROJECTS:

Flammability Standards for Furniture in Public Occupancies. On January 5 in Sacramento, the Bureau held a public hearing on proposed higher flammability standards for furniture used in public occupancy buildings. (See CRLR Vol. 9, No. 1 (Winter 1989) pp. 48-49 for background information.) The Bureau's proposed amendments to sections 1374 and 1374.3, Title 4 of the California Code of Regulations (CCR), were supported by virtually all participants, including manufacturers and firefighters. The California Hotel/Motel Association and the California Theater Operators provided the main opposition. Both groups asked for certain exemptions from the proposed regulations and indicated that the cost of compliance could be overly burdensome. At this writing, the proposed regulation package has not yet been formally adopted or submitted to the Office of Administrative Law.

In a related development, two trade associations recently held a press conference to advocate national flammability standards, using the Bureau's proposal as a model. The International Association of Firefighters and the American Furniture Manufacturers Association sponsored the event on March 14 in

Washington, D.C.

Proposed Waterbed Regulations. Also on January 5, the Bureau held a regulatory hearing on proposed amendments to its waterbed regulations (see CRLR Vol. 9, No. 1 (Winter 1989) p. 49 for background information). At this writing, the Bureau is still considering comments made at the hearing, including several recommendations by waterbed manufacturers and an expression of complete support for the proposed changes by the National Waterbed Retailers Association.

Increase in License Fees. The Bureau has drafted regulatory amendments to raise its biennial license fees for the first time since 1983. Revenue from current license fees does not cover operating costs, and Chief Damant believes the increase is necessary to meet the Bureau's rising workload. All of the Bureau's eleven classes of licenses would be affected.

Under the draft amendments to section 1107, Title 4 of the CCR, license fees would be raised roughly 20% to the statutory limits specified in Business and Professions Code sections 19034 and 19170. The new fees would range from \$360 for manufacturers and wholesalers, to \$240 for custom upholsterers, to \$80 for retail furniture dealers. At this writing, a period for public comment on the proposed fee increases has not been scheduled.

New Insulation Regulations To Be Proposed. On January 1, 1985, jurisdiction over the sale of insulation in California passed from the California Energy Commission (CEC) to the Bureau. (See CRLR Vol. 5, No. 1 (Winter 1985) p. 35 for background information.) The Bureau was charged with enforcing CEC's regulations until it adopts its own. At its March 7 meeting, the Advisory Board discussed a draft of regulatory changes which would transfer CEC's regulations to Chapter 3, Title 24 of the State Referenced Standards Code, and amend them to include insulation products not presently covered.

The draft regulations would primarily update existing product standards to reflect the latest testing technology. Newly developed insulating materials such as calcium silicate, flexible cellular plastic, and phenolic insulation would be regulated for the first time. The Bureau believes that most progressive manufacturers of unregulated products have already conducted tests to prove safety and performance to consumers. Testing costs are estimated at \$2,000 per product line. A hearing date for public comment