



REGULATORY AGENCY ACTION

provement. This bill is pending in the Assembly Judiciary Committee.

AB 459 (Frizzelle) would provide that a licensed individual may renew his/her license at any time after its expiration without limitation as to time, and without the requirement of reexamination, upon payment of any applicable fees and satisfaction of continuing education requirements. The Board opposes this bill, which has become a two-year bill.

The following is a status update on measures discussed in CRLR Vol. 9, No. 2 (Spring 1989) at page 45:

AB 1005 (Frazee), which would require an architect to affix a stamp bearing the architect's name, license number, the term "licensed architect", and the renewal date of the license on plans, has passed the Assembly and is pending in the Senate Business and Professions Committee.

AB 1158 (Bradley), an act to repeal section 5551.1 of the Business and Professions Code regarding reciprocity for architects licensed in other states, is pending in the Senate Business and Professions Committee at this writing.

FUTURE MEETINGS:

To be announced.

ATHLETIC COMMISSION

Executive Officer: Ken Gray
(916) 920-7300

The Athletic Commission regulates amateur and professional boxing, contact karate, and professional wrestling. The Commission consists of eight members each serving four-year terms. All eight seats are "public" as opposed to industry representatives.

The current Commission members are Bill Malkasian, Raoul Silva, Roosevelt Grier, P.B. Montemayor, M.D., Jerry Nathanson, Thomas Thaxter, M.D., Charles Westlund, and Robert Wilson.

The Commission is constitutionally authorized and has sweeping powers to license and discipline those within its jurisdiction. The Commission licenses promoters, booking agents, matchmakers, referees, judges, managers, boxers, martial arts competitors, and wrestlers. The Commission places primary emphasis on boxing, where regulation extends beyond licensing and includes the establishment of equipment, weight, and medical requirements. Further, the Commission's power to regulate boxing extends to the separate approval of each contest to preclude mismatches. Commission inspect-

ors attend all professional boxing contests.

MAJOR PROJECTS:

Policies and Procedures Manual. At its March 17 meeting, the Commission discussed Executive Officer Ken Gray's initiation of a policies and procedures manual. The manual will include all policy decisions adopted by the Commission, and all administrative policies developed by the staff. Additionally, the manual will include policies or procedures mandated by the Department of Consumer Affairs (DCA) or other departments.

The Commission decided to maintain two policies and procedure manual binders in its Los Angeles office, and one in its Sacramento office. At the March 17 meeting, each Commissioner was asked to add to a list of policies and procedures which should be included in the manual.

Deficiency Augmentation Request. On February 16, the Commission submitted a deficiency augmentation request to the DCA. The \$91,000 request is to cover the anticipated funding shortage for the Professional Boxer's Neurological Examination Program. The Commission had been allocated \$170,000 for the program in fiscal year 1988-89.

The Commission specified three reasons for the anticipated shortage: an increase in the number of boxers taking the examination; an increase in the number of boxers failing the examination (this results in increased costs due to mandatory neuro-psychological exams administered upon failure of the exam); and an increase in the number of boxers who fail to appear for the examinations (the Commission is billed by the examining physician for missed examinations).

At this writing, DCA has not yet taken action on the augmentation request.

Proposed Regulatory Amendment. At its March and April meetings, the Commission discussed a proposal to amend section 349, Title 4, California Code of Regulations. The amendment would prevent a boxer from being "saved by the bell." Specifically, the change would prevent a referee in the process of counting a boxer out from stopping his count when the bell indicating the end of a round (including the final round) is sounded. After discussion at the April meeting, the Commission decided not to adopt the proposed amendment.

Draft Regulatory Changes. At its March meeting, the Commission considered several draft regulatory changes. First, the Commission discussed draft language which would define when a crime or act is "substantially related" to

the qualifications, functions, or duties of promoters, managers, referees, and judges. The "substantial relationship" criteria must be adopted pursuant to section 481 of the Business and Professions Code and would be used for the purposes of denial, suspension, or revocation of licenses.

The proposed regulation enumerates two areas which are "substantially related": (a) conviction of a crime involving fiscal dishonesty or the abuse of a controlled substance; and (b) any violation of the provisions of Chapter 19, Division 3 of the Code. Moreover, the regulatory language is illustrative and does not limit itself to the two enumerated categories.

The Commission also examined proposed criteria for evaluating the rehabilitation of a person when considering the denial, suspension, or revocation of a license in accordance with Business and Professions Code sections 480-82. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 46 for background information.) Under the proposed rehabilitation criteria to be applied when considering licensure denial, the Commission would take into account the nature and severity of the act or crime; evidence of any act or crime committed subsequent to the act or crime under consideration; the time elapsed since commission of the crime or act; the extent to which the applicant has complied with any terms of parole, probation, or restrictions; and any other evidence of rehabilitation submitted by the applicant.

The proposed rehabilitation criteria to be applied when considering the suspension or revocation of a license are virtually identical to the denial criteria. However, the Commission would also consider a person's "total criminal record" and any evidence of an expungement proceeding pursuant to section 1203.4 of the California Penal Code.

At its March meeting, the Commission approved the draft language of the proposed regulations; at this writing, formal rulemaking procedures have not yet commenced.

LEGISLATION:

AB 112 (Floyd) would require the Commission to adopt regulations detailing the criteria for approval of the physicians assigned to attend any boxing contest. The Commission has taken a neutral position on the bill. However, the DCA opposes the bill as unnecessary. DCA believes that the existing requirement (three years' experience in the practice of medicine) is sufficient. AB 112



passed the Assembly on May 18 and is pending in the Senate Business and Professions Committee.

SB 599 (Montoya) would allow the Commission to establish standards for evaluating a professional boxer's boxing ability. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 46 for background information.) This bill was passed by the Senate on May 4 and is pending in the Assembly Governmental Organization Committee.

AB 1040 (Floyd) as amended in June, would deregulate professional wrestling, except for a specified tax on the amount paid for admissions to wrestling exhibitions and a specified tax on closed-circuit telecasts of wrestling exhibitions. The Commission opposes this bill, which is currently pending on the Assembly floor.

RECENT MEETINGS:

At its March 17 meeting, the Commission granted Herman Pettigrew a license to box in California. The 40-year-old Pettigrew was denied a license in December 1988 after an unfavorable ophthalmologist's exam. Pettigrew's skills and abilities were observed by Assistant Chief Inspector George Johnsen in February. Upon recommendation by Mr. Johnsen, the Commission determined that Pettigrew should be limited to four-round boxing contests.

At its April 21 meeting in Santa Clara, the Commission approved amateur martial arts promoter's licenses for Steven Crane and Barry Jahn (dba Southern California Savate Club); and approved a professional boxing promoter's license for Lawrence Lowe (dba Larry Lowe Promotions).

FUTURE MEETINGS:

August 18 in San Diego.
September 15 in San Francisco.
October 20 in Los Angeles.
November 17 in Sacramento.
December 15 in Los Angeles.

BUREAU OF AUTOMOTIVE REPAIR

Chief: John Waraas
(916) 366-5100

Toll Free Complaint Number:
1-800-952-5210

Established in 1971 by the Automotive Repair Act (Business and Professions Code sections 9880 *et seq.*), the Bureau of Automotive Repair (BAR) registers automotive repair facilities; official smog, brake and lamp stations; and official installers/inspectors at those stations.

Approximately 39,200 auto repair dealers are registered with BAR. The Bureau's other duties include complaint mediation, routine regulatory compliance monitoring, investigating suspected wrongdoing by auto repair dealers, oversight of ignition interlock devices, and the overall administration of the California Smog Check Program.

The Smog Check Program was created in 1982 in Health and Safety Code section 44000 *et seq.* The Program provides for mandatory biennial emissions testing of motor vehicles in federally designated urban nonattainment areas, and districts bordering a nonattainment area which request inclusion in the Program. BAR licenses approximately 22,000 smog check mechanics who will check the emissions systems of an estimated six million vehicles this year. Testing and repair of emissions systems is conducted only by stations licensed by BAR.

Approximately 130,000 individuals and facilities are registered with the Bureau. Registration revenues support an annual Bureau budget of nearly \$34 million. BAR employs 433 staff members to oversee the Automotive Repair Program and the Vehicle Inspection Program.

The Bureau is assisted by a nine-member Advisory Board which consists of five public and four industry representatives. They are Gilbert Rodriguez, Louis R. Kemp, Vincent L. Maita, Herschel Burke, Alden P. Oberjuege, Joe Kellejian, Kathryn Lee, Jack Thomas, and William Kludjian.

A new Bureau Chief was recently appointed by Governor Deukmejian. John Waraas of Carmichael has worked in state government for 23 years, mostly with the Department of Finance. Waraas was serving as Deputy Secretary for the State and Consumer Services Agency when appointed.

MAJOR PROJECTS:

Certification of Third Party Dispute Resolution Processes. In early June, BAR's Arbitration Review Program (ARP) published proposed regulations under which third party dispute resolution processes used for the arbitration of new car warranty disputes will be certified. ARP scheduled a July 17 public hearing in Los Angeles on the proposed regulations, which will be incorporated into Title 16, California Code of Regulations (CCR). (See CRLR Vol. 9, No. 2 (Spring 1989) p. 47 and Vol. 9, No. 1 (Winter 1989) p. 39 for background information.)

Under AB 2057 (Tanner) (Chapter 1280, Statutes of 1987), BAR is required

to establish standards used to determine whether a third party dispute resolution process is in substantial compliance with various provisions of the California Song-Beverly Consumer Warranty Act. If the program is in compliance, BAR is required to certify it; if not, BAR must deny certification and explain why. BAR is also required to monitor programs and, if it determines that a program is no longer in substantial compliance, must issue a notice of decertification, which takes effect 180 calendar days following the date of the notice.

Part I of the proposed regulations (sections 3396-3396.1) sets forth the scope, purpose, and organization of the proposed subchapter, as well as definitions of terms used in the regulations. Part II (sections 3397-3397.5) sets forth minimum standards for manufacturers which create and use the arbitration program. Part III (sections 3398-3398.15) describes the requirements and procedures applicable to arbitration programs, including the qualifications, selection, and training of arbitrators; the rules governing meetings held to decide disputes; the contents of any written decision issued; and recordkeeping requirements with which arbitration programs must comply. Part IV (sections 3399-3399.6) prescribes the procedure to be used by applicants seeking certification, and reporting requirements for certified processes.

Regulatory Changes. On April 5, the Office of Administrative Law (OAL) rejected for the fourth time BAR's proposed regulatory changes affecting Smog Check Program station and inspector licenses and licensing fees, and establishing certification, decertification, and recertification standards for Smog Check Program instructors. (See CRLR Vol. 8, No. 4 (Fall 1989) p. 44 and Vol. 8, No. 1 (Winter 1988) p. 44 for background information.) OAL disapproved sections 3340.25, 3340.32, and 3340.33, because the title and dates of certain forms required for each section were not contained in the applicable regulatory text, and because they failed to comply with the "clarity" standard. In addition, the entire regulatory action failed to comply with procedural requirements which provide that the index or table of the rulemaking file must contain an affidavit or declaration under penalty of perjury specifying the date upon which the record was closed, and that the file is complete. The declaration attached to the rulemaking file did not contain the date upon which the record was closed, and the signature did not appear to be that of Bureau