



his other patient, the mother, as well as to the parent-child relationship that was also under his care." Justice Arguelles also wrote a concurring opinion arguing that the mother should be able to recover for intentional infliction of emotional distress.

While recognizing that the therapist was liable for damages, a concurring opinion authored by Justice Eagleson argued that recovery should be based on professional malpractice, not on negligent infliction of emotional distress.

In *In Re Eduardo, Sheila, Maria, Catalina and Laura A., Los Angeles County Department of Children's Services v. Juan Tomas A. and Maribel C.*, No. B030790 (March 28, 1989), the Second District Court of Appeal granted a mother's motion to strike the testimony of her therapist. In 1985, five children were declared dependents of the juvenile court after it was determined that their father had sexually molested three of them. The children remained in the custody of their mother, who had been ordered by the court not to let the father visit the children. On July 15, 1987, the Department of Children's Services (DCS) filed petitions seeking removal of the children from the mother's custody because she had violated the court order and allowed the father to see the children. At the adjudication hearing, the mother's therapist was called as a witness. The lower court sustained the mother's objection to the testimony and granted her motion to strike testimony of the therapist. The petitions were denied and the DCS appealed. The appellate court affirmed and found the communication between the therapist and the mother privileged under Evidence Code section 1014. The court held that Evidence Code section 1017, which provides an exception to the psychotherapist-patient privilege where the court has ordered the therapist to examine the patient, was inapplicable because it was merely a "juvenile court referral for counseling" and not a direct court appointment. The case was remanded on another issue.

#### FUTURE MEETINGS:

September 28-29 in Sacramento.

#### CEMETERY BOARD

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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 25 crematories and 1,400 brokers and 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:

*Proposed Regulatory Changes.* At its May 24 meeting in Sacramento, the Cemetery Board held a public hearing on a proposed change to its regulations, which appear in Chapter 23, Title 16 of the California Code of Regulations. Existing section 2340 requires crematory licensees to maintain specified records. The regulation does not specify that the holder of a cemetery certificate of authority who operates a crematory (but is not a crematory licensee) must also maintain such records. The proposed amendment would add such a requirement, thereby establishing uniform recordkeeping requirements for all licensees operating crematories.

A lengthy discussion centered on section 2340(a)(8), which requires licensees to keep records regarding the exact date, time, place, and type of disposition of cremated remains. Before the proposed change to section 2340 is approved, many licensees want to redraft the language of section 2340(a)(8) because the information required by that section is often not known to the crematory. The crematory cannot definitely verify that the disposer of the remains actually disposed of them as reported to the crematory, nor is it always aware of the exact location of scatterings at sea.

The Board also discussed the possible addition of a new subsection (c) to section 2340. Subsection (c) would read as follows: "This section shall not be interpreted to require the holder of a certificate of authority to maintain a separate set of records pertaining to cremations." However, this change was not included in the formal notice of proposed regulations, and the Board will have to publish the proposed change before adopting it.

The amendments to section 2340 will be discussed further at the Board's next meeting.

#### LEGISLATION:

*SB 698 (Petris)*, which would extend the Board's annual report requirement to all cemetery authorities, requiring the

report to be filed on or before June 1, or within five months after the close of the fiscal year with approval of the Board, passed the Senate on May 4 and is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection. (See CRLR Vol. 9, No. 2 (Spring 1989) for background information on this bill.)

#### RECENT MEETINGS:

At its May 24 meeting in Sacramento, the Board considered a number of licensing applications. Board members heard two applications for certificates of authority, three applications for crematory licenses, three applications for corporate cemetery broker licenses, and twelve applications for individual cemetery broker licenses.

#### FUTURE MEETINGS:

September 6 in San Francisco.

#### BUREAU OF COLLECTION AND INVESTIGATIVE SERVICES

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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.

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.

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.* 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 for these services is