



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



## REGULATORY AGENCY ACTION

required to register with the Bureau as a security guard. Any security guard who carries a firearm 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. 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. 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 Industry.** Alarm company operators install, service, maintain, monitor, and respond to burglar alarms. These services are provided to private individuals, businesses, and public entities. 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. These services are employed by private individuals, business entities and law enforcement agencies. 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.

**Security Guard Training Facilities.** These facilities provide necessary training for those desiring to become security guards. Training is given in legal procedures, public safety, minimum standards, and professional conduct. Firearm training is especially important for those guards who will carry a firearm on the job. Upon completion of training, guards must pass an exam before they can be registered.

**Locksmiths.** As of July 1987, SB 1540 became effective, resulting in the creation of a locksmith regulation program within the Bureau. (For additional information on SB 1540, see CRLR Vol. 6, No. 3 (Summer 1986) p. 25.)

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.

### MAJOR PROJECTS:

**BCIS Industry Bulletin.** The Bureau's new bulletin will be mailed to industry members as soon as it is reviewed by DCA's legal staff. The Bureau plans to make the bulletin a regular feature, but the release of the premiere issue has been delayed due to the amount of information it contains. The first bulletin will contain a history of the BCIS and a synopsis of the Bureau's duties. Also included will be an interview with Chief Hall, who took office in July 1988, and a review of the recent reorganization of the Bureau. In all, the first issue will contain a total of 22 topics. Chief Hall

believes that the bulletin will be a major source of communication between BCIS and the industries it regulates.

**Security Guard Training.** BCIS is investigating the issue of the proper amount of training for security guards. A subcommittee of the Private Security Services Advisory Board (PSSAB) reported at PSSAB's April 20 meeting that as the demand for guards grows, guards are required to respond to situations for which they have not been adequately trained. The changing role of security guards is highlighted by the fact that guards are now working in high-rise office buildings and nuclear power plants, and are often hired by municipalities to supplement their own security forces.

The primary issues facing the Bureau are the amount of training guards should be required to have, and the level of authority with which a guard should be vested. BCIS wants to work with the industry in formulating adequate regulations, and hopes to avoid panic legislation that may harm the industry without resolving the underlying problems.

### LEGISLATION:

**SB 58 (Marks)** would provide that no person who is wearing the uniform of a peace officer or a security officer, or who is carrying a firearm, shall be permitted in the voting booth area of polls on election day, except under specified conditions. SB 58 passed the Senate on May 11, and at this writing is pending in the Assembly Public Safety Committee.

**AB 1529 (Lancaster)** is DCA's omnibus clean-up bill which makes numerous changes in the enabling statutes of several DCA agencies. With respect to BCIS, AB 1529 would (among other things) specify the contents of an application for a license or certificate of registration under the Collection Agency Act, and authorize the Bureau Chief to request other information or documents he/she deems necessary. This bill would also delete the existing authority of the DCA Director to assess an administrative fine against a licensee of the Repossessors Act for using an alias in connection with the official activities of the licensee's business. At this writing, AB 1529 is pending in the Assembly Ways and Means Committee.

The following is a status update on bills reported in detail in CRLR Vol. 9, No. 2 (Spring 1989) at page 51:

**SB 141 (Deddeh)** was substantially amended on April 24. Previous provisions regarding release by BCIS of licensees' home addresses and telephone numbers, and authorizing BCIS to issue interim



licenses, were deleted. As amended, this bill sets new expiration dates for qualification certificates issued under the Collection Agency Act, and extends several reporting and/or registration deadlines for collection agency licensees and employees of licensees. SB 141 is pending in the Senate Business and Professions Committee.

*SB 104 (Robbins)* was substantially amended on May 1; all previous provisions were deleted. As amended, this bill would change the bond requirement for collection agency licensees. In lieu of the \$10,000 bond requirement, a licensee would be permitted to file with the Bureau Chief an insurance policy that meets specified requirements. The bill would require insurers to notify BCIS when insurance coverage is terminated, would require the Bureau to notify the licensee of this termination and that the licensee is required to file a new policy or bond, and would provide that the license of the licensee shall be void thirty days after notice to the licensee if the licensee does not file a new policy or bond within that time period. This bill passed the Senate on May 26 and is pending in the Assembly Finance and Insurance Committee.

*AB 613 (Lancaster)* would delete the authority of the DCA Director to determine the equivalent amount of experience in investigation work required for a private investigator's license. As amended May 4, this bill would provide that only an employer, as defined, or his/her agent may certify experience for those purposes; would require an employer to respond to a request by an employee for certification of the applicant-employee's experience within thirty days; and would specify the conditions and activities which qualify for that experience. This bill is pending in the Assembly Ways and Means Committee at this writing.

*AB 1644 (Peace)*, as amended May 17, would require BCIS to develop a power to arrest training manual which shall be used by certified instructors in a course of training in the exercise of the power to arrest for security guards who carry a deadly weapon. This training would be required to obtain a security guard registration card. This bill is also pending in the Assembly Ways and Means Committee.

*AB 1501 (Quackenbush)*, which would prohibit a security guard from carrying a baton or firearm unless he/she is in uniform, require any person wearing a badge, baton, or firearm to wear a patch reading "security guard" of a design approved by the DCA, and require any

person required to be registered as a security guard to carry his/her registration card while on duty, passed the Assembly on June 7 and is pending in the Senate Judiciary Committee at this writing.

*AB 255 (Floyd)*, which would permit DCA to adopt regulations that a security guard must meet in order to become a professional bodyguard, is still pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

## RECENT MEETINGS:

*Private Security Services Advisory Board.* At its April 20 meeting in Oxnard, the PSSAB appointed an industry member to the southern Disciplinary Review Committee (DRC). In order to be a DRC industry member, a person must be a licensed and active private patrol operator. A number of candidates competed for the position; the Board chose Cynthia Ortega of Riverside.

*Collection Agency Advisory Board.* At its May 12 meeting in Garden Grove, Chief Hall reported to CAAB that the Bureau has successfully completed its computer conversion project. The project updated the computer system to allow the Bureau to process licenses and applications more quickly, and to provide licensees with a higher quality of printed material.

## FUTURE MEETINGS:

Collection Agency Advisory Board: September 22 in San Diego.

Private Security Services Advisory Board: October 19 in San Diego; January 18, 1990 in San Francisco.

## CONTRACTORS STATE LICENSE BOARD

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The Contractors State License Board (CSLB) licenses contractors to work in California, handles consumer complaints, and enforces existing laws pertaining to contractors.

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 recommenda-

tions for requested action at the full Board meetings.

## MAJOR PROJECTS:

*Proposed Regulatory Changes.* CSLB recently announced its intention to adopt proposed section 829, Chapter 8, Title 16 of the California Code of Regulations (CCR). Section 804 of that chapter requires every applicant for a contractor's license to pass a two-part written examination. Part one tests knowledge of business management and the laws concerning contracting. Part two is a trade-specific examination in the forty different classifications in which the Board issues licenses.

Proposed section 829 would allow CSLB to establish an alternate means of establishing a minimum competency level other than requiring an examination. This would apply to a limited specific group of applicants, such as those who have failed the required trade examination by less than five points. In such a case, this rule would allow the Registrar to evaluate the applicant's experience and/or education as defined in the regulations, and grant a maximum of five points toward the pass point. A minimum of four years' experience would be used as a baseline. Once an applicant has met this baseline requirement, the Registrar may grant him/her one-half point for each year of experience beyond the baseline up to a maximum of five points. CSLB was scheduled to hold a public hearing on this proposed section on June 8 in Sacramento.

At its April 21 meeting in Marina del Rey, CSLB held a public hearing on its proposed amendments to section 843, Chapter 8, Title 16 of the CCR. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 52 and Vol. 9, No. 1 (Winter 1989) p. 43 for background information.) Existing section 843 provides that the Registrar may waive a written examination for a state contractor's license pursuant to Business and Professions Code section 7065.1. The existing regulation does not specify the trade classifications for which the Registrar may waive the written trade examination. The proposed amendment to section 843 would specify the licensed trade classifications for which the Registrar may waive the written examination. At the April hearing, and at a previous January hearing on this proposal, the Board received several public comments regarding if and when trade examinations should be waived. Representatives from various industries expressed concern that this proposal could lead to the licensure of unqualified contractors and the cre-