



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

Registrar: David Phillips
(916) 366-5153

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-



REGULATORY AGENCY ACTION

ation of potential hazards. In response to these comments, Board members stressed that the waiver provisions would be limited to licensees; that is, persons who are already licensed as contractors and who apply for an additional classification. These applicants have already qualified for a license by passing a written trade and law examination. Also, the applicant must have been licensed for five of the immediate past seven years to qualify for the waiver. To further ensure competency, the following criteria would be utilized by the Registrar in determining whether to grant a waiver:

-whether the licensee has conclusively shown sufficient acceptable experience related to the class in which a supplemental license is desired;

-whether the licensee has been personally involved in the type of work for which a license is being sought as a supervising employee, journeyman, construction superintendent, project manager, or field person;

-other classes of licensure held by the licensee in related fields;

-whether there is an unsatisfied or outstanding citation against the licensee for working out of class or a history of legal actions involving workmanship; and

-whether health and safety concerns applicable to the particular classification are significant.

In addition, the licensee must submit to the CSLB a list of projects performed over the past five years together with the names of customers (including addresses and phone numbers) and a short description of the projects completed, including size, duration, and scope of work, as well as at least three letters from licensees in good standing attesting to the competence and experience of the licensee seeking a waiver.

After the conclusion of the April public hearing, CSLB adopted the proposed amendments to section 843. At this writing, the regulatory package is being prepared for submission to the Office of Administrative Law (OAL).

On May 11, OAL approved CSLB's proposed section 870, Title 16 of the CCR. This regulatory action sets forth the criteria to be considered in setting the earliest date within the one-year minimum and five-year maximum periods upon which a revoked licensee may apply for licensure. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 52 for background information.)

At this writing, CSLB is still awaiting approval from OAL on its proposed amendments to section 832.36, 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.) The rulemaking package had been submitted to OAL at the beginning of the year, but was withdrawn and resubmitted in late April.

LEGISLATION:

AB 2279 (Eastin) would create within CSLB a separate enforcement unit to enforce provisions prohibiting all forms of unlicensed activity, and would provide that persons employed as deputy registrars in the unit shall not be peace officers but may exercise the powers of arrest. At this writing, this bill is pending in the Assembly Ways and Means Committee.

AB 2282 (Eastin) would require CSLB to cooperate with the Department of Industrial Relations and the Employment Development Department to develop a system whereby a contractor's license number may be used for identification for purposes of joint enforcement, and to establish an automatic, computer-generated system for the issuance of citations and to report to the legislature quarterly relating to that system.

This bill would also require the maintenance of workers' compensation insurance as a condition of licensure as a contractor, and would make the failure to maintain that insurance grounds for disciplinary action against a contractor. Finally, this bill would provide that the failure to resolve any outstanding penalty imposed by CSLB, the Department of Industrial Relations, or the Employment Development Department shall be grounds for refusing to renew a contractor's license. This bill has been referred to the Assembly Ways and Means Committee suspense file.

SB 554 (Montoya). Section 7031 of the Labor Code provides that no person engaged in the business or acting in the capacity of a contractor may bring or maintain any action in any court for the collection of compensation for the performance of any act of contract for which a license is required without alleging and proving that he/she was a duly licensed contractor at all times during the performance of the act or contract, with specified exceptions. This bill would define "duly licensed" to mean the contractor is actually licensed and in good standing with CSLB. At this writing, SB 554 is pending in the Senate Committee on Business and Professions.

SB 732 (Campbell, B. Greene) would authorize CSLB to license asbestos abatement consultants who meet specified

qualifications and would subject a person who engages in the practice of an asbestos abatement consultant without a license to civil and criminal penalties. This bill would also require any person or entity contracting their services as an asbestos abatement consultant to carry errors and omissions insurance.

SB 732 would also require any asbestos abatement consultant who, on or after January 1, 1991, engages in specific conduct relating to an asbestos abatement project to notify the Division of Occupational Safety and Health (DOSH) in accordance with specified criteria. Finally, this bill would require DOSH to notify CSLB if DOSH discovers that an asbestos abatement consultant is in violation of licensing requirements or is performing unsafe acts. This bill passed the Senate Industrial Relations on May 4, and is pending in the Senate Appropriations Committee.

Following is a status update on bills reported in detail in CRLR Vol. 9, No. 2 (Spring 1989) at pages 52-53 and Vol. 9, No. 1 (Winter 1989) at page 44:

AB 636 (Eastin), regarding the imposition of a fine upon a person who has been previously convicted of unlicensed contracting, passed the Assembly Committee on Governmental Efficiency and Consumer Protection on May 15; at this writing, it is pending in the Assembly Ways and Means Committee.

SB 853 (Seymour), which would make it a misdemeanor for an unlicensed contractor to submit a bid to a public agency, passed the Senate on May 26 and is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

AB 959 (Eastin) was amended on May 18. As amended, it would require payment from a prime contractor to a subcontractor not later than ten days after receipt of each progress payment by the prime contractor. Violation of this provision would subject the prime contractor to a penalty of 1.5% of the amount due per month for every month that payment is not made plus attorneys' fees, as specified. At this writing, this bill is still pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

SB 1038 (Doolittle), which would allow the CSLB Registrar to waive all or part of a nonlicensee civil penalty if the person cited completes the requirements for and is issued a contractor's license, among other things, passed the Senate on May 18 and is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.



AB 841 (Frazee), which would revise existing requirements which must be met before a contractor may bring action in any court to collect compensation for contracting work performed, passed the Assembly on April 20. At this writing, AB 841 is pending in the Senate Committee on Business and Professions.

AB 967 (Bentley, Eastin) was amended on May 9. As amended, it would require the Registrar to notify disputing parties of the consequences of selecting administrative arbitration over judicial remedies. This bill would also provide that upon the request of either party involved in arbitration, CSLB shall pay the expenses, under specified conditions, for one expert witness appointed by CSLB. This bill passed the Assembly Committee on Governmental Efficiency and Consumer Protection on May 8, and at this writing is pending in the Assembly Ways and Means Committee.

AB 1013 (Moore) was amended on May 17. As amended, this bill would provide that CSLB shall ensure that at least one person delegated to prepare examinations for licensees of the Board has knowledge of general engineering or general building specifications based on practical experience in the application of those specifications. AB 1013 passed the Committee on Governmental Efficiency and Consumer Protection and is pending in the Assembly Ways and Means Committee at this writing.

AB 1677 (Friedman) was amended on May 17. As amended, this bill would change the amount of the bond required of all contractors to \$7,500. This bill passed the Assembly Committee on Governmental Efficiency and Consumer Protection and is pending in the Assembly Ways and Means Committee at this writing.

SB 1079 (Mello) was amended on May 16 to additionally require CSLB to submit a report regarding the status of fire extinguishing systems and fire alarm systems to the Senate Committee on Business and Professions and the Assembly Committee on Governmental Efficiency and Consumer Protection on or before July 31, 1990. This bill passed the Senate Committee on Business and Professions on May 15 and is pending in the Senate Appropriations Committee at this writing.

AB 781 (Mountjoy), regarding specified conditions under which the CSLB licensure exam may be waived, passed the Assembly on April 20 and is pending in the Senate Committee on Business and Professions at this writing.

AB 762 (Mountjoy), which would revise provisions of the Contractors License Law concerning unsatisfied judg-

ments and the issuance, reinstatement, or reactivation of a contractor's license, passed the Assembly on May 18 and is pending in the Senate Business and Professions Committee.

AB 118 (Floyd), requiring public entities to verify a contractor's license before awarding a public works contract, passed the Assembly on May 11 and is pending in the Senate Committee on Governmental Organization at this writing.

AB 115 (Floyd), which would require a public entity to award public works contracts for an amount greater than \$500,000 only to a qualified public works contractor, passed the Assembly on June 1 and is pending in the Senate Governmental Organization Committee.

AB 117 (Floyd), defining "lowest bidder" and "lowest responsible bidder", remains in the Assembly inactive file.

AB 147 (Floyd), as amended on May 1, would have revised the definition of "asbestos-related work." This bill failed passage in the Assembly Committee on Labor and Employment on May 10.

AB 148 (Floyd), which would require the provision of health insurance coverage by employers whose operations involve asbestos-related work, passed the Assembly Committee on Labor and Employment on April 3 and is pending in the Assembly Ways and Means Committee at this writing.

SB 153 (Craven) revising the definition of a specialty contractor, is still pending in the Senate Business and Professions Committee.

LITIGATION:

In *Viking Pools, Inc. v. Mahoney*, No. S004587 (Apr. 17, 1989), the California Supreme Court upheld CSLB's decision to revoke a swimming pool contractor's license for breaching an express written warranty to replace a defective pool shell. The case arose in 1977 when Viking Pools contracted to supply and install a fiberglass pool for two homeowners. Viking warranted that it would repair or replace defective material in the pool shell for ten years.

When spots began to appear on the pool surface in 1980, the homeowners demanded that Viking honor its warranty. After Viking failed to do so, the homeowners filed a complaint with CSLB, which subsequently filed a disciplinary action against Viking. An administrative law judge recommended that Viking's license be revoked, with revocation stayed and probation imposed for three years upon certain conditions, including restitution. CSLB adopted the decision, and subsequently Viking sought judicial re-

view of CSLB's action.

After a unanimous panel of the Third District Court of Appeal granted Viking relief, the state Supreme Court reversed. The court reasoned that Business and Professions Code sections 7107 and 7113, which prohibit contractors from abandoning or failing to complete projects they undertake, apply to the construction project or operation as defined by the contract between the parties. Therefore, the court concluded that the Code sections govern the contractor's warranty of construction. Thus, breach of an express, written warranty is a ground for discipline under the Contractors License Law.

RECENT MEETINGS:

At its April 21 meeting in Marina del Rey, the Board again discussed the issue of implementing a reciprocity program to allow the Registrar to waive the trade examination for a contractor licensed in a similar classification in certain selected states. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 52 and Vol. 9, No. 1 (Winter 1989) p. 43 for background information.) At previous meetings, CSLB discussed adopting regulatory language which would implement such a program. However, after consultation with the Attorney General, staff decided it lacked adequate statutory authority to establish such a rule. Therefore, at the April meeting, the Licensing Committee presented the Board with proposed statutory language which would create such authority. The Committee recommended to the Board that one of the CSLB-sponsored bills currently before the legislature be amended to include this language.

Also at the April meeting, CSLB released its mission statement, goals, and objectives for 1988-89. CSLB's mission statement declares that the Board shall objectively promote the health and general welfare of the public in matters relating to building construction by (1) ensuring that all construction is performed in a safe, competent, and professional manner; (2) providing resolution of disputes which arise from building construction activities; and (3) providing information so that the public can make informed choices.

CSLB also announced the following goals and objectives:

- to ensure maximum automation of all Board operations by implementing the enforcement phase of the field automation project, implementing micro-computer improvements in all field offices, and replacing current mini-computer systems;
- to ensure greater consumer education



REGULATORY AGENCY ACTION

by establishing an outreach education program for consumers and licensees;

-to ensure prompt issuance of licenses by eliminating a backlog of applications and providing timely processing of license applications;

-to ensure prompt processing of licensee transactions to maintain a license, by eliminating the backlog and providing timely processing of all licensee transactions;

-to ensure prompt responses to telephone inquiries for licensing information by implementing an automated telephone system;

-to ensure prompt resolution of complaints by reducing the backlog to a pipeline of 5,000 plus an actual backlog of 3,000 by June 1989, and further reducing the backlog to a pipeline of 5,000 plus an actual backlog of 1,800 by June 1990; and

-to ensure maximum use of all resources, including industry and private sector, to resolve complaints and target specific illegal activity, by utilizing the arbitration program, industry expert program, and building citation program to process more complaints.

FUTURE MEETINGS:

To be announced.

BOARD OF COSMETOLOGY

Executive Officer: Denise Ostton (916) 445-7061

In 1927 the California legislature passed Business and Professions Code section 7300 *et seq.*, establishing the Board of Cosmetology (BOC). The Board was empowered to require reasonably necessary precautions designed to protect public health and safety in establishments related to any branch of cosmetology.

Pursuant to this legislative mandate, the Board regulates and issues separate licenses to salons, schools, electrologists, manicurists, cosmetologists, and cosmeticians. It sets training requirements, examines applicants, hires investigators from the Department of Consumer Affairs to investigate complaints, and disciplines violators with licensing sanctions.

The Board is comprised of seven members—four public members and three from the industry.

MAJOR PROJECTS:

Proposed Regulatory Changes. The BOC recently announced its intent to adopt several changes to its regulations, which appear in Chapter 9, Title 16 of

the California Code of Regulations (CCR). The Board is considering amendments to sections 919.4 and 990, and the addition of new section 986.1, and was scheduled to hold a public hearing on the proposed changes on July 9 in San Diego.

An existing regulation requires that a copy of the health and safety rules adopted by the BOC be conspicuously posted in reception areas of both cosmetology schools and establishments. New section 986.1 would require that the posted copy of the rules also include consumer information regarding BOC licensure of the establishment and problems which may be addressed by the Board, as well as how to contact the Board.

The amendment to section 919.4 would specify requirements for daily attendance recording by schools of cosmetology and electrology. The amendment to section 990 would increase the renewal fee for cosmetology establishment and individual licenses to \$20 and the delinquency renewal fee to \$10.

LEGISLATION:

SB 1198 (Montoya), sponsored by the California Cosmetology Association, would require the Board, until January 1, 1992, to inspect a cosmetology establishment within ninety days of the date of issuance of a license and once every twelve months thereafter. SB 1198 is currently pending in the Senate Business and Professions Committee.

SB 190 (Morgan), entitled the Private Postsecondary Act of 1989, is sponsored by the California Postsecondary Education Commission and the California Student Aid Commission; it is opposed by the California Association of Private Postsecondary Schools. SB 190 would create a single agency—the California Council for Private Postsecondary Education—to license and monitor all private postsecondary institutions in California, including cosmetology schools. This bill would also prohibit institutions from issuing academic or honorary degrees, or from offering courses of education leading to educational, professional, technical, or vocational objectives, unless they have demonstrated compliance with prescribed minimum standards. This bill is pending on the Senate floor at this writing.

AB 2272 (Mojonnier), the Board-sponsored clean-up bill which would make numerous nonsubstantive changes in the Cosmetology Act, is pending in the Assembly Ways and Means Committee.

RECENT MEETINGS:

At the Board's May 7 meeting, Dom-

inick Fisichella, MD, was elected Board president.

FUTURE MEETINGS:

To be announced.

BOARD OF DENTAL EXAMINERS

Executive Officer: Georgetta Coleman (916) 920-7197

The Board of Dental Examiners (BDE) is charged with enforcing the Dental Practice Act (Business and Professions Code sections 1600 *et seq.*). This includes establishing guidelines for the dental schools' curricula, approving dental training facilities, licensing dental applicants who successfully pass the examination administered by the Board, and establishing guidelines for continuing education requirements of dentists and dental auxiliaries. The Board is also responsible for ensuring that dentists and dental auxiliaries maintain a level of competency adequate to protect the consumer from negligent, unethical and incompetent practice.

The Committee on Dental Auxiliaries (COMDA) is required by law to be a part of the Board. The Committee assists in efforts to regulate dental auxiliaries. A "dental auxiliary" is a person who may perform dental supportive procedures, such as a dental hygienist or a dental assistant. One of the Committee's primary tasks is to create a career ladder, permitting continual advancement of dental auxiliaries to higher levels of licensure.

The Board is composed of thirteen members: four public members, eight dentists, and one registered dental hygienist.

Governor Deukmejian recently reappointed the following individuals to another term on BDE: W. James Dawson, DDS, of Ross; Pamela R. Benjamin, a public member from Union City; and Jean H. Savage, DDS, of Santa Monica.

MAJOR PROJECTS:

Approval of Radiographic Operatories. On May 5, BDE conducted a hearing to receive comments on proposed amendments to subsections (d), (e), and (g) of section 1014.1, Chapter 10, Title 16 of the California Code of Regulations (CCR). Existing section 1014.1(d) specifies that a radiographic operator shall be deemed adequate if it is approved by the Radiologic Health Section of the Department of Health Services. Because the Radiologic Health Section does not