



approve radiographic operatories, the amendment specifies that radiographic operatories in teaching facilities shall now comply with California Radiation Control Regulations. BDE approved this change to section 1014.1(d).

BDE did not approve another proposed amendment to section 1014.1(d) which would have required radiographic training facilities to be equipped with rectangular collimation. This device substantially reduces the level of radiation a patient receives when he/she has dental x-rays taken. BDE refused to require the device because testimony was presented which indicated that it is difficult to operate and not widely used by dentists in practice. Testimony also revealed that new products will be introduced in the next few years which significantly lower patients' radiation exposure level.

The Board also approved changes to subsections (e) and (g) of section 1014.1, with minor modifications. The amendments ensure that radiation safety curricula approved by the Board contain instruction in the most current concepts of radiation safety, including didactic instruction in the use of cylindrical and rectangular collimation.

The Board approved these regulatory changes subject to slight modifications; at this writing, the proposals await review by the Office of Administrative Law (OAL).

Dental Auxiliaries' Graduation Notification. Also on May 5, BDE approved an amendment to section 1076(b), Chapter 10, Title 16 of the CCR. The existing regulation required all dental auxiliaries to file a completed application thirty days prior to an examination. As amended, section 1076(b) would allow students to apply for examination prior to graduation if the school certifies that the student is expected to graduate. This proposal also awaits review by OAL.

LEGISLATION:

AB 1806 (Statham) would authorize BDE to establish a citation and fine system to penalize licensees for violations of the Board's statutes or regulations. It would also require BDE to establish a regular inspection program which would provide for random, unannounced inspections. The bill would authorize the inspection of books, records, and the premises of any place in which dentistry is being practiced during the hours the place is open for business. Failure of a licensee to allow the inspection would be grounds for disciplinary action. AB 1806 is pending in the Assembly Ways and Means Committee at this writing.

AB 2061 (Felando), as amended May 25, would provide that no dentist shall administer or order the administration of general anesthesia on an outpatient basis unless the dentist possesses a current license in good standing to practice dentistry in California and a valid general anesthesia permit issued by BDE. It would also provide that no dentist shall order the administration of general anesthesia unless the dentist is physically within the dental office at the time of the administration, and set forth specific requirements and fees for the general anesthesia permit issued by BDE. This bill 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 pages 54-55:

AB 109 (Hayden), which would define the term "medical waste" and enact provisions governing the handling, storage, treatment, and disposal of medical wastes, is pending in the Assembly Ways and Means Committee at this writing.

AB 550 (Moore), which would specify that any person licensed to practice dentistry in California may append the letters "DDS" to his/her name, is still pending in the Assembly Health Committee.

AB 459 (Frizzelle), which would provide that any license issued by an agency within the Department of Consumer Affairs may be renewed at any time after its expiration without limitation as to time, and without the requirement of reexamination, is a two-year bill pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

AB 1417 (Speier), which would prohibit, on or after January 1, 1992, any dentist from administering or ordering the administration of conscious sedation on an outpatient basis unless the dentist has a specified permit from BDE, is pending in the Assembly Ways and Means Committee.

SB 733 (Davis), which would increase BDE's delinquency renewal fee and the fee for a registered provider of continuing education, is pending in the Senate Business and Professions Committee.

AB 1061 (Felando), which would affect the examination eligibility requirements for graduates of foreign dental schools, is pending in the Assembly Health Committee.

AB 1703 (Vasconcellos), which would limit the type of advertising prohibited as unprofessional conduct by dentists, is pending in the Assembly Health Committee.

AB 1281 (Quackenbush), which would provide that an expired dentist's license

may be renewed at any time within five years after its expiration upon filing an application for renewal and paying all accrued renewal and delinquency fees, is pending in the Assembly Ways and Means Committee.

RECENT MEETINGS:

On April 14, BDE's Foreign Dental Graduate Licensure Subcommittee met in Los Angeles. At that meeting, the Subcommittee agreed to recommend to the BDE that when an applicant for licensure fails the exam three times, the applicant may not retake the exam until successful completion of fifty hours of education for each subject the applicant failed in the last unsuccessful examination. The Subcommittee also voted to limit the number of times the exam may be taken to six. The BDE must now act on this proposal.

FUTURE MEETINGS:

September 8-9 in San Francisco.
November 10-11 in Los Angeles.

BUREAU OF ELECTRONIC AND APPLIANCE REPAIR

Chief: Jack Hayes
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The Bureau of Electronic and Appliance Repair (BEAR) was created by legislative act in 1963. It registers service dealers who repair major home appliance and electronic equipment.

Grounds for denial or revocation of registration include false or misleading advertising, false promises likely to induce a customer to authorize repair, fraudulent or dishonest dealings, any willful departure from or disregard of accepted trade standards for good and workmanlike repair and negligent or incompetent repair. The Electronic and Appliance Repair Dealers Act also requires service dealers to provide an accurate written estimate for parts and labor, provide a claim receipt when accepting equipment for repair, return replaced parts, and furnish an itemized invoice describing all labor performed and parts installed.

The Bureau continually inspects service dealer locations to ensure compliance with the Electronic and Appliance Repair Dealers Registration Law and regulations. It also receives, investigates and resolves consumer complaints.

The Bureau is assisted by an Advisory Board comprised of two representatives of the appliance industry, two represent-



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atives of the electronic industry, and five public representatives, all appointed for four-year terms. Of the five public members, three are appointed by the Governor, one by the Speaker of the Assembly, and one by the Senate President pro Tempore.

MAJOR PROJECTS:

Proposed Regulations Regarding Use of Piercing Valves. At its February and May meetings, the Advisory Board discussed draft language for amendments to BEAR's regulations clarifying the use of piercing valves in the repair of refrigerators. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 55 for background information.) The Board believes that a proper repair of a permanent sealed system should involve the use of a solder-on type valve; screw-on or clamp-on type valves should be used only if the repair is a temporary one, and the consumer should be apprised that any such repair is temporary. At the May meeting, the Board approved draft language to amend sections 2702 and 2741, Chapter 27, Title 16 of the California Code of Regulations. BEAR is scheduled to formally publish its proposed regulatory changes in the near future.

BEAR/BAR Dual Registration Problem. At its February meeting, the Advisory Board continued to discuss the problem of BEAR-registered auto radio and stereo repair dealers who also repair and install auto burglar alarm systems, and who are required to register with the Bureau of Automotive Repair (BAR) for the burglar alarm activity. In February, BEAR Program Manager George Busman presented a proposed legislative solution to the problem. With regard to BEAR, section 9801 of the Business and Professions Code could be amended to include the installation and repair of burglar alarm systems within the definition of a BEAR "service dealer." Sections 9807 and 9808 could be amended to provide that an individual registered with BEAR need not be registered with BAR for purposes of installing or repairing auto burglar systems; conversely, an individual registered with BAR would be required to register with BEAR for purposes of those activities.

BEAR recognizes that BAR's statutes and/or regulations may also require amendments to eliminate this dual registration problem, and hopes to be able to schedule a joint meeting with BAR to discuss this issue later in the year, possibly at the August meeting.

Proposed Amendments to the Song-Beverly Consumer Warranty Act. At the

Board's February meeting (and at the April meeting of the Board's Executive Committee), Mr. Busman discussed two proposed amendments to the Song-Beverly Consumer Warranty Act (Civil Code section 1790 *et seq.*) to protect service dealers. First, he suggested an amendment to section 1793.6 to require manufacturers to absorb all costs of providing in-warranty replacement parts to service dealers. Some manufacturers have recently imposed a minimum dollar amount requirement on parts orders, apparently to cut processing costs and encourage service dealers to order parts intelligently. However, these policies often require service dealers to delay in-warranty repairs until the value of needed parts is sufficient to reach the minimum charge, or the dealer (and potentially the consumer) must absorb the loss.

At the February meeting, the Board and audience participants agreed that it would be better to attempt an industry resolution of this problem without the need for government intervention. The matter was referred to the Electrical Industries Association (EIA) to work with the manufacturers to resolve this issue. However, the EIA subsequently declined to become involved in pricing and procedural policies of individual manufacturers. Thus, at its May meeting, the Board solicited input from manufacturers and service dealers as to the nature and extent of this problem.

The Advisory Board also discussed a second area of possible amendment to the Song-Beverly Act. The statute currently provides that the period of a manufacturer's warranty is tolled during the time it takes to repair the product under warranty. Under the second proposal, the Act would be amended to treat service contracts the same way—that is, the term of a service contract on a product would be tolled during the time the product under contract is being repaired. Department of Consumers Affairs (DCA) legal staff advised that this proposal would involve numerous issues and changes to existing law, and requires in-depth consideration. At its April meeting, the Board's Executive Committee decided that it has received an insufficient number of complaints in this area to recommend legislative change to the full Advisory Board, and recommended that it be referred to the Service Contract Industry Council for discussion.

Return of Parts Replaced Under Service Contract. At the Board's May meeting, Board President Armen Karagosian announced that he has requested a legal opinion from DCA staff attorney Don

Chang on the practice of some service contract administrators who require their authorized service dealers to retain replaced parts from service contract repairs for inspection. This practice appears to conflict with Business and Professions Code section 9843, which requires service dealers to return most replaced parts to consumers. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 46 and Vol. 8, No. 4 (Fall 1988) p. 54 for background information.) Karagosian also instructed BEAR staff to investigate an issue raised by Karl Leever of the California State Electronics Association that some electronic parts returned to consumers have dangerous toxic or poisonous elements.

LEGISLATION:

The following is a status update on bills discussed in detail in CRLR Vol. 9, No. 2 (Spring 1989) at page 55:

SB 352 (Presley), which would provide that BEAR field investigators are peace officers but would not authorize them to carry firearms, is pending in the Senate Appropriations Committee.

SB 116 (Rosenthal), which would require persons who installs, replaces, or services refrigeration systems containing chlorofluorocarbons (CFC) to reuse or recycle the CFC, passed the Senate on May 26 and is pending in the Assembly Natural Resources Committee.

RECENT MEETINGS:

At the Board's February and May meetings, BEAR staff updated the Board on their continuing efforts to secure yellow pages notices under appropriate subheadings regarding the existence, jurisdiction, and registration requirements of BEAR. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 55 for background information.) In February, Pacific Bell denied BEAR's request, because it would mean lost advertising revenue and would undoubtedly result in requests for similar treatment from other regulatory agencies regarding their licensing advertising requirements.

However, Mr. Busman suggested an alternative idea which is currently under consideration by both Pacific Bell and GTE. His alternative would be to insert a single line in bold print under each subheading for which BEAR registration is required, referring the consumer to the consumer information section at the beginning of the directory, which would in turn list the names of governmental licensing agencies and the activities over which they have jurisdiction. BEAR hopes to invite PacBell and GTE representatives to its August meeting.



FUTURE MEETINGS:

August 24 in Burlingame.
November 17 in San Diego.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Executive Officer: James B. Allen
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The five-member Board of Funeral Directors and Embalmers licenses funeral establishments and embalmers and approves changes of business name or location. It registers apprentice embalmers, approves funeral establishments for apprenticeship training, annually accredits 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.

MAJOR PROJECTS:

Preneed Trust Regulation Changes. On March 30, the Board held a public hearing on proposed amendments to sections 1265 and 1275, Chapter 12, Title 16 of the California Code of Regulations (CCR), relating to the use of income from a preneed trust. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 56 and Vol. 8, No. 4 (Fall 1988) p. 55 for background information on these changes.)

The proposed change to section 1265 would establish a reasonable annual fee for administering a trust of not more than 4% of the year-end trust balance. An existing restriction on the use of income for only actual trust expenses would be eliminated, as would an existing prohibition on the use of corpus or income for sales-related expenses. Amended section 1275 would expand and clarify existing designation and disclosure requirements for guaranteed and nonguaranteed preneed trust agreements or contracts. Each preneed agreement must be designated as either guaranteed or nonguaranteed and, if guaranteed only in part, the services and merchandise excluded from the guarantee must be specified. Further, if the agreement is guaranteed, all of the terms and conditions limiting the guarantee must be disclosed; if the agreement is not guaranteed, there must be a complete explanation of how

the trust balance will be applied to the at-need costs to pay for the services and merchandise provided at the beneficiary's death and that there may be additional payments required or a refund due.

After the hearing, the Board adopted the proposed changes with some modifications. The Board subsequently released the modified language for further comment, and adopted the modified language at its June 15 meeting. At this writing, the rulemaking file is being prepared for submission to the Office of Administrative Law (OAL).

Notice Regarding Sealing Devices. Also at its June 15 meeting, the Board held a regulatory hearing on its proposal to repeal section 1258, Chapter 12, Title 16 of the CCR, which requires prominent display of a notice on all caskets having or represented as having a sealing device regarding the lack of evidence of any preservative effect of a sealer casket on human remains. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 56 for background information.) Following the hearing, the Board approved the repeal. At this writing, the rulemaking file on this regulatory change is being prepared for submission to OAL.

Constructive Delivery of Merchandise. At its June 15 meeting in Palm Springs, the Board discussed the practice of constructive delivery of merchandise in connection with preneed funeral arrangements. When a consumer purchases a preneed contract, the money collected covers several items sold under the preneed contract. The money is collected from the consumer; the consumer receives a receipt; and the merchandise is warehoused. Part of the merchandise included when a consumer purchases a preneed contract is the cardboard cremation container. The cost to the funeral director is approximately \$4-\$5 per container when bought in volume. Some funeral directors mark this cost up to as high as \$300 per container.

The Board does not favor this practice and discussed the drafting of a regulation that would prohibit it. Currently, the practice is legal under section 7741 of the Business and Professions Code. The Board would like to clarify the meaning of the term "merchandise that is delivered as soon as paid for" in section 7741 and forbid the practice of constructive delivery.

LEGISLATION:

AB 459 (Frizzelle) would allow Board licensees who have allowed their licenses to expire to renew their licenses at any time regardless of length of delinquency,

without a reexamination requirement. The Board is opposed to this bill, which has become a two-year bill.

SB 722 (Stirling) would require a local registrar to issue a permit for the disposition of human remains immediately upon presentation to the local registrar of a certificate of death or fetal death, except when the certificate contains medical or other information indicating that the death is a case requiring investigation by the coroner pursuant to existing provisions of law and the certificate does not contain evidence that this information has been reported to the coroner, or the certificate does not establish the identity of the decedent, and the place, date, and time of death.

Existing law requires the local registrar, before acceptance for registration, to carefully examine each certificate, and if any are incomplete or unsatisfactory to require such further information to be furnished as may be necessary to make the record satisfactory. This bill would eliminate the requirement that the examination and the duty of the local registrar to require additional information necessary to make the record satisfactory be performed before, rather than after, acceptance for registration.

The Board will support SB 722 if amended to continue the requirement that the embalmer's signature and license number remain as part of the death certificate. SB 722 passed the Senate on May 11 and is pending in the Assembly Judiciary Committee at this writing.

AB 2271 (Farr), which would authorize a trustor in a preneed funeral trust to elect, for any reason, that the trust is irrevocable, has been placed in the inactive file by its author. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 56 for background information on this bill.)

RECENT MEETINGS:

At the June meeting, the Publications Committee gave a progress report on its drafting of a consumer information booklet. Many comments have been received from consumer interest groups and industry groups. Another draft will be ready by the Board's next meeting.

FUTURE MEETINGS:

August 3 in Los Angeles.