



REGULATORY AGENCY ACTION

proved for CE credit.

Also at its September 18 meeting, Andre Nizetich, president of Cosmetology Instructors Symposium Services, spoke to the Board regarding his petition to amend section 947 of the Board's regulations. His proposed changes would require recognized CE providers to maintain attendance records for a period of four years. He also recommended limitations on class size and duration to ensure the quality of the required thirty hours. Industry members present expressed dissatisfaction with his proposals, and the Board denied the petition on the grounds there is "no demonstrated need" for the changes.

Regulatory Changes. At its July 17 meeting, the Board adopted several changes to its regulations contained in Chapter 9, Title 16 of the California Code of Regulations. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 55 for background information.) The Office of Administrative Law (OAL) has already approved the Board's changes to sections 979-982 concerning more stringent guidelines for disinfection and sterilization of cosmetology instruments.

Two other regulatory packages also adopted by the Board in July await submission to the OAL. The first package would amend section 990 to increase renewal and licensing fees. The second package would amend sections 911.4 (satellite classrooms), 919.7 (student access to school records), and 919.8 (school records).

LEGISLATION:

SB 2472 (Montoya) was signed by the Governor (Chapter 594, Statutes of 1988). This legislation requires that all written instructions given during the BOC's licensing examination be available in Vietnamese. Its sister bill, SB 1046 (Montoya), requiring the instructions to be available in Korean, died in committee.

SB 1884 (Morgan), sponsored by the Student Aid Commission, was signed by the Governor (Chapter 1414, Statutes of 1988). It requires the Board to submit a report to the legislature by March 1989 on the feasibility of establishing a tuition recovery fund for cosmetology school students, and efforts that may be taken to reduce student default and institutional abuses of student loan programs.

SB 2546 (Rosenthal), signed by the Governor (Chapter 499, Statutes of 1988), extends the January 1, 1989 sunset provision in the statute governing the licensing and operation of mobile cosmetology units to January 1, 1992.

LITIGATION:

Board of Cosmetology and Denise Ostton v. Michael Kelley, No. 358630 (Sacramento Superior Court), has been dropped. Ms. Ostton has been formally approved as BOC's Executive Officer. (See CRLR Vol. 8, No. 3 (Summer 1988) pp. 40 and 55 for background information.)

RECENT MEETINGS:

At its July 17 meeting in San Diego, the Board elected Len Steinbarth as Board president in a 4-3 vote. Jayne Rhodes, a licensed cosmetologist and owner of an electrology salon, was sworn in as an industry member of the Board. The BOC presented a plaque to former Board member Marlene Brocker in recognition of her years of dedicated service.

At its September 18 meeting in San Francisco, the Board adopted several changes to the policy guidelines relating to the duties and authority of the Board president. Board member Howard Stein proposed that the president's duties include "publicly chastising" any Board member who is absent three consecutive times without reasons. Board member Sheila Washington objected, stating there is no demonstrated need for public chastisement. The Board amended the proposed language to authorize the Board president to "publicly announce" such absences, and adopted the change.

The Board also approved changes to its disciplinary guidelines to establish consistency of penalties statewide. A complaint disclosure policy was adopted, as was an action plan for 1988-89. A copy of the Board's report on hazardous and toxic materials in the workplace, including substantiated findings, conclusions, and recommendations for Board action, was distributed to the Board members.

FUTURE MEETINGS:

January 22 in Palm Springs.

March 12 in Sacramento.

BOARD OF DENTAL EXAMINERS

Executive Officer:

Georgetta Coleman
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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.

MAJOR PROJECTS:

Examination Audit Contract Awarded. Under Business and Professions Code section 1633, the BDE is required to conduct an analysis of 1981-87 exam results to determine whether candidates should repeat the entire licensing exam when they have failed some sections of the test while passing others. The contract for the evaluation of the dental licensure examination was recently awarded to Hoffman Research Associates, Inc. (HRA) of Chapel Hill, North Carolina. The contract specifies that HRA will deliver eight items, including detailed statistical studies and comparisons, to the Board within the next year. The bid for the contract awarded was \$119,811. (For further discussion on the issue, see CRLR Vol. 8, No. 3 (Summer 1988) p. 56.)

Clarification of Dentists' Responsibilities Regarding Procedures Performed by Auxiliaries. Informational meetings held by the BDE in early 1988 revealed that the Dental Practice Act should be clarified with respect to the responsibilities of the dentist regarding procedures performed by auxiliaries. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 56 and Vol. 8, No. 2 (Spring 1988) p. 54 for background information.) Specifically, the BDE found that the Act is unclear as to the duties which may be performed by auxiliaries prior to an examination and diagnosis of the patient by a dentist. A subcommittee of the Board held a public regulatory writing



workshop on August 10 and drafted a proposal for the Board to consider.

At its September meeting, the Board considered the proposal, which would add section 1065 and renumber and amend section 1068, Title 16, California Code of Regulations. The proposed amendments would specify clearly which duties an auxiliary may perform prior to an examination of the patient by a dentist. The Board plans to publish the proposed amendments in November and hold a hearing on them in January.

New Body to Clarify BDE/COMDA Relationship. One of BDE's goals is to clarify and define the relationship between COMDA and the Board. At its September meeting, the Board created a new entity, consisting of the BDE President, the COMDA liaison, and the Chairperson of COMDA and/or its Executive Officer, which will now hold quarterly meetings. The intent of these meetings is to establish better communication between the BDE and COMDA. At its initial meeting, the new group will review past years' problems, and establish goals for the coming year. The body will report to the Board following each quarterly meeting.

BDE Monitors the Franchising of Dental Services. The Board directed its staff to notify Prime Health, Inc., proprietors of the Specialty Dental Centers (SDC), of the Board's concern over the establishment of SDC in California. The BDE notified Prime Health of the Board's intent to pursue litigation against the company if any SDCs open in California. Franchising of dental services in California is presently considered illegal by the BDE. Representatives of Prime Health have recently made major progress in revising business contracts to be in compliance with state law, and to appease the Board's concerns. Therefore, the BDE will decide whether further action is necessary at a future meeting, after having met with a representative from Prime Health.

Chemical Dependency Liaison Committee. The Board is in the process of establishing a Chemical Dependency Liaison Committee, to be composed of BDE members and members of the California Dental Association. Meetings would be held to exchange information on the identification and treatment of chemically dependent licensees, and to foster better communication on the treatment of this social disease. BDE President Dr. Alfred Otero will represent the Board on the Liaison Committee, and was scheduled to report on the highlights of its first meeting at the

BDE's November meeting.

LEGISLATION:

AB 3816 (Chandler) creates within the Department of Corporations a health care service plan advisory committee. Two members of the committee shall be persons in an administrative capacity with a dental service plan. This bill was signed by the Governor on September 13 (Chapter 848, Statutes of 1988).

AB 3766 (Connelly), which authorizes the courts to order medical practitioners charged with violating certain felony controlled substance laws to surrender to the clerk of the court all triplicate prescriptions blanks, was signed by the Governor on August 29 (Chapter 639, Statutes of 1988).

The following is a status update on bills reported in detail in CRLR Vol. 8, No. 3 (Summer 1988) at pages 56-57:

SB 1045 (Montoya), regarding the use of general anesthesia by dentists, died in the inactive file. An interim hearing on the bill was scheduled for October 28 by the Business and Professions Committee.

SB 1235 (Montoya), regarding use of conscious sedation by dentists, and **SB 2239 (Montoya)**, which would have provided that no public member of the BDE may be employed by any corporation or person who is a licentiate of the Board, died in the Assembly Health Committee.

SB 1552 (Kopp), which requires BDE to consider requiring AIDS training in its continuing education requirements, was signed by the Governor (Chapter 1213, Statutes of 1988).

SB 2852 (Watson), which would have specified the procedure for terminating the relationship between a primary care practitioner and a patient, failed passage on the Senate floor.

AB 634 (Moore), regarding use of the term "DDS", died in the Senate Business and Professions Committee.

AB 3029 (Vasconcellos) makes it unprofessional conduct for dentists to advertise in a manner which violates section 651 of the Business and Professions Code. This bill was approved by the Governor on August 11 (Chapter 396, Statutes of 1988).

SB 2736 (Watson), which would have required the Department of Health Services to study the cost-effectiveness of dental sealants, died in the Senate Committee on Health and Human Services.

RECENT MEETINGS:

At the Board's July meeting, Department of Consumer Affairs legal counsel

Anita Scuri briefed Board members on the OAL's unauthorized amendments to the Board's continuing education (CE) regulations. After several disapprovals and resubmissions, OAL finally approved BDE's CE regulation in April 1988. When BDE received its copy of the regulations, however, it noticed that OAL had made changes to the language of the Board's regulations. Specifically, OAL had added language which would have included several CE provider application forms as a substantive part of the regulations, whereas the Board had previously decided that the forms would not be a part of the regulatory language. According to BDE staff, OAL contended that it has the authority to make nonsubstantive clarifying changes to agency-approved regulatory language. BDE challenged OAL's unauthorized changes, and threatened to appeal to the Governor's office for the rescission. In August, OAL backed down from its previous decision, and reapproved BDE's version of the CE regulations in the September 16 *Notice Register*.

At its September meeting in San Francisco, Dr. Jack Saroyan briefed the Board concerning the Non-Disciplinary Review (NDR) Panel meeting held on August 19 in San Francisco. The panel addressed matters relative to advertising violations and standard of care. Dr. Saroyan noted that the NDR process is a low-cost, nonthreatening way to investigate and resolve minor infractions by licensees.

FUTURE MEETINGS:

To be announced.

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