



REGULATORY AGENCY ACTION

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 representatives of the electronic industry, and five public representatives, all appointed for four-year terms.

Advisory Board members Marcus Fearnough (appliance industry member) and Michael Nakamura (electronic industry member) were recently reappointed to another term on the Board.

MAJOR PROJECTS:

Press Release Announces New Mandatory Written Estimate Regulation. In August, BEAR and the Department of Consumer Affairs (DCA) issued a press release announcing BEAR's new written estimate regulation. Under section 2722 of BEAR's regulations, electronic and major home appliance repair dealers are now required to provide a written estimate of charges to consumers before repairs are made to home electronic equipment and major home appliances. Other requirements applicable to repair dealers now include verbally informing the consumer of charges assessed for a home service call and a written statement as to any charges to be made for diagnosing the defect in electronic equipment or appliances and for providing the written estimate.

Registration of Electronic and Appliance Technicians. The Advisory Board is currently considering a proposal to create a registration and/or licensing system for electronic and appliance technicians who work for registered service dealers. At the Board's May 13 meeting, BEAR Los Angeles office supervisor Zeferino Lopez stated that an analysis of consumer complaints received from 1977 to the present reveal that over one-half of the complaints allege poor technician workmanship. Technicians who perform incompetently are usually fired (and may cost a service dealer his/her registration), but are able to move on to another service dealer with impunity. Lopez stated that in 1977, legislation was introduced to require registration of technicians, but failed due to opposition by the California State Electronic Asso-

ciation (CSEA). Since then, no effort has been made to reintroduce the bill. Lopez requested that the Board reconsider this issue.

At the Board's August meeting, Larry Moore, Field Representative with BEAR's Los Angeles office, presented a report outlining the problems which incompetent and unregistered technicians impose upon service dealers and consumers. Although CSEA representatives still questioned the need to register or license technicians, the Board referred the issue to its Legislative Committee for further investigation and discussion.

LEGISLATION:

The following is a status update on bills discussed in CRLR Vol. 8, No. 3 (Summer 1988) at page 57:

AB 1250 (Lewis), which extends the exemption of automobile dealers or manufacturers found in Business and Professions Code section 9806, and exempts registered electronic and appliance repair dealers from the Automotive Repair Act, was signed by the Governor on August 22 (Chapter 480, Statutes of 1988).

AB 1913 (Harris) raises the monetary jurisdiction of small claims courts to \$10,000 for damages actions which involve personal injury or property damage; limits for all other small claims actions are raised from \$1,500 to \$2,500. This bill was signed by the Governor on August 22 (Chapter 481, Statutes of 1988).

AB 4570 (Duplissee), a Department of Consumer Affairs-sponsored bill concerning full disclosure on extended service warranties, was signed by the Governor on August 25 (Chapter 582, Statutes of 1988).

AB 4468 (Elder) would have required that extended service warranties sold by retail outlets be backed by insurance for purposes of indemnifying the purchaser of the warranty, but was vetoed on September 28.

RECENT MEETINGS:

During its summer meetings, BEAR discussed a proposal to require service dealers to use certain minimum test equipment. On July 12, DCA legal counsel Don Chang told BEAR's Legislative Committee that BEAR lacks statutory authority to require service dealers to obtain and use minimum test equipment. However, both the CSEA and the Electrical Industries Association publish lists of suggested test equipment, and the Committee decided to recommend to the Advisory Board that BEAR provide an informational sheet to regis-

tration and renewal applicants, which would contain the names and addresses of nonprofit national and local trade associations that provide recommended test equipment for servicing electronic equipment and appliances. At its August 19 meeting, the Board approved this idea, but a CSEA representative stated that legislation should be pursued to enable BEAR to require minimum test equipment.

At its May and August meetings, the Advisory Board discussed an apparent conflict between California law and the current requirements of some service contract administrators and manufacturers. Section 9843 of the Business and Professions Code requires service dealers to return replaced parts to consumers after repairs, unless those parts are exempt by regulation. BEAR's regulations do not currently exempt parts replaced under a service contract from that requirement, but many service contract administrators/manufacturers require that parts replaced under a service contract by returned to them or retained for audit. DCA counsel Don Chang recommended an amendment to section 2765 of BEAR's regulations to exempt replaced service contract parts from the requirement that they be returned to the consumer, but that suggestion was rejected by BEAR's Legislative Committee at its July 12 meeting. At the Board's August meeting, BEAR Program Manager George Busman informed the Board that BEAR has cited a service dealer for returning a part to a service contract administrator when it should have been returned to the customer in only one instance. The Board decided to monitor the situation and treat future problems on a case-by-case basis.

FUTURE MEETINGS:

To be announced.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

*Executive Officer: James B. Allen
(916) 445-2413*

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 con-



ditions 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:

Regulatory Changes. On June 15, the Office of Administrative Law approved amendments to the Board's regulatory sections 1221 and 1223, Chapter 12, Title 16 of the California Code of Regulations (CCR). (See CRLR Vol. 7, No. 4 (Fall 1988) pp. 48-49 for background information.)

Section 1221(b) was added to require that all human dead bodies being transferred into or out of a funeral establishment or storage facility, except in a casket, shall be covered and kept out of the public view, to the extent reasonably possible. The Board recommends that if such transfers cannot be carried out in an enclosed area, licensees may want to erect screens, decorative walls or partitions, or screening-type shrubbery.

Section 1223 concerns embalming, preparation, and storage rooms. New section 1223(a) states that no embalming, preparation, or storage room shall be located in any public storage or similar facility used by members of the general public for the storage of goods. If any such prohibited facility exists, it shall be relocated and brought into compliance with this section within twelve months of this subsection's effective date (July 15, 1988).

Citation and Fine Regulations. At its June 23 and September 22 meetings, the Board considered committee recommendations regarding the establishment of a citation and fine system pursuant to SB 2335 (Montoya). (See CRLR Vol. 8, No. 3 (Summer 1988) p. 57 for background information.) At both meetings, Board members questioned whether the problem is so great that it is necessary to implement a citation and fine system. Executive Officer James B. Allen stated that he is in favor of implementing such a system. He noted that it is difficult to encourage compliance when an offender knows nothing will happen to him/her if he/she fails to comply. The existence of a citation system would discourage offenses before they are committed. Allen noted that during June-August 1988, the Board's northern field representative made 139 inspections of individual firms in northern California.

Fifty-two firms were found to be deficient, and 89 individual violations were detected. This equals a 37% violation rate.

Board members still objected to the proposed citation and fine system, opining that the Board should utilize alternative means to sanction violators, such as instituting litigation against them and pursuing more vigorous administrative enforcement actions. Board members noted that serving fines and citations might not deter violations because of the small amount of the fines; it may be more cost-efficient for a proprietor to pay the fines and incur this cost as part of doing business.

Following the discussion, the Board determined that it would not adopt a citation and fine system at this time; this decision may be reconsidered in six months.

Proposed Preneed Regulation Changes. Also at the September 22 meeting in San Diego, the Board's Preneed Committee submitted a proposal to the Board containing draft amendments to section 1265 of the CCR, which relates to the use of income from a preneed trust.

Amended section 1265 would read as follows: "Expenses for administering the trust, including a trustee fee and sales expense, may be recovered from the income of the preneed trust, but shall not exceed two and one half percent (2-1/2%) per annum of the average annual balance of the trust. All remaining income must be credited to the trust."

One audience member commented that a distinction should be made between guaranteed and non-guaranteed preneed contracts and that the amount allowed for guaranteed funerals should be increased so as to encourage its use by directors.

There was also considerable debate as to the proper amount needed to cover expenses in administering the trust. A representative from the California Funeral Directors Association (CFDA) commented that 2-1/2% is an insufficient amount to run a trust because expenses generally exceed that amount. CFDA recommends that the Consumer Price Index (CPI) be used to determine the amount of trust income recoverable for costs.

At its November and January meetings, the Board will discuss several alternatives raised at the September meeting: for guaranteed trusts, the costs percentage should be 5%, adjusted pursuant to the CPI, or the greater of 5% or CPI; for non-guaranteed trust, the

costs percentage should be between 2-1/2% and 3-1/2%.

LEGISLATION:

SB 2359 (Roberti), as amended on August 29, permits a coroner to delegate to an agency of another county or of the federal government, when agreed to by that agency, the coroner's duties concerning investigation of a death, when the agency is authorized to perform the functions being delegated, and the agency has a jurisdictional interest or involvement in the death.

This bill also authorizes a physician to designate one or more other physicians who have access to the physician's records, to act on behalf of that physician for purposes of specifying the cause of death on a death certificate, provided that any person so designated acts in consultation with the physician. This bill was signed by September 21 (Chapter 1139, Statutes of 1988).

SB 1535 (Keene), as amended on August 25, was signed by the Governor on September 30 (Chapter 1594, Statutes of 1988). Existing law establishes a \$2 fee, in addition to all other fees imposed for death certificates, to be collected by the State Registrar or appropriate county official. This bill authorizes creation of a Vital and Health Statistics Trust Fund, and requires \$1 of each \$2 fee to be deposited into this fund.

AB 3858 (Elder), as amended on June 20, requires each death and fetal death to be registered within eight calendar days after death. This bill would also permit the body of any person whose death occurs in this state, or whose body is found in the state, or which is brought in from outside the state, to be temporarily held without issuance of a disposition permit for not more than eight calendar days. Finally, this bill authorizes the State Registrar, after January 1, 1989, to create a pilot program, in conjunction with up to five local registrars, to test the statewide viability of filing death certificates utilizing telephone facsimile technology. AB 3858 was chaptered on August 26 (Chapter 568, Statutes of 1988).

SB 2483 (Torres), signed by the Governor on June 13 (Chapter 169, Statutes of 1988), authorizes a county board of supervisors to require the local registrar to send a copy of each death certificate to the physician whose statement as to the cause of death appears on the certificate.

RECENT MEETINGS:

At its June 23 meeting in Santa Bar-



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bara and also at its September 22 meeting in San Diego, the Board considered whether to approve two embalming schools: The Institute of Funeral Service (Houston) and the Southwest Academy of Technology (Phoenix). Both of these embalming schools are home-study groups.

For approximately nine years, the Board has relied exclusively on the American Board of Funeral Service Education's (ABFSE) accreditation in determining which embalming schools it recognizes. However, the ABFSE only has jurisdiction over campus-based schools, and will not attempt to certify any off-campus programs.

Some industry members feel home-study students do not obtain enough laboratory experience under proper supervision in a correspondence course program. In support of approval, however, others noted that there is currently a lack of qualified embalmers, and a committed individual who would take a correspondence course is the type needed in the industry. It was further noted that although it has been the practice of the Board to follow the ABFSE's recommendation, the Board is not compelled to rely solely on ABFSE accreditation. No final decision was made with respect to the two institutions.

FUTURE MEETINGS:

To be announced.

BOARD OF REGISTRATION FOR GEOLOGISTS AND GEOPHYSICISTS

*Executive Officer: John E. Wolfe
(916) 445-1920*

The Board of Registration for Geologists and Geophysicists (BRGG) was created by statute in 1969. This eight-member Board licenses geologists and geophysicists and certifies engineering geologists. These designations are determined by examinations administered twice each year. The Board also has the power to discipline licensees who act in violation of the Board's licensing statutes. The Board may issue a citation to licensees or unlicensed persons for violations of Board rules. These citations may be accompanied by an administrative fine of up to \$2,500.

The Board is composed of five public members and three professional members. BRGG's staff consists of two full-time employees (Executive Officer John Wolfe and his secretary) and two part-time personnel. The Board's committees include the Professional Prac-

tices, Legislative, and Examination Committees. BRGG is funded by the fees it generates.

MAJOR PROJECTS:

Regulatory Changes. The Board's amendments to section 3031, Title 16 of the California Code of Regulations, which were approved by the Office of Administrative Law (OAL), went into effect on July 1. The changes require that an applicant complete the educational requirements set forth in sections 7841 and 7841.1 of the Business and Professions Code before the applicant may count his/her work as "professional experience." The repeals of various subsections of section 3031, which duplicated existing statutory language, also went into effect on July 1. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 59 and Vol. 8, No. 2 (Spring 1988) p. 57 for details.)

Reciprocity Study. The Examination Committee reviewed a proposal for a reciprocity program with the Republic of the Philippines. It recommended that the Board not grant reciprocity because California's exam varies considerably from that given in the Philippines. The Committee felt that degrees from the Philippines' main universities should be recognized, however, and that qualified individuals should be allowed to sit for California's exam. The Board accepted the recommendation of the Examination Committee.

LEGISLATION:

AB 1860 (Waters), which would have required that mining engineers be registered with the Board of Registration for Professional Engineers and Land Surveyors, died in committee. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 59 for background information.)

RECENT MEETINGS:

At its July 11 meeting in Los Angeles, the Board elected its 1988-89 officers. Howard Spellman, Jr. was re-elected President, and Wayne Bartholomew was re-elected Vice-President.

Executive Director John Wolfe reported that the Board's newsletter was scheduled for release in September.

FUTURE MEETINGS:

To be announced.

BOARD OF GUIDE DOGS FOR THE BLIND

*Executive Officer: Manuel Urena
(916) 445-9040*

The Board of Guide Dogs for the Blind has three primary functions. The Board protects the blind guide dog user by licensing instructors and schools to ensure that they possess certain minimum qualifications. The Board also enforces standards of performance and conduct of these licensees as established by law. Finally, the Board polices unlicensed practice.

There are three guide dog schools in California. These schools train the blind in the use of guide dogs. Each school also trains its own dogs. Each blind person is then matched with a dog using factors such as size and temperament. To provide this specialized service, the schools must have special facilities, which are inspected by the Board members as needed.

The Board consists of seven members, two of whom must be dog users (Business and Professions Code section 7200).

LEGISLATION:

SB 2229 (Marks) was signed by the Governor on September 30 (Chapter 1595, Statutes of 1988). Existing law allows trainers of guide dogs to take the dogs for the purpose of training them to places of public access, such as housing, transportation, and other places of public accommodation. This bill extends this right to trainers of signal dogs for the deaf, service dogs for the physically disabled, and other appropriately trainable animals.

Current law does not require zoos or wild animal parks to allow entrance to guide dogs. However, they are required to provide kennel facilities for the guide dogs and free transportation to blind persons. This bill extends these provisions to signal dogs of deaf persons and service dogs of physically disabled persons. It also includes within the definition of wild animal park any marine, mammal, or aquatic park open to the public.

This bill also requires the Board to complete a study by June 30, 1990, regarding possible expansion of the Board's jurisdiction and revision of the Board's name to include signal dogs for the hearing impaired, service dogs for the physically disabled, and other appropriately trainable animals.

FUTURE MEETINGS:

To be announced.