



Examination Scheduling. In February, the Board implemented an experimental program to allow "standby" examinees to take the places of candidates who fail to appear for scheduled licensing exams in southern California. (For background information, see CRLR Vol. 8, No. 2 (Spring 1988) p. 45.)

A plan was developed to cover the six examinations scheduled for February 8 through March 14. This time period was chosen so that results of the experimental program would be available for the Board's meeting on April 11. Fourteen persons are regularly scheduled for each examination. During the experimental period, an additional three persons were scheduled for each examination on a standby basis. The results of the six-week program indicated that 83% of the standbys did not appear at the examinations. A BBE report on the matter noted that all persons who were scheduled as standbys would have been able to take the exam. According to Executive Officer Hill, she intends to recommend that the Board vote to discontinue the standby program at its June meeting in San Francisco.

BBE Goals and Objectives. Also in April, the Board adopted formal policy goals and objectives. The three areas receiving special emphasis include (1) reviewing and improving the examination process; (2) improving the quantity and quality of communications between the Board and BBE staff; and (3) improving the quantity and quality of communications between the Board and its licensees.

RECENT MEETINGS:

The representatives for the Chino Youth Training Program failed to appear at BBE's April meeting. (For background information, see CRLR Vol. 8, No. 2 (Spring 1988) p. 45.) The Board hopes to consider full certification of the program at a future meeting.

FUTURE MEETINGS:

To be announced.

BOARD OF BEHAVIORAL SCIENCE EXAMINERS

Executive Officer: Kathleen Callanan (916) 445-4933

The eleven-member Board of Behavioral Science Examiners (BBSE) licenses marriage, family and child counselors (MFCCs), licensed clinical social workers (LCSWs) and educational psychologists (LEPs). The Board administers tests to license applicants, adopts

regulations regarding education and experience requirements for each group of licensees, and appropriately channels complaints against its licensees. The Board also has the power to suspend or revoke licenses. The Board consists of six public members, two LCSWs, one LEP, and two MFCCs.

LEGISLATION:

AB 2872 (Jones). Under existing law, people providing mental health services under the Short-Doyle Act and requiring licensure may not be employed unless they possess a currently valid license. Waivers may be granted by the state Department of Mental Health to psychologists, clinical social workers, and marriage, family and child counselors who are employed in their respective professions and are gaining qualifying experience for licensure, as specified. This bill would specify criteria for extending waivers for such persons employed less than full time and would also provide for a one-year extension of a waiver for a person employed full time as a psychologist, based on extenuating circumstances. The measure has passed the Assembly and is pending in the Senate Appropriations Committee at this writing.

AB 3956 (Katz) has been amended since its introduction by Assembly-member O'Connell in February. As originally worded, the bill would have included MFCCs within the definition of "physician" for purposes of workers' compensation eligibility evaluation. As amended on April 18, the law pertains to unemployment compensation disability payments. Existing law requires that each uninterrupted period of disability be supported by the certificate of a physician or other specified health professional. This bill would allow licensed MFCCs to certify a disability resulting from a mental disorder or condition. The bill failed passage in the Assembly Finance and Insurance Committee but was granted reconsideration, and it was referred to the Assembly Health Committee on June 2.

AB 3768 (Chacon), as amended April 27, would expand the definition of "psychotherapist" used in section 1010 of the Evidence Code, which provides that confidential communications between a patient and a psychotherapist shall be privileged. AB 3768 would include, for those purposes, a person exempt from the Psychology Licensing Law, as specified, and a psychological intern. The measure passed the Assembly on May 5 and is pending in the

Senate Judiciary Committee.

AB 4182 (Moore), as amended in the Assembly on May 2, would augment existing licensure requirements for psychologists, LCSWs, MFCCs, and LEPs. The bill would require that, on or after January 1, 1989, any person applying for licenses or renewal of licenses in those professions shall show evidence of completion of training in cross-cultural counseling or psychotherapy, or the cross-cultural delivery of other services within the scope of the person's practice. AB 4182 is pending in the Assembly Health Committee.

The following is a status update on measures discussed in CRLR Vol. 8, No. 2 (Spring 1988) at page 46:

AB 4617 (Lancaster), concerning business names of MFCC corporations, passed the Assembly on June 1.

SB 1552 (Kopp), regarding AIDS training for BBSE licensees, remains pending in the Assembly Health Committee.

SB 1642 (Keene) was signed by the Governor on March 31 (Chapter 66, Statutes of 1988) and became immediately effective as urgency legislation.

SB 2657 (Watson), as amended on May 4, would now provide for an increase in the Board's delinquency fee, in addition to those fee increases specified in the bill as introduced. The bill would also authorize the imposition of fees for the rescoring of an examination, the issuance of a duplicate license, and the issuance of a letter of good standing. The bill passed the Senate on May 12 and is currently pending in the Assembly Health Committee.

SB 2658 (Watson), concerning licensure of clinical social workers, was amended on April 19 to provide that up to 1,000 hours of required experience may be gained under the supervision of a licensed mental health professional acceptable to the Board. The bill passed the Senate on May 20.

LITIGATION:

In *Richard F.H. v. Larry H.D., M.D.*, 88 D.A.R. 1655, No. A037782 (First District Court of Appeal, Feb. 11, 1988), plaintiff Richard F.H. sued Dr. D, a licensed psychiatrist employed by St. Helena Hospital and Health Center, for fraud, professional negligence, and negligent infliction of emotional distress. The gist of plaintiff's complaint was that Dr. D had sexual relations with plaintiff's wife while the couple were Dr. D's patients for the purpose of receiving marital counseling. Plaintiff claimed that the discovery of this fact caused him severe emotional distress.



REGULATORY AGENCY ACTION

The trial court dismissed the action, ruling that plaintiff's claim was barred by Civil Code section 43.5, which states in relevant part that "[n]o cause of action arises for: (a) alienation of affection, (b) criminal conversation, (c) seduction of a person over the age of legal consent."

The First District Court of Appeal reversed the trial court, observing that section 43.5 was enacted to eliminate a class of lawsuits which were "fruitful sources of fraud and extortion and easy methods to embarrass, harass, and besmirch the reputation of one wholly innocent of wrongdoing." However, it found that the section does not create a blanket immunization from liability for conduct which, although technically within the constraints of the section, breaches a duty of care independent of the causes of action barred therein.

As a psychiatrist giving marriage counseling, Dr. D owed plaintiff a special duty of due care toward the patient's health in the conduct of the therapist-patient relationship, and breached that duty. "It is readily foreseeable," wrote the court, "that a patient seeing a psychiatrist for purposes of stabilizing and improving a marriage would feel betrayed and suffer emotional distress upon learning that the psychiatrist, during the course of the patient's treatment, has been engaging in sexual relations with the patient's spouse." The case was remanded.

FUTURE MEETINGS:

September 23 in San Diego.

November 18 in Sacramento.

January 20, 1989 in Los Angeles.

CEMETERY BOARD

Executive Officer: John Gill
(916) 920-6078

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:

Board Goals and Objectives. On June 15, in response to a directive from the Department of Consumer Affairs, the Board established a special subcommittee to draft its goals and objectives. Subcommittee recommendations will be discussed at a future Board meeting.

LEGISLATION:

SB 2359 (Roberti) was amended on April 20 and now pertains to coroner's investigations of deaths and responsibility for disposition of human remains; specification of the cause of death on death certificates by persons other than the last attending physician; and filing of death certificates which include non-material errors by local registrars. (For a complete description of this bill, see *infra* agency report on BOARD OF FUNERAL DIRECTORS AND EMBALMERS; see also CRLR Vol. 8, No. 2 (Spring 1988) pp. 56-57 for related discussions.)

The following is a status update on bills discussed in CRLR Vol. 8, No. 2 (Spring 1988) at page 48:

SB 2775 (Roberti), regarding the definition of unprofessional conduct, is pending in the Assembly Committee on Government Efficiency and Consumer Protection, following its passage by the Senate on May 19.

AB 2866 (LaFollette), as amended in the Assembly on April 19, would no longer specifically address exemptions from Cemetery Board regulation; notice of removal of dedication; or transfer of ownership of a cemetery. As passed by the Assembly on May 12, the measure now deals exclusively with proposed changes in the use of a cemetery. This bill would require local agencies to provide notice to the public, as specified, and hold a public hearing regarding a proposed change in use, for other than cemetery purposes, of a cemetery or part of a cemetery, as specified. As of this writing, AB 2866 is pending in the Senate Committee on Local Government.

AB 4233 (Hannigan), as amended April 5, would require the Board to inspect the books, records, and premises of crematories and holders of certificates of authority to operate crematories. Failure to allow the inspections authorized under this measure would result in disciplinary action which might include suspension or revocation of a license.

This bill would also make it unlawful for any person to remove dental gold or silver from human remains awaiting interment; and would make it unlawful to

cremate the remains of more than one person at the same time in the same chamber. As amended, this bill would prohibit the keeping of the remains or cremated remains of more than one person in the same cremation chamber at the same time, and would specify that the fact that incidental and unavoidable residue remains in the chamber is not a violation of this provision of law.

AB 4233 passed the Assembly on May 19 and is pending in the Senate Committee on Business and Professions. (See CRLR Vol. 8, No. 2 (Spring 1988) pp. 46-47 and Vol. 8, No. 1 (Winter 1988) p. 47 for background information on the issue of commingling of cremated remains.)

FUTURE MEETINGS:

To be announced.

BUREAU OF COLLECTION AND INVESTIGATIVE SERVICES

Chief: Alonzo Hall
(916) 739-3028

The Bureau of Collection and Investigative Services 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 required to register with the Bureau as a security guard. Any security guard who carries a firearm on the job