



# 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