



hearing, notwithstanding Kelley's May 23 approval of Ostton as BOC's EO. (For a detailed discussion of this lawsuit, see *supra* agency report on DEPARTMENT OF CONSUMER AFFAIRS.)

FUTURE MEETINGS:

To be announced.

BOARD OF DENTAL EXAMINERS

Executive Officer: Georgetta Coleman (916) 920-7197

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. Governor Deukmejian recently appointed Pamela R. Benjamin of Union City as a public member to the Board. Joseph E. Anthony, DDS, Hazel C. Torres, RDA, and Gloria D. Valde, DDS, were reappointed to serve as members of the Board.

MAJOR PROJECTS:

Definition of "Patient of Record." For many months, the Board has considered possible adoption of a regulation defining the term "patient of record." In fact, the Board attempted to define the term in 1984 but abandoned the effort due to a lack of consensus as to what should be included in the definition. On April 7, an informational hear-

ing was held in Burlingame concerning the "patient of record" issue. Several individuals testified, including representatives from the Native American Health Center and the California Dental Association. After hearing comments on this issue, the Board voted to form a subcommittee to draft language for a proposed regulation to clarify the Dental Practice Act, focusing on the responsibilities of dentists. (For background information on the "patient of record" issue, see CRLR Vol. 8, No. 2 (Spring 1988) p. 54 and Vol. 8, No. 1 (Winter 1988) p. 52.)

Examination Audit. Pursuant to Business and Professions Code section 1633, the Board 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. Under current law, the entire exam must be repeated if any sections are failed. The Board formed a subcommittee to select the winning bid among those seeking to perform the examination audit. The committee is comprised of Dr. Jean Savage, Board member; Eric Werner, Department of Consumer Affairs; and Dr. Robert Christoffersen, an educational consultant. The bid was to be awarded before the end of the current fiscal year.

Continuing Education Regulations. Following several disapprovals and re-submissions, the Office of Administrative Law approved the Board's continuing education rulemaking file on April 4. The new regulations went into effect immediately upon being filed with the Secretary of State. (For further discussion on this issue, see CRLR Vol. 8, No. 2 (Spring 1988) p. 54; Vol. 8, No. 1 (Winter 1988) p. 51; and Vol. 7, No. 4 (Fall 1987) p. 47.)

Changes in Peer Review Reporting Law. Effective January 1, changes in peer review reporting laws affect dental associations and societies as well as dental groups with twenty-five or more members which have a professional peer review system. Pursuant to SB 1620 (Hart), such organizations must report their peer review actions to BDE within thirty days of the imposition of any summary suspension of fourteen days or more. Section 805(e) of the Business and Professions Code states that "[f]ailure to make a report pursuant to this section is a misdemeanor punishable by a fine of not less than two hundred dollars nor more than one thousand two hundred dollars." Changes implemented under SB 1620 also allow the Board to review information and records which

were used as a basis for the peer review allegations and resulting actions.

LEGISLATION:

SB 2736 (Watson) would require Department of Health Services to study the cost-effectiveness of dental sealants and report back to the legislature by January 1, 1991. The purpose is to evaluate whether it is reasonable for Medi-Cal to cover the cost of sealants. The Board supports this bill, which is pending in the Senate Committee on Health and Human Services.

SB 2852 (Watson), which failed passage in the Senate twice during June, was designed to affect all healing arts practitioners. As amended June 2, the bill would have specified the procedure for terminating the relationship between a primary care practitioner and a patient and provided that violations of this law would constitute unprofessional conduct. The Board opposed this bill, believing it to be redundant with section 1680(u) of the Business and Professions Code, which provides that abandonment of a patient without procuring another provider constitutes unprofessional conduct.

SB 2339 (Montoya), as amended on June 8, would provide that no public member of the BDE may be employed by any corporation or person who is a licensee of the Board. The bill passed the Senate on June 9.

The following is a status update on bills reported in CRLR Vol. 8, No. 2 (Spring 1988) at pages 54-55:

SB 3029 (Vasconcellos), as amended on June 8, continues to focus on advertising by dentists. The bill would include in the list of activities constituting unprofessional conduct the dissemination of public communication containing false, fraudulent, misleading, or deceptive statements or claims. The measure is pending in the Senate Committee on Business and Professions.

AB 449 (Felando), regarding dental advertising of certification, died in committee.

AB 634 (Moore), regarding use of the term "DDS", was to be heard in the Senate Committee on Business and Professions on August 1.

SB 1045 (Montoya), regarding use of general anesthesia by dentists, remains in the inactive file.

SB 1235 (Montoya), regarding use of conscious sedation by dentists, remains in the Assembly Committee on Health, where a hearing on the measure was postponed on April 12.

SB 1522 (Kopp), which would direct BDE to consider requiring AIDS training in continuing education require-



ments, is pending in the Assembly Health Committee.

RECENT MEETINGS:

At its March meeting in San Francisco, the BDE adopted a policy requiring approval by the Board president prior to a Board member accepting a public speaking engagement. The policy was modified to require that the member submit copies of his/her speech text to ensure continuity in presenting the Board's positions.

FUTURE MEETINGS:

September 9-10 in San Francisco.
November 11-12 in Newport Beach.

BUREAU OF ELECTRONIC AND APPLIANCE REPAIR

Chief: Jack Hayes
(916) 445-4751

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

MAJOR PROJECTS:

Proposed Regulations. Proposed regulatory changes which were the subject of a public hearing on April 5 have been approved by the Office of Administrative Law and filed with the Secretary of State. The changes involved the amend-

ment, adoption, or repeal of four sections of Chapter 27, Title 16 of the California Code of Regulations. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 55 for background information.)

LEGISLATION:

The following is a status update on bills discussed in CRLR Vol. 8, No. 2 (Spring 1988) at page 55:

AB 1250 (Lewis), which would extend the exemption of automobile dealers or manufacturers found in Business and Professions Code section 9806, as specified, and would exempt registered electronic and appliance repair dealers from the Automotive Repair Act, remains in the Senate Business and Professions Committee.

AB 1913 (Harris), as amended April 25, would raise the monetary jurisdictions of small claims courts from \$1,500 to \$2,500. This bill remains pending in the Senate Judiciary Committee.

AB 4570 (Duplissea), concerning extended service warranties, passed the Assembly on April 28 and has been referred to the Senate Committee on Insurance, Claims and Corporations.

AB 4468 (Elder) would require that extended service warranties sold by retail outlets be backed by insurance for purposes of indemnifying both the seller and the purchaser of the warranty. As amended on April 27, the measure would specifically exclude manufacturers who sell extended warranties for products they sell or obligors under such warranties who are the manufacturers, distributors, or importers of the goods covered. *AB 4468* passed the Assembly on May 12 and is pending in the Senate Committee on Insurance, Claims, and Corporations.

FUTURE MEETINGS:

August 19 in Long Beach.
November 18 in Ontario.

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 conditions in a funeral establishment, en-

forces 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:

Administrative Citation and Fine System. On April 14 in Sacramento, the Board considered committee recommendations regarding the establishment of a citation and fine system pursuant to SB 2335 (Montoya). SB 2335, which became effective on January 1, 1987, authorizes (with specified exceptions) boards, bureaus, and commissions within the Department of Consumer Affairs to establish by regulation a system for the issuance of citations to licensed or unlicensed persons. The citation may provide for an administrative fine of not more than \$2,500 for each investigation made by the agency. The existing Funeral Directors and Embalmers Law and Board regulations do not contain such provisions.

To implement SB 2335, the Board recently proposed the addition of Article 5.5 (commencing with section 1240) to Chapter 4, Title 16 of the California Code of Regulations. Specifically, the proposed regulations would authorize the executive officer to issue citations containing orders of abatement and to levy fines for substantiated violations of statutory law and regulations. The provisions would specify the content of a citation and the mode of service upon a licensee. The proposed language would also set forth three ranges of fines for three classifications of violations.

The regulations would authorize the executive officer, when an order of abatement is issued in conjunction with a citation, to grant extensions of time in which to comply with such an order and would specify the conditions under which extensions may be granted. The executive officer would also be authorized to issue citations and orders of abatement against unlicensed persons who perform services for which licensure as a funeral director or embalmer is required. Further, the regulations would set forth procedures for the contest of any citation, order of abatement, or fine, including an informal conference. The executive officer would be empowered to affirm, modify, or dismiss the action taken. Requesting an informal conference would not waive the right to further appeal and a formal hearing unless the citation was dismissed as a result.