



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.



REGULATORY AGENCY ACTION

Currently, the only method for disciplinary action against licensees is the formal accusation process, which is expensive and time-consuming. Moreover, the Board has no power under existing law to discipline nonlicensees other than to report the unlicensed practice to local law enforcement agencies. The committee report discussed by the Board in April states, however, that "[i]t is very difficult, if not impossible, to interest local authorities in unlicensed practice cases."

According to the committee report, Board staff uncover numerous technical violations on a daily basis. In addition, minor violations are routinely discovered through inspections and complaints. These violations cover a wide range of conduct, including failure to file a report of apprenticeship, false and misleading advertising, fraud, and theft. However, the Board sometimes overlooks certain violations or simply determines they cannot be handled because of the cost of formal disciplinary actions. (See CRLR Vol. 7, No. 3 (Summer 1987) p. 71 for background information.)

In conclusion, the report states that "when we assume the posture...of a 'paper tiger' and resort to meaningless warnings or no action at all, we do little to discourage repeated or continued offenses. By providing a simple and cost effective means of gaining compliance and discouraging noncompliance we can better serve the public and industry."

A hearing on the proposed citation and fine regulations was scheduled for June 23.

Review of the Board's Enforcement Process. Also at the Board's April 14 meeting in Sacramento, Executive Officer James Allen presented a summary and progress report regarding his review of consumer complaints and the Board's complaint handling process. He reported that approximately 230 complaints are presently awaiting closure, including about 40 to 45 cases in some stage of investigation. Approximately six cases are also being readied for transmittal to the Attorney General's Office for preparation of formal accusations. These latter cases have been temporarily held in abeyance due to funding limitations in the current fiscal year. (See CRLR Vol. 7, No. 3 (Summer 1987) p. 71 for information regarding the Board's resources and projected operating costs.)

In addition, Mr. Allen reported that two form letters are being developed to notify complainants of the closing of their complaint files in those cases where no violation is alleged or substantiated.

He explained that although the use of form letters for this purpose is not the preferred method of complaint closure, it is the only logical and realistic approach in light of the significant backlog of open complaints. He also noted that the vast majority of open complaints do not involve matters within the Board's jurisdiction or do not allege or support violations of the Funeral Directors and Embalmers Law. Those complaints which do involve matters within the Board's jurisdiction and indicate possible violations are given a much higher priority and are assigned for investigation and/or mediation.

Mr. Allen explained that with the hiring of additional clerical and field staff, significant progress should be made in eliminating the backlog of complaints by midsummer. He also anticipates commencing an extensive office automation program early in the 1988-89 fiscal year, which will include an automated system for tracking complaints and disciplinary actions. Automation should significantly reduce the potential for future backlogs even if staff shortages should reoccur.

LEGISLATION:

SB 2483 (Torres), as amended April 20 and sent to the Governor on June 3, would add section 10061.5 to the Health and Safety Code. Existing law requires each local registrar to send to the State Registrar the original certificate of death accepted by the local registrar, and under most circumstances also requires that the last attending physician state the cause of death on the certificate. This bill would permit the county board of supervisors to require the local registrar to send a copy of each certificate sent to the State Registrar to the physician making the statement of cause of death on the death certificate.

SB 2359 (Roberti), as introduced February 18 and amended April 20, would add section 27492.55 to the Government Code; and amend sections 7104 and 10225 of and add sections 10375.5, 10401.5, and 10575.3 to the Health and Safety Code, relating to human remains.

Existing law requires the county coroner to investigate deaths under certain circumstances, and also permits a person to require that the coroner of the county in which the decedent resided at the time of death dispose of the human remains. This bill would permit 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 the death, when the agency is authorized

to perform the functions being delegated, and the agency has a jurisdictional interest or involvement in the death.

Except under specified circumstances, the physician last in attendance is currently required to specify the cause of death on a certificate. This bill would authorize a physician to designate one or more physicians or one or more persons employed by the physician who have access to the physician's records to act on behalf of the physician for purposes of performing this duty, provided that any person so designated acts in consultation with the physician.

Existing law requires that a death certificate be filed with a local registrar within five days of the death, and precludes issuance of a permit for disposition of human remains by the local registrar until the certificate of death has been accepted by him/her. Existing law further requires death certificates to be transmitted to the State Registrar and also permits amendment of death certificates in a specified manner. This bill would specify that a local registrar shall not refuse to issue a permit for disposition of human remains solely due to a nonmaterial error, as defined, on the certificate of death. However, the bill would prohibit the local registrar from issuing any certified copies of the death certificate until amendments correcting the nonmaterial errors have been filed, as specified. It would further require that the certificate of death be transmitted to the State Registrar only upon the filing of those amendments.

This measure passed the Senate on May 26 and is pending in the Assembly Health Committee at this writing. (See CRLR Vol. 8, No. 2 (Spring 1988) pp. 56-57 for background information regarding the appropriate roles of funeral directors, physicians, and local registrars in obtaining and filing death certificates.)

AB 3858 (Elder), as introduced on February 18, would amend sections 10175, 10200, and 10377 of the Health and Safety Code, relating to vital statistics. Existing law requires each death and fetal death to be registered within five days after death. As amended on May 16, this bill would require the registration within five working days after death.

Existing law also requires 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 pending disposition for not more than five days after death, unless a permit for



disposition is issued, as specified. This bill would permit the body to be held without issuance of a permit for not more than five working days after death, unless a permit for disposition is issued, as specified. AB 3858 passed the Assembly on June 1, and is pending in the Senate Committee on Health and Human Services at this writing.

RECENT MEETINGS:

At its April 14 meeting, the Board reviewed its proposed management by objectives (MBO) plan which was developed in response to a Department of Consumer Affairs (DCA) directive advocating full participation in its overall MBO planning process. Specifically, the DCA issued a "mission statement" applicable to all boards, divisions, bureaus, and units, requiring each to protect the consumer by promoting and advocating the delivery of quality goods and services, fostering fair competition, and informing and involving the public. Each DCA agency must establish goals, develop specific objectives to accomplish the goals, and identify action steps or tasks with target dates for completing each task within the fiscal year.

The first goal proposed in the Funeral Board's draft MBO plan is to ensure protection and promote fair competition by improving licensing and enforcement services. The Board will partially accomplish its goal by providing accurate and timely responses to applicants for licensure. Specifically, the Board proposes to develop and implement a streamlined license issuance process and an automated enforcement and application tracking system by December 1988.

In addition, the Board will provide meaningful, accurate, and timely responses to complaints from all sources. Specifically, the Board proposes to develop and implement an automated complaint handling and tracking system by December 1988 and an administrative citation and fine system through the adoption of regulations by June 1989. (See *supra* MAJOR PROJECTS for further information.)

A second goal proposed in the Board's MBO plan is to improve internal and external communication to better inform and involve personnel, licensees, and the public. The Board hopes to accomplish its goal by providing licensees with current information regarding the laws and regulations affecting practice. Specifically, the Board proposes to edit and publish a compilation of the laws, rules, and regulations governing the funeral industry at least every other

year and to develop and publish a periodic newsletter. The MBO draft indicates December 1988 as the target date for completion of both tasks. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 54 and Vol. 7, No. 4 (Fall 1987) p. 50 for related discussions.)

In addition, the Board will accomplish its second goal by providing the consuming public with useful and necessary information regarding funerals. Specifically, the Board proposes to develop and publish a consumer information guide by June 1989.

FUTURE MEETINGS:

September 22 in San Diego.

BOARD OF REGISTRATION FOR GEOLOGISTS AND GEOPHYSICISTS

Executive Officer: John W. 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 Practices, Legislative, and Examination Committees. BRGG is funded by the fees it generates.

MAJOR PROJECTS:

Regulatory Changes. On June 8, the Office of Administrative Law approved the Board's amendments to section 3031, Title 16 of the California Code of Regulations. The changes specify that work cannot be counted as professional experience until the applicant has completed the educational requirements set forth in sections 7841 and 7841.1 of the Business and Professions Code. Also approved were repeals of various subsections of section 3031 which duplicated existing statutory language. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 57 for more details.)

Consideration of Statutory Fee Increase. As of February 1988, BRGG is charging its statutory maximum of \$100 for initial registration and renewal fees. In order to raise its fees, the Board must obtain a statutory fee increase. The Board will ask the Professional Practices Committee to study the timing and amount of an appropriate fee increase, and to develop substantiating data to support an increase. The last statutory fee increase became effective in January 1983, at which time the fee limit was raised from \$80 to \$100.

LEGISLATION:

AB 1860 (Waters) would require that mining engineers be registered by the Board of Registration for Professional Engineers and Land Surveyors. To register, an applicant would have to meet specified qualifications and pass an examination. BRGG Executive Officer John Wolfe has expressed concern that the bill may cause confusion because a definition of mining engineers is not included in the bill. In addition, Wolfe stated that mining engineers would, in many instances, be performing the work of a geologist when they are not qualified to do so. AB 1860 is pending in the Senate Committee on Business and Professions, where it was amended on June 1 to specify that surveys made exclusively for mining and minerals would be exempt from licensure requirements contained in the Professional Land Surveyors' Act.

RECENT MEETINGS:

At its April 4 meeting in Los Angeles, the Board approved the revised Geologic Guidelines for Earthquake and/or Fault Hazard Reports. (For background information, see CRLR Vol. 8, No. 2 (Spring 1988) p. 57.) After reviewing the Board's Guidelines for Groundwater Investigative Reports, legal counsel Barbara King noted that the guidelines, as currently written, might constitute regulations as defined in the state Administrative Procedure Act, because some of the guideline language requires that the guidelines be followed. King will work with Executive Officer John Wolfe and make suggestions for changes.

The Board adopted a suggestion by the Professional Practices Committee that an informational brochure regarding BRGG be developed for distribution to the public.

The Board is considering the possibility of continuing education (CE) requirements for its licensees. The Professional Practices Committee is developing a plan to study the issue.