



ing service which does not engage in specified activities performed by an alarm company operator. This bill would include in the prohibited activities of an exempt answering service the maintenance and alteration of alarm systems. AB 4007 is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

*SB 1955 (Beverly)* was introduced February 8 and would amend section 7539 of the Business and Professions Code relating to private investigators, by deleting the provision prohibiting any licensee, officer, director, partner, manager, or employee of a private investigator from knowingly and directly soliciting employment from any injured person, as specified. This bill is pending in the Senate Business and Professions Committee.

*SB 2054 (Davis)*, introduced February 11, would require a security guard or patrolperson to file a written report with the Director of the DCA describing the circumstances surrounding any incident involving the discharge of any firearm in which he/she was involved while acting within the course and scope of his/her employment, within seven days after the incident. The bill would authorize the Director to assess a specified administrative fine for the violation of this provision. AB 2054 is pending in the Senate Business and Professions Committee.

*AB 646 (Stirling)* and *AB 1247 (Lewis)*, which were discussed in CRLR Vol. 7, No. 3 (Summer 1987) p. 65, died in committee.

*AB 1072 (Floyd)*, which would exempt licensed private investigators from statutes prohibiting the carrying of concealed weapons under specified circumstances, is pending in the Assembly Judiciary Committee. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 49 for details.)

*AB 2527 (Peace)*, which would prohibit the wearing of a badge by a private patrol licensee, failed passage in the Senate Business and Professions Committee, but reconsideration was granted.

## RECENT MEETINGS:

At the CAAB's January 19 meeting, which was held in conjunction with the California Association of Collectors' Mid-Winter Conference in Sacramento, Bureau representatives Lorraine Storey and Chris Rury delivered an informative presentation regarding the Bureau's goals and procedures, as well as its enforcement program.

Lorraine Storey identified the Bureau's primary goal as the deterrence

and prevention of unfair or illegal business practices, and suggested the increased use of administrative, civil, and criminal actions to accomplish this end. The Bureau's responsibilities are heightened because of the complex nature of the laws regulating collection agencies.

Ms. Storey presented a statistical review of Bureau activity covering 1983-84 through the first half of 1987-88. Her report included information relating to the number of agencies and registered employees, inquiries and complaints received, and resulting enforcement actions. Ms. Storey noted reluctance among administrative law judges to suspend licenses and a trend favoring probationary periods which could run up to five years.

Chris Rury, the new Collection Agency Program analyst whose background is in criminal investigation, presented an overview of current enforcement concerns. He identified as significant problems an increasing number of out of trust collection agencies, and a rise in the incidence of agencies ceasing business without proper notification to clients or the Bureau. In addition, Mr. Rury reviewed two chronological timelines to illustrate the intricacies and tremendous amount of time inherent in the conservatorship process. He cited several instances where agencies denied the Bureau's auditor access to agency records.

Mr. Rury reported that the Bureau's proposed compliance plan includes the pending approval and implementation of a new complaint form; the addition of two new consumer services representatives and one graduate student; a revised information pamphlet; further public education and publicity; reorganization of the Debt Collection Manual; revision of the qualified certificate holder examination; and the increased use of legal opinions. The Bureau would also like to increase the use of the DCA's Division of Investigation and expand the recruitment of persons who want to be conservators.

Gary Kern reported that positions for two, two-year, limited-term consumer services representatives were approved for appointment in April or May. One graduate student assistant position has also been approved. This position will focus on the conservatorship program and in researching and responding to the complex legal issues.

Unlicensed agency activity continues to be a problem for the Bureau. At the January 19 meeting, Kern cited statistics compiled by the Bureau which indicated

the receipt of 127 complaints alleging unlicensed activity during the 1985-86 fiscal year. Less than 3% of those complaints were received from agency clients. During fiscal year 1986-87, 112 complaints were received, and in the first half of fiscal year 1987-88, 65 complaints were received. Kern suggested that in instances of suspected unlicensed activity, the District Attorney might be more responsive to a constituent's complaint—that is, a complaint from a licensed collection agency—than to a complaint filed by the Bureau. Kern further suggested the use of injunctions or temporary restraining orders as provided by Business and Professions Code section 6872, and application of section 7592.5 of the Alarm Company Act, which prevents any agent from bringing or maintaining a court action for collection or compensation for the performance of any act or agreement, without providing proof of licensure during the performance of the act or agreement.

The Board also discussed collection agency industry concern over certain agency sales pamphlets which advertise collection of the agency's commission in addition to collecting delinquent accounts. This practice creates unfair competition for those collection agencies which refuse to do so, as well as frequent inquiries from licensees who wish to know whether they may do the same. Gary Kern cited *Bondanza v. Peninsula Hospital and Medical Center*, 23 Cal.3d 260 (1979), in which the California Supreme Court held that such a practice is unlawful.

The CAAB re-elected Jerry Springer as Chair, Esther Winston as Vice Chair, and Bette Myers as Secretary.

## FUTURE MEETINGS:

Collection Agency Advisory Board: May 20 in San Francisco; September 23 in San Diego.

Private Security Services Advisory Board: To be announced.

## CONTRACTORS STATE LICENSE BOARD

*Registrar: John Maloney*  
(916) 366-5153

The Contractors State License Board (CSLB) licenses contractors to work in California, handles consumer complaints, and enforces existing laws pertaining to contractors.

The thirteen-member Board, consisting of seven public members, five contractors and one labor member, generally



# REGULATORY AGENCY ACTION

meets every other month. The Board maintains four committees: legislative, which monitors legislation affecting the Board; enforcement, which oversees enforcement of existing rules and regulations, including licensing requirements; licensing, which oversees the Board's licensing procedures; and administration/public information/liason, which oversees the Board's operations and public contact. Committees meet monthly, making recommendations to the full Board for requested action.

Frank Geremia, Jr. and W. Don MacGillivray have recently been appointed to the CSLB.

## MAJOR PROJECTS:

**Regulatory Changes.** After a January 28 public hearing, CSLB adopted a proposed amendment to section 832, Title 16 of the California Code of Regulations, to add a Low Voltage Systems Contractor classification (see CRLR Vol. 8, No. 1 (Winter 1988) p. 50 for background information). The proposed amendment has been submitted to the Department of Consumer Affairs for approval.

Also heard on January 28 was a proposed amendment to section 832.27 regarding landscape contractors (see CRLR Vol. 8, No. 1 (Winter 1988) p. 50 for details). The Board decided to further amend the proposal; the amended regulatory language was approved and the proposal was scheduled to be republished in March.

**Implementation of AB 1280 (Areias).** The project which will implement the automation provisions of AB 1280 is called the Contractors Automated Systems Project (CASP). (For background information, see CRLR Vol. 7, No. 4 (Fall 1987) p. 45.) CASP's five components involve enhancing and converting existing automated application processing and licensing systems; implementing a fully developed enforcement system designed to determine patterns of contractor abuse; and developing new automated examination and phone response systems aims at better exam scheduling and improved ability to respond to public inquiries. The implementation of CASP started in January 1988 and will continue through 1989.

## LEGISLATION:

**SB 354 (Craven)** would require the CSLB to report to the legislature by January 1, 1989, on the licensing of interior designers. The bill would appropriate \$25,000 from the Contractors License Fund to the Board to conduct this feasibility study. SB 354 has passed

the Senate, and was approved by the Assembly Committee on Governmental Efficiency and Consumer Protection on February 24.

**SB 1875 (B. Greene)** would provide that a contractor who has not held a valid contractor's license in the appropriate classification for a period of at least six months prior to the date of submission of a public works project bid is ineligible to bid on the project. This bill was set for hearing on March 16 before the Senate Industrial Relations Committee.

**SB 2163 (Presley)** would require progress payments owed to a contractor or subcontractor to be deposited within ten days of receipt into a segregated interest-bearing demand account with a financial institution in trust for those contractors and subcontractors. This bill is pending in the Senate Business and Professions Committee.

**SB 2386 (Campbell)** would provide that compensating a person who is not a regular employee of a CSLB licensee for preparing a significant part of an estimate which is used for a public works project constitutes cause for disciplinary action against the licensee. SB 2386 is pending in the Senate Business and Professions Committee.

**AB 2999 (Speier)** would require contractors who engage in asbestos-related work to register with the Department of Industrial Relations (DIR) as a condition of certification by CSLB. This bill would also require the DIR to establish an asbestos information program at a cost of \$100,000 to be appropriated from DIR General Fund. AB 2999 is pending before the Assembly Committee on Labor and Employment.

The following bills are pending before the Assembly Committee on Governmental Efficiency and Consumer Protection:

**AB 3384 (Floyd).** Existing law provides that if at the end of any year, an agency within the Department of Consumer Affairs has surplus funds exceeding the agency's operating budget for the next two years, the agency must reduce license or other fees during the following year to reduce the surplus. This bill would provide that if at the end of any fiscal year CSLB has surplus funds over 25% of its operating budget, CSLB must lower license fees during the next year to reduce that surplus. CSLB currently has a surplus reserve fund of approximately \$22 million.

**AB 3789 (Eastin)** would provide that the failure of an unlicensed contractor to comply with a citation from CSLB

after it is final is a misdemeanor.

**AB 3841 (Eastin)** would require CSLB to appoint a committee to study the unlicensed contractor problem and to make a report to the legislature every year on the actions it is taking to reduce the number of unlicensed contractors in California.

**AB 3953 (Eastin)** would limit the conditions under which a property owner is exempt from the Contractors License Law. AB 3953 would extend the exemption only to homeowners improving their principal place of residence or appurtenance thereto, provided that the work is done prior to sale; the homeowner has actually resided there for twelve months prior to completion of the work; the homeowner has not used this exemption on more than two structures more than once during any three-year period; and the property or structure is not intended for sale.

**AB 3969 (Hauser)** would prohibit a contractor or asbestos consultant who inspects property for the purpose of determining the presence of asbestos with knowledge that the report is required by a lender or by a public agency for a permit from performing subsequent work on that property.

**AB 4244 (Farr)** would amend the existing exemption from the Contractors License Law for work conducted by a gas, heat, or electrical corporation on the corporation's properties. AB 4244 would also include in that exemption work conducted by a gas, heat, or electrical corporation on the properties of significant customers of that corporation.

**AB 4274 (Harris)** would repeal statutory provisions requiring contractors to be bonded as a condition of licensure.

**AB 4310 (Eastin)** would require a plastic pocket card to be issued to contractors upon their licensure. The card would serve as evidence that the contractor is properly licensed.

**AB 4427 (Ferguson)** would require rebates be paid to CSLB licensees from the Contractors License Fund. CSLB would be required to proportionately rebate any monies in the fund in excess of \$1 million.

**AB 4456 (Polanco)** would appropriate \$550,000 from the Contractors License Fund to CSLB for study and enhancement of the Board's investigation and enforcement program.

## LITIGATION:

In *Viking Pools Inc. v. Registrar of Contractors*, No. C000298 (Third District, Jan. 22, 1988), the Third District Court of Appeal ruled that sections 7107



and 7113 of the Business and Professions Code do not allow the CSLB to revoke a pool construction company's license for a breach of a repair warranty in a contract. The ruling reversed a CSLB decision to revoke the license of Viking Pools, Inc. The court found that Viking had neither "abandoned" nor "failed to complete" the project in question (which are statutory grounds for discipline), and that CSLB has not adopted any regulations interpreting the statutory grounds for license revocation as including a breach of warranty to repair.

#### RECENT MEETINGS:

At its January 28 meeting in Long Beach, the Board approved proposed legislative language which would add section 7085.9 to the Business and Professions Code, to specify that complaints referred to the contractors' arbitration program are not subject to disclosure until the CSLB has initiated an investigation of a report of noncompliance with an order of the Registrar. The Board also approved proposed statutory language which would strengthen the penalties against unlicensed contractors. Currently, when a nonlicensee citation is issued to an unlicensed contractor, it contains a civil penalty and an order of abatement. Enforcement of the citation has proven inadequate because unlicensed contractors are difficult to locate and tend to disregard the citation. The proposed statutory language would provide that the failure of a nonlicensee to comply with a citation is a misdemeanor.

#### FUTURE MEETINGS:

To be announced.

#### BOARD OF COSMETOLOGY

*Acting Executive Officer:*

*Denise Ostton*  
(916) 445-7061

In 1927 the California legislature passed Business and Professions Code section 7300 *et seq.*, establishing the Board of Cosmetology (BOC). The Board was empowered to require reasonably necessary precautions designed to protect public health and safety in establishments related to any branch of cosmetology.

Pursuant to this legislative mandate, the Board regulates and issues separate licenses to salons, schools, electrologists, manicurists, cosmetologists, and cosmeticians. It sets training requirements, examines applicants, hires investigators from the Department of Consumer

Affairs to investigate complaints, and disciplines violators with licensing sanctions.

The Board is comprised of seven members—four public members and three from the industry.

#### MAJOR PROJECTS:

*Student Time Cards and Applied Effort.* School owners, personnel, and students often misconstrue the language of section 919.4, chapter 9, Title 16 of the California Code of Regulations. Section 919.4 applies to student time cards as well as "applied effort," which is defined as the time actually devoted to classroom instruction, technical instruction, and practical training. On February 9, the Board issued a memorandum to all cosmetology schools and their students, setting forth strict guidelines under section 919.4. The memorandum specifies that (1) all students must be clocked in and out; (2) once hours of applied effort have been clocked and documented on the time cards, schools may not alter the hours; and (3) non-cosmetology/electrology-related activities will not be accepted as applied effort.

*Contemplated Regulatory Changes.* The Board's Consumer Services Committee is reviewing BOC disinfection and sterilization regulations. In order to ensure that the regulations require the highest level of disinfection and sterilization procedures, the Committee has exchanged an outline of its draft proposed regulatory changes with disease control experts from the Centers for Disease Control and the California Department of Health Services. The Committee hopes to present its draft language for discussion at the Board's July meeting.

#### LEGISLATION:

*SB 1388 (Montoya)* and *SB 1179 (Maddy)*, each offering a different approach to merger of the barber and cosmetology licensing programs, were not heard in the Senate Business and Professions Committee by the January 22 deadline. Therefore, the two bills are dead for this session. (For more information on the merger issue, see CRLR Vol. 8, No. 1 (Winter 1988) p. 51; Vol. 7, No. 3 (Summer 1987) p. 68; Vol. 7, No. 2 (Spring 1987) p. 41; and Vol. 7, No. 1 (Winter 1987) p. 1.)

*SB 1607 (Watson)* would have created a Student Tuition Recovery Account to relieve or mitigate the pecuniary losses of any student of a school of cosmetology or electrology resulting from the school's cessation of operation. At the Board's February 14 meeting, Board

members voted not to pursue the bill because it proposes to transfer \$100,000 from the Board's Contingency Fund into the Recovery Account. The bill subsequently died.

*SB 2546 (Rosenthal)* proposes to extend the January 1, 1989 sunset provision in the statute providing for the licensure of mobile cosmetology units to January 1, 1994. This bill is pending in the Senate Business and Professions Committee.

#### RECENT MEETINGS:

At its February 14 meeting in Universal City, the Board engaged in a lengthy discussion with Victoria Rayner, a licensee who proposes the addition of "paramedical corrective makeup" into the cosmetology curriculum. Paramedical corrective makeup is the art of applying makeup to any portion of the body to hide discoloration or scar damage due to cancer or skin disease. The Board heard testimony from Dr. David Lloyd, who has worked for six years as a clinical instructor in dermatology at the University of California at Davis. Dr. Lloyd supported Ms. Rayner's proposal.

However, public comments from the audience included the following: (1) a curriculum change to include paramedical corrective makeup is not necessary; (2) exposure to the field may be obtained through the current curriculum at the discretion of the various cosmetology schools; (3) the curriculum proposed is an advanced curriculum and does not belong in an introductory cosmetology course; and (4) the private sector is best suited to administer such a curriculum because, under current BOC regulations, cosmetology students may not treat customers who have infectious diseases. The Board voted against inclusion of the paramedical corrective makeup program in the cosmetology curriculum.

Also at the February 14 meeting, Acting Executive Officer Denise Ostton led a discussion pertaining to satellite classrooms, which are instruction classrooms not located on the grounds of a cosmetology school. The Board voted that the use of satellite classrooms should be limited to instruction pertaining to theory, freshman curriculum, and field trips; instruction in the satellite classrooms should not exceed 30% of the total curriculum and must be documented for verification purposes. Board staff will draft a proposed regulatory amendment to this effect.

Finally, BOC President Howard Stein proposed a Board policy under which