



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
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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



previously agendaed items would not be rediscussed for six months, if there is no new information concerning the item. Board member Sheila Washington objected because she felt it may lead to abuse; however, all other Board members voted for the policy decision.

FUTURE MEETINGS:
June 5 in Oakland.

BOARD OF DENTAL EXAMINERS

Executive Officer:
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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 reappointed Alfred Otero, Jr., DDS; Evelyn Pangborn, RDH; and Albert Wasserman, DDS, to the Board.

The BDE recently selected its 1988 officers: Alfred Otero, Jr., DDS, is Board President; Jean Savage, DDS, is Vice President; and James Dawson, DDS, is Secretary.

MAJOR PROJECTS:

Informational Hearings. On April 7 in Burlingame, the BDE was scheduled to conduct its second informational hearing on determining the need to

define the term "patient of record." (For further discussion on this issue, see CRLR Vol. 7, No. 4 (Fall 1987) p. 52.) After reviewing the hearing testimony, the Board will determine whether regulatory action is necessary.

Disciplinary Guidelines. At its January 15 meeting, the BDE approved the proposed 1988 revisions to the Board's Disciplinary Guidelines. The guidelines are designed for use by administrative law judges, attorneys, and licensees involved in settlements, disciplinary actions, and stipulations. The revised guidelines outline standard and optional conditions of probation, and recommended penalties for specific statutory violations.

Investigative Priorities Update. The BDE also recently approved revisions to its investigative priority guidelines. The changes were made to ensure that the Board's enforcement arm is operating in a manner which is consistent with the law and which best protects the people of California.

Continuing Education Regulations. On December 31, the Office of Administrative Law (OAL) disapproved for the second time the Board's proposed amendments to its continuing education (CE) regulations. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 51 and Vol. 7, No. 4 (Fall 1987) p. 47 for background information.)

Specifically, OAL found that, following its initial disapproval of the Board's CE regulations, the BDE substantially modified section 1016(e) regarding the appeal rights of CE providers, but did not make the modifications available for public comment prior to resubmitting them for OAL approval on December 2, 1987. OAL disagreed that the modifications to section 1016(e) were "technical nonsubstantive" changes.

Additionally, OAL found that the provisions in sections 1016 and 1017.2 which would require the use of forms prescribed by the Board failed to specify what information must be disclosed on the form, and were inconsistent with Government Code section 11347.5. Finally, OAL again found that the provision in section 1017 regarding the required contents of an advanced cardiac life support course violated OAL's clarity and incorporation-by-reference standards.

Permit Reform Act Regulations Approved. OAL recently approved BDE's proposed regulations to implement the Permit Reform Act of 1981 (Chapter 1087, Statutes of 1981), which requires licensing agencies to establish and follow timelines for processing ap-

plications and to set forth certain information regarding actual processing time based on the last two years prior to proposing the regulations. BDE's adoption of section 1061 and amendments to seven other existing regulatory sections specify the amount of time an applicant for any type of BDE license can expect to wait for Board action. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 47 for background information.)

Expired and Cancelled Licenses. Board member Ray Polverini, BDE staff, and legal counsel are developing specific policy and procedure guidelines for the renewal of expired licenses and the issuance of new licenses to replace cancelled licenses. Draft policy changes were scheduled for discussion at BDE's March meeting.

LEGISLATION:

SB 1522 (Kopp), as amended January 4, would require the Board to consider including training regarding the characteristics, methods of assessment, and treatment of AIDS in continuing education requirements for its licensees. This bill is pending in the Assembly Health Committee.

AB 3029 (Vasconcellos), as amended March 10, would amend a current restriction on dental advertising. Existing law makes it unprofessional conduct and grounds for disciplinary action for any dentist to advertise free dental work or free examination. AB 3029 would limit this prohibition to an advertisement of those services which would directly or indirectly result in the rendering of professional services for compensation. This bill is pending in the Assembly Health Committee.

SB 1235 (Montoya) would, after January 1, 1990, prohibit a dentist from administering or utilizing a qualified anesthesia provider for the administration of conscious sedation on an outpatient basis unless the dentist has a valid general anesthesia permit or a specified permit issued by the Board. The bill specifies educational requirements necessary for the permit and authorizes imposition of a fee. This bill is pending in the Assembly Health Committee.

SB 1045 (Montoya) would provide that dentists providing general anesthesia on an outpatient basis must possess a valid license to practice dentistry and a valid general anesthesia permit issued by the Board. Dentists must complete specified advanced training in order to qualify for the permit, and must ensure that specified equipment and drugs are