



REGULATORY AGENCY ACTION

agencies. The scope of their job generally falls within the areas of civil, criminal and domestic investigations. The Bureau oversees private investigators to protect consumers and clients against investigators who misrepresent, impersonate or make threats in order to obtain desired information; perform inadequate or incompetent investigations; fail to substantiate charges or charge more than the amount agreed upon; and alter, falsify or create evidence.

Alarm Industry. Alarm company operators install, service, maintain, monitor and respond to burglar alarms. These services are provided to both private individuals, businesses and public entities. The Bureau regulates this industry in order to protect clients from potential theft or burglary, invasion of privacy or misrepresentation by alarm companies and failure on their part to render service as agreed.

Protection Dog Operators. Protection dog operators train, lease and sell dogs for personal and/or property protection. They also provide patrol services using trained dogs. These services are employed by private individuals, business entities and law enforcement agencies. The Bureau serves to protect against possible violations in this industry, such as inadequately trained or physically abused dogs, overcharges for services, invasions of privacy or potential theft or burglary of property.

Medical Provider Consultants. Medical provider consultants are contract collectors who provide in-house collection services to medical facilities. They contact insurance companies and/or patients to try to collect on medical debts on behalf of the medical provider. Nevertheless, consultants cannot themselves collect on delinquent debts. Instead, they must turn the debt over to an independent, licensed collection agency in order to avoid any conflict of interest.

Security Guard Training Facilities. These facilities provide necessary training for those desiring to become security guards. Training is given in legal procedures, public safety, minimum standards and professional conduct. Firearm training is especially important for those guards who will carry a firearm on the job. Upon completion of training, guards must pass an exam before they can be registered.

The purpose of the Bureau is to protect the health, welfare and safety of those affected by these industries. To accomplish this, the Bureau regulates and reviews these industries by its licensing procedures and by the adoption and

enforcement of regulations. For example, the Bureau reviews all complaints for possible violations and takes disciplinary action when violations are found. The Bureau's primary method of regulating, however, is through the issuance or denial of initial/renewal license or registration applications. Education is also utilized to assist in achieving Bureau goals.

Consumers and clients may pursue civil remedies to resolve complaints and disputes currently within the regulatory authority of the Bureau. In addition, class action suits may be filed on behalf of consumers by the Attorney General's office and local district attorneys against businesses which engage in repetitive unethical business practices.

MAJOR PROJECTS:

Regulatory Changes. At its October 3 meeting, the Collection Agency Advisory Board gave formal consideration to the first of several packages of proposed changes to the Bureau's regulations, which appear at Chapter 7, Title 16, of the California Administrative Code. The Advisory Board endorsed those modifications relevant to collection licensees.

On November 21, the 45-day notice and comment period required by the Administrative Procedure Act began on the proposed changes. The changes, largely affecting the Bureau's general regulatory provisions, are intended to standardize, clarify and or simplify licensing laws governing various Bureau programs, including programs administered under the Collection, Repossessors, Private Investigators, and Alarm Company acts.

The Bureau conducted a formal hearing in Sacramento on January 5 at which testimony was received regarding the proposed regulatory changes. All major industries affected were represented at the hearing, which marked the end of the public comment period. The Bureau intends to submit four packages of proposed changes to the Office of Administrative Law for formal review during February.

RECENT MEETINGS:

Other agenda items at the Collection Agency Board's October meeting included another review of the conservatorship process. Board member Robert Morris described the proposal that a consultant position be established as an intermediary step between discovery of a problem within an agency and appointment of a conservator. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 32.) The Board agreed that such a consultant should

possess industry background and experience. The Bureau is investigating a similar program currently being used by the Board of Examiners in Veterinary Medicine.

Board and industry members also discussed unlicensed precollection activity. If Business and Professions Code section 6853 applies to all companies providing billing, letter, and precollection services, those companies must be licensed and must comply with state regulations. In order to eliminate confusion regarding the scope of section 6853 with regard to precollection activities and permissible activities under the statute, the Board intends to obtain a legal opinion on the interpretation of the statute. In the meantime, industry members have been asked to draft specific language for a proposed amendment to this section, such that it applies only to services involving third-party collection.

FUTURE MEETINGS:

To be announced.

CONTRACTORS STATE LICENSE BOARD

*Registrar: John Maloney
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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 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/liaison, which oversees the Board's operations and public contact. Committees meet monthly, making recommendations to the full Board for requested action.

MAJOR PROJECTS:

Field Automation. CSLB investigates consumer complaints through 21 field offices located throughout the state employing 91 deputy registrars. CSLB is currently automating these field offices in order to keep and disseminate more up-to-date information concerning contractors' licensing. The field offices have either been connected to the Field



Automation Network or are in the final stages of being connected. In September, all field office managers were given a hands-on orientation to the Field Automation System. Since that time, the managers have continued to work with the system in a "test mode" or trial basis and have introduced the system to their staffs. Thus, field offices will have daily updates on current licenses and the status of complaints and investigations. In addition, the CSLB is also in the process of moving data banks containing consumer complaints, licensing applications, and enforcement information, currently stored at its Sacramento headquarters, to the Teale Data Center operated by the Department of Consumer Affairs in Sacramento.

Computer Link to Other State Agencies. Another CSLB project for the 1986/87 fiscal year is to establish a computer-to-computer link between CSLB and several other state agencies to provide them with direct access to statewide contractor license information. This project is currently on hold pending the selection of an electronic data processing (EDP) consultant.

Automated Phone Answering System. The Department of Consumer Affairs recently approved \$82,000 for an automated telephone unit at CSLB headquarters. In part, the service will automatically provide current license status from CSLB's computer files. An EDP feasibility study is required before equipment can be obtained and developmental work can begin.

Industry Expert Program. Since full implementation of the program began on July 1, 1986 (see CRLR Vol. 6, No. 1 (Winter 1986) p. 27 and CRLR Vol. 5, No. 1 (Winter 1985) p. 29), the program deputy in each district office has been busy making changes necessary to build a successful program. Bob Christensen, statewide coordinator of the project, reports that approximately 1,000 industry experts are investigating consumer complaints throughout the state. Although the Board refers to the experts as "volunteers," they are paid an hourly rate. A typical inspection costs \$100 plus mileage. The program was funded for one year commencing in June 1986, and will be reviewed in March.

Asbestos Open Book Examination. CSLB has paid \$6,800 to UC Berkeley for development of an asbestos open book exam. Effective January 1, 1987, all licensed contractors are required to take an exam concerning asbestos-related work upon application or renewal of licensure.

Operation Outreach. CSLB consumer service representatives have been conducting seminars with various organizations to educate the public on how to contract for building services. The representatives advise consumers to pay contractors by checks instead of cash; obtain at least three bids before hiring a contractor; make sure the hired contractor is licensed; and investigate a contractor's references on other jobs performed.

Since implementation of this program in March 1985, over 300 seminars have been held; during fall 1986, over 20,000 people attended. For information on scheduling a free seminar, contact Leticia Rico at (916) 366-5247.

Amnesty Program. Effective January 1, 1987, CSLB began its "amnesty program" pursuant to SB 2389 (Doolittle). Until January 1, 1988, the Board will accept unlicensed or self-employed experience accrued prior to December 31, 1986 as a substitute for passing the Board's examination. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 33.)

Proposed Regulation Changes. The Board proposes to amend section 832 (Chapter 8, Title 16 of the California Administrative Code) to add a Class C-7 Low Voltage Systems Contractor to the list of specialty contractor classifications. The Board also seeks to adopt section 832.07, which defines the Low Voltage Systems Contractor classification, and amend section 856 regarding security in lieu of cash deposit. The Board proposes to substitute the word "bond" for the current language "cash deposit," which the Board believes is potentially misleading.

LEGISLATION:

AB 188 (Bradley), introduced January 6, would create a pilot project in up to six counties, under which a local building inspector, when checking for building or construction permits or for compliance with building laws, may issue a citation to a person contracting without a contractor's license.

The following legislation has been enacted into law:

AB 3861 (Peace) adds section 7124.6 of the Business and Professions Code to require the registrar to make available to the public the nature and disposition of all complaints on file against a licensee which have been referred for legal action.

AB 4317 (Stirling) amends section 7172 of the Business and Professions Code to provide that certain swimming pool construction contracts are void and unenforceable by a contractor. Swimming pool contracts must contain scale

drawings of the proposed construction, provisions for work change orders, and bonding requirement provisions.

SB 727 (McCorquodale) amends section 7163 of the Business and Professions Code to provide that a contractor may obtain building permits prior to home improvement for which no mechanic's lien can be claimed; and authorizes the waiver of any of the protections relating to third-party financing of home improvements when the home improvement contract is executed in connection with necessary emergency repairs or services. It also adds section 7167.5 to the Business and Professions Code to exempt swimming pool contracts from the current requirements of section 7163 if (1) the lender agrees in writing to provide financing to the buyer for the maximum estimated construction of the pool; (2) the lender provides the buyer specified terms and conditions of the loan; (3) the lender's agreement states the duration of the offer, which may not be less than fifteen days following the completion of the excavation of the pool; and (4) the buyer, no sooner than three business days after receipt of the above written information, requests, on a specified form, that the contractor begin performance of the swimming pool contract prior to the expiration of any rescission period applicable to the loan.

AB 1817 (Morgan) amends the Water Code to require that every person who digs, bores, or drills a water well, cathodic protection well or monitoring well, or abandons, destroys, or deepens any well is required to file with the Department of Water Resources a specified notice of intent to engage in that activity and a specified report of completion of the well within thirty days after its construction or alteration. The new statute also requires that the person responsible for the construction, alteration, destruction, or abandonment possess a C-57 (Water Well) contractor's license.

SB 2026 (Petris) requires that CSLB report to the legislature on or before January 1, 1987, on the feasibility and time frame for implementation and development of an examination for the licensing, certification, or registration of home inspectors. The bill appropriates \$25,000 to the CSLB to conduct the study and to prepare the report. As provided by this bill, the CSLB held hearings statewide during the month of November to determine whether home inspectors should be licensed.

SB 2180 (Royce) amends section 7027 of the Business and Professions Code to



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provide that a seller of a mobilehome who holds a retail manufactured home or mobilehome dealer's license is exempt from being licensed as a contractor if the installation of the mobilehome is to be performed by a licensed contractor and the seller certifies that fact in writing to the buyer prior to the performance of the installation.

LITIGATION:

In *Ron Yates Construction Co., Inc. v. Superior Court*, 2 Civ. B01864 (Oct. 9, 1986), the Second District Court of Appeal held the CSLB could not bar a general engineering contractor with a Class A state license from performing work requiring "specialized engineering knowledge and skill" where the Business and Professions Code limits statutory classifications of contractors. The suit arose when a Malibu resident contracted with Ron Yates Construction Co. to construct a seawall, septic system, and foundation caissons for a residence in July 1982. The trial court held that a Class A licensee could not legally construct a residential foundation. The appellate court overruled the lower court's ruling.

RECENT MEETINGS:

The exam statistics for the 1985-86 fiscal year were recently released to Board members. Of 36,876 exams taken by all classes, 26,376 passed for an overall pass rate of 71.5%.

Investigation statistics for the 1986-87 fiscal year, current through July, were also reviewed by Board members. In July, 12,031 case files remained open for an average case load of 149 per deputy.

A pilot project is being initiated between CSLB and the Los Angeles City Building Department for joint prosecution of flagrant violations of CSLB rules and city ordinances. The City Building Department has a 100% conviction rate through the City Attorney's office in prosecuting building code violations ranging from misdemeanors to felonies.

The Board reminded the audience that Board rule 703.5 is interpreted to mean that all contractor advertising must contain the current Board-issued license number of the advertising contractor.

Board members were given background material on reclassification of the limited specialty C-61 class. Staff has recommended that the Board retain five subclasses in the C-61 class, reclassify four subclasses into a separate class, and eliminate one subclass. Staff plans to make a full recommendation to the Board at its April meeting.

The licensing committee recommended to the Board that legislation to amend section 7059 of the Business and Professions Code is necessary. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 34.) In the proposed legislation, the definition of "incidental work" will be broadened.

The enforcement committee has developed an information sheet on bonding and small claims actions. The one-page form describes the benefits of bonding contractors. Additionally, the form instructs consumers how to file suit against both the contractor and the bonding company. The committee also discussed revisions to CSLB's disciplinary guidelines because at least one Board member believes that disciplinary actions are not severe enough. Staff presented draft statutory language which would lengthen the period of time a revoked licensee would be precluded from relicensure. Currently, section 7102 of the Business and Professions Code provides, in part, that revoked licenses shall not be reinstated for one year. Staff recommends that the Code be amended to preclude relicensure for a minimum of one year and a maximum of five years.

FUTURE MEETINGS:

April 16 in Sacramento.
July 16 in San Francisco.

BOARD OF COSMETOLOGY

Executive Officer: Harold Jones
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In 1927 the California legislature passed Business and Professions Code sections 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 and three from industry.

MAJOR PROJECTS:

Cosmetology/Board of Barber Examiners Merger. BOC anticipates that the

proposed consolidation of the Board of Barber Examiners and BOC will remain an area of focus for the coming year, and is certain to appear regularly on BOC agendas.

During its October 19 meeting in Monterey, BOC briefly received comments from the public regarding the merger. All individuals who voiced opinions opposed a merger, with cosmetology school owners in the forefront. Several BOC members explained to the audience that BOC has not taken steps to effect an actual merger, but is only discussing possible methods which may be implemented.

The Department of Consumer Affairs (DCA) has taken steps to conduct a study of certain merger possibilities. On July 12, 1985 the Governor signed AB 1328 (Johnson), which appropriated funds to the DCA for a merger study to be conducted by January 1, 1987. Although a report has been submitted to the legislature, it does not discuss merger between BOC and the Board of Barber Examiners. The merger study focuses upon occupations requiring dual licensure and does not, contrary to BOC expectations, assist in guiding BOC in its consideration of merger possibilities. (See *supra* FEATURE ARTICLE at p. 1.)

Consumer Services Committee Report. The Board's Consumer Services Committee recommended three alternative approaches to solving BOC's shortage of inspectors and inadequate inspections of license salons:

(1) Rating System for Establishments. Upon inspection, the inspector would assign a rating to the salon based upon the number of violations discovered. Salons with low ranking (high number of regulatory violations) would be subject to a relatively greater number of inspections. Conversely, those salons with a minimal number of violations would be subject to less frequent inspections. Executive Officer Jones noted this approach could be implemented as a secondary plan if the BOC is not able to convince the Governor of the need to increase the number of inspectors, which continues to be BOC's primary goal.

(2) Self-Evaluation/Audit. Under this approach the major responsibility for compliance with the Board's regulations would fall upon establishment owners. Executive Officer Jones explained to the Committee that this approach may become an educational tool through which schools and establishments alike may become aware of existing rules and regulations. Owners would receive documents from BOC itemizing regulations and