



REGULATORY AGENCY ACTION

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



allowing the owner an opportunity to comply. Legal counsel Barbara King noted that another advantage to this approach would be the binding effect upon an owner who signs the document under penalty of perjury that the establishment is in compliance with the outlined regulations. The Committee will develop this alternative more thoroughly and report back to BOC.

(3) Volunteer Inspection Program. This method would involve professional associations in peer review, serving as a voluntary informal task force working with the Board but not taking the place of the BOC inspection program. Several associations will be contacted in the near future to determine whether interest in this joint effort exists.

Contractual Arrangements with Barber Board for Conducting Inspections. The Barber Board has refused to consider any contractual arrangements with the BOC which would provide for Barber Board inspection of cosmetology licensee salons. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 34.) BOC thus supports SB 66 (Torres) as an alternative means for obtaining more inspectors to conduct the requisite inspections (see LEGISLATION, below).

LEGISLATION:

SB 66 and SB 67 (Torres) were introduced on December 4, 1986. Together, these bills reintroduce sections of SB 1412, which was vetoed by the Governor last year.

SB 66 reintroduces two controversial inspection provisions previously considered in SB 1412. The bill would require the Board to inspect newly licensed cosmetology establishments within ninety days of licensure, and to inspect each cosmetology establishment at least once every 24 months. Five additional inspectors would be provided by this bill.

SB 67 would authorize BOC to cite and fine licensees for violations of BOC regulations, and also contains several technical clean-up provisions. BOC supports both bills.

AB 86 (Elder) would repeal the statutes creating the BOC, and transfer of regulation of all cosmetology licensees to the Board of Barber Examiners. To date this bill does not provide for any cosmetology representation on the Barber Board for the would-be transferees.

Sections 6(a) and (b) would amend section 7320.5 of the Business and Professions Code to provide that a cosmetologist may practice cosmetology on the premises of a licensed barbershop, but only if that premises is also licensed

by the board (State Board of Barber Examiners) as a cosmetology establishment; further, a barber may practice barbering on the premises of a licensed cosmetological establishment but only if that premises is also licensed by the board (State Board of Barber Examiners) as a barbershop.

BOC is watching this legislation closely.

FUTURE MEETINGS:

To be announced.

BOARD OF DENTAL EXAMINERS

Executive Officer:

Georgetta Coleman
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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 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 main tasks is to create a career ladder, permitting continual advancement of dental auxiliaries to a higher levels of licensure.

The Board is composed of thirteen members: four public, eight dentists and one registered dental hygienist.

MAJOR PROJECTS:

License Examinations. The Examination Committee released its 1986 results: a total of 1,005 examinees participated with a passing average of 62%. California schools maintained high passing rates: USC at 86%, UCLA at 92%, UCSF at 92%, UOP at 82%, and Loma Linda at 73%. The Board credited the quality and diversity of the California programs for the successful passage rate.

Foreign-Trained Dentists. During 1976 and 1977, the Board disapproved of foreign-trained dentists' use of the terms DDS, DDSc and DMD. During that period, the Board vigorously enforced section 1700 of the Business and Professions Code. This section makes it a misdemeanor offense for anyone to assume the degree of "doctor of dental surgery," "doctor of dental science," or "doctor of dental medicine," or append the letters "DDS," "DDSc" or "DMD" to his/her name without a diploma from a recognized dental college or school. In light of a resulting lawsuit against the Board, the Board has now modified its policy to give enforcement of section 1700 its lowest priority, with the understanding that legislation will be introduced to repeal the law and allow foreign-trained dentists to use the titles DDS, DDSc, and DMD once licensed in California.

Continuing Education. The Board plans to hold regulatory hearings to update its existing continuing education program. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 35.) The Committee on Continuing Education, comprised of Dr. Dawson, Dr. Wasserman, and Mr. Polverini, expressed concern about the need to maintain CPR training as a continuing education requirement, in light of the potential spread of infectious diseases.

Delivery of Dental Care. The Task Force on Delivery of Dental Care was formed to address the President's concern about the lack of dental care in skilled nursing facilities. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 35.) Dr. Gaynor of the California Dental Association (CDA) and Arlene Glube, RDH, of the California Dental Hygienists Association (CDHA) agreed that development of the project has been more difficult than they anticipated. Ms. Glube added that both CDA and CDHA have worked very closely to make the project feasible. The project has given the groups an opportunity to work together and renew their mutual respect. Dr. Gaynor and Ms. Glube also agreed that this project is not a political maneuver by either organization, but a project designed to provide a service to skilled nursing homes.

LEGISLATION:

SB 2421 (McCorquodale), which was signed by the Governor on September 26, amends existing law which defines as unlawful the practice of dentistry without a license. The bill describes practices, acts, and operations which are exempt from the licensing requirement, including the practice of oral surgery by a physician or surgeon licensed under the