



## REGULATORY AGENCY ACTION

Medical Practice Act; operations by students in the clinical departments of dental colleges approved by the BDE; the practice of dentistry by licensed dentists of other states or countries during a clinical demonstration before any medical society; and the construction, alteration, or repair of bridges, crowns, dentures, or other prosthetic or orthodontic appliances, when the cast or impressions have been taken by a licensed dentist.

The bill further provides that a license which is not renewed within five years after its expiration may not be renewed, restored, reinstalled, or reissued thereafter, but the holder may apply for a new license if (a) no fact or circumstance justifies denial; (b) he/she pays all fees as if applying for the first time; and (c) he/she takes and passes the examination as if applying for the first time, or otherwise establishes to the satisfaction of the Board that he/she is qualified to practice the profession.

### RECENT MEETINGS:

The Board met in San Francisco on November 14-15. Executive Officer Coleman updated the Board on the automation project in which the Board has been involved with the Department of Consumer Affairs (DCA). During fiscal year 1984-85, DCA received approval to automate the programs of its boards. Last year, the BDE received its first installation, but due to fiscal problems, the Board will have to delay further automation until funds exist to support the project.

The Alaska Board of Dental Examiners requested that BDE to administer its practical examination. Dr. Savage expressed her view that the Board is a regulatory agency and not an examining agency. The request was denied.

Dr. Savage expressed concern that because many of California's children are immigrants and may not have had proper dental care, the National Dental Survey might reflect that California dentists are not properly caring for the children of this state. Dr. Garabedian suggested that a letter be drafted to Westat (the company conducting the survey), informing it of this problem and suggesting that the survey be amended to include information on the length of time the children have been California residents.

The Board also discussed the need for legislation to increase its authority to assess fees and limit the number of times a candidate may take the licensure examination. The staff requested authority to

work with DCA and the legislature to increase the Board's fee limits. Dr. Wasserman expressed concern about the proposed increase, reminding the Board that when he was appointed to the Board three years ago, it had a \$1 million reserve. He requested a breakdown of the Board's reserve in order to determine whether a proposed increase is justified. Additionally, the staff seeks to research the issue of limiting the permissible number of examination attempts, and the possibility of requiring remedial education in the event of failure.

BDE Assistant Executive Officer DeCuir relayed the opinion of Mr. Claude Wild, Regional Director of the Federal Trade Commission (FTC), who had addressed the Association of Administrators of State Boards of Dentistry regarding dental advertising. In general, Mr. Wild informed the Association that the FTC favors dental advertising to the extent that it promotes competition within the profession. When quality of care is the basis of the advertising, however, the FTC will minimize its involvement and leave advertising regulation to state boards. Dr. Dawson expressed extreme dissatisfaction with alleged attempts by the FTC to prevent regulatory boards from implementing advertising regulations to protect the health and safety of the general public.

### FUTURE MEETINGS:

March 12-14 in San Francisco.

May 7-9 in Los Angeles.

### 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 when requested, 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:

*Regulatory Changes.* BEAR has proposed numerous regulatory changes to implement AB 3394, BEAR's clean-up legislation (Chapter 207, Statutes of 1986). The proposed changes include a provision which requires electronic and appliance repair dealers to provide customers with specific written estimates. Section 2722 states in part that a written estimate for cost of repair shall include all costs for parts and labor and shall not be a minimum and maximum estimate. If adopted, BEAR will look to the Bureau of Automotive Repair (BAR) for guidance in implementing this provision. BAR's regulations also forbid range estimates; if a dealer does give such an estimate, the customer is required to pay only the price at the bottom of the range.

In both industries dealers are sometimes permitted to make certain estimates by phone. Section 2722(d) of BEAR's proposed amendments provides that "where a written estimate for the cost of repair is made after the service dealer has obtained possession of customer's equipment, and where applicable, provided the customer with a diagnosis fee, the service dealer may telephone the cost of repair to the customer for his or her approval. The customer shall incur no repair cost obligation until a written estimate is provided the customer and approval obtained."

BEAR also proposes to adopt new section 2722.5, which defines the term "diagnosis fee," as used in section 2722. BEAR noticed these regulatory changes for public comment on January 2, and scheduled a February 18 public hearing.

### LEGISLATION:

AB 2735 (Peace) has been signed into law (Chapter 1497, Statutes of 1986). It requires retailers who offer grey market goods for sale to post a notice that the



particular products are not covered by a manufacturer's express warranty. (See CRLR Vol. 6, No. 4 (Fall 1986) pp.35-36.)

## RECENT MEETINGS:

BEAR's Advisory Board met on November 14 in San Jose. Board President Michael Nakamura expressed disappointment in AB 2735, the new grey market law; he believes that the service community is not protected because there is no requirement that the requisite notice (that a particular product is not covered by a manufacturer's express warranty) be posted on the invoice itself.

Myrna Powell, chair of BEAR's Legislative Committee, briefly addressed the service contract problem. (See CRLR Vol. 6, No. 4 (Fall 1986) pp. 35-36.) She indicated that the Bureau and Department of Consumer Affairs should further study the issue and consult with the state Department of Insurance.

Sanyo Fisher Service Corporation (SFS) reported to BEAR on its progress in correcting the problem of delay in parts shipment. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 36.) In the months of August and September, there was a marked improvement in providing dealers with parts within a reasonable period of time. Some parts take up to three weeks to reach their destination, but this period is being cut to 12-15 days. SFS representatives said they are striving for a three-day delivery.

General Telephone Company Regional Vice President Ralph Adams was present at the meeting as a special guest. He commented on the problem of yellow page advertising by unauthorized dealers. Mr. Adams explained that GTE would pull such ads from the telephone book if complaints concerning the dealerships come from an administrative agency. GTE responds to complaints from competing industry members, however, by a notification of the complaint to the allegedly unauthorized dealer.

Carolyn Fish, Executive Director of California State Electronic Association (CSEA), discussed the new technical training program for service dealers which begins in March 1987. Instructors will provide training on VCR and TV repairs. Classes will last one day to one week and will be available to CSEA members at a discount. Nonmembers may attend if seats are available.

Finally, at the November meeting, the Board reported on a number of disciplinary actions. In September, two registrations were revoked following criminal convictions. A third licensee has recently been convicted of insurance fraud and

grand theft in conjunction with a satellite antenna operation. Restitution in excess of \$90,000 and a prison sentence of six months for one of the owners were included in the sentence. BEAR provided evidence which assisted in the conviction.

## FUTURE MEETINGS:

February 20 in Monterey.

## 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, enforces 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:

*Policies Concerning Regulations.* At its meeting on December 11 in Long Beach, the Board discussed the establishment of policies, definitions, and interpretations concerning the application and enforcement of its regulations, which appear at California Administrative Code, Title 16, Chapter 12. The Board directed its staff to submit in writing to the Board the policies and procedures utilized and enforced by staff as a result of its interpretation of the Board's regulations. (For further information see CRLR Vol. 6, No. 4 (Fall 1986) p. 36.)

*Fee Increases.* A review of the Board's financial condition has revealed a need for the introduction of legislation to increase revenue. The revenue increase proposal has arisen from concern over the curtailment of many programs which cannot be financed because the Board's spending power is limited to the amount of money in its fund. One such curtailment has affected the Board's

enforcement program, which protects the consumer from the conduct of negligent and unprofessional funeral directors. A report by Executive Officer James B. Allen revealed that that Board's current annual budget is approximately \$313,000. The Board believes, however, that it must generate an additional \$232,500 in revenue to adequately protect the consumer and regulate licensees. (See CRLR Vol. 6, No. 2 (Spring 1986) p. 42; CRLR Vol. 6, No. 3 (Summer 1986) p. 31.) After hearing all testimony, the Board's legislative committee (James B. Allen, Herbert McRoy and Randall L. Stricklin) concluded that the industry and the consumer would be better served by increased revenue raised through fee increases. The Board unanimously adopted the legislative proposal submitted by the legislative committee specifying exact fee increases, which would amend the Funeral Directors and Embalmers Law, Business and Professions Code, Article 8, sections 7729(F), (G), and (O). The Board also passed a motion to increase all remaining fees 50%, not to exceed 100%.

*Citation and Fine System.* At its December 11 meeting, the Board also discussed the establishment of a citation and fine system pursuant to SB 2335 (Montoya), which became effective on January 1, 1987. SB 2335 authorizes any board, bureau, or commission within the Department of Consumer Affairs (DCA), with specified exceptions, to establish by regulation a system for the issuance to a licensee or unlicensed person of a citation, which may contain an order of abatement or an order to pay an administrative fine, not to exceed \$2,500, if the licensee or unlicensed person acts in violation of the applicable licensing act or any regulation adopted pursuant thereto. A memorandum to all DCA agencies from DCA's legal office summarized, in a three-step approach, a suggested procedure for implementing SB 2335. First, each board should check with its legal counsel to determine whether any of the bill's provisions prohibit the agency from implementing a citation and/or fine program. Second, boards should make policy decisions with the assistance of their legal counsel with respect to the proposed scope of the board's citation and/or fine program. Third, each board should draft the actual language of the proposal so the formal regulatory process may be initiated.

Board president Randall Stricklin, joined by several other members of the Board, staff, and public, favored the establishment of a citation and/or fine