



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
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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



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system. Opposition to the system was also voiced, to the effect that existing sections 7686-7711 of the Funeral Directors and Embalmers Law provide for disciplinary proceedings which are available to the Board. The Board, however, unanimously decided to refer the establishment of a citation and/or fine system to a Board committee for discussion.

LEGISLATION:

SB 89 (Boatwright), introduced December 12, would repeal the statutes creating the Cemetery Board, transfer that board's powers and duties to the Board of Funeral Directors and Embalmers, and increase the membership of the Funeral Directors Board by adding a cemetery industry representative.

RECENT MEETINGS:

At its December 11 meeting, the Board considered an application for an original funeral directors license submitted by an individual owner. The application was set for special consideration by the Board because of comments and objections which the Board received concerning the application. The objections of particular concern addressed the applicant's designation of his home address as the location of the establishment's office and the proposed individual owner's dual management of the proposed cremation society and an existing mortuary. The Board approved the license conditioned upon an inspection of the facility which is presently being constructed to hold a crematory, office, storage room, and chapel. The Board, however, did not discuss the applicant's dual management of the proposed cremation society and the mortuary with which the applicant is presently employed. California Administrative Code, Title 16, Chapter 12, section 1212, neither authorizes nor prohibits the same individual's management of two different licensed facilities. The Board, nevertheless, has approved "dual management" provided that the management is feasible. The Board's acceptance of "dual management" has been an informal guideline utilized by the Board on a case-by-case basis.

The Board also considered an application for relocation of the holding facility for Nova Cremation Service. The Board received two written objections: one was submitted by the Development Department of the City of Fresno and the other from a funeral home in Fresno. Both objections addressed Nova Cremation Service's relocation of its holding facility from a heavy commercial district to the proposed facility located in a medium-density multiple family residential dis-

trict. The Development Department asserted that the holding and storage of embalmed bodies is essentially warehousing, and as such is either a heavy commercial or industrial use which is not allowed in the residential district proposed. The Board tabled the application until the next Board meeting, allowing Nova Cremation Service's owner/manager, David Loper, to amend his application.

During the announcement and public comment period, a member of the public questioned the Board concerning any action taken by the Board's legislative committee appointed in March 1986 to investigate possible violations by funeral directors of the cemetery brokerage license requirement when they advertise and/or arrange interment services. The item was initially placed on the agenda of the Board's March 20, 1986 meeting in response to a memo from John Gill, Executive Officer of the Cemetery Board. (See CRLR Vol. 6, No. 2 (Spring 1986) p. 42.) Mr. Gill had contacted the Board of Funeral Directors and Embalmers to ask for its assistance in enforcing sections of the Business and Professions Code, which discuss cemetery brokers licenses and permitted activities within the licensure. Under the Cemetery Act, Business and Professions Code, Chapter 19, Article 4, sections 9681 and 9686, a funeral director who advertises cremation services is in violation of the Funeral Directors and Embalmers Law, Article 6, section 7693, which prohibits false and misleading advertising. Mr. Gill requested that the Board of Funeral Directors and Embalmers notify its licensees who so advertise that they are in violation of the law, because in order to advertise or arrange cremation services, one must be licensed by the Cemetery Board. Board president Stricklin and Bob Miller, legal counsel for the Board, suggested that the Board review specific examples of ads which are alleged to be in violation of the law. Mr. Miller also noted that an Attorney General's opinion issued ten years ago concerning advertising cemetery services without a license is clear. Yet, the Board believes that ambiguity exists in the Funeral Directors and Embalmers Law, Article 2, section 7616, defining funeral establishments. At the Board's March 20, 1986 meeting, the Board referred the matter to its legislative committee. At the December 11 meeting, Mr. Stricklin appointed a new committee to consider the alleged violations by funeral directors. Those originally appointed to the committee on March 20 are no longer

members of the Board.

FUTURE MEETINGS:

March 26 in Van Nuys.
May in Long Beach (exact date to be announced).
July 30 in Monterey.

BOARD OF REGISTRATION FOR GEOLOGISTS AND GEOPHYSICISTS

Executive Officer: John W. Wolfe (916) 445-1920

This eight-member Board licenses geologists and certifies geophysicists and engineering geologists. These designations are determined by examinations given twice each year.

The Board is composed of five public members and three professional members. There are no vacancies. The staff consists of two full-time employees (Executive Officer John Wolfe and his secretary) and two part-time employees.

The Board is funded by the fees it generates. The annual budget for 1986/87 is approximately \$203,000.

LEGISLATION:

SB 86 (Boatwright), introduced December 12, would repeal the provisions in the Business and Professions Code which establish the Board of Registration for Geologists and Geophysicists.

AB 4046 (Moore) would have required agencies administering examinations to revise those tests to conform to specified standards intended to neutralize cultural differences. AB 4046 died in the legislature.

AB 1875 (Craven) requires the Secretary of the Agency for Environmental Affairs to adopt, by regulation, criteria and examination requirements for the voluntary registration of independent environmental assessors, on or before September 1, 1989, in consultation with the Agency, the state Water Resources Control Board, the state Air Resources Board, and the Division of Occupational Safety and Health. SB 1875 was signed by the Governor on September 30.

RECENT MEETINGS:

The spring exam for geologists and geophysicists will take place on May 29 and 30. The 1987 fall exam will be on December 18 and 19.

Applicants have increasingly requested permission to review their exams, and a correlative increase in appeals has been observed. At a recent meeting, the Board decided to study the appeals process and the feasibility of revamping the current