



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, 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:

Regulation. Section 9844 of the Business and Professions Code now requires service dealers to provide consumers with a written estimate for the repair of appliances before repairs are accomplished. BEAR is considering how to implement this section through its regulations. At its February 20 Advisory Board meeting, much discussion centered around proposed section 2722 of Chapter 27, Title 16 of the California Administrative Code, which provides an exception to section 9844's requirements.

Dealers claim to face hardship in providing written estimates in cases where they have no face-to-face contact with the consumer, such as in shipping transactions. Under such circumstances, proposed section 2722 would provide that the dealer may telephone the consumer and give an oral estimate of repair costs.

A hearing on this regulation was held on February 18, and the written comment period was extended for fifteen days from that date. BEAR's Program Manager George Busman explained that BEAR plans to "go easy on enforcement" of section 9844 until it can implement the statute in such a way that the "unusual circumstances" of some dealers will be considered.

At this point, BEAR is enforcing section 9844 with respect to face-to-face dealer/consumer encounters only. According to Mr. Busman, the Bureau of Automotive Repair's regulations include a "face-to-face encounter only" exception to the rule requiring written estimates, similar to that proposed in section 2722. Thus, BEAR is somewhat optimistic that the Office of Administrative Law will approve its proposed exception.

RECENT MEETINGS:

The Advisory Board met on February 20 in Monterey. While the main topic of discussion was the written estimate requirement (see MAJOR PROJECTS, *supra*), other issues were also addressed, including whether the Bureau should regulate the sale of service contracts. Bureau Assistant Chief Gordon Boranian informed the Board that the market for consumer electronics service plans is growing, and probably accounts for \$200 to \$400 million in annual national sales for televisions alone.

Mr. Boranian cited section 116 of the Insurance Code as the only provision which regulates service contract sales of which he is aware. Section 116 provides that new car dealers must have an insurance policy to pay claims if the dealer defaults on its service contracts. This section does not, however, extend to electronic equipment and appliances. The Department of Consumer Affairs is considering a draft of proposed electronics/appliance service contract legislation, but is still gathering information on the proposal.

Representatives of Pacific Bell Directory were present at the February 20 meeting. Industry members questioned PacBell about yellow pages "trade captions" such as "Authorized Repair" and "Authorized Service." Control over these alphabetically printed captions is desirable, since a dealer's listing under "Repair" appears earlier than does a listing under "Service."

Marie Shibuya-Snell, Director of the Department of Consumer Affairs, was a special guest at the Advisory Board meeting. She presented an overview of

the Department's structure and aims, and reassured her audience that although Governor Deukmejian believes that less government means a more effective government, his recent budget cuts would not affect the Bureau.

FUTURE MEETINGS:

May 29 in Fresno.

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:

Legislation to Increase Revenues. At its meeting on January 22 in San Jose, the Board considered and approved the proposed legislation drafted by the Board's Legislative and Budget Committee to increase fees.

The past introduction of legislation to increase fees has been somewhat controversial for several reasons. At least one member of the Board noted that fee increase requests were unsuccessful in 1983, 1984, and 1985 because of their inclusion in preneed bills. A related issue of particular controversy concerns the source of the increased revenue. Proposals range from the imposition of fee increases on embalmers (who generate 52% of the Board's revenue), funeral directors (who generate 41% of the Board's revenue), or morticians (who generate only 5% of the Board's revenue by maintaining reportable preneed trust accounts, yet expend 42% of its budget) (see CRLR Vol. 6, No. 1 (Winter 1986) p. 30 and CRLR Vol. 6, No. 3 (Summer 1986) p. 31 for details). The Board's 1987 legislative proposal to increase revenue disperses the fee increases over



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fourteen sources of revenue within the Board's jurisdiction and is not included in a preneed bill.

The Board's current annual revenue totals approximately \$313,000. The Board is a special fund agency and its support is derived entirely from license fees and preneed reports. The Board receives no revenue from the General Fund, and its spending, therefore, is limited to the amount in its fund. The Board, however, has projected that its total operating costs will be approximately \$545,500 annually if effective regulation and implementation of the Board's two major responsibilities (licensing and enforcement) are provided to the industry and consumer. The institution or reinstatement of the following programs are of particular concern to the Board: the performance of inspections and audits on a regular basis; the investigation, mediation, and resolution of complaints in a faster and more efficient manner; streamlining its internal operations through office automation; surveying funeral industry practices annually; and periodically updating and distributing the Board's laws, rules and regulations.

Approval of the proposed fee bill by the Governor, therefore, is deemed essential to generating the additional \$262,000 needed to fund the Board's projected annual expenditures. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 43.) Previously, resources have been essentially conserved, according to the minutes of the Board's December 11, 1986 meeting, by restricting enforcement activities and travel and by not filling vacant positions.

Assemblymember Frazee has agreed to sponsor the fee bill, AB 1757, which is cosponsored by Senator Alquist. The increase in fees will become effective on January 1, 1988, if the proposed legislation is passed.

Death Certificates. At its January 22 meeting, the Board also entertained lengthy discussion of the roles of funeral directors, physicians, and local registrars in obtaining and filing death certificates. The Board and industry members addressed the increasing concern and confusion throughout California regarding the duty to obtain the required medical and health data certification on death certificates.

Funeral Directors and Embalmers Law, Chapter 5, Article 1, section 10203 states that "[t]he medical and health section data and the time of death shall be completed and attested to by the physician last in attendance; provided,

such physician is legally authorized to certify and attest to these facts...." Funeral Directors and Embalmers Law, Chapter 7, Article 4, section 10375 states that "[n]o person shall dispose of human remains unless (a) there has been obtained and filed with a local registrar a death certificate...and (b) there has been obtained from a local registrar a permit for disposition." A funeral director, therefore, must provide the local registrar with a properly executed and complete death certificate, or disposition of the body as well as completion of the funeral director's obligation to provide specified services will be delayed.

At the January 22 meeting, funeral directors explained some of the problems associated with this task. Randall L. Stricklin, president of the Board, presented numerous death certificates rejected by local registrars. For example, a death certificate issued in the first week of January 1987 erroneously stated the year as 1986 and was rejected by the local registrar. The original death certificate with the year corrected was not acceptable. As a result, the funeral director had to locate the physician and request that a second death certificate be completed. Another death certificate was rejected because a line had been left blank where the words "not applicable" should have been typed.

The Board complained that the requirements regarding a properly executed and complete death certificate place a heavy burden on the funeral director and his/her staff at a significant cost. A funeral director often has to make countless trips to doctor's offices and health departments. Concern was also expressed that local registrars insist that the funeral director act as a liaison between the physician and the registrar.

After the discussion, the Board passed a motion to open communication with the Board of Medical Quality Assurance and the state health agencies regarding these problems and possible solutions which may relieve the burden on funeral directors.

LEGISLATION:

AB 1757 (Frazee) is the Board's proposed fee bill (see *supra* MAJOR PROJECTS).

SB 89 (Boatwright) 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. As of this writing, the Funeral

Directors Board has taken no position on SB 89.

RECENT MEETINGS:

On January 22, 1987, the Board again took up the issue of funeral directors' possible violation of cemetery brokerage license requirements, which had initially been placed on the Board's March 20, 1986 meeting agenda at the request of John Gill, Executive Officer of the Cemetery Board. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 44 and CRLR Vol. 6, No. 2 (Spring 1986) p. 42.) The Cemetery Board alleges widespread technical violations by licensees of the Board of Funeral Directors and Embalmers of statutes requiring cemetery brokerage licenses in order to advertise cremation services, and seeks the assistance of the Board of Funeral Directors and Embalmers in enforcing these requirements.

At the January 22 meeting, the Board's consideration of alleged violations by funeral directors centered on the meaning of the word "service" as used in advertisements by funeral establishments of cremation services. The Board heard rigorous public debate, which revealed that the term may be interpreted in more than one way. For example, an ad offering "cremation services" can mean that the funeral director will provide a "service" (i.e., a ceremony) followed by a cremation (performed by a duly licensed individual), which would not appear to violate brokerage license requirements. Another interpretation, however, is contained in Attorney General's Opinion No. CV 75-291 (December 24, 1975), which discusses the licensing requirements of funeral directors and cemetery brokers. The opinion addresses the issue of whether the performance of cremation services constitutes preparation for burial subject to the Board of Funeral Directors and Embalmers regulation, or constitutes part of the actual disposition of dead human remains within the jurisdiction of the Cemetery Board. The opinion specifically states that "the licenses issued by the Cemetery Board and Board of Funeral Directors and Embalmers...are intended to regulate separate conduct;" that is, the licenses issued by the Board of Funeral Directors and Embalmers to burial establishments and funeral directors regulate preparations for burial, and the licenses issued by the Cemetery Board to cemeteries and cemetery brokers regulate the actual disposition of the dead human remains.

The opinion concludes that cremation falls within the jurisdiction of the



Cemetery Board, and that a cemetery license is required to advertise or perform cremation services. The opinion further provides that "if a funeral establishment or funeral director wishes to perform cremation services, then a license must be obtained from the Cemetery Board. Anyone advertising cemetery services without a license is subject to a misdemeanor prosecution under sections 9681 and 9686 of the [Business and Professions] Code. A funeral director who advertises 'cremation services' may also be in violation of section 7693 of the [Business and Professions] Code for false or misleading advertising' inasmuch as section 9676 of the [Business and Professions] Code authorizes only cemetery licensees to engage in or advertise cemetery services."

Mr. Stricklin appointed Carol D. Weddle and Herb McRoy to the Funeral Directors Licensing and Enforcement Committee. The Committee scheduled a March 19 joint meeting with the Cemetery Board, and will report to the Board by the end of July.

The Board announced the death of Dr. Phil Barrett on January 9, 1987. Dr. Barrett was appointed to the Board in 1983 and held the vice-presidency during 1986.

Pursuant to Funeral Directors and Embalmers Law, Article 1, section 7605, the Board elected Randall L. Stricklin as president, Carol D. Weddle as vice president, and Virginia M. Anthony as secretary, each for a term of one year.

FUTURE MEETINGS:

May 7 in Long Beach.
July 23 in Monterey.

BOARD OF REGISTRATION FOR GEOLOGISTS AND GEOPHYSICISTS

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

This eight-member Board licenses geologists and geophysicists and certifies 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 Board's staff consists of two full-time employees (Executive Officer John Wolfe and his secretary) and one part-time employee.

The Board is funded by the fees it generates. The annual budget for 1987/88 is approximately \$218,000.

MAJOR PROJECTS:

College Informational Program. The Board wishes to develop a dialogue with those California educational institutions which award diplomas in geology or geophysics. Several plans have been discussed toward that end. The Board hopes to set up informational booths on career days at the various campuses. Alternately, a representative of the Board could make annual presentations to each campus geology department, addressing California's requirements for professional licensure and certification.

LEGISLATION:

SB 86 (Boatwright) would repeal Chapter 12.5 of Division 3 of the Business and Professions Code which provides for the licensing and regulation of persons pursuant to the Geologist and Geophysicist Act. That law is currently administered by the State Board of Registration for Geologists and Geophysicists.

RECENT MEETINGS:

The Board met on January 12 in Los Angeles, primarily to discuss SB 86 (Boatwright) (see "LEGISLATION", *supra*), which proposes repeal of the Geologist and Geophysicist Act. The Board debated the merits and drawbacks of repealing the law, which in effect would disband the Board of Registration for Geologists and Geophysicists.

Board President Howard Spears argued against SB 86, expressing concern that without a state board, registration would be left to local discretion. Because each locality has different requirements, nonuniformity of standards might result in unfairness and chaos and could effectively restrict practice for geologists and geophysicists who need local certification from several jurisdictions. Also, reciprocity with other states might be jeopardized if the Board is abolished.

Coreen Young, a public member of the Board, suggested that SB 86 may be justified because the Board has failed to enforce all aspects of the Geologist and Geophysicist Act. Young questioned whether it is a disservice to the public for the Board to continue in its current direction. She identified as major problems a lack of proper enforcement procedures and inadequate funding, which does not permit the Board to hire enough staff support personnel. Currently, funding exists for one executive officer, one full-time secretary, and one part-time clerk.

On February 16, the Board again met in Los Angeles, with SB 86 still the

major issue of discussion. Board members drafted an official letter to Senator Boatwright expressing their objection to the Board's potential abolition.

Also on February 16, the Board decided to allow applicants with a minimum test score of 65% (a score of 70% or higher is passing) to appeal and have their tests rescored. The Board believes it is unlikely that test failure with a score below 65% would be due to a mistake in the grading process.

Tom Wright, chair of the Professional Practices Committee, spoke on the possible certification of civil and petroleum engineers as groundwater geologists. The Committee decided against such certification, believing that it would not provide the public or geology community with anything more than they already have. Currently, both civil and petroleum engineers can practice groundwater geology, but they cannot call themselves "groundwater geologists."

FUTURE MEETINGS:

To be announced.

BOARD OF GUIDE DOGS FOR THE BLIND

Executive Officer: Manuel Urena (916) 445-9040

The Board of Guide Dogs for the Blind has three primary functions. The Board protects the blind guide dog user by licensing instructors and schools to ensure that they possess certain minimum qualifications. The Board also enforces standards of performance and conduct of these licensees as established by law. Finally, the Board polices unlicensed practice.

There are three guide dog schools in California. These schools train the blind in the use of guide dogs. Each school also trains its own dogs. Each blind person is then matched with a dog using factors such as size and temperament. To provide this specialized service, the schools must have special facilities, which are inspected by the Board members as needed.

The Board consists of seven members, two of whom must be dog users (Business and Professions Code section 7200).

MAJOR PROJECTS:

Decal Project. The Board has received two bids for decals relating to accessibility to public places for guide dog users. (See CRLR Vol. 7, No. 1