



franchisor relationships; **AB 802 (Sher)**, which would have prohibited a licensed vehicle dealer from advertising the amount or percentage of any down payment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge without making clear and conspicuous disclosure of specified information; and **AB 1665 (Napolitano)**, which would have prohibited any manufacturer, manufacturer branch, distributor, or distributor branch licensed under the Vehicle Code from preventing a dealer from selling and servicing new motor vehicles of any line-make, or parts and products related to those vehicles, at the same established place of business approved for sale and service of new motor vehicles by any other manufacturer, manufacturer branch, distributor, or distributor branch, if the established place of business is sufficient to enable competitive selling and servicing of all new motor vehicles, parts, and other products sold and serviced at that established place of business.

RECENT MEETINGS

At its April 1 meeting, the Board elected Manning Post to serve as NMVB President and Lucille Mazeika to serve as Vice-President.

FUTURE MEETINGS

June 14 in Los Angeles.
July 15 in Los Angeles.

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

Executive Director:
Linda Bergmann
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In 1922, California voters approved a constitutional initiative which created the Board of Osteopathic Examiners; 1991 legislation changed the Board's name to the Osteopathic Medical Board of California (OMBC). Today, pursuant to Business and Professions Code section 3600 *et seq.*, OMBC regulates entry into the osteopathic profession, examines and approves schools and colleges of osteopathic medicine, and enforces professional standards. The Board is empowered to adopt regulations to implement its enabling legislation; OMBC's regulations are codified in Division 16, Title 16 of the California Code of Regulations (CCR). The 1922 initiative, which provided for a five-member Board consisting of practic-

ing doctors of osteopathy (DOs), was amended in 1982 to include two public members. The Board now consists of seven members, appointed by the Governor, serving staggered three-year terms.

On April 27, Governor Wilson appointed William J. Evans, DO, of Roseville to the Board. Dr. Evans is an anesthesiologist for the Permanente Medical Group. Even with Dr. Evans' appointment, the Board still has two vacancies—one public member position and one physician position.

MAJOR PROJECTS

Board Shuts Down Enforcement Program. As predicted last fall, OMBC shut down its enforcement program in January due to lack of funding. [14:1 CRLR 164-65] Thus, serious complaints against DOs are not being investigated, and the Board has slowed or suspended work on at least a dozen pending disciplinary cases.

The Board blames its budget woes on the legislature, which enacted budget language in 1991 which required the transfer of over \$500,000 in DO licensing fees from the Board's reserve fund to the state general fund. OMBC also asserts that its budget has been cut in each of the past two years, and it has incurred deficits in both of those years but has no reserve funds to cover the deficit. This year, the Board projects another deficit of at least \$100,000.

At this writing, an urgency fee increase bill is pending in the legislature (*see* LEGISLATION).

Rulemaking Update. OMBC's proposed amendments to sections 1600, 1602, 1668, 1620, 1621, 1656, 1690, and Article 18, Title 16 of the CCR, were approved by the Office of Administrative Law (OAL) on September 22, 1993; to date, OAL has not published notice of that approval in its *California Regulatory Notice Register*, although the changes have been incorporated into the CCR. These changes, which were adopted by OMBC at its May 1993 meeting, change references to the Board of Osteopathic Examiners to the Osteopathic Medical Board of California, in accordance with the Board's recent name change; delete a reference to a 75% pass rate for the Board's written examination; provide that a petition for reinstatement shall not be heard by the Board unless the time elapsed from the effective date of the original disciplinary decision or from the date of the denial meets the requirements of Business and Professions Code section 2307; and increase the Board's examination fee from \$125 to \$350, its duplicate certificate fee from \$10 to \$25, its annual tax and registration fee from \$175 to \$200, and its delinquent

annual tax and registration fee from \$87.50 to \$100. [14:1 CRLR 165; 13:4 CRLR 202]

On March 23, OAL approved OMBC's amendments to sections 1635 and 1641, Title 16 of the CCR, which were adopted by the Board at its October 1993 meeting. Among other things, the changes authorize American Osteopathic Association (AOA) Category I-B continuing medical education (CME) hours, and delete the annual CME requirement of twenty hours, leaving in place the requirement for 150 hours of CME in a three-year period with 60 hours being AOA CME and 90 hours being either AOA or American Medical Association CME hours. [13:2&3 CRLR 209]

LEGISLATION

AB 3732 (Alby). Existing law requires OMBC to require each licensed osteopathic physician to demonstrate satisfaction of its CME requirements as a condition for renewal of a license. As amended April 14, this bill would provide that commencing January 1, 1995, OMBC instead require each licensed osteopathic physician to complete a minimum of 150 AOA Category I-A CME hours, as defined, during each three-year cycle as a condition for renewal of a license.

Existing law establishes fees for examinations, taxes, and registration as licensed osteopathic physicians and requires these fees to be deposited in the Osteopathic Medical Board of California Contingent Fund, a continuously appropriated fund. Under existing law, the annual tax and registration fee to be set by OMBC may not exceed \$200, and the fee for failure to timely pay the annual tax and registration fee is 50% of the renewal fee but not more than \$100. This bill would increase the maximum amount for the tax and registration fee to \$300, and would change the penalty fee to provide that it may not exceed \$150. To prevent further expropriations of its licensing fees by the legislature (*see* MAJOR PROJECTS), this bill would also provide that any and all fees received by OMBC shall be for the sole purpose of the operation of the Board. This bill also provides that effective July 1, 1999, the fee increases in this bill would be repealed, and would reestablish the fee requirements under existing law. [A. W&M]

AB 3125 (Aguiar), as amended April 19, would recognize the need to emphasize the practice of primary care medicine and establish a pilot project at the College of Osteopathic Medicine of the Pacific (COMP) that would combine medical school education and residency training in



a seven-year program; provide that a total of twenty students be enrolled in the program; impose as a condition to enrollment in the program that accepted applicants agree to practice primary care medicine for a minimum of four years following completion of the program; provide that the state subsidize COMP for the difference between the cost of its tuition and that of state-supported medical schools and would require any student who fails to complete the program or the required years of subsequent practice to reimburse the full cost of the subsidy for the time the student attended the program; and provide that COMP shall receive \$60,000 per year to cover the costs of the administration of the primary care research. [A. W&M]

AB 2156 (Polanco). Under existing law, insurers that provide professional liability insurance, or the parties to certain settlements where there is no professional liability insurance as to the claim, are required to report a settlement or award in a malpractice claim that is over specified dollar amounts to the applicable licensing board. As amended May 25, this bill would require reports filed with OMBC by professional liability insurers to state whether the settlement or arbitration award has been reported to the federal National Practitioner Data Bank. [S. Inactive File]

RECENT MEETINGS

The Board has not met since October 30, 1993.

FUTURE MEETINGS

July 23 in Sacramento.

PUBLIC UTILITIES COMMISSION

Executive Director:

Neal J. Shulman

President: Daniel Wm. Fessler

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The California Public Utilities Commission (PUC) was created in 1911 to regulate privately-owned utilities and ensure reasonable rates and service for the public. Today, under the Public Utilities Act of 1951, Public Utilities Code section 201 *et seq.*, the PUC regulates the service and rates of more than 43,000 privately-owned utilities and transportation companies. These include gas, electric, local and long distance telephone, radio-telephone, water, steam heat utilities and sewer companies; railroads, buses, trucks, and vessels transporting freight or passengers;

and wharfingers, carloaders, and pipeline operators. The Commission does not regulate city- or district-owned utilities or mutual water companies.

It is the duty of the Commission to see that the public receives adequate service at rates which are fair and reasonable, both to customers and the utilities. Overseeing this effort are five commissioners appointed by the Governor with Senate approval. The commissioners serve staggered six-year terms. The PUC's regulations are codified in Chapter 1, Title 20 of the California Code of Regulations (CCR).

The PUC consists of several organizational units with specialized roles and responsibilities. A few of the central divisions are: the Advisory and Compliance Division, which implements the Commission's decisions, monitors compliance with the Commission's orders, and advises the PUC on utility matters; the Division of Ratepayer Advocates (DRA), charged with representing the long-term interests of all utility ratepayers; and the Division of Strategic Planning, which examines changes in the regulatory environment and helps the Commission plan future policy. In February 1989, the Commission created a new unified Safety Division. This division consolidated all of the safety functions previously handled in other divisions and put them under one umbrella. The Safety Division is concerned with the safety of the utilities, railway transports, and intrastate railway systems.

Members of the Commission include Daniel Wm. Fessler, President, Patricia M. Eckert, Norman D. Shumway, P. Gregory Conlon, and Jessie J. Knight, Jr.

MAJOR PROJECTS

Vial Committee Releases Recommendations on PUC Reforms. Last fall, in response to several controversial PUC decisions and actions, Senator Herschel Rosenthal—who chairs the Senate Committee on Energy and Public Utilities—convened a Subcommittee on PUC Reforms to look into proposed changes to the Commission's structure and procedures. In turn, the Subcommittee appointed an advisory group of outside experts in regulatory law and procedure, chaired by former PUC President Don Vial, to closely examine the way the Commission handles its responsibilities and to recommend changes to enhance its performance. [14:1 CRLR 167-68]

On June 1, the so-called "Vial Committee" released its report and recommendations for several key changes to the Commission's structure and procedures. Among other reforms, the Committee sug-

gested that the PUC be permitted to create a "Case and Issues Management Forum" which would be exempted from the Bagley-Keene Open Meeting Act for purposes of enabling the Commissioners to exercise more effective procedural management of the many matters over which the PUC has jurisdiction. The Committee also recommended that the Commission make better use of the rulemaking process to set industrywide standards and rules, as opposed to its traditional practice of promulgating rules via individualized adjudicatory ratemaking or other Commission decisions. Finally, the Committee suggested that the Commission explore ways to utilize less formal (and much more expedited) procedures in carrying out its responsibilities, including the use of informal "conference" hearings and alternative dispute resolution techniques. (See COMMENTARY on page 3 of this issue for a more detailed summary of the Vial Committee's recommendations.)

At this writing, the Vial Committee's report has been transmitted to Senator Rosenthal and the Senate Subcommittee for analysis and possible inclusion in pending legislation.

TURN Proposes Legislation to Improve PUC Accountability and Appeals Process. Consumer groups which are also dissatisfied with the Commission's recent performance have turned to the legislature in their search for improved PUC structure and procedures. On February 22, representatives of several public interest groups, led by Toward Utility Rate Normalization (TURN), introduced a three-bill reform package aimed at curbing recent abuses at the PUC. "The secret processes and backroom deals that have become business as usual at the PUC must stop," said TURN Executive Director Audrie Krause, referring to the October 1993 scandal arising from the Commission's "intraLATA" toll call competition decision. A chagrined PUC quietly rescinded the decision after it was revealed that Pacific Bell officials were invited into PUC offices to help write the decision the night before it was released. [14:1 CRLR 166-67; 13:4 CRLR 203] This legislation was introduced as a direct response to that incident, and is an attempt to install the necessary procedures and mechanisms to ensure that the PUC effectively protects the public interest.

The legislation includes SB 1325, authored by Senator Quentin Kopp, which would provide a right to appeal PUC decisions to a state court of appeal. Currently, the only avenue of appeal is a discretionary petition for review to the California Supreme Court, which rarely decides to review PUC decisions. The sec-