



coverage was provided through Maryland Casualty.

Quaid only drove the vehicle once, and changed his mind about using the car as a demonstrator; however, he did allow the car to be test-driven by prospective purchasers. In October 1990, Quaid informed Maserati that the Demonstrator Report Card was filed in error and that he had not actually used the car as a demonstrator. In March 1991, Quaid discovered that the car's battery was dead; he replaced the battery and filed a claim for reimbursement with Maserati. In May 1991, Maserati rejected the claim, contending that the vehicle's factory warranty term had begun to run on November 22, 1988, and that the two-year factory warranty had expired. In September 1991, the vehicle was sold to a customer who was told that the vehicle was a new vehicle with 340 miles on the odometer. Within a month, the customer had returned the vehicle for repairs totalling \$499.81; that claim was also rejected by Maserati, which again contended that the two-year factory warranty had expired.

Because the April 1990 settlement agreement in the separate matter referred to the Maserati in question as "new," Quaid contended that the warranty period on the subject vehicle had not actually commenced. Because the word "new," as it appears in the settlement agreement with reference to the subject vehicle, is reasonably susceptible to more than one meaning, NMVB allowed parol evidence to determine whether the parties intended that the vehicle would be retained by Quaid with a full 36-month warranty or with 28 months of warranty coverage already expired. After reviewing the evidence presented to it, NMVB concluded that in the context of the settlement agreement, the word "new" was meant to designate those vehicles which Quaid would retain for retail sale to the public; it did not mean that the status of the subject vehicle was changed from "demonstrator" to "new vehicle" for the purpose of warranty. Thus, NMVB concluded that Maserati's coverage ended on November 22, 1990; any obligation for warranty claims during the third year of warranty coverage is the responsibility of Maryland Casualty.

### ■ LEGISLATION

**AB 126 (Moore)** would have enacted the "One-Day Cancellation Law" which would have provided that, in addition to any other right to revoke an offer or rescind a contract, the buyer of a motor vehicle has the right to cancel a motor vehicle contract or offer which complies

with specified requirements until the close of business of the first business day after the day on which the buyer signed the contract or offer. This bill died in committee.

### ■ FUTURE MEETINGS

To be announced.

## OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

*Executive Director:*  
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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 practicing 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.

The Board is presently awaiting Governor Wilson's appointment of three new members (two DOs and one public member).

### ■ MAJOR PROJECTS

**Governor Upholds OAL Rejection of Medical Board's Training Program Regulation.** On June 11, Governor Wilson upheld the Office of Administrative Law's (OAL) rejection of the Medical Board of California's (MBC) adoption of section 1325.5, Division 13, Title 16 of the CCR, as being discriminatory against osteopathic physicians.

Under regulatory section 1324, MBC's Division of Licensing (DOL) is authorized to approve alternative clinical training programs for foreign medical graduates who have difficulty obtaining a postgraduate training program approved by the Accreditation Council on Graduate Medical Education of the American Medi-

cal Association. DOL recently adopted new section 1325.5, which would have required the medical director of a section 1324 training program to have an MD degree. The Division insisted on this provision over numerous objections that it violates Business and Professions Code section 2453, which prohibits discrimination between MDs and osteopathic physicians (DOs) on the basis of the degree. OAL rejected the provision three times, and DOL appealed the rejection to the Governor shortly after its May 7 meeting. [12:2&3 CRLR 102, 256]

On June 11, the Governor upheld OAL's rejection of the MD requirement, recognizing the "hundred years war" between the allopathic and osteopathic branches of the medical profession and noting that "[t]he California Legislature has mandated equality between holders of MD degrees (medical doctors) and holders of DO degrees (doctors of osteopathy)...In this state osteopathy is firmly established as 'the practice of medicine.'" The Governor noted that DOL, in its final statement of reasons on its proposed rulemaking, stated that the proposed restriction "does not prevent an osteopathic physician from being a staff teacher"; it applies only to the director. Thus, the Board explicitly acknowledges that the subject matter to be taught does not specifically require an allopathic orientation."

### ■ LEGISLATION

**AB 2944 (Brulte).** Existing law establishes a state medical contract program with accredited medical schools and programs that train, among others, primary care physician assistants (PAs) and primary care nurse practitioners (NPs) to maximize the delivery of primary care family physician services to specific areas of California where there is a recognized unmet priority need for these services. Existing law requires the Health Manpower Policy Commission to establish standards for family practice training programs, family practice residency programs, and programs that train primary care PAs and primary care NPs. Existing law further requires the Commission to review and make recommendations to the Director of the Office of Statewide Health Planning and Development concerning the funding of those programs. As amended June 26, this bill requires the Commission to also establish standards for postgraduate osteopathic medical programs in family practice. The bill also defines "family practice" for these purposes as including the general practice of medicine by osteopathic physicians. The



Governor signed the bill on August 31 (Chapter 585, Statutes of 1992).

**AB 2743 (Frazee)** provides that except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before OMBC, the Board may request the administrative law judge to direct the licentiate found to have committed a violation of the Board's licensing act to pay to OMBC a sum not to exceed the reasonable costs of the investigation and enforcement of the case. This bill was signed by the Governor on September 30 (Chapter 1289, Statutes of 1992).

**AB 2372 (Frizzelle)**. Section 2453 of the Business and Professions Code expresses state policy that physicians holding MD and DO degrees be accorded equal professional status, and prohibits discrimination by health facilities and other specified entities on the basis of the type of degree held by the physician. Existing law further requires that when health facility staffing requirements mandate that a physician be certified by an appropriate American medical specialty board, the position shall be available on an equal basis to osteopathic physicians certified by an appropriate osteopathic specialty board; existing law also prohibits the adoption of bylaws by a health facility that would circumvent these provisions. This bill revises these provisions to also prohibit entities that contract with physicians to provide managed care or risk-based care from discriminating on this basis, and provides that in any contract offered by those entities, a reference to the American Medical Board shall be construed to mean American Osteopathic Board when the contracting physician is an osteopathic physician. This bill also prohibits those entities from adopting bylaws that would circumvent the policy of nondiscrimination. This bill was signed by the Governor on September 11 (Chapter 619, Statutes of 1992).

**SB 664 (Calderon)**. Existing law prohibits osteopaths, among others, from charging, billing, or otherwise soliciting payment from any patient, client, customer, or third-party payor for any clinical laboratory test or service if the test or service was not actually rendered by that person or under his/her direct supervision, unless the patient is apprised at the first solicitation for payment of the name, address, and charges of the clinical laboratory performing the service. This bill also makes this prohibition applicable to any subsequent charge, bill, or solicitation. This bill makes it unlawful for any osteopath to assess additional charges for any clinical laboratory service that is not

actually rendered by the osteopath to the patient and itemized in the charge, bill, or other solicitation of payment. This bill was signed by the Governor on June 4 (Chapter 85, Statutes of 1992).

**AB 819 (Speier)**, which would have prohibited physicians from referring patients to any diagnostic imaging center, clinical laboratory, physical therapy or rehabilitation facility, or psychometric testing facility in which the physician has an ownership interest, was substantially amended and then died in committee.

## RECENT MEETINGS

The Board has not met since February 15.

## FUTURE MEETINGS

To be announced.

## 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.

At this writing, the Commission continues to function with only four members. Governor Wilson has not yet appointed a replacement for Mitch Wilk, who resigned in October 1991.

## MAJOR PROJECTS

**PUC Approves Caller ID With Stringent Consumer Safeguards.** On June 17, the PUC voted unanimously to approve the controversial Caller ID telephone service sought to be offered by Pacific Bell, GTE California (GTEC), and Continental Telephone. It also approved five other proposed "CLASS" services, including Call Trace, Priority Ringing, Select Call Forwarding, Special Call Waiting, and Special Call Acceptance. In so ruling, the Commission rejected the proposed decision of Administrative Law Judge John Lemke, who in January recommended that Caller ID be prohibited after months of evidentiary hearings. [12:2&3 CRLR 38, 257-58] "We listened to those who said no, we listened to those who said yes, and we struck a balance," said Commissioner Patricia M. Eckert. "Today's decision promotes competition and balances the interests of all Californians by giving them a choice."

PUC President Daniel Wm. Fessler said the Caller ID service may be offered in some parts of the state on a two-year trial basis "with the strictest consumer safeguards in the nation." In approving the service, which allows subscribers to see a caller's telephone number on a box attached to the phone, the PUC required the companies to offer customers a choice of three blocking options at no charge. Per-call blocking allows customers to block their number from appearing on the box of a particular person or business they are calling. Per-line blocking prevents display of the caller's number on all calls made, and provides complete protection for those who do not want their number dis-