



secretary, three legal assistants and two secretaries.

#### LEGISLATION:

**AB 211 (Tanner).** Existing law provides that if a new motor vehicle is transferred by a buyer or lessee to a manufacturer because of the manufacturer's inability to repair a nonconformity to an express warranty, then no person shall sell or lease that motor vehicle unless the nature of the nonconformity is disclosed, the nonconformity is corrected, and the manufacturer provides a new warranty in writing. As introduced January 9, this bill would provide that, in addition to the prohibition against selling and leasing, no person shall transfer a motor vehicle in that situation unless that correction is made, and that disclosure and warranty are provided. This bill would also specify that, except for the requirement that the nature of the nonconformity be disclosed, these provisions do not apply to the transfer or a motor vehicle to an educational institution if the purpose of the transfer is to make the vehicle available for use in automotive repair courses. This bill is pending in the Assembly Committee on Consumer Protection, Governmental Efficiency, and Economic Development.

**AB 126 (Moore),** as introduced December 6, would provide 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 is also pending in the Assembly Consumer Protection Committee.

#### RECENT MEETINGS:

At the Board's February 28 meeting, Executive Officer Sam Jennings reported that the restructuring of fees paid by manufacturers and distributors from a flat fee of \$200 to \$0.45 per vehicle had been fully implemented. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 176 for detailed background information on this change.) Although payment of these fees has placed the NMVB on fiscally solvent ground again, Jennings recommended that a minimum fee of \$300 be imposed to justify collection costs for the 15-20 dealers who sell less than 667 cars per fiscal year.

#### FUTURE MEETINGS:

To be announced.

## BOARD OF OSTEOPATHIC EXAMINERS

*Executive Director: Linda Bergmann  
(916) 322-4306*

In 1922, California voters approved a constitutional initiative which created the Board of Osteopathic Examiners (BOE). Today, pursuant to Business and Professions Code section 3600 *et seq.*, BOE 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; BOE'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.

#### MAJOR PROJECTS:

**Budget Surplus Reduction.** At its February 22 meeting, BOE approved a proposal for a long-term budget reduction program. For the past few meetings, BOE has been discussing possible courses of action to eliminate much of its budget surplus, in order to avoid the loss of excess funds to the state's general fund. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 144 for background information.) BOE concluded that decreasing fees for DOs already licensed in California is the most equitable plan for cutting revenues.

At the February meeting, the individual fee reductions were explained in detail. The Board plans to reduce annual licensure fees, from \$175 to \$125 for active licensees. Inactive licensee fees will also be cut from \$150 to \$100 annually. Renewal fees for fictitious name permits will decrease from \$50 to \$25, and original application fees for such permits will be \$50, reduced by half the normal amount. Registration fees for corporations will be cut from \$100 to \$50 annually.

State agencies are normally expected to keep funds in reserve equalling one year's normal expenditures. This reserve balance is a safeguard for the agency in case of the need for emergency spending. BOE has a surplus reserve of \$781,000. Because its average yearly expenditures total somewhere between \$400,000-425,000, BOE has taken this action to reduce its annual revenues and

surplus to a more acceptable and manageable level.

BOE estimates that, with the new budget cuts, annual revenues will be decreased from \$431,000 (1989-90) to \$400,000 (1991-92). It also projects that by the close of the 1992-93 fiscal year, BOE revenues will be reduced to \$345,000 per year. These figures are based upon BOE calculations using the average number of licensees and the average number of license applications.

#### LEGISLATION:

**AB 437 (Frizzelle),** as introduced February 6, would change the Board's written exam procedures by requiring the Board to use only a written examination prepared by the National Board of Osteopathic Examiners or BOE; this bill would also delete an existing provision authorizing the Board to make arrangements with other organizations for examination materials as it deems desirable.

Existing law specifies the qualifications for the issuance of a license based on reciprocity as an osteopathic physician to a person who is licensed to practice osteopathic medicine in another state. One of the qualifications is that the applicant hold an unrestricted license to engage in the practice of osteopathic medicine in another state whose written licensing examination is recognized and approved by BOE. Existing law also, in lieu of a Board-approved and recognized state written license examination, authorizes the Board to require an applicant to successfully complete a special examination in general medicine and osteopathic principles as prepared by the National Board of Osteopathic Medical Examiners, BOE, or the Federation of State Medical Boards.

This bill would delete the requirement that the out-of-state licensing examination be approved by the Board, and instead would require the examination to be recognized by the Board to be equal in content to that administered in California. This bill would also delete the authorization of the Board to require the applicant to successfully complete an examination prepared by the Federation of State Medical Boards. This bill is pending in the Assembly Health Committee.

**AB 1332 (Frizzelle).** The Osteopathic Act requires the Governor to appoint the five professional members of BOE, each of whom are required to have been a citizen of this state for at least the five years preceding his/her appointment and who are graduates of osteopathic schools who hold unrevoked licenses or certificates to practice in this state. The term of office



for each member is three years. As introduced March 7, this bill would also require the professional members to have been in active practice for at least the five years preceding their appointments, and to hold unrevoked DO licenses or certificates. This bill would also prohibit a person residing or practicing outside of this state to be appointed to, or sit as a member of, BOE; prohibit a member from serving for more than two full consecutive terms; and revise provisions authorizing the Governor to remove any members of the Board for certain reasons. This bill is pending in the Assembly Health Committee.

**AB 1691 (Filante).** Existing law requires, prior to granting or renewing staff privileges of an osteopath, that a health facility, health care service plan, medical care foundation, or the medical staff of any of those institutions request a prescribed report relating to the denial, loss, or restriction of staff privileges from BOE. Existing law also permits the institution to grant or renew the privileges in the event the Board fails to advise the institution within thirty working days following its request for a report. As introduced March 8, this bill would permit the institution to grant or renew the privileges in the event the Board fails to advise the institution within thirty days following its request for a report. This bill is pending in the Assembly Health Committee.

**AB 819 (Speier).** Existing law provides that, except as otherwise specified, the offer, delivery, receipt, or acceptance by prescribed licensed health professionals of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person is unlawful, punishable as a misdemeanor or felony. Existing law also provides that it is not unlawful for a person to refer a person to a laboratory, pharmacy, clinic, or health care facility solely because the licensee has a proprietary interest or coownership in the facility.

As introduced February 27, this bill would, effective July 1, 1992, delete the exception for proprietary or coownership interests, and would instead provide that it is unlawful for these licensed health professionals to refer a person to any laboratory, pharmacy, clinic, or health care facility which is owned in whole or in part by the licensee or in which the licensee has a proprietary interest; the bill would also provide that disclosure of the ownership or proprietary interest does not exempt the licensee from the prohibition. However,

the bill would permit specified licensed health professionals to refer a person to a laboratory, pharmacy, clinic, or health care facility which is owned in whole or in part by the licensee or in which the licensee has a proprietary interest if the person referred is the licensee's patient of record, there is no alternative provider or facility available, and to delay or forego the needed health care would pose an immediate health risk to the patient. This bill is pending in the Assembly Health Committee.

#### RECENT MEETINGS:

At its February 22 meeting, the Board held its annual election of officers. Richard Pitts, DO, replaces Bryn Henderson as BOE President. New BOE member, Josette R. Taglieri, DO, who was attending her first BOE meeting, was elected Vice-President, and Earl A. Gabriel, DO, retained his position as Secretary/Treasurer.

Also in February, Board staff announced that the Board has moved its offices to 444 N. Third Street, Suite A-200, Sacramento, CA 95814.

#### FUTURE MEETINGS:

To be announced.

### PUBLIC UTILITIES COMMISSION

*Executive Director: Neal J. Shulman*  
*President: Patricia M. Eckert*  
*(415) 557-1487*

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 new Safety Division is concerned with the safety of the utilities, railway transports, and intrastate railway systems.

The PUC is available to answer consumer questions about the regulation of public utilities and transportation companies. However, it urges consumers to seek information on rules, service, rates, or fares directly from the utility. If satisfaction is not received, the Commission's Consumer Affairs Branch (CAB) is available to investigate the matter. The CAB will take up the matter with the company and attempt to reach a reasonable settlement. If a customer is not satisfied by the informal action of the CAB staff, the customer may file a formal complaint.

Patricia Eckert, a Beverly Hills attorney, was recently elected as President of the Commission. She is the first woman to hold the one-year post. Eckert was appointed to the Commission in March 1989. Governor Wilson recently appointed Norman D. Shumway, a former California congressional representative, and Daniel Fessler, a UC Davis law professor, to the Commission. The two replace Frederick Duda and Stanley Hulett, whose terms expired on December 31, 1990.

#### MAJOR PROJECTS:

**ALJs Recommend Rejection of Proposed Merger.** On February 1, two PUC administrative law judges (ALJ) released their long-awaited recommendation on the proposed takeover of San Diego Gas & Electric Company (SDG&E) by Southern California Edison (SCE). If approved, SCE would become the largest privately-owned utility in the nation. However, ALJs Lynn Carew and