



that citations can be bargained away, DHS nonresponsiveness to complaints, and some systematic barriers to efficient and effective enforcement. The Commission found that California's citation and fine system is not an effective deterrent to poor quality SNF care, and recommended legislative reform of the citation and fine system to increase its deterrent value. The report also recommended that DHS investigate and respond to complaints promptly and keep complainants informed of all steps taken.

In summary, the Commission recommended compliance with the OBRA 87 federal standards, ensuring the right to informed consent for the elderly, and more vigorous enforcement of citations and fines.

Cal-EPA: An Umbrella for the Environment (June 1991). On May 22 and 23, the Commission held hearings on Governor Wilson's plan to consolidate a variety of environmental regulatory functions now scattered among different state agencies into a California Environmental Protection Agency (Cal-EPA). (See CRLR Vol. 11, No. 2 (Spring 1991) p. 134 for background information.) Governor Wilson claims the newly organized Cal-EPA will have a single point of accountability for all major state environmental programs. Under Wilson's plan, Cal-EPA would be headed by a cabinet-level Office of the Secretary for Environmental Protection, and would include (1) a new Office of Environmental Health Hazard Assessment, to oversee risk assessment and implementation of Proposition 65, the 1986 anti-toxic chemicals initiative; (2) a Department of Toxic Substances Control, responsible for the regulation and clean-up of hazardous waste; (3) the Department of Pesticide Regulation, to include the existing pesticide regulation program of the California Department of Food and Agriculture; and (4) three existing environmental boards (the Air Resources Board, the Water Resources Control Board, and the California Integrated Waste Management and Recycling Board), with board members and policy remaining unchanged.

The Commission's June report was based on testimony received during the two days of public hearings, a review of related literature, and interviews of experts. While concluding that the Cal-EPA plan should be implemented, the report made several recommendations, including the following:

-All environmental risk assessment functions should be placed within one

Cal-EPA unit, and the Cal-EPA Secretary should establish uniform risk assessment procedures and guidelines.

-The Governor and legislature should implement legislation ensuring that the formation of environmental policies is conducted by way of a risk management decisionmaking process considering all potential risks, benefits, and costs—including input from the public, those regulated, and other state entities.

-Cal-EPA should create a uniform and timely permit process and a uniform hearing and appeals process for all environmental protection entities, and should undertake a comprehensive overhaul of environmental regulations.

-Within six months, Cal-EPA should report to the Governor and legislature about the feasibility, desirability, and consequences of bringing other state programs into Cal-EPA. The report cited a number of state environmental programs—including DHS' Radioactive Materials Program, Hazardous Materials Laboratory, and Office of Drinking Water, and the Office of Emergency Services' Hazardous Materials Management Program—which are excluded from Cal-EPA.

-Finally, the report noted that prevention of pollution is a goal of the Cal-EPA plan, and recommended that the legislature create an Office of Pollution Prevention.

The Commission also reviewed cost information about the consolidated agency, and noted that Cal-EPA expects to derive funds largely from the budgets of the three independent agencies being moved into Cal-EPA. The report noted that without budgetary detail unavailable to the Commission, the cost-effectiveness of Cal-EPA is difficult to assess.

Pursuant to Government Code section 12080 *et seq.*, which allows the Governor to reorganize state government, the complete plan will next be submitted to the legislature, where it may be approved or vetoed but not amended.

Recent Hearings. On March 20, the Commission held the third and final hearing on elder care. The final hearing focused on nursing care at home. The Commission hopes to complete and release its report on home nursing care in August 1991.

On April 25, the Commission held a public hearing on the coordination of drug use prevention programs. Commission staff estimates that this report will be released in September or October 1991.

DEPARTMENT OF CONSUMER AFFAIRS

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In addition to its functions relating to its 38 boards, bureaus, and commissions, the Department of Consumer Affairs (DCA) is charged with carrying out the Consumer Affairs Act of 1970. The Department educates consumers, assists them in complaint mediation, advocates their interests before the legislature, and represents them before the state's administrative agencies and courts.

MAJOR PROJECTS:

DCA Moves. In May, DCA moved to its new offices located at 400 R Street, Sacramento, California 95814.

Governor Announces DCA Appointments. Shortly after announcing the appointment of James Conran as DCA Director (see CRLR Vol. 11, No. 2 (Spring 1991) p. 48 for background information), Governor Wilson announced twelve new appointments to DCA in early May; the Governor also announced that two prior appointees will be continuing in their positions. All of the new appointees are Republicans. Director Conran has announced that he expects DCA to take an aggressive approach to consumer service, choice, and protection under his leadership. The new appointments are viewed by many as part of Conran's DCA "housecleaning" efforts.

DCA Takes a Stand on Caller ID. DCA Director Jim Conran presented written testimony in the Public Utilities Commission's (PUC) April hearings on a variety of new telephone technologies that could soon be available to consumers. The most controversial of the technologies is Caller ID, a service which automatically displays the phone number of a caller on a special device attached to the phone of the recipient before the call is answered. (See reports on TURN and PUC for related discussions of Caller ID.) Pacific Bell, GTE of California, and Contel, the three largest telephone companies in the state, want to begin offering this service to their customers. DCA, the Commission's own Division of Ratepayer Advocates, and a number of public interest organizations argue that the proposed service has flaws and should not be offered in its present state. In his testimony, Conran argued that Caller ID poses privacy and personal safety problems for consumers. Although customers would be able to



block transmittal of their number to the party they are calling by dialing a multi-number code first, they may not remember the code or may forget to use it. According to Conran, Caller ID "is an example of technology driving consumers, instead of consumers driving technology."

DCA Battles Rays. DCA has joined with the California Public Interest Research Group (CalPIRG) to publicize the dangers of excessive exposure to ultraviolet rays. The Department has also urged district attorneys statewide to enforce the Filante Tanning Facility Act of 1988, which regulates tanning salons. According to a survey by the Public Interest Research Groups (PIRGs), 24% of California salons sampled failed to display a mandatory U.S. Food and Drug Administration warning, and only 36% complied with the Act's requirement that signs be posted at tanning facilities warning consumers about potential health risks. (See *supra* report on CalPIRG; see also LEGISLATION for a summary of AB 1555 (Filante), concerning this issue.)

LEGISLATION:

AB 1555 (Filante), as amended May 30, would require DCA to administer, by adopting specified regulations, and enforce the provisions of the Filante Tanning Facility Act of 1988; make it unlawful for any and all tanning facilities to operate at a specific location without a license issued by DCA; prohibit the transfer of a tanning facility license; require any person who wants to operate a tanning facility to submit an application and pay a fee; require DCA to request specified information on the application; require a facility operator to notify DCA within thirty days after any new tanning equipment is installed for use; permit DCA to inspect any tanning facility whenever it is open to the public in order to determine whether it meets the requirements of the Act; permit the DCA Director to issue an unappealable order to require a licensee to comply with these provisions; permit DCA to deny, suspend, or revoke a license; and permit the Director to summarily suspend or revoke a license, as specified. This bill is pending in the Assembly Ways and Means Committee.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 2 (Spring 1991) at page 48:

AB 168 (Eastin) would create the Board of Legal Technicians in DCA, and would require every person who practices as a legal technician to be licensed or registered by the Board, which would determine which areas require licensure

and which require registration. This bill is still pending in the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development.

AB 1893 (Lancaster), as amended May 24, is DCA's omnibus bill which would make numerous changes to existing laws providing for the licensing and regulation of various businesses and professions pursuant to the provisions of the Business and Professions Code. This bill is pending in the Assembly Ways and Means Committee.

AB 1382 (Lancaster), which previously would have allowed the application of the doctrine of substantial compliance to an existing prohibition on the ability of an unlicensed person to bring an action for compensation for the performance of any act or contract for which a license is required, was amended on May 15. As amended, the bill applies only to unlicensed persons performing work for which a contractor's license is required. This bill passed the Assembly on May 30 and is pending in the Senate Business and Professions Committee.

SB 961 (Senate Business and Professions Committee), as amended April 30, would create specified exceptions to existing law which provides that the decisions of any of the boards within DCA with respect to setting standards, conducting examinations, passing candidates, and revoking licenses are final and are not subject to review by DCA's Director. SB 961 would also allow the DCA Director to intervene in any matter of any DCA board, where an investigation by DCA's Division of Investigation discloses probable criminal activity of a board, its member(s), or its employee(s). This bill passed the Senate on May 16 and is pending in the Assembly Consumer Protection Committee.

OFFICE OF THE LEGISLATIVE ANALYST

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Created in 1941, the Legislative Analyst's Office (LAO) is responsible for providing analysis and nonpartisan advice on fiscal and policy issues to the California legislature. LAO meets this duty through four primary functions. First, the office prepares a detailed, written analysis of the Governor's budget each year. This analysis, which contains recommendations for program reductions, augmentations, legislative revisions, and organizational changes, serves

as an agenda for legislative review of the budget.

Second, LAO produces a companion document to the annual budget analysis which paints the overall expenditure and revenue picture of the state for the coming year. This document also identifies and analyzes a number of emerging policy issues confronting the legislature, and suggests policy options for addressing those issues.

Third, the Office analyzes, for the Assembly Ways and Means Committee and the Senate Appropriations and Budget and Fiscal Review Committees, all proposed legislation that would affect state and local revenues or expenditures. The Office prepares approximately 3,700 bill analyses annually.

Finally, LAO provides information and conducts special studies in response to legislative requests.

LAO staff consists of approximately 75 analysts and 24 support staff. The staff is divided into nine operating areas: business and transportation, capital outlay, criminal justice, education, health, natural resources, social services, taxation and economy, and labor, housing and energy.

MAJOR PROJECTS:

Budget Deficit Soars. When LAO issued its *Analysis of the 1991-92 Budget Bill* in February, the state's budget deficit was calculated at an unprecedented \$9.9 billion. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 49 for background information.) As the legislature's considered the Governor's proposed budget throughout the spring and summer, however, the budget shortfall grew to an estimated \$12.6 billion by the end of March, and to \$14.3 billion by mid-May. Governor Wilson blamed the soaring deficit on overly optimistic accounting by the legislature and the Deukmejian administration last year, and on the recession, the Persian Gulf War, and two natural disasters—last December's freeze and California's five-year drought. Wilson said the state's financial situation "has reached emergency proportions," and urged the legislature to stop stalling and get to work on the budget bill.

At this writing, the legislature is still considering various options to halt spending and raise more revenue, including the possible suspension of Proposition 98 (which constitutionally devotes 40% of the state's budget to education); an increase in the sales tax; an increase in the personal income tax rates of the very wealthy—who pay income tax at 9.3% while average Californians pay at 11%; the elimination of existing sales tax exemptions for various types of