650 or any other provision of law, it shall not be unlawful for a person licensed pursuant to the Chiropractic Act, or any other person, to participate in or operate a group advertising and referral service for chiropractors, under eight specified conditions. The bill authorizes BCE to adopt regulations necessary to enforce and administer this provision, and to petition the superior court in any county for the issuance of an injunction restraining conduct which is in violation of this section. AB 316 also provides that it is a misdemeanor for a person to operate a group advertising and referral service for chiropractors without providing its name and address to BCE. This bill is pending in the Assembly Health Committee.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 2 (Spring 1991) at page 167:

- **SB 1165 (Davis), as introduced March 8**, would prohibit any health care service plan which offers or provides one or more chiropractic services as a specific chiropractic plan benefit, when those services are not provided pursuant to a contract as described above, from refusing to give reasonable consideration to affiliation with chiropractors for provision of services solely on the basis that they are chiropractors. This bill passed the Senate on May 24 and is pending in the Assembly Insurance Committee.

- **SB 664 (Calderon), as introduced March 5**, would prohibit chiropractors, 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, except as specified. This bill is pending in the Senate Business and Professions Committee.

**RECENT MEETINGS:**

- **BCE cancelled its May 2 meeting.**

**FUTURE MEETINGS:**

- September 5 in Sacramento.
- October 17 in San Diego.
- December 5 in Sacramento.
- January 9 in Los Angeles.

**HORSE RACING BOARD**

Executive Secretary:

Dennis Hutcheson

(916) 920-7178

The California Horse Racing Board (CHRB) is an independent regulatory board consisting of seven members. The Board is established pursuant to the Horse Racing Law, Business and Professions Code section 19400 et seq. Its regulations appear in Division 4, Title 4 of the California Code of Regulations (CCR).

The Board has jurisdiction and power to supervise all things and people having to do with horse racing upon which wagering takes place. The Board licenses horse racing tracks and allocates racing dates. It also has regulatory power over wagering and horse care. The purpose of the Board is to allow pari-mutuel wagering on horse races while assuring protection of the public, encouraging agriculture and the breeding of horses in this state, generating public revenue, providing for maximum expansion of horse racing opportunities in the public interest, and providing for uniformity of regulation for each type of horse racing. (In pari-mutuel betting, all the bets for a race are pooled and paid out on that race based on the horses' finishing positions, absent the state's percentage and the track's percentage.)

Each Board member serves a four-year term and receives no compensation other than expenses incurred for Board activities. If an individual, his/her spouse, or dependent holds a financial interest or management position in a horse racing track, he/she cannot qualify for Board membership. An individual is also excluded if he/she has an interest in a business which conducts pari-mutuel horse racing or a management or concession contract with any business entity which conducts pari-mutuel horse racing. Horse owners and breeders are not barred from Board membership. In fact, the legislature has declared that Board representation by these groups is in the public interest.

In May, Governor Wilson appointed Donald Valpredo of Bakersfield to the Board.

**MAJOR PROJECTS:**

**Post-Mortem Examination Program.**

At its May 31 meeting, the Board discussed its post-mortem examination program established in section 1846.5, Title 4 of the CCR, which CHRB is currently operating with unbudgeted funds, i.e., without the necessary approval of the Department of Finance and the legislature. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 142; Vol. 10, No. 4 (Fall 1990) pp. 173-74; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1991) p. 203 for detailed background information.) Dr. Rick Vulliet, CHRB's Equine Medical Director, reported that the program is designed to help determine why horses are dying or being put down, and to discover ways to prevent or minimize such deaths. According to Dr. Vulliet, the program should be continued because the quality of the necropsies performed is good; the program acts as a deterrent to the abuse of horses; and the program helps to determine if there was a pre-existing condition that may have led to a horse's death. The Board discussed possible ways to fund the program if this item is again excluded from CHRB's budget, as is anticipated. The Board agreed to continue its discussion of this issue in depth at a future meeting.

**Board Adopts Trainer Licensing Guidelines.** At its May 31 meeting, the Board approved "guidelines" which prospective trainers must meet in order to be licensed by the Board. Among the requirements included in the guidelines are the following:

- Candidates must show need for a trainer's license;
- Candidates must have at least two years' documented and uninterrupted experience working as a foreman, groom, hot-walker, jockey, or exercise rider at a CHRB-licensed track or training facility, or the equivalent in another state or country;
- Candidates must serve a one-year apprenticeship, which will begin at the time written notification of intent to take the trainer's test has been received by CHRB's Medication Steward. This apprenticeship may not begin until the two years' work experience has been completed; and
- Candidates must have two letters of recommendation written by two active CHRB-licensed trainers or two active racing commission-licensed trainers in another state or country.

Further, a trainer requesting a change of trainer's license from one form of racing to another shall be subject to the examination procedure consisting of the Steward's Oral Interview, Practical Examination of Horsemanship-Section D, and Oral Examination.

**Board Proposes Amendment to Rule Concerning Ambulance Services.** At its May 31 meeting, the Board again discussed section 1468, Title 4 of the CCR, which requires that the services of an onsite ambulance and qualified medical personnel be provided at all times during the running of races and during the hours an association permits the use of its race course for training purposes. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 171 for background information.) According to CHRB, some portions of the fair industry complained about the Board's February 1991 reaffirmation of section 1468, and its call for strict enforcement of the rule, because the industry is unable to support the cost of maintaining an ambulance. As a result, the Board has proposed
amendments to section 1468 which would provide alternative emergency medical procedures for authorized training facilities that are not designated as auxiliary stables for a host track. Such training facilities would be required to submit to the Board a written plan detailing the emergency procedures to be followed in the event an accident occurs. The facility would also be required to provide the names of the emergency medical services it will use, the names of facility employees who will be responsible for administering first aid, and the type of first aid equipment located at the facility. The Board expected to publish notice of its intent to amend section 1468 in July.

Horsemen's Split Sample. On April 15, the Office of Administrative Law (OAL) approved the Board's amendments to section 1859.25, regarding the horsemen's split sample drug testing program; the amendments became effective on May 15. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 168-69; Vol. 11, No. 1 (Winter 1991) p. 141; and Vol. 10, No. 4 (Fall 1990) p. 174 for extensive background information.)

License Application. On March 25, OAL approved the Board's proposed amendment to section 1483, which would provide the names of the emergency medical services it will use, the names of facility employees who will be responsible for administering first aid, and the type of first aid equipment located at the facility. The Board expected to publish notice of its intent to amend section 1483 in July.

Prohibited Veterinary Practices. CHRB staff has prepared the proposed language for new regulatory section 1840.5, Title 4 of the CCR, which would prohibit a veterinarian from administering veterinary treatment to any horse

entered in the same race in which a horse owned or trained by the veterinarian is also entered. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 169 and Vol. 11, No. 1 (Winter 1991) p. 142 for background information.) At this writing, the Board has not yet published notice of its intent to adopt section 1840.5.

Bleeder List. On May 10, CHRB published notice of its intent to amend section 1845, Title 4 of the CCR, to specify the maximum dose level and methods of administration of approved prophylactic medication for the control of bleeding of horses on CHRB's Bleeder List. According to the Board, section 1845 presently sets the conditions under which bleeder medication may be given; however, no dose level for such medications is specified and the section does not specify how the medication is to be administered. CHRB's proposed amendments would also specify that such medication may be administered no later than four hours prior to post time; according to the Board, this amendment will accurately reflect current industry practice. The Board was scheduled to hold a public hearing on the proposed amendments to section 1845 on June 28 in Cypress.

LEGISLATION:

SB 176 (Maddy). Existing law provides for the taking and testing of blood, urine, saliva, and other samples from horses entered to race in California. Existing law requires that any sample required by CHRB be taken in duplicate if requested by the trainer or the owner of the horse to be tested if there is a sufficient test sample available after the official test sample has been taken. One sample is to be sent to a prescribed official racing laboratory and the remaining sample is to be sent to an independent laboratory.

As amended April 11, this bill would delete the requirement that the trainer or the owner of the horse to be tested request that the sample be taken in duplicate, and would instead provide that if the official test sample tests positive for medication, the trainer or the owner of the horse or the steward may request that the duplicate sample be tested. This bill would also require the steward of the race meeting where the sample was taken to be in charge of handling and testing the sample, until the steward refers the matter to CHRB. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 168-69 for background information.) This bill, which would also require the results of the tests to be confidential, passed the Assembly on May 16 and is pending in the Senate Governmental Organization Committee.

AB 1898 (Frizzelle), as amended May 6, would specify that parimutuel wagering may be conducted at barrel races, show jumping races, and steeplechase races at any public or private facility which has been approved and licensed by CHRB. This bill is pending in the Assembly Ways and Means Committee.

AB 1219 (Costa) would permit CHRB, until January 1, 1994, with the approval of the Department of Food and Agriculture, to authorize satellite wagering located at prescribed fairgrounds to receive the audiovisual signal from the northern, southern, or central zone, or from more than one of these zones at the same time. This bill is pending in the Assembly Governmental Organization Committee.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 2 (Spring 1991) pages 170-71: AB 834 (Floyd), as amended April 22, would provide that each racing association shall include the types of conventional and exotic wagers it proposes to offer on its application to conduct a horse racing meeting. This bill passed the Assembly on May 16 and is pending in the Senate Governmental Organization Committee.

AB 1782 (Floyd), as introduced March 8, would require CHRB to establish standards governing the uniformity and content of racetrack facilities, and to designate a steward at all horse racing meetings to be responsible for maintaining safety standards. This bill would also prohibit the issuance of a license to a track unless the track has been inspected by the Board within thirty days prior to the date of application for the license, and has been approved by the Board as conforming to the Board's specified racetrack safety standards. This bill passed the Assembly on May 20 and is pending in the Senate Governmental Organization Committee.

AB 507 (Floyd), as introduced February 13, would create the California Horseracing Industry Commission and prescribe its membership; the Commission would be responsible for promoting the horse racing industry and for conducting market research related to horseracing. This bill passed the Assembly on May 30 and is pending in the Senate Governmental Organization Committee.

AB 520 (Floyd), as introduced February 13, would require the Board to include licensees' telephone numbers in its current listing of temporary and permanent licensees. This bill would also require the Board to provide a copy of the listing to various governmental entities or racing associations, and require
the Board to require reimbursements for its costs of providing the information. This bill is pending in the Assembly Governmental Organization Committee.

AB 786 (Floyd), as introduced February 26, would require CHRB to establish a coordinated and uniform policy on the use of fair racing facilities for the training and stabling of horses during periods in which the facilities are not conducting live racing, and prohibit the Board from approving any racing meeting at a fair facility or issuing a license to a fair facility if the facility does not comply with that policy. This bill passed the Assembly on May 29 and is pending in the Senate Governmental Organization Committee.

AB 832 (Floyd), as introduced February 27, would prohibit CHRB from granting a trainer’s license unless the applicant’s liability for workers’ compensation is secured. This bill passed the Assembly on May 9 and is pending in the Senate Governmental Organization Committee.

AB 1094 (Floyd), as introduced March 4, would permit the Board to authorize an association conducting harness and quarter horse racing meetings in this state to accept wagers on the results of any out-of-state feature quarter horse and harness races, on days when live races are being run without any limitation as to the amount of the purse. This bill passed the Assembly on May 9 and is pending in the Senate Governmental Organization Committee.

AB 1441 (Cortese), AB 1623 (Kelley), AB 1786 (Floyd), and AB 1857 (Hoy). Existing law, which is to be repealed on January 1, 1992, distributes the funds deducted from wagers at satellite wagering facilities in the northern zone in a different manner than in the central and southern zones. Upon the repeal of these provisions, another provision which becomes operative on January 1, 1992, requires that the total percentage deducted from wagers at satellite wagering facilities in the northern zone be distributed in the same manner. AB 1441 (as amended April 22), AB 1623 (as introduced March 8), AB 1786 (as introduced March 8), and AB 1857 (as introduced March 8), would each repeal the provision which becomes operative on January 1, 1992, and would continue the existing law beyond January 1, 1992, by deleting that repeal date. AB 1441, AB 1623, and AB 1857 are all pending in the Assembly Governmental Organization Committee; AB 1786 passed the Assembly on May 30 and is pending in the Senate Governmental Organization Committee.

SB 365 (Dills) and AB 299 (Floyd). Existing law authorizes the Board to allocate racing weeks of four days for quarter horse racing in the northern zone, if the association and the organization representing the horsemen agree to that allocation. SB 365 (as amended May 2) and AB 299 (as amended April 8) would each, subject to that agreement, authorize the Board to allocate racing weeks of four days for quarter horse racing in the central and southern zones, during either or both of the weeks in which December 25 and January 1 occur in any year. SB 365 has passed both houses of the legislature and is pending Senate concurrence on Assembly amendments; AB 299 passed the Assembly on May 9 and is pending in the Senate Rules Committee.

SB 729 (Maddy), as amended April 30, would permit CHRB to authorize associations licensed to conduct racing meetings in the northern or southern zones to operate satellite wagering facilities at not more than three sites within each zone in which the association is licensed to conduct racing meetings, other than fairgrounds which are located within three miles of any site. This bill is pending in the Senate Rules Committee.

SB 944 (Maddy), as amended May 23, would require that a specified percentage of the amount in a wagering pool at a satellite wagering facility be distributed to the racing association for payment to the state as license fees. This bill passed the Senate on May 30 and is pending in the Assembly Governmental Organization Committee.

SB 994 (Maddy), as amended May 23, would require that a specified percentage of the amount in a wagering pool at a satellite wagering facility be distributed to the racing association for payment to the state as license fees. This bill passed the Senate on May 30 and is pending in the Assembly Governmental Organization Committee.

SB 228 (Clute), as amended April 22, would require CHRB, if possible, to designate at least one steward who is a former jockey at each track where a horse racing meeting is conducted, or at least one steward who is a former driver at each track where a harness meeting is conducted. This bill passed the Assembly on May 16 and is pending in the Senate Governmental Organization Committee.

SB 168 (Hill), as introduced January 14, would make it unlawful for any person to sell or offer for sale any horse or foal bred for horse racing if the person knows or has reason to know that steroids have been administered to the horse or foal, and that the horse or foal is or will be entered in a horse race. This bill is pending in the Senate Governmental Organization Committee.

AB 244 (Floyd), as introduced January 14, would authorize an association to revise its estimate for the aggregate handle during the meeting only if CHRB determines that the revision is necessary. This bill passed the Assembly on May 9 and is pending in the Senate Governmental Organization Committee.

AB 326 (Floyd), among other things, permits CHRB to authorize any association which is licensed to conduct harness or quarter horse racing in Orange County to operate a satellite wagering facility, for the purpose of conducting satellite wagering on night harness or quarter horse races conducted in the northern zone. The bill also authorizes CHRB to allow a race between a quarter horse and a thoroughbred horse at a thoroughbred meeting with the consent of the thoroughbred horsemen’s organization contracting with the association with respect to the conduct of the racing meeting. This urgency bill was signed by the Governor on April 17 (Chapter 21, Statutes of 1991).

AB 385 (Mountjoy). Under existing law, the Board is authorized to allocate twelve weeks of harness racing to the 22nd District Agricultural Association, but restricts the allocation of those weeks to the months of January, October, November, and December. This bill would delete that restriction. This bill is pending in the Assembly Governmental Organization Committee.

SB 204 (Maddy), as introduced January 18, would delete an existing provision which states that no California State Lottery game may include a horse racing theme. This bill was rejected by the Senate on April 25; however, the bill was granted reconsideration on that date.

AB 159 (Floyd), as introduced December 19, would require CHRB to adopt regulations to eliminate the drugging of horses entered in horse races, and to adopt regulations on the medication of racehorses sold at horse sales or horse auction sales sufficient to protect the horses, owners, and the general public. This bill passed the Assembly on May 9 and is pending in the Senate Governmental Organization Committee.

AB 160 (Floyd), as amended April 10, would revise and recast the provisions relating to CHRB’s authority to license and regulate stewards and racing officials, and create a stewards’ committee to advise the Board on matters relating to stewards and racing officials. This bill would also repeal the existing requirement that the Board designate a steward at the track where a meeting is
being conducted to monitor the satellite wagering activities at the track and at all facilities receiving the signal, instead requiring CHRB to set forth requirements for the position of satellite facility supervisor for all satellite wagering facilities operated by the state or on public land. This bill passed the Assembly on May 9 and is pending in the Senate Governmental Organization Committee. SB 31 (Maddy), as amended May 23, would prohibit the administration by any means of any substance to a horse after it has been entered to race in a horse race, unless CHRB has, by regulation, specifically authorized the use of the substance and the quantity and composition thereof. This bill passed the Senate on March 14 and is pending in the Assembly Ways and Means Committee.

LITIGATION:

In California Standardbred Sires Committee, Inc. v. California Horse Racing Board, 228 Cal. App. 3d 1061, 279 Cal. Rptr. 268 (Mar. 25, 1991), the Third District Court of Appeal reversed a trial court order that allowed the Committee to seek judicial review of a Board licensing decision after the thirty-day statute of limitations had expired.

On October 28, 1988, CHRB issued a license to Hollywood Park Operating Company to conduct a 17-week harness racing meet; the Committee, whose sole source of funding is from the breakage and licensing fees generated by harness meets, had requested a 22-week meet. On December 16, the Committee filed a writ of mandamus challenging the Board’s decision. The petition alleged that the Board’s decision was an abuse of discretion and unsupported by substantial evidence; it also alleged that certain Board members who participated in the decision had a conflict of interest and were disqualified from voting on the matter. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 115 for background information on this case.)

Business and Professions Code section 19463 provides that no action may be commenced in a court to attack, review, set aside, void, or annul any final licensing action of the Board unless it is commenced within thirty days of CHRB’s action. Although the Committee’s petition was filed 49 days after the Board’s action, the trial court overruled CHRB’s demurrer to the writ, based on the Committee’s allegations that (1) it did not receive the administrative record until 29 days after the Board issued its decision; and (2) then-CHRB Executive Secretary Leonard Foote had assured the Committee that the Board would extend the statute of limitations since the Committee had made a timely request for the record. The trial court also found that certain Board members did have a conflict of interest and should not have participated in the proceeding. The court issued a writ of mandamus ordering the Board to hold a new hearing on the licensing application without the participation of the disqualified members; the court also awarded $201,480 in attorneys’ fees to the Committee.

On appeal, the Third District determined that the thirty-day statute of limitations contains no provision for an extension of the limitations period where the administrative record has been requested and is being prepared. The Committee asserted that the proceedings in question are governed by the Administrative Procedure Act (APA), and specifically Government Code section 11523, which allows an extension of time within which to file a petition if a timely request for an administrative record is made. The court rejected this argument, stating that “the provisions of the Business and Professions Code governing issuance of licenses by the Board make no reference to the APA” and that “a failure to so state can only be interpreted as indicating the inapplicability of the APA.”

The court then reviewed the Committee’s contention that CHRB should be estopped from raising the issue of an extension of the limitations period based upon the alleged representations of its executive secretary. According to the Third District, the trial court “cited no facts and provided no explanation for its ruling” that CHRB is estopped to assert the statute of limitations. Further, the appellate court found that the only evidence bearing on estoppel was offered by CHRB in the form of Foote’s deposition, in which Foote denied that he and the Committee’s counsel had discussed any policy of the Board regarding extensions of the limitations period. The court held that “[b]ecause the question of estoppel is one of fact...the trial court’s finding of estoppel cannot be sustained.” Accordingly, the Third District reversed the trial court’s judgment, in addition to its order awarding attorneys’ fees to the Committee.

In Tisher v. California Horse Racing Board (Los Alamitos Racing Association, Real Party in Interest), No. B053457 (May 31, 1991), the Second District Court of Appeal held that real party Los Alamitos-Racing Association (LARA) may require harness drivers to satisfy specified standards in addition to being licensed by CHRB. When LARA opened the 1989-90 harness racing meetings at Los Alamitos Race Track—the only harness racing taking place in California at that time—the standards imposed by LARA required competing drivers to have driven in 150 races in 1988 and 1989, and to have an 8% win rate in those races; these requirements were slightly modified three or four weeks into the meet. According to LARA, these standards resulted in a better public perception of the sport.

Plaintiffs, licensed harness drivers who did not meet LARA’s standards, challenged the requirements on the grounds that (1) Business and Professions Code section 19512 precludes LARA’s actions; and (2) California common law precludes LARA’s actions. Among other things, section 19512 provides that a licensed issued by CHRB “shall be valid at all horse racing meetings in this state during the period for which it is issued, unless it is suspended or revoked prior to the expiration of such period.” The Code also provides that only CHRB may suspend or revoke the license. Plaintiffs contended that LARA “invalidated” their licenses by imposing additional requirements on those who could drive at its harness racing meetings, and that only CHRB has the power to “invalidate” their licenses. The Second District rejected this argument, stating that CHRB had adopted section 1437, Title 4 of the CCR, which provides that a racing association “may impose conditions for its race meeting as it may deem necessary,” and section 1485(c), which provides that “possession of a license does not, as such, confer any right upon the holder thereof to employment at or participation in a race meeting.” Thus, the court found that LARA has the right to impose conditions on the drivers in its race meetings.

The court also rejected plaintiffs’ argument that California common law precludes LARA’s actions, stating that “on balance public policy does not preclude LARA’s actions in setting standards for drivers in their harness racing meetings which preclude participation by plaintiffs and other drivers.”

RECENT MEETINGS:

At its March 29 meeting in Emeryville, the Board appointed a committee to look into the problem of cocaine use on the backstretch. The new committee, called the Equine Substance Abuse Research Advisory Committee, consists of CHRB’s Equine Medical Director Dr. Richard Vulliet; California Horsemen’s Benevolent and Protective Association President Noble Threefoot; CHRB Executive Secretary Dennis Hutcheson; Hollywood Park’s General
Manager Don Robbins; trainer Dave Hoffman; and attorney Conrad Kline.

Also at its March 29 meeting, CHRB approved in concept the running of a match race at Hollywood Park between a quarter horse and a thoroughbred. At the time of the meeting, that type of match race was not authorized by law, as Business and Professions Code section 19533 provided that any license granted to an association other than a fair shall be only for one type of racing. The Board approved the match race contingent upon the enactment of legislation which would authorize such a race. Accordingly, AB 326 (Floyd), which authorizes such mixed-breed racing in specified circumstances, was enacted as an urgency measure on April 17 (see supra LEGISLATION). The match race was run at Hollywood Park on April 20 between Valiant Pete (thoroughbred) and Griswold (quarter horse); Valiant Pete won the four-furlong race by a neck.

At its April 25 meeting, the Board discussed staff’s proposal to extend the complementary drug testing contract with Pennsylvania Horse Racing Testing Laboratory for the 1991-92 fiscal year. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 175 for background information.) The 12-month extension was approved in concept, contingent upon receiving the necessary approval from the Department of General Services.

At its May 31 meeting in Cypress, CHRB discussed the Parimutuel Committee’s recommendation that the Board pursue a regulatory amendment to establish Pick Seven parimutuel wagering in California. The Pick Seven parimutuel pool consists of amounts contributed for a selection for win only in each of seven races designated by the relevant racing association. Each person purchasing a Pick Seven ticket designates the winning horse in each of the seven races comprising the Pick Seven. According to CHRB, the proposed addition of Pick Seven wagering in response to requests from the racing industry, the Board agreed with the Committee’s recommendation and instructed staff to draft proposed regulatory amendments which would establish Pick Seven wagering.

The Board also instructed staff to draft proposed regulatory amendments which would establish provisions for the Pick (n) wager in California. The Pick (n) parimutuel pool will consist of amounts contributed for a selection for win only in each of a specified number of races designated by the relevant racing association. Each patron purchasing a Pick (n) ticket must designate the winning horse in each of the designated races comprising the Pick (n). According to CHRB, the adoption of such a rule would enable California horse racing associations and the public in general to participate in national wages.

Also at its May 31 meeting, the Board awarded its contract for laboratory equine drug testing services for the 1991-92 fiscal year to Truesdail Laboratory of Tusston; although this is a two-year contract, the second year is contingent upon satisfactory performance. The Board had previously contracted with Truesdail to perform this function until last year, when it awarded the contract to Harris Laboratories. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 175 for background information.) According to Board member Rosemary Ferraro, CHRB had continuous problems with Harris’ ability to detect positive results and the laboratory had lost credibility with trainers, stewards, and CHRB’s Executive Secretary.

FUTURE MEETINGS:
August 30 in Del Mar.
September 27 in San Mateo.
October 25 in Monrovia.
November 15 in Los Angeles.
December 13 in Los Angeles.

NEW MOTOR VEHICLE BOARD
Executive Officer: Sam W. Jennings (916) 445-1888

Pursuant to Vehicle Code section 3000 et seq., the New Motor Vehicle Board (NMVB) licenses new motor vehicle dealerships and regulates dealership relocations and manufacturer terminations of franchises. It reviews disciplinary action taken against dealers by the Department of Motor Vehicles (DMV). Most licensees deal in cars or motorcycles.

NMVB is authorized to adopt regulations to implement its enabling legislation; the Board’s regulations are codified in Chapter 2, Division 1, Title 13 of the California Code of Regulations (CCR). The Board also handles disputes arising out of warranty reimbursement schedules. After servicing or replacing parts in a car under warranty, a dealer is reimbursed by the manufacturer. The manufacturer sets reimbursement rates which a dealer occasionally challenges as unreasonable. Infrequently, the manufacturer’s failure to compensate the dealer for tests performed on vehicles is questioned.

The Board consists of four dealer members and five public members. The Board’s staff consists of an executive secretary, three legal assistants and two secretaries.

MAJOR PROJECTS:
NMVB Adopts ALJ Decisions. On March 29, NMVB adopted the proposed decisions of Administrative Law Judge (ALJ) George Coan regarding two petitions and protests, both involving Jaguar Cars, Inc. of New Jersey. In 1984, Auto Trends, Inc. of North Hollywood and Ray Fladeboe Lincoln-Mercy, Inc. of Irvine both filed protests with NMVB against Jaguar after receiving notice of Jaguar’s intent not to renew their franchises. The ALJ found that during the early 1980s, Jaguar faced serious financial and nonfinancial difficulties, and decided that in order to stay competitive, it had to substantially reduce its retail dealer network. As a result, Jaguar developed its Dealer Rationalization Program, which included a formula which Jaguar used as a guide to determine how many dealers it could support in each market. Using the formula, Jaguar concluded that the Los Angeles/Orange County market could support seven dealers; at that time, 17 dealers had Jaguar franchises in that market. Therefore, based on criteria set forth in its Program, Jaguar determined the seven dealers to which it would continue to offer franchises; Auto Trends and Ray Fladeboe were among the ten dealers which were notified that their franchises would not be renewed when they expired on December 31, 1984.

ALJ Coan determined that the main issue was whether good cause was established for permitting Jaguar to not renew the franchises; he concluded that Jaguar’s Dealer Rationalization Program constituted good cause as it was implemented under severe economic circumstances which threatened its future competitive survival. Further, the ALJ found that the evidence established that the Dealer Rationalization Program was undertaken in good faith for legitimate business reasons and was implemented in a fair and nondiscriminatory manner. Thus, the ALJ recommended—and NMVB agreed—that the two protests be overruled and that Jaguar be permitted not to renew the franchises.

LEGISLATION:
SB 1113 (Leonard), as amended April 23, would impose a $25 fee on the purchase of new automobiles and new light-duty trucks that do not meet, and provide specified rebates to the purchasers of those vehicles that do meet, prescribed standards relative to low-emission vehicles and safety. This bill was rejected by the Senate Transportation Committee on April 16; however, the Committee granted the bill reconsideration on that date.