



NEW MOTOR VEHICLE BOARD

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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.

LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at pages 188-89:

AB 1763 (Sher), as amended August 19, prohibits licensed motor vehicle dealers from advertising the selling price of a vehicle that is above, below, or at either the manufacturer's or distributor's invoice price to the dealer, or the dealer's cost; the bill specifies limited exceptions involving face-to-face negotiations and certain commercial purchases. This bill, which makes these provisions applicable only to advertisements made on or after January 1, 1992, was signed by the Governor on October 13 (Chapter 935, Statutes of 1991).

AB 211 (Tanner), as amended April 25, 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 transfer that motor vehicle unless the nature of the nonconformity is disclosed, the nonconformity is corrected, and the manufacturer provides a new warranty in writing. This bill was signed by the Governor on June 25 (Chapter 72, Statutes of 1991).

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 two-year bill is pending in the Senate Transportation Committee.

SB 760 (Johnston), as amended April 8, would require every applicant for a vehicle dealer's license and every managerial employee, commencing July 1, 1992, to take and complete a written examination prepared by DMV concerning specified matters; permit an oral examination in place of the written examination for any dealer or managerial employee who is not the sole owner of any vehicle dealership, so long as at least one person in the dealership ownership structure completes the written examination; prescribe continuing education requirements applicable to dealers and managerial employees consisting of at least six hours of instruction during the two-year period following the initial examination and at least four hours during each succeeding two-year period; and require DMV to adopt regulations with respect to these examination and instruction requirements. This two-year bill is pending in the Senate Transportation Committee.

SB 1164 (Bergeson), as amended April 15, would provide that, for purposes of vehicle license fees, the market value of a vehicle shall be determined upon the first sale of a new vehicle to a consumer and upon each sale of a used vehicle to a consumer, but the market value shall not be redetermined upon the sale of a vehicle to specified family members. This two-year bill is pending in the Senate inactive file.

AB 126 (Moore), as amended July 10, would enact the "One-Day Cancellation Law" which 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 pending in the Senate Judiciary Committee.

RECENT MEETINGS:

NMVB's meeting scheduled for August 22 in Los Angeles was cancelled.

FUTURE MEETINGS:

To be announced.

BOARD OF OSTEOPATHIC EXAMINERS

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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 Proposal Cancelled. In February 1991, BOE approved a proposal for a long-term budget reduction program which would decrease annual licensing fees for DOs already licensed in California. BOE based this decision on the need to reduce its surplus reserve, which is approximately \$800,000. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 172 for background information.) However, at its August 30 meeting, BOE cancelled the proposal as a result of the passage of AB 222 (Vasconcellos), which requires the transfer of most of the "excess fees" of over fifty state agencies, including BOE, to the state's general fund on June 30, 1992. Like the other affected agencies, BOE will be left with only three months' worth of operating expenses in its reserve account, or about \$100,000.

Continuing Medical Education. At its August 30 meeting, BOE addressed concerns raised by osteopathic physician specialists regarding BOE's continuing medical education (CME) requirement which must be satisfied to maintain DO certification. Section 1635, Title 16 of the CCR, requires each osteopathic physician to complete 150 hours of continuing medical education during each three-year period; this requirement must include a minimum of 60 hours of CME in Category 1-A as defined by the American Osteopathic Association (AOA). Category 1-A consists of general osteopathic continuing education; however, specialists prefer



REGULATORY AGENCY ACTION

to take CME in their respective specialties. Also, specialists would like units of Category 2, non-BOE-accredited allopathic specialist CME to count toward the 150-hour requirement.

Because the current three-year CME requirement period ends in January 1992, BOE decided not to revise the CME requirements until the new period has commenced; the Board formed a subcommittee to review these issues and directed it present its recommendations at the next BOE meeting.

LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at pages 189-90:

SB 437 (Frizzelle), as amended July 18, changes 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; authorizing the Board to utilize an examination prepared by the Federation of State Medical Boards until December 13, 1993; and deleting an existing provision authorizing the Board to make arrangements with other organizations for examination materials as it deems desirable.

Regarding the qualifications for the issuance of a license based on reciprocity, this bill deletes the Board's authority to require an applicant to successfully complete an examination prepared by the Federation of State Medical Boards, and permits the Board to recognize and approve as equivalent an examination prepared by the Federation if an applicant has been licensed in another state as a result of the successful completion of that examination prior to December 31, 1993. This bill was signed by the Governor on September 18 (Chapter 431, Statutes of 1991).

AB 1332 (Frizzelle), as amended July 14, changes BOE's name to "Osteopathic Medical Board of California," effective January 1, 1992. The bill also requires Board members who are licensed osteopaths 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, which also prohibits a Board member from serving for more than three full consecutive terms, was signed by the Governor on August 29 (Chapter 359, Statutes of 1991).

AB 1691 (Filante), as amended May 8, would require, on or after July 1, 1993, every health facility operating a postgraduate physician training program to develop and adopt written policies governing the working conditions of

resident physicians. This bill was rejected by the Assembly on June 27; it is pending in the Assembly inactive file.

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

AB 819 (Speier). As introduced February 27, this bill would, effective July 1, 1992, provide that, subject to specified exceptions, it is unlawful for specified 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. This two-year bill is pending in the Assembly Health Committee.

RECENT MEETINGS:

At its August 30 meeting, the Board discussed SB 198 (Greene) (Chapter 1369, Statutes of 1989), which, among other things, requires every employer to have a written injury prevention program. In order for BOE to have its budget approved, it must provide DOs with information regarding HIV infection care treatment. BOE examined various pamphlets available from the Centers for Disease Control and decided to distribute two pamphlets either as a part of CME or in the DO license renewal packet.

Also at its August 30 meeting, BOE staff reported that a new publication containing the Board's regulations is being prepared and should be ready for release by December. The Board anticipated sending out copies of the pamphlet along with a brochure entitled *Professional Therapy Never Includes Sex!*, prepared by the Department of Consumer Affairs.

FUTURE MEETINGS:

February 15 in Los Angeles.

PUBLIC UTILITIES COMMISSION

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

On September 4, PUC Commissioner Mitchell Wilk announced that he would resign from his position effective October 4. Wilk has served on the PUC for almost five years. It is up to Governor Wilson to name Wilk's replacement,