



## INDEPENDENTS

### AUCTIONEER COMMISSION

*Executive Officer: Karen Wyant*  
(916) 324-5894

The Auctioneer and Auction Licensing Act was enacted in 1982 (AB 1257, Chapter 1499, Statutes of 1982) and established the California Auctioneer Commission to regulate auctioneers and auction businesses in California.

The Act was designed to protect the public from various forms of deceptive and fraudulent sales practices by establishing minimal requirements for the licensure of auctioneers and auction businesses and prohibiting certain types of conduct.

The Auctioneer and Auction Licensing Act provided for the appointment of a seven-member Board of Governors, composed of four public members and three auctioneers, to enforce the provisions of the act and to administer the activities of the Auctioneer Commission. Members of the Board are appointed by the Governor for four-year terms. Each member must be at least 21 years old and a California resident for at least five years prior to appointment. In addition, the three industry members must have a minimum of five years' experience in auctioneering and be of recognized standing in the trade.

The Act provides assistance to the Board of Governors in the form of a council of advisers appointed by the Board for one-year terms. In September 1987, the Board disbanded the council of advisers and replaced it with a new Advisory Council (see CRLR Vol. 7, No. 4 (Fall 1987) p. 99 for background information).

#### MAJOR PROJECTS:

*Private Investigator Contracts.* The Board has allocated \$48,000 of its budget to hire contract investigators throughout the state to conduct investigations and compliance inspections of licensees. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 114 and Vol. 7, No. 4 (Fall 1987) p. 99 for background information.) The Board-approved "invitation to bid" describes the services to be performed as well as the six geographic areas which may be bid upon. As required by law, this "invitation" has been listed in the Contracts

Register. Private investigative companies will bid for services at a proposed hourly rate. Those making the lowest responsible bids will be chosen to perform the services in each geographic region.

*Warning to Licensees.* Licensees have been warned that the designation of an item of art as being created by a "named" artist when, in fact, the work of art is not original is misleading and therefore prohibited. Civil Code sections 1740-1745.5 substantially regulate the sale of fine art multiples. Licensees engaged in the sale of such goods are urged to carefully review those provisions to assure their compliance with the law.

#### RECENT MEETINGS:

At its December 2 meeting in San Francisco, Executive Officer Wyant and the Board continued their discussion of the use of the terms "minimum" and "reserve" by Board licensees. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 111; Vol. 8, No. 2 (Spring 1988) p. 113; Vol. 7, No. 4 (Fall 1987) p. 100; Vol. 7, No. 1 (Winter 1987) p. 89 and Vol. 6, No. 4 (Fall 1986) p. 85 for complete background information.) The Board decided that the problem arises not because the terms are used, but because they are used in a way that is misleading to the public. In order to eradicate this problem, a letter has been sent to all licensees stating that the Board considers the terms to be misleading. The continued misleading use of these terms will result in the review of an owner's license.

#### FUTURE MEETINGS:

To be announced.

### BOARD OF CHIROPRACTIC EXAMINERS

*Executive Director: Edward Hoefling*  
(916) 445-3244

In 1922, California voters approved an initiative which created the Board of Chiropractic Examiners (BCE). The Board licenses chiropractors and enforces professional standards. It also approves chiropractic schools, colleges, and continuing education courses.

The Board consists of seven members, including five chiropractors and

two public members.

#### MAJOR PROJECTS:

*Mid-level Disciplinary Review.* At its October meeting, the Board adopted a recommendation to implement mid-level disciplinary review procedures. (See CRLR Vol. 8, No. 1 (Winter 1988) p. 100 for background information.) Regional mid-level review committees appointed by the Board will interview offending chiropractors and recommend various sanctions. The committees will act in an advisory capacity. Additionally, the committee will conduct periodic statistical studies for the Board concerning the number of complaints and investigations in progress. The studies will contain breakdowns of categories of violations. Executive Director Ed Hoefling will prepare a budget change proposal and meet with legal counsel to develop the procedures.

*Curriculum Commissioners.* At its September meeting, the Board moved to apply the title of curriculum commissioner to certain examination commissioners involved in assisting the Board in the development of a textbook list. The designated commissioners would have the responsibility of reviewing textbooks used to construct examinations questions. The Board decided to periodically bestow the title on qualified examination commissioners.

#### LITIGATION:

In *California Chapter of the American Physical Therapy Ass'n, et al. v. Board of Chiropractic Examiners* (consolidated case Nos. 35-44-85 and 35-24-14), the Sacramento Superior Court recently entertained motions for summary judgment and for summary adjudication filed against BCE by the Board of Medical Quality Assurance (BMQA) and the California Medical Association (CMA). In a ruling issued January 5, the court denied both motions for summary judgment. In two rulings adverse to BCE, however, the court granted BMQA's motion for summary adjudication on issues relating to the proper scope of chiropractic practice, and also granted CMA's motion on the issue of its standing to pursue the action. BCE planned to appeal these two rulings by way of peremptory writ to the court of appeals by February 1. The superior court was scheduled to hold a status hearing in the case on March 27. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 119 and Vol. 8, No. 2 (Spring 1988) p. 30 for background information on this case.)



# REGULATORY AGENCY ACTION

## RECENT MEETINGS:

In September, Mr. Hoeftling met with the Board of Examiners in Veterinary Medicine (BEVM). BEVM is reviewing the feasibility of chiropractic adjustments of animals. Under that board's existing regulations, all treatment of animals must be conducted by a vet or by an animal health technician (AHT) under the close supervision of a licensed veterinarian. Mr. Hoeftling requested that BEVM define "close supervision."

At its October 27 meeting in San Francisco, the Board adopted a proposal to proceed with formal rulemaking to require 48 hours of training in thermography followed by a qualification certificate in order to qualify for a license to practice chiropractic. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 111 for background information.)

Also on October 27, the Board discussed but did not approve two videocassettes submitted by Palmer College of Chiropractic for use in continuing education seminars (CES). The seminars-on-tape were radiological evaluations of spinal trauma and a review of bone radiology. The Board expressed concern that allowing chiropractors to fulfill their continuing education requirements at home or office would create monitoring problems. Additionally, the Board rejected a CES program submitted by Life Chiropractic College West regarding directional non-force techniques.

Vivian Davis of the executive director's office presented a financial report concerning the cost to the Board of investigating examination appeals. Since the costs are negligible, the Board decided not to propose to charge examinees for the appeal process.

## FUTURE MEETINGS:

To be announced.

## CALIFORNIA ENERGY COMMISSION

*Executive Director: Stephen Rhoads*  
*Chairperson: Charles R. Imbrecht*  
*(916) 324-3008*

In 1974, the legislature created the State Energy Resources Conservation and Development Commission, better known as the California Energy Commission (CEC). The Commission's major regulatory function is the siting of power plants. It is also generally charged with assessing trends in energy consumption and energy resources available to the state; reducing wasteful, unnecessary

uses of energy; conducting research and development of alternative energy sources; and developing contingency plans to deal with possible fuel or electrical energy shortages.

The Governor appoints the five members of the Commission to five-year terms, and every two years selects a chairperson from among the members. Commissioners represent the fields of engineering or physical science, administrative law, environmental protection, economics, and the public at large. The Governor also appoints a Public Adviser, whose job is to ensure that the general public and other interested groups are adequately represented at all Commission proceedings.

The five divisions within the Energy Commission are: (1) Conservation; (2) Development, which studies alternative energy sources including geothermal, wind and solar energy; (3) Assessment, responsible for forecasting the state's energy needs; (4) Siting and Environmental, which does evaluative work in connection with the siting of power plants; and (5) Administrative Services.

The CEC publishes *Energy Watch*, a summary of energy production and use trends in California. The publication provides the latest available information about the state's energy picture. *Energy Watch*, published every two months, is available from the CEC, MS-22, 1516 Ninth Street, Sacramento, CA 95814.

## MAJOR PROJECTS:

*CEC To Establish Intervenor Compensation Program.* On September 26, the Governor signed SB 283 (Rosenthal) into law. This new law (Chapter 1436, Statutes of 1988) appropriates \$5,285,000 of Petroleum Violation Escrow Account (PVEA) funds to the Commission. Of that amount, \$4 million is earmarked for 50% matching grants for technical assistance studies and installation of energy efficiency measures in public and nonprofit private schools and hospitals; and \$1 million is earmarked to carry out new energy technology demonstration research projects.

The remaining \$285,000 is to be used to establish an intervenor compensation program, administered by the Commission's Public Adviser, to provide intervenors facing financial hardship with reasonable awards to compensate them for their costs of participating in CEC proceedings (other than those conducted under Chapter 6 (commencing with section 25500) of Division 15 of the Public Resources Code). The Commission and the Public Adviser are required to imple-

ment the intervenor compensation program within eight months after receipt of the funds, and must report to the legislature on the program's status within two years after they receive the funds.

The Public Utilities Commission (PUC) currently operates an intervenor award program similar to that mandated for the Energy Commission by Chapter 1436. The PUC orders the affected utility to compensate qualifying nonprofit entities which participate in a PUC proceeding and succeed in making a recognized contribution for the benefit of the public. The intervenor receives fair market recompense—but no more—to offset the costs of its efforts. No General Fund monies are expended.

The Petroleum Violation Escrow Account (PVEA), which will fund the intervenor award program, is a holding account of monies derived from negotiated settlements and legal actions by the federal government against violators of federal oil and gas price regulations from September 1973 to January 1981. For several years, the federal government has been providing the states with these funds, which are to be used for the benefit of injured purchasers. Since most of the injured purchasers were individual consumers, the funds are allocated through general state legislative programs, with some funds specifically designated for energy-related programs.

According to CEC Public Adviser Thomas Maddock, Chapter 1436 merely authorizes the CEC to establish the intervenor award program; it does not assure the Commission of the PVEA funds. But Maddock has filed the appropriate requests for the funds with the Department of Energy (DOE) in Washington, D.C., and expected DOE authorization to begin work on the program in January. Maddock expects the DOE to authorize the full \$285,000 for the program, but he suspects the money might be awarded on a monthly budget basis, or might be withheld until the Commission presents the DOE with an official plan for implementing the program. Maddock hopes to be able to set up the program and begin to make awards to intervenors by May or June of 1989.

*Santa Maria Certification Case Closed.* The Application for Certification for the Santa Maria Aggregate Project has been dismissed due to the failure of the applicant to file a revised offsets proposal. The application was originally filed on July 27, 1987, and deemed data adequate as of November 18, 1987. The Commission accepted the application at its December 2, 1987,