tions, will not be pursued. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 118; Vol. 8, No. 2 (Spring 1988) p. 113; Vol. 8, No. 1 (Winter 1988) p. 99; and Vol. 7, No. 4 (Fall 1987) p. 99 for complete background information.) Licensees, however, must continue to disclose in their contracts that they are bonded to and licensed and regulated by the Commission. Failure to adhere to this or any other requirements specified in section 5776(k) of the Business and Professions Code will result in the assessment of a $250 administrative fine.

Commission Statistics. The Commission finished the 1987-88 fiscal year on June 30, completing its fifth year in operation. Complaints dropped significantly during the year, particularly those from consignors alleging that they had not been paid sales proceeds (down 56.3% from the previous year). Money recovered through complaint mediation rose to $48,908 from the previous year's $18,395. In addition, fines and bond claims paid increased considerably.

Private Investigators to Be Hired. Executive Officer Karen Wyant has been directed by the Board of Governors to begin utilizing the services of contract private investigators throughout the state to conduct investigations and compliance inspections of licensees. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 114 and Vol. 7, No. 4 (Fall 1987) p. 99 for background information.) The Board expects that this program will be much less expensive than directly hiring investigative staff. The investigators will make compliance inspections of auctions throughout the state to determine whether licensees are (a) posting the sign required by section 5775(c) of the Business and Professions Code (failure to post such a sign is subject to a $50 fine for a first violation); (b) posting or distributing the terms and conditions of the auction sale as required by section 5775(d) of the Code (failure to do so is also subject to a $50 fine for a first violation); and (c) utilizing consignor contracts which comply with section 5776(k) (failure to do so is subject to a $250 fine for the first violation). Investigators will report the results of their observations and the names of the persons conducting the sales to the Executive Officer. The Commission will then determine the license status of the individuals and issue a fine for each violation discovered during the inspection.

RECENT MEETINGS:

At its June 30 meeting in Sacramento, Executive Officer Wyant and the Board continued its discussion about the use of the terms "minimum" and "reserve" by Board licensees. (See CRLR 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.) Wyant suggested that regulatory language be developed to require the disclosure of the sale of items subject to a minimum or a reserve in auction advertising. A previously established subcommittee was directed to study the issue, develop proposals, and report at the next meeting.

FUTURE MEETINGS:

December 2 in San Francisco.

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:

New Disciplinary Guidelines Approved. At its September 15 meeting in Long Beach, the Board approved amendments to its disciplinary guidelines. Among other things, the new guidelines increase the recommended minimum penalty for gross negligence, repeated negligent acts, and incompetence by adding a minimum thirty-day suspension to the existing minimum penalties of stayed revocation and five years' probation.

Although these "guidelines" are not considered regulations by the Board, they are often followed by administrative law judges (ALJ) in recommending penalties for offending chiropractors. The Board, troubled by the failure of ALJs to impose the strict penalties mandated by the guidelines for certain offenses, sent the new guidelines with a letter to the Office of Administrative Hearings. The letter requests that any ALJ who deviates from the guidelines' penalties accompany his/her proposed decision with a memo outlining the reasons for his/her failure to apply them. In its letter, the Board acknowledged that section 1157(c) of the Administrative Procedure Act enables the Board to increase the penalty prescribed by ALJs, but stated that these procedures are costly and time-consuming.

Proposed Regulatory Changes. The Board recently approved draft language to amend section 356, Title 16 of the California Code of Regulations (CCR), which establishes the prerequisites for the renewal of a license to practice chiropractic. Specifically, the change would mandate continuing education in "adjustive technique". The new regulation would require that four out of every twelve hours spent in continuing education cover adjustive technique. At this writing, this proposed change has not yet been published for comments.

At its September 15 meeting, the Board discussed a proposed change to section 355, Title 16 of the CCR, which sets fees for the renewal and restoration of a license to practice chiropractic. The change would call for a $50 increase in the renewal fee, bringing the total to $145. Under existing statute, the maximum renewal fee is $150. The fee was last increased in 1983, when it rose from $75 to the current $95. The Board has not yet approved this proposal.

This fall, the Board will consider five alternative proposals developed by the state Attorney General's office for a new subsection (u) to regulatory section 317, which would broaden the definition of unprofessional conduct to include a failure by a chiropractor to inform insurance companies of his/her no-out-of-pocket-expense (NOOPE) practices. Simply stated, a chiropractor is engaging in a NOOPE practice when he/she agrees to accept whatever amount a patient's insurance policy will cover without looking to that patient for any additional insurance policy co-payment.

Use of Thermography by Chiropractors. At its July 28 meeting, the Board discussed the fact that insurance evaluators are becoming more aware of the increasing use of thermography by chiropractors. Dr. Reyes suggested that the Board consider implementing additional educational hours in the use of thermography. Dr. McKown appointed Dr. Reyes and Dr. Hemauer to a committee to study and report on the need for additional training hours and perhaps a certification in thermography.

LEGISLATION:

The following is a status update on bills discussed in detail in CRLR Vol. 8, No. 3 (Summer 1988) at page 119:

AB 4387 (Bronzan) would have increased the fine to not less than $200 nor more than $1,200 for any physician, podiatrist, dentist, surgeon, chiropractor, or optometrist who engages in excessive prescribing or dministering of drugs or treatment. This bill failed passage in the Assembly Health Committee.

SB 2565 (Keene) would have clarified existing law regarding immunity of hospitals, persons, or organizations for peer review actions which are required to be reported to various state agencies. This bill was vetoed by the Governor on September 30.

SB 2751 (Rosenthal) increases the amount of fines and authorizes tougher jail sentences for violations of the Chiropractic Act by chiropractors. This bill was signed by the Governor on September 20 (Chapter 1094, Statutes of 1988), and will become effective upon the approval of the electorate.

AB 4682 (Isenberg) would have provided that holders of DC degrees shall be accorded the professional status of health practitioners. AB 4682 failed passage in the Assembly Health Committee on June 21.

LITIGATION:

Discovery is ongoing in *California Chapter of the American Physical Therapy Ass'n, et al. v. California State Board of Chiropractic Examiners* (consolidated case Nos. 35-44-85 and 35-24-14). Plaintiffs challenge the Board's adoption of regulatory section 302, which defines the scope of chiropractic practice to include colonic irrigations. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 119 and Vol. 8, No. 2 (Spring 1988) p. 30 for background information.)

RECENT MEETINGS:

At its September 15 meeting in Long Beach, the Board discussed the possibility of charging a fee for examination appeals. The Board decided to postpone the discussion until it receives a financial report from the Executive Director's office detailing the actual cost of the appeal process.

FUTURE MEETINGS:

January 5 in Sacramento.
February 16 in southern California.
March 30 in northern California.

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:

Revision of Regulations on Plant Siting Jurisdiction. In July, the CEC published proposed amendments to its powerplant site certification regulations and to its Rules of Practice and Procedure (California Code of Regulations, Title 20, Chapter 2, Subchapters 5 and 2, respectively).

The proposed amendments would specifically interpret the terms "thermal powerplant", "generating capacity", and related terms; modify the existing Rules of Practice and Procedure to clarify that CEC's complaint and investigation procedure may also be used for obtaining Commission determinations of powerplant siting jurisdiction; and establish a new clearance process for project developers to obtain expedited determinations of CEC siting jurisdiction.

The Warren-Alquist Act of 1974, section 25500 of the Public Resources Code, grants the CEC "the exclusive power to certify all sites and related facilities" in California. The Commission's site certification jurisdiction extends over all thermal powerplants with a generating capacity of 50 megawatts (MW) or more. The Act also grants the Commission discretion to exempt projects with a generating capacity of 50 MW but less than 100 MW from the Commission's siting requirements. These small powerplant exemptions (SPPE) are granted only if the Commission finds that there will be no significant adverse environmental impact and that there is no state interest affected by the proposed project.

According to the Commission's 44-page Initial Statement of Reasons for the proposed regulation changes, the grant of exclusive siting power to the CEC was a response to the "energy crisis" of the early 1970s. Before the CEC was created, the siting process required developers to obtain a series of permits from a variety of single-purpose federal, state, and local agencies. Occasionally, over twenty agencies performed independent reviews of a single project. The energy crisis revealed California's need for independent energy planning and energy demand forecasting. The Commission was created to meet these needs, but also to meet the need for a consistent, efficient, and consolidated powerplant siting process. The legislature designed the CEC's siting process to provide certainty for applicants, open proceedings for the public, and full consideration of the efficiency, reliability, public health and safety impacts, and environmental impacts of proposed projects.

Questions concerning the CEC's siting jurisdiction did not arise during the Commission's first four years of existence. Of the first ten powerplant applications reviewed by the Commission through 1978, all were submitted by utilities, and the proposed projects averaged 977 MW of capacity. Since that time, three significant events have occurred. First, the demand for power has risen much more slowly, because of conservation efforts. Second, the utilities have added to their resource energy mix with nuclear, geyser, and imported hydroelectric energy. Finally, the Public Utilities Commission (PUC) has implemented a rule requiring the three largest