



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:

Regulatory Changes. In late May, the Office of Administrative Law (OAL) approved two of three Board regulatory changes which it had disapproved in February. (For background information, see CRLR Vol. 8, No. 1 (Winter 1988) p. 99.) The resubmitted regulations included sections 321 and 355, Title 16 of the California Code of Regulations, which set fees for the application for, and renewal and restoration of, a license to practice chiropractic. One of the regulations rejected in February, section 321.1, has not been resubmitted for OAL review at this writing. Section 321.1 would establish time limits for processing of licensure applications.

LEGISLATION:

AB 4387 (Bronzan) would increase the fine to not less than \$200 nor more than \$1200 for any physician, podiatrist, dentist, surgeon, chiropractor, or optometrist who is guilty of engaging in excessive prescribing or administering of drugs or treatment. This bill, which would take effect immediately as an urgency statute, is pending in the Assembly Health Committee.

SB 2565 (Keene) concerns reports filed pursuant to section 805 of the Business and Professions Code, relating to peer reviews. The measure would clarify existing law regarding immunity of hospitals, persons, or organizations for peer review actions which are required to be reported to various state agencies. The bill would establish specific procedural guidelines for professional review actions and the reporting thereof in order for immunity to attach. SB 2565 passed the Senate on May 12 and is pending in the Assembly Health Committee.

At this writing, the Board is currently contemplating further amendments to this measure. One possible amendment would require the Attorney General to participate with the Board in the prose-

cution of unlicensed activity. Another possible change would establish a peer review structure within the Board to address fee disputes.

SB 2751 (Rosenthal). Existing law provides that a person convicted of a violation of the Chiropractic Act is guilty of a misdemeanor. The punishment includes a fine of \$50-\$200 and/or imprisonment in county jail for 30-90 days. SB 2751 would increase the range of fines to \$100-\$750 and would provide for imprisonment of up to five months. The bill would also provide that license renewal shall be based on the month of the birthdate of the licensee. Existing law provides that licenses be renewed on or before January 1 every year. SB 2751 passed the Senate on May 26 and is pending in the Assembly Health Committee at this writing.

AB 4682 (Isenberg), as amended in May, would provide that holders of MD and DC degrees shall be accorded professional status of health practitioners, and would prohibit health care plans or public agencies from discriminating against the holders of those degrees with respect to employment, staff privileges, or the providing of services within their scope of practice, as specified. AB 4682 failed passage in the Assembly Health Committee on May 3, but was granted reconsideration. A June 14 committee hearing was postponed.

LITIGATION:

In *California Chapter of the American Physical Therapy Association (APTA), et al. v. California State Board of Chiropractic Examiners, et al.* (consolidated case Nos. 35-44-85 and 35-24-14), a Sacramento County Superior Court judge has overruled defendants' demurrers and denied defendants' motions to strike as to various causes of action and allegations pleaded therein, and has ordered BCE to answer the complaint. Plaintiffs challenge the Board's adoption of section 302 of its regulations, which defines the scope of chiropractic practice. (For additional information concerning this lawsuit, see CRLR Vol. 8, No. 2 (Spring 1988) p. 30; Vol. 8, No. 1 (Winter 1988) p. 36; and Vol. 7, No. 4 (Fall 1987) pp. 30 and 100.)

Board Executive Director Ed Hoefling recently informed CRLR that the Board's costs in this litigation have totalled \$217,000 in attorneys' fees alone during the 1987-88 fiscal year.

RECENT MEETINGS:

At its May 5 meeting, the Board discussed the possibility of licensees using computer programs to fulfill continuing education requirements. Dr. Reyes was appointed as Board liaison to investigate the feasibility of such a program.

Several items scheduled for discussion at the Board's July meeting included (1) whether the annual license renewal fee should be increased; and (2) whether the Board should charge a fee for exam appeals.

FUTURE MEETINGS:

September 15 in Napa.

CALIFORNIA ENERGY COMMISSION

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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:

Energy Technology Status Report. CEC staff has prepared a draft summary of its Energy Technology Status Report (ETSR) in fulfillment of legislative requirements specified in Public Resources Code section 25604. The statute requires that the CEC adopt and submit biennially to the Governor and legislature a report on energy technology development trends in the state including the status of new existing technologies.

This summary report provides technology evaluations for over 200 electrical generation, nongeneration, and automotive transportation technologies. The final ETSR provides critical input to CEC's Energy Development Report, which establishes state energy policy recommendations, as well as data support for new power plant siting cases involving requests for research and development exemptions. (For additional information about the EDR, see CRLR Vol. 8, No. 2 (Spring 1988) p. 115.) The ETSR also serves as an important reference for use both internally at the CEC and by other research and government groups.

Santa Maria Aggregate Project. The CEC staff continues to gather information and conduct workshops on the Santa Maria Aggregate Project. (See CRLR Vol. 8, No. 2 (Spring 1988) pp. 114-15 and Vol. 8, No. 1 (Winter 1988) pp. 101-02 for background information.) At a recent workshop, the staff discussed issues related to the conformance of the Santa Maria Aggregate Project with CEC's Sixth Electricity Report demonstration criteria. The topics discussed included (1) Santa Maria Aggregate Corporation's (SMA) responses to data requests; (2) the parameters of criteria used to design the proposed fluidized bed combustion technology; (3) the basis for the parameters or design criteria; (4) pilot plant test data and how this information will be used in design of the project; and (5) transferability of the proposed technology to other fuel sources. An opportunity for the public as well as federal, state, and local agencies to comment on the Application for Certification (AFC) filing and data requests was provided.

At the March 24 CEC workshop on the Project, discussion focused on

SMA's responses to data requests from CEC air quality staff, the Santa Barbara County Air Pollution Control District, and the Air Resources Board. Air dispersion modeling protocol, the air emission offset requirements for the Santa Maria Project, and the Santa Maria Aggregate Corporation's proposed air remission offsets were also workshop topics.

Revision of Regulations Associated with Energy Conservation Standards for New Buildings. The Commission has started the process of revising sections 1401-10, Title 20 of the California Code of Regulations, which contain administrative requirements for implementing the state's energy conservation standards for new buildings. These standards, among other items, require builders to calculate energy likely to be used by air conditioning, space heating, and water heating. The proposed amendments would set requirements and criteria for approving alternate calculation methods (ACMs) that building permit applicants use to demonstrate compliance with the standards; specify the input assumptions, output forms, and contents for calculation methods; and establish uniform testing and approval criteria. The amendments would incorporate by reference all of the requirements of the Commission's March 1988 Alternative Calculation Methods Approval Manual, which sets forth all approval requirements and criteria in detail. In addition, the proposed amendments would impose fees on persons who apply for approval of ACMs, exceptional methods, and alternative component packages.

The Commission was scheduled to hold a May 11 public hearing on the proposed amendments.

LEGISLATION:

AB 4216 (Bronzan), as amended, would require the CEC to expend \$100,000 for an education program to educate small farmers as to options available to conserve energy or shift energy use to off-peak times. This bill also requires \$900,000 be spent for an additional revolving loan fund program for loans to small farmers to purchase equipment necessary to mitigate increased electrical energy costs. The bill passed the Assembly on June 9 and is pending in the Senate Committee on Energy and Public Utilities.

SB 2297 (Rosenthal) would require the South Coast Air Quality Management District (SCAQMD) to adopt a program to promote the use of clean-burning fuels. Funding of the program

would come from increased fees for SCAQMD permits. The bill would also require the CEC to make an assessment of the prices and availability of clean-burning fuels. The bill passed the Senate on June 8 and is pending in the Assembly Natural Resources Committee at this writing.

The following is a status update on bills discussed in detail in CRLR Vol. 8, No. 2 (Spring 1988) at pages 115-17:

AB 3202 (Tanner), as amended April 14, would require the CEC, before certifying applications to site or construct a power plant, to ensure that information regarding air quality standards has been obtained from the applicant. This bill passed the Assembly on June 1 and is pending in the Senate Committee on Energy and Public Utilities.

AB 3344 (Tanner), as amended April 12, no longer pertains to the size of thermal power plants. It would impose a state-mandated local program by requiring the responsible local enforcement agency, prior to issuing a permit for a thermal power plant project or a solid waste-to-energy conservation project, to make specified findings. The bill was passed as amended by the Assembly and is pending in the Senate Committee on Local Government.

AB 3555 (Moore), which would have required the CEC to follow specified priorities in determining the location of new electric transmission lines; and *AB 3993 (Baker)*, which would have appropriated \$147,345,000 from the PVEA, with \$116,400,000 of that appropriation allocated to the CEC, died in committee.

AB 4420 (Sher), as amended, would require the CEC, in consultation with numerous state bodies, to conduct a study on how global warming trends may affect California's energy supply and demand, economy, environment, agriculture, and water supplies. This bill passed the Assembly on June 2 and is pending in the Senate Committee on Energy and Public Utilities.

AB 4655 (Tanner), as amended April 19, would require the CEC to consider, in consultation with other state agencies, the impact that new buildings standards relating to energy conservation have on indoor air pollution. This measure is also pending in the Senate Committee on Energy and Public Utilities.

SB 1821 (Rosenthal) would direct the Commission to prepare and submit a report to the legislature containing a summary of CEC loans and grants exceeding \$10,000 made during the previous fiscal year. The bill is pending in the Assembly Committee on Natural



Resources.

SB 1823 (Rosenthal), which would have required the Commission to prepare a report analyzing public investments in new electric transmission lines and electric power purchases; *SB 2144 (Rosenthal)*, which would have required the CEC to establish guidelines for reimbursement of intervention expenses in certain CEC hearings and proceedings; and *AB 2887 (Chandler)*, which would have expanded the definition of "electric transmission lines" under the CEC's authority, all died in committee.

SB 2431 (Garamendi) would require the CEC, in consultation with the Public Utilities Commission, to prepare a report on the projected need for additional electrical transmission rights-of-way during the next five, twelve, and twenty years. This bill passed the Senate on May 27 and is pending in the Assembly Committee on Utilities and Commerce.

SB 2434 (Alquist) would require the CEC's biennial electricity report to include specified additional information. This bill was placed in the inactive file at the author's request.

RECENT MEETINGS:

In April, the CEC awarded \$2,409,804 in grant funding to five schools in the Rialto Unified School District to fund the purchase and installation of energy efficient air conditioning equipment and insulation materials. The grant program was implemented under AB 694 (Hauser), 1986 legislation which provided \$30 million in Petroleum Violation Escrow Account (PVEA) funds to finance energy-efficient air conditioning and insulation in schools which conduct year-round classes due to severe overcrowding. The PVEA funds are a result of negotiated settlements and court judgments based upon petroleum overcharges during the period from September 1973 to January 1981. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 91 for background information on the PVEA.)

Also in April, the Commission discussed comments prepared by its Conservation Division and the General Counsel's office, with oversight by the Efficiency Standards Committee, for submission to the U.S. Department of Energy (DOE) regarding proposed federal regulations designed to implement the National Appliance Energy Conservation Act of 1987. The regulations would establish procedures for manufacturers' certification of (1) compliance with the efficiency standards established in and pursuant to the National Appliance Energy Conservation Act of 1987;

(2) enforcement of those standards; and (3) petitions related to preemption of state appliance efficiency standards.

The comments discussed at the meeting reflect the fact that a meaningful compliance and enforcement program must accomplish two goals. The program must guarantee that all certified models actually do meet the applicable standards, and the program must also ensure that uncertified models are not sold. Commission members voiced concern that this latter goal is not adequately addressed in the proposed DOE regulations. It was suggested that DOE publish appliance directories which would allow consumers to determine whether a model meets the standards. The DOE should also carry out a program of periodic spot checking at wholesale and retail outlets.

FUTURE MEETINGS:

General CEC business meetings are held every other Wednesday in Sacramento.

HORSE RACING BOARD

Secretary: Leonard Foote
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The California Horse Racing Board (CHRB) is an independent regulatory board consisting of seven members. Each member serves a four-year term and receives no compensation other than expenses incurred for Board activities.

The purpose of the Board is to allow parimutuel 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.

The Board has jurisdiction and power to supervise all things and people having to do with horse racing upon which wagering takes place. 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 parimutuel horse racing or a management or concession contract with any business entity which conducts parimutuel horse racing. (In parimutuel 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.) 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.

The Board licenses horse racing tracks and allocates racing dates. It also has regulatory power over wagering and horse care.

MAJOR PROJECTS:

Governor Reverses OAL on Simulcast Wagering Regulations. On March 17, the Governor reversed the Office of Administrative Law's (OAL) third disapproval of CHRB's simulcast wagering regulations (sections 2056 through 2061, Title 4, California Code of Regulations). The regulations pertain to the intrastate simulcasting of horse races for wagering at extended facilities; the permitting of and standards for extended wagering facilities and simulcast operators; and the criteria for approval of interstate simulcasts. (See CRLR Vol. 8, No. 2 (Spring 1988) pp. 116-17; Vol. 7, No. 4 (Fall 1987) p. 103; Vol. 7, No. 3 (Summer 1987) p. 128; and Vol. 7, No. 2 (Spring 1987) p. 101 for complete background information.)

OAL had rejected the proposed regulations for the third time on December 3, 1987, largely because, through the passage of SB 14 (Maddy) (Chapter 1273, Statutes of 1987), the legislature amended the statutes authorizing simulcast wagering between the time the Board published, held hearings on, and adopted the proposed regulations (July 30, 1987), and the time OAL reviewed them for the third time.

The Governor found that SB 14 simply reenacted much of the previously existing law regarding simulcast wagering. Although it did expand simulcast wagering to greater areas of the state, the new statutory scheme largely continued the existing scheme "without interruption, with all accrued rights and liabilities." The Governor stated that CHRB should not have been expected to consider the then-pending SB 14 in its July 1987 determination on the proposed regulations, and found no evidence to indicate that CHRB somehow "manipulated the timing of the rule-making proceeding in an effort to avoid the possible impact of legislative changes."

The new regulations were filed with the Secretary of State in late March and became effective April 22.

Unlimited Sweepstakes and Special