



REGULATORY AGENCY ACTION

facturer'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.

LITIGATION:

In *American Isuzu Motors, Inc. v. NMVB*, 186 Cal. App. 3d 464 (October 16, 1986), the Second District Court of Appeal upheld the California legislature's 1985 amendments to Vehicle Code sections 3050 and 3066, which preclude any Board member who is a new motor vehicle dealer from participating in, hearing, commenting upon, advising other members upon, or deciding any matter before the Board involving a dispute between a franchisee and a franchisor. In this regard, the Second District apparently disagrees with the Fourth District's holding in *University Ford Chrysler-Plymouth, Inc. v. NMVB*, 179 Cal. App. 3d 796 (1986), by equating the 1985 amendments with the Board's voluntary recusal policy, under which it operated prior to the 1985 amendments and when it administratively decided petitioner Fladeboe's protest against American Isuzu. Thus, American Isuzu's challenge to the constitutionality of the NMVB was rejected, and the Board's decision in favor of Mr. Fladeboe was affirmed.

RECENT MEETINGS:

The New Motor Vehicle Board did not meet between February 1986 and the end of the year.

At its January 12, 1987 meeting, the Board considered the administrative law judge's (ALJ) recommendation in a disciplinary matter involving Pittsburg Ford, Inc. In December 1986, the ALJ recommended the assessment of a five-year probation period against Pittsburg, a Bay area dealership, for price misrepresentation to consumers. Mr. Daus, majority shareholder of Pittsburg, expressed concern regarding one of the terms of the probation, which required that a Ford Motor Company employee supervise the dealership on a daily basis. Mr. Daus stated that Ford has refused to provide a manager; he offered to manage the dealership himself and to pay an independent auditor to review all dealership accounts and reimburse any overcharges to customers charged by the dealership. The Department of Motor Vehicles, which had investigated the fraud claim, objected to any amendments to the terms of the recommended

probation, and called for revocation of Pittsburg's license. The Board met in executive session regarding the matter, and plans to issue a decision in the near future.

FUTURE MEETINGS:

To be announced.

BOARD OF OSTEOPATHIC EXAMINERS

Executive Director:

Linda Bergmann
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In 1922, California voters approved a constitutional initiative which created the Board of Osteopathic Examiners (BOE). BOE regulates entry into the osteopathic profession, examines and approves schools and colleges of osteopathic medicine and enforces professional standards. The 1922 initiative, which provided for a five-member Board consisting of practicing osteopaths, 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:

Regulation Changes. The Board reviewed all of its regulations in accordance with AB 1111 at its November 21 meeting in Sacramento. The Board ratified the regulations, which must now be approved by the Office of Administrative Law. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 88 for details.)

LEGISLATION:

SB 1888 (Stiern) was signed and chaptered on September 29 (Chapter 1274). (See CRLR Vol. 6, No. 4 (Fall 1986) p. 88.)

AB 3033 (Floyd) died in committee. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 89.)

AB 3043 (Tucker), which was supported by the Board, died in committee, and would have specifically prohibited physician's assistants from dispensing drugs.

RECENT MEETINGS:

Under Business and Professions Code section 2185, an applicant for a physicians and surgeons certificate who fails to pass the oral exam or any part of the written exam after two attempts is not eligible to be reexamined until the applicant presents evidence that he/she has completed additional appropriate medical instruction. Two students who failed the licensing exam twice have petitioned

the Board to review their exams and the entire examination process. The Board established a subcommittee to review the current exam, modify and update its sections, prepare study materials for persons who have failed the exam twice, and establish new guidelines for eligibility to retake the exam.

The Board established a committee to investigate the College of Osteopathic Medicine of the Pacific (COMP). On March 19 and 20, the committee will study and review the curriculum and facilities of COMP to ensure the adequacy of its clinical instruction.

The Board discussed physical disability as a condition warranting waiver of CME requirements to maintain an active license. When presented with a dozen hardship cases, the Board reiterated its goal to promote and ensure medical quality while recognizing those examiners who have devoted their lives to the health profession but are unable to fulfill the CME requirements due to a physical condition. The Board plans to develop a policy which would require medical documentation and substantiation when petitioning for a waiver. Each request will be analyzed on a case-by-case basis.

The Board rejected a proposal which would require osteopathic examiners to be subject to drug testing. The Board reasoned that no statute exists which gives a licensing board authority to pass or enforce such a resolution.

FUTURE MEETINGS:

April 11 in Pomona.

June 12 in Pomona.

August 14 in Sacramento.

PUBLIC UTILITIES COMMISSION

Executive Director: Victor Weisser

President: Stanley W. Hulett

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The California Public Utilities Commission (PUC) was created in 1911 and strengthened in 1946 to regulate privately-owned utilities and ensure reasonable rates and service for the public. The Commission oversees more than 1,500 utility and transport companies, including electric, gas, water, telephone, railroads, buses, trucks, freight services and numerous smaller services. More than 19,000 highway carriers fall under its jurisdiction.

Overseeing this effort are five commissioners appointed by the Governor with Senate approval. The commissioners