Manager Don Robbins; trainer Dave Hoffman; and attorney Conrad Kline.

Also at its March 29 meeting, CHRB approved in concept the running of a match race at Hollywood Park between a quarter horse and a thoroughbred. At the time of the meeting, that type of match race was not authorized by law, as Business and Professions Code section 19533 provided that any license granted to an association other than a fair shall be only for one type of racing. The Board approved the match race contingent upon the enactment of legislation which would authorize such a race. Accordingly, AB 326 (Floyd), which authorizes such mixed-breed racing in specified circumstances, was enacted as an urgency measure on April 17 (*see supra* LEGISLATION). The match race was run at Hollywood Park on April 20 between Valiant Pete (thoroughbred) and Griswold (quarter horse); Valiant Pete won the four-furlong race by a neck.

At its April 25 meeting, the Board discussed staff's proposal to extend the complementary drug testing contract with Pennsylvania Horse Racing Testing Laboratory for the 1991-92 fiscal year. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 175 for background information.) The 12-month extension was approved in concept, contingent upon receiving the necessary approval from the Department of General Services.

At its May 31 meeting in Cypress, CHRB discussed the Parimutuel Committee's recommendation that the Board pursue a regulatory amendment to establish Pick Seven parimutuel wagering in California. The Pick Seven parimutuel pool consists of amounts contributed for a selection for win only in each of seven races designated by the relevant racing association. Each person purchasing a Pick Seven ticket designates the winning horse in each of the seven races comprising the Pick Seven. According to CHRB, the proposed addition of Pick Seven wagering is in response to requests from the racing industry. The Board agreed with the Committee's recommendation and instructed staff to draft proposed regulatory amendments which would establish Pick Seven wagering.

The Board also instructed staff to draft proposed regulatory amendments which would establish provisions for the Pick (n) wager in California. The Pick (n) parimutuel pool will consist of amounts contributed for a selection for win only in each of a specified number of races designated by the relevant racing association. Each patron purchasing a Pick (n) ticket must designated the winning horse in each of the designated races comprising the Pick (n). According to CHRB, the adoption of such a rule would enable California horse racing associations and the public in general to participate in national wagers.

Also at its May 31 meeting, the Board awarded its contract for laboratory equine drug testing services for the 1991-92 fiscal year to Truesdail Laboratory of Tustin; although this is a two-year contract, the second year is contingent upon satisfactory performance. The Board had previously contracted with Truesdail to perform this function until last year, when it awarded the contract to Harris Laboratories. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 175 for background information.) According to Board member Rosemary Ferraro, CHRB had continuous problems with Harris' ability to detect positive results and the laboratory had lost credibility with trainers, stewards, and CHRB's Executive Secretary.

FUTURE MEETINGS:

August 30 in Del Mar.
September 27 in San Mateo.
October 25 in Monrovia.
November 15 in Los Angeles.
December 13 in Los Angeles.

NEW MOTOR VEHICLE BOARD

Executive Officer: Sam W. Jennings
(916) 445-1888

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.

MAJOR PROJECTS:

NMVB Adopts ALJ Decisions. On March 29, NMVB adopted the proposed decisions of Administrative Law Judge (ALJ) George Coan regarding two petitions and protests, both involving Jaguar Cars, Inc. of New Jersey. In 1984, Auto Trends, Inc. of North Hollywood and Ray Fladeboe Lincoln-Mercury, Inc. of Irvine both filed protests with NMVB against Jaguar after receiving notice of Jaguar's intent not to renew their franchises. The ALJ found that during the early 1980s, Jaguar faced serious financial and nonfinancial difficulties, and decided that in order to stay competitive, it had to substantially reduce its retail dealer network. As a result, Jaguar developed its Dealer Rationalization Program, which included a formula which Jaguar used as a guide to determine how many dealers it could support in each market. Using the formula, Jaguar concluded that the Los Angeles/Orange County market could support seven dealers; at that time, 17 dealers had Jaguar franchises in that market. Therefore, based on criteria set forth in its Program, Jaguar determined the seven dealers to which it would continue to offer franchises; Auto Trends and Ray Fladeboe were among the ten dealers which were notified that their franchises would not be renewed when they expired on December 31, 1984.

ALJ Coan determined that the main issue was whether good cause was established for permitting Jaguar to not renew the franchises; he concluded that Jaguar's Dealer Rationalization Program constituted good cause as it was implemented under severe economic circumstances which threatened its future competitive survival. Further, the ALJ found that the evidence established that the Dealer Rationalization Program was undertaken in good faith for legitimate business reasons and was implemented in a fair and nondiscriminatory manner. Thus, the ALJ recommended—and NMVB agreed—that the two protests be overruled and that Jaguar be permitted not to renew the franchises.

LEGISLATION:

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 bill was rejected by the Senate Transportation Committee on April 16; however, the Committee granted the bill reconsideration on that date.

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. This bill would 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. This bill would also 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. The bill would require DMV to adopt regulations with respect to these examination and instruction requirements. This bill was rejected by the Senate Transportation Committee on April 30, but the Committee granted the bill reconsideration on May 7.

AB 1763 (Sher). Existing law prohibits a licensed motor vehicle dealer from advertising a motor vehicle price at a specified amount above, below, or at the manufacturer's or distributor's invoice price to the dealer, unless the advertisement clearly and conspicuously states that the invoice amount may exceed the actual dealer cost because of allowances provided to the dealer by the manufacturer or distributor. As amended May 8, this bill would instead prohibit that advertisement unless the advertisement states that the invoice price is the amount that the dealer paid the manufacturer or distributor at the time the motor vehicle was purchased; that the invoice price may exceed actual dealer cost for the vehicle because of refunds, rebates, allowances, or incentives which the manufacturer or distributor may provide to the dealer and other items which may be included in the invoice price; and that a copy of the invoice will be shown to any customer upon request. This bill would also require any motor vehicle advertisements disseminated by television, video, billboards, newsprint, or radio to adhere to specific requirements. This bill is pending in the Assembly Ways and Means 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 bill is pending in the Senate inactive file.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 2 (Spring 1991) at page 172:

AB 211 (Tanner), as amended April 25, would provide 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 passed the Assembly on April 11 and is pending in the Senate Judiciary Committee.

AB 126 (Moore), as amended April 30, 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 passed the Assembly on May 29 and is pending in the Senate Judiciary Committee.

FUTURE MEETINGS:

August 22 in Los Angeles.

BOARD OF OSTEOPATHIC EXAMINERS

Executive Director: Linda Bergmann (916) 322-4306

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.

LEGISLATION:

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 bill is pending in the Senate Business and Professions Committee.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 2 (Spring 1991) at pages 172-73:

AB 437 (Frizzelle), as amended May 16, would change 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; delete an existing provision authorizing the Board to make arrangements with other organizations for examination materials as it deems desirable; and, regarding the qualifications for the issuance of a license based on reciprocity, delete the requirement that the out-of-state licensing examination be approved by the Board, and instead require the examination to be recognized by the Board as equal in content to that administered in California. This bill would also delete the Board's authority to require the applicant to successfully complete an examination prepared by the Federation of State Medical Boards. This bill is pending in the Assembly Ways and Means Committee.

AB 1332 (Frizzelle), as amended May 15, would provide that BOE shall be known as the Osteopathic Medical Board of California and make conforming changes. The bill would also require the 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 would also prohibit a Board member from serving for more than three full consecutive terms, passed the Assembly on May 30 and is pending in the Senate Business and Professions Committee.

AB 1691 (Filante) was substantially amended on May 8 to 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 is pending on the Assembly floor.

AB 819 (Speier). Existing law provides that it is not unlawful for prescribed licensed health professionals to