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

refer a person to a laboratory, pharmacy, clinic, or health care facility solely because the licensee has a proprietary interest or coownership in the facility. As introduced February 27, this bill would, effective July 1, 1992, instead provide that, subject to specified exceptions, it is unlawful for these licensed health professionals to refer a person to any laboratory, pharmacy, clinic, or health care facility which is owned in whole or in part by the licensee or in which the licensee has a proprietary interest; the bill would also provide that disclosure of the ownership or proprietary interest would not exempt the licensee from the prohibition. This bill is pending in the Assembly Health Committee.

RECENT MEETINGS:

The Board's June 14 meeting was cancelled.

FUTURE MEETINGS:

August 30 in Orange County.

PUBLIC UTILITIES COMMISSION

Executive Director: Neal J. Shulman
President: Patricia M. Eckert
(415) 557-1487

The California Public Utilities Commission (PUC) was created in 1911 to regulate privately-owned utilities and ensure reasonable rates and service for the public. Today, under the Public Utilities Act of 1951, Public Utilities Code section 201 *et seq.*, the PUC regulates the service and rates of more than 43,000 privately-owned utilities and transportation companies. These include gas, electric, local and long distance telephone, radio-telephone, water, steam heat utilities and sewer companies; railroads, buses, trucks, and vessels transporting freight or passengers; and wharfingers, carloaders, and pipeline operators. The Commission does not regulate city- or district-owned utilities or mutual water companies.

It is the duty of the Commission to see that the public receives adequate service at rates which are fair and reasonable, both to customers and the utilities. Overseeing this effort are five commissioners appointed by the Governor with Senate approval. The commissioners serve staggered six-year terms. The PUC's regulations are codified in Chapter 1, Title 20 of the California Code of Regulations (CCR).

The PUC consists of several organizational units with specialized roles and responsibilities. A few of the central divisions are: the Advisory and Compliance Division, which implements the Commission's decisions, monitors compliance with the Commission's orders, and advises the PUC on utility matters; the Division of Ratepayer Advocates (DRA), charged with representing the long-term interests of all utility ratepayers; and the Division of Strategic Planning, which examines changes in the regulatory environment and helps the Commission plan future policy. In February 1989, the Commission created a new unified Safety Division. This division consolidated all of the safety functions previously handled in other divisions and put them under one umbrella. The new Safety Division is concerned with the safety of the utilities, railway transports, and intrastate railway systems.

The PUC is available to answer consumer questions about the regulation of public utilities and transportation companies. However, it urges consumers to seek information on rules, service, rates, or fares directly from the utility. If satisfaction is not received, the Commission's Consumer Affairs Branch (CAB) is available to investigate the matter. The CAB will take up the matter with the company and attempt to reach a reasonable settlement. If a customer is not satisfied by the informal action of the CAB staff, the customer may file a formal complaint.

MAJOR PROJECTS:

PUC Rejects SCE's Proposed Acquisition of SDG&E. On May 8, almost three years after Southern California Edison (SCE) proposed to acquire San Diego Gas and Electric (SDG&E) in a $2.5 billion stock-swap merger, the PUC announced its unanimous decision rejecting the merger. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 173-74; Vol. 11, No. 1 (Winter 1991) p. 145; and Vol. 10, No. 4 (Fall 1990) p. 178 for extensive background information on the merger.)

Public Utilities Code section 854, added by SB 52 (Rosenthal) (Chapter 484, Statutes of 1989), requires the Commission to find that a proposed merger both (1) does not adversely affect competition, and (2) provides short-term and long-term net benefits to ratepayers and ensures that ratepayers receive these benefits. Section 854 also specifies seven criteria necessary to the Commission's determination of whether a merger is in the public interest. Any proposed merger between telephone or energy utilities, either of which has gross California revenues in excess of $500 million, must be evaluated using these criteria. Under section 854, in order for the Commission to approve a proposed merger, the utilities must prove, by a preponderance of evidence, that the merger meets all three of these requirements.

The Commission concluded: "Our decision to deny the [Edison/SDG&E] merger stands on three independent bases: failure of the proposed merger to meet the statutory requisites of Public Utilities Code Sections 854(b)(1), (b)(2) and (c)." According to the Commission:

-Edison and SDG&E failed to prove that the merger would provide net benefits to ratepayers in the long term—that is, at least several years beyond 2000. In addition, the utilities did not present a ratemaking proposal which would assure that ratepayers would receive the forecasted long-term benefits of the merger, as required by section 854(b)(1);

-the merger would have adverse effects on competition among utilities who transmit power and who sell their excess energy. These effects could not be mitigated as required by section 854(b)(2); and

-after consideration of the seven criteria listed in section 854(c) and of their proposed mitigation, in conjunction with the section 854(b)(1) and (b)(2) findings, on balance, the merger would not be in the public interest.

The Commission's decision not to authorize the Edison/SDG&E merger ends the possibility of the merger going forward, despite the fact that the Federal Energy Regulatory Commission (FERC) has yet to vote on the matter. Both agencies must approve the merger for it to take effect. Rejection by either agency prevents the merger.

In rejecting the merger, the Commission agreed with the recommendations of PUC Administrative Law Judges (ALJ) Lynn Carew and Brian Cragg, who presided over evidentiary hearings for over a year on the merger issue and issued a 1,300-page recommended rejection of the proposal on February 1. If the merger had been approved, SCE would have become the largest privately owned utility in the nation. Because of the potential adverse effects on the ratepayers, the utility industry structure in California, competition both within and outside the state, and the environment, the merger had been hotly contested. Some of the organizations against the merger included the Utility Consumers' Action Network (UCAN), the City of San Diego, San Diego Air Pollution Control District, former state Attorney General John Van de Kamp, and the PUC's Division of Ratepayer Advocates (DRA).

The lingering question whether the utilities would seek judicial review of