steward at the track where the meeting is being conducted to be responsible for monitoring the satellite wagering activities at the track and at all satellite wagering facilities receiving the signal. Instead, this bill would require the Board to contract with persons licensed as stewards to perform duties as Board representatives at satellite wagering facilities with an average daily handle of $100,000 or more, but would prohibit the assigning of more than one steward per event. This bill is pending in the Assembly Committee on Governmental Organization.

SB 2010 (Maddy), as amended May 17, was signed by the Governor on June 8 (Chapter 138, Statutes of 1988). Existing law requires any person claiming money from a parimutuel pool to file a claim with the CHRB within sixty days after the close of a horse racing meeting and requires any unclaimed money from a parimutuel pool to be paid to the Board ninety days after the close of the meeting. This bill requires a person to file a claim for money from a parimutuel pool with the association issuing the ticket within 120 days after the close of the meeting, and deletes the provisions for filing claims with the Board. The bill also requires any unclaimed money from a parimutuel pool to be paid to the Board 120 days after the close of the meeting, with specified exceptions.

SB 532 (Keene), as amended June 13, would authorize the CHRB to permit quarter horse races over distances of up to 5-½ furlongs. At this writing, this bill is pending in the Assembly Ways and Means Committee.

The following bills died in committee or were dropped by their authors: *AB 3198 (Bane)*, regarding harness racing at the 22nd District Agricultural Association (Del Mar); and *AB 2318 (Waters)*, regarding state license fees for mixed breed meetings.

FUTURE MEETINGS:

August 26 at Del Mar.
September 23 at San Mateo.
October 21 at Arcadia.
November 18 at Los Angeles.
December 16 at Los Angeles.

NEW MOTOR VEHICLE BOARD

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

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. Most licensees deal in cars or motorcycles.

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:

Proposed Regulations for Third Party Dispute Resolution Certification Program. At its June 22 meeting in Los Angeles, the Board was scheduled to consider proposed new Article 1.5, which (if approved) will be added to its regulations which appear in Title 13, California Code of Regulations. Article 1.5 will implement AB 2057 (Tanner) (Chapter 1280, Statutes of 1987), which added section 9889.75 to the Business and Professions Code. Section 9889.75 requires the NMVB to establish and administer the collection of fees for the purpose of fully funding the Bureau of Automotive Repair's Certification Program for Qualified Third Party Dispute Resolution Processes. (See CRLR Vol. 7, No. 4 (Fall 1987) pp. 40 and 104; and Vol. 7, No. 3 (Summer 1987) pp. 58-59 and 129 for background information on AB 2057.)

The Board has proposed two alternative versions of Article 1.5, and will adopt whichever version is appropriate depending upon whether AB 1367 (Tanner), which would amend section 9889.75, passes the legislature (*see supra* LEGISLATION). Alternative #1 assumes that AB 1367 fails to pass and section 9889.75 remains as it is. Section 9889.75 currently requires manufacturers to file a statement with their license application or renewal submitted to the Department of Motor Vehicles (DMV), which reports the number of new motor vehicles which were sold, leased, or otherwise distributed by or for the manufacturer or distributor in California within the preceding calendar year. Under Alternative #1, the DMV will calculate the fee to be assessed from this statement, using 42 cents per new motor vehicle distributed, and the manufacturer will be notified by DMV to submit that fee to DMV at the time of license renewal or application.

Alternative #2 assumes that AB 1367 will amend section 9889.75 to require manufacturers to file a statement with the NMVB on or before May 1 of every year, which reports the number of new motor vehicles distributed by the manufacturer which were sold, leased, or otherwise distributed in California during the preceding calendar year. The NMVB would then determine the fee to be assessed per vehicle pursuant to a formula set forth in the proposed regulation. Alternative #2 also sets forth a delinquency period and delinquency penalties which are consistent with AB 1367.

LEGISLATION:

AB 1367 (Tanner), as amended May 31, would amend section 9889.75 of the Business and Professions Code. For purposes of the Certification Account which funds the Bureau of Automotive Repair's program for certification of third party dispute resolution processes, this bill would require every new motor vehicle manufacturer to file a statement on or before May 1 of each year which contains specified information, and to pay a fee within a specified time period after written notification by the NMVB. This bill also requires the NMVB, in adopting regulations to implement section 9889.75, to include a formula for calculating the fee to be collected for each motor vehicle and the total amount of fees to be collected from each manufacturer. (*See supra* MAJOR PROJECTS for related discussion.) AB 1367 was submitted to the Governor for approval on June 14.

AB 3659 (Duplissea), as amended on April 20, would proscribe specified acts relative to advertisements for the sale of vehicles, and would require specified information to be disclosed in those advertisement. The bill would also provide a definition of "manufacturer's suggested retail price" for purposes of those advertisements. This bill passed the Assembly on June 9 and is pending in the Senate Transportation Committee.

AB 4513 (Tanner), as amended April 20, would revise the definition of "motor vehicle" for the purpose of warranties,

to include the chassis, chassis cab, and that portion of a motorhome devoted to its propulsion. The bill would also define "motorhome" for these purposes to mean a vehicular unit built on, or permanently attached to, a self-propelled motor vehicle chassis, chassis cab, or van, which becomes an integral part of the completed vehicle, designed for human habitation for recreational or emergency occupancy. This bill passed the Assembly on June 1 and is pending in the Senate Judiciary Committee.

SB 2863 (Doolittle). The Unruh Act currently regulates the contents of retail installment sales contracts; and the Rees-Levering Motor Vehicle Sales and Finance Act currently regulates the contents of conditional sales contracts for the sale of a motor vehicle, as defined. This bill, as amended on May 5, would provide that any vehicle required to be identified pursuant to a specified provision of the Vehicle Code does not come within the meaning of "goods" for purposes of the Unruh Act, but does come within the meaning of "motor vehicle" for purposes of the Rees-Levering Act. This bill passed the Senate on June 2 and is pending in the Assembly Finance and Insurance Committee.

RECENT MEETINGS:

At its May 12 meeting, the Board sustained Orange County Suzuki's (OCS) protest against an attempted francise termination by U.S. Suzuki Motor Corporation. In a decision entitled *SDB, Inc., dba Orange County Suzuki v. U.S. Suzuki Motor Corp.*, No. PR-916-87 (May 18, 1988), the NMVB held that Suzuki had not met its statutory burden under section 3066(b) of the Vehicle Code of proving good cause to terminate OCS' franchise.

OCS' problems began when its lease on a motorcycle dealership facility in Costa Mesa expired in July 1986. For approximately one year, OCS searched for alternative premises, and finally found another Costa Mesa site. On July 9, 1987, a Suzuki representative inspected the proposed facility and orally informed OCS that the location would not be approved, because the building did not have "full frontage glass walls" as purportedly required by the franchise agreement and Suzuki's own Dealer Development Guide (DDG). In spite of this oral rejection, OCS signed a ten-year lease on the facility on July 10, and protested the attempted termination of its franchise agreement to the NMVB in September 1987.

The NMVB found that Suzuki's sole basis for terminating the franchise was the window problem. However, the Board found that Suzuki had misrepresented its DDG standards to OCS. The standards require only that the front of the building should be "largely constructed of glass," and the Board found that of a 48-foot-long showroom, a 24' x 11' (264 square feet) area is glass. Further, the Board found that the DDG standard was "never published nor distributed to the individual franchisees," and thus did not constitute a published requirement which OCS was bound to satisfy under the terms of its franchise agreement. Thus, the Board found that Suzuki unreasonably withheld its approval of the new location, and failed to satisfy its burden of proving other factors set forth in the Vehicle Code.

FUTURE MEETINGS:

To be announced.

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). 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:

Regulatory Changes. On June 6, OAL approved the Board's amendments to sections 1630, 1647, 1681, and 1690, Chapter 16, Title 16 of the California Code of Regulations. (For detailed background information, see CRLR Vol. 8, No. 2 (Spring 1988) p. 119.)

Oral/Practical Examination. Eighty-two applicants sat for the Board's Oral/Practical Examination on March 20, with 77 passing.

LEGISLATION:

AB 3949 (Leslie) would authorize an administrative law judge to order a licensee to pay the costs of investigation associated with disciplinary proceedings when the licensee is found guilty of unprofessional conduct. This bill passed the Assembly on May 19 and is pending in the Senate Business and Professions 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.

SB 2536 (Craven) would add the charging of an unconscionable fee to the grounds for disciplinary action which may be taken against osteopathic physicians and surgeons. The bill passed the Senate on May 9 and is pending in the Assembly Health Committee.

The following is a status update on bills reported in CRLR Vol. 8, No. 2 (Spring 1988) at pages 119-20:

SB 2267 (Greene) has been amended several times and now specifies that osteopathic medical students enrolled in an approved school are not to be discriminated against, as described therein. The bill passed the Senate on June 2 and is now pending in the Assembly Health Committee.

AB 4197 (Isenberg) would authorize BOE to establish a substance abuse diversion program. The bill was amended on April 7 to include a provision stating that the committees established therein would be responsible for promoting the program to the public and within the profession, and for providing all licentiates with written information concerning the program. The bill passed the Assembly on May 19 and is pending in the Senate Appropriations Committee at this writing.

AB 4622 (Bader) would authorize a program of reciprocity between BOE and other state boards, specifying requirements which may include passage of a special examination prepared by one of several organizations enumerated therein. The bill passed the Assembly on May 19 and is pending in the Senate Appropriations Committee.

SB 2491 (Montoya), as amended in June, would still clarify the extent to which a health facility is prohibited from discriminating against a physician and surgeon on the basis of whether the individual holds an MD or DO degree. The bill would also mandate specific procedures to ensure high professional and ethical practices and would provide