



DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY
 2000 EVERGREEN STREET, SUITE 250
 SACRAMENTO, CA 95815-3832
 TELEPHONE: (916) 263-3680
 FACSIMILE: (916) 263-3675
 WEB ADDRESS: <http://www.cba.ca.gov>



**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
 PUBLIC MEETING NOTICE FOR THE MOBILITY STAKEHOLDER GROUP (MSG),
 COMMITTEE ON PROFESSIONAL CONDUCT (CPC), LEGISLATIVE COMMITTEE
 (LC), ENFORCEMENT PROGRAM OVERSIGHT COMMITTEE (EPOC), AND CBA
 MEETINGS**

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| DATE: Thursday, May 28, 2015 | JOINT CBA & MSG MEETING
TIME: 9:00 a.m. |
| DATE: Thursday, May 28, 2015 | MSG MEETING
TIME: 10:30 a.m. or upon adjournment
of the Joint CBA & MSG Meeting |
| DATE: Thursday, May 28, 2015 | CPC MEETING
TIME: 11:00 a.m. or upon adjournment
of the MSG Meeting |
| DATE: Thursday, May 28, 2015 | LC MEETING
TIME: 11:15 a.m. or upon adjournment
of the CPC Meeting |
| DATE: Thursday, May 28, 2015 | EPOC MEETING
TIME: 11:45 a.m. or upon adjournment
of the LC Meeting |
| DATE: Thursday, May 28, 2015 | CBA MEETING
TIME: 1:30 p.m. to 5:00 p.m. |
| DATE: Friday, May 29, 2015 | CBA MEETING
TIME: 9:00 a.m. to 11:00 a.m. |
| PLACE: Hilton Los Angeles Airport
5711 West Century Boulevard
Los Angeles, CA 90045
Telephone: (310) 410-4000
Fax: (310) 410-6250 | |

Enclosed for your information is a copy of the agendas for the Joint CBA & MSG, MSG, CPC, LC, EPOC, and CBA meetings on May 28-29, 2015. For further information regarding these meetings, please contact:

Corey Riordan, Board Relations Analyst
(916) 561-1716 or cfriordan@cba.ca.gov
California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815

An electronic copy of this notice can be found at <http://www.dca.ca.gov/cba/calendar.shtml>

The meeting is accessible to individuals who are physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Corey Riordan at (916) 561-1718, or email cfriordan@cba.ca.gov, or send a written request to the CBA Office at 2000 Evergreen Street, Ste. 250, Sacramento, CA 95815. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.



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**DEPARTMENT OF CONSUMER AFFAIRS (DCA)
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
AND
MOBILITY STAKEHOLDER GROUP (MSG)**

**JOINT CBA & MSG MEETING
AGENDA**

**Thursday, May 28, 2015
9:00 a.m.**

**Hilton Los Angeles Airport
5711 West Century Boulevard
Los Angeles, CA 90045
Telephone: (310) 410-4000
Fax: (310) 410-6250**

Important Notice to the Public

All times indicated, other than those identified as "time certain," are approximate and subject to change. Agenda items may be discussed and action taken out of order at the discretion of the CBA President. The meeting may be cancelled without notice. For verification of the meeting, call (916) 561-1716 or access the CBA's website at <http://www.cba.ca.gov>.

Call to Order, Roll Call, and Establishment of Quorum
(**Jose Campos, CBA President & Katrina Salazar, MSG Chair**).

- I. Discussion on the National Association of State Boards of Accountancy's (NASBA) Guiding Principles of Enforcement and its Comparison to the California Board of Accountancy's Enforcement Practices, Pursuant to Business and Professions Code Section 5096.21 (**Ken Bishop, NASBA President and Chief Executive Officer; Maria Caldwell, NASBA Chief Legal Counsel and Director of Compliance Services; Stacey Grooms, NASBA Regulatory Affairs Manager; and Dominic Franzella, CBA Enforcement Chief**).
 - II. Public Comments. *
- Adjournment

Action may be taken on any item on the agenda.

In accordance with the Bagley-Keene Open Meeting Act, all meetings of the CBA are open to the public. While the CBA and MSG intend to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources.

*Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the CBA prior to the CBA taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the CBA, but the CBA President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the members of this joint meeting to discuss items not on the agenda; however, the CBA or MSG can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).



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**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
 MOBILITY STAKEHOLDER GROUP (MSG)**

**MSG MEETING
 AGENDA**

Thursday, May 28, 2015

10:30 a.m.

Or Upon Adjournment of the Joint CBA & MSG Meeting

**Hilton Los Angeles Airport
 5711 West Century Boulevard
 Los Angeles, CA 90045
 Telephone: (310) 410-4000
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Important Notice to the Public

All times indicated, other than those identified as "time certain," are approximate and subject to change. Agenda items may be discussed and action taken out of order at the discretion of the MSG Chair. The meeting may be cancelled without notice. For verification of the meeting, call (916) 561-1716 or access the CBA's website at <http://www.cba.ca.gov>.

	<u>CBA Item #</u>
Call to Order, Roll Call, and Establishment of Quorum (Katrina Salazar, Chair).	
I. Approval of Minutes of the March 19, 2015 MSG Meeting.	XI.B.
II. Introduction of New MSG Members, Don Driftmier and Michael Savoy (Katrina Salazar).	
III. The MSG Decision Matrix and Stakeholder Objectives (Written Report Only).	IX.D.2.
IV. Analysis and Guidance From the MSG Regarding NASBA's Guiding Principles of Enforcement (Matthew Stanley, Manager, Examination and Practice Privilege Units).	IX.D.3.
V. Discussion About the Timeline for Activities Regarding Determinations to be Made Pursuant to Business and Professions Code Section 5096.21 (Matthew Stanley).	IX.D.4.
VI. Discussion Regarding NASBA's Activities and CPAVerify (Matthew Stanley).	IX.D.5.

VII. Discussion Regarding Proposed Agenda Items for the Next MSG Meeting (**Matthew Stanley**).

IX.D.6.

VIII. Public Comments.*

Adjournment

Action may be taken on any item on the agenda. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the MSG are open to the public.

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CBA members who are not members of the MSG may be attending the meeting. However, if a majority of members of the full CBA are present at the MSG meeting, members who are not MSG members may attend the meeting only as observers.



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**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
 COMMITTEE ON PROFESSIONAL CONDUCT (CPC)**

**CPC MEETING
 AGENDA**

**Thursday, May 28, 2015
 11:00 a.m.**

Or Upon Adjournment of the Mobility Stakeholder Group Meeting

**Hilton Los Angeles Airport
 5711 West Century Boulevard
 Los Angeles, CA 90045
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Important Notice to the Public

All times indicated, other than those identified as "time certain," are approximate and subject to change. Agenda items may be discussed and action taken out of order at the discretion of the CPC Chair. The meeting may be cancelled without notice. For verification of the meeting, call (916) 561-1716 or access the CBA's website at <http://www.cba.ca.gov>.

	<u>CBA Item #</u>
Call to Order, Roll Call, and Establishment of Quorum (Leslie LaManna, Chair).	
I. Approve Minutes of the March 19, 2015 CPC Meeting.	XI.C.
II. Discussion Regarding Possible Changes to California Code of Regulations (CCR) Section 9.1 – Foreign Credentials Evaluation Services Approval Criteria (Matthew Stanley, Manager, Examination and Practice Privilege Units).	IX.A.2.
III. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations (CCR) Section 42 – Peer Review Exclusions (Dominic Franzella, Enforcement Chief).	IX.A.3.
IV. Public Comments.*	
V. Agenda Items for Next Meeting.	
Adjournment	

Action may be taken on any item on the agenda. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the CPC are open to the public.

*Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the CPC prior to the CPC taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the CPC. Individuals may appear before the CPC to discuss items not on the agenda; however, the CPC can take no official action on these items at the time of the same meeting. (Government Code section 11125.7(a))

CBA members who are not members of the CPC may be attending the meeting. However, if a majority of members of the full board are present at the CPC meeting, members who are not CPC members may attend the meeting only as observers.



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**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
 LEGISLATIVE COMMITTEE (LC)**

**LC MEETING
 AGENDA**

**Thursday, May 28, 2015
 11:15 a.m.**

Or Upon Adjournment of the Committee on Professional Conduct Meeting

**Hilton Los Angeles Airport
 5711 West Century Boulevard
 Los Angeles, CA 90045
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 Fax: (310) 410-6250**

Important Notice to the Public

All times indicated, other than those identified as "time certain," are approximate and subject to change. Agenda items may be discussed and action taken out of order at the discretion of the LC Chair. The meeting may be cancelled without notice. For verification of the meeting, call (916) 561-1716 or access the CBA's website at <http://www.cba.ca.gov>.

	<u>CBA Item #</u>
Call to Order, Roll Call, and Establishment of Quorum (Mark Silverman, Chair).	
I. Approve Minutes of the March 19, 2015 LC Meeting.	XI.D.
II. Update on Legislation on Which the CBA Has Taken a Position and Discussion Regarding Possible Action (AB 85, SB 8, SB 467, and SB 799) (Kathryn Kay, Legislation Analyst).	IX.B.2.
III. Consideration of Positions on Newly Introduced Legislation (Kathryn Kay).	IX.B.3.
A. AB 1060 – Professions and vocations: licensure.	IX.B.3.a.
B. AB 750 – Business and professions: retired category: licenses.	IX.B.3.b.
C. AB 507 – Department of Consumer Affairs: BreZE: annual report.	IX.B.3.c.
IV. Additional Legislation Impacting the CBA Identified by Staff After the Posting of the Meeting Notice (Kathryn Kay).	IX.B.4.

V. Discussion and Possible Action to Recommend a Legislative Proposal to Amend Business and Professions Code Section 5055 Relating to the Title of Certified Public Accountant (**Kathryn Kay**).

IX.B.5.

VI. Public Comments.*

VII. Agenda Items for Next Meeting.

Adjournment

Action may be taken on any item on the agenda. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the LC are open to the public.

*Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the LC prior to the LC taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the LC. Individuals may appear before the LC to discuss items not on the agenda; however, the LC can take no official action on these items at the time of the same meeting. (Government Code section 11125.7(a))

CBA members who are not members of the LC may be attending the meeting. However, if a majority of members of the full board are present at the LC meeting, members who are not LC members may attend the meeting only as observers.



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**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
 ENFORCEMENT PROGRAM OVERSIGHT COMMITTEE (EPOC)**

**EPOC MEETING
 AGENDA**

**Thursday, May 28, 2015
 11:45 a.m.**

Or Upon Adjournment of the Legislative Committee Meeting

**Hilton Los Angeles Airport
 5711 West Century Boulevard
 Los Angeles, CA 90045
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Important Notice to the Public

All times indicated, other than those identified as "time certain," are approximate and subject to change. Agenda items may be discussed and action taken out of order at the discretion of the EPOC Chair. The meeting may be cancelled without notice. For verification of the meeting, call (916) 561-1716 or access the CBA's website at <http://www.cba.ca.gov>.

	<u>CBA Item #</u>
Call to Order, Roll Call, and Establishment of Quorum (Kay Ko, Chair).	
I. Approve Minutes of the March 19, 2015 EPOC Meeting.	XI.E.
II. Discussion Regarding Compelling Physical or Mental Health Evaluations of Licensees or Applicants (Dominic Franzella, Enforcement Chief).	IX.C.2.
III. Public Comments.*	
IV. Agenda Items for Next Meeting.	

Adjournment

Action may be taken on any item on the agenda. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the EPOC are open to the public.

*Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the EPOC prior to the EPOC taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the EPOC. Individuals may appear before the EPOC to discuss items not on the agenda; however, the EPOC can take no official action on these items at the time of the same meeting. (Government Code section 11125.7(a))

CBA members who are not members of the EPOC may be attending the meeting. However, if a majority of members of the full board are present at the EPOC meeting, members who are not EPOC members may attend the meeting only as observers.



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**DEPARTMENT OF CONSUMER AFFAIRS (DCA)
 CALIFORNIA BOARD OF ACCOUNTANCY (CBA)**

**CBA MEETING
 AGENDA**

**May 28, 2015
 1:30 p.m. – 5:00 p.m.**

**May 29, 2015
 9:00 a.m. – 11:00 a.m.**

**Hilton Los Angeles Airport
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 Los Angeles, CA 90045
 Telephone: (310) 410-4000
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Important Notice to the Public

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**Time Certain
 Thursday,
 May 28, 2015**

**1:30 p.m. –
 1:40 p.m.**

Call to Order, Roll Call, and Establishment of Quorum
 (**Jose Campos, President**).

I. Regulations (Pat Billingsley, Regulation Analyst**).**

A. Regulation Hearing Regarding Title 16, California Code of Regulations (CCR) Section 70 – Fees.

B. Discussion and Possible Action to Amend Title 16, CCR Section 70 – Fees.

**1:40 p.m. –
 2:25 p.m.**

II. Report of the President (Jose Campos**).**

A. Introduction of New CBA Member, Jian Ou-Yang, CPA.

- B. Update Regarding Sunset Review Activities.
- C. Presentation Regarding Bagley-Keene Open Meeting Act Specific to Attendance at Conferences or Similar Gatherings Open to the Public (**Kristy Schieldge, Legal Counsel, Department of Consumer Affairs**).
- D. Discussion Regarding CBA Committee Liaison Roles (**Corey Riordan, Board Relations Analyst**).
- E. Discussion Regarding the Mentoring of New Members (**Deanne Pearce, Assistant Executive Officer**).
- F. Delegation of Adjournment of the CBA Meetings to the CBA President and Adjournment of the Committee Meetings to the Respective Committee Chairs (**Corey Riordan**).
- G. Mandatory Training for Board Members within the Department of Consumer Affairs (**Corey Riordan**).
- H. Discussion and Approval of the CBA's Preliminary Determinations Report Required Pursuant to Business and Professions Code Section 5096.21 (**Matthew Stanley, Manager, Examination and Practice Privilege Units**).
- I. Announcement of New Committee and Liaison Appointments (Written Report Only).
- J. DCA Directors Report (**DCA Representative**).

2:25 p.m. –
2:30 p.m.

- III. Report of the Vice President (**Katrina Salazar**).
 - A. Recommendations for Appointment(s)/Reappointment(s) to the Enforcement Advisory Committee (EAC).
 - B. Recommendations for Appointment(s)/Reappointment(s) to the Qualifications Committee (QC).
 - C. Recommendations for Appointment(s)/Reappointment(s) to the Peer Review Oversight Committee (PROC).

2:30 p.m. –
2:40 p.m.

- IV. Report of the Secretary/Treasurer (**Alicia Berhow**).
 - A. Fiscal Year 2014-15 Third Quarter Financial Statement and Governor's Budget.

2:40 p.m. –
2:50 p.m.

- V. Report of the Executive Officer (EO) (**Patti Bowers**).
 - A. Update on the Relocation of the CBA’s Office.
 - B. Update on Staffing.
 - C. Update on the CBA 2013-2015 Communications and Outreach Plan (Written Report Only).

2:50 p.m. –
3:00 p.m.

- VI. Report on the Enforcement Advisory Committee, Qualifications Committee and Peer Review Oversight Committee.
 - A. Enforcement Advisory Committee (EAC) (**Jeffrey De Lyser, Chair**).
 - A. Report of the April 30, 2015 EAC Meeting.
 - B. Qualifications Committee (QC) (**Robert Ruehl, Chair**).
 - 1. Report of the April 22, 2015 QC Meeting.
 - C. Peer Review Oversight Committee (PROC) (**Robert Lee, Chair**).
 - 1. Report of the May 1, 2015 PROC Meeting.

3:00 p.m. –
3:15 p.m.

- VII. Report of the Enforcement Chief (**Dominic Franzella**).
 - A. Enforcement Activity Report.

3:15 p.m. –
3:25 p.m.

- VIII. Report of the Licensing Chief (**Gina Sanchez**).
 - A. Licensing Activity Report.

3:25 p.m. –
4:45 p.m.

- IX. Committee Reports.
 - A. Committee on Professional Conduct (CPC) (**Leslie LaManna**).
 - 1. Report of the May 28, 2015 CPC Meeting.
 - 2. Discussion Regarding Possible Changes to California Code of Regulations (CCR) Section 9.1 – Foreign Credentials Evaluation Services Approval Criteria.
 - 3. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations (CCR) Section 42 – Peer Review Exclusions.

B. Legislative Committee (LC) (**Mark Silverman**).

1. Report of the May 28, 2015 LC Meeting.
2. Update on Legislation on Which the CBA Has Taken a Position and Discussion Regarding Possible Action (AB 85, SB 8, SB 467, and SB 799).
3. Consideration of Positions on Newly Introduced Legislation.
 - a. AB 1060 – Professions and vocations: licensure.
 - b. AB 750 – Business and professions: retired category: licenses.
 - c. AB 507 – Department of Consumer Affairs: BreEZe: annual report.
4. Additional Legislation Impacting the CBA Identified by Staff After the Posting of the Meeting Notice.
5. Discussion and Possible Action to Recommend a Legislative Proposal to Amend Business and Professions Code Section 5055 Relating to the Title of Certified Public Accountant.

C. Enforcement Program Oversight Committee (EPOC) (**Kay Ko**).

1. Report of the May 28, 2015 EPOC Meeting.
2. Discussion Regarding Compelling Physical or Mental Health Evaluations of Licensees or Applicants.

D. Mobility Stakeholder Group (MSG) (**Katrina Salazar**).

1. Report of the May 28, 2015 MSG Meeting.
2. The MSG Decision Matrix and Stakeholder Objectives (Written Report Only).
3. Analysis and Guidance From the MSG Regarding NASBA's Guiding Principles of Enforcement.
4. Discussion About the Timeline for Activities Regarding Determinations to be Made Pursuant to Business and Professions Code Section 5096.21.

- 5. Discussion Regarding NASBA's Activities and CPAVerify.
- 6. Discussion Regarding Proposed Agenda Items for the Next MSG Meeting.
- X. Public Hearing and Possible Finding as to Whether NASBA's Guiding Principles of Enforcement Meet or Exceed the CBA's Enforcement Practices Made Pursuant to Business and Professions Code Section 5096.21(c)(2) (**Matthew Stanley**).

4:45 p.m. –
4:50 p.m.

- XI. Acceptance of Minutes.
 - A. Draft Minutes of the March 19-20, 2015 CBA Meeting.
 - B. Minutes of March 19, 2015 MSG Meeting.
 - C. Minutes of the March 19, 2015 CPC Meeting.
 - D. Minutes of the March 19, 2015 LC Meeting.
 - E. Minutes of the March 19, 2015 EPOC Meeting.
 - F. Minutes of the January 29, 2015 EAC Meeting.
 - G. Minutes of the January 30, 2015 PROC Meeting.
 - H. Minutes of the January 21, 2015 QC Meeting.

4:50 p.m. –
4:55 p.m.

- XII. Other Business.
 - A. American Institute of Certified Public Accountants (AICPA).
 - B. National Association of State Boards of Accountancy (NASBA).
 - 1. Report on Strategic Planning Task Force (**Michael Savoy**).

4:55 p.m. –
5:00 p.m.

- XIII. Closing Business.
 - A. Public Comments.*
 - B. Agenda Items for Future CBA Meetings.
 - C. Press Release Focus (**Deanne Pearce**).

**Friday,
May 29, 2015
9:00 a.m. –
11:00 a.m.**

XIV. Closed Session.**

- A. Pursuant to Government Code Section 11126(c)(3), the CBA Will Convene Into Closed Session to Deliberate on Disciplinary Matters (Stipulated Settlements, Default Decisions, and Proposed Decisions).
- B. Pursuant to Government Code Section 11126(e), the CBA Will Meet In Closed Session to Receive Advice from Legal Counsel on Litigation (David Greenberg v. California Board of Accountancy, Orange County Superior Court, Case No. 30-2014-00751855-CU-BT-CJC and David Greenberg v. California Board of Accountancy, Los Angeles County Superior Court, Case No. BS155045).

Adjournment

**Action may be taken on any item on the agenda. The time and order of agenda items, including closed session, are subject to change at the discretion of the CBA President and may be taken out of order.

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CBA Item I.A.
May 28-29, 2015

Regulation Hearing Regarding Title 16, California Code of Regulations (CCR) Section 70 – Fees

Presented by: Pat Billingsley, Regulatory Analyst

Purpose of the Item

The purpose of this agenda item is to provide information from the rulemaking file for the use of the California Board of Accountancy (CBA) during its regulatory hearing.

Action(s) Needed

No specific action is required on this agenda item.

Background

Business and Professions Code section 5134, authorizes the CBA to charge various fees including fees for application for the certified public accountant examination and reexamination; an application fee for issuance of a certified public accountant certificate; an application fee for registration as a partnership or corporation; and for the biennial renewal fee.

At its March 19, 2015 meeting, the CBA directed staff to move forward with the rulemaking process to amend Title 16, California Code of Regulations, section 70, which would restore biennial renewal and initial permit fees to \$200.

The Notice of Proposed Action was filed with the Office of Administrative Law (OAL) on March 30, 2015 and published on April 10, 2015, thus initiating the required 45-day public comment period. May 25, 2015 marks the end of the public comment period, and on May 28, 2015, during the CBA meeting, a public hearing will be conducted on the proposed action.

Comments

The following attachments will aid in your preparation for the hearing:

- Notice of Proposed Action (**Attachment 1**)
- Proposed Regulatory Language (**Attachment 2**)
- California Board of Accountancy - Initial Statement of Reasons (**Attachment 3**)

During the public hearing the CBA may hear oral testimony and receive written comments. If any changes are made as a result of these comments, a 15-day Notice of Modified Text will be required. Any comments received after the CBA mail out will be supplied to the CBA at the meeting. The CBA can discuss any comments and may act to adopt the proposed regulations under **CBA Agenda Item I.A.** Prior to submitting the

Regulation Hearing Regarding Title 16, California Code of Regulations (CCR)

Section 70 – Fees

Page 2 of 2

final regulation package to OAL, staff will draft responses to any comments and prepare the Final Statement of Reasons for distribution to all persons who provided comments.

Fiscal/Economic Impact Considerations

Restoring the biennial renewal and initial permit fees will eliminate the current unsustainable state of negative cash flow and would provide the CBA a strong future Reserve level.

Recommendation

Staff does not have a recommendation on this agenda item.

Attachments

1. Notice of Proposed Action
2. Proposed Regulatory Language
3. California Board of Accountancy - Initial Statement of Reasons

NOTICE OF PROPOSED ACTION**TITLE 16. DIVISION 1. CALIFORNIA BOARD OF ACCOUNTANCY**

NOTICE IS HEREBY GIVEN that the California Board of Accountancy (CBA) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**The Hilton Los Angeles Airport
5711 West Century Boulevard
Los Angeles, CA 90045
Thursday, May 28, 2015
1:30 p.m.**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the CBA at its office not later than 5:00 p.m. on May 25, 2015 or must be received by the CBA at the hearing. The CBA, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 5010 and 5134 of the Business and Professions Code (BPC), and to implement, interpret or make specific Section 5134 of said Code, the CBA is considering changes to Division 1 of Title 16 of Section 70 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CBA regulates approximately 97,000 licensees; consisting of 91,500 certified public accountants, 5,500 accounting firms (partnerships and corporations) and 270 out-of-state registered accounting firms. The CBA's highest priority is the protection of the public when exercising its licensing, regulatory and disciplinary functions. The primary methods by which the CBA achieves these goals is ensuring only qualified licensees practice public accountancy in accordance with established professional standards, investigating complaints against licensees, and disciplining licensees for violations of BPC sections 5100 (et seq.).

Existing law, BPC section 5134, authorizes the CBA to charge various fees, including: application for the certified public accountant examination and reexamination; an initial permit fee for issuance of a partnership, corporation, or certified public accountant certificate; an application fee for registration as a partnership or corporation; and for the biennial renewal fee. The fees for biennial renewal and initial permit are currently set at \$50, with an automatic increase to \$120 scheduled to occur on July 1, 2016 pursuant to Title 16, California Code of Regulations section 70. This proposal would restore the

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biennial renewal and initial permit fees to \$200, a level that existed prior to fiscal year (FY) 2011-12. All remaining fees would be maintained at their existing level. Through this rulemaking, the CBA will ensure sufficient resources to maintain current board operations and help ensure the CBA maintains sufficient reserves to meet its mandate of consumer protection going forward.

The CBA proposes to amend California Code of Regulations, Title 16, Section 70, regarding fees, as follows:

- Amend Section 70(a)(1) to delete the date of June 30, 2016 resulting in the continuation of the current fees of \$50 for the issuance of the Authorization to Test to first-time applicants and \$25 for issuance of the Authorization to Test to repeat applicants.
- Repeal Section 70(a)(2), which contains authority to increase fees to \$100 and \$50 on July 1, 2016 for the issuance of the Authorization to Test to first-time applicants and issuance of the Authorization to Test to repeat applicants; this would allow the CBA to retain fees as established in Section 70(a)(1).
- Amend Section 70(b)(1) to delete the date of June 30, 2016 resulting in the continuation of the current fee of \$50 for the issuance of a certified public accountant certificate.
- Repeal Section 70(b)(2), which contains authority to increase fees to \$250 on July 1, 2016 for issuance of a certified public accountant certificate; this would allow CBA to retain fees as established in Section 70(b)(1).
- Amend Section 70(c)(1) to delete the date of June 30, 2016 resulting in the continuation of the current fee of \$30 for the application fee for registration as a partnership or as a corporation, including registration under a new name as a partnership or as a corporation.
- Repeal Section 70(c)(2), which contains authority to increase fees to \$150 on July 1, 2016 for issuance of a registration for a partnership or as a corporation, (including registration under a new name); this would allow CBA to retain fees as established in Section 70(c)(1).
- Amend Section 70(d)(2) to restore the fee to \$200 from \$120 for the initial permit to practice as a partnership, a corporation, or a certified public accountant and eliminate the requirement to consider Section 70(j) in calculating the fee, commencing July 1, 2016.
- Repeal Section 70(e)(1) to remove the word “reserved”.
- Amend Section 70(e)(2) and renumber to 70(e)(1).
- Amend Section 70(e)(3) by renumbering to 70(e)(2) to restore the fee from \$120 to \$200 for renewal of a permit to a practice as partnership, a corporation, a public accountant, or a certified public accountant and eliminate the requirement to consider Section 70(j) in calculating the fee.

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- Repeal Section 70(j), which currently requires the CBA to conduct a review of its actual and estimated costs by May 31, 2015 and determine the appropriate level of fees for the initial permit to practice and renewal of the permit to practice in order to maintain a contingent fund reserve balance equal to 3 months' estimated annual authorized expenditures. If the CBA currently determines that fees of less than \$120 are indicated, the CBA shall fix the fees by regulation by July 1, 2016.

The CBA is proposing these changes to restore initial permit and license renewal fees to levels that were in place prior to fiscal year (FY) 2011-12 and following two temporary fee reductions. The restoration is necessary to address the CBA's present negative cash flow, bring revenues more closely in line with expenditures, and increase the CBA's Reserve levels to ensure the CBA has sufficient funds to meet its mandate of consumer protection.

ANTICIPATED BENEFITS

According to the CBA's fund condition for fiscal year 2014-15, the CBA is projecting a fund balance of \$6 million or 5.5 MIR, a decline of revenue of over \$8 million dollars. For FY 2015-16, the CBA is projected to have a fund balance of approximately \$4 million or 3.2 MIR. If no fee changes are made, the fund balance and MIR levels will continue to lower in future years. Without changes to the current fee levels, including the projected current increases that will become effective July 1, 2016, the CBA will have insufficient funding to enable the CBA to continue operations. During the most recent meetings with the Legislature in 2015 for the CBA's Sunset Review, concern was expressed over the CBA's low reserve.

If approved as proposed this fee increase will have a positive effect on the CBA's Reserve. Specifically, according to the CBA's Fund Condition Statement, the CBA's revenues will increase more than \$9 million per fiscal year. Beginning in FY 2017-18, the CBA is projected to have an approximate 14 MIR level. Further, the projected revenues appear to be close to projected expenditures, bringing the CBA's fees to a stable level.

Also strengthening the justification for restoring the CBA's Reserve is the need to have sufficient resources available should the CBA need to exercise its emergency contingency funding for \$2 million dollars to address enforcement costs and litigation expenses, pursuant to BPC section 5025.2. Given the volume of enforcement cases and the complex and sensitive nature of the CBA's investigations, it is critical that this funding be available at all times. Additionally, if the CBA does not have sufficient reserves and exceeds its contingency funding, the CBA's enforcement program would suffer from reductions in resources which would delay processing consumer complaints, conducting investigations, and referring egregious cases to the Attorney General's Office for prosecution. These types of delays would ultimately prevent the CBA from efficiently and effectively protecting the public.

The revenue generated from these fees is placed in the Accountancy Fund and is utilized by the CBA to carry out its responsibilities as required by the Accountancy Act.

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Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the CBA has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

INCORPORATION BY REFERENCE

None.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

Nondiscretionary Costs/Savings to Local Agencies:

None.

Local Mandate:

None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement:

None

Business Impact:

The CBA has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination:

The CBA has determined that the following types of businesses may be affected by the proposed fee increase:

- Businesses owned by a licensee of the CBA that pay for the initial licensure and license renewal fees of its CPA owners or CPA employees.

The CBA implemented two temporary fee reductions in the prior four years. Each reduction was “temporary” with the understanding (and identification in regulation) that the fees would restore to a higher level at a specific date. The fees for biennial renewal and initial permit are currently set at \$50, with an automatic increase to \$120 scheduled to occur on July 1, 2016 pursuant to Title 16, California Code of Regulations section 70. This proposal would restore the biennial renewal and initial permit fees to \$200, a level that existed prior to fiscal year (FY) 2011-12.

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Although generally speaking there will be an increase in fees of \$80, this proposed amendment is being viewed by the CBA as a fee restoration and therefore the CBA has not identified that there will be any significant statewide adverse economic impact.

Following is a table illustrating historic and existing fees and the proposed fees for each of the changes made by CBA:

Fee	FY 2011-12 Fee	FY 2013-14 Fee	FY 2014-15 Fee	FY 2015-16 Proposed Fee
Examination Fee – First time	\$100.00	\$100.00	\$50.00	\$50.00
Examination Fee – Repeat	\$50.00	\$50.00	\$25.00	\$25.00
CPA Certificate Application Fee	\$250.00	\$250.00	\$50.00	\$50.00
Initial Permit Fee to register a Partnership, Corporation or CPA	\$150.00	\$150.00	\$30.00	\$30.00
Initial Permit Fee to practice as a Partnership, Corporation or CPA	\$200.00	\$120.00	\$50.00	\$200.00
Biennial Renewal Permit Fee to practice as a Partnership, Corporation or CPA	\$200.00	\$120.00	\$50.00	\$200.00

In addition, although businesses owned by licensees of the CBA and businesses that employ licensees of the CBA may be impacted, the CBA estimates that the fiscal impact would be minor and absorbable to those businesses since the fee increase would amount to an \$80 increase per licensee or applicant from what the CBA is currently authorized to collect from licensees on July 1, 2016 (\$120). The CBA does not maintain data relating to the number or percentage of licensees who own a business; therefore, the number or percentage of businesses that may be impacted cannot be predicted. Accordingly, the initial or ongoing costs for a business owned by a licensee that pays for the licensure and renewal fees of its CPA business owners and employees cannot be projected.

Cost Impact on Representative Private Person or Business:

The proposed fee increase would impact individual licensees. The CBA is proposing to increase these fees on July 1, 2016 by \$80 from its current \$120 fee authority to \$200 (an additional \$40 per year for renewals). However, the CBA determined it would be minor and absorbable to the licensee since the annual average wage of a certified public accountant is \$75,870.

Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

The CBA has determined that the proposed regulations will not have a significantly affect small businesses. Staff estimates a minor, but absorbable, economic cost as a result of the restoration of fees for initial licensure and license renewal for CPA's. The average wage for an accountant in the State of California in 2012 according to the US

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Department of Labor's Bureau of Labor Statistics was \$75,870. The increase of \$40 per year (\$80 overall) in fees for the initial licensure and license renewal will not have a significant adverse impact. The individuals and firms have paid this fee in the past without an adverse impact on the industry in California.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The CBA has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because the proposed change restores fees for initial permit and biennial renewal to \$200, the same level in existence prior to FY 2011-12 and represents only an \$80 increase in what the CBA is currently authorized to collect from licensees on July 1, 2016 (\$120).

Further it will not create new business or eliminate existing businesses within the State of California because the \$200 fee restoration, an increase of only \$80 in what the CBA is currently authorized to collect from licensees on July 1, 2016 (\$120), will not be of sufficient magnitude to have the effect of creating or eliminating businesses. In addition, the public accounting industry previously accommodated this level of fees in FY 2011-12 without impact on either contraction or expansion of the number of businesses.

Benefits of Regulation:

The CBA has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety, and state's environment:

The proposed fee restoration will correct the current negative cash flow that is occurring as a result of two temporary fee reductions that began in July 2012 and July 2014, respectively. Additionally, the fee reduction more closely brings the CBA's revenues and expenditures in balance. Following the fee restoration, the CBA's Reserve will be sufficient to ensure the CBA meets its consumer protection mandate, including providing enough funding should the CBA need to access its \$2 million annual contingency funding for litigation and enforcement costs pursuant to BPC Section 5025.2.

This regulatory proposal does not affect worker safety because it has nothing to do with worker safety and only affects the licensure and renewal of individuals and businesses. This regulatory proposal does not affect the state's environment because it has nothing to do with the environment.

CONSIDERATION OF ALTERNATIVES

The CBA has determine that no reasonable alternative it considered would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The CBA has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the CBA at 2000 Evergreen Street, Suite 250, Sacramento, California, 95815.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Pat Billingsley
Address:	2000 Evergreen Street, Suite 250 Sacramento, CA 95815
Telephone No.:	916-561-1782
Fax No.:	916-263-3678
E-Mail Address:	pat.billingsley@cba.ca.gov

The backup contact person is:

Name:	Kathryn Kay
Address:	2000 Evergreen Street, Suite 250 Sacramento, CA 95815
Telephone No.:	916-561-1742
Fax No.:	916-263-3678
E-Mail Address:	Kathryn.kay@cba.ca.gov

Website Access: Materials regarding this proposal can be found at http://www.dca.ca.gov/cba/laws_and_rules/pubpart.shtml.

PROPOSED REGULATORY LANGUAGE**§ 70. Fees.**

~~(a)(1)~~ From July 1, 2014 to June 30, 2016, the application fee for the computer-based Uniform Certified Public Accountant Examination shall be \$50 for issuance of the Authorization to Test to first-time applicants and \$25 for issuance of the Authorization to Test to repeat applicants.

~~(2)~~ Commencing July 1, 2016, the application fee for the computer-based Uniform Certified Public Accountant Examination shall be \$100 for issuance of the Authorization to Test to first-time applicants and \$50 for issuance of the Authorization to Test to repeat applicants.

~~(b)(1)~~ From July 1, 2014 to June 30, 2016, the application fee for issuance of a certified public accountant certificate shall be \$50.

~~(2)~~ Commencing July 1, 2016, the application fee for issuance of a certified public accountant certificate shall be \$250.

~~(c)(1)~~ From July 1, 2014 to June 30, 2016, the application fee for registration as a partnership or as a corporation, including registration under a new name as a partnership or as a corporation, shall be \$30.

~~(2)~~ Commencing July 1, 2016, the application for registration as a partnership or as a corporation, including registration under a new name as a partnership or as a corporation, shall be \$150.

~~(d)(1)~~ From July 1, 2014 to June 30, 2016, the fee for the initial permit to practice as a partnership, a corporation, or a certified public accountant shall be \$50.

~~(2)~~ Commencing July 1, 2016, the fee for the initial permit to practice as a partnership, a corporation, or a certified public accountant shall be ~~\$120~~ 200 unless subsection (j) applies.

~~(e)(1)~~ [Reserved]

~~(2)~~ For licenses expiring between July 1, 2014 and June 30, 2016, the fee to be charged each applicant for renewal of a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant shall be \$50.

~~(3)~~ For licenses expiring after June 30, 2016, the fee for renewal of a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant shall be ~~\$120~~ 200 unless subsection (j) applies.

(f) The fee for the processing and issuance of a duplicate copy of a certificate of licensure or registration shall be \$10.

(g) The fee for processing and issuance of a duplicate copy of a registration, or permit or other form evidencing licensure or renewal of licensure shall be \$2.

(h)(1) The fee for submission of a Practice Privilege Notification Form pursuant to Business and Professions Code Section 5096 with an authorization to sign attest reports shall be \$100.

(2) The fee for submission of a Practice Privilege Notification Form pursuant to Business and Professions Code Section 5096 without an authorization to sign attest reports shall be \$50.

(3) This subsection shall be inoperative until January 1, 2019.

(i)(1) The fee to be charged a licensee for submission of an application for a license in a retired status pursuant to Section 15.1 shall be \$75.

(2) The fee to restore a license from a retired status to an active status shall be \$50.

~~(j) By May 31, 2015, the Board shall conduct a review of its actual and estimated costs. Based on this review, the Board shall determine the appropriate level of fees for the initial permit to practice pursuant to subsection (d) and renewal of the permit to practice pursuant to subsection (e) in order to maintain the Board's contingent fund reserve balance at an amount equal to approximately three months of estimated annual authorized expenditures. If the Board determines that fees of less than \$120 are indicated, the Board shall fix the fees by regulation at the indicated amounts by July 1, 2016.~~

NOTE: Authority cited: Sections 5010 and 5134, Business and Professions Code.
Reference: Sections 122, 163, 5070.1, 5096, and 5134 Business and Professions Code.

CALIFORNIA BOARD OF ACCOUNTANCY**INITIAL STATEMENT OF REASONS**

Hearing Date: May 28, 2015

Subject Matter of Proposed Regulations: Fees

Sections Affected: Title 16, Division 1, California Code of Regulations, Section 70

Introduction

The CBA regulates approximately 97,000 licensees; consisting of 91,500 certified public accountants, 5,500 accounting firms (partnerships and corporations) and 270 out-of-state registered accounting firms. The CBA's highest priority is the protection of the public when exercising its licensing, regulatory and disciplinary functions. The primary methods by which the CBA achieves these goals is ensuring only qualified licensees practice public accountancy in accordance with established professional standards, investigating complaints against licensees, and disciplining licensees for violations of BPC sections 5100 (et seq.).

Existing law, BPC section 5134, authorizes the CBA to charge various fees, including: application for the certified public accountant examination and reexamination; an initial permit fee for issuance of a partnership, corporation, or certified public accountant certificate; an application fee for registration as a partnership or corporation; and for the biennial renewal fee. The fees for biennial renewal and initial permit are currently set at \$50, with an automatic increase to \$120 scheduled to occur on July 1, 2016 pursuant to Title 16, California Code of Regulations section 70. This proposal would restore the biennial renewal and initial permit fees to \$200, a level that existed prior to fiscal year (FY) 2011-12. All remaining fees would be maintained at their existing level. Through this rulemaking, the CBA will ensure sufficient resources to maintain current board operations and help ensure the CBA maintains sufficient reserves to meet its mandate of consumer protection going forward.

Specific Purpose of Each Adoption or Amendment

The CBA proposes to amend California Code of Regulations, Title 16, Section 70, regarding fees, as follows:

- Amend Section 70(a)(1) to delete the date of June 30, 2016 resulting in the continuation of the current fees of \$50 for the issuance of the Authorization to Test to first-time applicants and \$25 for issuance of the Authorization to Test to repeat applicants.
- Repeal Section 70(a)(2), which contains authority to increase fees to \$100 and \$50 on July 1, 2016 for the issuance of the Authorization to Test to first-time applicants and issuance of the Authorization to Test to repeat applicants; this would allow the CBA to retain fees as established in Section 70(a)(1).

CALIFORNIA BOARD OF ACCOUNTANCY - INITIAL STATEMENT OF REASONS

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- Amend Section 70(b)(1) to delete the date of June 30, 2016 resulting in the continuation of the current fee of \$50 for the issuance of a certified public accountant certificate.
- Repeal Section 70(b)(2), which contains authority to increase fees to \$250 on July 1, 2016 for issuance of a certified public accountant certificate; this would allow CBA to retain fees as established in Section 70(b)(1).
- Amend Section 70(c)(1) to delete the date of June 30, 2016 resulting in the continuation of the current fee of \$30 for the application fee for registration as a partnership or as a corporation, including registration under a new name as a partnership or as a corporation.
- Repeal Section 70(c)(2), which contains authority to increase fees to \$150 on July 1, 2016 for issuance of a registration for a partnership or as a corporation, (including registration under a new name); this would allow CBA to retain fees as established in Section 70(c)(1).
- Amend Section 70(d)(2) to restore the fee to \$200 from \$120 for the initial permit to practice as a partnership, a corporation, or a certified public accountant and eliminate the requirement to consider Section 70(j) in calculating the fee, commencing July 1, 2016.
- Repeal Section 70(e)(1) to remove the word “reserved”.
- Amend Section 70(e)(2) and renumber to 70(e)(1).
- Amend Section 70(e)(3) by renumbering to 70(e)(2) to restore the fee from \$120 to \$200 for renewal of a permit to a practice as partnership, a corporation, a public accountant, or a certified public accountant and eliminate the requirement to consider Section 70(j) in calculating the fee.
- Repeal Section 70(j), which currently requires the CBA to conduct a review of its actual and estimated costs by May 31, 2015 and determine the appropriate level of fees for the initial permit to practice and renewal of the permit to practice in order to maintain a contingent fund reserve balance equal to 3 months’ estimated annual authorized expenditures. If the CBA currently determines that fees of less than \$120 are indicated, the CBA shall fix the fees by regulation by July 1, 2016.

The CBA is proposing these changes to restore initial permit and license renewal fees to levels that were in place prior to fiscal year (FY) 2011-12 and following two temporary fee reductions. The restoration is necessary to address the CBA’s present negative cash flow, bring revenues more closely in line with expenditures, and increase the CBA’s Reserve levels to ensure the CBA has sufficient funds to meet its mandate of consumer protection.

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Factual Basis/Rationale

As a part of the CBA's Sunset Review in 2011, the Legislature stated that the CBA was unable to control its Reserve level. Specifically, the Legislature was concerned that the CBA had excessive reserve funds which conflicted with the then-present requirement in BPC section 5134 that the CBA not exceed nine months of authorized expenditures.

This requirement was subsequently eliminated through the passage of Senate Bill 80 in 2011 (Stats. 2011, ch. 11).

As a result of this finding during the 2011 Sunset Review hearings, the CBA initiated two fee reductions, through regulation, in an effort to reduce its Reserve levels.

In July 2011, the CBA reduced fees to \$120, which was a significant reduction from its pre- FY 2011-12 biennial license renewal and initial permit fees of \$200. The reduction was the CBA's initial attempt to lower the Reserve as it was approaching historically high levels of around 17 months in Reserve (MIR). The first year of lowered initial permit and biennial renewal fees did not have the anticipated impact to the Reserve because of several unanticipated cuts in spending and hiring freezes, mandated by the Governor due to the economic downturn.

In January 2013 the CBA approved a more substantial fee reduction that would further reduce the license renewal and initial permit fees and reduce two additional fees, issuance of Authorization to Test for initial and repeat applicants and application fee for registration as a partnership or as a corporation, over a two-year period.

The CBA's plan intended to reduce the Reserve to a three MIR level by the end of FY 2015-16 by creating a \$6 million dollar negative annual cash flow in FY 2014-15 and FY 2015-16. At that time, it was believed that the three MIR level would provide enough funding in the event the CBA needed to exercise its emergency \$2 million dollar annual contingency budget clause for litigation or enforcement activities. Section 5025.2 of the BPC authorizes CBA to spend up to an additional \$2 million dollars annually in excess of its budgeted expenditure authority for urgent litigation and enforcement matters.

In July 2014 the following three fees were reduced:

- License Renewal and Initial Permit Fees – reduced from \$120 per biennial period to \$50.
- Examination Fees – reduced from \$100 for new candidates and \$50 for repeat sitters to \$50 and \$25, respectively.
- Licensing Application/Registration Fees – reduced from \$250 for individual certified public accountants (CPA) and \$150 for CPA Firms to \$50 and \$30, respectively.

In November 2014 and March 2015, the CBA reviewed its current and projected Reserve levels to determine whether adjustments were necessary, to ensure the CBA

CALIFORNIA BOARD OF ACCOUNTANCY - INITIAL STATEMENT OF REASONS

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had, at a minimum, a sufficient amount in its Reserve to carry out its consumer protection mandate.

Ultimately, the CBA approved proposed regulatory language in March 2015 and directed staff to initiate the rulemaking process to accomplish the following:

- Restore license renewal and initial permit fees to \$200 (currently at \$50)
- Maintain examination fees at \$50 for first time sitters and \$25 for repeat sitters to help reduce barriers to licensure.
- Maintain licensing application/registration fees at \$50 for individual certified public accountants (CPA) and \$30 for CPA Firms to help reduce barriers to licensure.

The CBA has conducted an analysis of its fee structure to ensure that it is collecting fees that cover the cost of providing the identified service. This analysis reflects that it costs the CBA, on average, approximately \$200 per renewal application processed and \$300 per initial permit application processed. In accordance with BPC 5134, the CBA is maintaining the initial permit fee consistent with the established license renewal fee. This fee covers all aspects of processing, including specific tasks performed by the Renewal and Continuing Competency Unit staff including review of the application, communications with the licensee, and various data processing elements. Additionally, these fees are utilized throughout the CBA to address Administrative and Enforcement Division functions, which are critical to ensuring the CBA properly processes renewal applications as well as assist the CBA in carrying out its mission of consumer protection through licensure, investigation of complaints, and discipline of licensees.

Section 5134 authorizes the CBA to collect fees for initial licensure and renewal in an amount not to exceed \$250. The proposed changes to Section 70 of Title 16 of the California Code of Regulations sets these levels at \$200 for the initial and renewal of the permit to practice as a partnership, a corporation, or a certified public accountant.

According to the CBA's fund condition for fiscal year 2014-15, the CBA is projecting a fund balance of \$6 million or 5.5 MIR, a decline of revenue of over \$8 million dollars. For FY 2015-16, the CBA is projected to have a fund balance of approximately \$4 million or 3.2 MIR. If no fee changes are made, the fund balance and MIR levels will continue to lower in future years. Without changes to the current fee levels, including the projected current increases that will become effective July 1, 2016, the CBA will have insufficient funding to enable the CBA to continue operations. During the most recent meetings with the Legislature in 2015 for the CBA's Sunset Review, concern was expressed over the CBA's low reserve.

If approved as proposed this fee increase will have a positive effect on the CBA's Reserve. Specifically, according to the CBA's Fund Condition Statement, the CBA's revenues will increase more than \$9 million per fiscal year. Beginning in FY 2017-18,

CALIFORNIA BOARD OF ACCOUNTANCY - INITIAL STATEMENT OF REASONS

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the CBA is projected to have an approximate 14 MIR level. Further, the projected revenues appear to be close to projected expenditures, bringing the CBA's fees to a stable level.

Also strengthening the justification for restoring the CBA's Reserve is the need to have sufficient resources available should the CBA need to exercise its emergency contingency funding for \$2 million dollars to address enforcement costs and litigation expenses, pursuant to BPC section 5025.2. Given the volume of enforcement cases and the complex and sensitive nature of the CBA's investigations, it is critical that this funding be available at all times. Additionally, if the CBA does not have sufficient reserves and exceeds its contingency funding, the CBA's enforcement program would suffer from reductions in resources which would delay processing consumer complaints, conducting investigations, and referring egregious cases to the Attorney General's Office for prosecution. These types of delays would ultimately prevent the CBA from efficiently and effectively protecting the public.

The revenue generated from these fees is placed in the Accountancy Fund and is utilized by the CBA to carry out its responsibilities as required by the Accountancy Act.

Underlying Data

Minutes of the November 20, 2014 CBA Meeting

Minutes of the March 19, 2015 CBA Meeting

Cost Analyses of Processing Initial Permit and License Renewal Applications

CBA Item III.B., March 19-20, 2015, memo entitled "Discussion on Initiating a Rulemaking to Amend Title 16, California Code of Regulations, Section 70 Regarding Fees," presented by: Deanne Pearce, Executive Officer with the following attachments:

- Attachment 1: "California Board of Accountancy Fee Increase Proposal – Analysis of Fund Condition" with \$250 fee increase;
- Attachment 2: "California Board of Accountancy Fee Increase Proposal – Analysis of Fund Condition" with \$200 fee increase;
- Attachment 3: "California Board of Accountancy Fee Increase Proposal – Analysis of Fund Condition" with \$185 fee increase;
- Attachment 4: "California Board of Accountancy Fee Increase Proposal – Analysis of Fund Condition" with no fee increase;
- Attachment 5: Proposed Regulatory Language for \$250 Proposal;
- Attachment 6: Proposed Regulatory Language for \$200 Proposal; and,
- Attachment 7: Proposed Regulatory Language for \$185 Proposal.

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Business Impact

This regulation will not have a significant statewide adverse economic impact on businesses. The initial determination is based on the following facts.

The CBA has determined that the following types of businesses may be affected by the proposed fee increase:

- Businesses owned by a licensee of the CBA that pay for the initial licensure and license renewal fees of its CPA owners or CPA employees.

The CBA implemented two temporary fee reductions in the prior four years. Each reduction was “temporary” with the understanding (and identification in regulation) that the fees would restore to a higher level at a specific date. The fees for biennial renewal and initial permit are currently set at \$50, with an automatic increase to \$120 scheduled to occur on July 1, 2016 pursuant to Title 16, California Code of Regulations section 70. This proposal would restore the biennial renewal and initial permit fees to \$200, a level that existed prior to fiscal year (FY) 2011-12.

Although generally speaking there will be an increase in fees of \$80, this proposed amendment is being viewed by the CBA as a fee restoration and therefore the CBA has not identified that there will be any significant statewide adverse economic impact.

Following is a table illustrating historic and existing fees and the proposed fees for each of the changes made by CBA:

Fee	FY 2011-12 Fee	FY 2013-14 Fee	FY 2014-15 Fee	FY 2015-16 Proposed Fee
Examination Fee – First time	\$100.00	\$100.00	\$50.00	\$50.00
Examination Fee – Repeat	\$50.00	\$50.00	\$25.00	\$25.00
CPA Certificate Application Fee	\$250.00	\$250.00	\$50.00	\$50.00
Initial Permit Fee to register a Partnership, Corporation or CPA	\$150.00	\$150.00	\$30.00	\$30.00
Initial Permit Fee to practice as a Partnership, Corporation or CPA	\$200.00	\$120.00	\$50.00	\$200.00
Biennial Renewal Permit Fee to practice as a Partnership, Corporation or CPA	\$200.00	\$120.00	\$50.00	\$200.00

In addition, although businesses owned by licensees of the CBA and businesses that employ licensees of the CBA may be impacted, the CBA estimates that the fiscal impact would be minor and absorbable to those businesses since the fee increase would amount to an \$80 increase per licensee or applicant from what the CBA is currently

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authorized to collect from licensees on July 1, 2016 (\$120). The CBA does not maintain data relating to the number or percentage of licensees who own a business; therefore, the number or percentage of businesses that may be impacted cannot be predicted. Accordingly, the initial or ongoing costs for a business owned by a licensee that pays for the licensure and renewal fees of its CPA business owners and employees cannot be projected.

The proposed fee increase would impact individual licensees. The CBA is proposing to increase these fees by \$80 from what the CBA is currently authorized to collect from licensees on July 1, 2016 (\$120) to \$200 (an additional \$40 per year for renewals). However, the CBA determined it would be minor and absorbable to the licensee since the annual average wage of a certified public accountant is \$75,870.

Economic Impact Assessment

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the proposed change restores fees for initial permit and biennial renewal to \$200, the same level in existence prior to FY 2011-12 and represents only an \$80 increase in existing fee authority.
- It will not create new business or eliminate existing businesses within the State of California because the \$200 fee restoration, an increase of only \$80 above the existing fee authority, will not be of sufficient magnitude to have the effect of creating or eliminating businesses. In addition, the public accounting industry previously accommodated this level of fees in FY 2011-2012 without impact on either contraction or expansion of the number of businesses.
- It will not affect the expansion of businesses currently doing business within the State of California because the \$200 fee restoration, an increase of only \$80 above the existing fee authority, will not be of sufficient magnitude to have the effect of creating or eliminating businesses.
- This regulatory proposal does not affect worker safety because it has nothing to do with worker safety, and only affects the licensure and renewal of individuals and businesses.
- This regulatory proposal does not affect the state's environment because it has nothing to do with the environment.

Benefits

The CBA is proposing to restore initial permit and biennial renewal fees to pre-FY 2011-12 levels to increase its reserve to provide sufficient resources to protect California consumers through its licensing, regulatory and disciplinary functions. By restoring for its applicants and licensees the fee to \$200, the CBA would be able to ensure it meets

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its consumer protection mandate.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The CBA has made an initial determination that no reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in the Notice.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

The CBA considered three alternatives to this proposal.

The first alternative considered was to maintain the status quo. The CBA previously reduced the biennial renewal fees and initial licensing fees from their original amounts of \$200 to \$120 effective July 1, 2011. In July 2014 the current fees reduced from \$120 to \$50, the impact resulted in the MIR declining from 12.6 to 5.5. Under existing regulations, on July 1, 2016, the fees would increase to the June 2014 level of \$120. This automatic fee increase would not generate sufficient revenue to allow the CBA to maintain sufficient reserve to continue meeting its primary mission of protecting consumers in California. This alternative was rejected by the CBA.

The second alternative considered was to increase the initial permit and biennial renewal fees to \$185. The impact of this fee increase would not provide sufficient revenue to ensure that the CBA would be able to maintain sufficient reserve to continue meeting its primary mission of protecting consumers in California. The alternative was rejected by the CBA.

The third alternative considered was to increase the initial permit and biennial renewal fees to \$250. The impact of this fee increase would be to provide sufficient revenue to ensure that the CBA would be able to maintain sufficient reserve to continue meeting its primary mission of protecting consumers in California, but would result in a nearly 22-MIR level, far exceeding what the CBA may need for consumer protection and above the level which existed prior to its two temporary fee reductions.



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CBA Item I.B.
May 28-29, 2015

Discussion and Possible Action to Amend Title 16, California Code of Regulations (CCR) Section 70 – Fees

Presented by: Pat Billingsley, Regulatory Analyst

Purpose of the Item

The purpose of this agenda item is to provide an opportunity for the California Board of Accountancy (CBA) to adopt proposed changes to Title 16, California Code of Regulations (CCR), Division 1, section 70 restoring the biennial renewal and initial permit fees to \$200.

Action(s) Needed

The CBA will be asked to adopt the proposed changes to CCR, section 70.

Background

Business and Professions Code section 5134, authorizes the CBA to charge various fees including fees for application for the certified public accountant examination and reexamination; an application fee for issuance of a certified public accountant certificate; an application fee for registration as a partnership or corporation; and for the biennial renewal fee.

At its March 19, 2015 meeting, the CBA directed staff to move forward with the rulemaking process to amend Title 16, CCR, section 70, which would restore biennial renewal and initial permit fees to \$200.

Following the regulatory hearing to receive public comment on the proposal (**CBA Agenda Item I.A.**) the next step in the rulemaking process is that the CBA must act to formally adopt the proposed regulations outlined in this item. The CBA may decide to make changes to the proposed regulations based on any received comments, or it may proceed with adopting the proposal without modification.

Comments

If no additional changes are to be made after the public comment period and hearing closes:

Motion: Direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the Office of Administrative Law

Discussion and Possible Action to Amend Title 16, California Code of Regulations (CCR) Section 70 – Fees

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(OAL), authorize the Executive Officer to make any non-substantive changes to the proposed regulations, and adopt the proposed regulations as originally noticed.

If substantive changes are to be made after the public comment period and hearing closes:

Motion: Direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text for an additional 15-day comment period. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations, and adopt the proposed regulations as described in the modified text notice.

Fiscal/Economic Impact Considerations

Restoring the biennial renewal and initial permit fees will eliminate the current unsustainable state of negative cash flow and will provide the CBA a strong future Reserve level.

Recommendation

Staff recommends the CBA adopt the motion regarding no additional changes and direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the OAL; authorize the Executive Officer to make any non-substantive changes to the proposed regulations; and adopt the proposed regulations as originally noticed.

Attachment

Proposed Regulatory Language

PROPOSED REGULATORY LANGUAGE

§ 70. Fees.

(a)(1) From July 1, 2014 to June 30, 2016, the application fee for the computer-based Uniform Certified Public Accountant Examination shall be \$50 for issuance of the Authorization to Test to first-time applicants and \$25 for issuance of the Authorization to Test to repeat applicants.

~~(2) Commencing July 1, 2016, the application fee for the computer-based Uniform Certified Public Accountant Examination shall be \$100 for issuance of the Authorization to Test to first-time applicants and \$50 for issuance of the Authorization to Test to repeat applicants.~~

(b)(1) From July 1, 2014 to June 30, 2016, the application fee for issuance of a certified public accountant certificate shall be \$50.

~~(2) Commencing July 1, 2016, the application fee for issuance of a certified public accountant certificate shall be \$250.~~

(c)(1) From July 1, 2014 to June 30, 2016, the application fee for registration as a partnership or as a corporation, including registration under a new name as a partnership or as a corporation, shall be \$30.

~~(2) Commencing July 1, 2016, the application for registration as a partnership or as a corporation, including registration under a new name as a partnership or as a corporation, shall be \$150.~~

(d)(1) From July 1, 2014 to June 30, 2016, the fee for the initial permit to practice as a partnership, a corporation, or a certified public accountant shall be \$50.

(2) Commencing July 1, 2016, the fee for the initial permit to practice as a partnership, a corporation, or a certified public accountant shall be \$120-200 unless subsection (j) applies.

(e)(1) [Reserved]

~~(21)~~ For licenses expiring between July 1, 2014 and June 30, 2016, the fee to be charged each applicant for renewal of a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant shall be \$50.

~~(32)~~ For licenses expiring after June 30, 2016, the fee for renewal of a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant shall be \$120-200 unless subsection (j) applies.

(f) The fee for the processing and issuance of a duplicate copy of a certificate of licensure or registration shall be \$10.

(g) The fee for processing and issuance of a duplicate copy of a registration, or permit or other form evidencing licensure or renewal of licensure shall be \$2.

(h)(1) The fee for submission of a Practice Privilege Notification Form pursuant to Business and Professions Code Section 5096 with an authorization to sign attest reports shall be \$100.

(2) The fee for submission of a Practice Privilege Notification Form pursuant to Business and Professions Code Section 5096 without an authorization to sign attest reports shall be \$50.

(3) This subsection shall be inoperative until January 1, 2019.

(i)(1) The fee to be charged a licensee for submission of an application for a license in a retired status pursuant to Section 15.1 shall be \$75.

(2) The fee to restore a license from a retired status to an active status shall be \$50.

~~(j) By May 31, 2015, the Board shall conduct a review of its actual and estimated costs. Based on this review, the Board shall determine the appropriate level of fees for the initial permit to practice pursuant to subsection (d) and renewal of the permit to practice pursuant to subsection (e) in order to maintain the Board's contingent fund reserve balance at an amount equal to approximately three months of estimated annual authorized expenditures. If the Board determines that fees of less than \$120 are indicated, the Board shall fix the fees by regulation at the indicated amounts by July 1, 2016.~~

NOTE: Authority cited: Sections 5010 and 5134, Business and Professions Code. Reference: Sections 122, 163, 5070.1, 5096, and 5134 Business and Professions Code.



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CBA Item II.B.
May 28-29, 2015

Update Regarding Sunset Review Activities

Presented by: Jose Campos, CPA, President

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with an update regarding its sunset review activities.

Action(s) Needed

No specific action is needed on this agenda item.

Background

On March 12, 2015, the Senate Business, Professions and Economic Development Committee (Senate BP&ED) released its Background Paper on the CBA, and identified six issues to be addressed during its sunset review, which relate to:

- the continuance of the peer review program,
- the CBA's progress in meeting the formal discipline performance measure of 540 days,
- allowing the CBA to include permanent practice restrictions as part of a final disciplinary order,
- the adequacy of the Reserve level,
- consumer satisfaction with the CBA,
- and finally, whether the CBA's sunset date should be extended.

In the paper, Committee staff provided background information on each issue, and included a recommendation as to how each issue should be addressed. Of the six issues identified, it was requested that the CBA specifically address three key issues during the Joint Oversight Hearing before the Senate BP&ED and the Assembly Business and Professions (Assembly B&P) on March 18, 2015. These issues related to the effectiveness of the peer review program, the CBA's progress in meeting the formal discipline performance measure of 540 days, and the Reserve level.

On behalf of the CBA, Vice-President Katrina Salazar and Executive Officer Patti Bowers provided testimony on the key issues and respectfully requested that the CBA be given a four-year extension on its sunset date.

Update Regarding Sunset Review Activities

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Comments

As a follow up to the Joint Oversight Hearing, the Senate BP&ED requested that the CBA submit written responses to each of the six issues raised in the Background Paper within 30 days of the hearing. On April 16, 2015, staff submitted these responses to the Senate BP&ED and the Assembly B&P in fulfillment of this request (**Attachment**).

On February 27, 2015, Senator Jerry Hill, Chair of the Senate BP&ED, introduced Senate Bill (SB) 467 which would extend the CBA's sunset date from January 1, 2016 to January 1, 2020. SB 467 continues to move through the legislative process, and was passed by the Senate BP&ED with a 9-0 vote and is presently pending in the Senate Appropriations suspense file, due to recent amendments to the bill creating a fiscal impact of more than \$150,000. For more information on the recent amendments and the Senate Appropriation's suspense file, please refer to **CBA Agenda Item IX.B.2**.

Staff will continue to monitor the CBA's sunset bill and provide testimony in support of the bill on the CBA's behalf.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

None.

Attachment

Written Responses to CBA Issues and Recommendations



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Attachment

April 16, 2015

Honorable Jerry Hill, Chair
Senate Business, Professions and Economic Development Committee

Honorable Susan Bonilla, Chair
Assembly Committee on Business and Professions

State Capitol
Sacramento, CA 95814

Dear Chairman Hill and Madam Chair Bonilla,

As part of the sunset review process, the California Board of Accountancy (CBA) would like to present you with its response to the issues and recommendations made by Committee staff in the Background Paper and during discussions at the Joint Oversight Hearing.

This response provides information regarding six issues related to the continuance of the peer review program, progress in meeting the established performance measure for formal discipline, allowing the CBA to include permanent practice restrictions as part of a final disciplinary order, the adequacy of the Reserve level, consumer satisfaction, and lastly, extending the CBA's sunset date.

If you have any questions, or require further assistance regarding the enclosed, please contact me at (916) 561-1718.

Sincerely,

A handwritten signature in black ink that reads 'Patti Bowers'. The signature is written in a cursive, flowing style.

Patti Bowers
Executive Officer
California Board of Accountancy

Enclosure

c: Members, California Board of Accountancy
Justin Paddock, Department of Consumer Affairs, Assistant Deputy Director, Office of
Policy and Legislative Review



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Written Response to **CBA Issues and Recommendations**

ISSUE #1: (CBA'S PEER REVIEW PROGRAM.) Should the CBA's Peer Review Program (PR Program) be continued?

Committee Staff Recommendation: *The PR Program of the CBA should be continued. However, in the meantime the CBA should attempt to do a more thorough analysis of the benefits of the PR Program and provide a report to the Legislature by November 1, 2018. The CBA may want to work more closely with the CalCPA and AICPA in determining how to survey the profession regarding the benefits of peer review and the survey should be completed by all who are required to participate in peer review. The CBA should also provide information to the respective Committees of action they are taking against firms that have been identified as providing substandard peer review reports.*

The California Board of Accountancy (CBA) agrees with the Committee staff recommendation to continue the Peer Review Program. The CBA is committed to working with its stakeholders, including the American Institute of Certified Public Accountants (AICPA) and the California Society of Certified Public Accountants (CalCPA) to further explore the benefits of mandatory peer review and whether additional opportunities exist to make improvements and enhance the CBA's ability to protect consumers.

During the implementation of peer review, the CBA surveyed licensees that were required to undergo peer review to obtain additional information and insight from the profession. The survey results were reported in the CBA's 2015 Peer Review Report. These survey results support that the profession recognizes the value of peer review and the opportunities it provides to make improvements to services.

In the survey results, 67 percent of the respondents reported that peer review helped improve their overall services to clients. Additionally, 55 percent of respondents reported that as a result of undergoing peer review, they voluntarily made changes to improve services provided to consumers. Examples of voluntary changes include staying current on professional standards by taking additional continuing education (CE) and revising materials and checklists used in the performance of attest services. The most common change; however, is that they commit to updating their libraries yearly, so that they have current reference materials.

As for the peer review ratings, it is important to note that firms that had previously undergone the rigors of peer review received substantially lower “pass with deficiency” and “substandard¹” ratings. Specifically, accounting firms that went through peer review prior to it becoming mandatory in 2010, had a “substandard” rate of only one percent, while accounting firms that had not previously been through peer review had a “substandard” rate of nine percent. The same trend is present in the number of “pass with deficiency” ratings, with a 10 percent deficiency rate for firms that had previously undergone peer review, and a 21 percent deficiency rate for those that had not. The CBA believes this data further substantiates the educational benefits realized by licensees that participate in the program.

Between 2010 and 2013, over 6,800 California accounting firms completed peer review. Upon completion, a peer review report is administered with one of the following ratings: “pass,” “pass with deficiency,” or “substandard.” Of the 6,800 peer reviews, 16 percent received a rating of “pass with deficiency” and eight percent received a “substandard” rating.

If an accounting firm receives a “pass with deficiency” or “substandard” peer review rating, the administering entity prescribes remedial actions. In those instances where no additional investigation is necessary, and the CBA is in support of the prescribed remedial actions, the CBA’s Enforcement Program will monitor completion. When warranted, however, the CBA may proceed with disciplinary action against the licensee. There are a wide variety of remedial actions that can be prescribed that include completion of specific CE, obtaining and updating resource materials, and an expedited peer review. Failure to complete prescribed remedial actions constitutes grounds for termination from the program and must be reported to the CBA.

While the primary focus of the peer review process is education, when the Legislature enacted the program it added a key component related to enforcement. Between 2010 and 2013, the CBA has received 560 “substandard” reports and has opened investigations on all 560 firms. To date, the CBA has more than 119 open investigations and is conducting a deeper review of various firms and their practices discovered through the program. A large portion of these open investigations will likely result in some type of formal discipline.

The CBA believes its Peer Review Program plays an important consumer protection role. With ongoing changes and evolutions to generally accepted accounting principles and auditing standards, accounting firms that undergo peer review maintain a currency of knowledge and are better equipped to deliver high quality accounting and auditing services to consumers.

¹ The term “fail” is used by the AICPA Peer Review Program. CBA Regulations use the term “substandard.” This report will use the term “substandard” in lieu of “fail.”

ISSUE #2: (IT APPEARS AS IF THE DISCIPLINARY CASE MANAGEMENT TIMEFRAME IS TAKING ON AVERAGE ABOUT TWO YEARS OR MORE.) What steps is the CBA taking to try and reduce its average disciplinary case timeframe so as to meet its target date of 540 days?

Committee Staff Recommendation: It does not appear as if the CBA will be able to meet its goal of reducing the timeframe for the handling of its disciplinary cases to 540 days unless the AG and OAH can also reduce their timeframes for prosecuting and hearing cases. However, the CBA appears to be making a concerted effort to reduce its timeframes and processing of cases that are under its direct control. The CBA should continue with these important efforts and changes that they are making to meet its target dates for the processing, investigation and referral of cases to the AG.

The CBA will continue to make concerted efforts to retain current staffing levels in order to meet the Formal Discipline performance measure target, and will continue to work closely with the AG's Office and the Office of Administrative Hearing (OAH) to reduce timeframes for prosecuting and hearing cases.

While the CBA does not presently meet the Formal Discipline target timeframe of 540 days, it has seen improvements in the timeframes associated with this measure. The discipline performance measure metric has steadily decreased over the past four fiscal years (FY) from an annual average of 924 days in FY 2010-11, to 888 days in FY 2011-12, to 835 days in FY 2012-13, and to 813 days in FY 2013-14. This 12 percent decrease was achieved despite experiencing an increased volume of referrals to the Attorney General's (AG) Office.

The CBA works to close all cases as expeditiously as possible. Upon conclusion of the investigation, the matter is referred to the AG's Office for preparation and filing of a pleading which takes, on average, 160 to 190 days. After that, on average it takes 170 to 204 days to resolve a matter via a stipulated settlement, or it can take 325 to 379 days to resolve a matter via a formal OAH hearing. If the matter is set for hearing, the wait to secure a hearing date from OAH can exceed one year and can consume approximately two-thirds of the performance measure time. These indirect, but unavoidable, timeframes with the AG's Office and OAH impact the timeframe in which formal disciplinary cases are resolved as the combined time spent at the AG's Office and OAH can exceed the Formal Discipline performance measure of 540 days.

Further, there are cases in which the CBA adopts formal discipline, and the licensee appeals to the CBA for reconsideration, to the Superior Court and potentially to the California Supreme Court. During all of these post-adoption appeals, the case remains open and all of the appeal time is added to the performance measure.

As part of its recent strategic plan, the CBA adopted an objective targeted at reducing enforcement timeframes and working with the AG's Office to reduce timeframes and improve the overall process. The CBA has worked to achieve this objective by streamlining its Investigative Report to allow for easy use by the AG's Office in drafting

pleadings, providing the AG's Office with settlement terms at the time a pleading is served, getting matters calendared once settlement no longer appears feasible, and working with the AG's Office to prepare default decisions immediately if a Notice of Defense is not filed.

In addition to working with the AG's Office, the CBA has looked internally to identify areas for improvement. Areas of improvement include:

- Expanded the role of analysts in the area of investigations, allowing the CBA's technical resources – its Investigative CPAs – to concentrate on those matters where their expertise and knowledge of licensure is most needed.
- Provided enhanced training to all enforcement staff, with staff now attending a nationally recognized training program – Council on Licensure, Enforcement, and Regulation National Certified Investigator Training – and the DCA Enforcement Academy that focuses on internal performance targets and measures
- Established internal benchmarks for each step of the enforcement process, beginning with issuance of the initial complaint acknowledgement letter to completion of the investigative report
- Revised the investigation intake process to streamline the intake and triage of complaints
- Established a sole point of contact at the CBA for all disciplinary matters and created a stand-alone email account to streamline the communication between the assigned DAG and the CBA

Additionally, in FY 2014/15, the CBA's Enforcement Program received 17 additional positions. If the CBA is able to retain all these positions, it will be well positioned to meet its enforcement timeframe goals.

ISSUE #3: (PERMANENT PRACTICE RESTRICTIONS) The CBA should be permitted to include permanent practice restrictions as part of a disciplinary order rather than seek a complete license revocation of the licensee.

Committee Staff Recommendation: BPC section 5100.5 should be added to the Accountancy Practice Act to allow the CBA, and ALJs, to include permanent practice restrictions as part of a disciplinary order, while still permitting the licensee to retain a license to practice in such areas where competency is not compromised.

The CBA agrees with the Committee's staff recommendation.

Presently, Section 5100 of the Accountancy Act provides the CBA the authority to revoke, suspend, or refuse to renew a license due to unprofessional conduct. This provision does not presently provide the CBA the authority to consider including permanent practice restrictions as part of a disciplinary order. Rather, practice restrictions may only be imposed beyond the probationary term, when specifically agreed to by the licensee via a stipulated settlement.

Since some instances may warrant permanent practice restrictions to protect the public, these changes would provide the CBA an additional tool in performing its consumer protection mandate. Further, by imposing practice restrictions, as opposed to seeking license revocation, the licensee may continue to earn an income by practicing in areas where competency is not compromised.

ISSUE #4: (CBA SHOULD PROVIDE FOR ADEQUATE RESERVE LEVEL IN ACCOUNTANCY FUND.) The CBA should ensure that it maintains an adequate reserve level in its contingent reserve fund equal to or slightly less than 24 months of estimated annual authorized expenditures.

Committee Staff Recommendation: The CBA should explain to the Committees the current situation which exists regarding its reserve funds and how they plan on maintaining a prudent reserve of at least 24 months for unanticipated enforcement expenditures and if there are any fee reductions contemplated in the future.

The CBA agrees with the Committee's staff recommendation to increase its reserve funds. At its March 19, 2015, meeting, the CBA took action to restore fees to 2011 levels so that it will be possible for the CBA to reach and maintain a higher reserve level.

Based on the most recent Loan Obligation report issued by the Department of Finance, the CBA is scheduled to receive approximately \$17 million in the next three fiscal years, which would leave an outstanding balance of \$14 million that does not have a projected repayment date. Accelerating the repayment of the remaining \$14 million would further assist the CBA in achieving the 24-month reserve level.

The CBA's reserve was an issue during its previous sunset review. The concern at that time was that the reserve level was significantly higher than its nine-month statutory requirement and the Legislature provided direction to reduce fees to bring the reserve to this nine-month level. In 2011, the CBA's nine-month reserve requirement was eliminated via Senate Bill 80.

Since its last sunset review, the CBA has implemented two fee reductions. The first fee reduction in July 2012 equaled an approximate 40 percent reduction in fees. The second fee reduction, which started in July 2014, was much more significant and equaled an approximate 75 percent reduction in fees from what existed in 2011.

As of January 1, 2015, the CBA's reserve level stands at 9.5 months; however, this is projected to decrease as it is still under a fee reduction. The CBA believes it can significantly increase its reserve through a combination of increased fee levels and repayment of outstanding loans to the general fund, providing an adequate level to manage the most complex enforcement matters.

ISSUE #5. (CONSUMER SATISFACTION WITH CBA IS UNCLEAR.) A Consumer Satisfaction Survey performed by the CBA over the past four years, shows that on average only about 45% of consumers were satisfied with the overall service provided by the Board. However, another internal survey by the CBA showed a significant increase in the “customer service” provided by CBA.

Committee Staff Recommendation: The CBA should explain to the Committees why it believes consumer satisfaction regarding the results obtained by the Board for a consumer complaint were initially low and why they believe its internal survey provides more accurate results. How is the Stakeholder Satisfaction Survey conducted? CBA should also indicate what efforts the Board is taking to improve its general service to the consumer.

The CBA highly values consumer and stakeholder input regarding the level of service it provides. There are two surveys available to provide feedback regarding the level of satisfaction received from the CBA.

The first is a Consumer Satisfaction Survey developed by the Department of Consumer Affairs for all of its boards and bureaus. This survey is referenced in the issue above, and reflects that only 45 percent of consumers were satisfied with the service provided by the CBA. This low rating is likely a result of it being narrowly focused on a small group of stakeholders that have filed a complaint with the CBA’s Enforcement Division and also the limited ways the survey can be completed and accessed. Specifically, the survey is conducted by mail invitation only, and requires the participant to either type in a web link or return the survey by mail. Over the past four fiscal years, there were only 121 responses to this survey, averaging approximately two per month.

The CBA’s Stakeholder Satisfaction Survey, the second survey available to stakeholders, was developed to measure satisfaction from all stakeholders regarding program services provided throughout the CBA, not just by its Enforcement Program.

For these reasons, the CBA believes the internal survey is more reflective of satisfaction with the CBA, as it includes input from all stakeholders such as consumers, complainants, applicants, and licensees. Response rates are likely higher than the DCA’s Consumer Satisfaction Survey because the CBA makes it convenient and easily available on many platforms, including outgoing emails, the CBA’s website, and social media.

In evaluating the responses for trends, satisfaction with service and response time has been trending upward, with an 86 percent and 91 percent satisfaction rate respectively in FY 2013-14.

Since the launch of the CBA’s Stakeholder Satisfaction Survey, it has received nearly 600 responses, and on average, more than 80 percent of those responding to the survey report being satisfied with the service they received from the CBA.

The CBA also listens carefully to comments and suggestions left by survey respondents, and always make a concerted effort to continually improve its programs based on feedback provided. For example, the CBA received some comments regarding the ability to locate information on the website. In response to these comments, staff reorganized website content to make it more user friendly and has plans to launch a modernized website in 2015. Other comments are commonly focused on the lack of services online, such as the ability to renew a license online or pay with a credit card.

CBA staff are often recognized for their superior service, and the CBA continually seeks ways to improve service by providing immediate and responsive answers to all inquiries. Although the results from the CBA's Stakeholder Satisfaction Survey are very positive, it will continue to strive for a 100 percent satisfaction rate.

**ISSUE #6. (CONTINUED REGULATION OF THE PROFESSION BY THE CBA?)
Should the licensing and regulation of certified public accountants be continued and be regulated by the current board membership?**

Committee Staff Recommendation: Recommend that the certified public accounting profession continue to be regulated by the current CBA members in order to protect the interests of the public and be reviewed once again in four years.

The CBA agrees with the Committee staff recommendation and respectfully requests that its sunset date be extended to January 1, 2020.

The CBA plays an important role in protecting consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards. It is vital for the CBA to continue regulating the practice of public accountancy, which includes both licensing and enforcement functions of more than 97,000 licensees.

Since its last sunset review, the CBA has significantly increased consumer protection by:

- 1) adding additional staffing to the Enforcement Program to address the increased caseload making it stronger than ever
- 2) implementing the Peer Review Program which has been very active and has made great strides in significantly enhancing consumer protection
- 3) strengthened educational requirements for initial licensure to include a heavy emphasis on ethics study, and by
- 4) implementing a fingerprinting requirement for licensees that were not originally required to undergo this process as a condition for licensure.

For these reasons, the CBA believes it is achieving its mission and statutory obligation to protect consumers through its licensing, regulatory, and disciplinary functions.



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CBA Item II.C.
May 28-29, 2015

Presentation Regarding Bagley-Keene Open Meeting Act Specific to Attendance at Conferences or Similar Gatherings Open to the Public

Presented by: Kristy Schieldge, Legal Counsel, Department of Consumer Affairs

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with information related the Bagley-Keene Open Meeting Act as it relates to attendance at conferences or other gatherings that may be open to the public.

Action(s) Needed

No specific action is required on this agenda item.

Background

None.

Comments

CBA members will have the opportunity to attend the National Association of State Boards of Accountancy (NASBA) Western Regional Meeting in June 2015 and the NASBA Annual Meeting in October 2015. For reference, the tentative agenda for the NASBA Western Regional Meeting is provided as **Attachment 1**.

An overview of the Guide to the Bagley-Keene Open Meeting Act (**Attachment 2**) and corresponding Government Code section 11122.5 (**Attachment 3**) is being provided to assist members in understanding when it is necessary to limit discussions on topics that relate to the subject matter of the CBA while attending conferences or other gatherings that are open to the public.

Additionally, pages 20-21 of the Guide to the Bagley-Keene Open Meeting Act (**Attachment 4**) and the Serial Meetings Chart (**Attachment 5**) provide information regarding prohibition of serial meetings.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff does not have a recommendation in this agenda item.

Presentation Regarding Bagley-Keene Open Meeting Act Specific to Attendance at Conferences or Similar Gatherings Open to the Public

Page 2

Attachments

1. Tentative Agenda for the NASBA Western Region Meeting
2. Excerpt from the Department of Consumer Affairs, Division of Legal Affairs', Guide to the Bagley-Keene Open Meeting Act
3. California Government Code Section 11122.5
4. Pages 20-21 of the Department of Consumer Affairs, Division of Legal Affairs', Guide to the Bagley-Keene Open Meeting Act
5. Serial Meetings Chart

NASBA

National Association of State Boards of Accountancy

2015 Western Regional Meeting June 17-19 – Coronado, CA Tentative Agenda

Tuesday

6:00 – 8:00 p.m. **Dinner for New Accountancy Board Members (and guests) – Sunset Terrace**
Those attending Wednesday's Orientation Program are invited to meet and dine with NASBA officers and directors.

Wednesday

8:00 – 9:00 a.m. **New Accountancy Board Member Breakfast – Sunset Terrace**

9:00 a.m. – 3:00 p.m. **New Accountancy Board Member Orientation Program -- Britannia**
Those who have served on their Board for a year or less meet with NASBA leaders to consider the role of a Board member and learn about what NASBA is doing and how they can play a part. Participants will exchange Board experiences and explore common regulatory issues.

4:00 – 5:00 p.m. **Regional Meeting Registration – Lobby**

6:00 – 8:00 p.m. **Welcome Reception – Pool/Marina Terrace**
Time to meet new friends and to greet regulators from around the country. This reception will feature good food, music and talk.

Thursday

7:30 - 8:45 a.m. **Communications Breakfast (All Attendees Welcome) – Sunset Terrace**
Communicating the work of the State Board is the task of all Board members and staff. NASBA offers newsletters, public service ads and expertise to help Boards get the word out. Share ideas with NASBA on reaching the public.

7:30 – 9:00 a.m. **BREAKFAST (All Welcome) – Bay Terrace**

9:00 – 9:15 a.m. **Welcome from Regional Directors (All Regions) – Commodore C**
The Regional Directors set the stage for the meeting and introduce honored guests.

9:15 – 9:25 a.m. **Welcome from Host Board**
Jose A. Campos, California Board of Accountancy Chair
Get some tips on what to see and do from the host Board's Chair.

9:25 – 9:55 a.m. **Update from NASBA Leadership**

Walter C. Davenport and Ken L. Bishop

*What is keeping NASBA's leadership and staff busy on the Boards' behalf?
Chair Walter Davenport and President Ken Bishop outline ongoing activities and
current challenges facing the Boards.*

- 9:55 – 10:15 a.m. **Exposure Draft: Revised CPE Standards**
Thomas T. Ueno and Maria L. Caldwell
The NASBA Continuing Professional Education Committee and staff have been engaged in meeting with sponsors, professionals, educators, program developers and other stakeholders to arrive at standards that reflect the latest advances in education. Hear about what has changed.
- 10:15 - 10:45 a.m. **BREAK**
- 10:45 – 11:15 a.m. **Keeping the Uniform Accountancy Act (and Model Rules) Evergreen – Commodore C J. Coalter Baker and Noel L. Allen**
Substantial equivalency has made the need for uniformity among States' laws even more significant as CPAs easily practice throughout the country. Find out what the UAA Committee is considering in the areas of retired CPAs, professionals from other countries, Code of Conduct, CPE and other areas.
- 11:15 – 12:15 p.m. **Uniform CPA Examination for 2017: The Practice Analysis' Preliminary Conclusions and Questions for the Audience**
Colleen K. Conrad, Michael A. Decker and Frederick Niswander
Panel Discussion offers insights on what has been learned during the Practice Analysis process, and poses questions to assist in creating the final product.
- 12:15 – 1:15 p.m. **LUNCH (All Meeting Attendees – Table Topics) – Bay Terrace**
Assigned seating – Meet people from other states and share views.
- 1:15 – 2:15 p.m. **Peer Review – Yesterday, Today and Tomorrow – Commodore C Janice L. Gray, Daniel J. Dustin, W. Michael Fritz**
A look at what was and is being done to respond to peer review gaps, measures put in place to avoid similar problems, and the new program envisioned.
- 2:15-2:30 p.m. **Update on Accountancy Licensing Database**
Laurie J. Tish
The Accountancy Licensee Database and CPAverify (ALD's public version) now house information on over 97 percent of U.S. CPAs. What is envisioned for the future of this resource?
- 2:30 – 4:30 p.m. **Meet with Your Region**
Edwin G. Jolicoeur – Pacific – Cambria
J. Coalter Baker – Southwest – Commodore B
Telford A. Lodden – Central – Commodore E
Benjamin C. Steele – Mountain – Britannia

Each Region gathers with their Regional Director to discuss mutual issues and answers. (Participation limited to Board of Accountancy members, staff and former Board of Accountancy members. Each Region will meet in a separate room with the Regional Director leading the discussion. Election of Nominating Committee Representatives in Great Lakes, Mountain, Northeast and Southwest Regions.)

2:30 – 3:30 p.m. **Seminar for Other Attendees: Advancing Diversity on State Boards – Commodore A**
How State Societies and State Boards can work together to bring new people with different vantage points on to the Boards.

4:30 p.m. *Recess*

Friday

7:30 – 8:50 a.m. **Board of Accountancy Chairs’ and Presidents’ Breakfast Meeting – Commodore A**
Walter C. Davenport – Moderator
Board Chairs and Presidents exchange questions on common problems and bring their concerns directly to NASBA Directors and Officers.

7:30 – 8:50 a.m. **Board of Accountancy Executive Directors’ Breakfast Meeting – Commodore B**
Russ Friedewald – Moderator
Accountancy Board EDs compare notes and raise questions to arrive at best practices.

8:00 – 9:00 a.m. **BREAKFAST (All Welcome) – Bay Terrace**

9:00 – 9:15 a.m. **Report from Regional Breakouts – Commodore C**
The four Regional Directors give a concise summary of their Thursday breakout sessions.

9:15 – 9:45 a.m. **Private Company Council – Progress Report**
Billy Atkinson
It has been two years since the Financial Accounting Foundation established the Private Company Council to assist the Financial Accounting Standards Board respond to the concerns raised by some small and some not-so-small companies. What has the PCC accomplished?

9:45 – 10:15 a.m. **Legal Heads Up**
Noel L. Allen
Legal Counsel provides a summary of selected recent cases from across the country that are significant for all Boards of Accountancy.

10:15 – 10:45 a.m. **BREAK**

10:45 – 12:00 p.m. **Breakout Sessions (Select one)**
Each session will be presented twice so that attendees can discuss two topics.

1- **Peer Review Compliance – Problems and Answers – Britannia**

Janice L. Gray and James W. Brackens, Jr.

An opportunity to do a deeper dive into the topics presented in Thursday's plenary session. How has your state responded to identified peer review gaps? And what do you think about the proposed quality monitoring plan?

2- **CPE Standards and Model Rule Changes – Why and How? – Commodore A**

Thomas T. Ueno, Maria L. Caldwell, Jessica Luttrull

Will the new standards work with your state's requirements? Is your state ready to begin considering nano/micro learning? How will competency-based learning work? Get the details.

3- **Accepting International Professionals – Beyond MRAs – Commodore B**

Telford A. Lodden

Only six mutual recognition agreements have been completed by IQAB in more than a decade. Experienced professionals from other countries are coming to the U.S. and working here. Is there a better way to bring them under the Boards' regulation for the public's protection?

4- **Evolving Educational Issues – Facing the Present – Commodore E**

Robert J. Cochran

The rising cost of higher education has made states consider unorthodox ways of enabling students to obtain degrees without spending as much time in the classroom. What will that do to the balance of the three E's of education, experience and examination when life experience is equated to course credits? What are the accrediting bodies doing to ensure course quality?

12:00 – 1:00 p.m. **LUNCH** (Meeting Attendees Only) – *Bay Terrace*

1:00 – 2:15 p.m. **Breakout Sessions**
(*Select one from breakouts listed for morning. Participants asked to select different session from one attended earlier.*)

2:15 – 2:45 p.m. **BREAK**

2:45 – 3:15 p.m. **Summary of NASBA Education Research Projects – Commodore C**

Alfonzo Alexander – Moderator

Each year NASBA awards grants to accounting education research projects that can assist the State Boards to better match the environment in which their candidates and professionals operate. This panel will cover the highlights of the 2014 grant recipients' research findings:

3:15 – 3:30 p.m. **Report from the CPA Examination Review Board**

Ronald E. Nielsen

The State Boards all depend on using a high quality Uniform CPA Examination. The CPA Examination Review Board throughout the year studies the production

and delivery of the Examination and then annually, in June, presents its findings to the State Boards.

3:30 – 4:00 p.m.

Evaluating Candidate Statistics – Proactive Use of NASBA’s Findings

James Suh

Thanks to the combined efforts of the State Boards and NASBA, some telling statistics are produced that provide insights into the schools, the candidates and the Examination, which can benefit all.

4:00 – 4:15 p.m.

Questions and Answers for NASBA

Ken L. Bishop and Walter C. Davenport

An opportunity to ask Chair Walter Davenport and President Ken Bishop questions about NASBA’s operations, positions on current issues and plans for the future.

4:15 – 4:30 p.m.

Raffle Drawing

Time for some laughs and prizes with NASBA’s Communications Director Tom Kenny and his staff. You have to be in the room when your name is called to be a winner.

6:30 p.m.

GALA – Ocean Beach

An evening of dining, entertainment and conversation with old friends and new.

4.30.15

GUIDE TO THE
BAGLEY-KEENE OPEN MEETING ACT
(Includes Amendments through January 1, 2015)

Prepared by:

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II. BOARD, COMMITTEE, SUBCOMMITTEE, TASK FORCE MEETINGS

A. Definition of a “Meeting”

“Meeting” is defined in the Act as including “any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.” (§11122.5(a)) The law now prohibits use by a majority of the members of a state body of direct communications or a series of communications of any kind, directly or through personal intermediaries, or technological devices (such as e-mails) to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body. (§11122.5(b))

B. Exemptions from Definition of Meeting

The law recognizes that not all gatherings of a majority of members of a state body at a single location constitute a meeting. Current law provides that the provisions of the Act do not apply to the following situations, **provided that** “a majority of the members do not discuss among themselves, other than as part of a scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body.” (§11122.5(c))

- Individual contacts or conversations between a member of a state body and any other person. (§11122.5(c)(1))
- Attendance by a majority of members at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body. (§11122.5(c)(2))
- Attendance by a majority of members at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body. (§11122.5(c)(3))
- Attendance by a majority of members at an open and noticed meeting of another state body or of a legislative body of a local agency. (§11122.5(c)(4))
- Attendance by a majority of members at a purely social or ceremonial occasion. (§11122.5(c)(5))
- Attendance by a majority of members at an open and noticed meeting of a standing committee of that body, provided the members of the body who are not members of the committee attend only as observers. (§11122.5(c)(6))

The law does not, however, prevent an employee or official from engaging in separate communications outside of a noticed meeting with members of the legislature to answer questions or provide information about a matter within the agency’s subject

matter jurisdiction – with the limitation that the person cannot communicate the comments or position of any other member.

C. Board and Committee Meetings

There are two basic types of meetings held by agencies in the Department of Consumer Affairs. The first type is a board meeting, where a quorum of the members of the board is present. The second type is a committee meeting consisting of less than a quorum of the members of the full board. Subcommittee and task force meetings are variations of committee meetings.

Board meetings have historically been required to be noticed and open to the public, except where a closed session is authorized. Committee and subcommittee meetings, where less than a quorum of the board is present, are also required to be noticed and open to the public. The only exception is for a committee that consists of fewer than three persons and does not exercise any authority of a state body delegated to it by that state body. (NOTE – it is the number of persons on the committee [not the number of board members] that is determinative.)

Where a committee of fewer than three persons is to meet, and the meeting is not noticed, other members of the board should not attend the meeting, as such attendance would clearly be perceived as an Open Meeting Act violation. Board staff is not precluded from attending such a meeting.

[Restriction on Attendance at Committee Meetings] The law allows attendance by a majority of members at an open and noticed meeting of a standing committee of the board, provided the members of the board who are not members of the committee attend only as observers. (§11122.5(c)(6)) The Office of the Attorney General has addressed in a formal opinion a provision in the Brown Act relating to the attendance of "observers" at a committee meeting. The Attorney General concluded that "[m]embers of the legislative body of a local public agency may not ask questions or make statements while attending a meeting of a standing committee of the legislative body 'as observers.'" The opinion further concluded that such members of the legislative body may not sit in special chairs on the dais with the committee. (81 Ops.Cal.Atty.Gen. 156)

Thus, under the provisions of section 11122.5(c)(6), and the opinion of the California Attorney General, if a majority of members of the full board are present at a committee meeting, members who are not members of the committee that is meeting may attend that meeting only as observers. The board members who are not committee members may not sit on the dais with the committee, and may not participate in the meeting by making statements or asking questions.

If a board schedules its committee meetings seriatim, and other board members are typically present to ultimately be available for their own committee meeting, your notice of the committee meeting should contain a statement to the effect that "Members

BAGLEY-KEENE OPEN MEETING ACT – 2015
(CALIFORNIA GOVERNMENT CODE)

Stats.1981, c. 968, p. 3684, § 7, related to advisory bodies.

11121.9. Provision of copy of article to members of state body

Each state body shall provide a copy of this article to each member of the state body upon his or her appointment to membership or assumption of office.

(Added by Stats.1980, c. 1284, p. 4334, § 6. Amended by Stats.1981, c. 714, p. 2659, § 175; Stats.1981, c. 968, p. 3685, § 7.1.)

11121.95. Appointees or elected officials not yet in office; conformity of conduct to article requirements

Any person appointed or elected to serve as a member of a state body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this article and shall be treated for purposes of this article as if he or she has already assumed office.

(Added by Stats.1997, c. 949 (S.B.95), § 1.)

11122. Action taken

As used in this article "action taken" means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a

positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1981, c. 968, p. 3685, § 7.3.)

11122.5. Meeting defined; series of communications to discuss, deliberate, or take action prohibited; exceptions

(a) As used in this article, "meeting" includes any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.

(b)(1) A majority of the members of a state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the

BAGLEY-KEENE OPEN MEETING ACT – 2015
(CALIFORNIA GOVERNMENT CODE)

subject matter jurisdiction of the state agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

(c) The prohibitions of this article do not apply to any of the following:

(1) Individual contacts or conversations between a member of a state body and any other person that do not violate subdivision (b).

(2)(A) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body.

(B) Subparagraph (A) does not allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a

person or organization other than the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.

(4) The attendance of a majority of the members of a state body at an open and noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, if a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.

(5) The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, if a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.

(6) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, if the members of the state body who are not members of the standing committee attend only as observers.

(Added by Stats.2001, c. 243 (A.B.192), § 6.
Amended by Stats.2009, c. 150 (A.B.1494), § 1.)

A. Seriatim Calls to Individual Agency Members Prohibited

Except as authorized by the above-discussed teleconferencing statutes, telephone conference calls may not be used to avoid the requirements of the Open Meeting Act. A conference call including members of a board, committee, subcommittee or task force sufficient to constitute a majority of that state body is prohibited, except pursuant to an authorized teleconference meeting.

In a case involving the Ralph M. Brown Act, the court concluded that a series of one-to-one telephone calls between members of a local body, where the purpose of the calls was to obtain a collective commitment on an issue, constituted a violation of the Act. (*Stockton Newspapers, Inc. v. Members of the Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95) The Brown Act is the local agency counterpart to the Bagley-Keene Open Meeting Act, and decisions rendered on its provisions are frequently followed in Open Meeting Act cases.

Citing the *Stockton Newspapers, Inc.* case, the court in *Sutter Bay Associates v. County of Sutter* held that to prevent evasion of the Brown Act, a series of private meetings (known as serial meetings) by which a majority of the members of the legislative body commit themselves to a decision concerning public business or engage in collective deliberation on public business would violate the open meeting requirement. ((1997) 58 Cal.App.4th 860, 877, 68 Cal.Rptr.2d 492, 502)

Effective January 1, 2010, the Act now specifically prohibits serial communications between a majority of members “to discuss, deliberate, or take action on any item of business that is within the subject matter of the state agency.” (Emphasis added.)

B. E-Mail Prohibition

AB 192 of 2001 added subdivision (b) to section 11122.5 to provide:

"Except as authorized pursuant to Section 11123, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body is prohibited."

The enactment of subdivision (b) of section 11122.5, expands upon and confirms a recent opinion of the Attorney General prohibiting the use of e-mail to reach a collective decision outside a regularly scheduled meeting. In 84 Ops.Cal.Atty.Gen. 30, the Attorney General concluded that:

"A majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Ralph M. Brown Act even if the e-mails are also sent to the secretary and chairperson of the agency,

the e-mails are posted on the agency's Internet website, and a printed version of each e-mail is reported at the next public meeting of the board."

As noted above, interpretations of the Brown Act, which governs local public agencies, are often cited as authority in interpreting similar provisions of the Bagley-Keene Open Meeting Act.

Members of a board must refrain from calling or otherwise contacting other members on a one-to-one basis, or conducting serial meetings, in order to discuss, deliberate, or take action outside the meeting on a matter within the subject matter of the board.

C. Secret Ballot Prohibited

An agency may not vote by secret ballot in a public meeting nor vote in closed session on any matter where discussion, deliberations, or action taken is required to be in an open meeting. (68 Ops.Cal.Atty.Gen. 65, 69)

For example, the election of board officers may not be conducted by secret ballot or in closed session.

D. Voting by Proxy Prohibited

Voting by proxy is not authorized. (68 Ops.Cal.Atty.Gen. 65, 70)

E. Use of Electronic Devices During Meeting

Board members should not text or email each other during an open meeting on any matter within the board's jurisdiction. Using electronic devices to communicate secretly on such a matter would violate the law. Where laptops are used by board members at the meeting because the board provides board materials electronically, the board president should make an announcement at the beginning of the meeting as to the reason for the laptops. We suggest the following (or something similar):

"You may notice board members accessing their laptops during the meeting. They are using the laptops solely to access the board meeting materials which are in electronic format."

F. Voting by Mail on Administrative Disciplinary Matters

As a general rule, all voting on items of business to be transacted must be done at a public meeting. However, the Administrative Procedure Act authorizes mail voting on all questions arising under that act. (Govt. Code §11526.) Thus, board members may vote by mail on proposed decisions, stipulated decisions, and other matters in connection with a formal disciplinary case. No other votes may be cast by mail. (68 Ops.Cal.Atty.Gen. 65, 69)

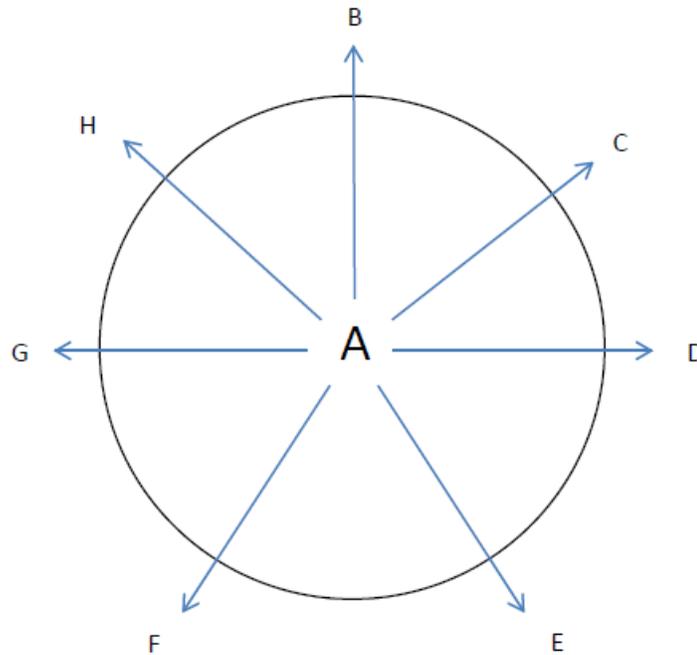
Serial Meetings

(Majority of the Board (8) or any CBA Committee)

A) Chain*



B) Wheel*



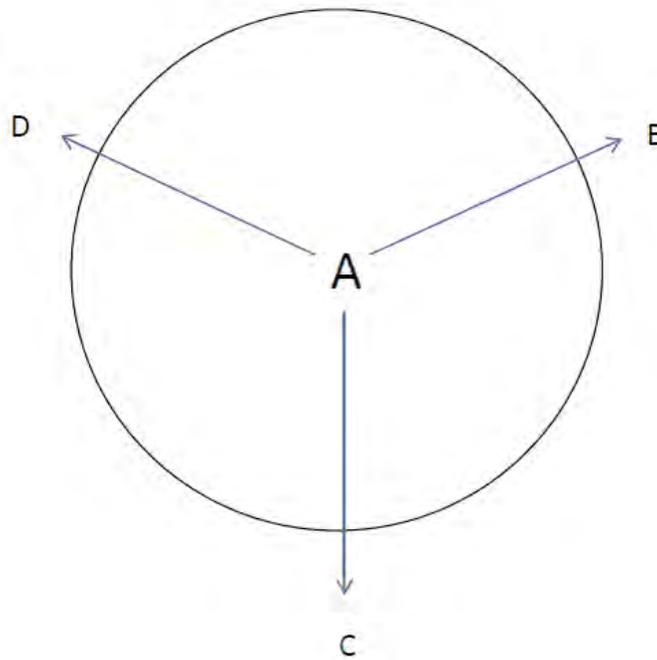
Committee Members (Legislative Committee)

(Majority is 4)

A) Chain*



B) Wheel*



*Occurs also when messages are sent through “intermediaries”



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CBA Item II.D.
May 28-29, 2015

Discussion Regarding CBA Committee Liaison Roles

Presented by: Corey Riordan, Board Relations Analyst

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with information regarding the role of the CBA Committee Liaisons (Liaisons).

Action(s) Needed

The CBA will be asked to review the role of the CBA Committee Liaisons and determine what, if any, changes should be made.

Background

During the March 2015 CBA meeting, a request was made to explore the roles and necessity of CBA Liaisons assigned to the Qualifications Committee (QC) and Enforcement Advisory Committee (EAC).

The CBA Liaisons role was most recently discussed by the CBA in November 2013, where past President Leslie LaManna reported on changes that would be implemented to the role of the CBA Liaisons. The changes were based on a survey that was conducted with committee leadership, as well as current and former CBA Liaisons seeking input regarding roles and responsibilities. The expanded roles and responsibilities for CBA liaisons were incorporated into the CBA Guidelines and Procedures Manual (**Attachment**)

Additionally, past President LaManna directed staff to develop an orientation program for newly appointed CBA Liaisons. The orientation was intended to provide an opportunity for the CBA Liaisons to receive information regarding their role and responsibilities and provide an opportunity for the committee chair and vice-chair to meet with the CBA Liaison, go over the format of the meetings and provide background information regarding past and upcoming topics for discussion. This orientation program is presently being used.

Comments

The CBA Liaisons play an important role in ensuring the CBA is kept apprised of committee deliberations and ensuring committees are aware of recent policy discussions and assignments made by the CBA. This is accomplished by regular attendance or otherwise participating at QC and EAC meetings.

Discussion Regarding CBA Committee Liaison Roles

Page 2 of 2

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff has no recommendation on this agenda item.

Attachment

Excerpt from California Board of Accountancy Guidelines and Procedures Manual regarding Responsibility of CBA Member Liaisons to Committees and Task Forces



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Attachment

Excerpt from CBA Guidelines and Procedures Manual

Responsibility of CBA Member Liaisons to Committees and Task Forces

CBA members acting as Liaisons to committees, task forces, or CBA programs are responsible for keeping the CBA informed regarding emerging issues and recommendations made at the committee or task force level. In addition, the Liaison is to keep the committee or task force informed of CBA policies and assignments, and to make recommendations to the CBA regarding chair and vice-chair appointments.

When there is a southern and northern Liaison appointed to a committee, the Liaisons should communicate between meetings to ensure they are kept abreast of any committee issues. This can be facilitated by the CBA staff liaison to the committee. Liaisons should also consider participating in one Investigative Hearing (Enforcement Advisory Committee) or Applicant/Employer interview (Qualifications Committee) annually, to provide the members with a clear understanding of the committees' functions.

Finally, Liaisons assigned to the committees will evaluate committee chairs, vice-chairs, and members for whom they have specific knowledge of their performance, and report those evaluations to the President and Vice-President as required.



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CBA Item II.E.
May 28-29, 2015

Discussion Regarding the Mentoring of New Members

Presented by: Deanne Pearce, Assistant Executive Officer

Purpose of the Item

The purpose of this agenda item is to propose new mentor guidelines (**Attachment**) for inclusion in the California Board of Accountancy (CBA) Guidelines and Procedures Manual (G&P Manual).

Action(s) Needed

The CBA will be asked to review, provide input to the proposed mentor guidelines, and approve the language for inclusion in the CBA G&P Manual

Background

During the transition of new CBA leadership for 2015, a suggestion was made to expand the assistance provided to new CBA member appointees. Presently, the CBA G&P Manual is designed to serve as a reference guide regarding the functions of the CBA and its committees, roles of CBA members, CBA leadership and committee members, and procedures for CBA and committee meetings. Presently, the CBA G&P Manual contains brief information regarding mentoring, as follows:

Mentoring

CBA officers and more experienced members are encouraged to act as mentors to new CBA members, making themselves available to answer procedural and historical questions as they arise.

Comments

Staff explored what opportunities existed to assist new members' transition into their role on the CBA. In considering improvements, staff believed that the CBA President may wish to assign a mentor, which could be a current or former CBA member. Additionally, as reflected in the proposed mentor guidelines, the mentor's role is further defined by promoting communication with the new member and providing the option of assistance during their first CBA meeting. This has been done by President Campos for recent member appointments and has been very valuable.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Discussion Regarding the Mentoring of New Members

Page 2 of 2

Recommendation

Staff recommends the CBA provide any edits to the mentor guidelines or approve as proposed and direct staff to include in the CBA G&P Manual.

Attachment

California Board of Accountancy Proposed Mentor Guidelines



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Attachment

California Board of Accountancy *Proposed Mentor Guidelines*

The purpose of California Board of Accountancy (CBA) Mentor Guidelines is to assist new members in becoming familiar with the CBA structure, meetings, and present priorities.

When a new member is appointed to the CBA, a mentor shall be assigned by the CBA President and, when necessary, in consultation with the CBA Executive Officer. The mentor (which can be a former or current CBA member) will assist the new member in getting acclimated to his/her role on the CBA. This will include open discussion on any matter presently or previously discussed by the CBA (with the exception of closed session matters). This provides an opportunity for the new member to receive insight regarding the activities, history, and priorities of the CBA.

If the mentor is a current CBA member, s/he may wish to sit adjacent to the new member during his/her first CBA meeting and assist in providing guidance on the meeting materials and answer any procedural questions that may arise.



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CBA Item II.F.
May 28-29, 2015

Delegation of Adjournment of the CBA Meetings to the CBA President and Adjournment of the Committee Meetings to the Respective Committee Chairs

Presented by: Corey Riordan, Board Relations Analyst

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with information regarding delegation of the adjournment of CBA and committee meetings.

Action(s) Needed

The CBA will be asked to delegate the authority to adjourn the CBA meetings to the CBA President and the adjournment the committee meetings to the respective committee chairs.

Background

California Government Code (GC) section 11126.3(f) (**Attachment**) states that "after any closed session, the state body shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and make any other disclosures required by Section 11125.2 of action taken in the closed session."

Comments

At the advice of legal counsel, staff have reviewed the CBA and committee adjournment procedures in accordance with GC section 11126.3(f). During its review, staff identified that the CBA adjourns immediately following closed session. Additionally, the Enforcement Advisory Committee and Qualifications Committee also meet in closed session, and likewise adjourn their meeting after closed session. Due to the structure of the meetings, staff suggest that the CBA to delegate to the CBA President and the respective committee chairs the authority to adjourn the meetings. The policy change would ensure that the CBA President and committee chairs could, following closed session, reconvene into open session and adjourn the meeting without a motion or quorum of members.

Once the authority to adjourn the meetings is delegated to the CBA President and respective committee chairs, the new policy will be updated in the CBA Guidelines & Procedures Manual and CBA Committee Member Resource Guide.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

**Delegation of Adjournment of the CBA Meetings to the CBA President and
Adjournment of the Committee Meetings to the Respective Committee Chairs**

Page 2 of 2

Recommendation

Staff recommend that the CBA make a motion to delegate the authority to adjourn the CBA meetings and committee meetings to the CBA President and committee chairs, respectively, and direct staff to make any necessary updates to the CBA Guidelines & Procedures Manual and CBA Committee Resource Guide.

Attachment

California Government Code Section 11126.3(f)

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**Attachment****California Government Code 11126.3(f)****11126.3.**

(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. If the session is closed pursuant to paragraph (2) of subdivision (d) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the proceeding or disciplinary action contemplated. However, should the body determine that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties if the proceeding or disciplinary action is commenced or that to do so would fail to protect the private economic and business reputation of the person or entity if the proceeding or disciplinary action is not commenced, then the state body shall notice that there will be a closed session and describe in general terms the purpose of that session. If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(b) In the closed session, the state body may consider only those matters covered in its disclosure.

(c) The disclosure shall be made as part of the notice provided for the meeting pursuant to Section 11125 or pursuant to subdivision (a) of Section 92032 of the Education Code and of any order or notice required by Section 11129.

(d) If, after the agenda has been published in compliance with this article, any pending litigation (under subdivision (e) of Section 11126) matters arise, the postponement of which will prevent the state body from complying with any statutory, court-ordered, or other legally imposed deadline, the state body may proceed to discuss those matters in closed session and shall publicly announce in the meeting the title of, or otherwise specifically identify, the litigation to be discussed, unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize a disclosure of names or other information that would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session or the disclosure of which is prohibited by state or federal law.

(f) After any closed session, the state body shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and make any other disclosures required by Section 11125.2 of action taken in the closed session.

(g) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcement.



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CBA Item II.G.
May 28-29, 2015

Mandatory Training for Board Members within the Department of Consumer Affairs

Presented by: Corey Riordan, Board Relations Analyst

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with information regarding training that is required by California law for board members within the Department of Consumer Affairs (DCA).

Action(s) Needed

CBA members should complete the mandatory training courses as required.

Background

California state law requires that members, appointed by the Governor or Legislature, complete various training courses, after the member's initial appointment and during their tenure.

Comments

The mandatory training courses are listed below, including a brief description of the training course, information on how to complete the training, and when it must be completed by.

DCA Board Member Orientation

DCA Board Member Orientation provides members with an overview of the functions, requirements, and obligations of board members. The orientation is a full day training, which is provided three to four times per year in various locations in northern and southern California. The orientation must be completed within one year of assuming office and within one year of reappointment.

Ethics Training

Ethics training provides information on activities or actions that are inappropriate or illegal. The State of California Department of Justice, Office of Attorney General, provides a two-hour online training course at www.oag.ca.gov/ethics/course. The training must be completed within six months of appointment and biennially thereafter.

Mandatory Training for Board Members within the Department of Consumer Affairs

Page 2 of 2

Sexual Harassment Prevention (SHP) Training

SHP training provides information and practical guidance regarding federal and state statutory provisions concerning the prohibition against, the prevention and correction of sexual harassment, and the remedies available to victims of sexual harassment. SHP training may be completed by participating in DCA's non-interactive SHP tutorial available at <http://solid.dca.ca.gov>. A live two-hour webinar is also offered by the Department of Employment and Housing available at <http://www.dfeh.ca.gov/Webinars.htm>. The training must be completed within six months of appointment, biennially thereafter, and during DCA's mandatory training year, which is every odd year.

Defensive Drivers Training (DDT)

California Labor Code requires that state employees, including CBA members, receive general safe and healthy work practices training and specific instructions with respect to workplace hazards, including driving. The Department of General Services provides the two-hour online training, available at <http://www.dgs.ca.gov/orim/Programs/DDTOnlineTraining.aspx>. DDT must be completed within six months of appointment and every four years thereafter.

To ensure the CBA is in compliance with California law, staff contact each member at least three months prior to the training deadlines. Should the members have any questions regarding any training course, members may contact Corey Riordan by telephone at (916) 561-1716 or by email at cfriordan@cba.ca.gov. Ms. Riordan also has individual training details available at the meeting.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff does not have a recommendation on this agenda item.

Attachment

None.



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CBA Item II.H.
May 28-29, 2015

Discussion and Approval of the CBA's Preliminary Determinations Report Required Pursuant to Business and Professions Code Section 5096.21

Presented by: Matthew Stanley, Manager, Examination and Practice Privilege Units
Date: April 22, 2015

Purpose of the Item

The purpose of this agenda item is to present the California Board of Accountancy (CBA) with its Preliminary Determinations Report (**Attachment**) and provide an opportunity to make edits prior to the report's due date of July 1, 2015.

Action(s) Needed

The CBA will be asked for any edits it wishes to make and to approve the Preliminary Determinations Report.

Background

The CBA has had a practice privilege program since 2006. Under the original program, an out-of-state certified public accountant (CPA) was required to file a notice and pay a fee to the CBA for the privilege of practicing in California for one year without the need to acquire a California license.

In 2012, the Legislature significantly revised the program and the new practice privilege law (Business and Professions Code (BPC) sections 5096-5096.21) went into effect on July 1, 2013. Under the new program, a practice privilege is granted to out-of-state licensees, who meet certain requirements, without the need to provide notice or pay a fee. One of those requirements includes holding a CPA license from a state which the CBA determines has substantially equivalent education, examination and experience requirements to California. The CBA designated such states when it adopted Division 1, Title 16 of the California Code of Regulations (CBA Regulations) section 5.5 listing the substantially equivalent states, which included all states except for the United States Virgin Islands.

In order to ensure that the new program is protecting consumers, BPC section 5096.21(a) requires the CBA to determine whether allowing individuals from a particular state to practice in California pursuant to a practice privilege violates its duty to protect the public. If allowing licensees from a particular state to practice in California under a no notice, no fee practice privilege is determined to put the public at risk, the CBA will need to require licensees from that state, as a condition to exercising a practice

Discussion and Approval of the CBA's Preliminary Determinations Report Required Pursuant to Business and Professions Code Section 5096.21

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privilege in this state, to provide the notice and pay the fees as required under the previous practice privilege program. This determination will be made by the CBA on and after January 1, 2016.

The Preliminary Determinations Report, which must include preliminary determinations made pursuant to BPC section 5096.21, is due to the Legislature by July 1, 2015. The CBA reviewed the draft Preliminary Determinations Report at its March 2015 meeting.

Comments

The Preliminary Determinations Report is attached for the CBA's review. Several changes have been made to the report following CBA members' input.

The following are the changes shown underlined in the report:

Page 5 – The second paragraph was added to indicate the method by which the CBA would be gathering additional information from the other states.

Page 6 – Starting at the fifth paragraph, language was added to indicate that the CBA would be using its own performance measures when evaluating whether other states timely and adequately address California's enforcement referrals.

Page 7 – Starting at the third paragraph was added to indicate the level of information the CBA expects to be available on the Internet regarding other states' licensees.

Page 8 – The last paragraph was added to indicate the additional information that the CBA would use when considering whether a state's discipline is appropriate in light of the misconduct.

Page 9 – A section titled "NASBA's Guiding Principles of Enforcement" was added outlining the alternate method by which a state may be determined to be protecting the public, and thus may remain in the no notice, no fee practice privilege program. Additional information will be added to present the Legislature with the outcome of **CBA Agenda Item X**, regarding whether the CBA issues a finding that the National Association of State Boards of Accountancy's (NASBA) Guiding Principles of Enforcement meet or exceed the CBA's enforcement practices.

Staff request that the CBA provide any additional comments it may want included in the report before the document is finalized. With the approval of the CBA, staff will submit the finalized version of the Preliminary Determinations Report to the Legislature by July 1, 2015.

Fiscal/Economic Impact Considerations

None.

**Discussion and Approval of the CBA's Preliminary Determinations Report
Required Pursuant to Business and Professions Code Section 5096.21**

Page 3 of 3

Recommendation

Staff recommend that the CBA approve the Preliminary Determinations Report and delegate authority to CBA President Jose Campos to approve final language to be inserted on page 9 presenting the Legislature with the outcome of **CBA Agenda Item X**.

Attachment

Preliminary Determinations Report

CALIFORNIA BOARD OF ACCOUNTANCY



PRACTICE PRIVILEGE: PRELIMINARY DETERMINATIONS REPORT JULY 1, 2015

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INTRODUCTION

This report is prepared in compliance with Business and Professions Code (BPC) section 5096.21(d) to report on the California Board of Accountancy's (CBA) preliminary determinations made pursuant to BPC section 5096.21. The information in this report will be considered by the CBA when it makes its determinations as to whether allowing individuals from a particular state to practice in California pursuant to a practice privilege violates its duty to protect the public. If this determination shows the public is at risk, the licensees of those particular states would, following a rulemaking by the CBA, revert back to using the prior practice privilege program with its notice and fee provisions. These determinations are to be made on and after January 1, 2016.

To the CBA, a practice privilege is the legal authority for an individual licensee of another state (defined, in BPC section 5032, as any state, territory or insular possession of the United States, or the District of Columbia) to practice public accounting in California without the requirement to obtain a California certified public accountant (CPA) license. The CBA's mission is to protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards; therefore, it is critical to the CBA that the California practice privilege law sufficiently protects California consumers. Likewise, the California Legislature placed certain protections into the practice privilege law found in BPC sections 5096 through 5096.21.

PROGRAM OVERVIEW

If a CPA licensee's principal place of business is located outside California and he or she holds a valid and current license, certificate, or permit to practice public accountancy from another state, he or she may qualify to practice public accountancy in California under a practice privilege, without giving notice or paying a fee, provided one of the following conditions is met:

- They have continually practiced public accountancy as a CPA under a valid license issued by any state for at least four of the last 10 years.
- They hold a valid license, certificate, or permit to practice public accountancy from a state determined by the CBA to be substantially equivalent to the licensure qualifications in California under BPC section 5093.
- They possess education, examination, and experience qualifications which have been determined by the CBA to be substantially equivalent to the licensure qualifications in California.

A licensee is required to notify and receive written permission from the CBA prior to practicing public accountancy in California if, within the seven years immediately preceding the date on which he or she wishes to practice in this state, certain conditions apply as outlined in BPC Section 5096(i).

If any of those conditions apply, the licensee must submit a completed notification form and await written permission from the CBA prior to engaging in the practice of public accountancy in California.

If an individual exercises a practice privilege and subsequently acquires any condition disqualifying them from holding a California practice privilege, they must cease practicing immediately and notify the CBA in writing within 15 days of the occurrence of the cessation event using the "Notification of Cessation of Practice Privilege Form" (PP-11(1/13)).

If an individual is exercising a practice privilege in California, they are required to notify the CBA in writing of any pending criminal charges, other than for a minor traffic violation, within 30 days of the date they have knowledge of those charges.

If an individual intends to provide audit or attestation services for an entity headquartered in California, they may only do so through an accounting firm registered with the CBA.

An accounting firm that is authorized to practice public accountancy in another state and that does not have an office in this state must register with the CBA prior to performing attest services for an entity headquartered in California.

To register an out-of-state accounting firm, while there is no fee, an applicant must first complete the "Out-of-State Accounting Firm Registration Form" (PP-13(1/13)). The out-

of-state accounting firm registration must be renewed every two years in order for the out-of-state accounting firm to maintain practice rights in California. The out-of-state accounting firm must also notify the CBA of any change of address or change in ownership within 30 days of the change.

BACKGROUND

Starting in 2006, the California practice privilege law required out-of-state CPA licensees to file a written notice and pay a fee to the CBA in order to obtain a practice privilege. A practice privilege differed from a California license in that the individual could not have a principal place of business in California and had to file for a new practice privilege every year.

Senate Bill 1405 (DeLeón, Chapter 411 of 2012) removed the notice and fee requirements and significantly amended the consumer protection provisions of the law. The new practice privilege law, which went into effect on July 1, 2013, grants a practice privilege to out-of-state licensees who meet certain requirements including holding a CPA license from a state which the CBA determines has substantially equivalent education, examination and experience requirements to California. The CBA designated such states when it adopted Division 1, Title 16 of the California Code of Regulations (CBA Regulations) section 5.5 listing the substantially equivalent states.

In order to ensure that the practice privilege program was protecting consumers, BPC section 5096.21(a) requires the CBA to determine whether allowing individuals from a particular state to practice in California pursuant to a practice privilege violates its duty to protect the public. If the determination is made that allowing individuals from a particular state puts consumers at risk, the CBA will need to require out-of-state individuals licensed from that state, as a condition to exercising a practice privilege in this state, to provide the notice and pay the fees as required under the previous practice privilege program. This determination will be made by the CBA on a continuing basis on and after January 1, 2016 pursuant to BPC section 5096.21(a).

In BPC section 5096.21(b), the Legislature requires the CBA to consider the following three factors as it makes these determinations:

- (1) Whether the state timely and adequately addresses enforcement referrals made by the board to the accountancy regulatory board of that state, or otherwise fails to respond to requests the board deems necessary to meet its obligations under this article.
- (2) Whether the state makes the disciplinary history of its licensees publicly available through the Internet in a manner that allows the board to adequately link consumers to an Internet Web site to obtain information that was previously made available to consumers about individuals from the state prior to January 1, 2013, through the notification form.
- (3) Whether the state imposes discipline against licensees that is appropriate in light of the nature of the alleged misconduct.

The purpose of this report is to provide the Legislature with the preliminary determinations the CBA will use as it determines whether allowing individuals from a particular state to practice in California pursuant to a practice privilege violates its duty to protect the public.

BASIS FOR MAKING DETERMINATIONS

In making these preliminary determinations, the CBA relied on information provided by its Enforcement Division, an analysis of information available to the public through the Internet, and information provided by the National Association of State Boards of Accountancy (NASBA). It reviewed this information and this report at its March and May 2015 meetings.

To ensure that this information is accurate, the CBA has sent a letter to each state explaining California's practice privilege law and requesting the following information:

- Confirmation of information CBA staff have found online regarding information each state posts on the Internet about their licensees
- Additional information, not identified by CBA staff, that may be available online regarding enforcement
- The number of CPA licensees
- Whether the state has a mandatory peer review process
- The number of enforcement referrals that state has made to the CBA
- The state's responses to the CBA's enforcement referrals to that state
- Information on whether the state maintains disciplinary guidelines and how it maintains consistency of discipline.

As the CBA proceeds towards making final determinations on and after January, 2016, it will ask its staff to gather additional and current information so that the determinations will be based on the best available information.

PRELIMINARY DETERMINATIONS

The following are preliminary determinations the CBA has made regarding the three factors the Legislature has identified.

Timely and Adequately Addressing Enforcement Referrals

The CBA communicates enforcement referrals to other states through two separate methods, the Accountancy Licensing Database (ALD) and direct communication. ALD is a national licensing database for state boards of accountancy, and all CBA disciplinary actions are uploaded on a daily basis. In addition, the CBA sends disciplinary information directly to other states when it is determined that the licensee is licensed in another state.

Through these two methods, other states are made aware of disciplinary action taken by the CBA. Once a state receives this information, it may need to consider a number of factors before deciding whether to pursue its own enforcement action. Such considerations might include the nature of the violation, that state's laws and regulations, and risk to that state's consumers.

Since 2009, the CBA has referred 77 disciplinary matters to 37 states. These 77 licensees are prohibited from practicing in California under a practice privilege without written authorization from the CBA.

The CBA will initially be using California's current performance measures as a guideline for making this determination. Those performance measures are as follows:

- Intake: 10 days
- Intake and Investigation: 180 days
- Formal Discipline: 540 days

Intake is the average time from complaint receipt, to the date the complaint was assigned to an investigator. Intake and investigation is the average time from complaint receipt to closure of the investigation process, but it does not include cases sent to the Attorney General or other forms of formal discipline. Formal discipline is the average time to complete the entire enforcement process for cases resulting in formal discipline and includes intake and investigation by the CBA and prosecution by the Attorney General.

Disciplinary History Publically Available Through the Internet

An important part of disciplinary history is the current license status. The current status of a CPA license can be ascertained online for every state except for Maryland, which only posts its active status licensees on its website, and Washington, which does not differentiate between Suspended and Revoked.

In addition, many states provide an indicator either on their website or on CPAVerify that informs a consumer that a license has an enforcement action history regardless of the current status of a license. It is possible for a license in an active status to have had previous enforcement actions against it. Based on preliminary information gathered by the CBA, it appears that 31 states (California would make it 32) provide this indicator and an additional five states provide it for at least some of their licensees.

Finally, those states that provide the full disciplinary details online provide a consumer with the maximum amount of information regarding an enforcement action. This level of detail exceeds what was reported on the notification form under the prior practice privilege program. Based on preliminary information gathered by the CBA, three states (California would make it four) provide full disciplinary details and documents online. An additional 13 states provide at least some detail regarding their enforcement actions. This detail can range from dates of discipline to a full description of the violation just short of providing the disciplinary documents.

The CBA will be looking for the information that was previously available on the former practice privilege notification form that was used in the CBA's notice and fee practice privilege program.

Specifically, on the form, an applicant had to answer "Yes" or "No" to the following statement:

"I have had a license, registration, permit or authority to practice a profession surrendered, denied, suspended, revoked, or otherwise disciplined or sanctioned except for the following occurrences:

- (1) An action by a state board of accountancy in which the only sanction was a requirement that the individual complete specified continuing education courses.*
- (2) The revocation of a license or other authority to practice public accountancy, other than the license upon which the practice privilege is based, solely because of failure to complete continuing education or failure to renew."*

Access to this information to the public will be the benchmark for what another state would need to make available on the Internet. Specifically, beyond standard licensing information, the CBA will be looking for whether prior discipline is indicated on the Internet.

Appropriate Discipline in Light of the Misconduct

In order to make a preliminary assessment regarding whether the discipline of a particular state is appropriate, the CBA looked at whether a state has and uses written disciplinary guidelines of some kind (whether in law, rule or policy; and covering some or all violations) and the method used by the state for ensuring consistency of discipline. This information was derived from a survey of state boards of accountancy conducted by NASBA during the fall and winter of 2014-15.

Based on this preliminary assessment, 35 states currently rely on some kind of disciplinary guidelines with an additional state in the process of developing guidelines.

Based on the NASBA survey, it appears that 16 states rely on those guidelines to ensure consistency of discipline, one state uses a complaint committee, and 23 states primarily rely on precedent in ensuring consistency. For the three states with the lowest licensee population, consistency was not an issue as they had little to no discipline. The rest of the states evaluate each matter on a case-by-case basis.

When making this portion of the determination, the CBA will also consider the number of licensees in each state and each state's size, procedures and laws.

NASBA's GUIDING PRINCIPLES OF ENFORCEMENT

BPC section 5096.21(a) requires the CBA to determine whether allowing individuals from a particular state to practice in California pursuant to a practice privilege violates its duty to protect the public on and after January 1, 2016. BPC 5096.21(c) provides another means that a state may be determined to be protecting the public, and thus may remain in the no notice, no fee practice privilege program.

To remain in the current program under BPC 5096.21(c), the following four statutory conditions must be met:

1. NASBA adopts enforcement best practices guidelines
2. The CBA issues a finding that those practices meet or exceed the CBA's own enforcement practices
3. A state has in place, and is operating pursuant to, enforcement practices substantially equivalent to the best practices guidelines
4. Disciplinary history of a state's licensees is publicly available through the Internet in a manner that allows the CBA to link consumers to a website. The information available must be at least equal to the information that was previously available to consumers through the practice privilege form that was used in the CBA's notice and fee practice privilege program

On May 12, 2015, NASBA released its Guiding Principles of Enforcement, fulfilling the first condition above.

Staff are recommending that the CBA delegate authority to CBA President Campos to approve final language to be inserted here presenting the Legislature with the outcome of CBA Agenda Item X.

CONCLUSION

The information provided in this report, and any other additional information it requests to be collected, will be considered by the CBA as it makes its determinations as to whether allowing individuals from a particular state to practice in California pursuant to a practice privilege violates its duty to protect the public. The information in this report may change, or additional information may be requested by the CBA, over the next six months prior to the determinations being made. The CBA will rely on the most current information available in order to make its determinations regarding consumer protection.



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CBA Item III.B.
May 28-29, 2015

Recommendations for Appointment(s)/Reappointment(s) to the Qualifications Committee

Presented by: Katrina Salazar, CPA, Vice-President

Purpose of the Item

The purpose of this agenda item is to recommend that Erin Sacco-Pineda, CPA (**Attachment 1**) be reappointed as a member to the California Board of Accountancy (CBA) Qualifications Committee (QC).

Action(s) Needed

It is requested that the CBA adopt the recommendation.

Background

The QC assists the CBA in its licensure activities by reviewing the experience of applicants for licensure and making recommendations to the CBA. This responsibility includes conducting work paper reviews, with the applicant or the employer present, to verify that the responses provided are reflective of the requisite experience for licensure.

Comments

For all appointments to a committee, I work with the current chair to discuss knowledge and skills to ensure that the appointment will contribute to the committee's function and enable it to carry out its mandated activities. A matrix identifying the present members and areas of expertise is included as **Attachment 2**.

I also confer with the CBA Executive Officer to verify that the potential appointee has met the appropriate requirements for license renewal, including continuing education requirements and peer review (if subject). A check is also made to ensure there are no pending enforcement actions.

For current members who are being reappointed, I review prior attendance records and review the evaluations that may have been completed by the current Chairperson, Vice-Chairperson, CBA Liaisons, and the Licensing Chief. The evaluation requests feedback in the areas of interpersonal skills, communication, leadership, preparedness, and participation. Should a member have attendance or performance issues, they may be subject to review and removal from the committee, at anytime, by action of the CBA.

Recommendations for Appointment(s)/Reappointment(s) to the Qualifications Committee

Page 2 of 2

Prior to making a decision to recommend Ms. Sacco-Pineda for reappointment to the QC, I performed all the steps previously mentioned. I believe Ms. Sacco-Pineda has exhibited a high level of professionalism during the performance of her duties and has demonstrated the skills and knowledge to serve on the QC, which will allow the QC to assist the CBA with its Licensing Program.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Based on the information above, and in consultation with Robert Ruehl, Chairperson of the QC, I recommend that Erin Sacco-Pineda be reappointed for two years to the QC, effective June 1, 2015.

Attachments

1. Curriculum Vitae of Erin Sacco-Pineda, CPA
2. California Board of Accountancy Qualifications Committee Skill Matrix



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CBA Item IV.A.
May 28-29, 2015

Fiscal Year 2014-15 Third Quarter Financial Statement and Governor's Budget

Presented by: Alicia Berhow, Secretary/Treasurer

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with the third quarter financial statement.

Action(s) Needed

No specific action is required on this agenda item.

Background

CBA Financial Statements are prepared quarterly (October, January, April, and August) and are included in CBA meeting materials. These statements provide an overview of year-to-date receipts, expenditures, and the status of the Accountancy Fund Reserve.

Comments

None.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff does not have a recommendation on this agenda item.

Attachments

1. Third Quarter Financial Statement – Narrative
2. Third Quarter Financial Statement – Statistics
3. CBA Budget Allocation History
4. CBA Total Revenue and Expenditures



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CALIFORNIA BOARD OF ACCOUNTANCY
FISCAL YEAR 2014-15
THIRD QUARTER FINANCIAL STATEMENT - NARRATIVE
(For period of 7-01-14 through 03-31-15)

Attachment 1

BUDGET

The fiscal year (FY) 2014-15 budget is currently set at \$13,776,062. The Governor's proposed budget for FY 2015-16 was released on January 9, 2015, with the CBA's budget projected to be set at \$14,161,000.

REVENUES/TOTAL RECEIPTS

The CBA collected approximately \$4.2 million in total receipts through the third quarter of FY 2014-15. Total revenues decreased by approximately 48 percent from the same period last year. This significant decrease was anticipated with the CBA entering the first year of a two-year reduction in the license renewal and initial permit, examination, and license application/registration fees. It is projected that the CBA will collect approximately \$5.4 million in receipts in FY 2014-15, which will be approximately \$5 million less than what was received the previous fiscal year.

EXPENDITURES

Total expenditures through the third quarter reflect an approximate 16 percent increase over the same period last fiscal year. Much of this increase can be attributed to higher personal services costs, including a two percent salary increase.

Salaries and wages have increased as the remaining vacant Investigative CPA (ICPA) positions were filled in November and December 2014. Rates for employer paid health insurance and retirement premiums increased over the levels in FY 2013-14 resulting from the filling of these vacancies.

The temporary help line item amount reflects an increase of approximately 88 percent from last FY, largely based on additional staffing brought on to address the CBA's anticipated transition to BreZE. In March 2015, the Legislature approved DCA's recent contract amendments for implementation of the second phase of the BreZE project. Since the CBA's transition to Breeze is unknown at this time several of the temporary staff have been released. Additional information will be provided as it becomes available.

The hardcopy UPDATE publication continues to account for a significant portion of the CBA's printing expenses. Printing costs for each UPDATE release can range from \$40,000 to \$50,000 depending on the required circulation for the publication.

CALIFORNIA BOARD OF ACCOUNTANCY
FISCAL YEAR 2014-15
THIRD QUARTER FINANCIAL STATEMENT – NARRATIVE
(For period of 7-01-14 through 03-31-15)
PAGE 2 OF 2

Costs in the training expense category remain increased for the third quarter. The CBA requires all current and new investigative staff to attend a national certification course in regulatory investigative techniques. This certification course is a prerequisite for enrollment in the Department of Consumer Affairs' (DCA) Enforcement Academy. The CBA has entered into contracts with outside vendors to provide these courses as well as vendor contracts providing continuing education courses for ICPAs. These courses are not available within the DCA training center.

Enforcement costs (Attorney General, Office of Administrative Hearings, and court reporting expenses) have risen significantly due to the larger number of investigations the CBA is able to complete with its increased staffing resources. An increasing number of investigations have also been referred to the Attorney General's Office resulting in higher costs. The CBA is expecting to continue utilizing its consulting resources. Two expert consultant contracts have been extended through FY 2014-15 to assist in the more complex enforcement matters.

At the end of FY 2013-14, the CBA had set aside \$350,000 in the Architectural Revolving Fund (ARF) to offset some of the relocation expenses of the CBA for the purchase of new workstations as it was determined it would be more costly to dismantle and move the existing workstations. The CBA will also be purchasing furniture for the new Conference rooms as the existing furniture is old and in disrepair. Expenses beyond what is in the ARF will be absorbed by the CBA. We will continue to keep members apprised of relocation costs.

RESERVES

The CBA ended the third quarter with 7.7 months in the Accountancy Fund Reserve (Reserve). Third-quarter expenditures have exceeded total revenues by approximately \$5.5 million and staff project that over the course of FY 2014-15, expenditures will exceed total revenues by more than \$8 million. This will decrease the Reserve from approximately \$14.2 million to approximately \$6.5 million or 5.8 months of expenditures.

CALIFORNIA BOARD OF ACCOUNTANCY
FISCAL YEAR 2014-15
Third Quarter Financial Statement
(for period of 07/1/14 through 03/31/15)

	FY 2014-15 Received/Expended 07/01/14 - 03/31/15 (9 months) [7]	FY 2013-14 Received/Expended 07/01/13 -03/31/14 (9 months) [7]	% Change FY 2014-15 to FY 2013-14 to (A:B)	FY 2014-15 Annual Governor's Budget 7/01/14 - 6/30/15 (12 months) [8]	FY 2014-15 Receipts/Expenditures Over/Under Budget (D:A)	FY 2014-15 Annual Projections (12 months) [9]
RECEIPTS						
Revenues:						
Renewals [1]	2,316,915	4,661,390	-50.3%	2,816,637	-17.7%	2,868,756
Examination Fees	1,565,855	2,114,322	-25.9%	2,171,707	-27.9%	2,199,031
Licensing Fees	116,430	1,000,120	-88.4%	211,480	-44.9%	139,794
Miscellaneous [2]	90,910	31,834	185.6%	45,090	101.6%	71,543
Penalties and Fines	84,800	173,330	-51.1%	187,850	-54.9%	112,173
Total Revenues	4,174,910	7,980,996	-47.7%	5,432,764	-23.2%	5,391,297
Interest	14,358	17,283	NA	0	NA	20,671
TOTAL NET RECEIPTS	4,189,268	7,998,279	-47.6%	5,432,764	-22.9%	5,411,968
EXPENDITURES:						
Personal Services:						
Salaries & Wages	3,728,682	3,275,825	13.8%	5,452,095	-31.6%	5,209,031
Temporary Help	508,558	269,999	88.4%	200,000	154.3%	672,684
Total Salaries & Temp. Help	4,237,240	3,545,824	19.5%	5,652,095	122.7%	5,881,715
Benefits						
Health Insurance	657,727	591,090	11.3%	1,050,133	-37.4%	871,825
Other Insurance and Miscellaneous	80,534	77,076	4.5%	114,194	-29.5%	106,749
State Retirement	901,360	633,730	42.2%	1,325,424	-32.0%	1,194,763
Social Security	235,960	202,669	16.4%	403,818	-41.6%	312,768
Total Benefits [3]	1,875,581	1,504,565	24.7%	2,893,569	-140.4%	2,486,104
Total Personal Services:	6,112,821	5,050,389	21.0%	8,545,664	-28.5%	8,367,819
Operating Expenses:						
Fingerprints	42,675	20,123	112.1%	122,954	-65.3%	56,900
General Expense	169,027	106,341	58.9%	337,530	-49.9%	253,541
Printing	191,174	124,804	53.2%	95,608	100.0%	499,509
Communications	24,754	16,092	53.8%	59,614	-58.5%	57,064
Postage	175,588	250,941	-30.0%	141,872	23.8%	163,108
Travel	127,987	130,002	-1.5%	135,886	-5.8%	192,827
Training	41,208	22,630	82.1%	28,012	47.1%	42,758
Facilities Operations	709,347	685,923	3.4%	742,818	-4.5%	714,347
Consultant & Professional Services	45,222	14,377	214.5%	242,076	-81.3%	62,000
Departmental Services	1,021,848	1,068,223	-4.3%	1,409,046	-27.5%	1,407,970
Consolidated Data Center	61,920	44,008	40.7%	40,770	51.9%	80,290
Data Processing	17,744	14,386	23.3%	50,103	-64.6%	26,616
Central Administrative Services	371,549	311,973	19.1%	495,398	-25.0%	495,398
Exams	151,700	137,400	10.4%	0	NA	37,400
Enforcement	565,764	469,038	20.6%	1,463,551	-61.3%	843,539 [10]
Equipment	41,460	23,144	79.1%	161,160	-74.3%	112,765
Total Operating Expenses:	3,758,967	3,439,405	9.3%	5,526,398	-32.0%	5,046,032
TOTAL EXPENDITURES	9,871,788	8,489,794	16.3%	14,072,062	-29.8%	13,413,851
Less Scheduled Reimbursements	182,723	118,751	53.9%	296,000	-38.3%	192,639
TOTAL NET EXPENDITURES	9,689,065	8,371,043	15.7%	13,776,062	-29.7%	13,221,212
RECEIPTS IN EXCESS OF EXPENSES PLUS COST RECOVERY	-5,499,797	-372,764		-8,343,298		-7,809,244
BEGINNING RESERVES JULY 1 [4]	14,185,000	15,860,000		14,185,000		14,185,000
Total Resources	8,840,690	15,550,560		5,841,702		6,583,072
PROJECTED ENDING RESERVES	8,840,690	15,550,560	-43.1%	5,841,702		6,583,072
GENERAL FUND LOAN 2002 [5]	(6,000,000)	(6,000,000)				
GENERAL FUND LOAN 2003 [5]	(270,000)	(270,000)				
GENERAL FUND LOAN 2008 [5]	(14,000,000)	(14,000,000)				
GENERAL FUND LOAN 2010 [5]	(10,000,000)	(10,000,000)				
GENERAL FUND LOAN 2011 [5]	(1,000,000)	(1,000,000)				
MONTHS IN RESERVE (MIR) [6]	7.7	13.5		5.1		5.8

CALIFORNIA BOARD OF ACCOUNTANCY
FISCAL YEAR 2014-15
Third Quarter Financial Statement
(for period of 07/1/14 through 03/31/15)

Footnotes:

- [1] Includes biennial renewals, delinquent and prior year renewals, and initial licenses.
- [2] Includes miscellaneous services to the public, dishonored check fees, certification fees, duplicate licenses, name changes, over/short fees, suspended revenue, prior year adjustments, and unclaimed checks.
- [3] The following line items are part of the total benefits figure:
Health Insurance - health, dental, vision.
Other insurance and Miscellaneous - worker's compensation, unemployment insurance, transit discount.
- [4] FY 2013-14 and 2014-15 beginning reserve amount was taken from Analysis of Fund Condition statement, prepared by the Department of Consumer Affairs (DCA) Budget Office.
- [5] Funds borrowed per California Government Code Section 16320, which indicates that the Budget Act is the authority for these loans. The "terms and conditions" of the loans, per the Budget Act are: "The transfer made by this item is a loan to the General Fund. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time of the transfer." (Estimated at .389% for 2011, .515% for 2010, 2.78% for 2008, 1.64% for 2003 loan, and 2.523% for 2002). "It is the intent of the Legislature that repayment be made so as to ensure that the programs supported by this fund are not adversely affected by the loan through a reduction in service or an increase in fees." Outstanding General Fund loans total \$31,270,000.
- [6] Calculation: Net projected expenditure authority for FY 2014-15 (\$13,776,062 divided by twelve months equals monthly expenditure authority (\$1,148,005). Total ending reserves divided by monthly authority equals "Months in Reserve" (MIR).
- [7] Received/Expended amounts through March 31, 2015 for FY 2014-15 and March 31, 2014 for FY 2013-14 include encumbrances, and are from DCA Budget Reports.
- [8] Figures reflect projected revenues from FY 2014-15 Workload and Revenue Statistics, expenditures are provided by the Department of Consumer Affairs Budget Office.
- [9] This column reflects CBA's annual revenue and expenditure projections for Fiscal Year 2014-15 based on nine months of actual data.
- [10] Annual expenditures projected for the Enforcement line item are based only on what the CBA has spent to date. No other factors are used in determining this projection. This estimate is not indicative of the number or type of enforcement cases the CBA anticipates being involved in or is currently investigating.

NOTE: CBA Financial Reports are prepared quarterly (October, January, April, and August) and included in CBA Meeting materials. These reports provide an overview of receipts, expenditures, and the status of the Accountancy Fund Reserve.

CBA Budget Allocation History

Third Quarter FY 2014-15	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Board
\$ Budgeted	\$13,776,062	107,696	880,130	1,418,339	482,901	1,243,866	6,899,430	2,220,495	447,746	75,459
\$ Spent	\$9,689,065	93,433	721,238	970,520	428,609	1,160,242	4,134,031	1,636,034	445,798	99,156
Authorized Positions²	93.9	1.0	6.0	13.0	4.0	11.0	39.5	16.4	3.0	0.0

¹ Dollars spent through the first quarter ending March 31, 2015.

² 17 Enforcement positions and one Initial Licensing position were added as a result of 3 successful FY 2014-15 BCPs. 11 of the 17 Enforcement positions are limited-term and will expire in two to three years

FY 2013-14	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Board
\$ Budgeted	\$11,557,852	127,993	860,445	1,332,593	533,006	1,550,464	4,580,456	2,056,711	437,199	78,985
\$ Spent	\$11,518,942	69,862	886,921	1,266,414	582,303	1,592,579	3,956,921	2,218,063	834,781	111,098
Authorized Positions¹	75.9	1.0	6.0	11.0	4.0	11.0	22.5	17.4	3.0	0.0

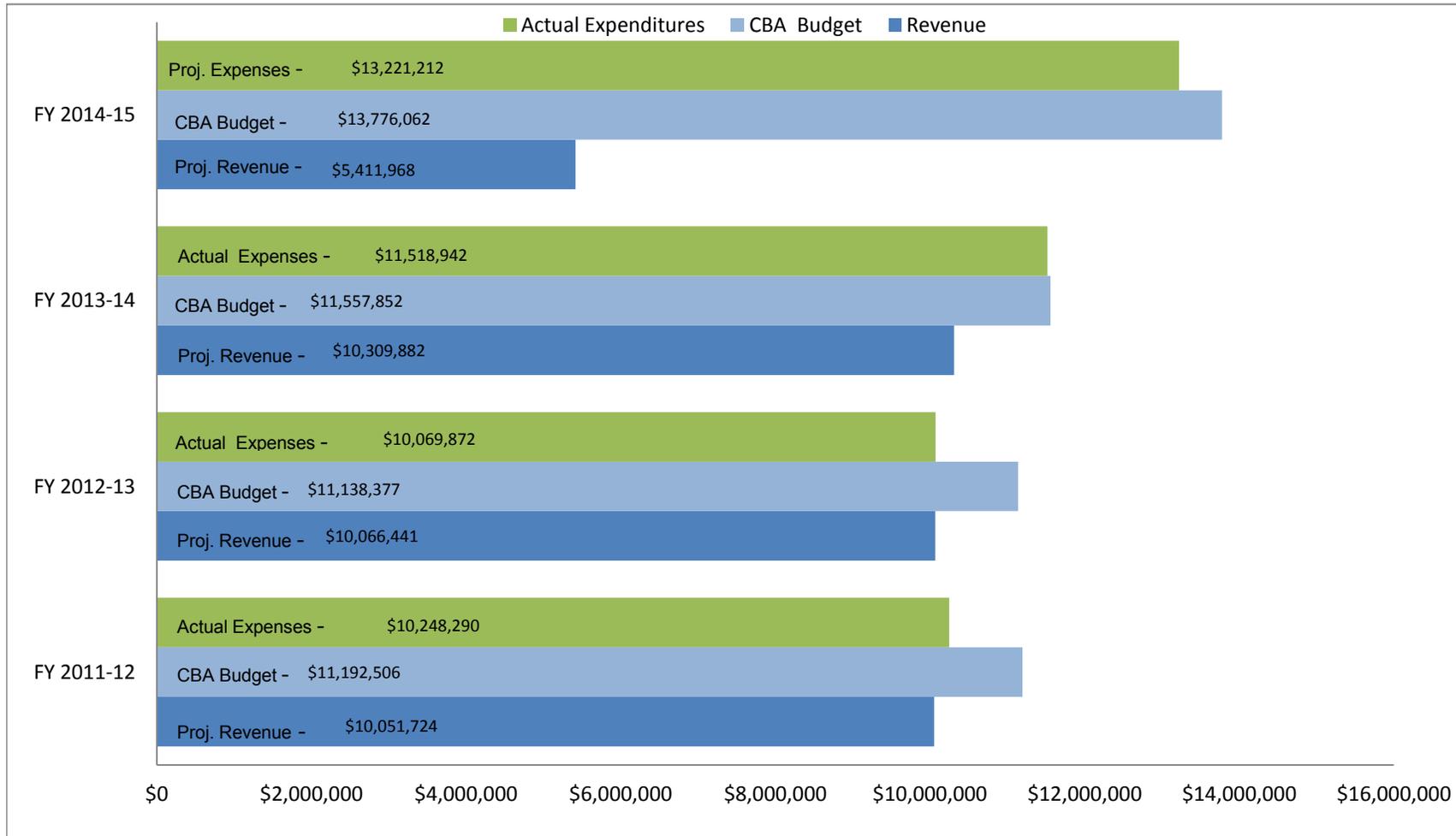
¹ Three limited-term positions expired as of June 30, 2013. One permanent Practice Privilege office assistant position was eliminated via a negative BCP.

FY 2012-13	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Board
\$ Budgeted	\$11,138,377	210,426	866,598	1,300,985	605,291	1,155,907	4,462,554	2,000,197	417,059	119,360
\$ Spent	\$10,069,872	173,158	811,677	1,182,577	563,050	1,299,912	3,442,237	2,129,545	470,587	122,987
Authorized Positions³	79.9	2.0	6.0	12.0	5.0	11.0	22.5	18.4	3.0	0.0

³ The elimination of salary savings required by the Department of Finance in FY 2012-13, required the CBA to eliminate 3.6 authorized positions.

FY 2011-12	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Board
\$ Budgeted	\$11,192,506	223,850	783,475	1,455,026	559,625	1,119,251	4,365,077	2,126,576	447,700	111,925
\$ Spent	\$10,248,290	169,721	957,906	1,217,073	555,507	1,016,342	3,552,814	2,093,066	586,124	99,736
Authorized Positions	83.5	2.0	7.0	12.0	5.0	11.0	22.5	20.0	4.0	0.0

CBA Total Revenue and Expenditures





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CBA Item V.A.
May 28-29, 2015

Update on the Relocation of the CBA's Office

Presented by: Patti Bowers, Executive Officer

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with an update regarding the CBA's office relocation (**Attachment**).

Action(s) Needed

No specific action is required on this agenda item.

Background

The process of relocating the CBA's office began in November 2013. Since that time, the CBA, working with the Department of Consumer Affairs (DCA) and Department of General Services (DGS), conducted site visits of possible facilities and undertook the arduous task developing space plans, identifying information technology specifications, and ultimately finalizing a lease agreement.

Comments

On March 31, 2015, the CBA's lease for its new location was executed. The CBA's new office will be located at 2450 Venture Oaks Way, Sacramento, CA 95834, and the tentative date for relocation is August 2015. Staff is presently working with DCA and DGS on the furniture and equipment needs of the entire suite, including employee workstations and conference rooms.

Staff has developed an extensive project outline detailing all the tasks that need to occur to ensure a smooth transition, including notification to licensees and stakeholders of the relocation. It is anticipated that the members will receive frequent updates regarding the progress as we approach the scheduled move date.

Fiscal/Economic Impact Considerations

Fiscal information related to the CBA's relocation is included in the Secretary/Treasurer Report.

Recommendation

Staff does not have a recommendation on this agenda item.

Attachment

California Board of Accountancy's New Office Location



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California Board of Accountancy's New Office Location

Attachment

**2450 Venture Oaks Way
Sacramento, CA 95834**





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CBA Item V.C.
May 28-29, 2015

Update on the 2013-2015 Communications and Outreach Plan

Presented by: Lauren Hersh, Information and Planning Officer

Purpose of the Item

The purpose of this agenda item is to keep the California Board of Accountancy (CBA) informed of communications and outreach efforts and activities.

Action(s) Needed

No specific action is required on this agenda item.

Background

As requested by the CBA, staff is providing regular updates regarding the communications and outreach activities which have taken place since the last CBA meeting.

Comments

Staff continues to leverage outreach opportunities to: inform and educate students and faculty about the educational requirements for licensure; the general public as to best practices that enhance consumer protection; and licensees regarding the activities of the CBA.

Outreach Events

University of California, Berkeley

In conjunction with the California Society of CPAs and the University of California at Berkeley Haas School of Business (University), the CBA held an outreach event at the University on Tuesday, April 7, 2015. CBA President Jose Campos, along with Executive Officer Patti Bowers, Licensing Chief Gina Sanchez, Examination Manager Matthew Stanley, and Licensing Manager Veronica Daniel conducted a presentation which walked students through the process of becoming a CPA. President Campos and CalCPA East Bay Chapter Board Member Wilbur Chan shared information and provided insights about what it is like to be a CPA. Sixty students attended the live audience presentation and 346 students participated via a live webinar. Another such presentation is tentatively planned for Southern California in September.

California Society of CPAs (CalCPA)

Executive Officer Patti Bowers, Licensing Chief Gina Sanchez, Examination Manager

Update on the 2013-2015 Communications and Outreach Plan

Page 2 of 3

Matthew Stanley, and Licensing Manager Veronica Daniel met with members of CalCPA's Accounting Education Committee (Committee) on Monday, April 27, 2015 to discuss the CBA's process for reviewing education requirements for Examination and CPA licensure. They also conveyed information on ways in which the Committee might be of assistance to examination and licensing applicants.

Ms. Bowers also spoke with CalCPA's Government Relations Committee briefly discussing Sunset Review and fee restoration.

UPDATE

The Spring/Summer 2015 edition of UPDATE is in production, with an anticipated posting date of July 1, 2015 and a mailing date of July 15, 2015. Among the topics to be included:

- The Youngest CPA – Interview with Belicia Cespedes
- Welcome to the New CBA Members
- Sunset Review
- Fee Restoration
- Outreach Activities
- Where the Money Goes
- Resolving Issues Before They Become Citations
- CE Deficiencies – How to Ensure a Smooth License Renewal
- Attest Survey
- CBA Office Relocation
- CPA Verify
- Strategic Plan
- Remembering Hal Schultz, CPA

E-News

E-News subscriptions have increased by 183 since the last report. The table below indicates the number of subscribers by areas of interest, with many subscribers choosing more than one area of interest.

E-News Subscriptions	External	Internal	Total
Consumer Interest	4,455	63	4,518
Examination Applicant	2,910	48	2,958
Licensing Applicant	3,544	52	3,596
California Licensee	9,561	58	9,619
Out-Of-State Licensee	2,329	52	2,381
Statutory/Regulatory	7,728	68	7,796
CBA Meeting Information & Agenda Materials	3,633	51	3,684
Update Publication	7,328	32	7,360
Total Subscriptions	41,488	424	41,912
Total Subscribers	13,226	76	13,302

Update on the 2013-2015 Communications and Outreach Plan

Page 3 of 3

Social Media

The CBA continues to see steady growth and engagement on LinkedIn and Twitter, where the CBA was recognized eight times since the March CBA meeting for “Great Government Tweets,” by California Government Tweets as being among the most successful by a California government agency by virtue of link visits, re-tweets and engagement. The CBA currently has 2,897 fans on Facebook, 1,643 followers on Twitter, and 1,100 direct connections on LinkedIn. The CBA maintains five boards on Pinterest: “On Your Way to CPA,” “Tax Bracket,” “Consumer Wise,” “CBA Favorites,” and “Women Making a Difference.”

Press Releases

There have been three news releases since the March CBA meeting, “California Board of Accountancy Testifies at Sunset Review Hearing,” “California Board of Accountancy Welcomes New Board Member,” and “California Board of Accountancy Announces Reappointment of Alicia Berhow.” A Press Advisory regarding the May CBA meeting is scheduled to be issued May 26, 2015. News releases and press advisories are shared via social media and through traditional distribution methods. In addition to reaching reporters who follow us on Twitter, social media distribution provides the public with another opportunity to access information from the CBA.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations

Recommendation

Staff does not have a recommendation on this agenda item.

Attachment

None.

California Board of Accountancy Enforcement Activity Report

Report as of March 31, 2015

CBA Item VII.A.
May 28-29, 2015

Complaints

Complaints/Records of Convictions	FY 2012/13	FY 2013/14	FY 2014/15
Received	3,271	3,255	2,062
<i>Internal – Peer Review (Failure to Respond)¹</i>	<i>1,800</i>	<i>1,481</i>	<i>0</i>
<i>Internal – Peer Review (Other)²</i>	<i>508</i>	<i>411</i>	<i>387</i>
<i>Internal – All Other</i>	<i>510</i>	<i>969</i>	<i>1,327</i>
<i>External</i>	<i>453</i>	<i>394</i>	<i>348</i>
Assigned for Investigation	2,951	2,969	1,488
Closed – No Action	329	289	560
Average Days from Intake to Closure or Assignment for Investigation	3	4	3
Pending	3	0	31
Average Age of Pending Complaints (days)	3	0	5

¹ These complaints relate to licensees that failed to respond to multiple CBA requests to file the required peer review reporting form (PR-1) as part of the initial peer review phase-in period that occurred between July 1, 2011 and July 1, 2013.

² Peer Review (Other) internal complaints typically include investigation of failed peer review reports, failure to comply with peer review citations, filing an incorrect PR-1, or renewing a license without undergoing a peer review when a peer review is required.

- The California Board of Accountancy (CBA) received over 400 additional complaints since the last reporting period with approximately 60 complaints received from outside sources.
- The top three internal complaints continue to be: conviction of a crime, peer review, and continuing education deficiencies (various). The top external complaint continues to be unlicensed practice.

California Board of Accountancy Enforcement Activity Report

Report as of March 31, 2015

Investigations

Investigations	FY 2012/13	FY 2013/14	FY 2014/15
Assigned	2,951	2,969	1,488
<i>Internal – Peer Review (Failure to Respond)¹</i>	<i>1,794</i>	<i>1,481</i>	<i>0</i>
<i>Internal – Peer Review (Other)</i>	<i>437</i>	<i>407</i>	<i>390</i>
<i>Internal – All Other</i>	<i>361</i>	<i>740</i>	<i>803</i>
<i>External</i>	<i>359</i>	<i>341</i>	<i>295</i>
Closed	2,872	2,669	1,262
Average Days to Close	73	74	165
Total Investigations Pending	518	825	1,127
<i>< 18 Months</i>	<i>500</i>	<i>774</i>	<i>1,026</i>
<i>18-24 Months</i>	<i>17</i>	<i>42</i>	<i>80</i>
<i>> 24 Months</i>	<i>1</i>	<i>9</i>	<i>21</i>
Average Age of Open Cases (days)	166	202	193
Median Age of Open Cases (days)	104	153	114

¹ These investigations relate to licensees that failed to respond to multiple CBA requests to file the required PR-1 as part of the initial peer review phase-in period that occurred between July 1, 2011 and July 1, 2013.

Chart A on Page 9 illustrates the percentage of open cases by length of time.

- The CBA closed 169 investigations since the previous report and the average age of open cases has decreased from 215 to 193 days.
- Presently, the CBA has 80 investigations that have been pending for a period of 18-24 months. Management is aware of this volume and actively working to resolve these cases. Additionally, as the new staffing resources are trained, the Enforcement Division will be better positioned to manage the increased volume and inventory.
- The CBA currently has 21 investigations, including seven carried over from the last report, that have been pending over 24 months. These cases are the most complex investigations requiring additional time to resolve. The status of the investigations are as follows:
 - 15 investigations are on-going with two recently having investigative hearings.
 - Five cases have completed investigative reports and will result in a referral to the Attorney General’s (AG) Office.
 - One case is pending issuance of a citation and fine.

California Board of Accountancy Enforcement Activity Report

Report as of March 31, 2015

Discipline

Attorney General Referrals	FY 2012/13	FY 2013/14	FY 2014/15
Referrals	62	74	72
Accusations Filed	50	34	34
Statements of Issues Filed	3	8	9
Petitions for Revocation of Probation Filed	3	2	0
Closed	58	31	55
<i>Via Stipulated Settlement</i>	<i>39</i>	<i>21</i>	<i>49</i>
<i>Via Proposed Decision</i>	<i>5</i>	<i>4</i>	<i>2</i>
<i>Via Default Decision</i>	<i>14</i>	<i>6</i>	<i>4</i>
Discipline Pending	57	95	111
<i>< 18 Months</i>	<i>52</i>	<i>82</i>	<i>106</i>
<i>18-24 Months</i>	<i>2</i>	<i>10</i>	<i>1</i>
<i>> 24 Months</i>	<i>3</i>	<i>3</i>	<i>4</i>

Chart B on Page 9 illustrates the percentage of cases pending at the AG's Office by length of time.

- There are four cases pending at the AG's Office for more than 24 months. The current statuses of the cases, which includes four carried over from the last report, are as follows:
 - A writ was filed with the California Superior Court in August 2012 following adoption of a proposed decision and denial of a Petition for Reconsideration in July 2012. A decision was issued on August 28, 2014 denying the writ of mandate. The stay previously issued was dissolved and the CBA's decision revoking the Petitioner's license became effective. The Petitioner immediately filed a Notice of Appeal with the Appellate Court seeking a stay of the decision. The motion requesting a trial was denied at a hearing on December 12, 2014. A ruling from the Court of Appeals is pending.
 - One case was placed on hold pending the outcome of a criminal conviction and subsequent appeal. A revised accusation was received from the Deputy Attorney General (DAG) and has now been filed.
 - One case is scheduled for a hearing with the Office of Administrative Hearings (OAH) on May 1, 2015.
 - One case has a proposed stipulated settlement that will be presented to the CBA during closed session.

California Board of Accountancy Enforcement Activity Report

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Citations and Fines

Citations	FY 2012/13	FY 2013/14	FY 2014/15
Total Citations Issued	1,883	1,522	256
Total Fines Assessed	\$532,400	\$399,020	\$101,725
Peer Review (Failure to Respond) ¹	1,800	1,481	0
<i>Peer Review Fines Assessed</i>	<i>\$450,000</i>	<i>\$370,250</i>	<i>\$0</i>
Other Citations	83	41	256
<i>Other Fines Assessed</i>	<i>\$82,400</i>	<i>\$28,770</i>	<i>\$101,725</i>
Other Fines Average	\$993	\$702	\$397
Average number of days from receipt of a complaint to issuance of a citation	67	33	157
Top 3 Violations Resulting in Citation			
1:	Response to CBA Inquiry (Reg 52)	Response to CBA Inquiry (Reg 52)	CE Basic Requirements (Reg 87)
2:	CE Basic Requirements (Reg 87)	CE Basic Requirements (Reg 87)	Response to CBA Inquiry (Reg 52)
3:	Practice Without Permit (BPC 5050)	Name of Firm (BPC 5060)	Name of Firm (BPC 5060)

¹ These citations relate to licensees that failed to respond to multiple CBA requests to file the required PR-1 as part of the initial peer review phase-in period that occurred between July 1, 2011 and July 1, 2013.

- As noted in previous reports, the current year average for number of days to issue a citation is higher than the two previous fiscal years due to the high volume and efficiency with which Peer Review (Failure to Respond) citations were issued.
- The Other Fines Average amount continues to be lower than in previous years. The fine amount assessed varies from \$100 to \$5,000 and is determined on a case-by-case basis. Factors that may increase or decrease the fine amount include aggravating or mitigating circumstances, and length of time the violation existed.
- Violation of the continuing education (CE) basic requirements, CBA Regulations section 87, continues to be the most common reason for issuance of a citation this fiscal year.
- Since last year the CBA has been participating in the Franchise Tax Board (FTB) Offset Program to collect past due fines. The FTB Offset Program collects funds that are otherwise unobtainable from California residents who owe State agencies delinquent debts. After notice by the CBA providing an opportunity to pay the outstanding debt, the CBA can submit the debt to the FTB for collection. The FTB

California Board of Accountancy Enforcement Activity Report

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will offset the State income tax refunds, unclaimed property, or State lottery winnings due the individual and, in conjunction with the State Controller's Office, transfer the funds to the CBA. The total fines presently outstanding equal approximately \$380,000. Since staff began mailing the FTB collection letters in January 2015, the CBA has collected approximately \$30,000 in voluntary past due fine payments.

California Board of Accountancy Enforcement Activity Report

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Probation Monitoring

Monitoring Activities	
Number of Licensees on Probation as of Last Report	86
New Probationers	5
Total Number of Probationers	90
Out-of-State Probationers	8
Probation Orientations Held since Last Report	8

- Upon completion of the disciplinary process, matters are referred to a CBA Probation Monitor for tracking and compliance with the terms of probation.
- To increase the number of personal appearances the CBA is able to conduct with probationers, staff have begun scheduling probation monitoring meetings at the CBA office. Eight probation meetings were held on March 5, 2015 and March 19, 2015, with an additional three meetings scheduled for April 10, 2015 and April 23, 2015.
- Ten probation monitoring meetings are scheduled to be held in conjunction with the Enforcement Advisory Committee (EAC) meeting on April 30, 2015.

California Board of Accountancy Enforcement Activity Report

Report as of March 31, 2015

Criminal Offender Record Information (CORI)

CORI Fingerprints¹	FY 2014/15
Notification Letters Sent	14,558
CORI Compliances Received	8,968
Non-Compliance Notifications Sent	601

CORI Enforcement Cases	FY 2014/15
Received	465
Assigned for Investigation	126
Closed – No Action	339
Non-Compliance Citation and Fine Issued	44
Referred to the Attorney General's Office	6

¹ CORI-related activities that occurred in FY 2013/14 were previously reflected on the Licensing Activity Report.

- Effective January 1, 2014, all licensees renewing their license in active status are required to have fingerprints on file for the purpose of conducting a state and federal criminal offender record information background check.
- Since the last report, the CORI unit has sent out over 3,000 additional notification letters.

California Board of Accountancy Enforcement Activity Report

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Mobility

Enforcement Aspects of Mobility	FY 2013/14	FY 2014/15
Pre-Notification Forms Received	15	2
Cessation Event Forms Received	0	0
SEC Discipline Identified	37	22
PCAOB Discipline Identified	11	17
Out-of-State Accounting Firm Registrants That Reported Other Discipline	10	12
Complaints Against Practice Privilege Holders	2	10

Effective July 1, 2013, the CBA implemented a no notice, no fee practice privilege model in California. This table depicts the enforcement aspects of mobility, including the receipt and investigation of Practice Privilege Pre-Notification Forms and Notification of Cessation Event Forms.

- Staff sent letters to all CPAs who were disciplined from either the Securities and Exchange Commission or the Public Company Accounting Oversight Board to inform them that they must seek CBA authorization prior to practicing in California.
- The complaints against practice privilege holders include practice without permit, discipline by other states/governmental agencies, and practice complaints

Division Highlights and Future Considerations

- Dorothy Osgood has accepted the permanent Supervising Investigative CPA (SICPA) position that she was temporarily filling.
- The Technical Investigations Unit is currently recruiting to fill one open Investigative CPA (ICPA) position.
- The Discipline and Probation Monitoring Unit is recruiting to fill a vacant Associate Governmental Program Analyst position responsible for all probation monitoring activities.

**California Board of Accountancy
Enforcement Activity Report**
Report as of March 31, 2015

Chart A – Open Investigations as of March 31, 2015

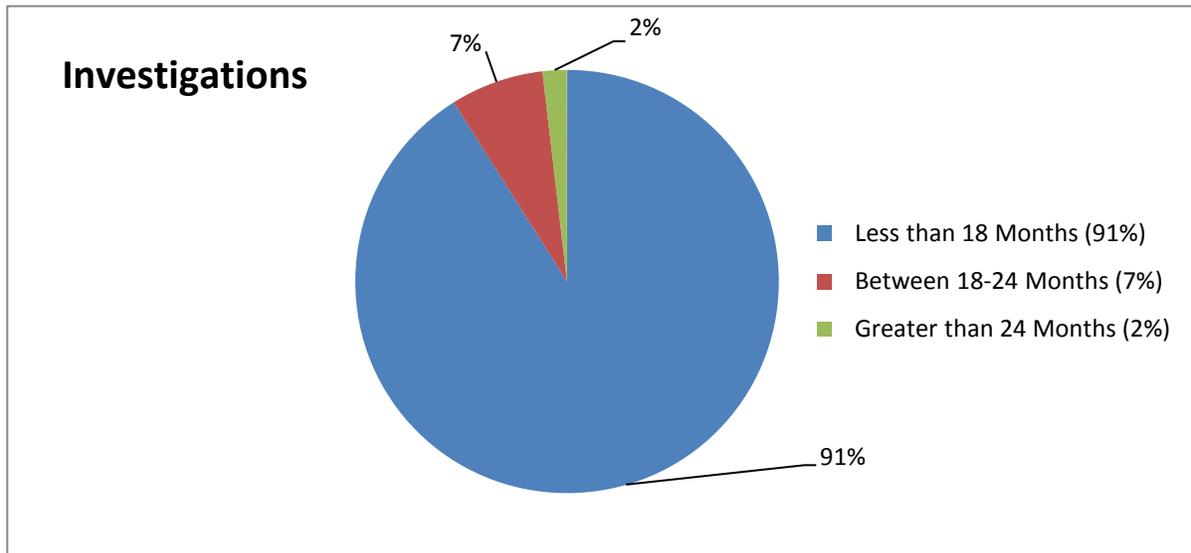
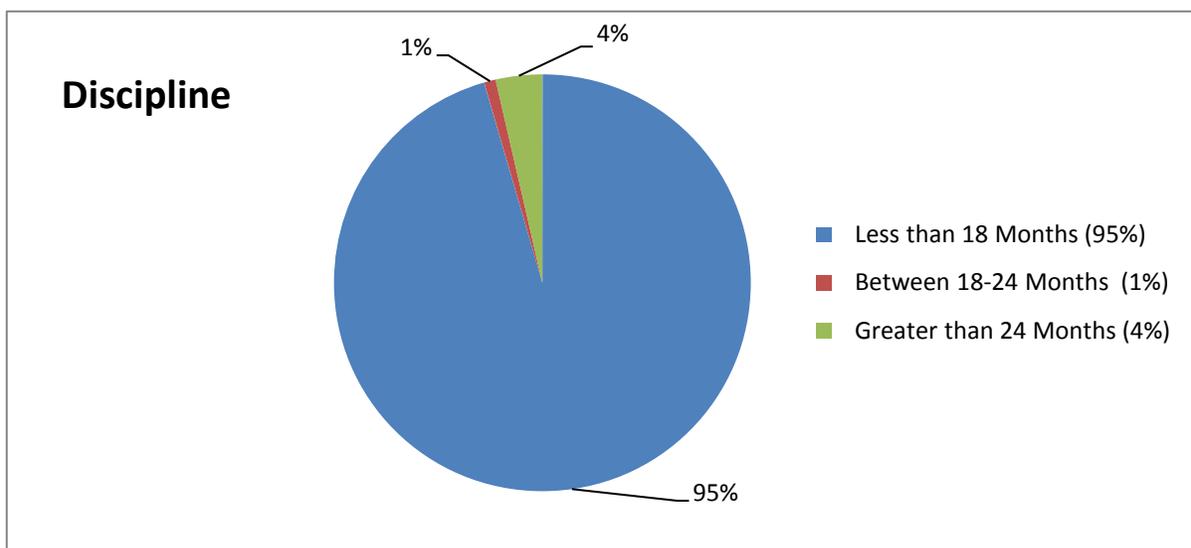


Chart B – Discipline Pending at the Attorney General Office as of March 31, 2015



**California Board of Accountancy
Licensing Activity Report
As of March 31, 2015**

Licensee Population

Type of License	As of June 30, 2013	As of June 30, 2014	As of March 31, 2015
CPA	87,015	90,912	92,255
PA	105	85	81
Partnership	1,431	1,460	1,484
Corporation	3,835	3,995	4,142

Contact with CBA Stakeholders

Telephone Calls Received	FY 2012/13	FY 2013/14	FY 2014/15
Examination Unit	22,610	18,815	16,121
Initial Licensing Unit	24,006	27,889	17,336
License Renewal and Continuing Competency Unit	20,958	25,172	20,068
Practice Privilege Unit	921	663	427

Emails Received	FY 2012/13	FY 2013/14	FY 2014/15
Examination Unit	11,551	10,867	9,557
Initial Licensing Unit	9,670	14,098	10,604
License Renewal and Continuing Competency Unit	9,601	14,488	18,523
Practice Privilege Unit	583	381	276

Examination Unit

- The Examination Unit is fully staffed and meeting its processing timeframe goals.
- The process for providing the New Educational Requirements Advisory Reviews has been revised to provide examination candidates with the tools necessary to evaluate their education. Specifically, upon being made eligible to sit for the examination the CBA will mail applicants a self-assessment package to assist them in determining their eligibility for licensure. This package will include: a copy of their transcripts, the educational requirements tip sheet, a self-assessment worksheet and an informational letter with valuable resources and CBA contact information.

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CPA Examination Applications	FY 2012/13	FY 2013/14	FY 2014/15
First-Time Sitter			
Total Received	7,175	6,661	4,974
Total Processed	7,462	6,720	6,327
Average Days to Process	25	20	29
Repeat Sitter			
Total Received	18,584	17,044	12,661
Total Processed	18,685	17,455	12,501
Average Days to Process	8	6	10

CPA Examination Special Requests	FY 2012/13	FY 2013/14	FY 2014/15
Conditional Credit and Notice to Schedule Extensions*			
Total Received	114	173	130
Total Completed	104	176	114
Average Days to Process	16	18	28
Educational Qualification Appeals**			
Total Received	40	50	16
Total Completed	37	52	16
Average Days to Process	20	22	19
Special Accommodation Requests**			
Total Received	69	172	139
Total Completed	69	178	131
Average Days to Process	8	12	19

* These statistics were not tracked prior to January 1, 2013.

** These statistics were not tracked prior to April 1, 2013.

**California Board of Accountancy
Licensing Activity Report
As of March 31, 2015**

Initial Licensing Unit

- The Initial Licensing Unit (ILU) will soon be recruiting to fill one Program Technician II Permanent Intermittent position.
- The ILU welcomed Janet Zimmer, as a new Associate Governmental Program Analyst and ILU Coordinator, and Nicole Wong and Sherry Allen-Osamwonyi as Staff Services Analysts.
- ILU staff continue working towards implementation of the next phase of the attest study, which includes outreach and pre-testing. The attest study is set to launch to target audiences later this Spring 2015.

Individual License Applications	FY 2012/13	FY 2013/14	FY 2014/15
Certified Public Accountant			
Total Received	3,654	4,600	2,293
Total Approved	3,474	4,906	1,914
Average Days to Process	25	24	24
Method of Licensure			
Pathway 0	4	0	0
Pathway 1 – attest	416	522	127
Pathway 1 – general	543	824	204
Pathway 2 – attest	756	928	253
Pathway 2 – general	1,755	2,560	708
New Requirements – attest	n/a	17	144
New Requirements – general	n/a	55	478

Certification Requests	FY 2012/13	FY 2013/14	FY 2014/15
Total Received	1,073	1,039	778
Total Processed	1,073	972	803
Average Days to Process	20	22	21

**California Board of Accountancy
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Firm License Applications	FY 2012/13	FY 2013/14	FY 2014/15
Corporation			
Total Received	221	210	227
Total Approved	174	200	169
Average Days to Process	14	17	16
Partnership			
Total Received	89	91	77
Total Approved	70	92	61
Average Days to Process	14	17	16
Fictitious Name Permit			
Total Received	169	183	100
Total Approved	105	139	73
Average Days to Process	14	17	16

**California Board of Accountancy
Licensing Activity Report
As of March 31, 2015**

License Renewal and Continuing Competency Unit

- The License Renewal and Continuing Competency (RCC) Unit is preparing an article for the next UPDATE publication to address how to avoid peer review and continuing education renewal deficiencies.
- The RCC Unit is recruiting to fill a permanent intermittent Program Technician II position.

License Renewal	FY 2012/13	FY 2013/14	FY 2014/15
Total Licenses Renewed			
Certified Public Accountant	38,334	39,164	30,199
Public Accountant	25	12	9
Corporation	1,560	1,526	1,156
Partnership	579	572	399
License Renewal Verification			
CPA/PA Applications Reviewed	36,927	39,605	25,957
Deficient Applications Identified	4,064	5,659	7,195
Compliance Responses Received	3,453	4,128	6,688
Outstanding Deficiencies	558	1,510	1,521
Top Three Renewal Deficiencies			
1:	--	Peer Review Form ¹	Peer Review Form ¹
2:	--	Renewal Application ²	Renewal Application ²
3:	--	Ethics CE ³	Ethics CE ³

-- Previously, license renewal applications that were identified as deficient due to more than one reason were categorized and reported as a "multiple" deficiency. Beginning January 1, 2014 this category was expanded to provide a more accurate accounting of each deficiency type identified.

1 – Failure to submit/incomplete/filed on behalf of firm – peer review reporting form.

2 – Failure to submit/incomplete license renewal application.

3 – Failure to complete four hours of ethics continuing education.

**California Board of Accountancy
Licensing Activity Report
As of March 31, 2015**

License Renewal Related Activities	FY 2012/13	FY 2013/14	FY 2014/15
CE Audits			
Licenses Selected for Audit	30	855	675
Outstanding Audits	0	481	52
Compliance Letters Sent	30	347	1088
Enforcement Referrals*			
	53	582	767
Retired Status**			
Applications Received	--	--	524
Applications Failing to Meet Minimum Qualifications	--	--	10
Applications Approved	--	--	514

* Enforcement Referrals include license renewal-related deficiencies such as CE, fingerprints, and peer review.

** Effective July 1, 2014 licensees may apply for retired status.

Practice Privilege Unit

Practice Privilege	FY 2012/13	FY 2013/14	FY 2014/15
Out-of-State Accounting Firm Registrations			
Approved	--	209	97
Pending Review	--	0	4
Pending Correction of Deficiencies	--	5	1
Enforcement Referrals	--	11	11

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CPC Item II.
May 28, 2015

CBA Item IX.A.2.
May 28-29, 2015

**Discussion Regarding Possible Changes to California Code of Regulations (CCR)
Section 9.1 – Foreign Credentials Evaluation Services Approval Criteria**

Presented by: Matthew Stanley, Manager, Examination and Practice Privilege Units

Purpose of the Item

The purpose of this agenda item is to present the California Board of Accountancy (CBA) with proposed changes to strengthen the approval process of foreign credentials evaluation services.

Action(s) Needed

The CBA will need to determine what changes, if any, it wants made to the approval process. If changes are needed, the CBA will need to direct staff to develop a regulatory proposal.

Background

Applicants for the Uniform Certified Public Accountant (CPA) Examination (CPA Exam) and CPA licensure who attended or graduated from foreign schools may satisfy their respective education requirements based upon an evaluation of foreign transcripts by a CBA-approved foreign credentials evaluation service.

The CBA presently has eighteen CBA-approved foreign credentials evaluation services (**Attachment 1**). To become a CBA-approved foreign credentials evaluation service, the evaluation service must meet the requirements outlined in Title 16, California Code of Regulations, (CBA Regulations) section 9.1 which was initially adopted by the CBA in 2000 based on the requirements of Business and Professions Code section 5094(d) (**Attachment 2**). Renewal of the evaluation service's approval is required every five years. Staff notify the evaluation service when it is due for renewal. The renewal process is, for the evaluation service, identical to the approval process.

When requesting an evaluation of foreign transcripts, candidates must submit an application and processing fee to the chosen CBA-approved evaluation service and must provide authenticated, original transcripts and degrees. The evaluation service determines and affirms that the evaluation is based on authenticated, original transcripts, and degrees. When the evaluation service submits an evaluation report to the CBA, it must come directly from the evaluation service with certified copies of all original transcripts.

Discussion Regarding Possible Changes to California Code of Regulations (CCR) Section 9.1 – Foreign Credentials Evaluation Services Approval Criteria

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Comments

The current requirements for becoming a CBA-approved Foreign Credentials Evaluation Service found in CBA Regulations section 9.1 lack specificity, and the request to become CBA-approved is not required to be presented in a standard format. Within these guidelines, it is up to the evaluation service to determine how it wants to present its approval request to the CBA. Adding specificity and standardizing the format of the application process will enhance the CBA's oversight of the evaluation services, which leads to more accurate information regarding CPA Exam and licensing applicants, and therefore, enhances consumer protection.

CBA Regulations section 9.1 is currently broken into two major parts. Subdivision (a) are the requirements that the evaluation service must meet, and subdivision (b) are the requirements that the submitted evaluations must include. Subdivision (c) is a brief discussion of ongoing and renewal requirements for credentials evaluation services. Staff are suggesting changes to section 9.1 (**Attachment 3**) that will strengthen the requirements and enhance CBA oversight.

In addition to proposed changes to the existing language, staff are also proposing additional changes by adding new subdivisions (d), (e), and (f) that will enhance the CBA's oversight of evaluation services.

Requirements for Approval as a Credentials Evaluation Service

The proposed changes to subdivision (a) regarding requirements that the evaluation service must meet center on an application form in order to standardize the approval process. This form would require the applicant to certify under penalty of perjury to several statements required throughout this section. This will streamline the process to clearly identify the required information.

Other major changes to subdivision (a) include the following:

- Paragraph (4) – Provide the required biographical information in paragraph (4) in the form of a resume or curriculum vitae in order to standardize the format in which this information is provided.
- Paragraphs (6-7) – Define “written evidence” in paragraph (6) as the evaluation service providing, for the previous five years, the total number of evaluations performed, the total number of evaluations performed by junior staff members, and the total number of evaluations performed by junior staff members that were reviewed by senior staff members. Obtaining this information would also satisfy the requirements of paragraph (7) allowing that paragraph to be removed.
- Paragraph (11) – A new paragraph would be added to require that the evaluation service agree to a six-year (minimum) document retention policy.

Discussion Regarding Possible Changes to California Code of Regulations (CCR) Section 9.1 – Foreign Credentials Evaluation Services Approval Criteria

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Requirements for the Submitted Evaluations

Subdivision (b) is the requirements that the submitted evaluations must include. This subdivision is brief and only provides general guidance to the evaluation services. These evaluations are the product that staff evaluates for the CPA Exam and licensure on a daily basis. Additional specificity will assist staff by ensuring a standardized product for review. The proposal does not remove any of the existing requirements, but it does expand them. The following are the major additions to subdivision (b) (the following paragraph numbers refer to the proposed new numbering in Attachment 2):

- Paragraph (4) – Require that the primary and secondary, if any, reviewer be identified on the evaluation.
- Paragraph (5) – Require that the evaluation include the name or names of the applicant as shown on the transcripts as well as the name under which the applicant requested the evaluation. This will establish that the correct transcripts were evaluated and that a name change has occurred which will assist staff in matching evaluations to applications.
- Paragraph (6) – Require that the evaluation include the applicant’s date of birth. This will assist staff in matching the correct evaluation to the application, especially when two applicants share the same name.
- Paragraph (8) – Require that the total number of semester units completed and evaluated be provided on the evaluation.
- Paragraph (9) – Require that all courses provided on the evaluation are listed in chronological order without categorization, extra emphasis or distinguishing markings placed on any course. Different evaluation services list out the courses in different formats and orderings. Many try to group them into categories or use formatting to identify courses such as “Accounting” and “Business” which leads to an expectation on the CBA by the applicant.
- Paragraph (10) – Require that the evaluation not include the evaluation service’s opinion as to whether certain courses meet the CBA’s requirements or whether the applicant meets the educational requirements for taking the exam or licensure. This leads to confusion for the applicants when they are told by the evaluation service that they qualify to sit for the CPA Exam or licensure and then the CBA finds them deficient. This provision would eliminate the sometimes erroneous expectations of the applicants.

Renewal Requirements For Foreign Credential Evaluation Services

Subdivision (c) requires evaluation services to report to the CBA annually whether it has undergone any organizational changes. The proposal clarifies that such changes include any change in the ratio required in subdivision (a)(5), or any ownership changes.

Subdivision (c) also states that approval under this section expires after five years and needs to be renewed. In addition to meeting the requirements of subdivision (a), the proposal adds that a renewal shall also consist of a review of five evaluations randomly

Discussion Regarding Possible Changes to California Code of Regulations (CCR) Section 9.1 – Foreign Credentials Evaluation Services Approval Criteria

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selected by the CBA which shall be resubmitted to the CBA with the renewal request. This will help staff to ensure the evaluation service is properly retaining its records.

Proposed Additional Requirements

The proposal adds subdivision (d) to require evaluation services to submit any document the CBA may request.

The proposal adds subdivision (e) to add the authority to withdraw the CBA's approval of an evaluation service for failure to produce evaluations that are consistent and accurately reflect the educational documents. If the CBA approves this change, staff will draft language that will allow for the evaluation service to appeal the decision.

Finally, subdivision (f) is proposed to state that evaluation services that are currently approved by the CBA must meet these new requirements on their next renewal date. This allows a "grandfathering in" of the existing services.

These proposed changes will provide the CBA with the authority and tools to provide effective oversight for the evaluation services.

With the CBA's approval, staff will prepare a rulemaking package, including a proposed application form, for initiation of the rulemaking process at its next meeting.

Fiscal/Economic Impact

There are no fiscal/economic impact considerations at this time.

Recommendation

Staff recommend the CBA approve the proposed changes and direct staff to prepare, for CBA approval, a regulatory proposal implementing the proposed changes.

Attachments

1. CBA-approved Foreign Credentials Evaluation Services
2. Business and Professions Code Section 5094(d)
3. Proposed Changes to CBA Regulations Section 9.1



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Attachment 1

CBA-Approved Foreign Credentials Evaluation Services

Candidates who attended or graduated from foreign schools may satisfy the Uniform CPA Examination education requirements based upon an evaluation of foreign transcripts by any of the CBA-approved foreign credentials evaluation services listed below. Official evaluations must be mailed to the CBA directly from the foreign credentials evaluation service. Candidates are responsible of ensuring the timely submission of the evaluation. Please note that foreign credential evaluation services typically take three to six weeks to provide evaluation reports.

NOTE: Foreign credentials evaluation services do NOT evaluate transcripts from U.S. schools. If U.S. school transcripts are sent to the evaluation service they do NOT forward them to the CBA. All U.S. schools must send transcripts directly to the CBA.

<p>Academic Credentials Evaluation Institute, Inc. 9854 National Blvd, Box 186 Los Angeles, CA 90034</p> <p>(310) 275-3530 (800) 234-1597 (U.S. only) Fax: (310) 275-3528 Email: acei@acei1.com www.acei1.com</p>	<p>Academic Credentials Evaluation Institute, Inc. 333 W. Garvey St., Box 254-B Monterey Park, CA 91754</p> <p>(310) 275-3530 (800) 234-1597 (U.S. only) Fax: (310) 275-3528 Email: acei@acei1.com www.acei1.com</p>
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<p>Academic & Credential Records, Evaluation & Verification Service, Inc. (ACREVS) 1776 Clear Lake Avenue Milpitas, CA 95035-7014</p> <p>(408) 719-0015 (866) 583-4834 Fax: (510) 252-0876 Email: info@acrevs.com www.acrevs.com</p>	<p>American Education Research Corporation, Inc. P.O. Box 996 West Covina, CA 91793-0996</p> <p>(626) 339-4404 Fax: (626) 339-9081 www.aerc-eval.com Email: aerc@verizon.net</p>
<p>Academic Records Evaluation Center 828 University Avenue Sacramento, CA 95825</p> <p>(916) 889-9967 Fax: (916) 921-2187 www.recordevalcenter.com</p>	<p>Center for Applied Research, Evaluation and Education, Inc. P.O. Box 18358 Anaheim, CA 92817</p> <p>(714) 237-9272 Fax: (714) 237-9279 www.iescaree.com Email: info@iescaree.com</p>

CBA-Approved Foreign Credentials Evaluation Services Continued

<p>Educational Credential Evaluators, Inc. P.O. Box 514070 Milwaukee, WI 53203-3470</p> <p>(414) 289-3400 Fax: (414) 289-3411 www.ece.org Email: eval@ece.org</p>	<p>Educational Records Evaluation Service 601 University Ave., Ste 127 Sacramento, CA 95825-6738</p> <p>(916) 921-0790 Fax: (916) 921-0793 www.eres.com Email: edu@eres.com</p>
<p>Foreign Credentials Service of America 1910 Justin Lane Austin, Texas 78757-2411</p> <p>(512) 459-8428 or (512) 459-4565 www.foreigncredentials.org Email: info@foreigncredentials.org</p>	<p>Foreign Transcript Evaluation Service P.O. Box 1948 Davis, CA 95616</p> <p>(530) 758-3875 www.ftes.biz Email: ftes1@yahoo.com</p>
<p>Global Education Group, Inc. 2 East Congress Street, Ste 900 Tucson, AZ 85701</p> <p>(520) 202-7800 Fax: (520) 877-7867 www.globaledu.com Email: info@globaledu.com</p>	<p>Global Services Associates 409 North Pacific Coast Highway, # 393 Redondo Beach, CA 90277</p> <p>(310) 828-5709 Fax: (310) 828-5709 www.globaleval.org Email: info@globaleval.org</p>
<p>International Education Research Foundation, Inc. P.O. Box 3665 Culver City, CA 90231-3665</p> <p>(310) 258-9451 Fax: (310) 342-7086 www.ierf.org Email: info@ierf.org</p>	<p>Josef Silny & Associates 7101 SW 102 Avenue Miami, FL 33173</p> <p>(305) 273-1616 Fax: (305) 273-1338 www.jsilny.com Email: info@jsilny.com</p>
<p>NASBA International Evaluation Services 150 Fourth Avenue N. Suite 850 Nashville, TN 37219</p> <p>(855) 468-5382</p>	<p>World Education Services P.O. Box 5087, Bowling Green Station New York, New York 10274-5087</p> <p>(212) 966-6311 Fax: (212) 739-6100 www.wes.org Email: info@wes.org</p>

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**Attachment 2****Business and Professions Code section 5094(d)**

5094.

(d) The board shall adopt regulations specifying the criteria and procedures for approval of credential evaluation services. These regulations shall, at a minimum, require that the credential evaluation service (1) furnish evaluations directly to the board, (2) furnish evaluations written in English, (3) be a member of the American Association of Collegiate Registrars and Admission Officers, the National Association of Foreign Student Affairs, or the National Association of Credential Evaluation Services, (4) be used by accredited colleges and universities, (5) be reevaluated by the board every five years, (6) maintain a complete set of reference materials as specified by the board, (7) base evaluations only upon authentic, original transcripts and degrees and have a written procedure for identifying fraudulent transcripts, (8) include in the evaluation report, for each degree held by the applicant, the equivalent degree offered in the United States, the date the degree was granted, the institution granting the degree, an English translation of the course titles, and the semester unit equivalence for each of the courses, (9) have an appeal procedure for applicants, and (10) furnish the board with information concerning the credential evaluation service that includes biographical information on evaluators and translators, three letters of references from public or private agencies, statistical information on the number of applications processed annually for the past five years, and any additional information the board may require in order to ascertain that the credential evaluation service meets the standards set forth in this subdivision and in any regulations adopted by the board.



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Attachment 3

Proposed Changes to CBA Regulations Section 9.1

§ 9.1. Approved ~~Credentia~~ Credentials Evaluation Service Status.

Requirements for Approval as a Credentials Evaluation Service

(a) To receive and to maintain Board approval, a credentials evaluation service shall submit an application form and comply with the following:

- (1) ~~Be a member of the~~ Provide proof of its membership in either the American Association of Collegiate Registrars and Admission Officers, the National Association for Foreign Student Affairs: Association of International Educators, or the National Association of Credential Evaluation Services;
- (2) Furnish the Board with a copy of its current written procedure for identifying fraudulent transcripts, and comply certify on the application to compliance with that procedure;
- (3) ~~Furnish the Board with a list of its reference materials including the title of each reference, its publisher, and the date of publication, and certify~~ Certify on the application that it maintains a complete set of reference materials, that the references are adequate to prepare complete, accurate evaluations and are the most current editions available;
- (4) Furnish the Board with resumes or curriculum vitae for each evaluator and translator which provide biographical information ~~on evaluators and translators~~, including a list of languages spoken and years in service. The service shall have at least one senior staff member with not less than five years of foreign student college admission experience or closely related ~~credential~~ credentials evaluation experience at all academic levels;
- (5) Furnish the Board with its organization chart showing the ratio of senior staff members to junior staff members is, at most, one to five, and shall not exceed that ratio;
- (6) Furnish the Board with written evidence that a minimum of 50% of the evaluations performed by junior staff members are reviewed by senior staff members, and shall maintain at least that minimum; for the purposes of this paragraph, "written evidence" means it provides on the application, for the previous five years, the total number of evaluations performed, the total number of evaluations performed by junior staff members, and the total number of evaluations performed by junior staff members that were reviewed by senior staff members.
- (7) ~~Furnish the Board with statistical information on the number of applications processed annually for the past five years;~~
- (8) ~~7~~ Furnish the Board with a list of at least three accredited colleges and universities or other licensing agencies using its services;
- (9) ~~8~~ Furnish the Board with three letters of reference, written within the last year, from public or private agencies;

- ~~(109)~~ Furnish the Board with a copy of its appeal procedure for applicants, and comply certify to compliance with that procedure on the application;
- ~~(11)~~ ~~Furnish evaluations to the Board that comply with the requirements of this section;~~
- ~~(1210)~~ For the initial application, furnish the Board with a sample evaluations evaluation that complies with the requirements of subdivision (b); prepared for other agencies.
- (11) For the initial application, agree to comply with a minimum six year document retention policy; when renewing, it shall certify compliance with a minimum six year document retention policy.

Requirements for the Submitted Evaluations

- (b) Each evaluation provided by the Board approved service shall:
- (1) Affirm in a written statement that the evaluation is based only upon authenticated, original transcripts and degrees;
 - (2) Include certified copies of all original transcripts;
 - (3) Be furnished directly to the Board, in English; on tamper-proof paper;
 - (4) Identify the primary evaluator and any secondary evaluator;
 - (5) Include the name or names of the applicant as shown on the transcripts as well as the name under which the applicant requested the evaluation;
 - (6) Include the applicant's date of birth as provided by the applicant;
 - (4-7) Include a report of each degree held by the applicant along with the equivalent degree offered in the United States, the date the degree was granted and the institution granting the degree;
 - (8) Provide the total number of semester units completed and evaluated;
 - (59) Include a listing of the course titles with the semester unit equivalent for each course listed in chronological order without categorization, extra emphasis, or distinguishing formatting for any of the courses listed;-
 - (10) Not include any opinion as to whether certain courses meet the Board's requirements or whether the applicant meets the Board's requirements for taking the Uniform CPA Examination or for licensure.

Renewal Requirements For Foreign Credentials Evaluation Services

- (c) The credentials evaluation service shall report to the Board annually whether it has undergone any organizational changes, including, but not limited to, any change in the ratio required in subdivision (a)(5), or any change in ownership. Approval issued under this section shall expire five years after the date of issuance unless renewed by the Board prior to its expiration by meeting the requirements in subsection (a) and resubmitting five evaluations chosen by the Board for review.

Proposed Additional Requirements

- (d) In order to remain as a Board-approved credentials evaluations service, the credentials evaluation service shall submit any documents requested by the Board.

(e) Approval may be withdrawn at any time if the credentials evaluation service fails to comply with any of the requirements of this section or for failure to produce evaluations that are consistent and accurately reflect the educational documents.

(f) A credentials evaluation service that received Board approval prior to the date this subdivision becomes effective shall meet the requirements of this section at its next renewal.

Note: Authority cited: Sections 5010 and 5094, Business and Professions Code.
Reference: Section 5094, Business and Professions Code.



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CPC Item III.
May 28, 2015

CBA Item IX.A.3.
May 28-29, 2015

Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations (CCR) Section 42 – Peer Review Exclusions

Presented by: Dominic Franzella, Chief, Enforcement Division

Purpose of the Item

The purpose of this agenda item is to provide an opportunity for the California Board of Accountancy (CBA) to discuss the impact of the American Institute of Certified Public Accountants (AICPA) Statement on Standards for Accounting and Review Services (SSARS) No. 21, *Statement on Standards for Accounting and Review Services: Clarification and Recodification (Attachment 1)*, and consider taking action to amend CBA Regulations section 42 regarding exclusions from peer review.

Action(s) Needed

The CBA will be asked to consider adopting proposed changes to CBA Regulations section 42 (**Attachment 2**).

Background

California Business and Professions Code section 5076(a) requires all accounting firms to have a peer review report of its accounting and auditing practice every three years. CBA Regulations section 39 defines an accounting and auditing practice to include any services that are performed using the following professional standards:

- Statements on Auditing Standards
- SSARS
- Statements on Standards on Attestation Engagements
- Government Auditing Standards
- Audits of non-Security Exchange Commission issuers performed pursuant to the standards of the Public Company Accounting Oversight Board (PCAOB)

In October 2014, the AICPA issued SSARS 21, which supersedes all but one of the prior standards and creates a new level of accounting and auditing service for engagements to prepare financial statements. The AICPA's executive summary of SSARS 21 is provided in **Attachment 3**. The new standards take effect for reviews, compilations, and engagements to prepare financial statements for periods ending on or after December 15, 2015 and allow for early implementation. The new preparation engagement standard will apply when an accountant is engaged to prepare financial

Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations (CCR) Section 42 – Peer Review Exclusions

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statements but is not engaged to perform an audit, review, or compilation on those financial statements.

CBA Regulations section 42 provides an exclusion from the peer review requirement for the following services:

- Any of a firm's engagements subject to inspection by the PCAOB as part of its inspection program
- Firms, which as their highest level of work, perform only compilations where no report is issued in accordance with the provisions of SSARS

The CBA Regulations presently do not directly address the preparation of financial statements.

Comments

The creation of a new accounting and auditing service has the potential to impact both the CBA's peer review program and its accounting and auditing (A&A) continuing education (CE) requirement. While this agenda item focuses on the peer review aspect of SSARS 21, staff are performing additional research and anticipate bringing a discussion topic specific to A&A CE at the July 2015 CBA meeting.

The CBA Peer Review Oversight Committee discussed the AICPA Exposure Draft at its August 2014 meeting and reasoned that since the preparation of financial statements is a lower level service than compilations where no report is issued in accordance with the provisions of SSARS, the new service would similarly be exempt from peer review.

In November 2014, the AICPA Peer Review Board (PRB) issued an exposure draft of revised Standards for Performing and Reporting on Peer Reviews that would exclude firms that only perform preparation engagements (with or without disclaimer reports) under SSARS from enrollment in the peer review program. However, for firms that are otherwise required to undergo peer review, engagements to prepare financial statements would fall within the scope of the peer review. At its January 2015 meeting, the PRB adopted the proposed changes.

The CBA has received inquiries related to SSARS 21 and its impact on the peer review requirement for California accounting firms. Staff believe that preparation engagements as performed in accordance with SSARS 21 are exempt from peer review under CBA Regulations section 42(a) as preparation engagements are a lower level service than compilations where no report is issued in accordance with the provisions of SSARS. To provide added clarity to the regulatory text, staff propose adding language specifically identifying that preparation engagements performed in accordance with SSARS are excluded from peer review.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

**Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16,
California Code of Regulations (CCR) Section 42 – Peer Review Exclusions**

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Recommendation

Staff recommend that the CBA approve the proposed changes to CBA Regulations section 42 and direct staff to initiate the rulemaking process.

Attachments

1. AICPA Summarization of the SSARS Clarity Project and SSARS No. 21
2. Proposed Amendment to CBA Regulations section 42
3. AICPA Executive Summary of SSARS No. 21

Statement on Standards for Accounting and Review Services No. 21, *Statements on Standards for Accounting and Review Services: Clarification and Recodification*

A summarization of the SSARs Clarity Project and SSARS No. 21



Statement on Standards for Accounting and Review Services (SSARS) No. 21, *Statements on Standards for Accounting and Review Services: Clarification and Recodification* was issued in October 2014. SSARS No. 21 represents the AICPA’s Accounting and Review Services Committee’s (ARSC) efforts to clarify and revise the standards for reviews, compilations, and engagements to prepare financial statements.

SSARs Clarity Project

With the release of Statement on Auditing Standards (SAS) Nos. 122–124 in October 2011, the Auditing Standards Board (ASB) reached a major milestone in its project to redraft all of the auditing sections in AICPA *Professional Standards*. The clarified auditing standards are designed to make the standards easier to read, understand, and apply.

The ARSC concluded that undertaking a similar clarity project for the SSARs would serve the public interest and ensure that all professional literature for audits, reviews, and compilations are drafted using the same conventions. In addition, the resulting clarified compilation and review standards would be easier to read, understand, and apply.

In May 2010, the ARSC approved a project to revise all its existing compilation and review standards in the AR sections of AICPA *Professional Standards*, substantially using the drafting conventions adopted by the ASB in clarifying the auditing literature.

The ARSC determined, however, that there would be certain differences between its clarity drafting conventions and those adopted by the ASB. Specifically, the ARSC determined not to include specific application guidance with respect to governmental entities and smaller, less complex entities.

Accordingly, the ARSC’s clarity drafting conventions include the following:

- Establish objectives for each clarified AR section.
- Include a definitions section, if relevant, in each clarified AR section.
- Separate requirements from application and other explanatory material.
- Number application and other explanatory material paragraphs with the prefix “A-” and present them in a separate section that follows the requirements section.
- Use formatting techniques, such as bulleted lists, to enhance readability.

SSARS No. 21

In addition to clarifying the standards, SSARS No. 21 includes significant revisions that affect the standards for accountants in public practice who prepare financial statements for their clients. This standard is effective for reviews, compilations, and engagements to prepare financial statements for financial statements for periods ending on or after December 15, 2015. Early implementation is permitted.

SSARS No. 21 is structured as follows:

Section 60, *General Principles for Engagements Performed in Accordance With Statements on Standards for Accounting and Review Services*— Provides general principles for SSARSs engagements.

Section 70, *Preparation of Financial Statements*— Provides requirements and guidance to an accountant who is engaged to prepare financial statements for an entity but not engaged to perform a compilation, review, or audit with respect to those financial statements.

Section 80, *Compilation Engagements*— Provides requirements and guidance to an accountant when engaged to perform a compilation engagement on financial statements

Section 90, *Review of Financial Statements*—provides requirements and guidance to an accountant when engaged to review financial statements

The sections of SSARS No. 21 will be codified in AICPA *Professional Standards* as AR-C sections using the same section numbers as SSARS No. 21. For example, section 90 of SSARS No. 21 will be codified in the AICPA *Professional Standards* as AR-C section 90, *Review of Financial Statements*. The pre-clarified AR sections will remain in *Professional Standards* until the clarified standards are fully effective.

Section 60—General Principles for Engagements Performed in Accordance With Statements on Standards for Accounting and Review Services

Section 60 of SSARS No. 21 replaces AR section 60, *Framework for Performing and Reporting on Compilation and Review Engagements* (AICPA, *Professional Standards*), and provides general principles for engagements performed in accordance with SSARSs. Section 60 is intended to help accountants better understand their professional responsibilities when performing engagements in accordance with SSARSs.

An accountant engaged to perform a review, a compilation, or an engagement to prepare financial statements is required to adhere to the requirements in section 60 as well as the requirements in the appropriate engagement section.

Section 60 includes requirements and guidance on the following:

- Ethical requirements
- Professional judgment
- Conduct of the engagement in accordance with SSARSs
- Engagement level quality control
- Acceptance and continuance of client relationships and engagements

Requirement to Obtain a Signed Engagement Letter

The accountant is required to agree upon the terms of the engagement for all SSARSs engagements with management or those charged with governance, as appropriate. The agreed-upon terms of the engagement should be documented in an engagement letter or other suitable form of written agreement. The engagement letter or other suitable form of written agreement should be signed by the accountant or the accountant's firm and management or those charged with governance. The requirement that management sign the engagement letter is intended to better ensure that management has read the letter and understands the terms of the engagement.

Section 70—Preparation of Financial Statements

Section 70 of SSARS No. 21 applies when an accountant in public practice is engaged to prepare financial statements but is not engaged to perform an audit, review, or a compilation on those financial statements. The section does not apply in situations in which the accountant is not in public practice. An engagement to prepare financial statements is a nonattest service; therefore, the accountant is not required to make a determination regarding independence from the entity.

A report is not required—even when financial statements are expected to be used by or presented to a third party. To ensure that users can readily identify that the accountant is not providing any assurance on the financial statements, the accountant should include a statement on each page of the financial statements indicating, at a minimum, that “no assurance is provided” on the financial statements. The accountant’s name need not be included in the statement. Software vendors are already working to include the legend in the accounting software.

If the accountant is unable to include a statement on each page of the financial statements, the accountant is required to either

- issue a disclaimer that makes clear that no assurance is provided on the financial statements or
- perform a compilation engagement in accordance with section 80 of SSARS No. 21.

The determination about whether the accountant has been engaged to prepare financial statements or merely assist in preparing financial statements (which is a bookkeeping service not subject to SSARSs) is based on the services the client requests the accountant to perform and requires the accountant to apply professional judgment. The following table provides examples of services that the accountant may be engaged to perform and notes whether section 70 of SSARS No. 21 would apply. The table is not intended to be all inclusive and professional judgment still needs to be applied.

Examples of Services for Which Section 70 Applies	Examples of Accountant Services for Which Section 70 Does Not Apply
Preparing financial statements prior to audit or review by another accountant	Preparing financial statements when the accountant is engaged to perform an audit, review, or compilation of such financial statements
Preparing financial statements that are not expected to be used by a third party (management-use only financial statements)	
	Preparing financial statements solely for submission to taxing authorities
	Preparing personal financial statements for inclusion in written personal financial plans prepared by the accountant
	Preparing financial statements in conjunction with litigation services that involve pending or potential legal or regulatory proceedings
	Preparing financial statements in conjunction with business valuation services
	Maintaining depreciation schedules
	Preparing or proposing certain adjustments, such as those applicable to deferred income taxes, depreciation, or leases

Preparing a single financial statement, such as a balance sheet or financial statements with substantially all disclosures omitted	Drafting financial statement notes
Using the information in a general ledger to prepare financial statements outside of an accounting software system	Entering general ledger transactions or processing payments (general bookkeeping) in an accounting software system

Section 80—Compilation Engagements

Section 80 of SSARS No. 21 modifies the applicability of the compilation literature. Pre-clarity AR section 80, *Compilation of Financial Statements* (AICPA, *Professional Standards*) applies when an accountant is either

- engaged to report on compiled financial statements or
- *submits* financial statements to the client or to third parties.

Submission is defined as “prepares and presents.” Section 80 of SSARS No. 21 eliminates the need for the accountant to determine who prepared the financial statements by eliminating the submission requirement and making the compilation literature apply when the accountant is *engaged* to perform a compilation service.

The primary changes in the compilation literature include the following:

- A report is now required for all compilation engagements
 - It is no longer necessary to have the non-reporting exception that was previously afforded for financial statements that were prepared and presented by an accountant to management that were not intended for third party use. Such engagements will be covered by section 70.
- The compilation report is now streamlined to differentiate from assurance (review and audit) reports consisting of one paragraph with no headings.
- Additional paragraphs are required when
 - the financial statements are prepared in accordance with a special purpose framework.
 - management elects to omit substantially all disclosures required by the applicable financial reporting framework.
 - when the accountant’s independence is impaired.
 - there is a known departure from the applicable financial reporting framework.
 - supplementary information accompanies the financial statements and the accountant’s compilation report thereon.

Section 90—Review of Financial Statements

Section 90 of SSARS No. 21 is primarily a clarity redraft of the pre-clarity review literature with very few changes.

SSARS No. 21 does make clear that section 90 may be applied to historical financial information other than historical financial statements, such as specified elements, accounts, or items of a financial statement; supplementary information; required supplementary information; and financial information included in a tax return.

The accountant’s review report will look different as SSARS No. 21 requires the use of headings in the report. The accountant is also required to name the city and state of the issuing office. The

requirement will be met if the accountant's review report is presented on the accountant's letterhead and the letterhead contains the city and state of the issuing office.

Although pre-clarity AR section 90, *Review of Financial Statements* (AICPA, *Professional Standards*), states that emphasis paragraphs are never required, section 90 of SSARS No. 21 requires the accountant to include an emphasis-of-matter or other-matter paragraph in the accountant's review report relating to the following matters:

- Financial statements prepared in accordance with a special purpose framework
- A changed reference to a departure from the applicable financial reporting framework when reporting on comparative financial statements
- Reporting on comparative financial statements when the prior period is audited
- Reporting a known departure from the applicable financial reporting framework that is material to the financial statements
- Reporting when management revises financial statements for a subsequently discovered fact that became known to the accountant after the report release date and the accountant's review report on the revised financial statements differs from the accountant's review report on the original financial statements
- Supplementary information that accompanies reviewed financial statements and the accountant's review report thereon
- Required supplementary information

Section 90 of SSARS No. 21 introduces the requirement that the accountant include an other-matter paragraph in the accountant's review report when the accountant considers it necessary to communicate a matter other than those that are presented or disclosed in the financial statements that, in the accountant's professional judgment, is relevant to the users' understanding of the review, the accountant's responsibilities, or the accountant's review report.

In addition, section 90 of SSARS No. 21 requires the accountant to include an emphasis-of-matter paragraph in the accountant's review report when the accountant considers it necessary to draw users' attention to a matter appropriately presented or disclosed in the financial statements that, in the accountant's professional judgment, is of such importance that it is fundamental to the user's understanding of the financial statements, provided that the accountant does not believe that the financial statements may be materially misstated.

If the accountant expects to include an emphasis-of-matter or other-matter paragraph in the accountant's review report, section 90 of SSARS No. 21 requires the accountant to communicate with management regarding this expectation and the proposed wording of this paragraph.

Pre-clarity AR Sections

SSARS No. 21 will supersede all pre-clarity AR sections in AICPA *Professional Standards*, with the exception of AR section 120, *Compilation of Pro Forma Financial Information* (AICPA, *Professional Standards*). AR section 120 will be superseded by an additional clarity SSARS at a future date.

Other Helpful Information and Resources

The AICPA Audit & Attest Standards Team maintains a web page dedicated to the ARSC Clarity Project, which contains valuable implementation resources for SSARS No. 21. The web page is available at <http://www.aicpa.org/SSARSClarity>. The web page will be updated frequently so, please check back often.

Additionally, AICPA Risk Alert *Developments in Review, Compilation, and Financial Statement Preparation Engagements—2014/15* serves as a valuable information resource and is available from the AICPA store at <http://www.cpa2biz.com/ssars21>.

Also, the AICPA Accounting and Auditing Technical Hotline is available for any questions that you may have. You can reach the Hotline at 877.242.7212, via e-mail at techinquiry@aicpa.org, and on the web at <http://www.aicpa.org/Research/TechnicalHotline/Pages/TechnicalHotline.aspx>

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Attachment 2

Proposed Amendment to CBA Regulations Section 42

CALIFORNIA CODE OF REGULATIONS
TITLE 16. Professional and Vocational Regulations
DIVISION 1. Board of Accountancy Regulations
ARTICLE 6 - Peer Review

§ 42. Exclusions.

(a) The following shall be excluded from the peer review requirement:

(1) Any of a firm's engagements subject to inspection by the Public Company Accounting Oversight Board as part of its inspection program.

(2) Firms, which as their highest level of work, perform only the following services ~~compilations where no report is issued~~ in accordance with the provisions of the Statements on Standards for Accounting and Review Services (SSARS):

(a) Compilations where no report is issued, or

(b) Preparation engagements (with or without disclaimer reports).

NOTE: Authority cited: Sections 5010 and 5076, Business and Professions Code.
Reference: Section 5076, Business and Professions Code.

Statement on Standards for Accounting and Review Services No. 21, *Statements on Standards for Accounting and Review Services: Clarification and Recodification*

Issue Date: October 2014

Effective Date: This Statement on Standards for Accounting and Review Services is effective for reviews, compilations, and engagements to prepare financial statements for periods ending on or after December 15, 2015. Early implementation is permitted.

Product Number: [ASSARSST21P \(paperback\)](#); [ASSARSST21E \(eBook\)](#) (Or, go to www.cpa2biz.com and search for this product number.)

Executive Summary

Statement on Standards for Accounting and Review (SSARS) No. 21 represents the efforts of the AICPA's Accounting and Review Services Committee (ARSC) to clarify and revise the existing standards for reviews, compilations, and engagements to prepare financial statements as a result of [ARSC Clarity Project](#). SSARS No. 21 includes significant revisions that affect the standards for accountants in public practice who prepare financial statements for their clients.

SSARS No. 21 supersedes all existing AR sections in AICPA *Professional Standards* with the exception of AR section 120, *Compilation of Pro Forma Financial Information*. In 2015, AR section 120 is expected to be clarified and exposed for public comment along with new proposed requirements and guidance related to compilation of prospective financial information. The existing requirements and guidance related to compilation of prospective financial information is contained in Statements on Standards for Attestation Engagements.

SSARS No. 21 comprises four sections:

- Section 60, *General Principles for Engagements Performed in Accordance With Statements on Standards for Accounting and Review Services*
- Section 70, *Preparation of Financial Statements*
- Section 80, *Compilation Engagements*
- Section 90, *Review of Financial Statements*

These sections will be codified in AICPA *Professional Standards* with the prefix "AR-C" to distinguish them from the extant AR sections.

Section 60 includes the general principles for engagements performed in accordance with SSARSs and is intended to replace AR section 60, *Framework for Performing and Reporting on Compilation and Review Engagements*.

Section 70 contains the requirements and guidance related to engagements to prepare financial statements and

- applies when the accountant is engaged to prepare financial statements but is not engaged to perform an audit, review or a compilation on those financial statements.
- requires the accountant to include a legend on each page of the financial statements stating that no assurance is being provided.
- requires the accountant to obtain an engagement letter signed by both the accountant and the client's management.

- does **not** require the accountant to consider whether he or she is independent, just as in all other nonattest bookkeeping/accounting services engagements.
- may be applied to financial statements with or without disclosures.

Section 80 contains the requirements and guidance related to compilation engagements and

- retains the existing requirements for compilations largely unchanged.
- applies when an accountant is engaged to perform a compilation engagement.
- always requires a report (section 70 would apply for non-reporting management-use only engagements)
- streamlines the report to differentiate the non-assurance compilation report from assurance (review and audit) reports so that the standard report contains only one paragraph with no headings.
- **retains the requirement that the accountant modify the accountant's compilation report whenever the accountant's independence is impaired.**
- requires the accountant to obtain an engagement letter signed by both the accountant **and the client's management.**
- may be applied to financial statements with or without disclosures.

Section 90 contains the requirements and guidance related to review engagements and is essentially a clarity redraft of the review literature in SSARS No. 19, *Compilation and Review Engagements*, with few changes.

Convergence

Whereas the AICPA's Auditing Standards Board used, where applicable, the corresponding International Standard on Auditing (ISA) as a base when drafting each clarified auditing standard, ARSC has used AU-C section 930, *Interim Financial Information* (AICPA, *Professional Standards*), as a base to clarify the existing review literature. AU-C section 930 was clarified using International Standard on Review Engagements (ISRE) 2410, *Review of Interim Financial Information Performed by the Independent Auditor of the Entity*, as a base, and there are no substantive differences between AU-C section 930 and ISRE 2410. ARSC determined that it was more appropriate to converge with the corresponding limited assurance engagement guidance in the American auditing literature than with ISRE 2400 (Revised), *Engagements to Review Historical Financial Statements*.

Although ARSC has considered International Standard on Related Services (ISRS) 4410, *Engagements to Compile Financial Statements*, and has adopted certain of the requirements, section 80 has not been fully harmonized with ISRS 4410 because some of the underlying premises (for example, the requirement to determine independence) are different in the United States of America.



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LC Item II.
May 28, 2015

CBA Item IX.B.2.
May 28-29, 2015

Update on Legislation on Which the CBA Has Taken a Position and Discussion Regarding Possible Action

Presented by: Kathryn Kay, Legislative Analyst

Purpose of the Item

The purpose of this agenda item is to present the status of legislation being followed by the California Board of Accountancy (CBA).

Action(s) Needed

The CBA will be asked to determine if it wishes to change any of its positions on legislation based on recent amendments.

Background

The CBA has taken positions on various pieces of legislation and continues to monitor several others (**Attachment 1**). Of the bills that are being monitored on this list, only one underwent a change in status. Assembly Bill (AB) 1386 was originally provided as informational at the March meeting, as it was a spot bill at that time. In late March, this bill was amended to no longer be relevant to the CBA, and is now specific to the health profession. Due to the recent amendments, staff will recommend that the CBA discontinue following this bill.

As for the four bills the CBA has taken positions on, staff recommend maintaining the current positions on Senate Bill (SB) 8 and SB 799 which have not been amended or had a change in status since the CBA's March meeting. Staff also recommend maintaining its current position on AB 85, which has been amended, but not in a way that changes the effect of the bill. Lastly, SB 467, the CBA's sunset bill, was amended to include other provisions related to the Department of Consumer Affairs (DCA) and the Attorney General's Office. For CBA consideration, updated analyses on AB 85 and SB 467 are provided below.

Comments

AB 85 – Open Meetings (Attachment 2)

In April, AB 85 passed out of the Assembly Business and Professions Committee with amendments. It was also heard in the Assembly Committee on Appropriations, whose

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primary jurisdiction is fiscal bills. This committee took action to place this item in its suspense file, which is designed for bills that have a fiscal impact of \$150,000 to be set aside to be considered by the Appropriations Committee once all fiscal bills are received.

CBA Position: Oppose.

What It Did

Modifies what constitutes a state body to include an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of two or less individuals.

Amendments

The amendments removed legislative intent language of the bill, which included:

- legislative intent that this bill is declaratory of existing law and reference to an unpublished decision of the Third District Court of Appeals interpreting that the Bagley-Keene Open Meeting Act is applicable to a two-member standing advisory committee.
- that a two-member committee of a state body, even if operating solely in an advisory capacity, is defined as a "state body" if a member of the state body sits on the committee and the committee receives funds from the state body.

Analysis

Amendments made to the bill will not change its effect. This bill would still require that, under the Bagley-Keene Open Meeting Act, a two-member advisory committee of a state body is a "state body" if a member of that state body sits on the advisory committee and the committee receives funds from the state body.

Staff has submitted a letter of opposition to the author's office, which expressed the CBA's continued willingness to discuss the bill along with an invitation to attend the CBA's next meeting or to contact staff to schedule a meeting. Additionally, staff submitted a copy of this letter to the appropriate Legislative Committees that heard the bill in April in order to register the CBA's opposition.

Fiscal Impact

The Legislature has estimated this bill to be of potentially significant costs, in excess of \$750,000, to state agencies for complying with notice and open meeting requirements in instances currently not subject to those requirements.

Recommendation

Staff recommends that the CBA maintain its Oppose position.

Update on Legislation on Which the CBA Has Taken a Position and Discussion Regarding Possible Action

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SB 467 – CBA’s Sunset Bill (Attachment 3)

The CBA’s sunset bill, SB 467, is still moving through the process and continues to extend the CBA’s sunset date. Since the CBA’s March meeting, SB 467 was amended to include additional provisions.

CBA Position: Support.

What It Did

This bill would extend the CBA’s sunset date from January 1, 2016 to January 1, 2020.

Amendments

The amendments added the following provisions to the bill:

- Requires the Department of Consumer Affairs (DCA) to receive approval from the Legislature to levy in advance a charge for the estimated administrative expenses of the DCA on a pro rata share basis against any of the boards, bureaus, commissions, divisions, and agencies for the estimated administrative expenses of the DCA.
- Requires the Attorney General’s (AG) Office to submit a report to the DCA, the Governor, and the appropriate policy committees of the Legislature on or before January 1, 2017, and on or before January 1 of each subsequent year that includes specific statistical information regarding cases referred to the AG’s Office by each constituent entity comprising the DCA and Division of Investigation (DOI) of the DCA.
- Provides that in order to implement the complaint prioritization guidelines as specified by the DCA in 2009, titled “Complaint Prioritization Guideline for Health Care Agencies,” the Director, through the DOI, shall work cooperatively with the health care boards to standardize referral of complaints to the DOI and those that are retained by the health care boards for investigation.
- Provides that the CBA, after notice and hearing may, for unprofessional conduct, permanently restrict or limit the practice of a licensee or impose a probationary term or condition on a license, which prohibits the licensee from performing or engaging in any of the acts or services as provided for in the practice of accountancy.

Analysis

Amendments made to the bill did not change the proposed extension of the CBA’s sunset date to January 1, 2020. The CBA’s legislative proposal related to permanent practice restrictions was one of the amendments to the bill.

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As for the additional amendments, the first is related to the DCA's pro rata calculations. Through its divisions, the DCA provides centralized administrative services to all boards and funds all the DCA operations. Most of these services are funded through a pro rata calculation that is based on "position counts." Other functions (call center services, complaint resolution, and correspondence unit) are based on prior year workload. In FY 2013/14, the CBA paid 1.4 million in pro rata to DCA.

To allow for better understanding of how these assessments are calculated, this bill would require the DCA submit a report to the Legislature by July 1, 2015, to provide the accounting of the pro rata calculation of administrative expenses charged to its various boards and bureaus. This bill would also require that pro rata be approved by the Legislature, rather than at the discretion of DCA and the Department of Finance.

The second amendment does not have an impact on the CBA, and is specific to health care boards. It would require health care boards to standardize referral of complaints to DOI and those that are retained by health care boards for investigation.

The final amendment for discussion would require the AG's Office to submit an annual report to the Governor, the DCA, and the Legislature, beginning on January 1, 2017, to include specific statistical information regarding cases referred to the AG's Office by each constituent entity, including the CBA. This requirement would increase government transparency and may be helpful to the CBA when evaluating its progress in meeting its performance measure related to formal discipline.

As these amendments could be viewed as controversial and possibly compromise the success of the CBA's sunset extension, staff is working with the author's office and the Senate Business, Professions and Economic Development Committee to determine if there is an opportunity for the non-CBA items to be removed or for the CBA's sunset date extension and permanent practice restrictions to be included in another bill.

Fiscal Impact

Unknown. This bill has been identified as having a fiscal impact.

Recommendation

Staff recommends that the CBA maintain a support position on the bill regarding the CBA's sunset date, and also include in its support position the changes to the Accountancy Act related to permanent practice restrictions. The CBA may also wish to consider including in its support position, the provision related to the AG's Office reporting requirement, as it seeks to promote government transparency.

Update on Legislation on Which the CBA Has Taken a Position and Discussion Regarding Possible Action

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As for the amendment related to the DCA pro rata calculations, staff believes that it may be more prudent to take a position on this item once the report referenced in BPC 201(a)(2) has been finalized and submitted to the Legislature on July 1, 2015.

Bills Being Monitored by the CBA (Attachments 4-7)

Lastly, there are four bills that were provided at the March meeting as informational, that staff are presently monitoring for further developments and impact on the CBA: AB 12, AB 513, AB 1215, and SB 729. Staff recommend that the CBA continue to monitor these bills.

Recommendations

1. AB 1386 – Staff recommend that the CBA discontinue following this bill and continue monitoring the bills identified on the Legislative Tracking List for further developments.
2. AB 85, SB 8, and SB 799 – Staff recommend that the CBA maintain its current positions on these bills.
3. SB 467 – In light of recent amendments, staff recommend that the CBA revise its Support position to be specific to the extension of the CBA's sunset date and changes made to the Accountancy Act related to permanent practice restrictions. The CBA may also wish to consider including in its support position, the provision related to the AG's Office reporting requirement, as it seeks to promote government transparency. Staff recommend that the CBA wait to take a position on the pro rata portion of the bill until the report is available for review on July 1, 2015, which will allow the CBA a deeper understanding of how pro rata is calculated prior to taking a position.

Attachments

1. Legislative Tracking List
2. Assembly Bill 85
3. Senate Bill 467
4. Assembly Bill 12 (Informational Only)
5. Assembly Bill 513 (Informational Only)
6. Assembly Bill 1215 (Informational Only)
7. Senate Bill 729 (Informational Only)



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Attachment 1

2015-16 Legislative Tracking List

<i>CBA Positions</i>				
Bill #	Author	Topic	Position	Status
AB 85	Wilk	Open Meetings	Oppose	Assembly Appropriations
SB 8	Hertzberg	Taxation	Watch	Senate Governance and Finance
SB 467	Hill	Accountants (Sunrise Bill)	Support	Senate Appropriations
SB 799	Senate BP&ED	Business and Professions (Omnibus)	Support	Senate Appropriations
<i>Monitoring</i>				
AB 12	Cooley	Regulations: review	None	Assembly Accountability and Administrative Review
AB 507	Olsen	Department of Consumer Affairs: BreEZe : annual report	None	Assembly Appropriations
AB 513	Jones	Professions and vocations (spot bill)	None	Introduced
AB 750	Low	Business and professions: retired category: licenses	None	Assembly Appropriations
AB 1060	Bonilla	Professions and vocations: licensure	None	Assembly Appropriations
AB 1215	Ting	Open Government	None	Assembly Appropriations
AB 1386	Low	Consumer Affairs Emergency medical care: epinephrine auto-injectors.	None	Assembly Business and Professions
SB 729	Wieckowski	Consumer Complaints (spot bill)	None	Introduced

AMENDED IN ASSEMBLY APRIL 15, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL**No. 85****Introduced by Assembly Member Wilk**

January 6, 2015

An act to amend Section 11121 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 85, as amended, Wilk. Open meetings.

The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions.

This bill would specify that the definition of "state body" includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

~~This bill would make legislative findings and declarations, including, but not limited to, a statement of the Legislature's intent that this bill is declaratory of existing law.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. The Legislature finds and declares all of the~~
2 ~~following:~~

3 ~~(a) The unpublished decision of the Third District Court of~~
4 ~~Appeals in Funeral Security Plans v. State Board of Funeral~~
5 ~~Directors (1994) 28 Cal. App.4th 1470 is an accurate reflection of~~
6 ~~legislative intent with respect to the applicability of the~~
7 ~~Bagley-Keene Open Meeting Act (Article 9 (commencing with~~
8 ~~Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of~~
9 ~~the Government Code) to a two-member standing advisory~~
10 ~~committee of a state body.~~

11 ~~(b) A two-member committee of a state body, even if operating~~
12 ~~solely in an advisory capacity, already is a “state body,” as defined~~
13 ~~in subdivision (d) of Section 11121 of the Government Code, if a~~
14 ~~member of the state body sits on the committee and the committee~~
15 ~~receives funds from the state body.~~

16 ~~(c) It is the intent of the Legislature that this bill is declaratory~~
17 ~~of existing law.~~

18 ~~SEC. 2.~~

19 ~~SECTION 1.~~ Section 11121 of the Government Code is
20 amended to read:

21 11121. As used in this article, “state body” means each of the
22 following:

23 (a) Every state board, or commission, or similar multimember
24 body of the state that is created by statute or required by law to
25 conduct official meetings and every commission created by
26 executive order.

27 (b) A board, commission, committee, or similar multimember
28 body that exercises any authority of a state body delegated to it by
29 that state body.

30 (c) An advisory board, advisory commission, advisory
31 committee, advisory subcommittee, or similar multimember
32 advisory body of a state body, if created by formal action of the
33 state body or of any member of the state body, and if the advisory

1 body so created consists of three or more persons, except as in
2 subdivision (d).

3 (d) A board, commission, committee, or similar multimember
4 body on which a member of a body that is a state body pursuant
5 to this section serves in his or her official capacity as a
6 representative of that state body and that is supported, in whole or
7 in part, by funds provided by the state body, whether the
8 multimember body is organized and operated by the state body or
9 by a private corporation.

10 ~~SEC. 3.~~

11 *SEC. 2.* This act is an urgency statute necessary for the
12 immediate preservation of the public peace, health, or safety within
13 the meaning of Article IV of the Constitution and shall go into
14 immediate effect. The facts constituting the necessity are:

15 In order to avoid unnecessary litigation and ensure the people's
16 right to access the meetings of public bodies pursuant to Section
17 3 of Article 1 of the California Constitution, it is necessary that
18 *this act take effect ~~immediately~~ immediately.*

AMENDED IN SENATE APRIL 21, 2015

SENATE BILL**No. 467****Introduced by Senator Hill**

February 25, 2015

An act to amend Sections ~~5000 and 201, 5000, and 5015.6~~ *of of, and to add Sections 312.2, 328, and 5100.5 to, the Business and Professions Code, relating to professions and vocations.*

LEGISLATIVE COUNSEL'S DIGEST

SB 467, as amended, Hill. ~~Accountants.~~ *Professions and vocations.*

Existing law provides for the licensure and regulation of various professions and vocations by boards, bureaus, commissions, divisions, and other agencies within the Department of Consumer Affairs. Existing law authorizes the department to levy a pro rata share of the department's administrative expenses against any of these constituent agencies at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance.

This bill would eliminate the requirement that the levy described above be at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance, and would instead require the levy to be approved by the Legislature.

Existing law requires an agency within the department to investigate a consumer accusation or complaint against a licensee and, where appropriate, the agency is authorized to impose disciplinary action against a licensee. Under existing law, an agency within the department may refer a complaint to the Attorney General or Office of Administrative Hearings for further action.

This bill would require the Attorney General to submit a report to the department, the Governor, and the appropriate policy committees

of the Legislature, on or before January 1, 2017, and on or before January 1 of each subsequent year, that includes specified information regarding the actions taken by the Attorney General pertaining to accusations and cases relating to consumer complaints against a person whose profession or vocation is licensed by an agency within the department.

Existing law creates the Division of Investigation within the department and requires investigators who have the authority of peace officers to be in the division to investigate the laws administered by the various boards comprising the department or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws.

This bill would, in order to implement specified complaint prioritization guidelines, require the Director of Consumer Affairs, through the Division of Investigation, to work cooperatively with the health care boards to standardize referral of complaints to the division and those that are retained by the health care boards for investigation.

Under existing law, the California Board of Accountancy within the ~~Department of Consumer Affairs~~ department is responsible for the licensure and regulation of accountants and is required to designate an executive officer. Existing law repeals these provisions on January 1, 2016.

This bill would extend the repeal date to January 1, 2020.

Existing law authorizes the California Board of Accountancy, after notice and hearing, to revoke, suspend, or refuse to renew any permit or certificate, as specified, or to censure the holder of that permit or certificate for unprofessional conduct.

This bill would additionally authorize the board, after notice and hearing, to permanently restrict or limit the practice of a licensee or impose a probationary term or condition on a licence for unprofessional conduct. This bill would authorize a licensee to petition the board for reduction of penalty or reinstatement of the privilege, as specified, and would provide that failure to comply with any restriction or limitation imposed by the board is grounds for revocation of the license.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 201 of the Business and Professions Code*
2 *is amended to read:*

3 201. (a) (1) A charge for the estimated administrative expenses
4 of the department, not to exceed the available balance in any
5 appropriation for any one fiscal year, may be levied in advance on
6 a pro rata share basis against any of the boards, bureaus,
7 commissions, divisions, and agencies, ~~at the discretion of the~~
8 ~~director and with the approval of the Department of Finance.~~ *with*
9 *the approval of the Legislature.*

10 (2) The department shall submit a report of the accounting of
11 the pro rata calculation of administrative expenses to the
12 appropriate policy committees of the Legislature on or before July
13 1, 2015, and on or before July 1 of each subsequent year.

14 (b) The department shall conduct a one-time study of its current
15 system for prorating administrative expenses to determine if that
16 system is the most productive, efficient, and cost-effective manner
17 for the department and the agencies comprising the department.
18 The study shall include consideration of whether some of the
19 administrative services offered by the department should be
20 outsourced or charged on an as-needed basis and whether the
21 agencies should be permitted to elect not to receive and be charged
22 for certain administrative services. The department shall include
23 the findings in its report pursuant to paragraph (2) of subdivision
24 (a) that it is required to submit on or before July 1, 2015.

25 *SEC. 2. Section 312.2 is added to the Business and Professions*
26 *Code, to read:*

27 312.2. (a) *The Attorney General shall submit a report to the*
28 *department, the Governor, and the appropriate policy committees*
29 *of the Legislature on or before January 1, 2017, and on or before*
30 *January 1 of each subsequent year that includes, at a minimum,*
31 *all of the following for the previous fiscal year:*

32 (1) *The number of cases referred to the Attorney General by*
33 *each constituent entity within the department.*

34 (2) *The number of cases referred by the Attorney General back*
35 *to each constituent entity with no further action.*

36 (3) *The number of cases rereferred by a constituent entity to*
37 *the Attorney General after each constituent entity or the Division*
38 *of Investigation completes a supplemental investigation.*

1 (4) *The number of accusations filed by each constituent entity.*

2 (5) *The number of accusations a constituent entity withdraws.*

3 (6) *The average number of days from the Attorney General*
4 *receiving a case to filing an accusation on behalf of each*
5 *constituent entity.*

6 (7) *The average number of days to prepare an accusation for*
7 *a case that is rereferred to the Attorney General after a*
8 *supplemental investigation is conducted by staff of a constituent*
9 *entity or the Division of Investigation for each constituent entity.*

10 (8) *The average number of days from filing an accusation to*
11 *transmitting a stipulated settlement for each constituent entity.*

12 (9) *The average number of days from filing an accusation to*
13 *transmitting a default decision for each constituent entity.*

14 (10) *The average number of days from filing an accusation to*
15 *scheduling a hearing for each constituent entity.*

16 (11) *The average number of days from scheduling a hearing to*
17 *conducting a hearing for each constituent entity.*

18 (b) *A report to be submitted pursuant to subdivision (a) shall*
19 *be submitted in compliance with Section 9795 of the Government*
20 *Code.*

21 *SEC. 3. Section 328 is added to the Business and Professions*
22 *Code, to read:*

23 *328. In order to implement the complaint prioritization*
24 *guidelines as described in the memorandum dated August 31,*
25 *2009, by Brian J. Stiger titled “Complaint Prioritization Guidelines*
26 *for Health Care Agencies,” the director, through the Division of*
27 *Investigation, shall work cooperatively with the health care boards*
28 *to standardize referral of complaints to the division and those that*
29 *are retained by the health care boards for investigation.*

30 ~~SECTION 1.~~

31 *SEC. 4. Section 5000 of the Business and Professions Code is*
32 *amended to read:*

33 *5000. (a) There is in the Department of Consumer Affairs the*
34 *California Board of Accountancy, which consists of 15 members,*
35 *7 of whom shall be licensees, and 8 of whom shall be public*
36 *members who shall not be licentiates of the board or registered by*
37 *the board. The board has the powers and duties conferred by this*
38 *chapter.*

39 (b) *The Governor shall appoint four of the public members, and*
40 *the seven licensee members as provided in this section. The Senate*

1 Committee on Rules and the Speaker of the Assembly shall each
2 appoint two public members. In appointing the seven licensee
3 members, the Governor shall appoint individuals representing a
4 cross section of the accounting profession.

5 (c) This section shall remain in effect only until January 1, 2020,
6 and as of that date is repealed, unless a later enacted statute, that
7 is enacted before January 1, 2020, deletes or extends that date.

8 (d) Notwithstanding any other provision of law, the repeal of
9 this section renders the board subject to review by the appropriate
10 policy committees of the Legislature. However, the review of the
11 board shall be limited to reports or studies specified in this chapter
12 and those issues identified by the appropriate policy committees
13 of the Legislature and the board regarding the implementation of
14 new licensing requirements.

15 ~~SEC. 2.~~

16 *SEC. 5.* Section 5015.6 of the Business and Professions Code
17 is amended to read:

18 5015.6. The board may appoint a person exempt from civil
19 service who shall be designated as an executive officer and who
20 shall exercise the powers and perform the duties delegated by the
21 board and vested in him or her by this chapter.

22 This section shall remain in effect only until January 1, 2020,
23 and as of that date is repealed, unless a later enacted statute, that
24 is enacted before January 1, 2020, deletes or extends that date.

25 *SEC. 6.* Section 5100.5 is added to the Business and Professions
26 Code, to read:

27 5100.5. (a) After notice and hearing the board may, for
28 unprofessional conduct, permanently restrict or limit the practice
29 of a licensee or impose a probationary term or condition on a
30 license, which prohibits the licensee from performing or engaging
31 in any of the acts or services described in Section 5051.

32 (b) A licensee may petition the board pursuant to Section 5115
33 for reduction of penalty or reinstatement of the privilege to engage
34 in the service or act restricted or limited by the board.

35 (c) The authority or sanctions provided by this section are in
36 addition to any other civil, criminal, or administrative penalties
37 or sanctions provided by law, and do not supplant, but are
38 cumulative to, other disciplinary authority, penalties, or sanctions.

1 (d) Failure to comply with any restriction or limitation imposed
2 by the board pursuant to this section is grounds for revocation of
3 the license.

4 (e) For purposes of this section, both of the following shall
5 apply:

6 (1) “Unprofessional conduct” includes, but is not limited to,
7 those grounds for discipline or denial listed in Section 5100.

8 (2) “Permanently restrict or limit the practice of” includes, but
9 is not limited to, the prohibition on engaging in or performing any
10 attestation engagement, audits, or compilations.

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 12

Introduced by Assembly Member Cooley
(Coauthors: Assembly Members Chang, Daly, and Wilk)

December 1, 2014

An act to amend Section 11349.1.5 of, and to add and repeal Chapter 3.6 (commencing with Section 11366) of Part 1 of Division 3 of Title 2 of, of the Government Code, relating to state agency regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 12, as amended, Cooley. State government: administrative regulations: review.

~~(1) Existing~~

Existing law authorizes various state entities to adopt, amend, or repeal regulations for various specified purposes. The Administrative Procedure Act requires the Office of Administrative Law and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.

This bill would, until January 1, 2019, require each state agency to, on or before January 1, 2018, ~~and after a noticed public hearing, review and revise that agency's regulations to eliminate any inconsistencies, overlaps, or outdated provisions in the regulations, adopt the revisions as emergency regulations, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the Legislature and Governor, as specified.~~ ~~The bill would further~~

require each agency to, on or before January 1, 2017, compile an overview of the statutory law that agency administers.

(2) The act requires a state agency proposing to adopt, amend, or repeal a major regulation, as defined, to prepare a standardized regulatory impact analysis of the proposed change. The act requires the office and the Department of Finance to, from time to time, review the analyses for compliance with specific department regulations. The act further requires the office to, on or before November 1, 2015, submit a report on the analyses to the Senate and Assembly Committees on Governmental Organization, as specified.

This bill would instead require the office and department to annually review the analyses. The bill would also require the office to annually submit a report on the analyses to the Senate Committee on Governmental Organization and the Assembly Committee on Accountability and Administrative Review.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11349.1.5 of the Government Code is
2 amended to read:

3 11349.1.5. (a) The Department of Finance and the office shall
4 annually review the standardized regulatory impact analyses
5 required by subdivision (c) of Section 11346.3 and submitted to
6 the office pursuant to Section 11347.3, for adherence to the
7 regulations adopted by the department pursuant to Section
8 11346.36.

9 (b)(1) On or before November 1, 2015, and annually thereafter,
10 the office shall submit to the Senate Committee on Governmental
11 Organization and the Assembly Committee on Accountability and
12 Administrative Review a report describing the extent to which
13 submitted standardized regulatory impact analyses for proposed
14 major regulations for the fiscal year ending in June 30, of that year
15 adhere to the regulations adopted pursuant to Section 11346.36.
16 The report shall include a discussion of agency adherence to the
17 regulations as well as a comparison between various state agencies
18 on the question of adherence. The report shall also include any
19 recommendations from the office for actions the Legislature might
20 consider for improving state agency performance and compliance

1 in the creation of the standardized regulatory impact analyses as
2 described in Section 11346.3.

3 ~~(2) The report shall be submitted in compliance with Section~~
4 ~~9795 of the Government Code.~~

5 ~~(e) In addition to the annual report required by subdivision (b),~~
6 ~~the office shall notify the Legislature of noncompliance by a state~~
7 ~~agency with the regulations adopted pursuant to Section 11346.36,~~
8 ~~in any manner or form determined by the office and shall post the~~
9 ~~report and notice of noncompliance on the office's Internet Web~~
10 ~~site.~~

11 ~~SEC. 2.~~

12 *SECTION 1.* Chapter 3.6 (commencing with Section 11366)
13 is added to Part 1 of Division 3 of Title 2 of the Government Code,
14 to read:

15
16 CHAPTER 3.6. REGULATORY REFORM

17
18 Article 1. Findings and Declarations

19
20 11366. The Legislature finds and declares all of the following:

21 (a) The Administrative Procedure Act (Chapter 3.5 (commencing
22 with Section 11340), Chapter 4 (commencing with Section 11370),
23 Chapter 4.5 (commencing with Section 11400), and Chapter 5
24 (commencing with Section 11500)) requires agencies and the
25 Office of Administrative Law to review regulations to ensure their
26 consistency with law and to consider impacts on the state's
27 economy and businesses, including small businesses.

28 (b) However, the act does not require agencies to individually
29 review their regulations to identify overlapping, inconsistent,
30 duplicative, or out-of-date regulations that may exist.

31 (c) At a time when the state's economy is slowly recovering,
32 unemployment and underemployment continue to affect all
33 Californians, especially older workers and younger workers who
34 received college degrees in the last seven years but are still awaiting
35 their first great job, and with state government improving but in
36 need of continued fiscal discipline, it is important that state
37 agencies systematically undertake to identify, publicly review, and
38 eliminate overlapping, inconsistent, duplicative, or out-of-date
39 regulations, both to ensure they more efficiently implement and

1 enforce laws and to reduce unnecessary and outdated rules and
2 regulations.

3 ~~(d) The purpose of this chapter is to require each agency to~~
4 ~~compile an overview of the statutory law that agency oversees or~~
5 ~~administers in its regulatory activity that includes a synopsis of~~
6 ~~key programs, when each key program was authorized or instituted,~~
7 ~~and any emerging challenges the agency is encountering with~~
8 ~~respect to those programs.~~

9
10 Article 2. Definitions

11
12 11366.1. For the ~~purpose~~ *purposes* of this chapter, the following
13 definitions shall apply:

14 (a) “State agency” means a state agency, as defined in Section
15 11000, except those state agencies or activities described in Section
16 11340.9.

17 (b) “Regulation” has the same meaning as provided in Section
18 11342.600.

19
20 Article 3. State Agency Duties

21
22 11366.2. On or before January 1, 2018, each state agency shall
23 do all of the following:

24 (a) Review all provisions of the California Code of Regulations
25 applicable to, or adopted by, that state agency.

26 (b) Identify any regulations that are duplicative, overlapping,
27 inconsistent, or out of date.

28 (c) Adopt, amend, or repeal regulations to reconcile or eliminate
29 any duplication, overlap, inconsistencies, or out-of-date ~~provisions.~~
30 *provisions, and shall comply with the process specified in Article*
31 *5 (commencing with Section 11346) of Chapter 3.5, unless the*
32 *addition, revision, or deletion is without regulatory effect and may*
33 *be done pursuant to Section 100 of Title 1 of the California Code*
34 *of Regulations.*

35 (d) Hold at least one noticed public hearing, that shall be noticed
36 on the Internet Web site of the state agency, for the purposes of
37 accepting public comment on proposed revisions to its regulations.

38 (e) Notify the appropriate policy and fiscal committees of each
39 house of the Legislature of the revisions to regulations that the
40 state agency proposes to make at least ~~90 days prior to a noticed~~

1 public hearing pursuant to subdivision (d) and at least 90 days
2 prior to the proposed adoption, amendment, or repeal of the
3 regulations pursuant to subdivision (f), for the purpose of allowing
4 those committees to review, and hold hearings on, the proposed
5 revisions to the regulations.

6 ~~(f) Adopt as emergency regulations, consistent with Section~~
7 ~~11346.1, those changes, as provided for in subdivision (e), to a~~
8 ~~regulation identified by the state agency as duplicative,~~
9 ~~overlapping, inconsistent, or out of date. *least 30 days prior to*~~
10 ~~*initiating the process under Article 5 (commencing with Section*~~
11 ~~*11346) of Chapter 3.5 or Section 100 of Title 1 of the California*~~
12 ~~*Code of Regulations.*~~

13 (g) (1) Report to the Governor and the Legislature on the state
14 agency's compliance with this chapter, including the number and
15 content of regulations the state agency identifies as duplicative,
16 overlapping, inconsistent, or out of date, and the state agency's
17 actions to address those regulations.

18 (2) The report shall be submitted in compliance with Section
19 9795 of the Government Code.

20 11366.3. (a) On or before January 1, 2018, each agency listed
21 in Section 12800 shall notify a department, board, or other unit
22 within that agency of any existing regulations adopted by that
23 department, board, or other unit that the agency has determined
24 may be duplicative, overlapping, or inconsistent with a regulation
25 adopted by another department, board, or other unit within that
26 agency.

27 (b) A department, board, or other unit within an agency shall
28 notify that agency of revisions to regulations that it proposes to
29 make at least 90 days prior to a noticed public hearing pursuant to
30 subdivision (d) of Section 11366.2 and at least 90 days prior to
31 adoption, amendment, or repeal of the regulations pursuant to
32 ~~subdivision (f) of subdivision (c) of Section 11366.2.~~ The agency
33 shall review the proposed regulations and make recommendations
34 to the department, board, or other unit within 30 days of receiving
35 the notification regarding any duplicative, overlapping, or
36 inconsistent regulation of another department, board, or other unit
37 within the agency.

38 11366.4. An agency listed in Section 12800 shall notify a state
39 agency of any existing regulations adopted by that agency that

1 may duplicate, overlap, or be inconsistent with the state agency’s
2 regulations.

3 ~~11366.43. On or before January 1, 2017, each state agency
4 shall compile an overview of the statutory law that state agency
5 oversees or administers. The overview shall include a synopsis of
6 the state agency’s key programs, when each program was
7 authorized or instituted, when any statute authorizing a program
8 was significantly revised to alter, redirect, or extend the original
9 program and the reason for the revision, if known, and an
10 identification of any emerging challenges the state agency is
11 encountering with respect to the programs.~~

12 11366.45. This chapter shall not be construed to weaken or
13 undermine in any manner any human health, public or worker
14 rights, public welfare, environmental, or other protection
15 established under statute. This chapter shall not be construed to
16 affect the authority or requirement for an agency to adopt
17 regulations as provided by statute. Rather, it is the intent of the
18 Legislature to ensure that state agencies focus more efficiently and
19 directly on their duties as prescribed by law so as to use scarce
20 public dollars more efficiently to implement the law, while
21 achieving equal or improved economic and public benefits.

22

23 Article 4. Chapter Repeal

24

25 11366.5. This chapter shall remain in effect only until January
26 1, 2019, and as of that date is repealed, unless a later enacted
27 statute, that is enacted before January 1, 2019, deletes or extends
28 that date.

ASSEMBLY BILL**No. 513****Introduced by Assembly Member Jones**

February 23, 2015

An act to amend Section 484 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 513, as introduced, Jones. Professions and vocations.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Under existing law, a person applying for licensure is not required to submit to any board any attestation by another person to the applicant's good moral character.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 484 of the Business and Professions Code
- 2 is amended to read:
- 3 484. ~~No~~A person applying for licensure under this code shall
- 4 *not* be required to submit to any licensing board any attestation by
- 5 other persons to his *or her* good moral character.

O

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1215

Introduced by Assembly Member Ting

February 27, 2015

An act to add Chapter 5.8 (commencing with Section 11549.30) to Part 1 of Division 3 of Title 2 of the Government Code, relating to open government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1215, as amended, Ting. ~~Open government.~~ *California Open Data Standard.*

Existing law establishes the Department of Technology, within the Government Operations Agency, headed by the Director of Technology, who is also known as the State Chief Information Officer. The department is responsible for the approval and oversight of information technology projects in state government by, among other things, consulting with agencies during initial project planning to ensure that project proposals are based on well-defined programmatic needs and consider feasible alternatives to address the identified needs and benefits consistent with statewide strategies, policies, and procedures.

This bill would enact the California Open Data Act and create the position of the Chief Data Officer, who would be appointed by, and serve at the pleasure of, the Governor, and report to the Secretary of Government Operations. This bill would require the Chief Data Officer to establish the California Open Data Standard, as specified, and require state agencies to make public data, as defined, available on an Internet Web portal pursuant to that standard. This bill would authorize a local government to adopt that standard. This bill would require the

Chief Data Officer to create a Data Working Group, composed of data coordinators from specific state agencies and 2 individuals with expertise in open data information technology, who are appointed by and serve at the pleasure of, the Chief Data Officer. This bill would further require each state agency, on or before July 1, 2016, to submit a strategic plan and a strategic enterprise application plan, as specified, to the Chief Data Officer and to post the reports on the Internet Web portal. This bill would also require specified legal policies for public data to be posted on the Internet Web portal. This bill would make legislative findings and declarations relating to this act.

~~Existing law requires, with specified exceptions, that all meetings of state and local government entities be open and public and that all persons be permitted to attend and participate. Existing law also requires that public records be open to inspection at all times during the office hours of a state or local government entity and that every person has a right to inspect any public record, except as specifically provided.~~

~~This bill would state the intent of the Legislature to enact legislation to strengthen the state’s commitment to an open and transparent government.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *State agencies contain great amounts of valuable information*
- 4 *and reports on all aspects of life for Californians, including, but*
- 5 *not limited to, health, business, public safety, labor data,*
- 6 *transportation, parks, and recreation.*
- 7 (b) *New information technology has fundamentally changed the*
- 8 *way people search for, and expect to find, information, and can*
- 9 *aggregate large quantities of data to allow the state to provide*
- 10 *information to the public with increasing efficiency and*
- 11 *thoroughness.*
- 12 (c) *The state can use these powerful information technology*
- 13 *tools to enhance public access to public data, thus making the state*
- 14 *more transparent and promoting public trust.*
- 15 (d) *Ensuring the quality and consistency of public data is*
- 16 *essential to maintaining its value and utility.*

1 (e) It is the intent of the Legislature by this act to establish an
2 open data policy for state agencies to post public data directly
3 onto a central online Internet Web site at data.ca.gov and provide
4 a single-stop access to public data that is owned, controlled,
5 collected, or maintained by state agencies.

6 SEC. 2. Chapter 5.8 (commencing with Section 11549.30) is
7 added to Part 1 of Division 3 of Title 2 of the Government Code,
8 to read:

9
10 CHAPTER 5.8. THE CALIFORNIA OPEN DATA ACT

11
12 Article 1. General Provisions

13
14 11549.30. This chapter shall be known and may be cited as
15 the California Open Data Act.

16 11549.32. Unless the context requires otherwise, the following
17 definitions shall apply to this chapter:

18 (a) "Public data" means all data that is collected by a state
19 agency in pursuit of that state agency's responsibilities that is
20 otherwise subject to disclosure pursuant to the California Public
21 Records Act (Chapter 3.5 (commencing with Section 6250) of
22 Division 7 of Title 1).

23 (b) "State agency" has the same meaning as in Section 11000.

24 (c) "Strategic enterprise application plan" means a
25 comprehensive program developed by a state agency, articulating
26 both principles and goals related to the application of its services
27 and programs to the current and future needs of enterprise in the
28 state.

29 (d) "Strategic plan" means a state agency's evaluation, over a
30 period of up to five years, of its strategy and direction, including,
31 but not limited to, a framework for decisionmaking with respect
32 to resource allocation to achieve defined goals.

33
34 Article 2. Chief Data Officer

35
36 11549.34. There is in state government the Chief Data Officer,
37 who shall be appointed by, and serve at the pleasure of, the
38 Governor. The Chief Data Officer shall report to the Secretary of
39 Government Operations.

1 11549.36. (a) *The Chief Data Officer shall create an inventory*
 2 *of all available public data in the state.*
 3 (b) *The Chief Data Officer shall establish an Internet Web portal*
 4 *at data.ca.gov to achieve the purposes of this chapter.*

5
 6 Article 3. *Open Data Standard*
 7

8 11549.38. (a) *The Chief Data Officer shall establish the*
 9 *California Open Data Standard for state agencies to make public*
 10 *data available. A local government agency may adopt the standard.*

11 (b) *In establishing the California Open Data Standard pursuant*
 12 *to subdivision (a), the Chief Data Officer shall consult with the*
 13 *subject matter experts from all state agencies, organizations*
 14 *specializing in technology and innovation, the academic*
 15 *community, and other interested groups designated by the Chief*
 16 *Data Officer.*

17 (c) *The California Open Data Standard shall include, but not*
 18 *be limited to, all of the following:*

19 (1) *A format that permits public notification of all updates*
 20 *whenever possible.*

21 (2) *Requirements to update public data as often as is necessary*
 22 *to preserve the integrity and usefulness of public data to the extent*
 23 *that a state agency regularly maintains or updates public data.*

24 (3) *Availability of public data without any registration or license*
 25 *requirement, or restrictions on the use of public data. Registration*
 26 *or license requirements, or restriction on the use of public data*
 27 *do not include measures designed or required to ensure access to*
 28 *public data, protect the Internet Web site housing public data from*
 29 *abuse or attempts to damage or impair the use of the Internet Web*
 30 *site, or analyze the types of public data being accessed to improve*
 31 *service delivery.*

32 (4) *Ability of public data to be electronically searched using*
 33 *external information technology.*

34 11549.40. *The Chief Data Officer may establish policies,*
 35 *standards, and guidelines to implement the California Open Data*
 36 *Standard.*

37 11549.42. *On or before July 1, 2016, the Chief Data Officer*
 38 *shall create a Data Working Group composed of all the following:*

39 (a) *A data coordinator from each agency listed in Section 12800*
 40 *who shall be appointed by the secretary of the agency.*

1 (b) Two individuals with expertise in open data information
2 technology, appointed by and who serve at the pleasure of, the
3 Chief Data Officer.

4 11549.44. (a) (1) On or before March 1, 2016, the Chief Data
5 Officer shall prepare and publish a technical standards manual
6 for publishing public data through the Internet Web portal by state
7 agencies for the purpose of making public data available to the
8 greatest number of users and for the greatest number of
9 applications and shall, whenever practicable, use open standards
10 for Internet Web publishing in a machine-readable format.

11 (2) The manual shall identify the policy for each technical
12 standard and specify which types of data the standard applies to,
13 and may recommend or require that public data be published in
14 more than one technical standard. The manual shall include a
15 plan to adopt or utilize an Internet Web application programming
16 interface that permits application programs to request and receive
17 public data directly from the Internet Web portal. The manual and
18 related policies may be updated as necessary.

19 (b) The Chief Data Officer shall consult with organizations
20 specializing in technology and innovation, the state agencies listed
21 in Section 12800, academic institutions, and voluntary consensus
22 standards bodies. Whenever feasible, the Chief Data Officer shall
23 consult with these types of entities in the development of technical
24 and open standards.

25

26 Article 4. Compliance

27

28 11549.46. (a) A state agency that releases public data shall
29 do so in compliance with this chapter and on the Internet Web
30 portal that is linked to data.ca.gov or any successor Internet Web
31 site maintained by, or on behalf of, the state for the purposes of
32 this chapter. If a state agency cannot make all public data available
33 on the Internet Web portal, the state agency shall report to the
34 Chief Data Officer all the public data it is unable to make
35 available, state the reasons why it is unable to do so, and the date
36 by which the state agency expects the public data to be made
37 available on the Internet Web portal.

38 (b) Public data shall be made available in accordance with
39 technical standards established by the Chief Data Officer.

1 (c) On or before July 1, 2016, each state agency shall submit a
 2 strategic plan and a strategic enterprise application plan consistent
 3 with this chapter to the Chief Data Officer and shall make the
 4 plans available to the public on the Internet Web portal at
 5 data.ca.gov. Each state agency shall collaborate with the Chief
 6 Data Officer in formulating its plans. The strategic plan shall
 7 include all of the following:

8 (1) A summary description of public data under the control of
 9 the state agency on or after January 1, 2016.

10 (2) A summary explanation of how its plans, budgets, capital
 11 expenditures, contracts, and other related documents and
 12 information for each information technology and
 13 telecommunications project it proposes to undertake can be utilized
 14 to support the California Open Data Standard and related savings
 15 and efficiencies. The strategic plan shall prioritize public data for
 16 inclusion on the Internet Web portal on or before January 1, 2017,
 17 in accordance with the standards established by the Chief Data
 18 Officer. For purposes of prioritizing public data, a state agency
 19 shall consider whether public data does any of the following:

- 20 (i) Increases agency accountability and responsiveness.
- 21 (ii) Improves public knowledge of the state agency and its
 22 operations.
- 23 (iii) Furthers the mission of the state agency.
- 24 (iv) Creates economic opportunity.
- 25 (v) Responds to an online demand for the public data.
- 26 (vi) Responds to a need or demand identified by public
 27 consultation.

28
 29
 30

Article 5. Legal Policies

31 11549.48. (a) The Chief Data Officer shall post the legal
 32 policies for the California Open Data Standard on the Internet
 33 Web portal.

34 (b) The Chief Data Officer may establish and maintain an online
 35 forum to solicit feedback from the public and to encourage
 36 discussion on the California Open Data Standard and public data
 37 available on the Internet Web portal.

38 (c) Use of the public data provided pursuant to this chapter
 39 shall be subject to all of the following legal policies:

1 (1) *Public data available on the Internet Web portal are*
2 *provided for informational purposes only. The state does not*
3 *warrant the completeness, accuracy, content, or fitness for any*
4 *particular purpose or use of any public data made available on*
5 *the Internet Web portal, nor are any warranties to be implied or*
6 *inferred with respect to the public data furnished pursuant to this*
7 *chapter.*

8 (2) *The state is not liable for any deficiencies in the*
9 *completeness, accuracy, content, or fitness for any particular*
10 *purpose or use of any public data or any third-party application*
11 *utilizing a public data.*

12 (3) *All public data shall be entirely in the public domain for*
13 *purposes of applicable copyright laws.*

14 ~~SECTION 1. It is the intent of the Legislature to enact~~
15 ~~legislation to strengthen the state's commitment to an open and~~
16 ~~transparent government.~~

SENATE BILL**No. 729****Introduced by Senator Wieckowski**

February 27, 2015

An act to amend Section 326 of the Business and Professions Code, relating to consumer complaints.

LEGISLATIVE COUNSEL'S DIGEST

SB 729, as introduced, Wieckowski. Consumer complaints.

The Consumer Affairs Act requires the Director of the Department of Consumer Affairs to administer and enforce that act to protect and promote the interests of consumers regarding the purchase of goods or services. The director, upon receipt of a consumer complaint relating to specified violations, is required to forward any valid complaint to the local, state, or federal agency whose authority provides the most effective means to secure the relief. The act requires the director to advise the consumer of the action taken on the complaint, as appropriate, and of any other means that may be available to the consumer to secure relief.

This bill would make nonsubstantive changes to those consumer complaint provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 326 of the Business and Professions Code
- 2 is amended to read:
- 3 326. (a) Upon receipt of ~~any~~ a complaint pursuant to Section
- 4 325, the director may notify the person against whom the complaint

1 is made of the nature of the complaint and may request appropriate
2 relief for the consumer.

3 (b) (1) The director shall also transmit any valid complaint to
4 the local, ~~state~~ *state*, or federal agency whose authority provides
5 the most effective means to secure the relief.

6 ~~The~~

7 (2) *The* director shall, if appropriate, advise the consumer of
8 the action taken on the complaint and of any other means ~~which~~
9 *that* may be available to the consumer to secure relief.

10 (c) If the director receives a complaint or receives information
11 from any source indicating a probable violation of any law, rule,
12 or order of any regulatory agency of the state, or if a pattern of
13 complaints from consumers develops, the director shall transmit
14 any complaint he or she considers to be valid to any appropriate
15 law enforcement or regulatory agency and any evidence or
16 information he or she may have concerning the probable violation
17 or pattern of complaints or request the Attorney General to
18 undertake appropriate legal action. It shall be the continuing duty
19 of the director to discern patterns of complaints and to ascertain
20 the nature and extent of action taken with respect to the probable
21 violations or pattern of complaints.

Memorandum

LC Item II.
May 28, 2015

CBA Item IX.B.2.
May 28-29, 2015

To : CBA Members

Date : May 19, 2015
Phone : (916) 561-1742
Facsimile : (916) 263-3676
E-mail : kathryn.kay@cba.ca.gov

From : Kathryn Kay, Legislative Analyst

Subject : **Supplemental Information Regarding Senate Bills (SB) 8, 799 and 467**

SB 8 and SB 799

Copies of SB 8 and 799 are being provided as supplemental information to this agenda item. As discussed in the item, there has not been a change in status regarding the impact of these items. Staff will recommend that the California Board of Accountancy (CBA) maintain its current positions.

At its March meeting, the CBA took a Watch position on SB 8 and a Support position on SB 799. SB 8 would expand the application of the sales and use tax law by imposing a tax on specified services, including accounting services. SB 799 is the Senate Business, Professions and Economic Development Committee's (Senate BP&ED) annual omnibus bill, which makes non-substantial changes to present law and includes two legislative proposals submitted by the CBA relating to its reciprocity and retired status provisions.

SB 467

There have been some recent developments regarding the CBA's Sunset Review Bill to share with members. As discussed in the item, SB 467 has been amended to include additional non-CBA items related to the Department of Consumer Affairs (DCA) and the Attorney General's (AG) Office, which could potentially be viewed as controversial.

Staff recently contacted the Senate BP&ED to determine whether the non-CBA items could possibly be removed from the bill or, alternatively, if the CBA's sunset extension and permanent practice restrictions could be included in another bill. The request was recently declined.

On May 11, 2015, the Senate Committee on Appropriations referred SB 467 to its suspense file due to its fiscal impact. The suspense file is designed to be a

Supplemental Information Regarding Senate Bills 8, 799 and 467

Page 2 of 2

holding place for bills with a fiscal impact of \$150,000 or more to be considered at a later hearing. This process allows the Legislature to fully evaluate the total impact of bills introduced in each house prior to moving them forward.

Staff has been in communication with the Chief Consultant of the Senate BP&ED, and was assured that the CBA should not be concerned about SB 467 being held on suspense and that all Sunset Bills are being held in suspense this year. The Senate Committee on Appropriations will be reconsidering bills in the suspense file on May 28, 2015, for reporting to the floor by the May 29, 2015, deadline. If a bill is not removed from the suspense file, it is typically dead for the year.

Should members wish to review SB 467, please refer to **CBA Item IX.B.2., Attachment 3**. Staff will continue to closely monitor this bill and apprise members of any changes.

Attachments

1. Senate Bill 8
2. Senate Bill 799

AMENDED IN SENATE FEBRUARY 10, 2015

SENATE BILL**No. 8****Introduced by Senator Hertzberg**

December 1, 2014

An act to add Chapter 3.8 (commencing with Section 6305) to Part 1 of Division 2 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 8, as amended, Hertzberg. Taxation.

The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. The Personal Income Tax Law imposes taxes on personal taxable income at specified rates, and the Corporation Tax Law imposes taxes upon, or measured by, corporate income.

This bill would state legislative findings regarding the Upward Mobility Act, key provisions of which would expand the application of the Sales and Use Tax law by imposing a tax on specified services, would enhance the state's business climate—and, would incentivize entrepreneurship and business creation by evaluating the ~~Corporate Tax Law~~, *corporate tax*, and would examine the impacts of a lower and simpler ~~Personal Income Tax Law~~. *personal income tax*.

This bill would, on and after January 1, ____, expand the Sales and Use Tax Law to impose a tax on the gross receipts from the sale in this state of, or the receipt of the benefit in this state of services at a rate of ____%.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) California has long been known as the land of opportunity,
4 the republic of the future. But for too many of its residents the
5 future is receding. Inequality continues to rise — even though
6 California has one of the most progressive tax structures in the
7 nation.

8 (b) Something more is needed; a new philosophy of governance
9 that focuses on the overall progressive outcome that can be
10 achieved through modernizing our tax system and investing in the
11 means of upward mobility, above all job creating infrastructure
12 and public higher education for our increasingly youthful
13 population.

14 (c) Beyond these foundations, building and sustaining a middle
15 class means new jobs with good wages. Small businesses, like
16 plumbing contractors, auto repair shops, and restaurants that
17 account for over 90 percent of the state’s businesses and well over
18 a third of all jobs, are a key rung on the ladder of upward mobility.
19 They need a tax policy that will enable them to grow and add
20 employees.

21 (d) California’s two trillion dollar economy has shifted from
22 being mainly agricultural and manufacturing in the 1950s and
23 1960s, when the framework of today’s tax system was set, to one
24 based on information and services, which now accounts for 80
25 percent of all economic activities in the state. To achieve a future
26 as promising as California’s past, we need a tax system that is
27 based on this real economy of the 21st century while ensuring that
28 new revenue is invested in strengthening the ladder of mobility
29 for all our residents.

30 (e) California of the 1950s and 1960s was governed with an eye
31 towards the future and was renowned for the opportunities that it
32 created for its residents. California’s water system was born during
33 that era and transformed the desert into fertile agricultural land
34 that not only fed Californians but the world. California also
35 constructed its freeway system to more rapidly and safely move

1 people and goods through the state as California became the
2 gateway to the Pacific Rim. California's higher education system
3 was the envy of all, reaching new heights as the University of
4 California and the California State University grew by six and
5 eight campuses respectively between 1958 and 1965. California's
6 investment in infrastructure and education paid off as agriculture,
7 aerospace, and then technology boomed and drove California into
8 the 21st century as the fifth largest economy in the world. As
9 businesses thrived, they created an abundance of middle class jobs
10 that enabled Californians to capitalize on new opportunities to
11 better the standard of living for themselves and their families.

12 (f) As California's economy thrived, however, its eye on the
13 future wavered. By the late 1970s, state and local finances became
14 intertwined; the state increasingly used its funds to support
15 traditionally local operations and both state and local governments
16 pulled back on the types of investments needed to help businesses
17 and residents succeed. Today, Californians live with the
18 investments made more than three generations ago. Fifty-five
19 percent of our local streets need to be repaired or replaced. While
20 the state's water system received some funding in 2014, more is
21 needed to meet the state's demands.

22 (g) On a local level, 70 percent of Los Angeles' water
23 infrastructure is composed of cast-iron pipes, most of which was
24 laid during the early half of the 20th century.

25 (h) Our financial commitment to kindergarten and grades 1 to
26 12, inclusive, education has waned. Average Daily Attendance
27 grew anemically by 0.06 percent annually between 2007 and 2011.
28 By 2011, California ranked 43rd in per pupil spending and
29 California's ADA was \$2,580 less than the United States average
30 — the largest gap in 40 years.

31 (i) California's commitment to higher education has also
32 receded. In addition to opening professional and economic
33 doorways for students, California's higher education system is one
34 of our most important economic engines. With almost 60 faculty
35 and researchers who have won the Nobel prize, the University of
36 California has over 3,200 active patents and contributes \$33 billion
37 to the California economy annually. The California State University
38 generates an additional \$17 billion in economic activity and
39 supports 150,000 jobs in the state. Despite its proven value,
40 California has not been able to maintain higher education

1 accessibility for its residents. In the past 20 years, University of
2 California fees have increased by 434 percent and California State
3 University fees by 300 percent. Moreover, California community
4 colleges, the largest provider of workforce training in the nation,
5 increased fees by 130 percent between 2008 and 2012, leading to
6 over a 20 percent decline in enrollment.

7 (j) The lack of investment in infrastructure and education has
8 diminished opportunities for Californians and continues to fuel
9 the growing income inequality in California. Since 1970, the
10 poorest 20 percent of Californians have seen their household
11 income grow by just 3.1 percent while the income of the richest
12 20 percent has climbed 74.6 percent. Since 1987, 71.3 percent of
13 all the gains generated by California's economy have gone to the
14 state's wealthiest 10 percent. Moreover, today, California accounts
15 for three of the 10 American cities with the greatest disparities in
16 wealth—San Francisco, Oakland, and Los Angeles.

17 (k) (1) The Upward Mobility Act would help ensure California's
18 residents and businesses can thrive in the 21st century global
19 economy by increasing funding by \$10 billion dollars for the
20 following programs, as the revenue becomes available:

21 (A) Three billion dollars to K-14 education. Investing in its
22 residents through education is the foundation on which California
23 has always built its economy. This measure would provide new
24 funds to help rebuild California's education system at every level.
25 The new revenues will help to rebuild classrooms and be available
26 to help protect classroom spending from pending pension fund
27 demands.

28 (B) Two billion dollars to the University of California and the
29 California State University. Similarly, the measure would restore
30 investment in California's prized higher education system, essential
31 to upward mobility for Californians. Revenues would be split
32 evenly between the University of California and the California
33 State University.

34 (C) Three billion dollars to local governments. Investing in local
35 governments will more closely connect Californians to the
36 government spending that occurs on their behalf and support the
37 new realignment burdens on local government. Moreover,
38 additional guaranteed funding to provide additional public safety,
39 parks, libraries, or local development, will allow local governments
40 to best meet the specific needs of their particular communities.

1 (D) Two billion *dollars* for a new earned income tax credit for
2 low-income families. The Upward Mobility Act would establish
3 a refundable earned income tax credit to help low-income families
4 offset the burden of the proposed sales and use tax on services.

5 (E) Small business and minimum wage relief. This measure
6 would enhance the state’s business climate, create jobs, and
7 incentivize entrepreneurship by evaluating the current corporate
8 income tax to determine whether it is meeting its intended purpose
9 while at the same time linking changes to a more reasonable
10 minimum wage.

11 (2) Because this funding would be guaranteed, school districts,
12 community colleges, the California State University, the University
13 of California, and local governments would be able to securitize
14 the revenues to make essential long-term investments, just as is
15 the case with real property taxes.

16 (l) The Upward Mobility Act will fund these programs to enable
17 the upward mobility of our residents and to help make California’s
18 businesses more competitive by modernizing our tax code. The
19 underlying problem is, while California’s economy has evolved,
20 its tax system failed to keep up with the times. Over the past 60
21 years, California has moved from an agriculture and manufacturing
22 based economy to a services based economy. As a result, state tax
23 revenues have become less reliant on revenues derived from the
24 Sales and Use Tax on goods and more reliant on revenues derived
25 from the Personal Income Tax. In 1950, the Sales and Use Tax
26 comprised 61 percent of all state revenues; today, it accounts for
27 about 30 percent. The Personal Income Tax accounted for 12
28 percent of total state revenues in 1950; today, it accounts for more
29 than 60 percent.

30 (m) Moreover, California’s General Fund tax collections are
31 heavily dependent on the earnings of its top earners. This has led
32 to dramatic revenue swings year over year. During the dot-com
33 economic boom of the ~~1950s~~ 1990s through the early part of the
34 21st century, state revenues soared by as much as 20 percent in a
35 single year. However, as personal incomes tumbled during the
36 Great Recession, state revenues plummeted disproportionately.
37 These swings in revenue have led to the suffering of California’s
38 residents. Essential services, such as health care and child care for
39 low-income families, were cut at a time when they were needed
40 most. In addition, the state cut billions of dollars to education,

1 including adult vocational and literacy education, which could
2 have helped low-income families recover from the recession.
3 Relying on the wealthiest taxpayers to support California's needs
4 is outdated and dangerous fiscal policy. Not only does it increase
5 the uncertainty of tax collections, but there is evidence that
6 California's high tax rates may be driving high income earners out
7 of the state, which only deepens revenue shortfalls.

8 (n) The economy has shifted away from the production of goods
9 to services. Since 1966 sales of taxable goods, as a share of the
10 economy, have been cut in half. Today services represent 80
11 percent of California's economy. Expanding the Sales and Use
12 Tax to cover services removes a significant inequitable aspect of
13 the tax code, implicitly favoring consumer spending on services
14 over goods. Currently the sale of a TurboTax software disk is
15 taxed, whereas a consumer who instead paid H&R Block would
16 escape taxation. In essence, those who produce goods such as
17 software or machinery are supporting those who produce services
18 and information. Taxing only goods and not services when our
19 economy has been so fundamentally transformed makes no sense
20 and is manifestly unfair. This has to change.

21 (o) The Upward Mobility Act seeks to make three broad changes
22 to the tax code:

23 (1) Broaden the tax base by imposing a sales tax on services to
24 increase revenues. Local jurisdictions would not be authorized to
25 increase sales tax on services, as they now can do with the sales
26 tax on goods. Though the new revenues would be collected by the
27 state, the ownership of those funds allocated to local government
28 under this measure will be controlled by local government using
29 traditional allocation mechanisms. Health care services and
30 education services would be exempted from the tax, and very small
31 businesses with under \$100,000 gross sales would be exempted
32 from the sales tax on services.

33 (2) Enhance the state's business climate and incentivize
34 entrepreneurship and business creation by evaluating the corporate
35 income tax to determine whether it is meeting its intended
36 purposes, including whether it is ~~born~~ *borne* equitably among
37 California's businesses and what impact it has on the business
38 climate, while at the same time linking changes to a more
39 reasonable minimum wage.

1 (3) Examine the impacts of lowering and simplifying the
 2 ~~Personal Income Tax~~ *personal income tax* while maintaining
 3 progressivity. The measure’s goal is to reduce the ~~income tax rates~~
 4 ~~imposed under the Personal Income Tax~~ *personal income tax rates*
 5 for low-and middle-class-income households so that families
 6 earning \$100,000 pay only \$1,000. The income tax rate for top
 7 earners may also be reduced in a manner that balances fairness
 8 with mitigating adverse impact to both state revenues and
 9 competitiveness. The obligation of top earners with regard to other
 10 tax obligations for top earners, including Proposition 63, would
 11 remain intact.

12 (p) In order to ensure fiscal responsibility, the Upward Mobility
 13 Act’s revenue reduction provisions would be phased in only when
 14 it is clear that new revenues are sufficient to replace any revisions
 15 to the personal income tax and corporate tax.

16 (q) As the revenues secured by Proposition 30 expire, California
 17 policy decisionmakers must determine new long term ways to
 18 provide for state residents. The Upward Mobility Act will increase
 19 opportunities for California’s businesses and create an upward
 20 mobility ladder for California residents. Moreover, the Upward
 21 Mobility Act will realign the state’s outdated tax code with the
 22 realities of California’s 21st century economy.

23 *SEC. 2. Chapter 3.8 (commencing with Section 6305) is added*
 24 *to Part 1 of Division 2 of the Revenue and Taxation Code, to read:*

25
 26 *CHAPTER 3.8. SERVICES*

27
 28 *6305. In addition to the taxes imposed by this part, for the*
 29 *privilege of selling services at retail a tax is hereby imposed upon*
 30 *all retailers at the rate of ____ percent of the gross receipts of any*
 31 *retailer from the sale of all services sold at retail in this state on*
 32 *or after January 1, ____.*

33 *6306. In addition to the taxes imposed by this part an excise*
 34 *tax is hereby imposed on the receipt of the benefit of the service*
 35 *in this state of services on or after January 1, ____, at the rate*
 36 *specified in Section 6305 of the sales price of the services.*

AMENDED IN SENATE APRIL 20, 2015

SENATE BILL**No. 799**

Introduced by Committee on Business, Professions and Economic Development (Senators Hill (Chair), Bates, Berryhill, Block, Galgiani, Hernandez, Jackson, Mendoza, and Wieckowski)

March 18, 2015

An act to amend Sections 5070.1, 5087, 6735, 7083, 7200, 7200.5, 7200.7, 7201, 7202, 7208, 7209, 7209.5, 7210.5, 7211.1, 7211.2, 7215, 7215.5, 7217, 7685, 8508, 8513, 8552, 8611, and 17913 of, and to repeal Section 8516.5 of, the Business and Professions Code, and to amend Section 13995.40 of the Government Code, relating to business and professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 799, as amended, Committee on Business, Professions and Economic Development. Business and professions.

(1) Existing law provides that an accountant whose license was canceled by operation of law, after nonrenewal, as specified, may, upon application to the board and meeting specified requirements, have his or her license placed into a retired status.

This bill would prohibit the California Board of Accountancy from restoring that license in retired status to active or inactive status and instead would require the individual to apply for a new license in order to restore his or her license.

(2) Existing law authorizes the California Board of Accountancy to issue a certified public account (CPA) license to an applicant who holds a valid and unrevoked CPA license in another state, under specified conditions.

This bill would require that an out-of-state applicant hold a current, active, and unrestricted CPA license in order to be issued a CPA license under this provision.

(3) The Professional Engineers Act provides for the regulation and licensure of professional engineers by the Board for Professional Engineers, Land Surveyors, and Geologists. A violation of the licensing provisions of the act is a misdemeanor. Existing law requires all civil engineering plans, calculations, specifications, and reports to be prepared by, or under the responsible charge of, a licensed civil engineer, as specified. Existing law requires all civil engineering plans, calculations, specifications, and reports for the construction of all public school structures to be prepared by, or under the responsible charge of, a licensed architect or a licensed civil engineer who is also licensed as a structural engineer. Existing law requires all civil engineering plans, calculations, specifications, and reports for the construction of all hospitals and other medical facilities having surgery and emergency treatment areas to be prepared by, or under the responsible charge of, a licensed civil engineer who is also licensed as a structural engineer.

This bill would repeal the requirements that all civil engineering plans and other specified documents for construction of public school structures be prepared by, or under the responsible charge of, a licensed architect or a licensed civil engineer who is also licensed as a structural engineer. The bill would also repeal the requirements that all civil engineering plans and other specified documents for construction of specified hospital and medical facilities be prepared by, or under the responsible charge of, a licensed civil engineer who is also licensed as a structural engineer.

(4) *Existing law establishes within the Department of Consumer Affairs a State Board of Guide Dogs for the Blind, which consists of 7 members appointed by the Governor. Existing law authorizes the board to issue licenses for guide dog training and instructional services. A violation of these licensing provisions is a misdemeanor.*

This bill would also include dogs trained and provided for visually impaired persons within these licensing requirements. The bill would change reporting requirements from a calendar year to a fiscal year period and would make technical changes.

(5) *Under the Funeral Directors and Embalmers Law, the Cemetery and Funeral Bureau regulates licensed funeral establishments and requires that they be operated by a licensed funeral director who is required to provide written information regarding funeral goods and*

services and prices to consumers. Existing law requires a funeral establishment that maintains an Internet Web site to also post that information on its Internet Web site provided by a link from the homepage. A violation of these provisions is a misdemeanor.

This bill would require that the funeral establishment's Internet Web site contain specified key words.

~~(4)~~

(6) The California Constitution provides that laborers of every class who have worked upon or have furnished material for a property have a lien upon that property for the value of the labor done and material furnished. The California Constitution requires the Legislature to provide, by law, for the speedy and efficient enforcement of those liens. Existing law requires specified structural pest control operators to provide notice regarding possible liens, as specified, to the owner of property prior to entering into a contract to provide work on that property. A violation of these provisions is a misdemeanor.

This bill would extend the notice requirements to all structural pest control operators.

~~(5)~~

(7) Existing law requires a structural pest control operator to provide a report detailing the results of an inspection for wood destroying pests or organisms prior to commencing work on a contract or expressing an opinion regarding the presence or absence of wood destroying pests or organisms, to the Structural Pest Control Board, within the Department of Consumer Affairs, as specified. Existing law requires that the pest control operator deliver a copy of the report to the person requesting inspection, or designated agent, within 10 business days of the inspection. Existing law requires a pest control operator to deliver a copy of that report to the owner or the owner's agent within 10 working days of an inspection.

This bill would remove the requirement that the pest control operator provide the owner of the property or the owner's agent with a copy of the report, unless the owner was the person who requested the inspection.

~~(6)~~

(8) Existing law creates the California Travel and Tourism Commission and provides for the membership and meetings of the commission.

This bill would specify that all meetings of the commission take place in California and would authorize commissioners to attend meetings of

the commission by conference telephone or other technology, as specified.

(7)

(9) Because this bill would expand the definition of a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5070.1 of the Business and Professions
2 Code is amended to read:
3 5070.1. (a) The board may establish, by regulation, a system
4 for the placement of a license into a retired status, upon application,
5 for certified public accountants and public accountants who are
6 not actively engaged in the practice of public accountancy or any
7 activity that requires them to be licensed by the board.
8 (b) No licensee with a license in a retired status shall engage in
9 any activity for which a permit is required.
10 (c) The board shall deny an applicant’s application to place a
11 license in a retired status if the permit is subject to an outstanding
12 order of the board, is suspended, revoked, or otherwise punitively
13 restricted by the board, or is subject to disciplinary action under
14 this chapter.
15 (d) (1) The holder of a license that was canceled pursuant to
16 Section 5070.7 may apply for the placement of that license in a
17 retired status pursuant to subdivision (a).
18 (2) Upon approval of an application made pursuant to paragraph
19 (1), the board shall reissue that license in a retired status.
20 (3) The holder of a canceled license that was placed in retired
21 status between January 1, 1994, and January 1, 1999, inclusive,
22 shall not be required to meet the qualifications established pursuant
23 to subdivision (e), but shall be subject to all other requirements of
24 this section.

1 (e) The board shall establish minimum qualifications to place
2 a license in retired status.

3 (f) The board may exempt the holder of a license in a retired
4 status from the renewal requirements described in Section 5070.5.

5 (g) The board shall establish minimum qualifications for the
6 restoration of a license in a retired status to an active status. These
7 minimum qualifications shall include, but are not limited to,
8 continuing education and payment of a fee as provided in
9 subdivision (h) of Section 5134.

10 (h) The board shall not restore to active or inactive status a
11 license that was canceled by operation of law, pursuant to
12 subdivision (a) of Section 5070.7, and then placed into retired
13 status pursuant to subdivision (d). The individual shall instead
14 apply for a new license, as described in subdivision (c) of Section
15 5070.7, in order to restore his or her license.

16 SEC. 2. Section 5087 of the Business and Professions Code is
17 amended to read:

18 5087. (a) The board may issue a certified public accountant
19 license to any applicant who is a holder of a current, active, and
20 unrestricted certified public accountant license issued under the
21 laws of any state, if the board determines that the standards under
22 which the applicant received the license are substantially equivalent
23 to the standards of education, examination, and experience
24 established under this chapter and the applicant has not committed
25 acts or crimes constituting grounds for denial under Section 480.
26 To be authorized to sign reports on attest engagements, the
27 applicant shall meet the requirements of Section 5095.

28 (b) The board may in particular cases waive any of the
29 requirements regarding the circumstances in which the various
30 parts of the examination were to be passed for an applicant from
31 another state.

32 SEC. 3. Section 6735 of the Business and Professions Code is
33 amended to read:

34 6735. (a) All civil (including structural and geotechnical)
35 engineering plans, calculations, specifications, and reports
36 (hereinafter referred to as “documents”) shall be prepared by, or
37 under the responsible charge of, a licensed civil engineer and shall
38 include his or her name and license number. Interim documents
39 shall include a notation as to the intended purpose of the document,
40 such as “preliminary,” “not for construction,” “for plan check

1 only,” or “for review only.” All civil engineering plans and
2 specifications that are permitted or that are to be released for
3 construction shall bear the signature and seal or stamp of the
4 licensee and the date of signing and sealing or stamping. All final
5 civil engineering calculations and reports shall bear the signature
6 and seal or stamp of the licensee, and the date of signing and
7 sealing or stamping. If civil engineering plans are required to be
8 signed and sealed or stamped and have multiple sheets, the
9 signature, seal or stamp, and date of signing and sealing or
10 stamping shall appear on each sheet of the plans. If civil
11 engineering specifications, calculations, and reports are required
12 to be signed and sealed or stamped and have multiple pages, the
13 signature, seal or stamp, and date of signing and sealing or
14 stamping shall appear at a minimum on the title sheet, cover sheet,
15 or signature sheet.

16 (b) Notwithstanding subdivision (a), a licensed civil engineer
17 who signs civil engineering documents shall not be responsible
18 for damage caused by subsequent changes to or uses of those
19 documents, if the subsequent changes or uses, including changes
20 or uses made by state or local governmental agencies, are not
21 authorized or approved by the licensed civil engineer who
22 originally signed the documents, provided that the engineering
23 service rendered by the civil engineer who signed the documents
24 was not also a proximate cause of the damage.

25 SEC. 4. Section 7083 of the Business and Professions Code is
26 amended to read:

27 7083. (a) Notwithstanding any other law, licensees shall notify
28 the registrar, on a form prescribed by the registrar, in writing within
29 90 days of any change to information recorded under this chapter.
30 This notification requirement shall include, but not be limited to,
31 changes in business address, personnel, business name, qualifying
32 individual bond exemption pursuant to Section 7071.9, or
33 exemption to qualify multiple licenses pursuant to Section 7068.1.

34 (b) Failure of the licensee to notify the registrar of any change
35 to information within 90 days shall cause the change to be effective
36 the date the written notification is received at the board’s
37 headquarters office.

38 (c) Failure to notify the registrar of the changes within the 90
39 days is grounds for disciplinary action.

1 *SEC. 5. Section 7200 of the Business and Professions Code is*
2 *amended to read:*

3 7200. (a) There is in the Department of Consumer Affairs a
4 State Board of Guide Dogs for the Blind in whom enforcement of
5 this chapter is vested. The board shall consist of seven members
6 appointed by the Governor. One member shall be the Director of
7 Rehabilitation or his or her designated representative. The
8 remaining members shall be persons who have shown a particular
9 interest in dealing with the problems of ~~the blind~~, *persons who are*
10 *blind or visually impaired* and at least two of them shall be ~~blind~~
11 ~~persons~~ *persons who are blind or visually impaired* who use guide
12 dogs.

13 (b) This section shall remain in effect only until January 1, 2018,
14 and as of that date is repealed, unless a later enacted statute, that
15 is enacted before January 1, 2018, deletes or extends that date.
16 Notwithstanding any other law, the repeal of this section renders
17 the board subject to review by the appropriate policy committees
18 of the Legislature.

19 *SEC. 6. Section 7200.5 of the Business and Professions Code*
20 *is amended to read:*

21 7200.5. The board shall have exclusive authority in this state
22 to issue licenses for the instruction of ~~blind persons~~ *persons who*
23 *are blind or visually impaired* in the use of guide dogs and for the
24 training of guide dogs for use by ~~blind persons~~. *persons who are*
25 *blind or visually impaired*. It shall also have exclusive authority
26 in this state to issue licenses to operate schools for the training of
27 guide dogs ~~for the blind~~, and the instruction of ~~blind persons~~
28 *persons who are blind or visually impaired* in the use of guide
29 dogs.

30 *SEC. 7. Section 7200.7 of the Business and Professions Code*
31 *is amended to read:*

32 7200.7. A fee equal to no more than 0.005 of all school
33 expenses incurred in the most recently concluded school ~~calendar~~
34 *fiscal* year, as specified in the audit required under Section 7217,
35 shall be paid no later than April 30 of each year for renewal of a
36 school's license pursuant to Section 7200.5. The board shall, by
37 regulation, define the exact amount of the fee. All fees collected
38 pursuant to this section shall be deposited into the Guide Dogs for
39 the Blind Fund, which is hereby created.

1 *SEC. 8. Section 7201 of the Business and Professions Code is*
 2 *amended to read:*

3 7201. No person shall be eligible to membership in the board
 4 who is a stockholder in, or an owner of, or financially interested
 5 directly or indirectly, in any company, organization, or concern
 6 supplying, delivering, or furnishing any guide dogs for use by ~~the~~
 7 ~~blind persons who are blind or visually impaired.~~

8 *SEC. 9. Section 7202 of the Business and Professions Code is*
 9 *amended to read:*

10 7202. Each of the appointed members of the board shall hold
 11 office for a term of four years and until his successor is appointed
 12 and qualified or until one year shall have elapsed since the
 13 expiration of the term for which he was appointed, whichever first
 14 occurs. No person shall serve as an appointed member of the board
 15 for more than two consecutive terms, ~~but this provision shall not~~
 16 ~~apply to any member in office at the time this provision takes~~
 17 ~~effect. terms.~~

18 *SEC. 10. Section 7208 of the Business and Professions Code*
 19 *is amended to read:*

20 7208. Pursuant to the provisions of the Administrative
 21 Procedure Act the board may make such rules and regulations as
 22 are reasonably necessary to:

- 23 (a) Govern the procedure of the board.
 24 (b) Govern the admission of applicants for examination for
 25 license to instruct ~~blind persons~~ *persons who are blind or visually*
 26 *impaired* in the use of guide dogs or to engage in the business of
 27 training, selling, hiring, or being in the business of supplying guide
 28 dogs for ~~the blind.~~ *persons who are blind or visually impaired.*
 29 (c) Govern the operation of schools which furnish guide dogs
 30 and train ~~blind persons~~ *persons who are blind or visually impaired*
 31 to use guide dogs.
 32 (d) The reissuance of licenses.
 33 (e) The reexamination of licensees.

34 *SEC. 11. Section 7209 of the Business and Professions Code*
 35 *is amended to read:*

36 7209. A person to be eligible for examination as an instructor
 37 must ~~(1)~~ (a) have a knowledge of the special problems of ~~the blind~~
 38 *persons who are blind or visually impaired* and how to teach them,
 39 ~~(2)~~ (b) be able to demonstrate by actual blindfold test under traffic
 40 conditions his ability to train guide dogs with whom a ~~blind person~~

1 *persons who are blind or visually impaired* would be safe, ~~(3)~~
 2 ~~(c)~~ be suited temperamentally and otherwise to instruct ~~blind~~
 3 ~~persons~~ *persons who are blind or visually impaired* in the use of
 4 guide dogs, and ~~(4)~~ ~~(d)~~ have had at least three years' actual
 5 experience, comprising such number of hours as the board may
 6 require, as an instructor, and have handled ~~twenty-two~~ ~~(22)~~
 7 ~~man-dog~~ *22 person-dog* units; or its equivalent, as determined by
 8 the board, as an apprentice under a licensed instructor or under an
 9 instructor in a school satisfactory to the board.

10 *SEC. 12. Section 7209.5 of the Business and Professions Code*
 11 *is amended to read:*

12 7209.5. Except as the context otherwise requires, as used in
 13 this chapter the term "instructor" means a person who instructs
 14 ~~blind persons~~ *persons who are blind or visually impaired* in the
 15 use of guide dogs or who engages in the business of training,
 16 selling, hiring, or supplying guide dogs for ~~the blind~~. *persons who*
 17 *are blind or visually impaired.*

18 *SEC. 13. Section 7210.5 of the Business and Professions Code*
 19 *is amended to read:*

20 7210.5. It is unlawful to solicit funds for any person purporting
 21 to provide guide dogs for ~~the blind~~ *persons who are blind or*
 22 *visually impaired* in this state unless the person for whose benefit
 23 the solicitation is made holds a valid and unimpaired license issued
 24 by the State Board of Guide Dogs for the Blind.

25 As used in this section "person" means an individual, firm,
 26 partnership, association, corporation, limited liability company,
 27 or cooperative association.

28 *SEC. 14. Section 7211.1 of the Business and Professions Code*
 29 *is amended to read:*

30 7211.1. (a) As a condition of renewal of an instructor's license,
 31 the instructor shall provide proof of completion of not less than 8
 32 hours of continuing education. The board shall determine the form
 33 of proof.

34 (b) Continuing education shall meet the criteria specified in
 35 Section 166, and shall be in one or more of the following subject
 36 matter areas:

- 37 (1) Blindness and mobility.
- 38 (2) Health issues relating to blindness.
- 39 (3) Instructing ~~blind persons~~. *persons who are blind or visually*
 40 *impaired.*

1 (4) Care and training of dogs.

2 ~~(e) This section shall apply to renewal of instructors' licenses~~
3 ~~which expire on or after June 30, 1996.~~

4 *SEC. 15. Section 7211.2 of the Business and Professions Code*
5 *is amended to read:*

6 7211.2. A plea or verdict of guilty or a conviction following a
7 plea of nolo contendere is deemed to be a conviction within the
8 meaning of this article. The board may order the license suspended
9 or revoked, or may decline to issue a license, when the time for
10 appeal has elapsed, or the judgment of conviction has been affirmed
11 on appeal or when an order granting probation is made suspending
12 the imposition of sentence, irrespective of a subsequent order under
13 the provisions of Section 1203.4 of the Penal Code allowing such
14 person to withdraw his *or her* plea of guilty and to enter a plea of
15 not guilty, or setting aside the verdict of guilty, or dismissing the
16 accusation, information or indictment.

17 *SEC. 16. Section 7215 of the Business and Professions Code*
18 *is amended to read:*

19 7215. No person shall sell, give, or furnish any guide dog to a
20 ~~blind person~~ *person who is blind or visually impaired* unless the
21 following requirements have been met:

- 22 (a) The dog has been immunized against distemper and rabies.
- 23 (b) The dog has been spayed or neutered.
- 24 (c) The dog has been examined by a licensed veterinarian and
25 found to be in good health.

26 A certificate from a veterinarian certifying to the foregoing shall
27 be delivered to the recipient of the dog at the time the dog is
28 assigned to a client.

29 *SEC. 17. Section 7215.5 of the Business and Professions Code*
30 *is amended to read:*

31 7215.5. During the first year following the successful training
32 of each person-dog unit, and release from a guide dog training
33 school of the trained person supplied with a guide dog, the school
34 may retain title to the trained dog. During this probationary year,
35 the school may enter into a contractual agreement with the user of
36 the dog describing the conditions under which the user may
37 maintain the status of legal custodian of the dog. During the
38 probationary year, the school, acting in what it deems to be the
39 best interest of the user, the dog, or the public, may temporarily
40 or permanently resume possession of the dog.

1 Within 15 days after the end of each ~~calendar~~ *fiscal* year, each
2 licensed school shall report to the board the following:

3 (1) The number of dog ownership titles transferred to dog users
4 pursuant to this section during the calendar year.

5 (2) The number of title recoveries and repossessions made by
6 the school pursuant to this section during the calendar year.

7 (3) The number, type, and amount of charges assessed for
8 followup training, instruction, veterinary, or boarding services,
9 pursuant to this section, which make a distinction between users
10 who have acquired title to their dogs and users who have not
11 acquired title.

12 (4) The views of the governing entity of the school as to any
13 problems or concerns relative to compliance with the provisions
14 of this section, along with recommendations for appropriate
15 legislative or administrative changes commensurate with the
16 purposes of this section.

17 Immediately upon completion of the first year following the
18 successful training referred to above, if the training school and the
19 dog user are mutually satisfied with the operation of the person-dog
20 unit, title to the dog shall be transferred to the ~~blind~~ user *who is*
21 *blind or visually impaired* if the user so desires. Transfer of title
22 shall be evidenced by a transfer of title agreement executed by
23 both parties thereto. The school may retain an option to recover
24 title and possession to the guide dog subject to conditions described
25 in the transfer of title agreement. These conditions may include,
26 but are not limited to, the following:

27 (1) If in the school's opinion, the guide dog is being misused
28 or neglected or mistreated by its ~~blind user~~: *user who is blind or*
29 *visually impaired*.

30 (2) If the ~~blind person~~ user to whom the dog was furnished has
31 ceased to use the dog as a guide and the dog is not too old to be
32 retrained as a guide for another ~~blind person~~: *person who is blind*
33 *or visually impaired*.

34 (3) If, in the school's opinion, the dog is no longer a safe guide
35 and the user refuses to cease using the dog as a guide after being
36 requested by the school to cease this use.

37 The guide dog school shall make no distinction as to the quality
38 or extent of followup or supportive services available to its blind
39 graduates based on whether they elect to acquire title to their dogs
40 or allow title to remain with the school after the probationary year.

1 The school may, however, make this distinction when assessing
2 reasonable and appropriate charges for followup training,
3 instruction, veterinary, or boarding services.

4 No applicant for admission to a guide dog training school, nor
5 any enrolled student, shall be required by the school prior to
6 completion of his or her training to sign any instrument or to
7 announce his or her intention regarding transfer of title of the dog
8 from the school to himself or herself upon completion of the
9 training and probation period.

10 *SEC. 18. Section 7217 of the Business and Professions Code*
11 *is amended to read:*

12 7217. (a) Within 60 days after ~~the end of a calendar year or~~
13 ~~after~~ the termination of the fiscal year of a school, there shall be
14 furnished to the board the following:

15 (1) A list of students accepted for training and those who have
16 completed training.

17 (2) A list of the number of dogs trained.

18 (b) Within 90 days after the end of a ~~calendar~~ *fiscal* year, there
19 shall be furnished to the board an independent audit of the school's
20 finances by a certified public accountant licensed by this state.

21 *SEC. 19. Section 7685 of the Business and Professions Code*
22 *is amended to read:*

23 7685. (a) (1) Every funeral director shall provide to any
24 person, upon beginning discussion of prices or of the funeral goods
25 and services offered, a written or printed list containing, but not
26 necessarily limited to, the price for professional services offered,
27 which may include the funeral director's services, the preparation
28 of the body, the use of facilities, and the use of automotive
29 equipment. All services included in this price or prices shall be
30 enumerated. The funeral director shall also provide a statement on
31 that list that gives the price range for all caskets offered for sale.

32 (2) The list shall also include a statement indicating that the
33 survivor of the deceased who is handling the funeral arrangements,
34 or the responsible party, is entitled to receive, prior to the drafting
35 of any contract, a copy of any preneed agreement that has been
36 signed and paid for, in full or in part, by or on behalf of the
37 deceased, and that is in the possession of the funeral establishment.

38 (3) The funeral director shall also provide a written statement
39 or list that, at a minimum, specifically identifies a particular casket
40 or caskets by price and by thickness of metal, or type of wood, or

1 other construction, interior and color, in addition to other casket
2 identification requirements under Part 453 of Title 16 of the Code
3 of Federal Regulations and any subsequent version of this
4 regulation, when a request for specific information on a casket or
5 caskets is made in person by any individual. Prices of caskets and
6 other identifying features such as thickness of metal, or type of
7 wood, or other construction, interior and color, in addition to other
8 casket identification requirements required to be given over the
9 telephone by Part 453 of Title 16 of the Code of Federal
10 Regulations and any subsequent version of this regulation, shall
11 be provided over the telephone, if requested.

12 (b) (1) Each licensed funeral establishment that maintains an
13 Internet Web site shall post on its Internet Web site the list of
14 funeral goods and services that are required to be included in the
15 establishment's general price list, pursuant to federal rule, and a
16 statement that the general price list is available upon request.

17 (2) Information posted pursuant to paragraph (1) shall be
18 provided by a link from the ~~home page~~ *homepage* of the Internet
19 ~~Web site.~~ *site with a word or combination of words, including, but*
20 *not limited to, "goods," "merchandise," "products," or*
21 *"services."*

22 (3) An establishment that posts on its Internet Web site home
23 page the words "price information" or a similar phrase that includes
24 the word "price," with a link that leads to the establishment's
25 general price list, need not comply with paragraphs (1) or (2).

26 (4) Nothing in this subdivision shall be construed to affect an
27 establishment's obligations under federal or state law effective
28 prior to January 1, 2013.

29 (5) This subdivision shall become operative on January 1, 2013.
30 ~~SEC. 5.~~

31 *SEC. 20.* Section 8508 of the Business and Professions Code
32 is amended to read:

33 8508. "Household" means any structure and its contents that
34 are used for persons and their convenience.

35 ~~SEC. 6.~~

36 *SEC. 21.* Section 8513 of the Business and Professions Code
37 is amended to read:

38 8513. (a) The board shall prescribe a form entitled "Notice to
39 Owner" that shall describe, in nontechnical language and in a clear
40 and coherent manner using words with common and everyday

1 meaning, the pertinent provisions of this state’s mechanics lien
2 laws and the rights and responsibilities of an owner of property
3 and a registered pest control company thereunder. Each company
4 registered under this chapter, prior to entering into a contract with
5 an owner for work for which a company registration is required,
6 shall give a copy of this “Notice to Owner” to the owner, his or
7 her agent, or the payer.

8 (b) No company that is required to be registered under this
9 chapter shall require or request a waiver of lien rights from any
10 subcontractor, employee, or supplier.

11 (c) Each company registered under this chapter that acts as a
12 subcontractor for another company registered under this chapter
13 shall, within 20 days of commencement of any work for which a
14 company registration is required, give the preliminary notice in
15 accordance with Chapter 2 (commencing with Section 8200) of
16 Title 2 of Part 6 of Division 4 of the Civil Code, to the owner, his
17 or her agent, or the payer.

18 (d) Each company registered under this chapter that acts as a
19 prime contractor for work for which a company registration is
20 required shall, prior to accepting payment for the work, furnish to
21 the owner, his or her agent, or the payer a full and unconditional
22 release from any claim of mechanics lien by any subcontractor
23 entitled to enforce a mechanics lien pursuant to Section 8410 of
24 the Civil Code.

25 (e) Each company registered under this chapter that subcontracts
26 to another company registered under this chapter work for which
27 a company registration is required shall furnish to the subcontractor
28 the name of the owner, his or her agent, or the payer.

29 (f) A violation of the provisions of this section is a ground for
30 disciplinary action.

31 ~~SEC. 7.~~

32 *SEC. 22.* Section 8516.5 of the Business and Professions Code
33 is repealed.

34 ~~SEC. 8.~~

35 *SEC. 23.* Section 8552 of the Business and Professions Code
36 is amended to read:

37 8552. It is unlawful for any person to advertise or represent in
38 any manner that any pest control work, in whole or in part, has
39 been done upon any structure, unless the work has been performed

1 by a registered company, except as otherwise provided in this
2 chapter.

3 ~~SEC. 9.~~

4 *SEC. 24.* Section 8611 of the Business and Professions Code
5 is amended to read:

6 8611. (a) Each branch office shall have a branch supervisor
7 designated by the registered company to supervise and assist the
8 company’s employees who are located at that branch. The branch
9 supervisor shall be an individual who is licensed by the board as
10 an operator or a field representative in the branch or branches of
11 business being conducted and his or her license shall be
12 prominently displayed in the branch office.

13 (b) If a branch supervisor ceases for any reason to be connected
14 with a registered company, the company shall notify the registrar
15 in writing within 10 days from that cessation. If this notice is given,
16 the company’s branch office registration shall remain in force for
17 a reasonable length of time to be determined by rules of the board,
18 during which period the company shall submit to the registrar in
19 writing the name of another qualified branch supervisor.

20 ~~SEC. 10.~~

21 *SEC. 25.* Section 17913 of the Business and Professions Code
22 is amended to read:

23 17913. (a) The fictitious business name statement shall contain
24 all of the information required by this subdivision and shall be
25 substantially in the following form:

26
27 FICTITIOUS BUSINESS NAME STATEMENT

28 The following person (persons) is (are) doing business as

29 * _____

30 at ** _____:

31 *** _____

32 _____

33 _____

34 _____

35 This business is conducted by **** _____

36 The registrant commenced to transact business under the fictitious business
37 name or names listed above on

38 ***** _____

39 I declare that all information in this statement is true and correct. (A registrant
40 who declares as true any material matter pursuant to Section 17913 of the

1 Business and Professions Code that the registrant knows to be false is guilty
2 of a misdemeanor punishable by a fine not to exceed one thousand dollars
3 (\$1,000.)

4 Registrant signature _____
5 Statement filed with the County Clerk of ____ County on _____
6

7 NOTICE—IN ACCORDANCE WITH SUBDIVISION (a) OF
8 SECTION 17920, A FICTITIOUS NAME STATEMENT
9 GENERALLY EXPIRES AT THE END OF FIVE YEARS FROM
10 THE DATE ON WHICH IT WAS FILED IN THE OFFICE OF
11 THE COUNTY CLERK, EXCEPT, AS PROVIDED IN
12 SUBDIVISION (b) OF SECTION 17920, WHERE IT EXPIRES
13 40 DAYS AFTER ANY CHANGE IN THE FACTS SET FORTH
14 IN THE STATEMENT PURSUANT TO SECTION 17913
15 OTHER THAN A CHANGE IN THE RESIDENCE ADDRESS
16 OF A REGISTERED OWNER. A NEW FICTITIOUS BUSINESS
17 NAME STATEMENT MUST BE FILED BEFORE THE
18 EXPIRATION.

19 THE FILING OF THIS STATEMENT DOES NOT OF ITSELF
20 AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS
21 BUSINESS NAME IN VIOLATION OF THE RIGHTS OF
22 ANOTHER UNDER FEDERAL, STATE, OR COMMON LAW
23 (SEE SECTION 14411 ET SEQ., BUSINESS AND
24 PROFESSIONS CODE).

25
26 (b) The fictitious business name statement shall contain the
27 following information set forth in the manner indicated in the form
28 provided by subdivision (a):

29 (1) Where the asterisk (*) appears in the form, insert the
30 fictitious business name or names. Only those businesses operated
31 at the same address and under the same ownership may be listed
32 on one fictitious business name statement.

33 (2) Where the two asterisks (**) appear in the form: If the
34 registrant has a place of business in this state, insert the street
35 address, and county, of his or her principal place of business in
36 this state. If the registrant has no place of business in this state,
37 insert the street address, and county, of his or her principal place
38 of business outside this state.

39 (3) Where the three asterisks (***) appear in the form: If the
40 registrant is an individual, insert his or her full name and residence

1 address. If the registrants are a married couple, insert the full name
2 and residence address of both parties to the marriage. If the
3 registrant is a general partnership, copartnership, joint venture, or
4 limited liability partnership, insert the full name and residence
5 address of each general partner. If the registrant is a limited
6 partnership, insert the full name and residence address of each
7 general partner. If the registrant is a limited liability company,
8 insert the name and address of the limited liability company, as
9 set out in its articles of organization on file with the California
10 Secretary of State, and the state of organization. If the registrant
11 is a trust, insert the full name and residence address of each trustee.
12 If the registrant is a corporation, insert the name and address of
13 the corporation, as set out in its articles of incorporation on file
14 with the California Secretary of State, and the state of
15 incorporation. If the registrants are state or local registered
16 domestic partners, insert the full name and residence address of
17 each domestic partner. If the registrant is an unincorporated
18 association other than a partnership, insert the name of each person
19 who is interested in the business of the association and whose
20 liability with respect to the association is substantially the same
21 as that of a general partner.

22 (4) Where the four asterisks (****) appear in the form, insert
23 whichever of the following best describes the nature of the
24 business: (i) “an individual,” (ii) “a general partnership,” (iii) “a
25 limited partnership,” (iv) “a limited liability company,” (v) “an
26 unincorporated association other than a partnership,” (vi) “a
27 corporation,” (vii) “a trust,” (viii) “copartners,” (ix) “a married
28 couple,” (x) “joint venture,” (xi) “state or local registered domestic
29 partners,” or (xii) “a limited liability partnership.”

30 (5) Where the five asterisks (*****) appear in the form, insert
31 the date on which the registrant first commenced to transact
32 business under the fictitious business name or names listed, if
33 already transacting business under that name or names. If the
34 registrant has not yet commenced to transact business under the
35 fictitious business name or names listed, insert the statement, “Not
36 applicable.”

37 (c) The registrant shall declare that all of the information in the
38 fictitious business statement is true and correct. A registrant who
39 declares as true any material matter pursuant to this section that

1 the registrant knows to be false is guilty of a misdemeanor
2 punishable by a fine not to exceed one thousand dollars (\$1,000).

3 (d) (1) At the time of filing of the fictitious business name
4 statement, the registrant filing on behalf of the registrant shall
5 present personal identification in the form of a California driver's
6 license or other government identification acceptable to the county
7 clerk to adequately determine the identity of the registrant filing
8 on behalf of the registrant as provided in subdivision (e) and the
9 county clerk may require the registrant to complete and sign an
10 affidavit of identity.

11 (2) In the case of a registrant utilizing an agent for submission
12 of the registrant's fictitious business name statement for filing, at
13 the time of filing of the fictitious business name statement, the
14 agent filing on behalf of the registrant shall present personal
15 identification in the form of a California driver's license or other
16 government identification acceptable to the county clerk to
17 adequately determine the identity of the agent filing on behalf of
18 the registrant as provided in subdivision (e). The county clerk may
19 also require the agent to submit a notarized statement signed by
20 the registrant declaring the registrant has authorized the agent to
21 submit the filing on behalf of the registrant.

22 (e) If the registrant is a corporation, a limited liability company,
23 a limited partnership, or a limited liability partnership, the county
24 clerk may require documentary evidence issued by the California
25 Secretary of State and deemed acceptable by the county clerk,
26 indicating the current existence and good standing of that business
27 entity to be attached to a completed and notarized affidavit of
28 identity, for purposes of subdivision (d).

29 (f) The county clerk may require a registrant that mails a
30 fictitious business name statement to a county clerk's office for
31 filing to submit a completed and notarized affidavit of identity. A
32 registrant that is a corporation, limited liability company, limited
33 partnership, or limited liability partnership, if required by the
34 county clerk to submit an affidavit of identity, shall also submit
35 documentary evidence issued by the California Secretary of State
36 indicating the current existence and good standing of that business
37 entity.

38 (g) A county clerk that chooses to establish procedures pursuant
39 to this section shall prescribe the form of affidavit of identity for
40 filing by a registrant in that county.

1 ~~SEC. 11.~~

2 *SEC. 26.* Section 13995.40 of the Government Code is
3 amended to read:

4 13995.40. (a) Upon approval of the initial referendum, the
5 office shall establish a nonprofit mutual benefit corporation named
6 the California Travel and Tourism Commission. The commission
7 shall be under the direction of a board of commissioners, which
8 shall function as the board of directors for purposes of the
9 Nonprofit Corporation Law.

10 (b) The board of commissioners shall consist of 37
11 commissioners comprising the following:

12 (1) The director, who shall serve as chairperson.

13 (2) (A) Twelve members, who are professionally active in the
14 tourism industry, and whose primary business, trade, or profession
15 is directly related to the tourism industry, shall be appointed by
16 the Governor. Each appointed commissioner shall represent only
17 one of the 12 tourism regions designated by the office, and the
18 appointed commissioners shall be selected so as to represent, to
19 the greatest extent possible, the diverse elements of the tourism
20 industry. Appointed commissioners are not limited to individuals
21 who are employed by or represent assessed businesses.

22 (B) If an appointed commissioner ceases to be professionally
23 active in the tourism industry or his or her primary business, trade,
24 or profession ceases to be directly related to the tourism industry,
25 he or she shall automatically cease to be an appointed
26 commissioner 90 days following the date on which he or she ceases
27 to meet both of the eligibility criteria specified in subparagraph
28 (A), unless the commissioner becomes eligible again within that
29 90-day period.

30 (3) Twenty-four elected commissioners, including at least one
31 representative of a travel agency or tour operator that is an assessed
32 business.

33 (c) The commission established pursuant to Section 15364.52
34 shall be inoperative so long as the commission established pursuant
35 to this section is in existence.

36 (d) Elected commissioners shall be elected by industry category
37 in a referendum. Regardless of the number of ballots received for
38 a referendum, the nominee for each commissioner slot with the
39 most weighted votes from assessed businesses within that industry
40 category shall be elected commissioner. In the event that an elected

1 commissioner resigns, dies, or is removed from office during his
2 or her term, the commission shall appoint a replacement from the
3 same industry category that the commissioner in question
4 represented, and that commissioner shall fill the remaining term
5 of the commissioner in question. The number of commissioners
6 elected from each industry category shall be determined by the
7 weighted percentage of assessments from that category.

8 (e) The director may remove any elected commissioner
9 following a hearing at which the commissioner is found guilty of
10 abuse of office or moral turpitude.

11 (f) (1) The term of each elected commissioner shall commence
12 July 1 of the year next following his or her election, and shall
13 expire on June 30 of the fourth year following his or her election.
14 If an elected commissioner ceases to be employed by or with an
15 assessed business in the category and segment which he or she
16 was representing, his or her term as an elected commissioner shall
17 automatically terminate 90 days following the date on which he
18 or she ceases to be so employed, unless, within that 90-day period,
19 the commissioner again is employed by or with an assessed
20 business in the same category and segment.

21 (2) Terms of elected commissioners that would otherwise expire
22 effective December 31 of the year during which legislation adding
23 this subdivision is enacted shall automatically be extended until
24 June 30 of the following year.

25 (g) With the exception of the director, no commissioner shall
26 serve for more than two consecutive terms. For purposes of this
27 subdivision, the phrase “two consecutive terms” shall not include
28 partial terms.

29 (h) Except for the original commissioners, all commissioners
30 shall serve four-year terms. One-half of the commissioners
31 originally appointed or elected shall serve a two-year term, while
32 the remainder shall serve a four-year term. Every two years
33 thereafter, one-half of the commissioners shall be appointed or
34 elected by referendum.

35 (i) The selection committee shall determine the initial slate of
36 candidates for elected commissioners. Thereafter the
37 commissioners, by adopted resolution, shall nominate a slate of
38 candidates, and shall include any additional candidates complying
39 with the procedure described in Section 13995.62.

1 (j) The commissioners shall elect a vice chairperson from the
2 elected commissioners.

3 (k) The commission may lease space from the office.

4 (l) The commission and the office shall be the official state
5 representatives of California tourism.

6 (m) (1) All commission meetings shall be held in California.

7 (2) Commissioners may participate in meetings by means of
8 conference telephone and other technology, as authorized pursuant
9 to paragraph (6) of subdivision (a) of Section 7211 of the
10 Corporations Code.

11 (n) No person shall receive compensation for serving as a
12 commissioner, but each commissioner shall receive reimbursement
13 for reasonable expenses incurred while on authorized commission
14 business.

15 (o) Assessed businesses shall vote only for commissioners
16 representing their industry category.

17 (p) Commissioners shall comply with the requirements of the
18 Political Reform Act of 1974 (Title 9 (commencing with Section
19 81000)). The Legislature finds and declares that commissioners
20 appointed or elected on the basis of membership in a particular
21 tourism segment are appointed or elected to represent and serve
22 the economic interests of those tourism segments and that the
23 economic interests of these members are the same as those of the
24 public generally.

25 (q) Commission meetings shall be subject to the requirements
26 of the Bagley-Keene Open Meeting Act (Article 9 (commencing
27 with Section 11120) of Chapter 1 of Part 1).

28 (r) The executive director of the commission shall serve as
29 secretary to the commission, a nonvoting position, and shall keep
30 the minutes and records of all commission meetings.

31 ~~SEC. 12.~~

32 *SEC. 27.* No reimbursement is required by this act pursuant
33 to Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O

**CALIFORNIA BOARD OF ACCOUNTANCY
LEGISLATIVE ANALYSIS
AB 1060**

Subject: Professions and vocations: licensure	Author: Bonilla
Version: 3/26/15	Sponsor: Author
Status: Senate Rules Committee	

Summary

Assembly Bill (AB) 1060 would require a board or bureau under the Department of Consumer Affairs (DCA) to provide specific information to the licensee, when a license is suspended or revoked, through first-class mail and by email if a board has an email address on file for the licensee.

This bill was originally provided as informational at the March CBA meeting. At that time, the Legislative Committee (LC) raised concerns regarding possible ambiguity of the introduced version of the bill's language. On March 26, 2015, AB 1060 was amended and the ambiguity was addressed.

Background

The amended version of the bill will clarify that a board who suspends, revokes, or denies a license is required to inform individuals about pertinent rehabilitation criteria and procedures. Currently, the boards and bureaus under the DCA are required to notify licensees, however, the method of delivery is not specified and may be inconsistent.

In addition to the denial of an application for licensure, a board is permitted to suspend or revoke the license of an individual who has been convicted of a crime that is substantially related to the functions or duties of the business or profession for which the individual is licensed. Once a board has decided to suspend or revoke a license, a board is then required to send the individual whose license was revoked or suspended, certain information about the procedures and criteria for license rehabilitation. However, the law is not clear on how this information must be delivered to the licensee.

According to the author's office, this bill simply requires a board to send the rehabilitation criteria and relevant information by first-class mail and by email if a board has an email address on file for the licensee. A board relies upon individuals to update their email and mailing addresses and does not always have updated contact information. The author believes that by requiring a board to send this information via mail and electronic mail, it will help ensure that the licensee receives the required material about rehabilitation criteria.

Analysis

Each board and bureau within DCA has its own enforcement provisions and is responsible for determining if a license should be suspended or revoked. A license

AB 1060

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suspension means that the licensee is not entitled to operate during the period of suspension. If a license is suspended or revoked, a board is required to send information about the procedures and criteria for license rehabilitation. The CBA presently sends this information via first class and certified mail. This bill would require the CBA to also send this information by email, if it has an email address on file for the licensee.

Although the bill makes it clear that the CBA would not be required to send an email if there is not one on file for the licensee, it does not specifically address instances in which there is more than one email on file. Staff communicated this potential ambiguity to the author's office and were advised that amendments would be considered to address it.

Fiscal Estimate

Unknown. This bill has been identified as having a fiscal impact.

Recommendation

Staff recommend that the CBA take a Neutral position on this bill as its previous concerns regarding ambiguity have been remedied by the amendments. Additionally, although there may potentially be inefficiencies associated with implementing the email requirement of the bill, staff do not believe that it will have a significant impact on operations.

Support/Opposition

Support: None at this time.

Opposition: None at this time.

Effective/Operative Date

January 1, 2016

Related Bills

None.

Attachment

AB 1060

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1060

Introduced by Assembly Member Bonilla

February 26, 2015

An act to amend Section 491 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1060, as amended, Bonilla. Professions and vocations: licensure.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law requires the board, upon suspension or revocation of a license, to provide the ex-licensee with certain information pertaining to rehabilitation, reinstatement, or reduction of penalty, as specified.

This bill would ~~authorize~~ *require* the board to provide that information through first-class mail and by ~~electronic means~~: *email if the board has an email address on file for the ex-licensee.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 491 of the Business and Professions Code
- 2 is amended to read:

1 491. (a) Upon suspension or revocation of a license by a board
2 on one or more of the grounds specified in Section 490, the board
3 shall:
4 (1) Send a copy of the provisions of Section 11522 of the
5 Government Code to the ex-licensee.
6 (2) Send a copy of the criteria relating to rehabilitation
7 formulated under Section 482 to the ex-licensee.
8 (b) Subdivision (a) ~~may~~ shall be satisfied through first-class
9 mail and by ~~electronic means~~. *email if the board has an email*
10 *address on file for the ex-licensee.*

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**CALIFORNIA BOARD OF ACCOUNTANCY
LEGISLATIVE ANALYSIS
AB 750**

Subject: Business and professions: retired category: licenses.	Author: Low
Version: 4/16/15	Sponsor: Author
Status: Assembly Appropriations Suspense	

Summary

Assembly Bill (AB) 750 would authorize the Department of Consumer Affairs' (DCA) boards, bureaus, commissions, or programs to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation. It would prohibit the holder of a retired license from engaging in any activity for which a license is required, unless regulation specifies the criteria for a retired licensee to practice his or her profession.

The bill would additionally authorize a board upon its own determination, and would require a board upon receipt of a complaint from any person, to investigate the actions of any licensee, including, among others, a person with a license that is retired or inactive.

This bill was originally provided as informational at the March CBA meeting, as it did not have a direct impact on the CBA at that time. The introduced version of the bill would have amended Business and Professions Code (BPC) section 462 to include a retired license status as part of the provision related to inactive licenses. In April, AB 750 was amended to add a new section to the BPC, to deal exclusively with the requirements of a retired license and has become relevant to the CBA.

Background

Existing law permits the boards under the DCA to adopt regulations establishing a system for issuing inactive licenses. The law requires that the regulations cover fees, renewal, restoration to active status, and practice restrictions.

In 2011, the CBA sponsored Assembly Bill 431 (Chapter 395, Statutes of 2011), which contained language authorizing the CBA, at its discretion, to create a retired status for certified public accountant and public accountant licenses. In 2012, the CBA supported Senate Bill 1576 (Chapter 661, Statutes of 2012)¹, which included a provision that allowed an individual who had a canceled license to apply for and obtain a retired status license provided they met the minimum requirements. The CBA adopted regulations to implement the retired status, which were approved by the Office of Administrative Law on October 16, 2013, with the regulations taking effect on July 1, 2014.

¹ SB 1576 was authored by the Senate Business, Profession and Economic Development Committee as one of its omnibus bills.

Analysis

AB 750 would provide the remaining boards within the DCA that do not presently have a retired license status with the authority to establish a system of retired licenses if they desire to.

As stated by the author, some licensees disfavor the inactive license designation and would prefer a retired license designation. Existing law only provides for a system of inactive licenses and many boards have sought legislation that would permit them to also create a retired license category. The intent is to provide all boards and bureaus within the DCA with this authority.

Presently, the following boards and bureaus within the DCA have the authority to issue retired licensees:

- Architects Board
- Board of Barbering and Cosmetology
- Board of Behavioral Sciences
- California Board of Accountancy
- Dental Board
- Dental Hygiene Committee of California
- Landscape Architects Technical Committee
- Medical Board
- Board of Pharmacy
- Board of Podiatric Medicine
- Professional Fiduciaries Bureau
- Board for Professional Engineers, Land Surveyors, and Geologists
- Respiratory Care Board

When staff identified this bill, information regarding the CBA's present retired status was provided to the author's office. Specifically, staff highlighted that under authority of BPC section 5070.1, CBA Regulations section 15.2 presently states in pertinent part, "a licensee shall renew a license in retired status during the same time period in which a license in an active status is renewed." Staff highlighted that current law requires the renewal of a CPA license in retired status, which is in conflict with the bill as amended.

The author's office advised staff that AB 750 is not intended to conflict with any of the boards' present provisions and that an amendment would be drafted to exempt boards and bureaus with established authority to require that the retired license must be renewed. Staff was advised that the amendment will likely occur while being heard by the Assembly Committee on Appropriations in May.

Fiscal Estimate

Unknown. This bill has been identified as having a fiscal impact.

Recommendation

Considering staff has received a commitment from the author's office that they do not want to interrupt the CBA's retired status process, staff recommend that the CBA take a Neutral position on this item and direct staff to continue working with the author's office regarding amendments to the bill.

As discussed by the author's office, one possible solution could be the following amendment:

On page 2, line 12, amend section 463 to read:

(b)(2)The holder of a retired license shall not be required to renew that license, unless a different requirement is specified by the board.

Support/Opposition

Support: None at this time.

Opposition: None at this time.

Effective/Operative Date

January 1, 2016

Related Bills

AB 1253 (Steinorth) of the current legislative session, will limit the issuance of a license designated as a retired volunteer service to an optometrist who holds a retired license for less than three years and will require the holder of a retired license issued for more than three years to meet certain requirements, including passing clinical and jurisprudence examinations, in order for the State Board of Optometry to issue a retired volunteer service license. *STATUS: This bill is pending in the Assembly Appropriations Committee.*

AB 2024 (Bonilla), Chapter 336, Statutes of 2014, authorized the Professional Fiduciaries Bureau to establish, by regulation, a system for a retired category of licensure.

AB 404 (Eggman), Chapter 339, Statutes of 2013, clarified who qualifies for a retired license by specifying that a license must be either active or inactive, and reduces the timeline to restore a retired license from retired to active status from five to three years.

SB 1576 (Committee on Business, Professions and Economic Development), Chapter 661, Statutes of 2012, which included a provision that allowed an individual who had a canceled license to apply for and obtain a retired status license provided they met the minimum requirements.

SB 1215 (Emmerson), Chapter 359, Statutes of 2012, established a retired license status and a retired license with a volunteer service designation for optometrists.

AB 750

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AB 431 (Ma), Chapter 395, Statutes of 2011, authorized the California Board of Accountancy to establish, by regulation, a system for a retired category of licensure.

SB 2191 (Emmerson), Chapter 548, Statutes of 2010, authorized the Board of Behavioral Sciences to issue a retired license as a marriage and family therapist, educational psychologist, clinical social worker or professional clinical counselor to an applicant who holds a current license or a license eligible for renewal, and established a \$40 fee for a retired license.

Attachments

1. Assembly Bill 750
2. Business and Professions Code Section 5070.1
3. CBA Regulations Section 15.2

AMENDED IN ASSEMBLY APRIL 16, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 750

Introduced by Assembly Member Low

February 25, 2015

An act to add Section 463 to the Business and Professions Code, relating to business and professions.

LEGISLATIVE COUNSEL'S DIGEST

AB 750, as amended, Low. Business and professions: retired category: licenses.

Existing law provides for numerous boards, bureaus, commissions, or programs within the Department of Consumer Affairs that administer the licensing and regulation of various businesses and professions. Existing law authorizes any of the boards, bureaus, commissions, or programs within the department, except as specified, to establish by regulation a system for an inactive category of license for persons who are not actively engaged in the practice of their profession or vocation. Under existing law, the holder of an inactive license is prohibited from engaging in any activity for which a license is required. Existing law defines "board" for these purposes to include, unless expressly provided otherwise, a bureau, commission, committee, department, division, examining committee, program, and agency.

This bill would additionally authorize any of the boards, bureaus, commissions, or programs within the department to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation,

and would prohibit the holder of a retired license from engaging in any activity for which a license is required, unless regulation specifies the criteria for a retired licensee to practice his or her profession. The bill would authorize a board upon its own determination, and would require a board upon receipt of a complaint from any person, to investigate the actions of any licensee, including, among others, a person with a license that is retired or inactive.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 463 is added to the Business and
- 2 Professions Code, to read:
- 3 463. (a) Any of the boards, bureaus, commissions, or programs
- 4 within the department may establish, by regulation, a system for
- 5 a retired category of licensure for persons who are not actively
- 6 engaged in the practice of their profession or vocation.
- 7 (b) The regulation shall contain the following:
- 8 (1) The holder of a retired license issued pursuant to this section
- 9 shall not engage in any activity for which a license is required,
- 10 unless the board, by regulation, specifies the criteria for a retired
- 11 licensee to practice his or her profession or vocation.
- 12 (2) The holder of a retired license shall not be required to renew
- 13 that license.
- 14 (3) In order for the holder of a retired license issued pursuant
- 15 to this section to restore his or her license to an active status, the
- 16 holder of that license shall meet all the following:
- 17 (A) Pay a fee established by regulation.
- 18 (B) ~~Not have~~ *Certify, in a manner satisfactory to the board, that*
- 19 *he or she has not* committed an act or crime constituting grounds
- 20 for denial of licensure.
- 21 (C) Comply with the fingerprint submission requirements
- 22 established by regulation.
- 23 (D) If the board requires completion of continuing education
- 24 for renewal of an active license, complete continuing education
- 25 equivalent to that required for renewal of an active license, unless
- 26 a different requirement is specified by the board.
- 27 (E) Complete any other requirements as specified by the board
- 28 by regulation.

1 (c) A board may upon its own determination, and shall upon
2 receipt of a complaint from any person, investigate the actions of
3 any licensee, including a person with a license that either restricts
4 or prohibits the practice of that person in his or her profession or
5 vocation, including, but not limited to, a license that is retired,
6 inactive, canceled, revoked, or suspended.

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Attachment 2

Business and Professions Code Section 5070.1

5070.1. Establishment of system for placement of license on retired status; Duties of the board

- (a) The board may establish, by regulation, a system for the placement of a license into a retired status, upon application, for certified public accountants and public accountants who are not actively engaged in the practice of public accountancy or any activity which requires them to be licensed by the board.
- (b) No licensee with a license in a retired status shall engage in any activity for which a permit is required.
- (c) The board shall deny an applicant's application to place a license in a retired status if the permit is subject to an outstanding order of the board, is suspended, revoked, or otherwise punitively restricted by the board, or is subject to disciplinary action under this chapter.
- (d) (1) The holder of a license that was canceled pursuant to Section 5070.7 may apply for the placement of that license in a retired status pursuant to subdivision (a).
- (2) Upon approval of an application made pursuant to paragraph (1), the board shall reissue that license in a retired status.
- (3) The holder of a canceled license that was placed in retired status between January 1, 1994, and January 1, 1999, inclusive, shall not be required to meet the qualifications established pursuant to subdivision (e), but shall be subject to all other requirements of this section.
- (e) The board shall establish minimum qualifications to place a license in retired status.
- (f) The board may exempt the holder of a license in a retired status from the renewal requirements described in Section 5070.5.
- (g) The board shall establish minimum qualifications for the restoration of a license in a retired status to an active status. These minimum qualifications shall include, but are not limited to, continuing education and payment of a fee as provided in subdivision (h) of Section 5134.

(Amended by Stats. 2012, Ch. 661, Sec. 3. Effective January 1, 2013.)

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**Attachment 3****CBA Regulations Section 15.2****15.2. Renewal of a License in a Retired Status.**

(a) A licensee shall renew a license in a retired status during the same time period in which a license in an active status is renewed as described in Section 5070.5 of the Business and Professions Code.

(b) At the time of renewal, the holder of a license in a retired status is exempt from paying the renewal fee described in Section 70(e).

(c) At the time of renewal, the holder of a license in a retired status is exempt from the Board's continuing education requirements described in Section 87.

NOTE: Authority cited: Sections 5010 and 5070.1, Business and Professions Code.
Reference: Section 5070.1 and 5070.5, Business and Professions Code.

**CALIFORNIA BOARD OF ACCOUNTANCY
LEGISLATIVE ANALYSIS
AB 507**

Subject: Department of Consumer Affairs: BreEZe: annual report	Author: Olsen
Version: 3/23/15	Sponsor: Author
Status: Assembly Appropriations Suspense	

Summary

Assembly Bill (AB) 507 would require the Department of Consumer Affairs (DCA) to submit an annual report to the Legislature and the Department of Finance (DOF) that includes an implementation plan for the boards and bureaus in phase three of the BreEZe computer system release.

This bill was originally provided as informational at the March CBA meeting, as it was a spot bill at that time. On March 23, 2015, AB 507 was amended to become relevant to the CBA.

Background

In 2009, the DCA proposed the BreEZe information technology system and the California Department of Technology (CalTech) approved the proposal. BreEZe was envisioned to be a replacement to DCA's out dated Legacy technology system (CAS) and would provide needed applicant tracking, licensing, renewal, enforcement monitoring and cashiering support for the boards and bureaus within the DCA. The project began in 2011, and in 2013, BreEZe was launched for 10 of the regulatory entities (phase one). In March of 2016, BreEZe is intended to be launched for another eight entities (phase two).

The BreEZe system was in the midst of implementation for phases one and two regulatory entities, when management of the project came under public scrutiny from a variety of sources, including Assembly Member Kristin Olsen. In June 2014, Assembly Member Olsen requested an audit of policies and procedures on the planning, development, and implementation of BreEZe.

On February 12, 2015, the State Auditor released a report¹ reflecting the following key recommendations:

- The Legislature should require [DCA] to submit a report annually that includes implementation plans for the project's phase three regulatory entities, estimated costs through implementation, and any operation efficiencies that will result from implementation by the regulatory entities;

¹ California State Auditor Fact Sheet, California Department of Consumer Affairs' BreEZe System, February 12, 2015

- CalTech should ensure that [DCA] promptly responds to and addresses concerns raised by independent oversight entities, require [DCA] to analyze the costs and benefits of moving forward with the project as planned versus suspending or terminating the projects, and document reasons for approving any future deviations from standard contract language; and,
- [DCA] should undertake all required oversight activities with respect to BreEZe to prevent or identify and monitor any problems that arise, complete a cost-benefit analysis of the project and any required changes, and continue to work with the phase one regulatory entities to ensure problems are promptly resolved.”

In March 2015, costs reported to the Legislature amounted to over \$95 million, over three times the original estimate, which covers the implementation for less than half of the DCA’s boards and bureaus. Additionally, phase three has been removed from the contract, which has left no plan for implementation of the 19 boards and bureaus in this phase. The CBA has spent approximately \$388,000 in the last four fiscal years on BreEZe, and projected costs in the next three fiscal years are estimated to be approximately \$730,000.

According to the author, “In order to ensure that Californians can rely on the services they depend on in a timely and efficient manner – even after implementing new technology – the Legislature and DOF need to keep a close eye on the negotiation, planning, development and implementation processes for the boards that we entrust with licensing professionals.”

Analysis

AB 507 would require DCA to submit an annual report to the Legislature on and after January 1, 2016, that will include:

1. Its plan for implementing BreEZe for the regulatory entities included in the project's third phase, including a timeline for the implementation.
2. The total estimated costs through implementation of the BreEZe system for the remaining 19 regulatory entities and the results of any cost-benefit analysis it conducted for phase three.
3. A description of whether and to what extent the system will achieve any operational efficiencies resulting from implementation by the regulatory entities.

This bill requires that the report comply with Government Code section 9795² and lists the 19 boards and bureaus in phase three as follows:

- Acupuncture Board
- Architects Board

² Requires state or local agencies to submit the report to the Secretary of the Senate, to the Chief Clerk of the Assembly, to the Legislative Counsel, and meet other requirements, as specified.

AB 507

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- Athletic Commission
- Board for Professional Engineers, Land Surveyors, and Geologists
- Board of Accountancy
- Board of Chiropractic Examiners
- Board of Guide Dogs for the Blind
- Bureau of Automotive Repair
- Bureau of Electronic, Appliance Repair, Home Furnishings and Thermal Insulation
- Bureau of Private Postsecondary Education
- Cemetery and Funeral Bureau
- Contractors State License Board
- Court Reporters Board
- Landscape Architect Technical Committee
- Pharmacy Board
- Professional Fiduciaries Bureau
- Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
- Structural Pest Control Board
- Telephone Medical Advice Services

Fiscal Estimate

Unknown. This bill has been identified as having a fiscal impact.

Action and Recommendation

Staff recommend that the CBA take a Support position on this bill as phase three of the BreEZe project has a direct fiscal and operational impact on the CBA.

Support/Opposition

Support: None at this time.

Opposition: None at this time.

Effective/Operative Date

January 1, 2016

Related Bills

None.

Attachment

AB 507

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 507

**Introduced by Assembly Member Olsen
(Principal coauthor: Assembly Member Gray)**

February 23, 2015

An act to ~~amend~~ *add* Section ~~106~~ of 210.5 to the Business and Professions Code, relating to the Department of Consumer Affairs.

LEGISLATIVE COUNSEL'S DIGEST

AB 507, as amended, Olsen. Department of Consumer ~~Affairs~~.
Affairs: BreEZe system: annual report.

Existing law authorizes the Department of Consumer Affairs to enter into a contract with a vendor for the licensing and enforcement of the BreEZe system, which is a specified integrated, enterprisewide enforcement case management and licensing system, no sooner than 30 days after written notification to certain committees of the Legislature. Existing law requires the amount of contract funds for the system to be consistent with costs approved by the office of the State Chief Information Officer, based on information provided by the department in a specified manner.

This bill would, on and after January 31, 2016, require the department to submit an annual report to the Legislature and the Department of Finance that includes, among other things, the department's plans for implementing the BreEZe system at specified regulatory entities included in the department's's 3rd phase of the BreEZe implementation project, including, but not limited to, a timeline for the implementation.

~~Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer~~

~~Affairs. Existing law authorizes the Governor to remove from office any member of any board within the department appointed by him or her for, among other things, unprofessional or dishonorable conduct.~~

~~This bill would make nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 210.5 is added to the Business and
2 Professions Code, immediately following Section 210, to read:

3 210.5. (a) On and after January 31, 2016, the department
4 shall submit an annual report to the Legislature and the
5 Department of Finance that includes all of the following:

6 (1) The department’s plan for implementing the BreEZe system
7 at the regulatory entities in the department’s third phase of the
8 implementation project, including, but not limited to, a timeline
9 for implementation.

10 (2) The total estimated costs of implementation of the BreEZe
11 system at the regulatory entities in the department’s third phase
12 of the implementation project and the results of any cost-benefit
13 analysis the department conducted for the third phase of the
14 implementation project.

15 (3) A description of whether and to what extent the BreEZe
16 system will achieve any operational efficiencies resulting from
17 implementation by the boards and regulatory entities within the
18 department’s jurisdiction.

19 (b) The report described in subdivision (a) shall be submitted
20 in compliance with Section 9795 of the Government Code.

21 (c) For purposes of this section, “the regulatory entities in the
22 department’s third phase of the implementation project” includes
23 all of the following:

24 (1) Acupuncture Board.

25 (2) Board for Professional Engineers, Land Surveyors, and
26 Geologists.

27 (3) Bureau of Automotive Repair.

28 (4) Bureau of Electronic and Appliance Repair, Home
29 Furnishings, and Thermal Insulation.

30 (5) Bureau for Private Postsecondary Education.

31 (6) California Architects Board.

- 1 (7) *California Board of Accountancy.*
- 2 (8) *California State Board of Pharmacy.*
- 3 (9) *Cemetery and Funeral Bureau.*
- 4 (10) *Contractors' State License Board.*
- 5 (11) *Court Reporters Board of California.*
- 6 (12) *Landscape Architects Technical Committee.*
- 7 (13) *Professional Fiduciaries Bureau.*
- 8 (14) *Speech-Language Pathology and Audiology and Hearing*
- 9 *Aid Dispensers Board.*
- 10 (15) *State Athletic Commission.*
- 11 (16) *State Board of Chiropractic Examiners.*
- 12 (17) *State Board of Guide Dogs for the Blind.*
- 13 (18) *Structural Pest Control Board.*
- 14 (19) *Telephone Medical Advice Services Bureau.*

15 ~~SECTION 1. Section 106 of the Business and Professions Code~~
16 ~~is amended to read:~~

17 ~~106. The Governor has power to remove from office at any~~
18 ~~time, any member of any board appointed by him or her for~~
19 ~~continued neglect of duties required by law, for incompetence, or~~
20 ~~unprofessional or dishonorable conduct. This section shall not be~~
21 ~~construed as a limitation or restriction on the power of the~~
22 ~~Governor, conferred on him or her by any other law, to remove~~
23 ~~any member of any board.~~



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LC Item V.
May 28, 2015

CBA Item IX.B.5.
May 28-29, 2015

**Discussion and Possible Action to Recommend a Legislative Proposal to Amend
Business and Professions Code Section 5055 Relating to the Title of Certified
Public Accountant**

Presented by: Kathryn Kay, Legislative Analyst

Purpose of the Item

The purpose of this agenda item is to put forward for approval legislative language that would clarify that practice privilege holders may use the certified public accountant (CPA) designation in California.

Action(s) Needed

The California Board of Accountancy (CBA) will be asked to approve the proposed language.

Background

California has had a practice privilege program in place since 2006 starting with a notice and fee program where the CBA issued a practice privilege. In 2013, the program was changed to a no notice, no fee program where the practice privilege was granted by operation of law. Until recently, the question of whether a practice privilege holder may use the CPA designation on business cards or letterhead had not been raised.

Comments

Business and Professions Code (BPC) section 5055 states the following:

Any person who has received from the board a certificate of certified public accountant may, subject to Section 5051, be styled and known as a "certified public accountant" and may also use the abbreviation "C.P.A." No other person, except a firm registered under this chapter, shall assume or use that title, designation, or abbreviation or any other title, designation, sign, card, or device tending to indicate that the person using it is a certified public accountant.

BPC section 5096.7 states that anywhere the term "license," "licensee," "permit," or "certificate" is used in the accountancy act includes practice privilege holders. The CBA has interpreted the spirit of this law to apply to BPC section 5055. However, the question was recently raised internally when an individual licensed in New Hampshire

Discussion and Possible Action to Recommend a Legislative Proposal to Amend Business and Professions Code Section 5055 Relating to the Title of Certified Public Accountants

Page 2 of 2

called inquiring whether she could put the CPA designation on her business card to give to California clients.

The issue centers on the term “received from the board” in BPC section 5055. Under the new practice privilege program, the CBA does not issue a practice privilege as it did previously, but rather, it is granted by operation of law. The granting of a practice privilege by operation of law is still within the spirit of BPC section 5055; however, in order for this to be clear to everyone, staff are suggesting that the CBA consider amending BPC section 5055 with clarifying language (**Attachment**).

The proposed language clarifies that those authorized to practice with a practice privilege may use the CPA designation in California. If approved by the CBA, staff will seek to have this language amended into Senate Bill 799, the annual omnibus bill.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff recommend that the CBA adopt the proposed language and direct staff to request it be included in the omnibus bill.

Attachment

Proposed Amendment to BPC Section 5055



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EPOC Item II.
May 28, 2015

CBA Item IX.C.2.
May 28-29, 2015

Discussion Regarding Compelling Physical or Mental Health Evaluations of Licensees or Applicants

Presented by: Dominic Franzella, Chief, Enforcement Division

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with the opportunity to again discuss the possibility of sponsoring legislation to amend the California Accountancy Act to allow the CBA to compel physical or mental health evaluations of licensees or applicants in accordance with the consumer protection elements afforded to Department of Consumer Affairs (DCA) health boards under Business and Professions Code (BPC) sections 820-828 (**Attachment 1**).

Action(s) Needed

No specific action is required unless the CBA directs staff to develop legislative language for its consideration.

Background

During the September 2014 CBA meeting, staff presented an overview of BPC sections 820-828, which relate to compelling a licensee to undergo a physical or mental evaluation by a licensed physician. At the conclusion of the presentation, a member raised a concern regarding the relevancy of physical impairments to the practice of public accountancy. The CBA requested staff do additional research and bring the topic back for deliberation by a CBA committee.

Comments

The majority of the information that follows was originally provided to the CBA at its September 2014 meeting. The additional information gathered by staff is included under the heading "Usage by the Board of Registered Nursing."

The Examination

BPC section 820 provides DCA health boards with the authority to compel a licensee to undergo an examination by a physician or psychologist when the licensing agency believes that a licensee's ability to practice may be impaired due to a physical or mental illness affecting competency.

Possible Outcomes

Pursuant to BPC section 828, if, after the examination, the licensing agency determines that there is insufficient evidence to bring an action against the licensee, all records of

Discussion Regarding Compelling Physical or Mental Health Evaluations of Licensees or Applicants

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the proceedings, including the order for the examination, investigative reports, and the report of the physician or psychologist are kept confidential and are not subject to discovery or subpoena. The records are destroyed after five years.

BPC section 822 outlines the possible outcomes if the licensing agency determines the licensee is not fit to practice. If, after review of the report prepared by the physician or psychologist, the licensing agency determines that the licensee's ability to practice is impaired because the licensee is mentally or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

- Revoking the licensee's certificate or license.
- Suspending the licensee's right to practice.
- Placing the licensee on probation.
- Taking such other action in relation to the licensee as the licensing agency in its discretion deems proper.

Any action taken by the licensing board is in accordance with the Administrative Procedure Act (APA) and would follow the general process utilized by the CBA when pursuing disciplinary action.

Reinstatement

As outlined under BPC section 823, in reinstating the certificate or license which has been revoked or suspended as a result of mental or physical illness affecting competency, the licensing agency may impose terms and conditions to be complied with by the licensee after the certificate or license has been reinstated. The authority of the licensing agency to impose terms and conditions includes, but is not limited to, the following:

- Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training.
- Requiring the licensee to pass an oral, written, practical, or clinical examination, or any combination thereof to determine his/her present fitness to engage in the practice of his/her profession.
- Requiring the licensee to submit to a complete diagnostic examination by one or more physicians or psychologists appointed by the licensing agency. If the licensing agency requires the licensee to submit to such an examination, the licensing agency shall receive and consider any other report of a complete diagnostic examination given by one or more physicians or psychologists of the licensee's choice.
- Requiring the licensee to undergo continuing treatment.
- Restricting or limiting the extent, scope or type of practice of the licensee.

Privacy Protection

There are privacy safeguards for licensees written into the law. BPC section 827 allows licensing agencies to convene in closed session to consider mental or physical health issues. BPC section 828 provides record retention guidelines that preserve confidentiality if no action is taken against the licensee. BPC section 820 makes the

Discussion Regarding Compelling Physical or Mental Health Evaluations of Licensees or Applicants

Page 3 of 4

examiner's report available to the licensee and provides the ability for the licensee to submit his/her own examiner's report when requesting reinstatement. Finally, the APA allows that if the matter were to proceed to an administrative hearing, testimony related to the actual physical or mental illness is sealed from the record.

Usage by the Board of Registered Nursing (BRN)

To provide the CBA with a fuller picture of how this process works in actual practice, staff reached out to the BRN. BRN staff indicated that, upon receipt of a complaint or other evidence indicating the need for a mental or physical health exam, the BRN will conduct an investigation, gather evidence and submit a request to the Attorney General's office for a Petition and Order to Compel a Mental or Physical Examination. If the assigned Deputy Attorney General (DAG) agrees that sufficient evidence exists to compel such an exam, s/he will issue an exam order.

The BRN selects the physician or psychologist (often a psychiatrist since s/he can conduct both a mental and physical exam) and pays for the initial examination. Upon completion, that physician or psychologist then submits a report to the BRN outlining the potential for consumer harm by the licensee, if any, and makes a recommendation of either "Safe to Practice" or "Unsafe to Practice." This report is provided to the BRN and the licensee.

According to BPC section 821, should the licensee fail to undergo the required testing, his/her refusal may constitute grounds for discipline, including suspension or revocation of his/her license. Based on the results of this exam, the BRN will decide to either close the case or request an accusation be filed by the DAG for action against the licensee. The most commonly cited cause for these exams was mental health concerns, but physical health was a consideration in a small number of cases where severe physical impairment, such as paraplegia, affected the ability of the licensee to perform required tasks.

The BRN has a total licensee population of approximately 415,000 Registered Nurses and conducts an average of 10 examinations each month for an average rate of about .03 percent per year. The majority of these examinations, over 95 percent, are for mental health reasons. The CBA presently licenses approximately 91,000 CPAs, and staff expect that, if the Accountancy Act was amended to provide for compelling licensees to undergo physical or mental health examinations, the rate of examinations would be significantly lower than that of the BRN. The number of physical exams, in particular, is expected to be much lower than the approximate five percent cited by the BRN as the physical demands of the nursing profession, such as lifting and moving patients, are not equitable to the physical requirements for the practice of public accountancy.

Other Considerations

The mental or physical examination requirement is an investigatory function that allows the licensing board to make a substantive determination on whether a licensee's ability to practice has or has not become impaired due to mental or physical illness. If the

Discussion Regarding Compelling Physical or Mental Health Evaluations of Licensees or Applicants

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licensing board determines that a licensee's ability to practice is impaired based on the examination, the licensing board may take action against his/her license or certificate under BPC section 822. However, such actions will be conducted through a separate administrative adjudication process as referenced under BPC 826. The licensee is able to practice throughout the process and may only be prohibited from practicing by the licensing agency after a hearing.

Some health boards have expanded the applicability of BPC sections 820-828 to applicants for licensure. Specifically, the California Board of Psychology and Board of Behavioral Sciences have provisions allowing examination of applicants for licensure. After review, it does not appear that any non-health boards have included provisions similar to BPC sections 820-828 into their regulations.

In researching agencies outside of the DCA, the State Bar of California has identified a procedure for assuming the law practice of attorneys who are incapacitated by reason of substance abuse or mental illness (BPC section 6190, **Attachment 2**).

Fiscal/Economic Impact Considerations

The hourly rate for a mental or physical examination ranges from \$125 to \$600 per hour (depending on the nature and number of specialists and tests required) and the average cost for an examination ranges from \$600 to \$1,500, based on rates and costs provided by the Medical Board of California and the BRN. The boards bear the costs of these examinations, except in cases where the licensee does not comply with the order or when recovery costs are generally allowed by law. The fiscal and economic impact will be further developed should the concept be accepted by the CBA for further review.

Recommendation

Staff has no recommendation on this item. Should the CBA decide to pursue this legislative proposal, staff would seek an author in the 2016 legislative year.

Attachments

1. California Business and Professions Code, Division 2 (Healing Arts), Chapter 1, Article 12.5, Sections 820-828, Compelling Licensees to Undergo Physical or Mental Evaluation
2. California Business and Professions Code, Division 3, Chapter 4, Article 12, Section 6190, Incapacity to Attend to Law Practice



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Attachment 1

California Business and Professions Code Division 2 (Healing Arts), Chapter 1, Article 12.5, Sections 820-828 Compelling Licensees to Undergo Physical or Mental Evaluation

820.

Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

821.

The licentiate's failure to comply with an order issued under Section 820 shall constitute grounds for the suspension or revocation of the licentiate's certificate or license.

822.

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

- (a) Revoking the licentiate's certificate or license.
- (b) Suspending the licentiate's right to practice.
- (c) Placing the licentiate on probation.
- (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

823.

Notwithstanding any other provisions of law, reinstatement of a licentiate against whom action has been taken pursuant to Section 822 shall be governed by the procedures in this article. In reinstating a certificate or license which has been revoked or suspended under Section 822, the licensing agency may impose terms and conditions to be complied with by

the licentiate after the certificate or license has been reinstated. The authority of the licensing agency to impose terms and conditions includes, but is not limited to, the following:

- (a) Requiring the licentiate to obtain additional professional training and to pass an examination upon the completion of the training.
- (b) Requiring the licentiate to pass an oral, written, practical, or clinical examination, or any combination thereof to determine his or her present fitness to engage in the practice of his or her profession.
- (c) Requiring the licentiate to submit to a complete diagnostic examination by one or more physicians and surgeons or psychologists appointed by the licensing agency. If the licensing agency requires the licentiate to submit to such an examination, the licensing agency shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons or psychologists of the licentiate's choice.
- (d) Requiring the licentiate to undergo continuing treatment.
- (e) Restricting or limiting the extent, scope or type of practice of the licentiate.

824.

The licensing agency may proceed against a licentiate under either Section 820, or 822, or under both sections.

825.

As used in this article with reference to persons holding licenses as physicians and surgeons, "licensing agency" means a panel of the Division of Medical Quality.

826.

The proceedings under Sections 821 and 822 shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the licensing agency and the licentiate shall have all the rights and powers granted therein.

827.

Notwithstanding the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, the licensing agency may convene in closed session to consider any evidence relating to the licentiate's mental or physical illness obtained pursuant to the proceedings under Section 820. The licensing agency shall only convene in closed session to the extent that it is necessary to protect the privacy of a licentiate.

828.

If the licensing agency determines, pursuant to proceedings conducted under Section 820, that there is insufficient evidence to bring an action against the licentiate pursuant to Section 822, then all licensing agency records of the proceedings, including the order for the examination, investigative reports, if any, and the report of the physicians and surgeons or psychologists, shall be kept confidential and are not subject to discovery or subpoena. If no

further proceedings are conducted to determine the licentiates fitness to practice during a period of five years from the date of the determination by the licensing agency of the proceeding pursuant to Section 820, then the licensing agency shall purge and destroy all records pertaining to the proceedings. If new proceedings are instituted during the five-year period against the licentiate by the licensing agency, the records, including the report of the physicians and surgeons or psychologists, may be used in the proceedings and shall be available to the respondent pursuant to the provisions of Section 11507.6 of the Government Code.



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MSG Item III.
May 28, 2015

CBA Item IX.D.2.
May 28-29, 2015

The MSG Decision Matrix and Stakeholder Objectives

Presented by: Written Report Only

Purpose of the Item

The purpose of this agenda item is to provide the Mobility Stakeholder Group (MSG) with its decision matrix (**Attachment 1**) and stakeholder objectives (**Attachment 2**).

Action(s) Needed

No specific action is required on this agenda item.

Background

At its March 2014 meeting, staff presented the MSG with a plan to maintain a decision matrix in order to track decisions made by the MSG. The purpose for the decision matrix was to assist the MSG and staff in determining what activities have been accomplished and what decisions still remain for discussion.

In addition, the MSG is charged with considering whether the provisions of the California practice privilege law "satisfy the objectives of stakeholders of the accounting profession in this state, including consumers." At its July 2014 meeting, the MSG established two stakeholder objectives and requested that they be provided at future meetings in order that the MSG may continue to revise and add to them as needed.

Comments

Staff will continue to provide the decision matrix and stakeholder objectives as a written report only agenda item unless otherwise directed by the MSG.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff do not have a recommendation on this agenda item.

Attachments

1. MSG Decision Matrix
2. Stakeholder Objectives

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**Attachment 1****MSG Decision Matrix**

<u>Date</u>	<u>Decision</u>
March 2014	The MSG will meet three times per year in conjunction with the March, July and November CBA meetings.
March 2014	The MSG will prepare a written report to the CBA at least once per calendar year.
March 2014	The MSG will prepare a final report in time to be considered by the CBA as it prepares its final report to the Legislature which is due January 1, 2018.
November 2014	The MSG adopted the following definition for "stakeholders:" Stakeholders include consumers, licensees, applicants, and professional organizations and groups that have a direct or indirect stake in the CBA because they can affect or be affected by the CBA's actions, objectives, and policies.

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**Attachment 2****Stakeholder Objectives**

Date Added or Revised	Objective
July 2014	Help out-of-state licensees know and understand their self-reporting requirements.
July 2014	Assure the CBA that all states have adequate enforcement.



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MSG Item IV.
May 28, 2015

CBA Item IX.D.3.
May 28-29, 2015

Analysis and Guidance From the MSG Regarding NASBA's Guiding Principles of Enforcement

Presented by: Matthew Stanley, Manager, Examination and Practice Privilege Units

Purpose of the Item

The purpose of this agenda item is to provide the Mobility Stakeholder Group (MSG) with an opportunity to review the National Association of State Boards of Accountancy's (NASBA) Guiding Principles of Enforcement (NASBA Enforcement Guidelines) and to provide guidance to the California Board of Accountancy (CBA) on whether it meets or exceeds the CBA's own enforcement practices pursuant to Business and Professions Code (BPC) section 5096.21(c)(2).

Action(s) Needed

The MSG will be asked to discuss NASBA's Enforcement Guidelines, and provide guidance to the CBA on whether it meets or exceeds the CBA's enforcement practices.

Background

NASBA and its Enforcement Resources Committee has developed a model of "Guiding Principles of Enforcement" as a resource to boards of accountancy. The intent is to provide a guideline to boards of accountancy for proactive enforcement that promotes consumer protection. This model additionally takes into consideration the varying characteristics of each board regarding number of licensees, volume of complaints, and available resources, amongst others.

BPC section 5096.21(a) requires the CBA to make determinations as to whether allowing licensees of a particular state to practice in California under a no notice, no fee practice privilege violates its duty to protect the public. If this determination shows the public is at risk, the licensees of those particular states would, following a rulemaking by the CBA, revert back to using the prior practice privilege program with its notice and fee provisions. These determinations are to be made on and after January 1, 2016.

BPC section 5096.21(c) allows another method by which states can be deemed to protect the public, which would allow them to remain in the no notice, no fee practice privilege program. One of the steps in this method requires the CBA to, upon a majority vote at a regularly scheduled board meeting, issue a finding after a public hearing that the NASBA Enforcement Guidelines meet or exceed the CBA's own enforcement practices.

Analysis and Guidance From the MSG Regarding NASBA's Guiding Principles of Enforcement

Page 2 of 2

Comments

The NASBA Enforcement Guidelines serve as the criteria developed by NASBA and its Enforcement Resources Committee to aid boards of accountancy in promoting consumer protection by enhancing enforcement best practices. The NASBA Enforcement Guidelines will be presented at the May 28, 2015, joint meeting of the CBA and MSG, and the MSG may wish to refer to the joint meeting materials as it discusses this item.

The NASBA Enforcement Guidelines includes the following:

- Time Frames for prosecuting a complaint from intake to final disposition,
- Enforcement resources to adequately staff investigations,
- Case management,
- Disciplinary guidelines; and
- Internet disclosure.

Representatives of NASBA will be at the May 28, 2015, joint meeting of the CBA and MSG to discuss the NASBA Enforcement Guidelines and to answer any questions.

During the May 28, 2015, joint CBA and MSG meeting, staff will present a comparison of NASBA's Enforcement Guidelines and the CBA's enforcement practices. Staff are asking the MSG to provide guidance as to whether NASBA's Enforcement Guidelines meet or exceed the CBA's own enforcement practices pursuant to BPC section 5096.21(c)(2).

The CBA will consider the MSG's guidance on this matter under CBA **Agenda Item X**. at its May 28-29, 2015 meeting when it will decide whether to issue a finding that the NASBA Enforcement Guidelines meet or exceed its own enforcement practices.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff do not have a recommendation on this agenda item.

Attachment

None.



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MSG Item V.
May 28, 2015

CBA Item IX.D.4.
May 28-29, 2015

Discussion About the Timeline for Activities Regarding Determinations to be Made Pursuant to Business and Professions Code Section 5096.21

Presented by: Matthew Stanley, Manager, Examination and Practice Privilege Units

Purpose of the Item

The purpose of this agenda item is to provide the Mobility Stakeholder Group (MSG) with an opportunity to discuss items related to the timeline regarding determinations to be made pursuant to Business and Professions Code (BPC) section 5096.21.

Action(s) Needed

No specific action is required on this agenda item.

Background

In 2012, the Legislature revised the practice privilege law to eliminate the requirement for out-of-state licensees to provide notice and fee prior to obtaining a California practice privilege. BPC section 5096.21(a) requires the CBA to make determinations as to whether allowing licensees of a particular state to practice in California under a no notice, no fee practice privilege violates its duty to protect the public. If this determination shows the public is at risk, the licensees of those particular states would, following a rulemaking by the CBA, revert back to using the prior practice privilege program with its notice and fee provisions. These determinations are to be made on and after January 1, 2016. In making the determinations, the CBA is required to consider three factors as follows:

- Whether the state timely and adequately addresses enforcement referrals made by the board to the accountancy regulatory board of that state, or otherwise fails to respond to requests the board deems necessary to meet its obligations under this article.
- Whether the state makes the disciplinary history of its licensees publicly available through the Internet in a manner that allows the board to adequately link consumers to an Internet website to obtain information that was previously made available to consumers about individuals from the state prior to January 1, 2013, through the notification form.
- Whether the state imposes discipline against licensees that is appropriate in light of the nature of the alleged misconduct.

Discussion About the Timeline for Activities Regarding Determinations to be Made Pursuant to Business and Professions Code Section 5096.21

Page 2 of 2

The timeline for making these determinations (**Attachment 1**) was approved by the California Board of Accountancy (CBA) at its March 2015 meeting.

Comments

The timeline will be changed as needed or as directed. It is anticipated that this will become a standing, written report only, agenda item at future MSG meetings to keep members apprised of upcoming activities regarding the determinations made pursuant to BPC section 5096.21 (**Attachment 2**). It will also serve as an opportunity for members to discuss any of the items on the timeline.

Since its approval at the March 2015 CBA meeting, staff has added components to the timeline regarding the second path by which a state's licensees would be allowed to continue under California's no notice, no fee practice privilege program; specifically, the path by which a state's enforcement practices are deemed to be substantially equivalent to the National Association of State Boards of Accountancy's Guiding Principles of Enforcement.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff do not have a recommendation on this agenda item.

Attachment

1. Determinations Timeline
2. BPC Section 5096.21



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Attachment 1

Determinations Timeline

Preliminary Determinations Report to the Legislature

The practice privilege preliminary determinations report is due by July 1, 2015, as required pursuant to Business and Professions Code (BPC) section 5096.21(a). This code section requires the CBA to make determinations as to whether allowing licensees of a particular state to practice in California under a no notice, no fee practice privilege violates its duty to protect the public. If this determination shows the public is at risk, the licensees of those particular states would, following a rulemaking by the CBA, revert back to using the prior practice privilege program with its notice and fee requirements.

May 28-29, 2015	CBA approves the final version of the Preliminary Determinations Report
July 1, 2015	Preliminary Determinations Report due to Legislature

NASBA's Guiding Principles of Enforcement

The National Association of State Boards of Accountancy (NASBA) developed Guiding Principles of Enforcement (NASBA Enforcement Guidelines). The CBA must issue a finding of whether the NASBA Enforcement Guidelines meet or exceed the CBA's own enforcement practices pursuant to BPC section 5096.21(c)(2).

May 12, 2015	CBA receives NASBA's Guiding Principles of Enforcement
May 28-29, 2015	CBA issues a finding whether the NASBA Enforcement Guidelines meet or exceed the CBA's enforcement practices
July 23, 2015	CBA determines how best to compare other states' enforcement practices with NASBA's Enforcement Guidelines
August 2015	Staff implements the method for comparing other states' enforcement practices with NASBA's Enforcement Guidelines
Winter 2015/2016	Finalization of analysis of states' substantial equivalence to NASBA's Enforcement Guidelines

State-by-State Substantial Equivalency

In order to ascertain whether a state meets the requirements of BPC section 5096.21(a), the CBA must consider the three items listed in subdivision (b) as follows:

- Whether the state timely and adequately addresses enforcement referrals made by the board to the accountancy regulatory board of that state, or otherwise fails to respond to requests the board deems necessary to meet its obligations under this article.
- Whether the state makes the disciplinary history of its licensees publicly available through the Internet in a manner that allows the board to adequately link consumers to an Internet Web site to obtain information that was previously made available to consumers about individuals from the state prior to January 1, 2013, through the notification form.
- Whether the state imposes discipline against licensees that is appropriate in light of the nature of the alleged misconduct.

The CBA is required to make its determinations using these considerations on and after January 1, 2016.

March 19-20, 2015	CBA reviews state-by-state information and gives direction to staff on additional information needed
May 2015	Staff sends a letter requesting additional information from states
July 23, 2015	MSG reviews initial responses to letters requesting additional information from states
September 17-18, 2015	CBA reviews additional information provided by states and identifies any that are at risk of removal from the no notice, no fee practice privilege program
September-October 2015	CBA sends follow-up letters to at-risk states and works with NASBA to address deficiencies
October-December 2015	CBA gathers data on steps taken by at-risk states to remedy identified deficiencies
November-December 2015	CBA reviews information available on the Internet to determine whether disciplinary history is made available for each state
On and after January 1, 2016	CBA places all states into 3 categories regarding whether their licensees should remain or be removed from the no notice, no fee practice privilege program - Remain, Remove, Further Review
March 2016	CBA initiates Rulemaking to remove states from the no notice, no fee practice privilege program

- May 2016 CBA conducts a public hearing on Rulemaking and initiates 15-day notice of changes to include any states to be added from the Further Review category
- July 2016-March 2017 CBA continues reviewing states regarding whether their licensees should remain or be removed from the no notice, no fee practice privilege program as needed

Practice Privilege Final Report to the Legislature

BPC section 5096.21(f) states:

On or before January 1, 2018, the board shall prepare a report to be provided to the relevant policy committees of the Legislature, the director, and the public, upon request, that, at minimum, explains in detail all of the following:

- (1) How the board has implemented this article and whether implementation is complete.
- (2) Whether this article is, in the opinion of the board, more, less, or equivalent in the protection it affords the public than its predecessor article.
- (3) Describes how other state boards of accountancy have addressed referrals to those boards from the board, the timeframe in which those referrals were addressed, and the outcome of investigations conducted by those boards.

At its initial meeting, the MSG decided to prepare a final report for the CBA to reference as it prepares its report to the Legislature by January 1, 2018.

- July 2017 CBA receives the MSG's Final Report
- September 2017 CBA reviews its draft Practice Privilege Report to the Legislature
- November 2017 CBA approves the final version of the Practice Privilege Report to the Legislature
- January 1, 2018 Practice Privilege Report due to the Legislature

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**Attachment 2****Business and Professions Code Section 5096.21**

5096.21 (a) On and after January 1, 2016, if the board determines, through a majority vote of the board at a regularly scheduled meeting, that allowing individuals from a particular state to practice in this state pursuant to a practice privilege as described in Section 5096, violates the board's duty to protect the public, pursuant to Section 5000.1, the board shall require, by regulation, out-of-state individuals licensed from that state, as a condition to exercising a practice privilege in this state, to file the notification form and pay the applicable fees as required by former Section 5096, as added by Chapter 921 of the Statutes of 2004, and regulations adopted thereunder.

(b) The board shall, at minimum, consider the following factors in making the determination required by subdivision (a):

(1) Whether the state timely and adequately addresses enforcement referrals made by the board to the accountancy regulatory board of that state, or otherwise fails to respond to requests the board deems necessary to meet its obligations under this article.

(2) Whether the state makes the disciplinary history of its licensees publicly available through the Internet in a manner that allows the board to adequately link consumers to an Internet Web site to obtain information that was previously made available to consumers about individuals from the state prior to January 1, 2013, through the notification form.

(3) Whether the state imposes discipline against licensees that is appropriate in light of the nature of the alleged misconduct.

(c) Notwithstanding subdivision (a), if (1) the National Association of State Boards of Accountancy (NASBA) adopts enforcement best practices guidelines, (2) the board, upon a majority vote at a regularly scheduled board meeting, issues a finding after a public hearing that those practices meet or exceed the board's own enforcement practices, (3) a state has in place and is operating pursuant to enforcement practices substantially equivalent to the best practices guidelines, and (4) disciplinary history of a state's licensees is publicly available through the Internet in a manner that allows the board to link consumers to an Internet Web site to obtain information at least equal to the information that was previously available to consumers through the practice privilege form filed by out-of-state licensees pursuant to former Section 5096, as added by Chapter 921 of the Statutes of 2004, no practice privilege form shall be required to be filed by any licensee of that state as required by subdivision (a), nor shall the board be required to report on that state to the Legislature as required by subdivision (d).

(d) (1) The board shall report to the relevant policy committees of the Legislature, the director, and the public, upon request, preliminary determinations made pursuant to this section no later than July 1, 2015. The board shall, prior to January 1, 2016, and

thereafter as it deems appropriate, review its determinations made pursuant to subdivision (b) to ensure that it is in compliance with this section.

(2) This subdivision shall become inoperative on July 1, 2017, pursuant to Section 10231.5 of the Government Code.

(e) On or before July 1, 2014, the board shall convene a stakeholder group consisting of members of the board, board enforcement staff, and representatives of the accounting profession and consumer representatives to consider whether the provisions of this article are consistent with the board's duty to protect the public consistent with Section 5000.1, and whether the provisions of this article satisfy the objectives of stakeholders of the accounting profession in this state, including consumers. The group, at its first meeting, shall adopt policies and procedures relative to how it will conduct its business, including, but not limited to, policies and procedures addressing periodic reporting of its findings to the board.

(f) On or before January 1, 2018, the board shall prepare a report to be provided to the relevant policy committees of the Legislature, the director, and the public, upon request, that, at minimum, explains in detail all of the following:

(1) How the board has implemented this article and whether implementation is complete.

(2) Whether this article is, in the opinion of the board, more, less, or equivalent in the protection it affords the public than its predecessor article.

(3) Describes how other state boards of accountancy have addressed referrals to those boards from the board, the timeframe in which those referrals were addressed, and the outcome of investigations conducted by those boards.

(g) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.



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MSG Item VI.
May 28, 2015

CBA Item IX.D.5.
May 28-29, 2015

Discussion Regarding NASBA's Activities and CPAVerify

Presented by: Matthew Stanley, Manager, Examination and Practice Privilege Units

Purpose of the Item

The purpose of this agenda item is to allow the Mobility Stakeholder Group (MSG) the opportunity to discuss the National Association of State Boards of Accountancy's (NASBA) recent activities and CPAVerify.

Action(s) Needed

No specific action is required on this agenda item.

Background

At its November 2014 meeting, the MSG requested that NASBA activities and CPAVerify be added as a standing agenda item to allow for ongoing discussion.

The Accountancy Licensing Database (ALD) is a national database of certified public accountant (CPA) license information. Only the CBA and other state boards of accountancy have direct access to ALD. CPAVerify is the public website that conveys information contained in the ALD database. If information is not available in ALD, it is not available on CPAVerify. The CBA maintains a link to CPAVerify on its website for the use of consumers and other stakeholders.

Comments

NASBA's Guiding Principles of Enforcement

On May 12, 2015, NASBA released its Guiding Principles of Enforcement (NASBA Enforcement Guidelines). The NASBA Enforcement Guidelines will be discussed in detail during the May 28, 2015 Joint Meeting of the MSG and the California Board of Accountancy.

Western Regional Meeting

NASBA will be holding its Western Regional Meeting on June 17-19, 2015. This meeting will take place in Coronado, California at the Loews Coronado Bay Resort. Some of the major topics tentatively listed on the agenda are revisions to continuing education, changes to the Uniform CPA Examination, peer review, and ALD.

Discussion Regarding NASBA's Activities and CPAVerify

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Additional Information regarding NASBA's Activities and CPAVerify

At this time, there are still fifty jurisdictions participating in ALD and CPAVerify. NASBA continues its efforts to bring the remaining five onto the system. These five jurisdictions are Delaware, Hawaii, Michigan, Utah, and Wisconsin.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff does not have a recommendation on this agenda item.

Attachment

None.



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MSG Item VII.
May 28, 2015

CBA Item IX.D.6.
May 28-29, 2015

Discussion Regarding Proposed Agenda Items for the Next MSG Meeting

Presented by: Matthew Stanley, Manager, Examination and Practice Privilege Units

Purpose of the Item

The purpose of this agenda item is to establish the items that will be included on the next agenda for the Mobility Stakeholder Group (MSG).

Action(s) Needed

The MSG will be asked to identify topics it wishes to discuss at its next meeting.

Background

As the MSG is intended to be representative of "stakeholders of the accounting profession in this state, including consumers," it may wish to set its future agenda during its meetings in order that all public input may be considered when deciding how best to proceed.

Comments

The following topics are being proposed for consideration when determining the agenda for the next MSG meeting:

- Review additional information provided by staff from other states/jurisdictions that will assist the CBA in making its determinations as to whether allowing licensees of a particular state to practice in California under a practice privilege violates its duty to protect the public

The MSG may wish to accept, alter, or add to these suggestions based on the direction in which it wishes to proceed.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff does not have a recommendation on this agenda item.

Attachment

None.



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CBA Item X.
May 28-29, 2015

Public Hearing and Possible Finding as to Whether NASBA's Guiding Principles of Enforcement Meet or Exceed the CBA's Enforcement Practices Made Pursuant to Business and Professions Code Section 5096.21(c)(2)

Presented by: Matthew Stanley, Manager, Examination and Practice Privilege Units

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with an opportunity to discuss the National Association of State Board of Accountancy's (NASBA) Guiding Principles of Enforcement (NASBA Enforcement Guidelines), along with the guidance of the Mobility Stakeholder Group (MSG), and issue a finding on whether it meets or exceeds the CBA's own enforcement practices pursuant to Business and Professions Code (BPC) section 5096.21(c)(2).

Action(s) Needed

The CBA will be asked to discuss NASBA's Enforcement Guidelines, and issue a finding on whether it meets or exceeds the CBA's enforcement practices.

Background

NASBA and its Enforcement Resources Committee developed a model of "Guiding Principles of Enforcement" as a resource to boards of accountancy. The intent is to provide a guideline to boards of accountancy for proactive enforcement that promotes consumer protection. This model additionally takes into consideration varying characteristics of each board regarding number of licensees, volume of complaints, and available resources, amongst others.

BPC section 5096.21(a) requires the CBA to make determinations as to whether allowing licensees of a particular state to practice in California under a no notice, no fee practice privilege violates its duty to protect the public. If this determination shows the public is at risk, the licensees of those particular states would, following a rulemaking by the CBA, revert back to using the prior practice privilege program with its notice and fee provisions. These determinations are to be made on and after January 1, 2016.

BPC section 5096.21(c) allows another method by which states can be deemed to protect the public, which would allow them to remain in the no notice, no fee practice privilege program. One of the steps in this method requires the CBA to, upon a majority vote at a regularly scheduled board meeting, issue a finding after a public hearing that the NASBA Enforcement Guidelines meet or exceed the CBA's own enforcement practices.

Public Hearing and Possible Finding as to Whether NASBA's Guiding Principles of Enforcement Meet or Exceed the CBA's Enforcement Practices Made Pursuant to Business and Professions Code Section 5096.21(c)(2)

Page 2 of 2

Comments

BPC section 5096.21(c)(2) states that the CBA must issue its finding regarding the NASBA Enforcement Guidelines at a public hearing. This agenda item fulfills the requirement for a public hearing, and the CBA encourages the public to participate in the process by providing comments on the NASBA Enforcement Guidelines and how they compare to the CBA's enforcement practices. The NASBA Enforcement Guidelines will be presented at the May 28, 2015, joint meeting of the CBA and MSG, and the CBA may wish to refer to the joint meeting materials as it discusses this item.

The NASBA Enforcement Guidelines serve as the criteria developed by NASBA and its Enforcement Resources Committee to aid boards of accountancy in promoting consumer protection by enhancing enforcement best practices.

The NASBA Enforcement Guidelines includes the following:

- Time Frames for prosecuting a complaint from intake to final disposition,
- Enforcement resources to adequately staff investigations,
- Case management,
- Disciplinary guidelines; and
- Internet disclosure.

Representatives of NASBA will be at the May 28, 2015 joint meeting of the CBA and MSG to discuss the NASBA Enforcement Guidelines and to answer any questions.

During the May 28, 2015 Joint CBA and MSG meeting, staff will present a comparison of NASBA's Enforcement Guidelines and the CBA's enforcement practices. Staff are asking the CBA to determine whether NASBA's Enforcement Guidelines meet or exceed the CBA's own enforcement practices pursuant to BPC section 5096.21(c)(2). The MSG will be providing guidance to the CBA on this matter under **Agenda Item IX.D.3.** to assist in the CBA's deliberations.

If the CBA finds that NASBA's Enforcement Guidelines meet or exceed the CBA's own enforcement practices pursuant to BPC section 5096.21(c)(2), the next step in the process will be to determine how best to compare other states' enforcement practices with the NASBA Enforcement Guidelines. It is anticipated this will be discussed at the CBA's July 2015 meeting. If the CBA's finds that the NASBA Enforcement Guidelines do not meet the CBA's enforcement practices, the CBA may ask NASBA to revise its NASBA Enforcement Guidelines, and, if the revisions are adequate, the CBA may issue a new finding at a later date.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff do not have a recommendation on this agenda item.

Attachment

None.



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CBA Item XI.A.
 May 28-29, 2015

DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
March 19-20, 2015
CBA MEETING

DRAFT

Wyndham Irvine-Orange County Airport
 17941 Von Karman Avenue
 Irvine, CA 92614
 Telephone: (949) 863-1999

Roll Call and Call to Order.

CBA President Jose Campos called the meeting to order at 1:34 p.m. on Thursday, March 19, 2015 at the Wyndham Irvine-Orange County Airport. The CBA convened into closed session at 5:04 p.m. until 5:37 p.m. The meeting reconvened into closed session on Friday, March 20, 2015 at 9:03 a.m. President Campos adjourned the meeting at 9:49 a.m.

CBA Members

March 19, 2015

Jose Campos, CPA, President	1:34 p.m. to 5:37 p.m.
Katrina Salazar, CPA, Vice-President	1:34 p.m. to 5:37 p.m.
Alicia Berhow, Secretary/Treasurer	1:34 p.m. to 5:37 p.m.
Sarah (Sally) Anderson, CPA	1:34 p.m. to 5:37 p.m.
Herschel Elkins, Esq.	1:34 p.m. to 5:37 p.m.
Laurence (Larry) Kaplan	1:34 p.m. to 5:37 p.m..
Louise Kirkbride	Absent
Kay Ko	1:34 p.m. to 5:37 p.m.
Leslie LaManna, CPA	1:34 p.m. to 5:37 p.m.
Xochitl León	1:34 p.m. to 5:37 p.m.
Michael Savoy, CPA	1:34 p.m. to 5:37 p.m.
Mark Silverman, Esq.	1:34 p.m. to 5:37 p.m.
Kathleen Wright, CPA	1:34 p.m. to 5:37 p.m.

CBA Members

March 20, 2015

Jose Campos, CPA, President	9:03 a.m. to 9:49 a.m.
Katrina Salazar, CPA, Vice-President	9:03 a.m. to 9:49 a.m.
Alicia Berhow, Secretary/Treasurer	9:03 a.m. to 9:49 a.m.
Sarah (Sally) Anderson, CPA	9:03 a.m. to 9:49 a.m.
Herschel Elkins, Esq.	9:03 a.m. to 9:49 a.m.
Laurence (Larry) Kaplan	Absent
Louise Kirkbride	Absent
Kay Ko	9:03 a.m. to 9:49 a.m.
Leslie LaManna, CPA	9:03 a.m. to 9:49 a.m.
Xochitl León	9:03 a.m. to 9:49 a.m.
Michael Savoy, CPA	9:03 a.m. to 9:49 a.m.
Mark Silverman, Esq.	9:03 a.m. to 9:49 a.m.
Kathleen Wright, CPA	9:03 a.m. to 9:49 a.m.

Staff and Legal Counsel

Patti Bowers, Executive Officer
Deanne Pearce, Assistant Executive Officer
Rich Andres, Information Technology Staff
Pat Billingsley, Regulations Analyst
Paul Fisher, Enforcement Supervising ICPA
Dominic Franzella, Chief, Enforcement Division
Kathryn Kay, Legislation Analyst
Corey Riordan, Board Relations Analyst
Gina Sanchez, Chief, Licensing Division
Kristy Schieldge, Legal Counsel, Department of Consumer Affairs (DCA)
Carl Sonne, Deputy Attorney General, Department of Justice (DOJ)
Matthew Stanley, Examination and Practice Privilege Manager

Committee Chairs and Members

Jeffrey De Lyser, Chair, Enforcement Advisory Committee
Sherry McCoy, Vice-Chair, Peer Review Oversight Committee

Other Participants

Colleen Conrad, CPA, Executive Vice President and Chief Operations
Officer, National Association of State Boards of Accountancy
George Famalett, CPA, PricewaterhouseCoopers
Jason Fox, California Society of Certified Public Accountants
Joseph Petito, The Accountants Coalition
Jon Ross, KP Public Affairs

I. Report of the President.

A. Introduction of Newly Appointed CBA Member, Kathleen Wright, CPA.

Ms. Wright introduced herself to the CBA.

B. National Association of State Boards of Accountancy (NASBA) Presentation Regarding Changes to the Uniform CPA Exam.

Ms. Conrad provided a presentation on the upcoming changes to the Uniform CPA Exam. Ms. Conrad stated that an exposure draft will be released in September 2015 and candidates will begin using the next version of the CPA Exam in the second quarter of 2017.

C. NASBA/American Institute of Certified Public Accountants (AICPA) Committee Interest Form.

Ms. Riordan stated that members interested in serving on a NASBA committee should submit an online application by April 29, 2015. She further stated that AICPA is accepting applications for the 2015-16 volunteer year until May 15, 2015.

D. Proposed 2016 CBA Meeting Dates and Locations.

It was moved by Ms. Salazar and seconded by Ms. Berhow to adopt the 2016 meeting dates and locations.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

E. DCA Director's Report.

There was no report on this item.

II. Report of the Vice President.

A. Report on Activities Related to the Sunset Review Process.

Ms. Salazar provided an overview of the activities related to the sunset review process. She stated that the Senate Business Professions and Economic Development Committee (BP&ED) released a Background Paper on the CBA that identified six issues and a recommendation for each issue. The issues identified in the background paper included the continuance of the peer review program, the CBA's progress in meeting the performance measure related to formal discipline, allowing the CBA to include permanent practice restrictions in a final disciplinary order, the adequacy of the Accountancy Fund Reserve level, and whether the CBA's sunset date should be extended. Ms. Salazar stated that Ms. Bowers and she testified at the Sunset Review Hearing on March 18, 2015, and at the hearing they provided an overview of the CBA, responses to three of the issues identified in the Background Paper, as requested by staff for the Senate BP&ED and respectfully requested that the CBA's sunset review date be extended.

Lastly, Ms. Salazar thanked immediate past CBA President Savoy for attending the hearing and CalCPA for providing public comment in support of the CBA.

- B. Recommendations for Appointment(s)/Reappointment(s) to the Enforcement Advisory Committee (EAC).

It was moved by Ms. Berhow and seconded by Mr. Elkins to appoint Thomas Gilbert, CPA, to the EAC for a two-year term, effective March 20, 2015 until March 31, 2017.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

It was moved by Mr. Elkins and seconded by Ms. Anderson to reappoint William Donnelly, CPA, to the EAC for a two-year term, effective until March 31, 2017.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

- C. Recommendations for Appointment(s)/Reappointment(s) to the Qualifications Committee (QC).

It was moved by Ms. Berhow and seconded by Mr. Silverman to appoint Eric Borigini, CPA, David Collins, CPA, Saboohi Currim, CPA, Kristian George, CPA, and Jose Palma, CPA, to the QC for a two-year term, effective March 20, 2015 until March 31, 2017.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

- D. Recommendations for Appointment(s)/Reappointment(s) to the Peer Review Oversight Committee.

It was moved by Mr. Silverman and seconded by Ms. Anderson to appoint Kevin Harper, CPA, to the PROC effective March 20, 2015 to March 31, 2017 and reappoint Jeffrey De Lyser, CPA, to the PROC effective until March 31, 2017.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

III. Report of the Secretary/Treasurer.

A. Fiscal Year 2014–15 Mid-Year Financial Statement and Governor's Budget.

Ms. Berhow provided an overview of this agenda item. She stated that the fiscal year (FY) 2014-15 budget is currently set at \$13,413,000 and the Governor's budget is estimated to provide the CBA with a budget of \$14,161,000 for FY 2015-16. She stated that the CBA has collected \$2.9 million in the second quarter of FY 2014-15 and the total expenditures through the second quarter reflect an approximate 11 percent increase over the same period last fiscal year.

Mr. Savoy stated that during the Sunset Review Hearing the Legislature questioned that the reserve was too low; however he noted that during the previous sunset review process, it was stated that the reserve was too high. Mr. Savoy inquired about which branch of the government decides to take funds from the CBA's reserve.

Ms. Bowers stated that the Governor's office makes the decision. She further stated that after the last Sunset Review, a provision in law that required the CBA to maintain a nine-month reserve was amended to make the CBA consistent with other boards. Due to the amendment, staff for the Senate BP&ED recommended that the CBA maintain a 24 month reserve.

Lastly, Ms. Berhow stated that the CBA ended the second quarter with 9.5 months in reserve and it is anticipated that an additional \$750,000 in BreEZe costs will be needed in the next three fiscal years.

B. Discussion and Possible Action to Initiate a Rulemaking to Propose Changes to Title 16, California Code of Regulations Sections 70 – Fees.

Ms. Pearce provided an overview of this agenda item. Ms. Pearce informed the CBA that the Department of Finance released its loan obligation report and the CBA is projected to receive an additional \$11 million loan repayment in FY 2017-18. Ms. Pearce also stated that the CBA's Background Paper for the Sunset Review contained a recommendation to increase the CBA's reserve to a level at or slightly below 24 months of expenditures.

Ms. Anderson inquired if the CBA will have an additional \$14 million of unscheduled loan repayments from the General Fund, why are we asking licensees to pay additional fees.

Mr. Campos confirmed Ms. Anderson was inquiring what the months in

reserve would be if the CBA included the additional unscheduled repayments.

Ms. Pearce stated that the repayments would result in approximately ten additional months in reserve.

Ms. LaManna suggested that the CBA approve Scenario 2, as it would increase the months in reserve to 12.5 months and should the CBA receive the unscheduled repayments of the loans from the General Fund, the months in reserve will be near the recommended 24 months.

Ms. Salazar suggested that the CBA consider its mission, which is to protect consumers, as it makes a decision and expressed her concern that if the CBA has a major and complex enforcement case, the CBA may not be able to continue its mission.

Mr. Campos provided a brief overview of the fee proposals provided by CBA staff and stated that after the deliberation, a motion would be required to initiate a rulemaking.

It was moved by Ms. Salazar and seconded by Ms. Berhow to approve Scenario 2 restoring the license renewal and initial permit fees to \$200, initiate the rulemaking process in order to conduct the regulatory hearing at the May 2015 CBA meeting, and authorize the Executive Officer to make any non-substantive changes.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

IV. Report of the Executive Officer (EO).

A. Update on the Relocation of the CBA's Office.

Ms. Bowers stated that the relocation is still in process and she has signed the lease. She stated that once the lessor has signed, she will be able to release the exact location to the CBA and staff.

B. Update on Staffing.

Ms. Bowers introduced Pat Billingsley as the new Regulations Analyst and welcomed him to the CBA.

C. Update on BreEZe Project.

Ms. Pearce provided an overview of this agenda item.

Mr. Elkins confirmed that the CBA would not transition to BreEZe until 2018 or 2019.

D. Update on the CBA 2013-2015 Communications and Outreach Plan (Written Report Only).

There were no comments on this item.

V. Report on the Enforcement Advisory Committee, Qualifications Committee, and the Peer Review Oversight Committee.

A. Enforcement Advisory Committee (EAC).

1. Report of the January 29, 2015 EAC Meeting.

Mr. De Lyser thanked President Campos for attending the EAC meeting. He stated that at the meeting, the EAC reviewed 25 closed cases and two open investigations, and conducted one investigative hearing.

B. Qualifications Committee (QC).

There was no report on this item.

C. Peer Review Oversight Committee (PROC).

1. Report on the January 30, 2015 PROC Meeting.

Ms. McCoy reported on various oversight events that the PROC members participated in, including the AICPA Peer Review Board meeting, CalCPA Report Acceptance Board meeting, and review of out-of-state peer review administering entities.

2. Presentation and Approval of the 2014 PROC Annual Report.

Ms. McCoy presented the 2014 PROC Annual Report.

It was moved by Mr. Savoy and seconded by Ms. Anderson to approve the 2014 PROC Annual Report.

Yes: Ms. Anderson, Mr. Campos, Mr. Elkins, Ms. Ko, Ms. LaManna, Ms. León, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: Mr. Kaplan.

Absent: Ms. Berhow.

The motion passed.

VI. Report of the Enforcement Chief.

A. Report on Enforcement Division Activity.

Mr. Franzella provided an overview of this agenda item. Mr. Franzella noted that the CBA received almost 500 additional complaints since the last reporting period. He stated that 73 investigations have been pending for a period of 18-24 months. Mr. Franzella stated that the top violation resulting in the issuance of a citation was related to the continuing education requirements. Lastly, Mr. Franzella thanked Mr. Sonne for providing CBA staff with training regarding testifying and expert testimony.

VII. Report of the Licensing Chief.

A. Licensing Activity Report.

Ms. Sanchez introduced herself to the CBA and provided an overview of this agenda item. She stated that the examination and initial licensing units are processing applications within the 30-day timeframe. Ms. Sanchez stated staff recently attended two outreach events to provide information and answer questions regarding the CPA examination and the new licensure education requirements and will be attending two additional events in April.

VIII. Committee Reports.

A. Mobility Stakeholder Group (MSG).

1. Report of the March 19, 2015 MSG Meeting.
2. The MSG Decision Matrix and Stakeholder Objectives.

There were no comments on this item.

3. Discussion Regarding the Consumer Protection Provisions of Business and Professions Code Sections (BPC) 5096.2 – 5096.21.

Ms. Salazar reported that staff provided an overview of the consumer protection provisions of the practice privilege law in BPC sections 5096.2 – 5096.21, including discipline of a practice privilege, administrative suspension, out-of-state firm registrations, changes to the CBA website, and reporting requirements. She stated that the MSG is expected to review the law in combination with the first few years of mobility statistics prior to issuing its final report in 2017.

4. Discussion and Approval of the MSG Annual Report.

Ms. Salazar presented the CBA with the 2014 Annual MSG Report. She noted that the report details: the activities of the MSG during its first year; provides an overview of the MSG and its responsibilities; an overview of the practice privilege program, including changes to the program; and statistics for the practice privilege program. Lastly, she stated that the final report will be modified with two changes to provide clarity. The changes are:

- The chart on page 6 of the report will contain an asterisk to note that the United States Securities and Exchange Commission and Public Company Accounting Oversight Board disciplinary actions are not specific to California licensees or practice privilege holders.
- The chart on page 7 of the report will contain an asterisk to note that the numbers provided are hits to the specific web pages and if the hits are unique.

5. Report on the New York Board of Accountancy's Practice Privilege Program.

Ms. Salazar reported that during the MSG's November 2014 meeting, members inquired about New York's experiences with the pre-notification requirement. She stated that staff contacted the New York Board of Accountancy and were told that it has not received any pre-notifications since the implementation of the program.

6. Discussion and Recommendation to the CBA Regarding Approval of Timeline and Plan for Making Determinations Required Pursuant to Business and Professions Code Section 5096.21.

Ms. Salazar reported that the MSG reviewed the timeline and plan for making determinations required pursuant to BPC section 5096.21. She stated that BPC section 5096.21(a) requires the CBA to make determinations as to whether allowing licensees of a particular state to

practice in California under the no notice, no fee practice privilege provisions violates its duty to protect the public. If this determination shows the public is at risk, the licensees of those particular states would, following a rulemaking by the CBA, revert back to using the prior practice privilege program, which included notice and fee provisions. She also noted that the CBA determinations must be made on or after January 1, 2016. Ms. Salazar stated that although the timeline does not include it, a second track is being deemed substantially equivalent, which involves NASBA's national enforcement guidelines and best practices.

The MSG recommends that the CBA adopt the proposed timeline and plan for making the required determinations.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

7. Discussion and Recommendation to the CBA Regarding the Basis for Making Determinations Required Pursuant to Business and Professions Code Section 5096.21.

Ms. Salazar reported that the MSG reviewed the data for three factors that the CBA is required to consider when making determinations required pursuant to BPC section 5096.21 and provided input regarding additional data that is needed. The MSG requested the following additional information: whether each state has a mandatory peer review process, the number of enforcement referrals each state has made to the CBA, and incorporate any information NASBA may have regarding each state. Ms. Salazar stated that staff recommended a letter be prepared and sent to each state. She noted the letter would request specific information from each state and include possible ramifications should the CBA determine that the state does not meet the minimum standards.

The MSG recommends that the CBA provide any input it may have regarding additional information that it may need to make the required determinations and approve the proposed method for obtaining the necessary information.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

8. Discussion Regarding the CBA's Practice Privilege Preliminary Determinations Report.

Ms. Salazar reported that the MSG provided guidance to staff regarding the terms below and any additional guidance from the CBA would be welcomed.

1. Timely and Adequately Addressing Enforcement Referrals – The MSG recommended using California's current performance measures as initial guideline that may be altered as additional information is received.
2. Adequately Linking Consumers to Electronic Information – The MSG recommended that the information that was available on the old practice privilege notification form be the minimum amount of information required.
3. Appropriate Discipline in Light of Misconduct – The MSG recommended that the number of licensees in each state be ascertained and that each state be evaluated based on their size, procedures, and laws.

Additionally, Ms. Salazar stated that it was the opinion of the MSG that states not be named in the report and it was also requested that a reference to the NASBA enforcement guidelines and best practices be made in the report.

The MSG recommended that the CBA provide any additional guidance on the draft report and that the CBA exclude specific state names in the draft Preliminary Determinations Report.

Yes: Ms. Anderson, Mr. Campos, Mr. Elkins, Ms. Ko, Ms. LaManna, Ms. León, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: Mr. Kaplan.

Absent: Ms. Berhow.

The motion passed.

9. Discussion Regarding NASBA's Activities and CPAVerify.

Ms. Salazar reported that at its November 2014 meeting, the MSG requested that this agenda item become a standing item for all future meetings. She also stated that the MSG requested that staff determine if there was a timeframe for New York to report disciplinary information to the Accountancy Licensing Database (ALD).

Ms. Salazar stated that the MSG was informed that New York's enforcement computer system, which belongs to the board's parent agency, is not capable of sending the information to ALD due to its age. She stated that though New York has discussed upgrading the system, there are no plans to do so at this time.

10. Discussion Regarding Proposed Agenda Items for the Next MSG Meeting.

Ms. Salazar reported that the MSG will be discussing a review of the NASBA Enforcement Guidelines and a review of additional information gathered to assist the CBA in making its determinations regarding other states at its next meeting.

B. Strategic Planning Committee (SPC).

1. Report on the March 19, 2015 SPC Meeting.
2. Discussion Regarding the Process to Develop the 2016-2018 Strategic Plan.

The SPC recommended that the CBA direct staff to engage DCA Strategic Organization Leadership and Individual Development Strategic Planning Unit to facilitate the development of the 2016-2018 Strategic Plan and provide members with an opportunity to participate in a Strength, Weakness, Opportunity and Threat analysis.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

C. Committee on Professional Conduct (CPC).

1. Report of the March 19, 2015 CPC Meeting.
2. Discussion and Update Regarding the Pretesting of the Attest Study Survey Items and Delegation of Authority to Approve Necessary Changes.

Ms. LaManna reported that the CPC reviewed information regarding the pretesting of the attest study questions prior to the launch of the survey and approved delegating authority to the CPC Chair to make any changes to the attest study items as a result of the pretest.

The CPC recommended that the CBA delegate authority to Ms. LaManna to approved any changes to the attest study items as a result of the pretest.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

D. Legislative Committee (LC).

1. Report of the March 19, 2015 LC Meeting.
2. Update on Sunset Review Activities and Considerations on Position on Senate Bill 467.

Mr. Silverman reported that Senator Jerry Hill, Chair of the Senate BP&ED Committee, introduced Senate Bill (SB) 467, which seeks to extend the CBA's sunset date to January 1, 2020. He also stated that staff have been advised that SB 467 will be amended to include the

CBA's legislative proposal for permanent practice restrictions, which will provide the CBA the authority to include permanent restrictions as a part of a final disciplinary order.

The LC recommended that the CBA take a support position on SB 467.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

3. Update on Legislative Proposals for Inclusion in the 2015 Annual Omnibus Bill.

Mr. Silverman reported that the CBA directed staff to submit three legislative proposals to the Legislature for inclusion in the annual omnibus bill related to the following:

- Recast and strengthen the reciprocity provision relating to the status of an out-of-state licensee applying for licensure in California
- Clarifying license restoration requirements for a license placed in retired status
- Allowing the CBA to include permanent practice restrictions as part of a final disciplinary order

Mr. Silverman stated that the LC was informed that the proposals were accepted except the permanent practice restrictions proposal, which will be amended in SB 467.

The LC recommended that the CBA take a support position on SB 799 and send a letter to the Senate BP&ED Committee expressing support of the proposed changes specific to the Accountancy Act.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

4. Review of Introduced Legislation and Consideration of Possible Position.

- a. AB 12 – State government: administrative regulations: review.

There were no comments on this item.

- b. AB 19 – State government: regulations.

There were no comments on this item.

- c. AB 85 – Open meetings.

Mr. Silverman reported that the LC discussed Assembly Bill (AB) 85.

The LC recommended that the CBA take a watch position on AB 85 to allow staff to further communicate and work with the author's office and provide regular updates to the CBA as the bill moves through the legislative process.

Yes: Ms. Anderson, Mr. Kaplan, Ms. Ko, Ms. León, Ms. Salazar, and Ms. Wright.

No: Ms. Berhow, Mr. Campos, Mr. Elkins, Ms. LaManna, Mr. Savoy, and Mr. Silverman.

Abstain: None.

Absent: None.

The motion failed.

It was moved by Mr. Elkins, seconded by Ms. LaManna that the CBA take an oppose position on AB 85 and send a letter to the author's office.

Yes: Ms. Berhow, Mr. Campos, Mr. Elkins, Ms. LaManna, Mr. Savoy, and Mr. Silverman.

No: Ms. Anderson, Mr. Kaplan, Ms. Ko, Ms. Salazar, and Ms. Wright.

Abstain: Ms. León

Absent: None.

The motion passed.

- d. AB 507 – Department of Consumer Affairs.

There were no comments on this item.

- e. AB 513 – Professions and vocations.

There were no comments on this item.

- f. SB 8 – Taxation.

Mr. Silverman reported that the LC discussed SB 8.

The LC recommended that the CBA take a watch position on SB 8 and direct staff to continue to monitor its development.

Yes: Ms. Anderson, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. León, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: Mr. Campos and Ms. LaManna.

Abstain: Ms. Berhow.

Absent: None.

The motion passed.

5. Additional Legislation Impacting the CBA Identifies After the Posting of the Meeting Notice.

Mr. Silverman reported that staff identified four additional bills, AB 750, AB 1060, AB 1215, and SB 729, which do not presently have an impact on the CBA. He stated that the LC requested that staff continue to monitor AB 1060, as concerns were raised regarding the effectiveness of electronic transmission of information to licensees that have had their license revoked.

Mr. Elkins stated that the LC requested that staff reach out to the

author to clarify if the bill would authorize the board to provide information through electronic means only or if it would be in addition to with first class mail.

E. Enforcement Program Oversight Committee (EPOC).

1. Report of the March 19, 2015 EPOC Meeting.
2. Discussion Regarding the CBA's Provisions for Language Assistance.

Ms. Ko reported that staff provided an overview of Article 8 of the Administrative Procedure Act related to Language Assistance and that a statement was recently added to online and hardcopy complaint intake forms regarding language assistance.

Ms. Ko also stated that during the discussions members suggested that the topic of language assistance be broadened to other areas including licensing and that the statement be translated in Spanish as well.

3. Discussion Regarding Proposed Agenda Items for 2015.

Ms. Ko reported that the EPOC approved staff's proposed agenda items for 2015, including:

- A review of CBA Regulations section 95.5 on formal and informal citation appeals
- A discussion regarding compelling mental health evaluations of licensees and applicants

IX. Acceptance of Minutes.

- A. Draft Minutes of the January 22, 2015 CBA Meeting.
- B. Minutes of the November 20, 2014 Meeting.
- C. Minutes of the January 22, 2015 LC Meeting.
- D. Minutes of the January 22, 2015 CPC Meeting.
- E. Minutes of the November 20, 2014 SPC Meeting.
- F. Minutes of the November 20, 2014 MSG Meeting.
- G. Minutes of the December 11, 2014 EAC Meeting.
- H. Minutes of the August 22, 2014 PROC Meeting.

I. Minutes of the December 10, 2014 PROC Meeting.

It was moved by Ms. Berhow and seconded by Mr. Silverman to approve agenda items IX.A. – IX.I.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: Ms. León and Ms. Wright.

Absent: None.

The motion passed.

X. Other Business.

A. American Institute of Certified Public Accountants (AICPA).

There was no report for this item.

B. National Association of State Boards of Accountancy (NASBA).

1. Report on Strategic Planning Task Force.

Mr. Savoy stated that he participated in a teleconference meeting on January 10, 2015 to discuss logistics, including how and when the committee will meet. He stated it was determined that an in-person meeting will be held at the beginning of June.

2. Nominations for NASBA 2015-2016 Vice Chair.

Ms. Riordan stated that NASBA was seeking individuals interested in serving as Vice Chair of NASBA for the 2015-2016 year.

3. Proposed Responses to NASBA Focus Questions.

It was moved by Ms. Berhow and seconded by Mr. Silverman to approve the responses to the NASBA focus questions.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: None.

The motion passed.

XI. Closing Business.

A. Public Comments.*

There were no comments.

B. Agenda Items for Future CBA Meetings.

There were no suggested agenda items for future CBA meetings.

C. Press Release Focus.

Ms. Pearce proposed a press release topic regarding the Sunset Review Hearings.

XII. Closed Session.

A. Pursuant to Government Code Section 11126(c)(3), the CBA Convened Into Closed Session to Deliberate on Disciplinary Matters (Stipulated Settlements, Default Decisions, and Proposed Decisions).

B. Pursuant to Government Code Section 11126(e), the CBA Convened Into Closed Session to Receive Advice from Legal Counsel on Litigation (*David Greenberg v. California Board of Accountancy, Orange County Superior Court, Case No. 30-2014-00751855-CU-BT-CJC*).

President Campos adjourned the meeting at 9:49 a.m. on Friday, March 20, 2015.

Jose A. Campos, CPA, President

Alicia Berhow, Secretary-Treasurer

Corey Riordan, Board Relations Analyst, and Patti Bowers, Executive Officer, CBA, prepared the CBA meeting minutes. If you have any questions, please call (916) 561-1718.

**DEPARTMENT OF CONSUMER AFFAIRS**

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MSG Item I.
 May 28, 2015

CBA Item XI.B.
 May 28-29, 2015

DEPARTMENT OF CONSUMER AFFAIRS (DCA)
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
March 19, 2015
MOBILITY STAKEHOLDER GROUP (MSG) MEETING

DRAFT

Wyndham Irvine-Orange County Airport
 17941 Von Karman Avenue
 Irvine, CA 92614
 Telephone: (949) 863-1999

CALL TO ORDER

Katrina Salazar, Chair, called the meeting of the MSG to order at 9:33 a.m. Ms. Salazar requested that the roll be called.

Members

Katrina Salazar, CPA, Chair	Present
Jose Campos, CPA	Present
Ed Howard, Esq.	Absent
Dominic Franzella	Present
Joe Petito, Esq.	Present
Stuart Waldman	Absent

CBA Members Observing

Alicia Berhow
 Herschel Elkins, Esq.
 Larry Kaplan
 Kay Ko
 Xochitl Léon
 Michael Savoy, CPA
 Mark Silverman, Esq.
 Kathleen Wright, CPA

CBA Staff and Legal Counsel

Patti Bowers, Executive Officer

Deanne Pearce, Assistant Executive Officer
Rich Andres, Information Technology Staff
Pat Billingsley, Regulations Analyst
Kate Kay, Legislative Analyst
Corey Riordan, Board Relations Analyst
Paul Fisher, Supervising Investigative CPA
Gina Sanchez, Licensing Chief
Lauren Hersh, Information Officer
Kristy Schieldge, Senior Staff Counsel, Department of Consumer Affairs, Legal Affairs
Carl Sonne, Supervising Deputy Attorney General
Matthew Stanley, Manager, Examination and Practice Privilege Units

Other Participants

Jason Fox, California Society of CPAs (CalCPA)
Jon Ross, KP Public Affairs
Jeffrey De Lyser, CPA, Chair, Enforcement Advisory Committee
Manuel Ramirez, CPA
Sherry McCoy, CPA, Peer Review Oversight Committee
George Famalett, CPA, Pricewaterhouse Coopers

I. New Voting Procedure Effective January 1, 2015.

Mr. Stanley presented and outlined the new voting procedures effective January 1, 2015. Effective January 1, 2015, Government Code section 11123 was amended, by the passage of Assembly Bill 2720, to require that all state bodies publicly report any action taken and the vote or abstention on that action of each member present for the action.

II. Approval of Minutes of the November 20, 2014 MSG Meeting.

It was moved by Mr. Campos and seconded by Mr. Petito to approve the minutes of the November 20, 2014 MSG Meeting.

Yes: Ms. Salazar, Mr. Petito, and Mr. Campos.

No: None.

Abstain: Mr. Franzella.

Absent: Mr. Howard and Mr. Waldman.

The motion passed.

III. The MSG Decision Matrix and Stakeholder Objectives (Written Report Only).

Mr. Stanley provided a written report highlighting decisions made by the MSG, as well as the stakeholder objectives identified to date.

IV. Discussion Regarding the Consumer Protection Provisions of Business and Professions Code Section 5096.2 through 5096.21.

Mr. Stanley provided an overview of the consumer protection provisions of the practice privilege law in Business and Professions Code (BPC) sections 5096.2 through 5096.21. Mr. Stanley noted that this was only an initial review as it is expected the MSG will again review the law in combination with the first few years of mobility statistics prior to issuing its final report in 2017.

Mr. Stanley indicated that the provisions that were reviewed included discipline of a practice privilege, administrative suspension, out-of-state firm registrations, the changes to the CBA website, and reporting requirements.

A final review of the law will take place in 2017.

V. Discussion and Approval of the MSG Annual Report.

Mr. Stanley presented the draft MSG Annual Report for 2014, which detailed the activities of the MSG during its first year. He noted the report also included overviews of the MSG and its responsibilities, the practice privilege program, and statistics of the practice privilege program. Mr. Stanley noted the report also detailed the anticipated topics of discussion for the MSG during 2015.

Mr. Campos requested an additional note be added to the Enforcement Division chart to reflect that the statistics pertaining to the Securities and Exchange Commission and Public Company Accounting Oversight Board disciplinary actions are not specific to California practice privilege holders or licensees. He further requested an additional note be added to the web usage chart to indicate the numbers are reporting the number of hits to specific web pages.

Ms. Salazar inquired as to whether the hits to each web page are unique hits. CBA staff will research the inquiry and add whether the hits are unique or not.

It was moved by Mr. Campos and seconded by Mr. Petito to accept the Annual Report of the MSG with modifications to pages 6-7.

Yes: Ms. Salazar, Mr. Campos, and Mr. Petito.

No: None.

Abstain: Mr. Franzella.

Absent: Mr. Howard and Mr. Waldman.

The motion passed.

VI. Report on the New York Board of Accountancy's Practice Privilege Program.

Mr. Stanley indicated that a question was raised during the MSG's November 2014 meeting regarding New York's experiences with the pre-notification requirement. He indicated that staff contacted the New York Board of Accountancy and were told they have not received any pre-notifications since implementation of the program.

VII. Discussion and Approval of the Timeline for Making Determinations Required Pursuant to Business and Professions Code Section 5096.21.

Mr. Stanley presented a timeline for making determinations required pursuant to BPC section 5096.21. BPC section 5096.21(a) requires the CBA to make determinations as to whether allowing licensees of a particular state to practice in California under a no notice, no fee practice privilege violates its duty to protect the public. If this determination shows the public is at risk, the licensees of those particular states would, following a rulemaking by the CBA, revert back to using the prior practice privilege program with its notice and fee provisions. He noted these determinations are to be made on and after January 1, 2016.

Mr. Petito clarified that there is a second track to being deemed sufficient, which involves the National Association of State Boards of Accountancy's (NASBA) national enforcement guidelines and best practices.

Mr. Stanley indicated that states gaining approval through this second track would not fall under the proposed timeline.

It was moved by Mr. Campos and seconded by Mr. Franzella to approve the timeline for making determinations pursuant to BPC section 5096.21.

Yes: Mr. Campos, Mr. Petito, Ms. Salazar, and Mr. Franzella.

No: None.

Abstain: None.

Absent: Mr. Howard and Mr. Waldman.

The motion passed.

VIII. Discussion Regarding the Basis for Making Determinations Required Pursuant to Business and Professions Code Section 5096.21.

Mr. Stanley stated the CBA is required to consider three factors when making the determinations in January 2016, as follows:

- Whether the state timely and adequately addresses enforcement referrals made by the board to the accountancy regulatory board of that state, or otherwise fails to respond to requests the board deems necessary to meet its obligations under this article.
- Whether the state makes the disciplinary history of its licensees publicly available through the Internet in a manner that allows the board to adequately link consumers to an Internet Web site to obtain information that was previously made available to consumers about individuals from the state prior to January 1, 2013, through the notification form.
- Whether the state imposes discipline against licensees that is appropriate in light of the nature of the alleged misconduct.

He provided preliminary data for all three factors on a state-by-state basis. The MSG reviewed the data and provided input regarding additional data they wish to include.

Ms. Salazar asked whether information can be added reflecting which states had a mandatory peer review program. She also inquired as to the number of enforcement referrals California receives from each state.

Mr. Petito stated his concern with how to address those states to which California has not made enforcement referrals.

Staff will incorporate the following into the proposed letter:

- Whether each state has a mandatory peer review process.
- The number of enforcement referrals each state has made to the CBA.

Mr. Stanley recommended a letter be prepared for each state as notification of the process the CBA is undertaking to review each state, the possible ramifications for other states and licensees exercising a practice privilege in California, and to request additional information needed as identified by the MSG and CBA.

It was moved by Mr. Campos and seconded by Mr. Petito to approve the basis for making determinations required pursuant to BPC section 5096.21

Yes: Ms. Salazar, Mr. Petito, Mr. Campos, and Mr. Franzella.

No: None.

Abstain: None.

Absent: Mr. Howard and Mr. Waldman.

The motion passed.

IX. Discussion Regarding the Practice Privilege Preliminary Determinations Report.

Mr. Stanley stated the practice privilege preliminary determinations report is due by July 1, 2015 as required pursuant to BPC section 5096.21(a). The MSG provided initial guidance on certain terms referred to in the law: timely and adequately addressing enforcement referrals, adequately linking consumers to electronic information, and appropriate discipline in light of the misconduct.

Ms. Salazar and Mr. Petito suggested using California's current performance measures as an initial guideline that may be altered as additional information is received.

Mr. Stanley reported the information that was available on the old practice privilege notification form is the minimum amount of information that needs to be available to consumers electronically.

Ms. Salazar requested the number of licensees in each state be ascertained and that each state be evaluated based on their size, procedures and laws.

The MSG decided not to name individual states in the draft report but wish to include a reference to the NASBA enforcement guidelines and best practices.

X. Discussion Regarding NASBA's Activities and CPAVerify.

Mr. Stanley provided a chart with data on each state regarding what enforcement-related information is available online regarding those states' licensees.

The MSG previously asked staff to determine if there was a timeframe for New York to correct their technical limitations in reporting disciplinary information to the Accountancy Licensee Database. Mr. Stanley reported it is a matter of New York's enforcement computer system, which belongs to the board's parent agency, and that New York has yet to determine when they will upgrade their e-licensing system at this time.

XI. Discussion Regarding Proposed Agenda Items for the Next MSG Meeting.

Mr. Stanley suggested the following items for the next MSG meeting:

- A review of the NASBA Enforcement Guidelines; and
- A review of additional information gathered to assist the CBA in making its determinations regarding other states.

The MSG had no objections or additions.

XII. Public Comments.

There were no public comments.

There being no further business, the meeting was adjourned at 11:29 a.m.

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CPC Item I.
 May 28, 2015

CBA Item XI.C.
 May 28-29, 2015

DEPARTMENT OF CONSUMER AFFAIRS (DCA)
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
March 19, 2015
COMMITTEE ON PROFESSIONAL CONDUCT (CPC) MEETING

DRAFT

Wyndham Irvine-Orange County Airport
 17941 Von Karman Avenue
 Irvine, CA 92614
 Telephone: (949) 863-1999

The regularly scheduled meeting of the CPC was called to order at approximately 11:43 a.m. on March 19, 2015, by CPC Chair, Leslie LaManna.

CPC Members

Leslie LaManna, CPA, Chair	11:43 a.m. – 11:47 a.m.
Sarah (Sally) Anderson, CPA	11:43 a.m. – 11:47 a.m.
Jose Campos, CPA	11:43 a.m. – 11:47 a.m.
Laurence (Larry) Kaplan	11:43 a.m. – 11:47 a.m.
Kay Ko	11:43 a.m. – 11:47 a.m.
Louise Kirkbride	Absent
Michael Savoy, CPA	11:43 a.m. – 11:47 a.m.

CBA Members Observing

Herschel Elkins, Esq.
 Xochitl León
 Kathleen Wright, CPA

CBA Staff and Legal Counsel

Patti Bowers, Executive Officer
 Deanne Pearce, Assistant Executive Officer
 Rich Andres, Information Technology Staff
 Pat Billingsley, Regulations Analyst
 Paul Fisher, Supervising Investigative CPA
 Dominic Franzella, Chief, Enforcement Division
 Lauren Hersh, Information and Planning Manager

Kathryn Kay, Legislative Analyst
Corey Riordan, Board Relations Analyst
Gina Sanchez, Chief, Licensing Division
Kristy Schieldge, Senior Staff Counsel, DCA Legal Affairs
Carl Sonne, Deputy Attorney General, Department of Justice (DOJ)
Matthew Stanley, Manager, Examination and Practice Privilege Units

Other Participants

George Famalett, PricewaterhouseCoopers, LLP
Jason Fox, California Society of Certified Public Accountants (CalCPA)
Sherry McCoy, Vice Chair, Peer Review Oversight Committee (PROC)
Pilar Oñate Quintana, KP Public Affairs
Joseph Petito, The Accountants Coalition

- I. Approve Minutes of the January 22, 2015, CPC Meeting.

It was moved by Mr. Campos and seconded by Ms. Anderson to adopt the minutes of the January 22, 2015, CPC meeting.

Yes: Ms. LaManna, Ms. Anderson, Mr. Campos, Mr. Kaplan, Ms. Ko, and Mr. Savoy.

No: None.

Abstain: None.

The motion passed.

- II. Discussion and Update Regarding the Pretesting of the Attest Study Survey Items and Delegation of Authority to Approve Necessary Changes.

Mr. Stanley provided an overview of this item. He highlighted that pretests will be used by CPS HR Consulting to test the validity and reliability of each survey study item as there may be a variety of ways respondents can misread and even misconstrue study items. He added that pretesting will identify invalid feedback due to faulty study items and/or design, which will allow the CBA an opportunity to make changes to the attest study survey items prior to the release.

Mr. Stanley added that per Mr. Campos' request, Ms. LaManna has agreed to receive the authority to approve necessary changes to attest study survey items in his place.

It was moved by Ms. Anderson and seconded by Mr. Campos to delegate authority to Ms. LaManna to approve any necessary changes to the attest study survey items.

Yes: Ms. LaManna, Ms. Anderson, Mr. Campos, Mr. Kaplan, Ms. Ko, and Mr. Savoy.

No: None.

Abstain: None.

The motion passed.

V. Public Comments for Items Not on the Agenda.

None.

VI. Agenda Items for Next Meeting.

None.

Adjournment.

There being no further business to be conducted, the meeting was adjourned at approximately 11:47 a.m. on March 19, 2015.

**DEPARTMENT OF CONSUMER AFFAIRS**

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LC Item I.
 May 28, 2015

CBA Item XI.D.
 May 28-29, 2015

DEPARTMENT OF CONSUMER AFFAIRS (DCA)
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
March 19, 2015
LEGISLATIVE COMMITTEE (LC) MEETING

DRAFT

Wyndham Irvine-Orange County Airport
 17941 Von Karman Avenue
 Irvine, CA 92614
 Telephone: (949) 863-1999

The regularly scheduled meeting of the LC was called to order at approximately 11:49 a.m. on March 19, 2015, by LC Chair, Mark Silverman.

LC Members

Mark Silverman, Chair, Esq.	11:49 a.m. – 12:35 p.m.
Sarah (Sally) Anderson, CPA	11:49 a.m. – 12:35 p.m.
Herschel Elkins, Esq.	11:49 a.m. – 12:35 p.m.
Xochitl León	11:49 a.m. – 12:35 p.m.
Laurence (Larry) Kaplan	11:49 a.m. – 12:35 p.m.
Michael Savoy, CPA	11:49 a.m. – 12:35 p.m.
Kathleen Wright, CPA	11:49 a.m. – 12:35 p.m.

CBA Members Observing

Alicia Berhow, Secretary/Treasurer
 Kay Ko
 Leslie LaManna, CPA
 Katrina Salazar, Vice-President, CPA

CBA Staff and Legal Counsel

Patti Bowers, Executive Officer
 Deanne Pearce, Assistant Executive Officer
 Rich Andres, Information Technology Staff
 Pat Billingsley, Regulations Analyst
 Paul Fisher, Supervising Investigative CPA
 Dominic Franzella, Chief, Enforcement Division

Lauren Hersh, Information and Planning Manager
Kathryn Kay, Legislative Analyst
Corey Riordan, Board Relations Analyst
Gina Sanchez, Chief, Licensing Division
Kristy Schieldge, Senior Staff Counsel, DCA Legal Affairs
Carl Sonne, Deputy Attorney General, Department of Justice (DOJ)
Matthew Stanley, Manager, Examination and Practice Privilege Units

Committee Chairs and Members

Jeffrey De Lyser, Chair, Enforcement Advisory Committee (EAC)
Sherry McCoy, Vice-Chair, Peer Review Oversight Committee (PROC)

Other Participants

George Famalett, PricewaterhouseCoopers, LLP
Jason Fox, California Society of Certified Public Accountants (CalCPA)
Joseph Petito, The Accountants Coalition
Jonathan Ross, KP Public Affairs

- I. Approve Minutes of the January 22, 2015, LC Meeting.

It was moved by Mr. Savoy and seconded by Ms. Anderson to adopt the minutes of the January 22, 2015, LC meeting.

Yes: Mr. Silverman, Ms. Anderson, Mr. Elkins, Mr. Kaplan, Ms. León, Mr. Savoy, and Ms. Wright.

No: None.

Abstain: None.

The motion passed.

- II. Update on Sunset Review Activities and Consideration of Position on Senate Bill 467.

Ms. Kay provided an overview of this item. She highlighted that Senator Jerry Hill, Chair of the Senate Business and Professions, introduced Senate Bill (SB) 467 on February 25, 2015, which seeks to extend the CBA's sunset date from January 1, 2016 to January 1, 2020.

Ms. Kay reported staff has been advised that SB 467 will be amended to include the CBA's legislative proposal for permanent practice restrictions, which will provide it with the authority to include permanent practice restrictions as part of a final disciplinary order.

It was moved by Mr. Elkins and seconded by Ms. Anderson to recommend that the CBA take a support position on SB 467.

Yes: Mr. Silverman, Ms. Anderson, Mr. Elkins, Mr. Kaplan, Ms. León, Mr. Savoy, and Ms. Wright.

No: None.

Abstain: None.

The motion passed.

III. Update on Legislative Proposals for Inclusion in the 2015 Annual Omnibus Bill.

Ms. Kay highlighted that at the January 2015 meeting, the CBA directed staff to submit three legislative proposals to the Legislature for inclusion in the annual omnibus bill related to:

- recasting and strengthening the reciprocity provision relating to the status of an out-of-state licensee applying for licensure in California
- clarifying license restoration requirements for a license placed in retired status
- allowing the CBA to include permanent practice restrictions as part of a final disciplinary order

Ms. Kay stated that as reported in the previous item, the permanent practice restrictions legislative proposal will be amended into SB 467, the CBA's sunset legislation.

She reported that the other two legislative proposals – relating to reciprocity and retired status – were accepted by the Senate Business, Professions and Economic Development Committee for inclusion in the annual omnibus bill, which was introduced on March 18, 2015, as SB 799.

Ms. Wright inquired about the impact of the legislative proposal related to the retired status provision.

Ms. Kay stated that this legislative proposal would make reference to the restoration requirements of a canceled license placed into retired status. She added that pursuant to Business and Professions Code (BPC) section 5070.7, a canceled license may not be restored, renewed, or reinstated, and that this proposal would amend the retired status provision to include reference to BPC section 5070.7, adding further clarity that a license that was originally canceled and subsequently converted to a retired status cannot then be renewed, restored, or reinstated.

It was moved by Mr. Elkins and seconded by Mr. Kaplan to recommend that the CBA take a Support position on SB 799 with respect to the proposed language to amend the Accountancy Act and direct staff to send a letter of support to the Senate Business, Professions and Economic Development Committee.

Yes: Mr. Silverman, Ms. Anderson, Mr. Elkins, Ms. León, Mr. Kaplan, Mr. Savoy, and Ms. Wright.

No: None.

Abstain: None.

The motion passed.

IV. Review of Introduced Legislation and Consideration of Possible Position.

A. AB 12 – State government: administrative regulations: review.

This was provided for information only, as staff did not identify a significant impact on the CBA as presently written.

B. AB 19 – State government: regulations

This was provided for information only, as staff did not identify a significant impact on the CBA as presently written.

C. AB 85 – Open meetings

Ms. Kay stated that Assembly Bill (AB) 85 seeks to amend the Bagley Keene Open Meeting Act. She reported that the bill affirms legislative intent that the definition of “state body” includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of three or more individuals. She added this bill would subject two member committees to the full provisions of the Bagely Keene Open Meeting Act, which would require public notice.

Ms. Kay highlighted that the CBA opposed a similar bill introduced by the same author last year, AB 2058, which was ultimately vetoed by the Governor in September 2014.

The LC discussed concerns regarding the bill’s urgency clause, its similarity to AB 2058, and also considered improving communications efforts with bill authors prior to taking a position on particular bill.

It was moved by Mr. Elkins and seconded by Mr. Kaplan to recommend that the CBA take an oppose position on AB 85.

Yes: Mr. Elkins and Mr. Savoy.

No: Mr. Silverman, Ms. Anderson, Mr. Kaplan, Ms. León, and Ms. Wright.

Abstain: None.

The motion failed.

The LC further discussed staff's recommendation to take a Watch position on the bill and recent suggestions that the CBA should improve communications efforts with bill authors prior to taking a position on a particular bill.

It was moved by Ms. Anderson and seconded by Mr. Kaplan to recommend that the CBA take a Watch position on AB 85 and direct staff to communicate the CBA's concern regarding this bill to the author's office.

Yes: Mr. Silverman, Ms. Anderson, Mr. Kaplan, Ms. León, and Ms. Wright.

No: Mr. Elkins.

Abstain: Mr. Savoy.

The motion passed.

D. AB 507 – Department of Consumer Affairs

This was provided for information only, as staff did not identify a significant impact on the CBA as presently written.

E. AB 513 – Professions and vocations

This was provided for information only, as staff did not identify a significant impact on the CBA as presently written.

F. SB 8 - Taxation

Ms. Kay stated that SB 8 would expand the sales and use tax to include services, including those provided by the accountancy profession. She reported that according to the author's office, this bill seeks to repair California's failed tax system to keep up with an economy that has evolved over the years from an agriculture and manufacturing-based economy to a services-based economy.

The LC discussed the potential impact of this bill and how it relates to the CBA's mandate to protect consumers. During discussions, it was recognized that this bill would have a major impact on the entire public accounting industry as well as consumers, who would be forced to pay higher costs for services. It was also noted that although the merits of the bill could be debated, it would not have an impact on the CBA's regulation of the profession.

It was moved by Mr. Savoy and seconded by Ms. Anderson to recommend that the CBA take a Watch position on SB 8 and direct staff to continue monitoring its developments.

Yes: Mr. Silverman, Ms. Anderson, Mr. Elkins, Ms. León, Mr. Kaplan, Mr. Savoy, and Ms. Wright.

No: None.

Abstain: None.

The motion passed.

V. Additional Legislation Impacting the CBA Identified After the Posting of the Meeting Notice.

Ms. Kay provided information regarding AB 750, AB 1060, AB 1215, and SB 729 that were identified after the meeting notice, but do not presently have a significant impact on the CBA. She reported that staff will continue to monitor these bills for further developments and impact.

The LC discussed AB 1060, which would authorize a board, upon suspension or revocation of a license, to provide the ex-licensee with certain information pertaining to rehabilitation, reinstatement, or reduction of penalty, information through first-class mail and by electronic means.

The LC raised concerns regarding the effectiveness of the electronic transmission of information to licensees that have had their license revoked and highlighted that the use of the word "and" in the bill's language below is ambiguous in that it could be interpreted to mean "or":

"(b) Subdivision (a) may be satisfied through first-class mail and by electronic means.

The LC requested that staff continue to monitor AB 1060 and communicate the ambiguity of the word "and" in the language to the author's office.

No action was taken by the LC on this item.

VI. Public Comment for Items Not on the Agenda.

None.

VII. Agenda Items for Next Meeting.

None.

Adjournment.

There being no further business to be conducted, the meeting was adjourned at approximately 12:35 p.m. on March 19, 2015.



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EPOC Item I.
 May 28, 2015

CBA Item XI.E.
 May 28-29, 2015

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE **DRAFT**
March 19, 2015
ENFORCEMENT PROGRAM OVERSIGHT COMMITTEE (EPOC) MEETING

Wyndham Irvine-Orange County Airport
 17941 Von Karman Avenue
 Irvine, CA 92614
 Telephone: (949) 863-1999

CALL TO ORDER

Kay Ko, Chair, called the meeting of the EPOC to order at 12:38 p.m. on Thursday, March 19, 2015 at the Wyndham Irvine-Orange County Airport. Ms. Ko requested that the roll be called.

EPOC Members

Kay Ko, Chair	12:38 p.m. – 12:49 p.m.
Alicia Berhow	12:38 p.m. – 12:49 p.m.
Herschel Elkins, Esq.	12:38 p.m. – 12:49 p.m.
Louise Kirkbride	Absent
Leslie LaManna, CPA	12:38 p.m. – 12:49 p.m.
Xochitl León	12:38 p.m. – 12:49 p.m.

CBA Members Observing

Katrina Salazar, CPA, Vice President
 Kathleen Wright, CPA

Staff and Legal Counsel

Patti Bowers, Executive Officer
 Deanne Pearce, Assistant Executive Officer
 Rich Andres, Information Technology Staff
 Pat Billingsley, Regulation Analyst
 Dominic Franzella, Chief, Enforcement Division
 Corey Faiello-Riordan, Board Relations Analyst
 Paul Fisher, Supervising Investigative CPA
 Kathryn Kay, Legislation Analyst
 Gina Sanchez, Chief, Licensing Division

Kristy Schieldge, Legal Counsel, Department of Consumer Affairs

Committee Chairs and Members

Jeffrey De Lyser, CPA, Chair, Enforcement Advisory Committee

Sherry McCoy, CPA, Vice Chair, Peer Review Oversight Committee

Other Participants

Colleen Conrad, National Association of State Boards of Accountancy

George Famalett, CPA, PricewaterhouseCoopers, LLP

Jason Fox, California Society of Certified Public Accountants

Carl Sonne, Deputy Attorney General, Department of Justice

- I. Approve Minutes of the November 20, 2014 EPOC Meeting.

It was moved by Ms. Berhow, seconded by Ms. LaManna to approve the minutes of the November 20, 2014 EPOC Meeting.

Yes: Ms. Berhow, Mr. Elkins, Ms. Ko, and Ms. LaManna.

No: None.

Abstain: Ms. León.

Absent: Ms. Kirkbride.

The motion passed.

- II. Discussion on CBA Use of Government Code Section 11435.05 – Language Assistance.

Mr. Franzella presented an overview of language assistance provided to licensees during the adjudicative process. Mr. Franzella stated that language assistance is defined by Government Code section 11435.05 as the oral interpretation or written translation into or from English for a party or witness who cannot speak or understand English or who can do so only with difficulty.

Mr. Franzella explained that the Administrative Procedure Act (APA) requires certain State agencies to provide language assistance in administrative disciplinary proceedings, with four Department of Consumer Affairs entities specifically identified. Mr. Franzella stated that while the APA does not expressly require the CBA to provide language assistance staff have added a statement regarding the availability of language assistance to letters mailed to licensees and in various locations on the CBA website.

EPOC members discussed the topic and recommended expanding the availability of language assistance beyond enforcement to other areas within the CBA and the possibility of providing the statement regarding the availability of language assistance in other languages, such as Spanish.

III. Discussion Regarding Proposed Agenda Items for 2015.

Mr. Franzella presented the proposed meeting topics for the coming year. In May 2015 the EPOC will discuss formal and informal citation appeals. In July 2015 the EPOC will meet to discuss the possibility of compelling mental health evaluations of licensees or applicants.

IV. Public Comments.

No public comments were received.

V. Agenda Items for Next Meeting.

There were no items to be discussed.

There being no further business, the meeting adjourned at 12:49 p.m.

**DEPARTMENT OF CONSUMER AFFAIRS**

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CBA Item XI.F.
 May 28-29, 2015

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
JANUARY 29, 2015
ENFORCEMENT ADVISORY COMMITTEE (EAC) MEETING

Doubletree By Hilton Berkeley Marina
 200 Marina Blvd.
 Berkeley, CA 94710
 Telephone: (510) 548-7920

I. Roll Call and Call to Order.

The regularly scheduled meeting of the EAC was called to order at 9:03 a.m. on January 29, 2015 by EAC Chair, Jeffrey De Lyser.

Members

Jeffrey De Lyser, CPA, Chair	Present
Joseph Rosenbaum, CPA, Vice-Chair	Present
Katherine Allanson, CPA	Present
Dale Best, CPA	Present
Joseph Buniva, CPA	Absent
Gary Caine, CPA	Present
Nancy Corrigan, CPA	Present
Mary Rose Caras, CPA	Present
William Donnelly, CPA	Absent
Robert A. Lee, CPA	Present
Mervyn McCulloch, CPA	Present
Michael Schwarz, CPA	Present

CBA President

Jose Campos, CPA

CBA Staff and Legal Counsel

Patti Bowers, Executive Officer
 Dominic Franzella, Chief, Enforcement Division
 Paul Fisher, Supervising Investigative CPA
 Vincent Johnston, Enforcement Manager
 Jenny Sheldon, Enforcement Manager
 Gogi Overhoff, Investigative CPA
 Tina MacGregor, Investigative CPA

Erica Lee, Enforcement Analyst
Allison Nightingale, Enforcement Technician
Carl Sonne, Deputy Attorney General (DAG), Department of Justice

II. Report of the Committee Chair (**Jeffrey De Lyser**).

A. Introduction of Sarah Huchel, Consultant, California State Assembly Committee on Business and Professions.

Ms. Huchel was not in attendance at the EAC Meeting.

B. Presentation and Discussion Regarding Requirements for Reporting Actions Taken at Board Meetings in Accordance With California Government Code Section 11123 (**Dominic Franzella**).

Mr. Franzella reported on the new voting procedures resulting from the passage of Assembly Bill 2720. He stated that the Chair will ask the staff liaison to take roll call on each motion and the committee members will answer either yes, no, or abstain. The purpose of the new voting process is to provide transparency to allow the public to see how committee and CBA members vote on specific agenda items.

C. Approval of the December 11, 2014 EAC Meeting Minutes.

It was moved by Mr. Lee, seconded by Mr. Rosenbaum to approve the minutes of the December 11, 2014 EAC meeting.

Yes: Ms. Allanson, Mr. De Lyser, Mr. Best, Mr. Caine, Ms. Corrigan, Ms. Caras, Mr. Lee, Mr. McCulloch, Mr. Rosenbaum, and Mr. Schwarz.

No: None.

Abstain: None.

The motion passed.

III. Report of the CBA Liaison (**Katrina Salazar**).

A. Report of the January 22, 2015 CBA and Committee Meetings.

CBA President Jose Campos, CPA, provided the report for this agenda item. Mr. Campos began by providing a brief overview of his professional background, the recent leadership roundtable, attest experience committee and planned attest study, sunset review process, and the work of the Mobility Stakeholder Group.

Mr. Campos reported that the CBA reappointed Mr. Lee to the EAC.

Mr. Campos also reported on the revisions to the CBA Member Guidelines and Procedures (G&P) Manual and stated that the revisions included the new process

regarding voting on motions, inclusion of the Defensive Drivers Training requirement, and updated travel information. The revised G&P Manual will be sent to the committee members in the coming weeks.

Mr. Campos reported the CBA adopted proposed changes to Title 16, California Code of Regulations, Division 1, sections 12 and 12.1, allowing applicants to use experience in academia as qualifying experience for certified public accountant (CPA) licensure.

Mr. Campos reported that the CBA approved the survey for the study of California's attest experience requirement with an amendment to the introduction to include a statement that the results will not be individually identifiable. Mr. Campos further reported that the CBA approved a timeline for conducting the attest study that will provide a minimum of four months to receive responses from participants of the survey and provide the CBA with almost all of the 2016 calendar year to deliberate the attest experience requirement and determine what changes are needed, if any.

Mr. Campos reported that the new Legislation Analyst, Kathryn Kay, provided an overview of the established legislative best practices and discussed the CBA's legislative proposals for inclusion in the omnibus bill.

Mr. Campos stated that the next CBA meeting will be held on March 19-20, 2015 in Irvine.

Ms. Bowers stated that along with the updated G&P Manual, members will receive a roster of all required training. Ms. Caras requested the due date for filing the annual Form 700. Ms. Bowers informed her that the Form 700 is due by April 1, 2015.

EAC Members asked clarifying questions regarding the Sunset Review process. Ms. Bowers stated the CBA goes through this process every four years, which provides the Legislature with an opportunity to evaluate whether the CBA is meeting its statutory mandates.

IV. Report of the Enforcement Chief (**Dominic Franzella**).

A. Enforcement Activity Report.

Mr. Franzella reported that the majority of complaints received are from units within the CBA. He stated that the top three reasons for the internal complaints are conviction of a crime, failing to submit the Peer Review Reporting (PR-1) Form and/or discrepancies between the licensees' responses on the PR-1 form and accounting and auditing continuing education question on the license renewal application.

Mr. Franzella also reported that the number of cases closed with no action taken has risen from eight percent in the prior fiscal year to 20 percent to date this fiscal year.

Mr. Franzella reported that the CBA closed 153 investigations and the average days to close investigations decreased from 150 to 144 days since the previous report. He also reported that the CBA presently has 11 investigations pending over 24 months.

Mr. Franzella reported on discipline cases currently assigned to the Attorney General's (AG) Office. He stated that only two of the five cases reported to be pending for more than 24 months remain open.

Mr. Franzella reported that the current year average for number of days to issue a citation was higher than the two previous fiscal years due to the high volume and efficiency with which Peer Review citations were issued.

Mr. Franzella reported that upon completion of the disciplinary process, matters are referred to the CBA probation monitor for tracking and compliance with the terms of probation. He noted that CBA staff will provide an overview of the probation monitoring process at an upcoming CBA meeting.

Mr. Franzella stated that all licensees renewing their license in an active status are required to have fingerprints on file for the purpose of conducting a state and federal criminal offender record information background check. He reported that the CBA opened investigations on all CPAs who failed to have their fingerprints taken. He reported that for fiscal year 2014/15, 29 cases have been assigned for investigation, 180 cases have been closed, and seven non-compliance citation and fines were issued.

Mr. Franzella reported that under the present mobility law the CBA has a requirement that every six months staff sends letters to CPAs who were disciplined from either the Securities and Exchange Commission (SEC) or the Public Company Accounting Oversight Board (PCAOB) to inform them that they must seek CBA authorization prior to practicing in California. He reported 12 CPAs had been identified from the SEC and six CPAs had been identified from the PCAOB who were disciplined.

B. Report on Accusations and Final Disciplinary Orders Since December 11, 2014.

Mr. Franzella reported three accusations were filed and eight matters were referred for discipline to the AG's Office since the December 11, 2014 EAC Meeting.

Mr. De Lyser suggested that going forward Mr. Franzella should provide an executive summary of accusations and discipline matters filed with the AG's Office since the last EAC Meeting.

V. Public Comments for Items not on the Agenda.

There were no public comments for items not on the agenda.

VI. Review Enforcement Files on Individual Licensees.

[Closed Session: The EAC met in closed session to review and deliberate on enforcement files as authorized by Government Code section 11126(c)(2) and Business and Professions Code section 5020.]

VII. Conduct Closed Hearings.

[The Committee met in closed session as authorized by Government Code sections 11126(c)(2) and (f)(3) and Business and Professions Code section 5020 to conduct closed sessions to interview and consider possible disciplinary action against an individual licensee or applicant prior to the filing of an accusation.]

VIII. Adjournment.

The next EAC meeting is scheduled for April 30, 2015 at the Hilton Los Angeles Airport.

Having no further business to conduct, the EAC general meeting adjourned at approximately 9:51 a.m. to convene in closed session. Closed session adjourned at approximately 11:30 a.m. and staff took a lunch break. Closed session reconvened for investigative hearings from 1:00 p.m. to 5:00 p.m.

Jeffrey De Lyser, CPA, Chair
Enforcement Advisory Committee

Prepared by: Allison Nightingale, Enforcement Technician



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CBA Item XI.G.
 May 28-29, 2015

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
JANUARY 30, 2015
PEER REVIEW OVERSIGHT COMMITTEE (PROC) MEETING

Doubletree by Hilton Berkeley Marina
 200 Marina Blvd.
 Berkeley, CA 94710
 Telephone (510) 548-7920

I. Roll Call and Call to Order.

Robert Lee, CPA, Chair, called the meeting of the Peer Review Oversight Committee (PROC) to order at 10:00 AM on Friday, January 30, 2015. The meeting adjourned at 11:35 AM.

Members

Robert Lee, CPA, Chair	10:00 a.m. – 11:35 a.m.
Sherry McCoy, CPA, Vice-Chair	Absent
Katherine Allanson, CPA	10:00 a.m. – 11:35 a.m.
Nancy Corrigan, CPA	10:00 a.m. – 11:35 a.m.
Jeffrey De Lyser, CPA	10:00 a.m. – 11:35 a.m.

CBA Staff

Patti Bowers, Executive Officer
 Dominic Franzella, Chief, Enforcement Division
 Jenny Sheldon, Enforcement Manager
 Chanda Gonzales, Enforcement Analyst

CBA Members

Jose Campos, CPA, CBA President

Other Participants

Linda McCrone, CPA, California Society of Certified Public Accountants (CalCPA)

II. Report of the Committee Chair.

Mr. Lee stated that because all of the PROC meetings are public, and because there are participants that join, such as Ms. McCrone, the meetings will need to follow formal procedures.

Ms. Corrigan added that the minutes should document who is present (from the public) at these meetings.

A. Presentation and Discussion Regarding Requirements for Reporting Actions Taken at Board Meetings In Accordance With California Government Code Section 11123.

Mr. Franzella requested to skip this agenda item as it was already discussed during the EAC meeting held the day before where all PROC members were present.

B. Approval of the December 10, 2014 PROC Meeting Minutes.

Mr. Lee asked members if any revisions were needed for the December minutes.

Ms. Allanson noted that the meeting assigned for May 21-22 should be marked as "PRC" not "PRB," and that it was unclear whether the summit referred to under Section V. of the December minutes was for the National Association of State Boards of Accountancy (NASBA) or PROC. She also stated that, as discussed during the December meeting, she wanted to make sure that it was clear who the PROC contact is and that the committee members are sent their checklists before the start of any responsibilities assigned to them. She explained that she asked about this during the last meeting so that it would be captured in the minutes as a reminder; she also wanted to include it for these minutes.

Mr. Lee suggested striking from the minutes the Future Agenda Item regarding the modification of the August minutes.

It was motioned by Mr. Lee and seconded by Ms. Corrigan to adopt the minutes of the December 10, 2014 PROC meeting.

Yes: Mr. De Lyser, Ms. Allanson, Ms. Corrigan, Mr. Lee.

No: None.

Abstain: None.

The motion passed.

C. Report on the January 22, 2015 CBA Meeting.

Mr. Campos reported on the January CBA meeting. Mr. Campos stated that the most relevant topics discussed were the training conducted for committee chairs and vice-chairs, the appointment of Ms. McCoy as Vice-Chair to the PROC, updates to the guidelines and procedures manual, and the attest experience study survey.

D. Discussion of Recent Activities of the National Association of State Boards of Accountancy (NASBA), Compliance Assurance Committee (CAC).

Mr. Lee stated that there is nothing to discuss at this time and that this topic remains a standing item.

III. Report on PROC Oversight Activities.

A. Report on the January 27, 2015 American Institute of Certified Public Accountants' (AICPA) Peer Review Board (PRB) Meeting.

Ms. Corrigan attended this meeting via telephone. She described the meeting as being focused on: 'must-select' engagements; trying to enhance training; new guidelines for single audits; updated checklists; and that an audit quality study was in process. She revealed that the results of the 2011 Employee Benefits Plan Audits (ERISA) included a 79 percent compliance rate with a 21 percent lack of compliance for the firms reviewed. Ms. Corrigan pointed out that there was a correlation between firms that did not join audit quality control centers and poor performance. She added that the meeting discussed controls over crowd-funding and what can be done on the Internet. Further, Ms. Corrigan mentioned that there were proposed revisions to the peer review standards and additional discussion about preparation engagements.

Ms. Corrigan asked Ms. McCrone if she had any information she could provide regarding what will be looked for under peer reviews and preparation engagements. Ms. McCrone stated that the preparation engagements will be handled similarly to the management use only population in that, if the firm performs another type of audit, the preparation engagement will become part of the selection for peer review.

Ms. Corrigan continued her report and stated that approximately 21 oversight visits were planned for 2015. She acknowledged that the PRB was constantly alert and aware to quality, education, and improving and enhancing peer reviewers. She also added that American Institute of Certified Public Accountants (AICPA) personnel gave high marks for the California Society of Certified Public Accountants (CalCPA) who covers a lot of territory with a few people.

B. Report on the January 27-28, 2015 California Society of Certified Public Accountants' (CalCPA) Report Acceptance Body (RAB) Meeting.

Ms. Allanson attended the January 27, 2015 meeting via telephone. Alluding to a similar observation she made during the November RAB, she found the format was easier for her to follow. She described the reviewers as discussing the reports around the room, asking for comments or changes, and seeking agreement. Ms. Allanson noted that there were 41 reports with four people reviewing. She said she was impressed by this group as they provided feedback, looked at the reports in detail, and were all familiar with each other's reports. She added that there was also discussion about the new wording regarding ERISA.

Mr. Campos asked about matters for further consideration (MFCs) and findings for further consideration (FFCs). Ms. Allanson explained what these terms were. Mr. Campos also asked whether all reports were reviewed or if it was a sampling. Ms. Allanson replied that every single report is reviewed and has to be accepted by the RAB.

Ms. McCrone added that there is one exception to the review – firms that do not have any MFCs and where the review is an engagement, not a system review. She also stated that a majority of peer reviews go through the RAB.

C. Report on Oversight of Out-of-State Peer Review Administering Entities in Georgia and Illinois.

Mr. De Lyser recalled that the last meeting's minutes stated that members were to review the AICPA Oversight Visit Reports for the states with the highest number of California firms peer reviewed but that he was unsure how to obtain this information. He was able to find on the Internet the states with the highest number of CPAs and determine which have not been reviewed previously.

Ms. Corrigan added that originally, because the PROC knew of a small percentage of firms that were reviewed by other states, the PROC would, on a rotation basis, put them through the cycle and review the reports.

Mr. De Lyser noted that, for future activities, if data on the number of California firms peer reviewed in other states is available, this might provide a better method for selecting states. Mr. Lee suggested adding this to the August meeting calendar. Members agreed that this information would be helpful and that staff should pull these data and reports, and keep track of which state administering entities (AE) have been reviewed. Mr. De Lyser added that these reviews were quick to do and that they could wait until December because more data should be available by then. He also pointed out that the PDF form for these checklists had an auto-fill problem and that staff should check for the most recent, corrected form.

Regarding the AICPA oversight report on the AE in Georgia, Mr. De Lyser indicated that this oversight was performed in late 2013 with the report dated May 2014. He noted that most of the issues in the AICPA report stemmed from the fact that the Georgia AE was operating short-handed but that it was in compliance with corrections underway.

Mr. Campos asked about what was being reviewed. Mr. De Lyser clarified that the review was of the AICPA report, per the public information posted online.

Regarding his review of the AICPA oversight report on the AE in Illinois, Mr. De Lyser indicated that this oversight was performed in December 2013 with the report accepted in May 2014. He stated that there were no findings on this report and that the AE was found to have complied in all material respects.

For the AICPA oversight report on the AE in Colorado, Ms. Allanson indicated that the report was dated October 2012 and accepted in August 2013. She stated that there was only one finding which was the requirement to check the résumés of all the peer reviewers.

For the AICPA oversight report on the AE in Virginia, Ms. Allanson indicated that the report was completed in September 2013 and accepted in January 2014. She stated that this was completely clean with no comments at all.

Ms. McCrone wanted to clarify that over 90 percent of the California firms being reviewed by out-of-state AEs involve CPAs who have moved from one state to another that are choosing to keep their California license, and are not people trying to evade California requirements. In reference to California firms being reviewed by out-of-state AEs, Mr. De Lyser asked if the selection of the peer reviewer and the administering entity was voluntary. As an example, Mr. De Lyser asked if he could select an Ohio peer reviewer and select Ohio as the AE. Ms. McCrone explained that the state would have to agree to do so but that most states are not willing to. In response to another question, Ms. McCrone confirmed that peer reviewers are reviewed based on the state where they are domiciled.

D. Assignment of Future PROC Oversight Activities.

Mr. Lee called attention to the March 19-20, 2015 CBA meeting that he will not be able to attend. He stated that he has asked Vice-Chair Sherry McCoy to attend.

For the May 21-22, 2015 CalCPA PRC/RAB meeting, Mr. Lee confirmed that Ms. Allanson has been assigned to attend.

Mr. Franzella added that new committee members may be joining soon and that the upcoming meetings would be opportunities for them to pair up with current members to gain training.

Mr. Lee asked Ms. McCrone if there were any items that needed to be added to the calendar for June or July. Ms. McCrone responded that the RAB meetings have not yet been scheduled. She confirmed that there will be a CalCPA PRC meeting on November 19-20, 2015 in Carmel, CA.

Ms. Allanson noted that the next CalCPA RAB meeting would be on April 22, 2015 and asked if the committee needed someone to attend. Mr. Lee responded that he would be happy to take volunteers. Ms. Allanson confirmed that she would attend.

Mr. Lee concluded that unless anyone had anything else to add to the calendar that the committee would defer additional assignments until the next meeting.

IV. Status of PROC Roles and Responsibilities Activity Tracking.

Ms. Sheldon stated that the activities discussed in the previous agenda item were not yet on the 2015 activity tracking sheet but that they will be for the next meeting. She then asked if anyone had any comments or edits for the 2014 activity tracking sheet before it is finalized. Mr. Lee said that he was not sure whether the recent out-of-state reviews should be placed under the 2014 or 2015 tracking sheet. Ms. Allanson noted that their intent was to have it completed in 2014. She added that, at the last meeting, members asked if staff could research whether this item was supposed to be placed under the activity listing or under additional activities.

Mr. Lee commented that there should be at least two placeholders for the 2015 tracking sheet, including the NASBA CAC. Mr. De Lyser mentioned that during the last meeting, members were unsure whether the activity tracking sheet rows were dictated by legislation. Mr. Franzella replied that the rows were not; that the legislation was not that specific and the committee has a lot of flexibility as to how it wants information presented.

Regarding the 2015 tracking sheet, Ms. Allanson noted that at the last PROC meeting the May 21-22, 2015 CalCPA PRC meeting had been assigned to her and that it should be listed under the peer review committee meetings section.

Ms. Corrigan pointed out that she saw the May 21-22, 2015 meeting under the peer review subcommittee meetings but was unsure if that was correct.

Ms. Allanson explained that there are RAB meetings at the PRC and confirmed that both should be included on the tracking sheet. Ms. McCrone stated that there will be one advanced peer reviewer training on May 20, 2015 in Orange County.

Ms. Allanson added that the November 19-20, 2015 PRC and the April 22, 2015 RAB meetings should also be included on the tracking sheet. Ms. Corrigan volunteered to attend the May 20, 2015 peer reviewer training.

V. Review and Discussion of the 2014 AICPA Annual Report on Oversight.

Ms. Sheldon provided an overview of the report and stated that no action was required of the committee. Mr. Lee asked members if there were any comments, questions, or items to discuss in the future. There were no comments from members or the public.

VI. Report of the Enforcement Chief.

A. Discussion and Acceptance of the 2014 PROC Annual Report to the CBA.

Mr. Franzella discussed the changes made to the report, noting that the appendix was removed as CBA members already received those documents, and the statistics were moved near the end of the report to help with the flow. He added that the remainder of the changes made were minor such as grammatical changes and word choices.

Mr. Franzella and committee members went through each page of the report, suggesting and marking edits to be made.

It was motioned by Ms. Corrigan and seconded by Mr. De Lyser to adopt the final draft of the 2014 PROC Annual Report, subject to the modifications discussed.

Yes: Mr. Lee, Ms. Allanson, Ms. Corrigan, Mr. De Lyser.

No: None.

Abstain: None.

The motion passed.

Ms. Allanson made a request to staff, as a note for the next time, to provide a redline version of reports after changes have been made. Mr. Franzella affirmed that a redline version will be included along with a clean copy in the future.

VII. Closing Business.

A. Public Comments for Items Not on the Agenda.

Ms. McCrone informed members that a big change was happening to the peer review program, effective January 2015. She stated that the AICPA will be sending out non-cooperation letters to firms that receive their first pass with deficiency or failure, as a means of informing them that they need to improve. She further explained that the ramifications will not be fully known until three years from now when these firms are again peer reviewed. Ms. McCrone also

added that the CBA may start to receive calls about this issue but that it can refer these calls to CalCPA's general number. If CBA staff has questions, Ms. McCrone would prefer that they go to her directly. She also offered to speak with CBA staff for training purposes.

Members had some questions and concerns on this topic; however, Mr. Lee reminded them that since this topic is not on the agenda, members should wait until the next meeting to have a full discussion.

B. Agenda Items for Future PROC Meetings.

1. AICPA Peer Review Program Process Change
2. Review AICPA Peer Review Oversight Reports for Selected States
3. Selection Criteria/Data for Oversight of Out-of-State Peer Review AEs

Regarding the PROC Annual Report, Ms. Allanson asked whether a chart could be added for the National Peer Review Committee, to capture the largest majority of firms. She added that if the information can be obtained easily, this might be something to add regularly to the report.

VIII. Adjournment.

There being no further business, Mr. Lee adjourned the meeting at 11:35 a.m. on Friday, January 30, 2015.

Robert Lee, CPA, Chair

Chanda Gonzales, Enforcement Analyst, prepared the PROC meeting minutes. If you have any questions, please call (916) 561-4343.

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CBA Item XI.H.
May 28-29, 2015

DEPARTMENT OF CONSUMER AFFAIRS (DCA)
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
January 21, 2015
QUALIFICATIONS COMMITTEE (QC) MEETING

Hilton Los Angeles Airport
5711 West Century Blvd.
Los Angeles, CA 90045
Telephone: (310) 410-4000

The regularly scheduled meeting of the QC was called to order at 12:32 p.m. on January 21, 2015, by QC Chair, Robert Ruehl.

QC Members

Robert Ruehl, Chair
Jenny Bolsky, Vice-Chair
David Evans
Tracy Garone
Chuck Hester
Casandra Moore Hudnall – Absent
David Papotta
Erin Sacco Pineda – Absent
Kimberly Sugiyama
Nasi Raissian
Jeremy Smith

CBA Members

Jose A. Campos, CBA President
Kay Ko, CBA Member, QC Liason

CBA Staff

Patti Bowers, Executive Officer (EO)
Deanne Pearce, Assistant EO
Veronica Daniel, Licensing Manager
Ben Simcox, Licensing Coordinator
Kathryn Kay, Legislative Analyst

I. Chairperson's Report.

Mr. Ruehl welcomed CBA President Jose Campos and CBA member Kay Ko to the meeting. Mr. Ruehl stated that Ms. Ko was appointed to serve as the CBA member liaison to the QC. Mr. Ruehl noted that Mr. Eckley, Mr. Lee, and Ms. Mapes have retired from the QC. Resolutions were presented before the CBA at its November 2014 meeting and have been mailed out to the retired members. Mr. Ruehl acknowledged that Ben Simcox, CPA, has joined the CBA as the Initial Licensing Unit Coordinator and staff liaison to the QC. Kathryn Kay will remain on staff as she has accepted an opportunity to serve as the CBA Legislative Analyst.

Mr. Campos provided his background and thanked the QC members for their service. Mr. Campos discussed that in 2015, the CBA will be focusing on its study of California's attest experience requirement, undergoing sunset review, the mobility/practice privilege program, and continued monitoring of its fee structure and reserve.

A. Presentation and Discussion Regarding Requirements for Reporting Actions Taken at Board Meetings in Accordance with California Government Code section 11123.

Ms. Pearce provided an overview of this item. Ms. Pearce stated effective January 1, 2015, all state bodies must publicly report any action taken and the vote or abstention on that action of each member present for action. Staff will make a note of such action(s) in the meeting minutes. This new procedure is to promote increased transparency and will be implemented beginning this meeting and going forward.

B. Approval of the July 30, 2014 QC Meeting Minutes.

It was moved by Mr. Ruehl and seconded by Ms. Bolsky to approve the minutes of the July 30, 2014 QC Meeting.

Yes: Mr. Ruehl, Ms. Bolsky, Mr. Evans, Ms. Garone, Mr. Hester, Mr. Papotta, Ms. Sugiyama, Ms. Raissian and Mr. Smith

No: None.

Abstain: None.

Absent: Ms. Moore Hudnall and Ms. Sacco Pineda.

The motion passed.

II. Report of the CBA Liaison.

A. Report on the September 18-19 and November 20-21, 2014, CBA Meetings.

Ms. Ko reported that the CBA met on September 18-19, 2014 and discussed the following:

- Ms. Bowers announced the recipients of the CBA Leadership Award of Excellence were Matthew Stanley, Licensing Manager and Terri Dobson, Personnel Analyst.
- Kristy Schieldge, DCA Legal Counsel and Carl Sonne, Deputy Attorney General, provided the CBA with an educational presentation regarding what criminal convictions are substantially related to the profession.
- The CBA took a position on the following bills:
 - The CBA took a Support position on SB 1226, which would require DCA boards to expedite the initial licensure process for an applicant who has served as an active duty member of the armed forces and was honorably discharged.
 - The CBA took a Neutral position on SB 1159, which would allow an entity within DCA to accept a federal taxpayer identification number on an application for an initial license in lieu of a social security number.
 - The CBA maintained their positions on AB 1702, 2058, 2396, 2415, and 2720
 - The CBA discontinued following AB 186, as it was amended in such a way that it no longer affected the CBA.

Ms. Ko also reported that the CBA met on November 20-21, 2014 and discussed the following:

- The CBA elected Jose Campos as President, Katrina Salazar as Vice-President, and Alicia Berhow as Secretary-Treasurer.
- The Peer Review Report, which is due to the Legislature on January 1, 2015, was approved.
- Ms. Pearce provided an overview of the analysis of the fee levels and their impact on the Accountancy Fund Reserve. The CBA approved a fee increase, which will eliminate the current negative cash flow, bring revenues and expenditures into alignment, and maintain a six month Accountancy Fund reserve. Proposed regulations to implement the fee increase will be presented to the CBA in March 2015.
- The CBA approved the proposed legislative language and directed staff to pursue legislation, which would provide the CBA and Administrative Law

Judges the statutory authority to impose permanent practice restrictions as part of a final disciplinary order. The CBA also directed staff to pursue legislation to clarify restoration requirements for a retired status license.

- Both legislative proposals will be submitted to the Senate Committee on Business, Professions and Economic Development for consideration in the 2015 Annual Omnibus Bill.

III. Report on the Activities of the Initial Licensing Unit.

Ms. Daniel provided an overview of this item. Ms. Daniel noted that the current processing time for individual CPA applicants is 16 days and 14 days for accounting firm applications. Ms. Daniel also noted that Ben Simcox was appointed as Initial Licensing Unit Coordinator, and started on December 15, 2014, and new Licensing Division Chief, Gina Sanchez, will be starting soon.

IV. Public Comment for Items Not on the Agenda.

None.

V. CONDUCT CLOSED HEARINGS [Closed session in accordance with Government Code section 11126(c)(2) and (f)(3), and Business and Professions Code section 5023 to interview individual applicants for CPA licensure.]

C15-001 – The applicant appeared and presented work papers from her public accounting experience. She has 31 months of experience, with a 12-month experience requirement. She is currently licensed with general accounting experience.

Recommendation: Approve. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Note: The employer's understanding of the Certificate of Attest Experience was inadequate. The work papers provided by the employer were limited to first existence and both client files presented were from the same industry, as such reappearance is recommended for the employer. The employer needs to present a broader variety of engagements to encompass those not limited to initial start-ups and the same industry.

The employer has been placed on reappearance.

C15-002 – The applicant appeared and presented work papers from her private industry experience. She has 38.5 months of experience, with a 12-

month experience requirement. She is currently licensed with general accounting experience.

The employer had adequate understanding of the CAE. The work performed by the applicant was reviewed and no deficiencies were noted. The work in aggregate was adequate to support licensure.

Recommendation: Approve.

C15-003 – The applicant was unable to attend the meeting, however her employer appeared due to a family relationship and presented work papers from the applicant’s public accounting experience. She has 50.5 months of experience, with a 12-month experience requirement.

The employer’s understanding of the CAE was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure. There was no conflict of interest.

Recommendation: Approve.

C15-004 – The applicant and his employer appeared with work papers from his public accounting experience due to the employer’s reappearance status. The applicant has 95 months of experience, with a 12-month experience requirement.

The employer’s understanding of the CAE was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure. There was no conflict of interest.

Recommendation: Approve applicant and remove employer from the Reappearance Status list.

C15-005 – The applicant and his employer appeared with work papers from his public accounting experience due to the employer’s reappearance status. The applicant has 22.75 months of experience, with a 12-month experience requirement. He is currently licensed with general accounting experience.

The employer’s understanding of the CAE was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure. There was no conflict of interest.

Recommendation: Approve applicant and remove employer from the Reappearance Status list.

C15-006 – The applicant and his employer appeared due to a family relationship and presented work papers from his public accounting experience. He has 26 months of experience, with a 12-month experience requirement.

The employer's understanding of the CAE was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure. There was no conflict of interest.

Recommendation: Approve.

C15-008 – This was an applicant dispute scheduled before the Chair and Vice-Chair. The employer appeared with work papers from the applicant's public accounting experience. The applicant did not show up for the meeting and the meeting was canceled. The employer was informed that the meeting would be re-scheduled for a QC meeting in the future, in the event the applicant would like to continue to dispute information provided by the employer.

The following Section 69 reviews took place on January 14, 2015, and are made a part of these minutes.

C15-007 – The applicant and his employer appeared due to a family relationship and presented work papers from his public accounting experience. He has 62 months of experience, with a 24-month experience requirement.

The employer's understanding of the CAE was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure. There was no conflict of interest.

Recommendation: Approve.

Adjournment.

There being no further business to be conducted, the meeting was adjourned at approximately 3:30 p.m. on January 21, 2015. The next meeting of the QC will be held on April 22, 2015 in Sacramento, California.

Robert Ruehl, CPA, Chair

Prepared by: Ben Simcox, ILU Coordinator



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CBA Item XIII.C.
May 28-29, 2015

Press Release Focus

Presented by: Deanne Pearce, Assistant Executive Officer

Purpose of the Item

The purpose of this agenda item is to provide suggestions for an appropriate focus for the press release to be issued following each California Board of Accountancy (CBA) meeting. This is a dynamic analysis based on the activities of each CBA meeting.

Action(s) Needed

No specific action is required on this agenda item.

Background

Three press releases, "California Board of Accountancy Testifies at Sunset Review Hearing," "California Board of Accountancy Welcomes New Board Member," and "California Board of Accountancy Announces Reappointment of Alicia Berhow" were issued on March 26, 2015, April 8, 2015, and April 16, 2015, respectively. Six Enforcement Action Press Releases were issued April 27, 2015.

Comments

None.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff recommendation will be made at the time of this presentation.

Attachments

1. California Board of Accountancy Testifies at Sunset Review Hearing
2. California Board of Accountancy Welcomes New Board Member
3. California Board of Accountancy Announces Reappointment of Alicia Berhow
4. Enforcement Action News Releases



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Attachment 1

NEWS RELEASE

FOR IMMEDIATE RELEASE

Contact: Lauren Hersh
(916) 561-1789

CALIFORNIA BOARD OF ACCOUNTANCY TESTIFIES AT SUNSET REVIEW HEARING

SACRAMENTO - The California Board of Accountancy (CBA) testified on March 18, 2015, at the Joint Oversight Hearing of the Senate Committee on Business, Professions and Economic Development (Senate BP&ED) and the Assembly Committee on Business and Professions, as part of its Sunset Review conducted by the Legislature every four years.

Representing the CBA, Vice-President Katrina Salazar and Executive Officer Patti Bowers provided the Legislature with an update on some of the important consumer protection achievements since the CBA's last Sunset Review in 2011. Among them:

- A new retired license status
- Strengthened educational requirements for initial licensure with a heavy emphasis on ethics study
- Implementation of the Peer Review Program
- A retroactive fingerprinting requirement for licensees that were not originally required to undergo this process as a condition for licensure, and
- Increased staffing in the Enforcement Program

As one of 42 Boards, Bureaus and other entities operating under the Department of Consumer Affairs, the CBA must undergo a Sunset Review by the Legislature every four years to determine whether the CBA is meeting its consumer protection mandate and whether the State should continue to regulate the practice of public accountancy. Presently, the CBA's Sunset date is January 1, 2016. Senator Jerry Hill, Chair of the Senate BP&ED, has introduced Senate Bill (SB) 467, which seeks to extend the CBA's Sunset date to January 1, 2020. It is anticipated SB 467 will be heard by the respective Committees sometime in April.

###

Created by statute in 1901, the CBA's mandate requires that protection of the public shall be its highest priority in exercising licensing, regulatory, and disciplinary functions. The CBA currently regulates more than 97,000 licensees, the largest group of licensed accounting professionals in the nation, including individuals, partnerships, and corporations.

Subscribe to CBA [E-News](#) to receive links to the latest digital edition of UPDATE and the latest information on CBA programs and activities.

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**Attachment 2****NEWS RELEASE**

FOR IMMEDIATE RELEASE

Contact: Lauren Hersh
(916) 561-1789**CALIFORNIA BOARD OF ACCOUNTANCY
WELCOMES NEW BOARD MEMBER**

SACRAMENTO – The California Board of Accountancy (CBA) has announced the appointment of Jian Ou-Yang, of Stockton, to the CBA. Mr. Ou-Yang has been a partner at Brown Armstrong since 2013, where he has held several positions since 2002, including audit manager, senior accountant and staff accountant.

Mr. Ou-Yang is a 2002 graduate of California Polytechnic State University, a member of the American Institute of Certified Public Accountants, and the California Society of Certified Public Accountants. He fills a CPA seat on the 15 member CBA, which is comprised of eight public members and seven who are CPAs.

Mr. Ou-Yang was appointed by Governor Edmund G. Brown, Jr. on Thursday, April 2, 2015. This position does not require Senate confirmation and compensation is \$100 per diem and expenses pursuant to Business and Professions Code section 103. Mr. Ou-Yang is a Republican.

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**Attachment 3****NEWS RELEASE**

FOR IMMEDIATE RELEASE

Contact: Lauren Hersh
(916) 561-1789

**CALIFORNIA BOARD OF ACCOUNTANCY
ANNOUNCES REAPPOINTMENT OF ALICIA BERHOW**

SACRAMENTO – The California Board of Accountancy (CBA) is pleased to announce the reappointment of Alicia Berhow to the CBA by the Speaker of the Assembly, Toni Atkins. Ms. Berhow was first appointed to the CBA in February 2011, and serves as Secretary/Treasurer, a position to which she was elected in November 2014. Ms. Berhow's current term will expire in 2019.

Ms. Berhow fills a public seat on the 15 member CBA, which is comprised of eight public members and seven who are CPAs. She was reappointed on Monday, April 13, 2015.

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**California Board of Accountancy
Enforcement Action News Release**

Sent to dwares@ocregister.com (The Orange County Register) and Paige.Austin@patch.com (Mission Viejo Patch) on April 27, 2015

Diane Mary Casey, Laguna Hills, CA (CPA 59209) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#C_2010

Sent to business@latimes.com (The Los Angeles Times) and Mirna.Alfonso@patch.com (San Marino Patch) on April 27, 2015

David Hong-Nin Chan, San Marino, CA (CPA 35013) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#C_1987

Sent to editor@uniondemocrat.com (The Union Democrat) on April 27, 2015

David Alan Hoyt and Hoyt Tax & Business Solutions, Twain Harte, CA (CPA 91391; FNP 2059) have been disciplined by the California Board of Accountancy. Please utilize the attached links to the California Board of Accountancy's Web page to access details of these enforcement actions. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding these enforcement actions.

http://www.dca.ca.gov/cba/discipline/index.shtml#H_2004

http://www.dca.ca.gov/cba/discipline/index.shtml#H_2005

Sent to business@latimes.com (The Los Angeles Times) and Paige.Austin@patch.com (Marina Del Rey Patch) on April 27, 2015

Catherine Siu-Mun Nelson, Playa Del Rey, CA (CPA 66610) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by

telephone at (916) 561-1718 or by email at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#N_1371

Sent to business@latimes.com (The Los Angeles Times) and Paige.Austin@path.com (Santa Monica Patch) on April 27, 2015

Alexandra Keen Snukal, Santa Monica, CA (CPA 126557) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by email at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/index.shtml#S_2087

Sent to business@latimes.com (The Los Angeles Times) and Paige.Austin@path.com (Santa Monica Patch) on April 27, 2015

Craig Allen Szabo, Calabasas, CA (CPA 23707) and Szabo Accountancy Corporation, Calabasas, CA (COR 4143) have been disciplined by the California Board of Accountancy. Please utilize the attached links to the California Board of Accountancy's Web page to access details of these enforcement actions. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by email at pbowers@cba.ca.gov should you have any questions regarding these enforcement actions.

http://www.dca.ca.gov/cba/discipline/index.shtml#S_2012

http://www.dca.ca.gov/cba/discipline/index.shtml#S_2013