

**State of California
Office of Administrative Law**

In re:
Board of Accountancy

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections:

Amend section: 70

Repeal sections:

**DECISION OF DISAPPROVAL OF
REGULATORY ACTION**

Government Code Section 11349.3

OAL Matter Number: 2016-0329-06S

OAL Matter Type: Regular (S)

SUMMARY OF REGULATORY ACTION

Business and Professions Code section 5134 authorizes the Board of Accountancy (the "Board") to charge various fees. These fees are listed in section 70 of title 16 of the California Code of Regulations. The fee for the initial permit to practice as a partnership, corporation, or certified public accountant, and the biennial fee to renew this permit are both currently set at \$50. An automatic increase of these \$50 fees to \$120 is scheduled to occur on July 1, 2016. This rulemaking proposes to increase these fees to \$200, a level that existed prior to fiscal year 2011-2012. All remaining fees would stay at their existing level.

On March 29, 2016, the Board submitted the above-referenced rulemaking action to the Office of Administrative Law ("OAL") for review. On May 5, 2016, OAL notified the Board of OAL's decision to disapprove the proposed rulemaking. This Decision of Disapproval of Regulatory Action explains the reasons for OAL's action.

DECISION

OAL disapproved the above-referenced rulemaking action because the Board did not obtain the concurrence of the Department of Finance ("Finance") in the Board's estimate of the fiscal impact of the proposed regulations on governmental agencies (STD. 399) as required by State Administrative Manual section 6615. This issue must be resolved prior to OAL's approval of any resubmitted regulations.

DISCUSSION

The Board's regulatory action must satisfy requirements established by the part of the Administrative Procedure Act (the "APA") that governs rulemaking by a state agency. (See Gov. Code, sec. 11340 et seq.) Any regulation adopted, amended, or repealed by a state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its

procedure, is subject to the APA unless a statute expressly exempts the regulation from APA coverage. (Gov. Code, sec. 11346.)

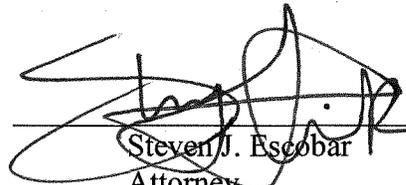
Before any regulation subject to the APA may become effective, the regulation is reviewed by OAL for compliance with both the procedural requirements of the APA and the standards for administrative regulations set forth in Government Code section 11349.1. (See Gov. Code, sec. 11340.1, subd. (a).) Generally, to satisfy the APA standards, a regulation must be legally valid, supported by an adequate record, and easy to understand. In this review, OAL is limited to the rulemaking record and may not substitute its judgment for that of the rulemaking agency with regard to the substantive content of the regulation. (*Ibid.*) This review is an independent check on the exercise of rulemaking power by executive branch agencies intended to improve the quality of regulations that implement, interpret, and make specific statutory law, and to ensure that the public is provided with a meaningful opportunity to comment on regulations before they become effective.

The only issue preventing OAL from approving this rulemaking action concerns the STD. 399 completed by the Board. State Administrative Manual section 6615 requires Finance's concurrence when the "Other" box is marked in section B.4. of the Fiscal Impact Statement portion of the form, as it is on the Board's STD. 399. The STD. 399 in the rulemaking file does not have a signature from Finance indicating Finance's concurrence on the STD. 399. The Board must obtain Finance's signature on the STD. 399 prior to resubmitting this rulemaking to OAL.

CONCLUSION

OAL disapproved the above-referenced rulemaking action for the foregoing reason. Pursuant to Government Code section 11349.4, subdivision (a), the Board may resubmit the rulemaking file with the properly executed STD. 399 signed by Finance within 120 days of their receipt of this Decision of Disapproval. If you have questions, please contact me at (916) 324-6948.

Date: May 9, 2016



Steven J. Escobar
Attorney

For: Debra M. Cornez
Director

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