



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 TASKFORCE TO EXAMINE EXPERIENCE
FOR CPA LICENSURE (TASKFORCE), ENFORCEMENT PROGRAM OVERSIGHT
COMMITTEE (EPOC), AND CBA MEETINGS**

- DATE:** Thursday, September 26, 2013 **TASKFORCE MEETING**
TIME: 9:00 a.m.
- DATE:** Thursday, September 26, 2013 **COMMITTEE MEETING (EPOC)**
TIME: 11:30 a.m. or upon adjournment
of the Taskforce meeting.
- DATE:** Thursday, September 26, 2013 **CBA MEETING**
TIME: 1:30 p.m. to 5:00 p.m.
- DATE:** Friday, September 27, 2013 **CBA MEETING**
TIME: 9:00 a.m. to 3:00 p.m.

PLACE: Sheraton Suites at Symphony Hall
701 A Street
San Diego, CA 92101
Telephone: (619) 696-9800
Fax: (619) 696-1555

Enclosed for your information is a copy of the agendas for the Taskforce, EPOC and CBA meetings on September 26-27, 2013. For further information regarding these meetings, please contact:

Kari O'Connor, Board Relations Analyst
(916) 561-1716 or kari.o'connor@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 next CBA meeting is scheduled for November 21-22, 2013 in Northern California.

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 Kari O'Connor at (916) 561-1718, or email kari.o'connor@cba.ca.gov, or send a written request to the CBA Office at 2000 Evergreen Street, Ste. 250, Sacramento, CA 95815. Providing your request is 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)**

**CBA MEETING
 AGENDA**

**September 26, 2013
 1:30 p.m. – 5:00 p.m.**

**September 27, 2013
 9:00 a.m. – 3:00 p.m.**

**Sheraton Suites at Symphony Hall
 701 A Street
 San Diego, CA 92101
 Telephone (619) 696-9800**

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. Agenda items scheduled for a particular day may be moved to an earlier day to facilitate the CBA’s business.

**Thursday,
 September 26, 2013**

Roll Call and Call to Order (**Leslie LaManna, President**).

Open Session.

**Time Certain
 1:30 p.m.**

- I. Petition Hearings.
 - A. Eric Rodney Lietzow – Petition for Reinstatement of Revoked CPA Certificate.
 - B. Nelson S. Vinson – Petition for Reduction of Penalty.
- II. Closed Session. Pursuant to Government Code Section 11126(c)(3), the CBA will Convene into Closed Session to Deliberate on Disciplinary Matters (Stipulations, Default Decisions, Proposed Decisions, Petitions for Reinstatement, and Petitions for Reduction of Penalty).

Friday,
September 27, 2013

- III. Report of the President (**Leslie LaManna, President**).
 - A. Announcement Regarding Annual Officer Elections.
 - B. Announcement of CBA Leadership Award of Excellence.
 - C. Report on August 29, 2013, Senate Committee on Budget and Fiscal Review Hearing.
 - D. DCA Director's Report (**DCA Representative**).
 - E. Guest Speaker Richard Kravitz, CPA, Director, Socially Responsible Accounting.
- IV. Report of the Vice President (**Michael Savoy**).
 - A. Recommendations for Appointment(s)/Reappointment(s) to the Enforcement Advisory Committee (EAC).

There is no report for this item.
 - B. Recommendations for Appointment(s)/Reappointment(s) to the Qualifications Committee (QC).

There is no report for this item.
 - C. Recommendations for Appointment(s)/Reappointment(s) to the Peer Review Oversight Committee (PROC).

There is no report for this item.
- V. Report of the Secretary/Treasurer (**K.T. Leung**).
 - A. Discussion of Governor's Budget.
 - B. Fiscal Year 2012-13 Year End Financial Statement.
- VI. Report of the Executive Officer (EO) (**Patti Bowers**).
 - A. Update on Staffing.
 - B. Update on CBA 2013-2015 Communications and Outreach Plan (Written Report Only).
 - C. Presentation of CBA Annual Report for Fiscal Year 2012-2013 (**Deanne Pearce, Assistant Executive Officer**).

- D. Discussion Regarding Change to May and September 2014 CBA Meeting Dates (**Kari O'Connor, Board Relations Analyst**).
 - E. Discussion of Possible Comments on the Uniform Accountancy Act Exposure Draft Regarding Revised Definitions (**Matthew Stanley, Regulations Coordinator**).
 - F. Update on Legislation Which the CBA Has Taken a Position (AB 186, AB 258, AB 291, AB 376, AB 1057, AB 1151, AB 1412, SB 176, SB 305, SB 822, SB 823) (**Matthew Stanley**).
- VII. Report of the Licensing Chief (**Dominic Franzella**).
- A. Report on Licensing Division Activity.
- VIII. Report of the Enforcement Chief (**Rafael Ixta**).
- A. Enforcement Activity Report.
- IX. Committee and Task Force Reports.
- A. Taskforce (**Manuel Ramirez, Chair**).
 - 1. Report of the September 26, 2013 Taskforce Meeting.
 - 2. Discussion on the Taskforce to Examine Experience for CPA Licensure's Final Report to be Delivered to the California Board of Accountancy.
 - 3. Presentation on How Information is Presently Displayed for Consumers on the CBA Website and Staff Proposed Changes.
 - 4. Discussion on Possible Recommendations by the Taskforce Regarding Acceptance of Academia as Qualifying Experience for CPA Licensure.
 - 5. Discussion on Possible Recommendations by the Taskforce Regarding Modification to the General Accounting Experience Requirement for CPA Licensure.
 - 6. Discussion on Possible Recommendations by the Taskforce Regarding Modification to the Attest Experience Requirement for CPA Licensure.
 - 7. Enforcement-Related Statistics From Other States That Recently Converted From an Attest Experience Requirement and Redistribution of the Bonnie Moore Case Decision and Results of Legal Cases Research (**Written Report Only**).

B. Enforcement Program Oversight Committee (**Alicia Berhow, Chair**).

1. Report of the September 26, 2013 EPOC Meeting.
2. Discussion and Possible Action Regarding Proposed New Additions and Previously Requested Changes to the Disciplinary Guidelines and Model Orders.
3. Discussion and Possible Action to Recommend Initiation of a Rulemaking to Make Changes to the Disciplinary Guidelines and Model Orders at Title 16, California Code of Regulations Section 98.

C. Peer Review Oversight Committee (PROC) (**Nancy Corrigan, Chair**).

1. Report of the August 23, 2013 PROC Meeting.
2. Approval of 2014 PROC Meeting Dates.

D. Enforcement Advisory Committee (EAC) (**Cheryl Gerhardt, Chair**).

1. Approval of 2014 EAC Meeting Dates.

E. Qualifications Committee (QC) (**Maurice Eckley, Chair**).

1. Report of the July 31, 2013 QC Meeting.

X. Acceptance of Minutes

- A. Draft Minutes of the July 25, 2013 CBA Meeting.
- B. Minutes of the July 24, 2013 Taskforce Meeting.
- C. Minutes of the May 2, 2013 EAC Meeting.
- D. Minutes of the May 23, 2013 EPOC Meeting.
- E. Minutes of the June 21, 2013 PROC Meeting.
- F. Minutes of the April 24, 2013 QC Meeting.

XI. Other Business.

- A. American Institute of Certified Public Accountants (AICPA).

B. National Association of State Boards of Accountancy (NASBA).

1. Update on NASBA Committees.

a. Accountancy Licensee Database Task Force
(Patti Bowers).

b. Board Relevance & Effectiveness Committee
(Marshal Oldman).

2. Proposed Responses to NASBA Focus Questions
(Kari O'Connor).

XII. Closing Business.

A. Public Comments.*

B. Agenda Items for Future CBA Meetings.

C. Press Release Focus **(Deanne Pearce)**.

Recent Press Releases.

Adjournment.

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

In accordance with the Bagley-Keene Open Meetings Act, all meetings of the CBA are open to the public. While the CBA intends 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 CBA to discuss items not on the agenda; however, the CBA 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)
 TASKFORCE TO EXAMINE EXPERIENCE FOR CPA LICENSURE (Taskforce)**

**TASKFORCE
 AGENDA**

**Thursday, September 26, 2013
 9:00 a.m.**

**Sheraton Suites at Symphony Hall
 701 A Street
 San Diego, CA 92101
 Telephone: (619) 696-9800**

	<u>CBA Item #</u>
Roll Call and Call to Order (Manuel Ramirez, Chair).	
I. Draft Minutes of the July 24, 2013 Taskforce Meeting (Manuel Ramirez).	X.B.
II. Discussion on the Taskforce to Examine Experience for CPA Licensure's Final Report to be Delivered to the California Board of Accountancy (Dominic Franzella, Licensing Chief).	IX.A.2.
III. Presentation on How Information is Presently Displayed for Consumers on the CBA Website and Staff Proposed Changes (Dominic Franzella).	IX.A.3.
IV. Discussion on Possible Recommendations by the Taskforce Regarding Acceptance of Academia as Qualifying Experience for CPA Licensure (Kathryn Kay, CBA Staff).	IX.A.4.
V. Discussion on Possible Recommendations by the Taskforce Regarding Modification to the General Accounting Experience Requirement for CPA Licensure (Kathryn Kay).	IX.A.5.
VI. Discussion on Possible Recommendations by the Taskforce Regarding Modification to the Attest Experience Requirement for CPA Licensure (Dominic Franzella).	IX.A.6.

VII. Enforcement-Related Statistics From Other States That Recently Converted From an Attest Experience Requirement and Redistribution of the Bonnie Moore Case Decision and Results of Legal Cases Research **(Written Report Only)**.

IX.A.7.

VIII. Agenda Items for the Next Meeting.

IX. Public Comments.*

Adjournment.

Action may be taken on any item on the agenda. In accordance with the Bagley-Keene Open Meetings Act, all meetings of the Taskforce 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 Taskforce prior to the Taskforce taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Taskforce. Individuals may appear before the Taskforce to discuss items not on the agenda; however, the Taskforce can take no official action on these items at the time of the same meeting. (Government Code sec. 11125.7(a).)

CBA members who are not members of the Taskforce may be attending the meeting. However, if a majority of members of the full board are present at the Taskforce meeting, members who are not Taskforce 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, September 26, 2013
 11:30 a.m.**

**Or Upon Adjournment of the
 Taskforce to Examine Experience for CPA Licensure**

**Sheraton Suites at Symphony Hall
 701 A Street
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 Telephone: (619) 696-9800**

CBA Item #

- | | | |
|------|---|---------|
| | Roll Call and Call to Order (Alicia Berhow, Chair). | |
| I. | Approve Minutes of the May 23, 2013 EPOC Meeting (Alicia Berhow). | XI.D. |
| II. | Discussion and Possible Action Regarding Proposed New Additions and Previously Requested Changes to the Disciplinary Guidelines and Model Orders (Rafael Ixta, Enforcement Chief). | IX.B.2 |
| III. | Discussion and Possible Action to Recommend Initiation of a Rulemaking to Make Changes to the Disciplinary Guidelines and Model Orders at Title 16, California Code of Regulations Section 98 (Rafael Ixta). | IX.B.3. |
| IV. | Public Comments.* | |
| IV. | Agenda Topics for Next Meeting. | |

Adjournment

Action may be taken on any item on the agenda. In accordance with the Bagley-Keene Open Meetings 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 sec. 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 members EPOC may attend the meeting only as observers.



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CBA Item III.A.
September 26-27, 2013

Announcement Regarding Annual Officer Elections

Presented by: Leslie LaManna, CPA, President

Date: August 26, 2013

Purpose of the Item

The purpose of this agenda item is to inform members regarding the election process for President, Vice President, and Secretary/Treasurer.

Action(s) Needed

Action is only needed by those members who wish to be considered for a Leadership position.

Background

The process for the election of officers and a detailed listing of applicable duties is outlined in the CBA Guidelines and Procedures Manual, pages 4-6 (**Attachment**).

Comments

Each year in November, the CBA elects a President, Vice President, and Secretary/Treasurer. Any person who wishes to be considered for a leadership position is encouraged to submit a one page Statement of Qualifications to the Executive Secretary, Angela Crawford. If interested, please submit your Statement of Qualifications to the CBA office by October 11, 2013. The Statements of Qualifications will be included in the November CBA meeting materials, as part of an agenda item.

At the November CBA meeting, an opportunity will be provided for additional candidates for the officer positions to express their interest. All candidates may be given up to five minutes of floor time to describe why they are qualified for the position.

Please note that the President, Vice President and Secretary/Treasurer each serve one-year terms, and may not serve more than two consecutive terms.

CBA leadership have historically assisted the CBA in guiding various pieces of legislation by attending meetings with legislators and legislative staff to relay the CBA's position on bills that the CBA is either sponsoring or following, bills that relate to the protection of consumers of accounting services, and in some instances bills that impact the accounting profession.

Announcement Regarding Annual Officer Elections

Page 2 of 2

Leadership positions in 2014 and 2015 will play a crucial role in both the development and presentation of the CBA's Sunset Review Report. In 2014, the CBA will prepare and submit its Sunset Review report to the Legislature. In early 2015, Leadership, namely the President, Vice President, or both, will be tasked with testifying at Sunset Review hearings on behalf of the CBA. Providing testimony is a key factor to ensuring the CBA successfully completes the Sunset Review process and ensures the continued regulation of the accounting profession.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff is making no recommendation on this agenda item.

Attachment

Excerpt from CBA Guidelines and Procedures Manual



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CBA Item III.C.
September 26-27, 2013

Report on August 29, 2013, Senate Committee on Budget and Fiscal Review Hearing

Presented by: Leslie J. LaManna, CPA, President

Date: September 4, 2013

Purpose of the Item

The purpose of this agenda item is to present the California Board of Accountancy (CBA) members with information from the August 29, 2013 Senate Committee on Budget and Fiscal Review (Committee) Hearing.

Action(s) Needed

The CBA will be asked to direct staff to place an item on the CBA's March 2014 agenda.

Background

Over the past ten years, the State of California has relied heavily on loans from special funded agencies to close annual budget deficits. The CBA fund presently has \$31 million dollars outstanding in loans to the General Fund.

In July 2013, the Department of Finance (DOF) issued a loan obligation report (**Agenda Item V.B. Attachment 5**), which contained projected dates on which special funded agencies would receive repayment of the outstanding loans, with the goal of having all loans repaid in fiscal year (FY) 2016-17. The CBA is scheduled to receive loan repayments in FYs 2014-15 and 2015-16. These are projections and will not be confirmed until specific language is placed in the budget bills for those FYs.

Comments

On August 29, 2013, the Committee held a hearing to obtain a better understanding of the special funded agencies that have loans outstanding to the General Fund.

The focus of the hearing was on the level of fees that are being assessed, whether the fees have been increased as a result of the loans, did the loans have an impact on board operations, what is the present status of the fund, and what will the reserve level be following loan repayment.

Representatives from DOF were present and provided background information on the loan criteria used to determine those boards from which to borrow funds. DOF stated

Report on August 29, 2013, Senate Committee on Budget and Fiscal Review Hearing

Page 2 of 3

the general criteria used included the level of the reserve, that the loan would not impact operations, and that no large expenditures were anticipated in the near future.

The Legislative Analyst Office (LAO) provided a report (**Attachment**) to the Committee providing background and an overview of fund conditions for the Department of Consumer Affairs boards that are scheduled to have loans repaid in FY 2013-14, including:

- Board of Behavioral Sciences
- Speech-Language Pathology and Audiology and Hearing Aid Board
- Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation
- Dental Board of California
- Board of Professional Engineers, Land Surveyors and Geologists
- Bureau of Real Estate Appraisers

As each board testified at the hearing, Committee members discussed established performance measures in the areas of Enforcement and Licensing and Renewals, highlighting processing timeframes. The Committee members asked questions directly related to the board's operating budget and fee structure, in addition to the following questions:

- What efforts are being made to reduce the turnaround time for both the cases investigated by the board and those that are referred to the Attorney General's office?
- How many months in reserve will the fund have available in 2013-14? Are there a certain number of months in reserve that are recommended for the fund?
- Has the board conducted a customer satisfaction survey recently? If so, could the board share the results?

Although the CBA was not discussed or called to testify at the hearing, I, along with staff came prepared to address any questions members may have had, including those posed above. Specifically, that the CBA has made improvements in the processing timeframes for investigations, is looking at ways to reduce the time cases are pending at the Attorney General's Office, and that the CBA presently provides a customer satisfaction survey. These items are also identified as objectives in the CBA's 2013-2015 Strategic Plan.

Additionally, the CBA presently has an aggressive regulatory proposal submitted which would significantly reduce the reserve balance through a decrease in licensing and renewal fees.

Ultimately, there was not an opportunity to provide general comments regarding the loans and only a limited opportunity for comments specific to the boards that were called to testify.

**Report on August 29, 2013, Senate Committee on Budget and Fiscal Review
Hearing**

Page 3 of 3

Fiscal/Economic Impact Considerations

None.

Recommendation

As previously directed, CBA staff will continue to monitor the reserve and keep CBA members informed regarding its status at future CBA meetings. The Governor releases his 2014-15 Budget in mid-January 2014. I recommend that the CBA direct staff to place an item on the CBA's March 2014 meeting agenda to discuss how to address its projected reserve should specific language regarding CBA loan repayment be included in the Governor's Budget at that time.

Attachment

LAO Report on Repaying Special Fund Loans

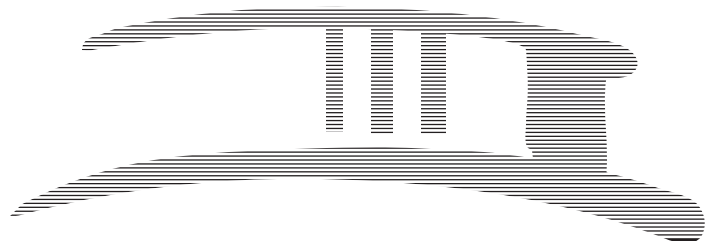


August 29, 2013

Repaying Special Fund Loans

LEGISLATIVE ANALYST'S OFFICE

Presented to:
Senate Budget and Fiscal Review Committee
Hon. Mark Leno, Chair





Background

- ☑ ***Special Fund Loans Helped General Fund.*** Over the past decade, the state lent balances of its special funds to the General Fund in order to help address budget shortfalls. As of June, \$4.6 billion of special fund loans were outstanding.

- ☑ ***Governor Proposes to Repay Almost All These Loans by 2016-17.*** The administration plans to repay about \$700 million of the outstanding special fund loans in 2013-14. The administration's multiyear budget plan foresees repaying all of these loans by the end of 2016-17, except for the \$500 million borrowed from the Greenhouse Gas Reduction Fund.

- ☑ ***To Date, Legislature Has Granted Administration Discretion.*** Courts have generally deferred to the Legislature to determine when special funds need to be repaid. (Case law provides general guidance that loans need to be repaid so as not to "interfere with the object for which the special fund was created.") The Legislature has typically deferred to the administration concerning the timing and level of special fund loan repayments.



Today's Topic: Seven of the Loans to Be Repaid in 2013-14

- ☑ **Examining Repayments to Two Department's Funds.** The administration's multiyear budget plan foresees repaying about \$700 million in special fund loans in 2013-14. Of these, six special fund repayments concern accounts of the Department of Consumer Affairs (DCA), and one repayment concerns a special fund of the Department of Business Oversight.

- ☑ **Operating Deficits Exist in These Funds.** As shown in the figure below, a characteristic common to these seven funds is that all are projected by the administration to have an operating deficit, in which their annual revenues are insufficient to fully fund annual expenditures.

2013-14 Loan Repayments for Departments of Consumer Affairs and Business Oversight						
<i>(Dollars in Millions)</i>						
Special Fund	Annual Revenue	Annual Expenditures	Operating Deficit	Loan Amount to be Repaid in 2013-14	Fund Balance ^a	Months in Reserve ^a
Credit Union Fund	\$7.3	\$7.5	-\$0.3	\$1.4	\$2.7	4
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund	1.8	1.9	-0.1	0.3	0.3	1
Real Estate Appraisers Regulation Fund	2.5	5.4	-2.9	8.1	7.0	15
State Dentistry Fund	8.0	11.9	-3.8	2.7	1.6	1
Bureau of Home Furnishings and Thermal Insulation Fund	3.9	4.9	-1.0	1.5	2.0	4
Professional Engineer and Land Surveyor Fund	9.5	9.9	-0.5	2.5	2.3	2
Behavioral Science Examiners Fund	7.6	8.1	-0.5	1.4	2.2	3

^a Reflects administration's estimate of fund balance at end of 2013-14 including the loan repayment.



Establishing Legislative Priorities on Special Fund Repayments

- ☑ **Examining the Special Funds.** The plan to repay many special funds in the coming years creates an important opportunity for the Legislature to explore the financial operations of special funds and develop a more detailed understanding of the services they support. (At the end of this handout, we provide an Appendix that lists key questions budget committees may want to ask the administration concerning special funds receiving loan repayments.)

- ☑ **Setting Legislative Priorities.** By learning more about the special funds, the Legislature will be in a position to set priorities with respect to special fund loan repayments. The Legislature may wish to consider:
 - Which special funds should be repaid sooner rather than later?
 - Which special fund programs or fees require changes?
 - How do special fund loan repayments rank among various General Fund budget priorities?

- ☑ **Administration Cooperation Essential.** The Department of Finance (DOF) and special fund departments generally have better access than the Legislature to timely and accurate information concerning the current condition and cash flow situation of special funds. If the Legislature wishes to examine a special fund in detail, it would be best if DOF and departments are asked well in advance to address key questions, such as those in this handout's Appendix.



Issues for Legislative Consideration

- Do Expenditures Consistently Exceed Revenues?*** A special fund with an operating deficit may need its loans repaid before a special fund with a balanced budget or an operating surplus. Regardless of the circumstances that led a given special fund to previously develop a large reserve, various operational costs do generally increase over time. In some cases the Legislature may decide that fee increases are necessary to maintain a desired level of service over the next few years.
- Are Special Fund Programs Cost-Effective?*** The cost-effectiveness of a special fund's activities should also be evaluated when considering loan repayments or a change in the fund's fee structure. This is a good opportunity for the Legislature to consider if it wants to change the priorities of some special fund programs—such as by reducing certain spending commitments.
- What Is an Appropriate Fund Balance?*** Generally, special fund reserves should be sufficient to cover routine seasonal cash flow fluctuations or periodic annual declines in revenue. An appropriate level can be expected to vary from one fund to another, but, as a general rule, a reserve of several months should be sufficient. Some planned loan repayments—to the Real Estate Appraisers Regulation Fund, for example—could result in a large reserve in the near term.
- Is a Substantial, One-Time Cost Anticipated?*** Larger reserves may be justified if a relatively large one-time or short-term expense is expected. The DCA, for example, is currently implementing a new information technology solution that will result in temporarily higher costs to these boards and bureaus.



Issues for Legislative Consideration

(Continued)

- Are Reductions in Fees Justified?*** The Legislature can consider whether special funds with structural surpluses, large loan balances, or large reserves (relative to expenditures) are adequately serving the needs of their fee payers and the public. In some cases, the Legislature may consider temporary or permanent special fund fee reductions. In other cases, additional program activities or staffing may be desired.



Appendix: Key Questions for the Administration

- What is the current fund balance of the special fund and what is the current outstanding loan balance?
- How many months of operating costs are needed in reserve to cover routine seasonal cash flow fluctuations or periodic annual declines in revenue?
- Does the special fund currently have an operating deficit or surplus?
- Are operating revenues increasing or decreasing? Why and at what rate?
- Are operating expenses increasing or decreasing? Why and at what rate?
- How much will scheduled pay increases and projected increases in California Public Employees' Retirement System costs affect the special fund over the next few years?
- Are any large, one-time costs or revenues anticipated?
- What are the current and historical staff vacancy rates in the department, board, or bureau whose activities are supported by the special fund?
- Does the department, board, or bureau have performance targets?
- How does the department, board, or bureau set fee levels? How frequently are the fees evaluated to ensure they are at an appropriate level and what criteria are used to determine this?
- What interest rate is the General Fund paying to borrow money from this special fund?

Memorandum

CBA Agenda Item III.E.
September 26-27, 2013

To : CBA Members

Date : September 9, 2013

Telephone : (916) 561-1716

Facsimile : (916) 263-3674

E-mail: kari.o'connor@cba.ca.gov

From : Kari O'Connor
Board Relations Analyst

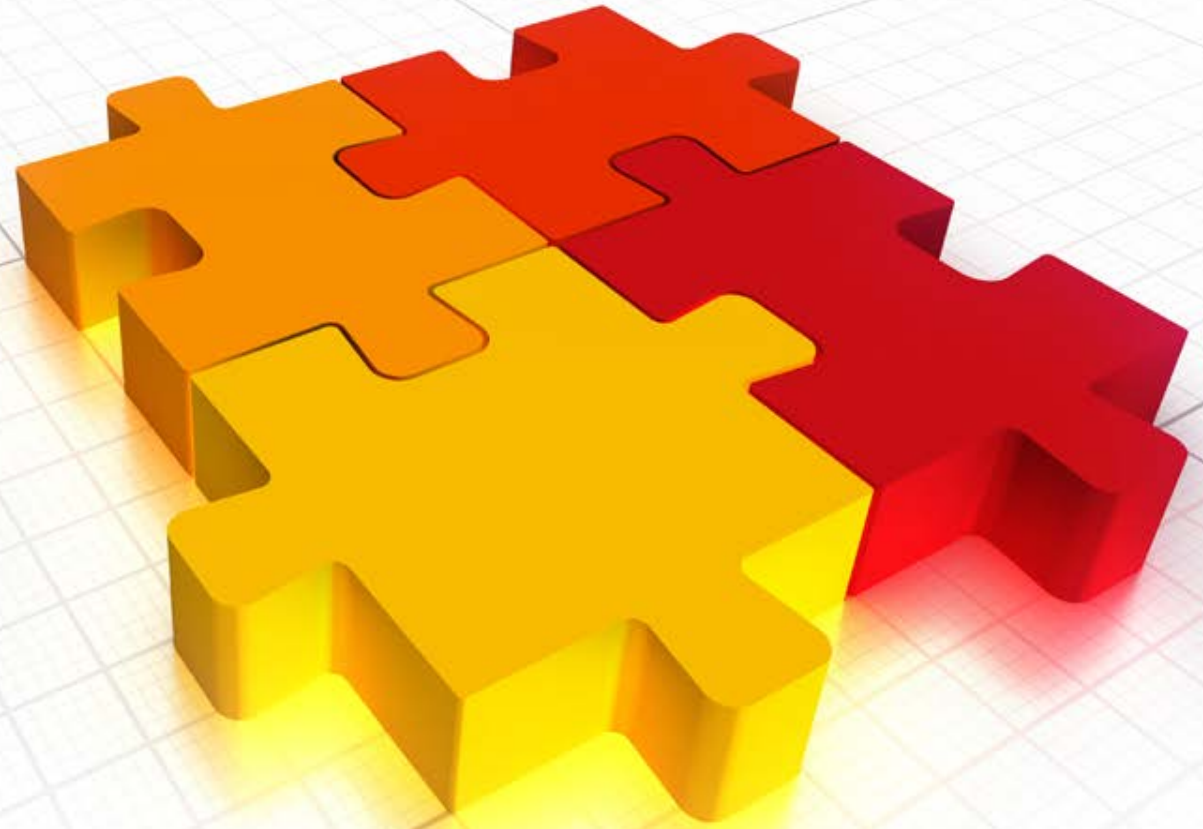
Subject : Guest Speaker Richard Kravitz, CPA, Director, Socially Responsible Accounting

At the invitation of President LaManna, Richard Kravitz, will present information to the CBA regarding socially responsible accounting and protecting the public interest. Mr. Kravitz will offer specific recommendations on how to improve outcomes of the accounting profession.

Mr. Kravitz, who is a member of the Board of Editors of the *Financial Fraud Law Report*, has been named the recipient of *The CPA Journal's* 2012 Max Block Award for his article in the category of Informed Comment for his Point/Counterpoint, "Auditors' Responsibility for Detecting Fraud: Putting Ethics and Morality First," which was published in the June 2012 issue of *The CPA Journal*.

Attachment

Presentation : California Board of Accountancy



Socially Responsible Accounting – Protecting the Public Interest

September 27th, 2013

**by Rick Kravitz, CPA, MBA, CGMA, FACFEI
Center for Socially Responsible Accounting**

Socially Responsible Accounting

Protecting the Public Interest



Contents:

- Background of the Profession
- Measuring Outcomes – “So how are we doing?”
- Failure of the Profession
- Social, Financial cost and Loss of Trust
- Recent causes of fraud- Finding Fraudsters
- Recommendations and Solutions

Socially Responsible Accounting

Protecting the Public Interest



Background:

- CPA'S are the largest body of independent observers of corporate behavior.
- CPA's are one of three “gate keeping” professions.
 - Independent monitors or watchdogs; screen out flaws and defects and verify compliance with standards and procedures
 - Reputation : credibility, independence, impartiality and fairness
- CPA's- the most trusted advisers: institutional power whose responsibility Insure the accuracy of financial statements, the bedrock of investor confidence:
 - No other independent force in the capital markets as powerful. If the system would falter; no government, institution or regulatory authority to replace it.
- CPA's are no less moral or ethical today than they were 100 years ago.

Socially Responsible Accounting

Protecting the Public Interest



Background:

- History: Public accounting is a new profession barely over 100 years old
- Uniform Standards: Underlying principles that guide this profession were not even codified until 2009:
 - Trillions of dollars cross borders each day but there still are no global accounting standards [2015(?)]
- Accounting principles:
 - Rules based: Over 2000 pages of “rules”
 - Not based on case law, statutes, regulations, mathematical equations, scientific evidence, empirical observation [is it a behavioral science?]
 - Rules themselves may be conflicting, arbitrary, inconsistent, self serving, confusing, offer multiple choice, misleading, may not reflect the economic substance of the transaction

Socially Responsible Accounting

Measuring Outcomes



So How are we doing?

“If any other businesses, such as manufacturing or software companies had such high failure rates in their products, they would go out of business”

Lynn Turner, former Chief Accountant for the SEC

“No major fraud has ever been discovered by auditors; much of the auditors work is based on the faulty assumption that separation of duties prevents fraud.”

Lee Seidler, Luminary Accounting Professor, NYU

Unprecedented Failure of the Accounting Profession



Public Audits in Conformity with GAAP and GAAS Principles

- Failed to identify the largest global corporate failures in history,
- Failed to disclose trillions of dollars of off balance sheet assets that seized the markets.
- Failed to unearth shadowy investments, massive mortgage frauds, Ponzi Schemes.

Clean audits delivered months before the implosion of formally healthy businesses

- City of Dixon* [11/2012], MF Global, AIG, Olympus Camera, Parmalat, Satyam Federal National Mortgage Agency (un-booked liabilities of a trillion dollars), Federal Home Loan Mortgage Corporation, Lehman brothers, Washington Mutual, Hurried acquisition of Merrill Lynch by Bank of America, 67,100 Suspicious Activities Frauds reported to the FBI [37% increase since 2001]

*Largest municipal embezzlement in US History

Unprecedented Failure of the Accounting Profession



▪ Audit Failures:

“During the most recent period exceeded in magnitude the wave of corporate scandals in the late 2001-2002 period when hundreds of public corporations restated their financial statements and scores were sued by the Securities and Exchange Commission”

[Law Professor, John Coffee, Columbia University Law]

▪ PCAOB Examinations:

- Recent review by PCAOB found that “44% of the audit firms examined had a least one significant audit performance deficiency...no evidence of any correlation between size of firm and ability to perform a PCAOB compliant audit [Feb, 2013]
- In 2010, PCAOB reported that one in three audits were defective
- In Financial Services, of 23 brokerage firm inspections, 15 of the audits did not perform sufficient procedures to test accuracy ..of revenue;
- Remaining 6 of 8 auditors did not perform sufficient procedures to test valuations....

Unprecedented Failure of the... Regulators



“Greatest audit failures and corporate frauds occurred after enactment of:”

- Sarbanes Oxley
 - Created new opportunities for companies to go dark and out of the SEC and Federal Government regulatory system
 - AIG spent \$300 million a year to fulfill the SOX requirements
 - Auditors required to “flag restatements” :
Only 14% flagged in last year of study (2009) and none before Lehman collapse or Citibank low balled its subprime mortgage exposure

- Dodd Frank Wall Street Reform and Consumer Protection Act of 2010

- Public Company Accounting Oversight Board [now a decade old]
 - Transfer of GAAP and GAAS, Industry Oversight and Regulation

The Social Cost



This was not a victimless crime:

- Wealth destruction in excess of over \$30 trillion dollars resulted in permanent losses for some, a decade of recovery for others and has forced people into starvation in third world countries

“We exported wealth destruction throughout the world”

- By 2011, The American poverty rate had increased by 15%.
- 18 million more Americans were on food stamps
- Press reports of a new generation of homeless living in Sacramento, the same as during the Great Depression.
- Inflation adjusted wages in America today are 4% less than when the crisis began

The Financial Cost



- **Financial Fraud**: Over the past decade hundreds of companies restated their financials after they were given clean opinions:
 - Restatements are indicators of fraud
 - Materially misleading financials, material omissions, misstatements, financial manipulation
 - GAO reported that when publicly traded firms “restated” their financials :
“Investors lost \$100 billion in a three day trading period and 18% loss of investment over 60 days”
 - PCAOB in 2013 reported that all top tier accounting firms had low double digit client restatements
 - Cost of **Fraud**: Latest study in 2009 by ACFE*: \$2.9 trillion

*Association of Certified Fraud Examiners: Recent report that *“fraud continues to escalate”*

Loss of Trust



- Financial Fraud has resulted in a “growing loss of trust, faith and confidence in our financial institutions”*
- “general public has an increasing mistrust in authority and mistrust about their motives”*
- “ 2/3 of investors have some confidence in US capital markets,”**
while over 1/3 of investors have no confidence in the US capital markets
- Investor participation in US markets at a historical low point

* Institute of Chartered Accountants in England and Wales

**Center for Audit Quality (AICPA)

Socially Responsible Accounting Protecting the Public Interest



So What Happened to the Auditing Profession?

- Prior to 1920's:

Detection of Fraud as the "Primary Audit Objective":

'zeal to protect the public trust...use accounting as a social force...'

George May, Price Waterhouse, 1920

- Over the past 40 years:

"Uncovering fraud was a "Responsibility not assumed"

- Failure to uncover fraud is the greatest disparity between public's perception and industry perception: Plagues the accounting profession in the eyes of the public

"Biggest misconception [is that auditors think] we're there...to do what is necessarily best for our profession, not what serves the public best"

Leslie LaManna, President, California Board of Accountancy

- Financial Fraud is principally a US issue [minimum issue EU and UK]

Socially Responsible Accounting

Protecting the Public Interest



Recent Causes of Fraud:

- In United States, In the 80's and 1990's Executive compensation changed from bonus to stock/stock options:
“The leading factor for financial restatements [indicators of financial fraud] were stock options”
- If a CEO held stock options equaling 20 times his or her salary
“The likelihood of restatement [indicator of financial fraud] increased by 55%”
- Stock Options are:
“high level octane fuel for short term financial manipulation and accounting gamesmanship”
- In Europe, same time period – very few companies announced restatements
“Management had less motivation to cheat...or feel the same pressure to cook the books “

Socially Responsible Accounting

Protecting the Public Interest



Finding Fraudsters

- 10 year SEC study – 72% of the frauds are committed by or with the knowledge of the CEO : 29% implicated outside auditors
- ACFE 2012 study -owners, mgrs & execs commit 75% of frauds
- 2012 study – 18% of companies manipulate their earnings by an average of 10% to influence stock prices [most finagling goes undetected]
- 94 countries, 57% of all global frauds committed in the US
- Fraudster are not particularly clever in the way they defraud the business: Wasendorf (PFG), Corzine (MFG), Kozlowski, Ebbers, Skilling, Fastow, Tanzi, Kanebo, Satyam, Stanford, Madoff...

Recommendations and Solutions



The premise should be made explicit, corporate governance does not work, nor can management be held accountable in the absence of a system that makes gatekeepers reasonably faithful to the interests of investors.”

***John Coffee, Columbia University Law Professor,
Corporate Governance***

Recommendations to Strengthen Audits



Regulation

- 3-5 year Claw back provision of stock options/executive compensation
- Tightening the 1995 Private Securities Litigation Reform Act [auditors can be sued again]
- Twin peaks-financial conduct [regulatory inclusion vs. exclusion (tightening SOX)]
- Skilled Persons Statutes

Profession

- Evolve the profession back to the 20's –Back to the Future
 - Auditing for fraud [fraud schemes are finite and predictable]
 - Auditors as officers of the SEC
 - Attorney's due diligence review
 - Tone from the top – losing anonymity
 - Tone from the top -“From denial and resistance to what we can learn from our failures”

Education

- Training the next generation of accountants to detect fraud
 - Role playing, coping , peer equality
- Educating professors and students in the social sciences of their social responsibility

Appendix One –Detecting Fraud



- GAAP and GAAS [Auditing standard #1]:
“protect the public against fraud”

- Fraud is discoverable:
“Each business has a finite and predictable list of inherent fraud schemes; each inherent fraud scheme has a finite and predictable list of fraud permutations....each fraud permutation has...”

- Imbed forensic accounting techniques in audit programs and put fraud and forensic auditors on the audit team

- We know who commits $\frac{3}{4}$ of the financial frauds

Appendix Two-Socially Responsible and Sustainable Accounting Principles



CPA's raison d'être:

- To serve society and protect the public interest:
- CPA's are licensed by the public and responsible to the public
- Granted monopoly to audit public companies ; self regulation

Socially Responsible Principles

- Sustainable (corporations live beyond the next CEO):
"Identifying companies too good to fail not too big to fail"
- Honest, accurate, transparent (full disclosure-nothing is left out), truthful
- Legally defensible (reasonableness standard)
- Independently measures financial risk of the enterprise Not only at a point in time but over time

Public Interest Responsibility: All stakeholders:

- Shareholders; investors; employees; vendors/suppliers; customers; communities and government (municipal and federal)

Appendix Three-Future Issues



- Hidden Pension Obligations [\$6 trillion] that will continue to bankrupt cities [from Detroit to ...]
- \$1.5 trillion of student loan liabilities not on balance sheets
- 60 trillion dollars of off sheet financing (repos, leveraged swaps) [financial instruments – one of the big three]

Appendix Four -Financial Fraud [REVENUE RECOGNITION]

[one of the big three: revenue, leasing, Financial Instruments]



- GE's legendary ability to deliver consistent earnings growth (GE settles claims of fraud...agrees to pay \$50 million [August,2009, Financial Times])
- Beazer Homes earnings management scheme to meet or exceed expectations [July,2009, AICPA Forensic and Valuation Reporter]
- Xerox's advanced recognition of lease transactions
- Paragon Construction's accelerated contracts
- Sunbeam's channel stuffing revenue upsides
- Rite Aid's revenue smoothing techniques
- Crazy Eddie's – he just made up the numbers
- Adelphia, Enron and PNC's related party sales
- Enron and Dynegy's double booking
- Waste Management, Knowledge Ware... manufactured creative recognition techniques
- Satyam allegedly inflated revenue and falsified data
- Citibank - \$40 billion civil charges for dumping toxic mortgage assets to the public.
- GE Capital – municipal finance bid rigging allegedly defrauded public entities.
- \$390 million theft from K1 Hedge Fund representing small global investors

Appendix Five-The Center for Socially Responsible Accounting



Founding Director, Rick Kravitz, CPA, MBA, FACFE, CGMA

- **Member NYSSCPA, ASPPA, AICPA, US Coast Guard Auxiliary,**
- **Former Group Publisher, Thomson Reuters [tax and accounting]**
- **Former Group Publisher/Executive Vice President ,Wolters Kluwer – US and The Hague**
 - President, Panel Publishers/Wolters Kluwer
 - Exec VP Aspen Publishers [International Law, Legal Education]
- **Former auditor at Deloitte and Touche and corporate auditor at CBS, Inc.**

The Center for Socially Responsible Accounting

- **Self-funded**
- **Accepts no contributions, no speaker or writer fees**
- **Sole purpose is to help educate the profession, through writing, presentations, panel discussions**
- **To raise awareness within the CPA community of:**
 - our responsibility to protect the public interest,
 - help restore the public trust in our institutions
 - Accept our historic role to detect and uncover fraud



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CBA Item V.B.
September 26-27, 2013

Fiscal Year 2012-13 Year End Financial Statement

Presented by: K.T. Leung, CPA, Secretary/Treasurer

Date: September 5, 2013

Purpose of the Item

The purpose of this agenda item is to provide California Board of Accountancy (CBA) members the third quarter financial report, which gives an overview of year-to-date receipts, expenditures, and the status of the Accountancy Fund Reserve.

Action Needed

No specific action is required on this agenda item.

Background

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

Comments

None.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff has no recommendation on this item.

Attachments

1. Year End Financial Statement – Narrative
2. Year End Financial Statement – Statistics
3. CBA Budget Allocation History
4. CBA Total Revenue and Expenditures
5. Department of Finance Loan Obligation Report

CALIFORNIA BOARD OF ACCOUNTANCY
FISCAL YEAR 2012-13
YEAR END FINANCIAL STATEMENT - NARRATIVE
(for period of 7-01-12 through 6-30-13)



DISCUSSION AND ANALYSIS OF FINANCIAL STATEMENT

BUDGET

The California Board of Accountancy's (CBA) fiscal year (FY) 2013-14 budget is preliminarily set at \$11,573,000, which is an increase of approximately \$435,000 over the prior fiscal year. The increase, as discussed in prior financial statements, consists of higher wages and retirement contributions due to the elimination of the personal leave program. Anticipated cost increases for health benefits and implementation of BreEZe also have contributed to the FY 2013-14 budget increase.

CBA staff recently submitted revenue projections to the Department of Consumer Affairs (DCA) which will be included in the Department of Finance (DOF) fund condition statement for the current year 2013-14 budget and the proposed FY 2014-15 Governor's Budget. Revenues for FY 2013-14 are projected to be approximately \$10,122,000 which is a slight increase over the amount received for FY 2012-13.

Five CBA loans to the General Fund totaling \$31,270,000 still remain outstanding. All loans are projected to be paid back in FY 2014-15 and 2015-16 per the attached July 19, 2013 loan obligation report from the DOF (**Attachment 5, pages 3 and 4**). DOF prepares the loan obligation reports annually and repayment dates included are only estimates. Actual repayment of the loans and when they occur will require specific language to be included in the budget bill.

REVENUES/TOTAL RECEIPTS

In FY 2012-13, the CBA collected approximately \$10 million in total receipts. Overall, this is approximately the same amount of revenues received the prior year. Penalties and fines continue to reflect an increase in enforcement citations due to peer review reporting deficiencies. Beginning FY 2014-15, the peer review reporting requirement will be tied to the licensee's renewal date which is expected to significantly reduce non-compliance with reporting.

Beginning July 1, 2013 out-of-state licensees seeking to practice public accountancy in California, pursuant to the new mobility provisions, no longer have to pay a fee. Consequently, the practice privilege revenue line item which the CBA received over \$160,000 for in FY 2012-13 will be eliminated beginning FY 2013-14.

EXPENDITURES

Higher printing and postage costs in FY 2012-13 are a result of the CBA resuming printing and mailing hardcopy UPDATE publications.

The consultant and professional services line item shows significant decreases in costs

**CALIFORNIA BOARD OF ACCOUNTANCY
FISCAL YEAR 2012-13
YEAR END FINANCIAL STATEMENT
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compared to the prior year. Two expert consultant contracts expired at the end of FY 2012-13 and both of these contracts will not be renewed. The CBA currently has one expert consultant contract in place for FY 2013-14 to address an ongoing investigative case.

Fingerprint expenses totaled approximately \$19,000 in FY 2012-13 which are typical annual costs for this category. The Department of Justice (DOJ) had mistakenly billed the CBA for running fingerprints for non-CPA license applicants in prior years. The majority of those overbillings were refunded in FY 2011-12 reflecting a much lower than usual expenditure amount of \$10,000 in that year.

Reimbursement totals reflect a decrease for FY 2012-13. The security guard costs totaling \$100,000 have yet to be invoiced to the two other tenants that the CBA shares the building with. The DCA will be invoicing those two departments by the end of the month. Once those amounts are paid to the CBA, reimbursement levels will be in line with those that were received in FY 2011-12.

RESERVES

The CBA ended the fiscal year with 16.6 months in reserve (MIR). Total net expenditures slightly exceeded revenues by about \$3,500 however, approximately \$740,000 of cost recovery reimbursements have added to the MIR.

In FY 2012-13 the CBA submitted another temporary fee reduction proposal to more aggressively reduce the MIR to approximately three months of annual expenditures. The regulation package has been submitted to the DCA and will need approval by the Business, Consumer Services, and Housing Agency, the Department of Finance, and the Office of Administrative Law before the fee reduction becomes effective. Should the regulations be approved, the reductions would begin July 2014.

	FY 2012-13 Received/Expended (7-01-12) - (6-30-13) (12 months) [9]	FY 2011-12 Received/Expended (7-01-11) - (6-30-12) (12 months) [9]	% Change FY 2012-13 to FY 2011-12 (A:B)	FY 2012-13 Annual Governor's Budget (7-01-12) - (6-30-13) (12 months) [10]	FY 2012-13 Receipts/Expenditures Over/Under Budget (D:A)
RECEIPTS					
Revenues:					
Renewals [1]	5,638,702	5,716,951	-1.4%	5,904,082	-4.5%
Examination Fees	2,972,033	2,980,573	-0.3%	3,013,691	-1.4%
Licensing Fees	1,008,550	951,900	6.0%	955,900	5.5%
Practice Privilege Fees	161,500	181,950	-11.2%	183,300	-11.9%
Miscellaneous [2]	55,420	58,922	-5.9%	57,084	-2.9%
Monetary Sanctions [3]	0	0	NA	0	NA
Penalties and Fines	189,450	113,096	67.5%	75,740	150.1%
Total Revenues	10,025,655	10,003,392	0.2%	10,189,797	-1.6%
Interest	40,786	48,332	NA	0	NA
TOTAL NET RECEIPTS	10,066,441	10,051,724	0.1%	10,189,797	-1.2%
EXPENDITURES:					
Personal Services:					
Salaries & Wages	4,350,680	4,388,334	-0.9%	4,296,285	1.3%
Benefits:					
Health Insurance	639,317	569,571	12.2%	803,381	-20.4%
Other Insurance and Miscellaneous	223,668	199,872	11.9%	74,111	201.8%
State Retirement	775,748	706,193	9.8%	814,340	-4.7%
Social Security	250,294	253,914	-1.4%	298,071	-16.0%
Total Benefits [4]	1,889,027	1,729,550	9.2%	1,989,903	-5.1%
Total Personal Services:	6,239,707	6,117,884	2.0%	6,286,188	-0.7%
Operating Expenses:					
Fingerprints	18,999	10,012	89.8%	185,000	-89.7%
General Expense	122,761	121,974	0.6%	191,868	-36.0%
Printing	181,832	109,835	65.6%	85,608	112.4%
Communications	30,137	26,851	12.2%	48,614	-38.0%
Postage	234,015	147,848	58.3%	130,872	78.8%
Travel: In State	152,030	145,244	4.7%	132,886	14.4%
Training	10,043	18,191	-44.8%	28,012	-64.1%
Facilities Operations	675,069	688,415	-1.9%	613,818	10.0%
Consultant & Professional Services	10,773	174,284	-93.8%	317,076	-96.6%
Departmental Services	1,130,478	1,205,402	-6.2%	1,250,341	-9.6%
Consolidated Data Center	53,445	33,832	58.0%	41,846	27.7%
Data Processing	18,487	22,004	-16.0%	71,103	-74.0%
Central Administrative Services	517,594	514,151	0.7%	517,594	0.0%
Exams	87,270	136,600	-36.1%	0	NA
Enforcement	653,173	850,793	-23.2%	1,463,551	-55.4%
Equipment	59,917	73,626	-18.6%	70,000	-14.4%
Total Operating Expenses:	3,956,023	4,279,062	-7.5%	5,148,189	-23.2%
TOTAL EXPENDITURES	10,195,730	10,396,946	-1.9%	11,434,377	-10.8%
Less Scheduled Reimbursements	125,858	214,657	-41.4%	296,000	-57.5%
TOTAL NET EXPENDITURES	10,069,872	10,182,289	-1.1%	11,138,377	-9.6%
RECEIPTS IN EXCESS OF EXPENSES PLUS COST RECOVERY	-3,431	-130,564		-948,580	
BEGINNING RESERVES JULY 1 [5]	15,123,000	14,346,000		15,123,000	
GENERAL FUND LOAN 2011 [6]	0	-1,000,000		0	
Total Resources	15,859,823	14,037,117		14,174,420	
PROJECTED ENDING RESERVES	15,859,823	14,037,117	13.0%	14,174,420	
GENERAL FUND LOAN 2002 [7]	(6,000,000)				
GENERAL FUND LOAN 2003 [7]	(270,000)				
GENERAL FUND LOAN 2008 [7]	(14,000,000)				
GENERAL FUND LOAN 2010 [7]	(10,000,000)				
GENERAL FUND LOAN 2011 [7]	(1,000,000)				
MONTHS IN RESERVE (MIR) [8]	16.6	15.0		15.3	

CALIFORNIA BOARD OF ACCOUNTANCY
FISCAL YEAR 2012-13
Year End Financial Report
(for period of 7-1-12 through 6-30-13)

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] Enforcement monetary sanctions received as components of stipulated settlements and disciplinary orders approved by the CBA. These orders bring to a conclusion any accusations that had previously been filed by the Executive Officer, and are separate from fines or citations.
- [4] 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.
- [5] FY 2012-13 beginning reserve amount was taken from Analysis of Fund Condition statement, prepared by the Department of Consumer Affairs (DCA) Budget Office in December 2012.
- [6] The CBA prior year budget for FY 2011-12 includes a \$1 million loan to the General Fund.
- [7] 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 2.64% 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.
- [8] Calculation: expenditure authority for FY 2012-13 (\$11,138,377) divided by twelve months equals monthly expenditure authority (\$928,198). Total ending reserves divided by monthly authority equals "Months in Reserve" (MIR).
- [9] Received/Expended amounts through June 30, 2012 for FY 2011-12 and June 30, 2013 for FY 2012-13 include encumbrances, and are from DCA Budget Reports.
- [10] Figures reflect projected revenues from FY 2012-13 Workload and Revenue Statistics, expenditures are from the FY 2012-13 DCA Budget Galley STONE and the DCA Fund Condition statement prepared 12/2012.

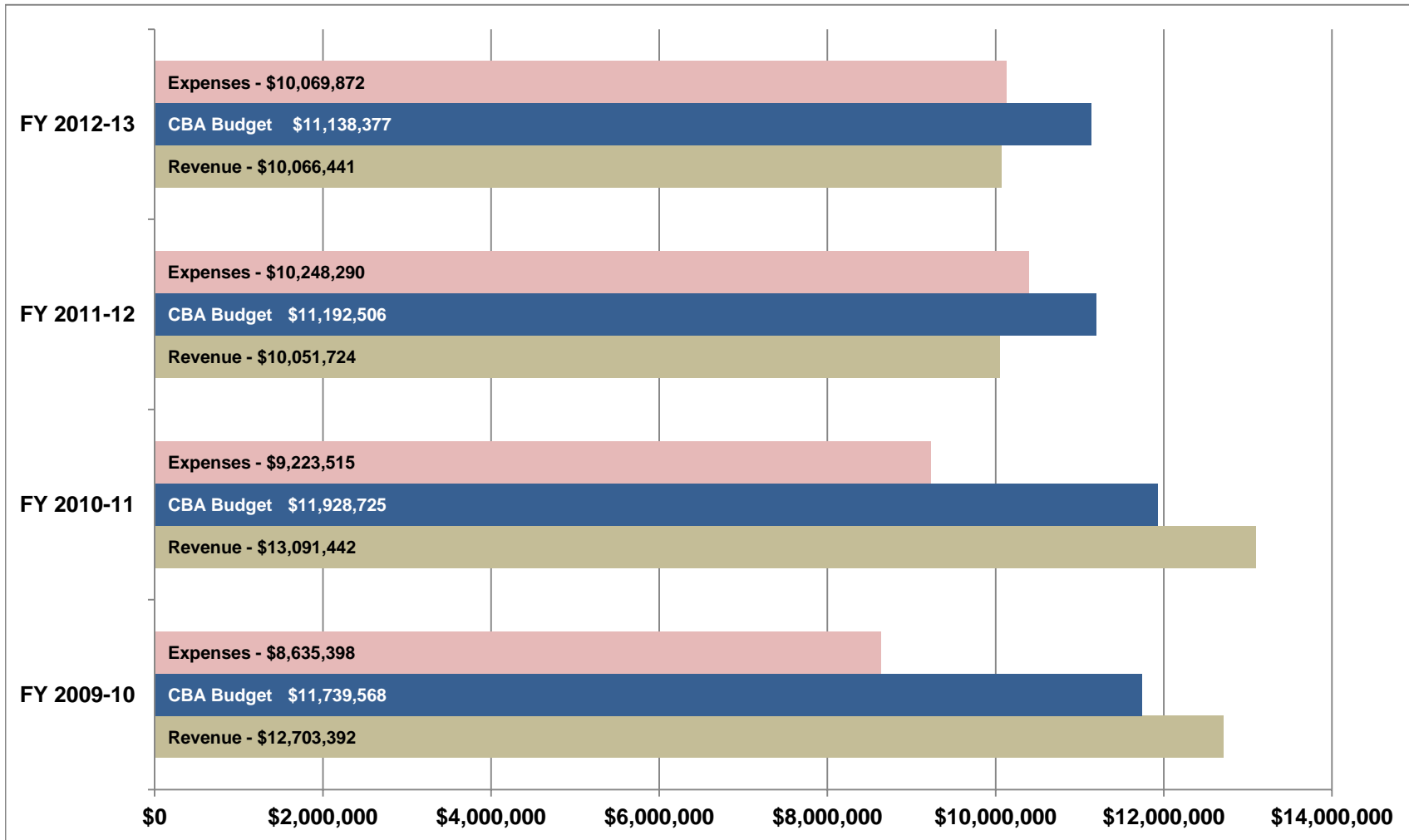
NOTE: CBA Financial Reports are prepared quarterly (October, January, April, and August) and included in CBA Meeting materials. These reports provide an overview of receipts, expenditures, and the status of the Accountancy Fund Reserve.

CBA Budget Allocation History
(including reimbursements FM13)

Year End 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	170,012	800,652	1,163,673	555,171	1,282,581	3,406,795	2,102,133	465,867	122,987	
Authorized Positions¹	79.9	1.4	6.0	12.0	5.0	11.0	22.5	19.0	3.0	0.0	
¹ 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	Client Services	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	0.0	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	0.0	99,736
Authorized Positions	83.5	2.0	7.0	12.0	5.0	11.0	22.5	20.0	4.0	0.0	0.0
FY 2010-11	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Client Services ²	Board
\$ Budgeted	\$11,928,725	176,337	1,023,455	1,208,197	618,616	929,864	5,150,079	2,169,348	519,624	0	133,206
\$ Spent	\$9,223,515	140,127	883,475	1,230,379	530,717	980,654	2,743,474	2,118,158	478,714	0	117,816
Authorized Positions	84.0	2.0	9.0	15.0	5.0	8.0	20.0	21.0	4.0	0.0	0.0
² The Client Services Unit was closed in 2010 and staff were redirected to the Examination, Enforcement, and RCC units.											
FY 2009-10	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Client Services	Board
\$ Budgeted	\$11,739,568	446,994	617,118	1,311,926	568,326	788,597	4,970,948	1,830,145	591,295	501,841	112,378
\$ Spent	\$8,635,398	301,775	665,369	1,122,477	517,342	805,498	2,601,959	1,564,363	469,070	409,554	177,991
Authorized Positions	83.0	5.0	6.0	15.0	5.0	7.0	17.0	19.0	4.0	5.0	0.0

* Dollars spent through 4th Quarter ending June 30, 2013.

CBA Total Revenue and Expenditures





July 19, 2013

Honorable Mark Leno, Chair
Joint Legislative Budget Committee
Senate Budget and Fiscal Review Committee

Honorable Nancy Skinner, Chair
Assembly Budget Committee

Honorable Kevin de León, Chair
Senate Appropriations Committee

Honorable Mike Gatto, Chair
Assembly Appropriations Committee

Report per Government Code Section 16320

Enclosed is the report pursuant to Government Code section 16320, which requires the Director of Finance to submit a summary of budgetary loans to the General Fund, and obligations for future payment of deferred or suspended expenditures or transfers, including the dates the loans and obligations are due.

Attachment I reflects the balances of outstanding loans to the General Fund from special funds based upon current law as of June 30, 2013. Attachment II is the "Wall of Debt." The first column reflects estimated June 30, 2013 balances of the General Fund obligations, and the remaining columns show the planned repayment fiscal years of these obligations, including budgetary loans, based upon the 2013 Budget Act.

If you have any questions or need additional information regarding this matter, please call Greg Bruss, Principal Program Budget Analyst, at (916) 322-5540.

/s/ Ana J. Matosantos

ANA J. MATOSANTOS
Director

Attachments

cc: On following page

cc: Honorable Bill Emmerson, Vice Chair, Senate Budget and Fiscal Review Committee
Honorable Jeff Gorell, Vice Chair, Assembly Budget Committee
Honorable Richard Roth, Chair, Senate Budget and Fiscal Review Subcommittee No. 4
Honorable Tom Daly, Chair, Assembly Budget Subcommittee No. 4
Mr. Mac Taylor, Legislative Analyst (3)
Ms. Keely Bosler, Staff Director, Senate Budget and Fiscal Review Committee
Mr. Mark McKenzie, Staff Director, Senate Appropriations Committee
Mr. Seren Taylor, Staff Director, Senate Republican Fiscal Office
Mr. Craig Cornett, Senate President pro Tempore's Office (2)
Mr. Christian Griffith, Chief Consultant, Assembly Budget Committee
Mr. Geoff Long, Chief Consultant, Assembly Appropriations Committee
Mr. Eric Swanson, Staff Director, Assembly Republican Fiscal Committee
Ms. Deborah Gonzalez, Policy and Fiscal Director, Assembly Republican Leader's Office
Mr. Christopher W. Woods, Assembly Speaker's Office (2)

Outstanding Budgetary Loans Made to the General Fund
As of June 30, 2013
(whole dollars)

Attachment I

No.	Org	Department	Item Number	Fund #	Fund Name	Authority	Outstanding Loan Balance as of June 30, 2013	Projected Loan Repayment Date ^{1/}
1	0250	Judicial Branch	0250-012-3037	3037	State Court Facilities Construction Fund	Budget Act of 2011	\$350,000,000	Multiple fiscal years
2	0250	Judicial Branch	0250-011-3138	3138	Immediate and Critical Needs Account	Budget Act of 2011	90,000,000	2015-16
3	0555	Secretary for Environmental Protection	0555-011-1006	1006	Rural CUPA Reimbursement Account	Budget Act of 2011	1,300,000	2013-14
4	0690	California Emergency Management Agency	0690-011-0425	0425	Victim - Witness Assistance Fund	Budget Act of 2011	11,000,000	Multiple fiscal years
5	0690	California Emergency Management Agency	0690-011-3034	3034	Antiterrorism Fund	Budget Act of 2008	2,000,000	2015-16
6	0690	California Emergency Management Agency	0690-011-3034	3034	Antiterrorism Fund	Budget Act of 2011	1,000,000	2015-16
7	0690	California Emergency Management Agency	0690-501-3117	3117	Alternative & Renewable Fuel & Vehicle Technology Fund	Chapter 29, Statutes of 2009 Third Ext. Session as amended by Budget Act of 2013	16,300,000	2015-16
8	0820	Justice	0820-011-0017	0017	Fingerprint Fees Account	Budget Act of 2011	24,000,000	2016-17
9	0820	Justice	0820-012-0378	0378	False Claims Act Fund	Budget Act of 2010	15,700,000	Multiple fiscal years
10	0820	Justice	0820-011-0460	0460	Dealers' Record of Sale Account	Budget Act of 2011	11,500,000	2016-17
11	0820	Justice	0820-011-1008	1008	Firearms Safety and Enforcement Special Fund	Budget Act of 2011	4,900,000	2015-16
12	0820	Justice	0820-011-3016	3016	Missing Person DNA Data Base Fund	Budget Act of 2011	4,000,000	Multiple fiscal years
13	0820	Justice	0820-011-3088	3088	Registry of Charitable Trusts Fund	Budget Act of 2011	2,700,000	2015-16
14	0820	Justice	0820-011-8071	8071	National Mortgage Special Deposit Fund	Budget Act of 2012	100,000,000	2013-14
15	0855	California Gambling Control Commission	0855-011-0567	0567	Gambling Control Fund	Budget Act of 2008	10,000,000	2015-16
16	0855	California Gambling Control Commission	0855-011-0567	0567	Gambling Control Fund	Budget Act of 2011	19,000,000	2016-17

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17	0890	Secretary of State	0890-011-3042	3042	Victims of Corporate Fraud Compensation Fund	Budget Act of 2010	10,000,000	2014-15
18	0956	California Debt and Investment Advisory Commission	0956-011-0171	0171	California Debt and Investment Advisory Commission Fund	Budget Act of 2008 as amended by Budget Act of 2010 and Budget Act of 2013	2,000,000	2015-16
19	0959	California Debt Limit Allocation Committee	0959-011-0169	0169	California Debt Limit Allocation Committee Fund	Budget Act of 2008 as amended by Budget Act of 2010 and Budget Act of 2013	2,000,000	2015-16
20	0968	California Tax Credit Allocation Committee	0968-011-0448	0448	Occupancy Compliance Monitoring Account	Budget Act of 2008 as amended by Budget Act of 2010 and Budget Act of 2013	10,000,000	2015-16
21	0968	California Tax Credit Allocation Committee	0968-011-0448	0448	Occupancy Compliance Monitoring Account	Budget Act of 2010 as amended by Budget Act of 2013	25,000,000	2015-16
22	0968	California Tax Credit Allocation Committee	0968-011-0448	0448	Occupancy Compliance Monitoring Account	Budget Act of 2011 as amended by Budget Act of 2013	22,000,000	2015-16
23	0968	California Tax Credit Allocation Committee	0968-011-0457	0457	Tax Credit Allocation Fee Account	Budget Act of 2008 as amended by Budget Act of 2010 and Budget Act of 2013	10,000,000	2015-16
24	0968	California Tax Credit Allocation Committee	0968-011-0457	0457	Tax Credit Allocation Fee Account	Budget Act of 2010 as amended by Budget Act of 2013	25,000,000	2015-16
25	0968	California Tax Credit Allocation Committee	0968-011-0457	0457	Tax Credit Allocation Fee Account	Budget Act of 2011 as amended by Budget Act of 2013	13,000,000	2015-16
26	1110	Consumer Affairs - Regulatory Boards	1110-011-0069	0069	State Board of Barbering and Cosmetology Fund	Budget Act of 2011	11,000,000	2015-16
27	1110	Consumer Affairs - Regulatory Boards	1110-011-0108	0108	Acupuncture Fund	Budget Act of 2011	5,000,000	Multiple fiscal years
28	1110	Consumer Affairs - Regulatory Boards	1110-011-0264	0264	Osteopathic Medical Board of California Contingent Fund	Budget Act of 2011	1,500,000	Multiple fiscal years
29	1110	Consumer Affairs - Regulatory Boards	1110-011-0280	0280	Physician Assistant Fund	Budget Act of 2011	1,500,000	2015-16

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No.	Org	Department	Item Number	Fund #	Fund Name	Authority	Outstanding Loan Balance as of June 30, 2013	Projected Loan Repayment Date ^{1/}
30	1110	Consumer Affairs - Regulatory Boards	1110-011-0310	0310	Psychology Fund	Budget Act of 2008	2,500,000	2014-15
31	1110	Consumer Affairs - Regulatory Boards	1110-011-0376	0376	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund	Budget Act of 2011	1,150,000	Multiple fiscal years
32	1110	Consumer Affairs - Regulatory Boards	1110-011-0704	0704	Accountancy Fund	Budget Act of 2008	14,000,000	2014-15
33	1110	Consumer Affairs - Regulatory Boards	1110-011-0704	0704	Accountancy Fund	Budget Act of 2010 as amended by Budget Act of 2011	10,000,000	2015-16
34	1110	Consumer Affairs - Regulatory Boards	1110-011-0704	0704	Accountancy Fund	Budget Act of 2011	1,000,000	2015-16
35	1110	Consumer Affairs - Regulatory Boards	1110-011-0758	0758	Contingent Fund of the Medical Board of California	Budget Act of 2008	6,000,000	2014-15
36	1110	Consumer Affairs - Regulatory Boards	1110-011-0758	0758	Contingent Fund of the Medical Board of California	Budget Act of 2011	9,000,000	Multiple fiscal years
37	1110	Consumer Affairs - Regulatory Boards	1110-011-0759	0759	Physical Therapy Fund	Budget Act of 2011	1,500,000	Multiple fiscal years
38	1110	Consumer Affairs - Regulatory Boards	1110-011-0761	0761	Board of Registered Nursing Fund	Budget Act of 2011	11,300,000	2015-16
39	1110	Consumer Affairs - Regulatory Boards	1110-011-0763	0763	State Optometry Fund	Budget Act of 2011	1,000,000	2015-16
40	1110	Consumer Affairs - Regulatory Boards	1110-011-0767	0767	Pharmacy Board Contingent Fund	Budget Act of 2008	1,000,000	2014-15
41	1110	Consumer Affairs - Regulatory Boards	1110-011-0770	0770	Professional Engineer and Land Surveyor Fund	Budget Act of 2008	2,000,000	2013-14
42	1110	Consumer Affairs - Regulatory Boards	1110-011-0770	0770	Professional Engineer and Land Surveyor Fund	Budget Act of 2011	5,000,000	Multiple fiscal years
43	1110	Consumer Affairs - Regulatory Boards	1110-011-0773	0773	Behavioral Science Examiners Fund	Budget Act of 2008	3,000,000	2015-16
44	1110	Consumer Affairs - Regulatory Boards	1110-011-0773	0773	Behavioral Science Examiners Fund	Budget Act of 2011	3,300,000	2015-16

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45	1110	Consumer Affairs - Regulatory Boards	1110-011-3017	3017	Occupational Therapy Fund	Budget Act of 2009	2,000,000	2014-15
46	1111	Consumer Affairs - Bureaus, Programs, Divisions	1111-011-0069	0069	State Board of Barbering and Cosmetology Fund	Budget Act of 2008	10,000,000	2015-16
47	1111	Consumer Affairs - Bureaus, Programs, Divisions	1111-012-0239	0239	Private Security Services Fund	Budget Act of 2003	4,000,000	2014-15
48	1111	Consumer Affairs - Bureaus, Programs, Divisions	1111-011-0239	0239	Private Security Services Fund	Budget Act of 2011	4,000,000	2016-17
49	1111	Consumer Affairs - Bureaus, Programs, Divisions	1111-011-0305	0305	Private Postsecondary Education Administration Fund	Budget Act of 2011	3,000,000	2015-16
50	1111	Consumer Affairs - Bureaus, Programs, Divisions	1111-003-0421	0421	Vehicle Inspection and Repair Fund	Budget Act of 2003	14,000,000	2014-15
51	1111	Consumer Affairs - Bureaus, Programs, Divisions	1111-011-0421	0421	Vehicle Inspection and Repair Fund	Budget Act of 2002	100,000,000	2015-16
52	1111	Consumer Affairs - Bureaus, Programs, Divisions	1111-011-0421	0421	Vehicle Inspection and Repair Fund	Budget Act of 2008	25,000,000	2015-16
53	1111	Consumer Affairs - Bureaus, Programs, Divisions	1111-011-0752	0752	Bureau of Home Furnishings and Thermal Insulation Fund	Budget Act of 2011	1,500,000	2013-14
54	1111	Consumer Affairs - Bureaus, Programs, Divisions	1111-011-0769	0769	Private Investigator Fund	Budget Act of 2011	1,500,000	2015-16
55	1111	Consumer Affairs - Bureaus, Programs, Divisions	1111-011-3122	3122	Enhanced Fleet Modernization Subaccount, High Polluter Repair or Removal Account	Budget Act of 2010 as amended by Budget Act of 2011 and Budget Act of 2012 and Budget Act of 2013	40,000,000	2015-16
56	1120	California Board of Accountancy	1120-011-0704	0704	Accountancy Fund	Budget Act of 2002	6,000,000	2014-15
57	1120	California Board of Accountancy	1120-011-0704	0704	Accountancy Fund	Budget Act of 2003	270,000	2014-15
58	1170	Board of Behavioral Sciences	1170-011-0773	0773	Behavioral Science Examiners Fund	Budget Act of 2002	6,000,000	Multiple fiscal years
59	1250	Board of Dentistry	1250-011-0741	0741	State Dentistry Fund	Budget Act of 2003	2,700,000	2013-14
60	1450	Board of Psychology	1450-011-0310	0310	Psychology Fund	Budget Act of 2002	5,000,000	Multiple fiscal years

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No.	Org	Department	Item Number	Fund #	Fund Name	Authority	Outstanding Loan Balance as of June 30, 2013	Projected Loan Repayment Date ^{1/}
61	1760	General Services	1760-011-0328	0328	Public School Planning, Design, and Construction Review Revolving Fund	Budget Act of 2008	35,000,000	Multiple fiscal years
62	2120	Alcoholic Beverage Control Appeals Board	2120-011-0117	0117	Alcoholic Beverage Control Appeals Fund	Budget Act of 2010 as amended by Chapter 13, Statutes of 2011	500,000	2013-14
63	2150	Financial Institutions	2150-011-0299	0299	Credit Union Fund	Budget Act of 2002	2,700,000	Multiple fiscal years
64	2180	Corporations	2180-011-0067	0067	State Corporations Fund	Budget Act of 2002	18,500,000	2015-16
65	2240	Housing & Community Development	2240-117-0813	0813	Self-Help Housing Fund	Chapter 3, Statutes of 2003 First Ext. Session	3,418,000	2014-15
66	2240	Housing & Community Development	2240-011-0929	0929	Housing Rehabilitation Loan Fund	Budget Act of 2008 as amended by Budget Act of 2011	16,400,000	Multiple fiscal years
67	2240	Housing & Community Development	2240-011-0929	0929	Housing Rehabilitation Loan Fund	Budget Act of 2010 as amended by Chapter 13, Statutes of 2011	18,000,000	2015-16
68	2240	Housing & Community Development	2240-116-0929	0929	Housing Rehabilitation Loan Fund	Budget Act of 2003	31,680,000	2015-16
69	2240	Housing & Community Development	2240-116-0929	0929	Housing Rehabilitation Loan Fund	Chapter 3, Statutes of 2003 First Ext. Session	2,580,000	Multiple fiscal years
70	2310	Office of Real Estate Appraisers	2310-011-0400	0400	Real Estate Appraisers Regulation Fund	Budget Act of 2008	11,600,000	Multiple fiscal years
71	2310	Office of Real Estate Appraisers	2310-011-0400	0400	Real Estate Appraisers Regulation Fund	Chapter 23, Statutes of 2004	2,000,000	2015-16
72	2310	Office of Real Estate Appraisers	2310-015-0400	0400	Real Estate Appraisers Regulation Fund	Chapter 3, Statutes of 2003 First Ext. Session	1,000,000	2015-16
73	2320	Real Estate	2320-011-0317	0317	Real Estate Fund	Budget Act of 2002	10,900,000	2014-15
74	2660	Transportation	2660-011-0042	0042	State Highway Account, State Transportation Fund	Budget Act of 2008 as amended by Budget Act of 2010 and Budget Act of 2012 and Budget Act of 2013	150,000,000	Multiple fiscal years

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75	2660	Transportation	2660-011-0042	0042	State Highway Account, State Transportation Fund	Budget Act of 2009 as amended by Chapter 6, Statutes of 2011 and Budget Act of 2012	135,000,000	2013-14
76	2660	Transportation	2660-011-0045	0045	Bicycle Transportation Account, State Transportation Fund	Budget Act of 2008 as amended by Budget Act of 2010 and Budget Act of 2012	6,000,000	2016-17
77	2660	Transportation	2660-011-0046	0046	Public Transportation Account, State Transportation Fund	Budget Act of 2010 as amended by Chapter 38, Statutes of 2011	29,081,000	2015-16
78	2660	Transportation	2660-011-0052	0052	Local Airport Loan Account	Budget Act of 2008 as amended by Budget Act of 2010 and Budget Act of 2012	7,500,000	2016-17
79	2660	Transportation	2660-011-0061	0061	Motor Vehicle Fuel Account	Budget Act of 2008 as amended by Budget Act of 2010 and Budget Act of 2012	8,000,000	2016-17
80	2660	Transportation	2660-011-0062	0062	Highway Users Tax Account, Transportation Tax Account (Excise Tax)	Budget Act of 2010 as amended by Chapter 38, Statutes of 2011	111,639,000	2015-16
81	2660	Transportation	2660-011-0062	0062	Highway Users Tax Account, Transportation Tax Account (Excise Tax)	Budget Act of 2010 as amended by Chapter 38, Statutes of 2011	216,668,000	2015-16
82	2660	Transportation	2660-011-0183	0183	Environmental Enhancement and Mitigation Program Fund	Budget Act of 2008 as amended by Budget Act of 2010 and Budget Act of 2012	4,400,000	2016-17
83	2660	Transportation	2660-011-0365	0365	Historic Property Maintenance Fund	Budget Act of 2008 as amended by Budget Act of 2010 and Budget Act of 2012	1,000,000	2013-14
84	2660	Transportation	2660-011-2500	2500	Pedestrian Safety Account, State Transportation Fund	Budget Act of 2008 as amended by Budget Act of 2010 and Budget Act of 2012	1,715,000	2016-17

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No.	Org	Department	Item Number	Fund #	Fund Name	Authority	Outstanding Loan Balance as of June 30, 2013	Projected Loan Repayment Date ^{1/}
85	2740	Motor Vehicles	2740-012-0044	0044	Motor Vehicle Account, State Transportation Fund	Budget Act of 2010	180,000,000	Multiple fiscal years
86	2740	Motor Vehicles	2740-511-0044	0044	Motor Vehicle Account, State Transportation Fund	Vehicle Code Section 42272	300,000,000	2015-16
87	3340	California Conservation Corps	3340-011-0318	0318	Collins-Dugan California Conservation Corps Reimbursement Account	Budget Act of 2011 as amended by Budget Act of 2013	8,000,000	2014-15
88	3360	Energy Resources Conservation and Development Commission	3360-011-0382	0382	Renewable Resource Trust Fund	Budget Act of 2010 as amended by Chapter 13, Statutes of 2011	20,000,000	2013-14
89	3360	Energy Resources Conservation and Development Commission	3360-012-3117	3117	Alternative and Renewable Fuel and Vehicle Technology Fund	Budget Act of 2009 as amended by Budget Act of 2012	8,250,000	2014-15
90	3480	Conservation	3480-011-0133	0133	California Beverage Container Recycling Fund	Budget Act of 2003 as amended by Chapter 907, Statutes of 2006 and Budget Act of 2012	72,277,000	2014-15
91	3480	Conservation	3480-011-0133	0133	California Beverage Container Recycling Fund	Budget Act of 2009 as amended by Budget Act of 2012 and Budget Act of 2013	10,000,000	2014-15
92	3480	Conservation	3480-011-0133	0133	California Beverage Container Recycling Fund	Budget Act of 2009 as amended by Budget Act of 2012	89,400,000	2013-14
93	3480	Conservation	3480-011-0269	0269	Glass Processing Fee Account	Budget Act of 2003 as amended by Budget Act of 2008 and Budget Act of 2011	39,000,000	2013-14
94	3480	Conservation	3480-011-0278	0278	PET Processing Fee Account, California Beverage Container Recycling Fund	Budget Act of 2003 as amended by Budget Act of 2008 and Budget Act of 2011	27,000,000	2013-14
95	3500	Resources Recycling and Recovery	3500-011-0100	0100	California Used Oil Recycling Fund	Budget Act of 2010 as amended by Chapter 13, Statutes of 2011 and Budget Act of 2013	2,500,000	2015-16

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96	3500	Resources	Recycling and Recovery	3500-011-0100	0100	California Used Oil Recycling Fund	Budget Act of 2011 as amended by Budget Act of 2013	2,500,000	2015-16
97	3500	Resources	Recycling and Recovery	3500-012-3065	3065	Electronic Waste Recovery & Recycling Account	Budget Act of 2010 as amended by Budget Act of 2012	80,000,000	Multiple fiscal years
98	3500	Resources	Recycling and Recovery	3500-013-3065	3065	Electronic Waste Recovery & Recycling Account	Budget Act of 2010 as amended by Chapter 13, Statutes of 2011 and Budget Act of 2013	27,000,000	2014-15
99	3560	State Lands Commission		3560-011-0347	0347	School Land Bank Fund	Budget Act of 2008 as amended by Chapter 2, Statutes of 2009 Third Ext. Session and Budget Act 2012	59,000,000	2016-17
100	3600	Fish and Game		3600-011-0321	0321	Oil Spill Response Trust Fund	Budget Act of 2010 as amended by Chapter 13, Statutes of 2011 and Budget Act of 2013	40,000,000	2016-17
101	3680	Boating and Waterways		3680-011-0516	0516	Harbors and Watercraft Revolving Fund	Budget Act of 2008 as amended by Chapter 2, Statutes of 2009 Third Ext. Session and Budget Act of 2012	29,000,000	2016-17
102	3680	Boating and Waterways		3680-011-0516	0516	Harbors and Watercraft Revolving Fund	Budget Act of 2009	5,000,000	2015-16
103	3680	Boating and Waterways		3680-011-0516	0516	Harbors and Watercraft Revolving Fund	Budget Act of 2010 as amended by Chapter 13, Statutes of 2011 and Budget Act of 2013	17,000,000	2015-16
104	3790	Parks and Recreation		3790-011-0263	0263	Off-Highway Vehicle Trust Fund	Budget Act of 2008 as amended by Chapter 2, Statutes of 2009 Third Ext. Session and Budget Act of 2012	90,000,000	2014-15
105	3790	Parks and Recreation		3790-011-0263	0263	Off-Highway Vehicle Trust Fund	Budget Act of 2009	22,000,000	2015-16

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106	3790	Parks and Recreation	3790-011-0263	0263	Off-Highway Vehicle Trust Fund	Budget Act of 2010 as amended by Chapter 13, Statutes of 2011 and Budget Act of 2013	21,000,000	2015-16
107	3860	Water Resources	3860-013-0144	0144	California Water Fund	Budget Act of 2008 as amended by Budget Act of 2012	1,100,000	2015-16
108	3860	Water Resources	3860-013-0244	0244	Environmental Water Fund	Budget Act of 2008 as amended by Budget Act of 2012	2,400,000	2015-16
109	3900	Air Resource Board	3900-011-3228	3228	Greenhouse Gas Reduction Fund	Budget Act of 2013	500,000,000	After 2016-17
110	3910	California Integrated Waste Management Board	3910-011-0226	0226	California Tire Recycling Management Fund	Budget Act of 2008 as amended by Chapter 2, Statutes of 2009 Third Ext. Session, Chapter 712, Statutes of 2010, and Budget Act of 2011 and Budget Act of 2013	10,000,000	2016-17
111	3910	California Integrated Waste Management Board	3910-004-0226	0226	California Tire Recycling Management Fund	Budget Act of 2003 as amended by Budget Act of 2011 and Budget Act of 2013	17,097,000	2016-17
112	3910	California Integrated Waste Management Board	3910-004-0281	0281	Recycling Market Development Revolving Loan Subaccount	Budget Act of 2003 as amended by Chapter 2, Statutes of 2009 Third Ext. Session, and Budget Act of 2011 and Budget Act of 2013	1,853,000	2014-15
113	3940	State Water Resources Control Board	3940-011-3147	3147	State Water Pollution Control Revolving Fund Small Community Grant Fund	Budget Act of 2010 as amended by Chapter 13, Statutes of 2011 and Budget Act of 2013	3,000,000	2014-15

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114	3940	State Water Resources Control Board	3940-011-3147	3147	State Water Pollution Control Revolving Fund Small Community Grant Fund	Budget Act of 2011 as amended by Budget Act of 2013	1,000,000	2014-15
115	3960	Toxic Substances Control	3960-011-0014	0014	Hazardous Waste Control Account	Budget Act of 2010 as amended by Chapter 13, Statutes of 2011 as amended by Budget Act of 2013	13,000,000	2014-15
116	3960	Toxic Substances Control	3960-011-0018	0018	Site Remediation Account	Budget Act of 2010 as amended by Chapter 13, Statutes of 2011	1,000,000	2013-14
117	3960	Toxic Substances Control	3960-011-0065	0065	Illegal Drug Lab Cleanup Account	Budget Act of 2010 as amended by Chapter 13, Statutes of 2011 and Budget Act of 2013	1,000,000	2015-16
118	3960	Toxic Substances Control	3960-012-1003	1003	Cleanup Loans and Environmental Assistance to Neighborhoods Account	Budget Act of 2010 as amended by Chapter 13, Statutes of 2011 and Budget Act of 2013	500,000	2014-15
119	4140	Office of Statewide Health Planning and Development	4140-011-0121	0121	Hospital Building Fund	Budget Act of 2008 as amended by Chapter 2, Statutes of 2009 Third Ext. Session, Budget Act of 2010, Budget Act of 2011, and Budget Act of 2012	20,000,000	2014-15
120	4140	Office of Statewide Health Planning and Development	4140-011-0121	0121	Hospital Building Fund	Budget Act of 2011 as amended by Budget Act of 2013	75,000,000	Multiple fiscal years
121	4140	Office of Statewide Health Planning and Development	4140-011-0143	0143	California Health Data and Planning Fund	Budget Act of 2008	12,000,000	2014-15
122	4200	Alcohol and Drug Programs	4200-011-0139	0139	Driving-Under-The-Influence Program Licensing Trust Fund	Budget Act of 2011 as amended by Budget Act of 2013	1,500,000	Multiple fiscal years

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123	4265	Public Health	4265-011-0070	0070	Occupational Lead Poisoning Prevention Account	Budget Act of 2008 as amended by Budget Act of 2010 and Budget Act of 2012 and Budget Act of 2013	1,100,000	2014-15
124	4265	Public Health	4265-011-0247	0247	Drinking Water Operator Certification Special Account	Budget Act of 2008 as amended by Budget Act of 2010 and Budget Act of 2012 and Budget Act of 2013	1,600,000	2015-16
125	7100	Employment Development	7100-011-0588	0588	Unemployment Compensation Disability Fund	Budget Act of 2011	303,458,440	2015-16
126	7100	Employment Development	7100-011-0588	0588	Unemployment Compensation Disability Fund	Budget Act of 2012	308,232,000	Multiple fiscal years
127	8120	Commission on Peace Officer Standards and Training	8120-013-0268	0268	Peace Officers' Training Fund	Budget Act of 2008 as amended by Chapter 2, Statutes of 2009 Third Ext. Session, Budget Act of 2010, Budget Act of 2011, and Budget Act of 2012 and Budget Act of 2013	5,000,000	Multiple fiscal years
128	8570	Food and Agriculture	8570-011-0111	0111	Department of Agriculture Account, Department of Food and Agriculture Fund	Budget Act of 2010	15,000,000	2013-14
129	8660	Public Utilities Commission	8660-012-0462	0462	Public Utilities Commission Utilities Reimbursement Account	Budget Act of 2010 as amended by Chapter 13, Statutes of 2011	25,000,000	2013-14
130	8660	Public Utilities Commission	8660-011-0470	0470	California High-Cost Fund-B Administrative Committee Fund	Budget Act of 2008 as amended by Chapter 2, Statutes of 2009 Third Ext. Session, Budget Act of 2010, Budget Act of 2011, and Budget Act of 2012	59,000,000	2014-15

Outstanding Budgetary Loans Made to the General Fund
As of June 30, 2013
(whole dollars)

No.	Org	Department	Item Number	Fund #	Fund Name	Authority	Outstanding Loan Balance as of June 30, 2013	Projected Loan Repayment Date ^{1/}
131	8660	Public Utilities Commission	8660-011-0470	0470	California High-Cost Fund-B Administrative Committee Fund	Budget Act of 2010 as amended by Chapter 13, Statutes of 2011	75,000,000	2013-14
132	8660	Public Utilities Commission	8660-011-3141	3141	California Advanced Services Fund	Budget Act of 2010 as amended by Chapter 13, Statutes of 2011	75,000,000	2013-14
TOTAL Outstanding budgetary loans as of June 30, 2013*							\$4,601,168,440	

^{1/} Repayment dates as anticipated in the 2013 Budget Act

* Includes new loan from the Greenhouse Gas Reduction Fund that was part of the 2013 Budget Act.

Wall of Debt
2013 Budget Act
(Dollars in Millions)

	Outstanding (as of end of 2010-11)	Outstanding (as of end of 2012-13)	2013-14 impact	2014-15 impact	2015-16 impact	2016-17 impact	Remaining Amount
1 Deferred payments to schools and community colleges	\$10,430	\$6,436	\$272	\$3,290	\$2,874	\$0	\$0
2 Economic Recovery Bonds	7,100	5,150	1,480	1,558	1,664	0	0
3 Loans from special funds	5,100	4,601	696	660	2,167	578	500
4 Unpaid costs to local governments, schools and community colleges for state mandates	4,300	4,914	0	0	852	956	3,106
5 Underfunding of Proposition 98	3,000	2,376	0	410	700	1,266	0
6 Borrowing from local governments (Proposition 1A)	1,900	0	0	0	0	0	0
7 Deferred Medi-Cal costs	1,200	1,999	49	-64	256	700	1,058
8 Deferral of state payroll costs from June to July	759	718	0	0	0	718	0
9 Deferred payments to CalPERS	524	440	0	0	0	440	0
10 Borrowing from transportation funds (Proposition 42)	417	251	83	83	85	0	0
11 Total	\$34,730	\$26,885	\$2,580	\$5,937	\$8,598	\$4,658	\$4,664

**DEPARTMENT OF CONSUMER AFFAIRS**

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**CBA Item VI.B.**

September 26-27, 2013

Update on CBA 2013-2015 Communications and Outreach Plan**Presented by:** Lauren Hersh, Information & Planning Manager**Date:** September 11, 2013**Purpose of the Item**

The purpose of this agenda item is to keep California Board of Accountancy (CBA) members 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**Social media**

CBA's social media platforms proved to be a crucial public outreach tool in August. Two articles appeared online that incorrectly stated that Senate Bill (SB) 823 would provide two additional years for CPA applicants to successfully complete the Uniform CPA Exam, which initially prompted an email from a licensee asking if the information is true. Staff immediately crafted a response, and issued a "Misinformation Alert" on our social media sites which alerted readers that the information being circulated was incorrect. Staff provided a clear explanation of how SB 823, if passed by the Legislature, would affect those seeking licensure and included a link to the new educational requirements web page.

Our message went viral in the accounting community on Facebook, and within the first few hours more than 3,000 individuals were reached. The message was also shared via Twitter and LinkedIn with the professional community and the popular accounting blog, Going Concern, ran a very positive story on our response to the misinformation being circulated, which also furthered our outreach on the issue. The California Society of Certified Public Accountants' online newsletter, *The CalCPA Buzz*, also ran a brief article which alerted its members to the circulation of misinformation regarding SB 823 and provided the correct information.

Update on CBA 2013-2015 Communications and Outreach Plan

Page 2 of 3

During that week, the CBA gained approximately 100 new fans on Facebook and 50 new followers on Twitter, and engagement with our fans and followers increased approximately 130 percent. At our request, WordPress removed the erroneous article as did the CPA test preparation company responsible for the second article.

LinkedIn

Following several months of research into how the CBA can best utilize the professional social media site, LinkedIn, staff launched a CBA LinkedIn account in early August. LinkedIn is a social media site that enables members to network with other professionals and organizations, and is a good vehicle to promote the CBA brand and activities to leaders in the profession, as well as business writers for national and statewide publications. Postings are a mix of news and information from the CBA, as well as links to thought-provoking articles on leadership and issues of interest. Staff is seeing a positive response from licensees, and several California and national business writers have connected to us via LinkedIn. The CBA website now displays four buttons to connect to the CBA's Facebook, Twitter, LinkedIn and Pinterest pages/sites/boards.

Press Releases

Press releases and advisories are now being shared via social media as well as through traditional distribution methods. In addition to reaching reporters who follow us on Twitter, it provides the public with another opportunity to access information directly from the CBA.

Press Releases	2011	2012	YTD
Press advisories & topical news releases	19	19	14
Enforcement press releases	31	35	45
Total	50	54	57

E-News

E-News subscriptions have increased by more than 500 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. The increases are reflected in the number of external subscribers. The largest increase is in those subscribing to UPDATE with more than 200 new subscriptions, followed by California Licensees and Consumer Interest, with increases of 104 and 93 new subscriptions, respectively.

List Name	External	Internal	Total
California Licensee	8,977	52	9,029
Consumer Interest	4,173	56	4,229
Examination Applicant	2,727	43	2,770
Licensing Applicant	3,254	47	3,301

Update on CBA 2013-2015 Communications and Outreach Plan

Page 3 of 3

Out-of-State Licensee	2,153	45	2,198
Statutory/Regulatory	7,202	60	7,262
CBA Meeting Info & Agenda Materials	3,333	38	3,371
UPDATE Publication	6,684	12	6,704
Total subscriptions	37,363	343	38,339

UPDATE Publication

The Fall edition of UPDATE is in production. Among the articles included:

- The New Practice Privilege
- At-A-Glance: Reporting of Criminal Convictions
- Land of the Free, Home of the Brave (Military Information)
- Changes at License Renewal: Peer Review, Fingerprint, CE
- Customer Service
- License Reissuance/Stale Dated Experience changes

Online posting is expected in late September/early October, with an anticipated mailing date in early to mid November. If members have ideas for articles they would like to share or wish to write an article for a future edition of UPDATE, please contact Lauren Hersh at (916) 571-1789 or lauren.hersh@cba.ca.gov.

The articles Streamlining Peer Review Reporting and Retroactive Fingerprints: FAQs from UPDATE Issue #73 were reprinted with permission in the August edition of the online newsletter Attestation Update.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff has no recommendation on this item.

**DEPARTMENT OF CONSUMER AFFAIRS**

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CBA Item VI.C.
September 26-27, 2013

**Presentation of California Board of Accountancy Annual Report for
Fiscal Year 2012-13**

Presented by: Deanne Pearce, Assistant Executive Officer

Date: September 10, 2013

Purpose of the Item

The purpose of this agenda item is to present the *California Board of Accountancy Annual Report for Fiscal Year 2012-13*.

Action Needed

No specific action is required on this agenda item.

Background

The report is presented annually at the September California Board of Accountancy (CBA) meeting, and is published to the CBA website in the interest of transparency.

Comments

The report highlights CBA activities and accomplishments from July 1, 2012 to June 30, 2013.

Fiscal/Economic Impact

None.

Recommendation

None.

Attachment

California Board of Accountancy Annual Report for Fiscal Year 2012-13

California Board of Accountancy



ANNUAL REPORT

FISCAL YEAR 2012-13

The mission of the California Board of Accountancy is to protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards.

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EXECUTIVE OFFICER'S MESSAGE

I am pleased to present the *California Board of Accountancy Annual Report for Fiscal Year 2012-13*. This report highlights the results of each division's operations as well as solutions that are underway to enhance and improve the California Board of Accountancy's (CBA) commitment to California consumers and licensees.



Patti Bowers

The past year has seen important accomplishments and changes at the CBA, including:

- Established mobility for out-of-state certified public accountants (CPA), joining California with 48 other states and the District of Columbia that have mobility.
- Created a new database to support the implementation of mobility, providing increased access to consumers when selecting a CPA.
- Completed and began implementation of the CBA 2013-2015 Strategic Plan.
- Increased enforcement staffing, which yielded increased resolution of complaints, investigations, disciplinary actions, proactive enforcement activities and reduced processing timeframes.
- Received approval on the regulations defining the 20 semester units of accounting study developed by the Accounting Education Committee. This, along with Senate Bill (SB) 773 (Negrete McLeod) of 2011, defined the 30 semester units of additional education that will be required for CPA licensure starting in 2014.
- Pursued two legislative proposals under SB 823 intended to ease the transition to the new educational requirements. The first proposal would allow individuals who have passed all four sections of the Uniform CPA Exam (CPA Exam) by December 31, 2013, to apply for CPA licensure under the existing pathways through December 31, 2015. The second proposal allows individuals enrolled in five-year programs resulting in conferral of a baccalaureate degree at the end of the program to take the CPA Exam once they have completed all the baccalaureate degree requirements.
- Received approval on regulations requiring criminal background checks for all licensees who have not previously submitted fingerprints as a condition of licensure, or for whom no electronic record of the licensee's fingerprints exists within the Department of Justice's criminal offender record identification database. This background check is a condition of license renewal after December 31, 2013, and is important for the protection of consumers.

EXECUTIVE OFFICER'S MESSAGE

- Expanded and fine-tuned social media and creative technology solutions to reach stakeholders with important information on consumer protection issues, as well as new legislation and programs that would have a direct impact on consumers, students and faculty, applicants, and licensees.

CBA staff are known for their professionalism, dedication and enthusiasm, and their significant level of accomplishment is impressive. They are truly an asset in representing the CBA, and I believe California consumers, licensees, CBA stakeholders, and fellow agencies are well-served by the California Board of Accountancy.

Patti Bowers
Executive Officer

CALIFORNIA BOARD OF ACCOUNTANCY FUNCTION

The CBA's mandate is to regulate the accounting profession for the public interest. The CBA establishes and maintains standards of qualification and conduct within the accounting profession, primarily through its authority to license. The CBA's enabling act is found at section 5000 *et seq.* (Accountancy Act) of the Business and Professions Code (BPC), and the CBA's regulations appear in Title 16, Division 1 of the California Code of Regulations (CBA Regulations).

The CBA has the authority to license and discipline not only individuals and partnerships but also CPA corporations. As accounting practitioners, the CPA and the Public Accountant (PA) are sole proprietors, partners, shareholders, and staff employees of public accounting firms. They provide professional services to individuals; private and publicly-held companies; financial institutions; nonprofit organizations; and local, state, and federal government entities. CPAs and PAs also are employed in business and industry, in government, and in academia. The CBA performs its consumer protection mission for many stakeholders, including:

- Consumers of accounting services who require audits, reviews, and compilations of financial statements, tax preparation, financial planning, business advice and management consultation, and a wide variety of related tasks.
- Lenders, shareholders, investors, and small and large companies who rely on the integrity of audited financial information.
- Governmental bodies, donors, and trustees of not-for-profit agencies, which require audited financial information or assistance with internal accounting controls.
- Regulatory bodies such as the Securities and Exchange Commission, the Public Company Accounting Oversight Board, the Public Utilities Commission, and federal and state banking regulators; and local, state, and federal taxing authorities.
- Retirement systems, pension plans, and stock exchanges.

Current law mandates that the CBA consists of 15 members, seven of whom must be CPAs, and eight of whom must be public members, not be licensed or registered by the CBA. The Governor appoints four of the public members and all seven licensees. In appointing the seven licensees, the Governor must appoint members representing a cross-section of the accounting profession, with at least two members representing small public accounting firms. A small public accounting firm is defined as a professional firm that employs a total of no more than four licensees as partners, owners, or full-time employees in the practice of public accountancy. The Senate Rules Committee and the Speaker of the Assembly each appoint two public members.

CBA 2013-2015 STRATEGIC PLAN

The 2013-2015 Strategic Plan, adopted in September 2012, identifies seven goals and 28 objectives developed to enable the CBA to meet its mandates identified in the Accountancy Act and CBA Regulations, as well as the policy directions of CBA members. Below is an overview of the work staff has begun as it works towards accomplishing each of the goals:

Goal 1 – Enforcement

Maintain an active, effective, and efficient program to maximize consumer protection.

The CBA has made significant improvements in the Enforcement Division, further reinforcing the CBA's mission of consumer protection. Reduction in internal investigative timeframes has meant more timely resolution of consumer complaints. Further prioritizing cases, streamlining processes and management oversight were all key factors on improving the process. The CBA will be working with the Attorney General's (AG) office to improve timeframes for cases that result in formal disciplinary action. Additionally, CBA staff continues to work towards expanding fieldwork of CBA investigators and educating licensees on the consequences of unprofessional conduct.

Goal 2 – Customer Service

Deliver the highest level of customer service.

The CBA continuously strives to offer the highest level of customer service to stakeholders. The CBA continues to monitor feedback from its customer service survey and ensures its staff maintains a high level of professionalism when interacting with those who contact the CBA office.

Goal 3 - Licensing

Maintain an active, effective, and efficient program that maximizes customer service to Uniform CPA Examination candidates, applicants for CPA licensure, and licensees.

CBA Licensing Division staff has been faced with numerous changes in the area of licensing. Since adoption of the 2013-2015 Strategic Plan, staff has successfully implemented a new practice privilege program to afford out-of-state licensees the authority to practice in California without notice or fee. As part of the implementation, the CBA launched the Practice Privilege database, referred to as Mobi, with the ability to manage both enforcement- and licensing-related practice privilege requirements. Additionally, Examination and Initial Licensing Unit staff has continued to focus on implementation activities for the new licensing requirements, which included Social Media events, *UPDATE* articles, live and webinar presentations, and increased resources on the CBA website.

CBA 2013-2015 STRATEGIC PLAN

Goal 4 – Outreach

Provide and maintain effective and timely outreach to all CBA stakeholders.

Staff keeps pace with social media platforms and evaluates the suitability of each as an education and outreach tool of the CBA. Staff currently engage with 2,300 plus Facebook fans, more than 1,100 Twitter followers, and have begun developing a following on Pinterest, which includes boards geared towards consumers, students and accounting professionals.

Goal 5 – Laws and Regulations

Maintain an active presence and leadership role that efficiently leverages the CBA's position of legislative influence.

The CBA continues to ensure an active presence and leadership role as it relates to legislation. This involved meetings with legislators in Spring 2013 to discuss the CBA and its mission of consumer protection. This will continue to be a high priority as the CBA monitors various legislative proposals that impact consumers and other CBA stakeholders.

Goal 6 – Emerging Technologies

Improve efficiency and information security through use of existing and emerging technologies.

The CBA leverages the use of technology to expand the ways it reaches stakeholders. Late in FY 2012-13, the CBA License Lookup was redesigned to provide increased access for consumers, not only to CBA records regarding practice privilege holders, CBA enforcement-related information, and SEC/PCAOB actions; but direct links to other state boards' of accountancy websites and the National Association of State Boards of Accountancy's (NASBA) CPAVerify. Additionally, the CBA continues to work towards an online application process for licensure and license renewal.

Goal 7 – Organizational Effectiveness

Maintain an efficient and effective team of leaders and professionals by promoting staff development and retention.

Management continues to emphasize training courses and cross-training of staff that can be useful for internal promotional opportunities. In addition, the Licensing and Enforcement Divisions are presently undertaking a review of all processes and procedures and documenting workflow to determine whether resource adjustments, staff augmentations, or both are needed. This review also provides an opportunity to determine if any adjustments can be made which will assist with the implementation of upcoming law changes (peer review, fingerprinting).

CUSTOMER SATISFACTION SURVEY

As identified in the 2013-2015 Strategic Plan, Goal 2, “Deliver the highest level of customer service,” CBA staff are expected to treat all stakeholders with a high level of professionalism. The CBA actively seeks feedback from stakeholders through the Customer Satisfaction Survey available on its website. In order to encourage participation, a link to the survey is posted to various outgoing email.

The survey asks respondents to categorize themselves as licensees, applicants for practice privilege, consumers, exam candidates, or applicants for licensure; indicate which unit they contacted, and answer six questions by choosing the selection that best describes their experience in each case. The following questions are asked in the survey:

- Overall, did the service you receive from the CBA meet your expectations?
- How satisfied were you with the service received from CBA staff?
- Were you satisfied with how quickly CBA staff responded to your inquiry?
- When contacting the CBA by email, were you satisfied with staff's ability to answer your question(s)?
- When contacting the CBA by telephone, were you satisfied with staff's ability to answer your question(s)?
- Are you satisfied with how information is organized and presented on the CBA website?

The chart on page 7 illustrates the responses received between July 1, 2012 and June 30, 2013. Overall, approximately 82 percent of survey respondents were very satisfied or satisfied with their experience. The information gathered from the survey enables the CBA staff to focus on improving specific service components where needed, and to ensure that all stakeholders receive the highest level of customer service possible.

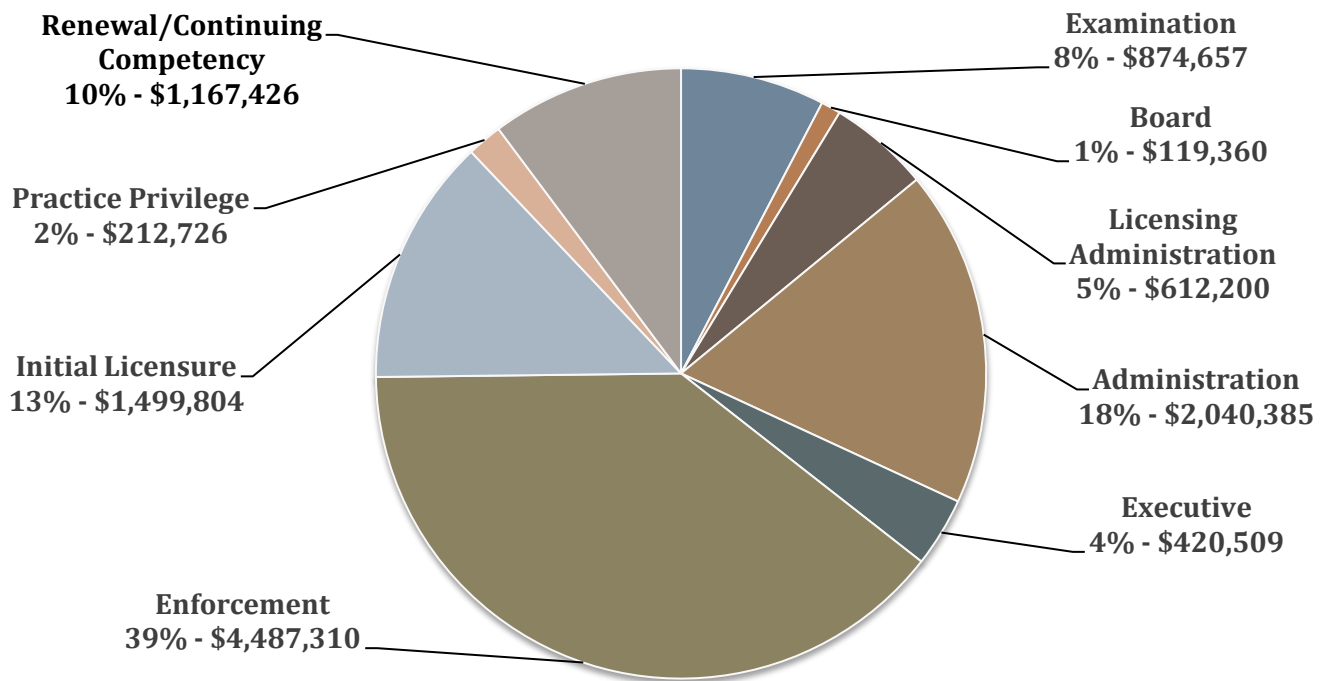
CUSTOMER SATISFACTION SURVEY

CUSTOMER SATISFACTION SURVEY RESULTS						
FY 2012-13						
Customer Type	CPA/PA	Practice Privilege Applicant	Consumers	Exam Candidates	License Applicants	Total Number of Respondents
	99 (60.4%)	2 (1.2%)	11 (6.7%)	31 (18.9%)	21 (12.8%)	164
Unit Contacted	Renewal	Practice Privilege	Enforcement	Exam	Initial Licensing	
	92 (55.8%)	3 (1.8%)	12 (7.3%)	27 (16.4%)	19 (11.5%)	165 <i>(12 did not indicate a unit)</i>
Possible Ratings	Very Satisfied	Satisfied	Neutral	Not Satisfied	Not Applicable	
Overall, did the service you receive from the CBA meet your expectations?	111 (68.9%)	21 (13.0%)	4 (2.5%)	25 (15.5%)	0	161
How satisfied were you with the service received from CBA staff?	117 (72.7%)	16 (9.9%)	3 (1.9%)	22 (13.7%)	3 (1.9%)	161
Were you satisfied with how quickly CBA staff responded to your inquiry?	121 (74.2%)	14 (8.6%)	8 (4.9%)	16 (9.8%)	4 (2.5%)	163
When contacting the CBA by telephone, were you satisfied with staff's ability to answer your question(s)?	75 (46.3%)	7 (4.3%)	5 (3.1%)	15 (9.3%)	60 (37.0%)	162
When contacting the CBA by email, were you satisfied with staff's ability to answer your question(s)?	100 (62.9%)	4 (2.5%)	6 (3.8%)	10 (6.3%)	39 (24.5%)	159
Are you satisfied with how information is organized and presented on the CBA website?	61 (38.1%)	47 (29.4%)	18 (11.3%)	17 (10.6%)	17 (10.6%)	160

CALIFORNIA BOARD OF ACCOUNTANCY BUDGET

The CBA's budget in fiscal year (FY) 2012-13 was \$11,434,377, which represents the maximum amount of money that the CBA can spend on annual operations. The chart below illustrates the resources allotted to each unit within the CBA. The CBA Administration Division is responsible for determining the budgets for each program with the number and classification of personnel, specific contracts, and expected equipment purchases all considered when determining these amounts.

FY 2012-13 Expenditures by Program Component Total Budget: \$11,434,377



Beginning FY 2011-12, the CBA reduced its renewal fees from \$200 to \$120 per biennial period in order to lower the Accountancy Fund Reserve (Reserve) to more appropriate levels. This temporary reduction continued through FY 2012-13. Despite this revenue reduction, the Reserve has remained relatively constant over the past year and has actually increased by approximately \$700,000 due to unusually high CBA cost recovery reimbursements.

In FY 2012-13 the CBA submitted another fee reduction proposal to more aggressively reduce the Reserve to approximately three months of annual expenditures. This will be accomplished by temporarily lowering exam, license application, initial licensing, and license renewal fees to \$50 or less. Applicants and licensees will benefit from paying lower fees. The fees are part of a two-year temporary reduction slated to begin July 1,

CALIFORNIA BOARD OF ACCOUNTANCY BUDGET

2014 and end June 30, 2016. The regulation package has been submitted to the Department of Consumer Affairs (DCA) and will need approval by the Business, Consumer Services, and Housing Agency (Agency); the Department of Finance (DOF); and the Office of Administrative Law (OAL) before becoming effective.

For FY 2012-13, no loans to the State's General Fund were made from the CBA Reserve; however, a total loan amount of \$31,270,000 from the Reserve remains outstanding. With current expenditure and revenue levels, staff project that there is no immediate need for these monies to be repaid. This does not preclude the CBA from requesting that specific repayment schedules be considered to avoid any future uncertainty in the fund balance.

CBA members are kept apprised of CBA budget updates and year-to-date expenditure and revenue data via quarterly financial reports at CBA meetings. These reports reflect revenues, expenditures, and reimbursements for the current quarter and are compared to the same quarter of the prior year. Additional charts included in the report show historical CBA data with year-end expenditure projections reflecting revenue and expenditure levels. The table below provides a general summary of the CBA Reserve including statistics for FY 2012-13 and staff projections for the next two years.

ANALYSIS OF FUND CONDITION	FY 2012-13 (Actual)	FY 2013-14 (Projected)	FY 2014-15 (Projected)¹
Total Reserves, July 1	\$15,123,000	\$15,900,000	\$14,580,000
Total Revenues	\$10,066,441	\$10,254,000	\$5,903,000
Total Transfers	\$0	\$0	\$0
Total Resources	\$25,189,441	\$26,154,000	\$20,483,000
Total Expenditures	\$10,195,730	\$11,870,000	\$11,870,000
Scheduled Reimbursements	\$125,858	\$296,000	\$296,000
Investigative Cost Recovery	\$740,254	\$0	\$0
Reserve, June 30	\$15,859,823	\$14,580,000	\$8,909,000
MONTHS IN RESERVE	16.4	15.1	9.2

¹ The revenue figures for FY 2014-15 reflect revenue decreases from proposed temporary fee reductions submitted in FY 2012-13. The rulemaking file is still pending approval from DCA; Agency; DOF; and OAL.

CALIFORNIA BOARD OF ACCOUNTANCY BUDGET

The CBA received Budget Letter (BL) 12-05 from the DOF originating from the Governor's office, providing guidance to state agencies regarding submission of requests for out-of-state (OST) travel for 2012-13. Historically, the CBA has submitted travel requests for the CBA President and Executive Officer to attend two NASBA conferences. Over the past two years, OST was not permitted unless it was deemed mission-critical, met specific exemption criteria, and received pre-approval by the DCA. The CBA submitted one mission-critical OST request during FY 2012-13. The trip requested was for the Chair of the CBA Peer Review Oversight Committee (PROC) to attend a meeting facilitated by NASBA. Although this trip was not approved, the CBA continues to submit OST requests for trips it deems critical to its Enforcement responsibilities, litigation requirements, or those required by statute.

During the FY 2012-13, several actions were taken to achieve statewide cost savings. The CBA reduced its staffing totals by 3.6 positions as a result of DOF BL 12-03, which directed all state agencies to eliminate the salary savings line item and associated positions in departmental budgets. The CBA achieved the reduction in positions through attrition and no staff were displaced. In addition to losing permanent positions, the CBA had to terminate two Student Assistants and two Retired Annuitants by September 1, 2012 as a result of budget reductions. Employees were also subject to the Personal Leave Program which required employees to take one day off a month and receive a 4.62 percent pay reduction. The CBA redirected resources and used temporary staff to ensure there was no adverse impact to its operations.

FY 2012-13 was the first full year that the Enforcement Division was fully staffed with Investigative Certified Public Accountants since 2003. CBA filled 13 permanent position vacancies during FY 2012-13.

ADMINISTRATION DIVISION

The Administration Division is comprised of twenty staff responsible for all CBA day-to-day administrative operations. Duties include assisting with the development of the budget, facilitating requests for staffing augmentations, contracting with vendors, purchasing new equipment, serving as liaison to the DCA on personnel and travel matters, providing Information Technology (IT) support, maintaining the CBA website, and providing timely outreach to all stakeholders. Additionally, staff within the Administration Division coordinates the CBA's legislative and regulatory efforts.

Public Affairs and Outreach

FY 2012-13 was marked by growth and solid successes, particularly in the area of social media. As the influence of traditional media continues to wane, individuals are largely getting their information online and from social media. This paradigm shift has impacted the way staff primarily reaches audiences, and allows for flow of information from the CBA to stakeholders without the filter of news organizations. While staff continues traditional means of disseminating information to the media, the success of those efforts have been eclipsed by the gains made through social media.

As part of a strategy to increase the coverage for CBA's enforcement press releases, staff targeted geographic "micro communities," focusing on the towns and even neighborhoods where a disciplined individual or CPA firm provided services. Through an America Online wire service known as "Patch.com" staff saw releases gain traction that likely would have been passed over by news outlets in larger cities. Through these efforts, staff was able to alert communities that were most likely affected by the actions of the disciplined CPA and in doing so, provided enhanced consumer protection.

CBA Staff participated in an eight week social media "boot camp" training program, which involved evaluating which social media platforms were most compatible with the CBA's brand and the most effective vehicles for the CBA's goals. Staff subsequently employed social media best practices, including the timing of posts, tweets and content curation, in which content shared from other sources are carefully chosen for consistency with the CBA brand.

Training also involved learning best practices from leaders in social media and included metrics applied to several platforms to evaluate success. While measuring the number of fans on Facebook can be valuable, measuring both the reach (how many individuals saw a post) and "engagement" or interactions with fans is of greater value. By year's end, CBA reached a Facebook audience that was 50 percent greater than the 2,250 fans that followed it. While the CBA Facebook fan base grew by 800 in FY 2012-13, by the close of the year engagement reached 95 percent. At least half of the measured engagement was

ADMINISTRATION DIVISION

customer-service based, responding to questions from students, exam candidates and licensees. Providing real-time and often immediate responses in a professional manner and receiving real-time customer feedback, is in concert with the customer service goal identified in the CBA 2013-2015 Strategic Plan.

As part of the CBA's ongoing plan to reach students and teachers with information regarding the new educational requirements for CPA licensure set to take effect in 2014, the CBA held a live Facebook event, "Getting to Know the New Licensure Requirements." At the outset, positive response to this event was strong and the invitation was shared among college students.

Staff also added a Pinterest account in FY 2012-13, a social media platform suitable for providing static images that impart information, such as infographics. Groundwork was also being laid for expansion into other social media platforms, such as LinkedIn. The CBA's expertise and success in social media caught the attention of the DCA's Deputy Director for Communications, and CBA staff has served as a consultant on the DCA's Social Media Policy and Standards, as well providing social media guidance for the Office of Public Affairs staff.

Circulation of the CBA's *UPDATE* publication has also benefited from social media exposure, and several requests for permission to reprint the article "What You Want (and Need) to Know About Peer Review" from the Fall 2012 edition were received. The article was reprinted in the public accounting blog, [The Attestation Update A&A for CPAs](#).

Notably, with the exception of dedicated staff time and a very minor cost associated with staff training, all of the aforementioned outreach was accomplished without cost and within the prescribed restriction on state travel.

New Laws Effective January 1, 2013

Assembly Bill 1345 (Lara)

This bill required an audit for any local agency to be completed by a CPA or PA, licensed by, and in good standing with, the CBA. Additionally, this bill prohibited a local agency from employing a public accounting firm to provide audit services to a local agency if the lead audit partner or coordinating audit partner has primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for that local agency for six consecutive fiscal years.

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Assembly Bill 1588 (Atkins)

This bill allowed licensees to have the biennial license renewal fee and continuing education (CE) requirements waived if he or she is called to active duty as a member of the California National Guard or the United States Armed Forces. The individual's license is considered current, but he or she may not practice public accounting and may not provide services to the general public. If, however, the licensee is required by the military to provide public accounting services while on active duty, the license will be considered to be in a military active status.

Assembly Bill 1904 (Block)

This bill required boards to expedite the licensure process for an applicant who holds a license in the same profession or vocation in another jurisdiction and is married to, or in a legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.

Assembly Bill 2570 (Hill)

This bill prohibited a licensee from including a provision in a settlement from prohibiting the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau, or program, or that requires the other party to withdraw a complaint, except as specified. A licensee in violation of these provisions would be subject to disciplinary action by the board, bureau, or program. The bill would also prohibit a board, bureau, or program from requiring its licensees in a disciplinary action that is based on a complaint or report that has been settled in a civil action to pay additional moneys to the benefit of any plaintiff in the civil action.

Senate Bill 1099 (Wright)

This bill required OAL to provide on its Internet website a list of, and a link to the full text of, each pending regulation filed with the Secretary of State. This bill also required a state agency to post on its Internet website each regulation filed with the Secretary of State.

Senate Bill 1327 (Cannella)

This bill required the Director of the Governor's Office of Business and Economic Development to ensure that the office's Internet website contains information to assist an individual with the licensing, permitting, and registration requirements necessary to start a business. The bill required a state agency that the Governor determines has licensing authority to provide accurate updated information about its licensing requirements, and prohibited a state agency from using this Internet website as the exclusive source of licensing information for the public. The bill also authorized the Governor to impose a reasonable fee, not to exceed the actual cost to provide the service, upon users of the Internet website.

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Senate Bill 1405 (De León)

This bill, effective July 1, 2013, eliminated the notice and fee requirements of practice privilege effective and reinstates them on January 1, 2019. It authorized individuals to do certain audit and review services through a firm licensed in California. It required a practice privilege holder to cease practice and notify the CBA if certain conditions apply. The bill required individuals who have met any of certain criteria within the prior seven years to notify the CBA regarding their intent to practice and required CBA authorization to practice. This bill authorized the CBA to revoke a practice privilege under certain circumstances including listed disqualifying conditions. The bill required the CBA to notify the individual's licensing boards and other entities if the practice privilege is revoked. The bill allowed the CBA to administratively suspend a practice privilege for specified reasons.

This bill, beginning January 1, 2014, will authorize a licensee to apply for a license in a military inactive status while he or she is engaged in active duty as a member of the California National Guard or the United States Armed Forces. It will exempt a licensee with that status from paying the biennial renewal fee or being subject to CE and peer review requirements. The bill will prohibit the holder of a license in a military inactive status from engaging in the practice of public accountancy. The bill will require the holder of a license in a military inactive status to pay the biennial renewal fee and meet CE and peer review requirements within a year after his or her discharge from active duty. It will also provide for conversion to active status prior to discharge from active duty.

Senate Bill 1576 (Senate Business, Professions and Economic Development Committee)

This bill changed an out-of-date provision requiring the Rules of Professional Conduct to be printed on the licensing application. This bill clarified that two public accounting corporations may form a public accounting partnership. This bill deleted obsolete language from the peer review code section. This bill removed an obsolete provision regarding the Ethics Curriculum Committee. This bill deleted obsolete provisions regarding the adoption of the accounting study guidelines and the California Research Bureau report. Additionally, this bill extended the length of time the CBA may grant to a licensee to repay investigation costs from one year to three years, and it allowed holders of canceled and delinquent licenses to apply for retired status.

Pending Legislation

Assembly Bill 186 (Maienschein)

This bill would allow boards within DCA to issue a temporary license to a spouse or the domestic partner of an active duty member of the armed forces stationed in California for up to 12 months after issuance, upon issuance of the expedited license, or upon denial of the application for expedited licensure by the board, whichever occurs first. The applicant must possess a current license to practice the profession, the applicant shall not have committed any act that would constitute grounds for denial, suspension, or revocation of the license, and the applicant shall not have been disciplined from a licensing entity in another jurisdiction. *(This is presently a two-year bill.)*

The CBA took a Support if Amended position on Assembly Bill 186, suggesting amendments to further clarify requirements for out-of-state applicants, which would enhance consumer protection.

Assembly Bill 258 (Chávez)

This bill would require every state agency that asks on any written document, or through its website, whether a person is a veteran, to instead ask, "Have you ever served in the United States military?"

The CBA took a Support position on Assembly Bill 258.

Assembly Bill 291 (Nestande)

This bill would establish the California Sunset Review Commission (CSRC) and eliminate the Joint Sunset Review Committee. This bill would require the CSRC to extensively examine each state agency, authority, board, bureau, commission, conservancy, council, department, division, and office to identify each entity's overall necessity, cost-effectiveness, and competency, and would require the CSRC to prepare a report to the Legislature with recommended changes. *(This is presently a two-year bill.)*

The CBA took an Oppose position on Assembly Bill 291. The CBA believes that the Legislature's present policy committees already perform a thorough assessment of the CBA and adding a second review is unnecessary.

Assembly Bill 1057 (Medina)

This bill would require boards, beginning January 1, 2015, to inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

The CBA took a Support position on Assembly Bill 1057.

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Assembly Bill 1151 (Ting)

This bill would require a tax agent, as defined, to register with the Secretary of State in order to represent a taxpayer in reassessing their property tax before a county official. This bill would require the Secretary of State to semiannually publish a list of registered tax agents on its website and would provide the Attorney General the discretion to pursue civil fines for noncompliance or violations of this bill. This bill is intended to increase transparency to prevent improper property tax reductions. *(This is presently a two-year bill.)*

The CBA took an Oppose position on Assembly Bill 1151. While the CBA supports transparency and consumer protection, it does not believe this bill addresses the problem it is trying to solve and creates a duplicative registration requirement for CPAs who are already regulated by the CBA.

Assembly Bill 1412 (Assembly Accountability and Administrative Review Committee)

This bill would prohibit licensees from charging a contingency fee for the assessment of overpaid sales tax of \$50,000 or greater. *(This is presently a two-year bill.)*

The CBA took an Oppose Unless Amended position on Assembly Bill 1412. The CBA believes prohibiting a contingency fee for the assessment of overpaid sales tax of \$50,000 or greater does not advance consumer protection.

Senate Bill 176 (Galgiani)

This bill allows state agencies to file regulation documents with OAL electronically. It also requires state agencies to make a reasonable attempt to consult with stakeholders prior to initiating the rulemaking process. If no consultation takes place, the rulemaking record must explain why stakeholders were not consulted. *(This is presently a two-year bill.)*

The CBA took a Support position on Senate Bill 176.

Senate Bill 305 (Price)

This bill would, among other provisions, clarify that boards are authorized to receive documents needed to complete an investigation on an applicant or licensee.

The CBA took a Neutral position on Senate Bill 305.

Senate Bill 822 (Senate Business, Professions and Economic Development Committee)

This bill would provide the CBA with the authority to issue a citation to an out-of-state licensee exercising a practice privilege in California, and this bill would require an out-of-

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state licensee, who is exercising a practice privilege in California, to notify the CBA of any pending criminal charges in any jurisdiction other than a minor traffic violation.

The CBA took a Support position on Senate Bill 822.

Senate Bill 823 (Senate Business, Professions and Economic Development Committee)

This bill would allow applicants enrolled in a program that confers the baccalaureate degree at the completion of 150 units to qualify for the CPA Exam following completion of the baccalaureate degree requirements. Additionally, the bill would allow applicants to obtain licensure under the existing licensure requirements until January 1, 2016 if they complete the CPA Exam on or before December 31, 2013.

The CBA took a Support position on Senate Bill 823.

Approved Regulations

Accounting Study

This rulemaking placed the guidelines defining the 20 semester units of accounting study that were developed by the Accounting Education Committee and the CBA into regulation. This, along with SB 773, defined the 30 semester units of additional education that will be required for CPA licensure starting in 2014.

Safe Harbor

This rulemaking amended the safe harbor letters in CBA Regulations section 4 to clarify that the preparer of the financial statements attached to the safe harbor letter is not required to be licensed by the CBA for the preparation of the attached statements. The proposal added additional language to the letters to further clarify that the accompanying financial statements are not compiled.

Fingerprinting and Disclosure Requirements

This rulemaking requires that all licenses renewing in an active status after December 31, 2013, have a record of their fingerprints on file for purposes of securing a background check by the California Department of Justice or the United States Federal Bureau of Investigation. It also requires certain information to be disclosed on the renewal application.

Peer Review Reporting

This rulemaking clarified and changed the peer review reporting process for licensees. It revised the peer review reporting form and changed the peer review reporting date to coincide with a licensee's renewal date.

Practice Privilege (Emergency)

This rulemaking defined substantially equivalent states, defined terms, and created the forms necessary to implement the new practice privilege program as established in SB 1405 (De León) of 2012. In addition, it requires out-of-state registered firms to keep certain information current and to renew their registration every two years. It also provides for an appeals process, requires a notification of intent to administratively suspend, and modifies the CBA's Disciplinary Guidelines.

Regulations in Progress

Retired Status

This proposal would implement a retired license status as provided for in AB 431 (Ma) of 2011. It outlines the qualifications needed to obtain retired status, provides a form for application for the status, and provides for restoration of the license back to active status. In addition, it sets the fees and only allows for the status to be granted two times.

Continuing Education

This proposal would conform requirements for CE courses, in large part, to national standards. In addition, it will change the CE required for applicants whose experience was obtained five or more years prior to application for licensure and for reissuance of a cancelled license to be equivalent to the same standard of CE required for active license renewal.

The proposal also makes changes to the Fraud CE requirement for licensees who perform Governmental Auditing and Accounting and Auditing. The proposal reduces the number of Fraud CE hours from eight to four hours and expanded the scope of the course to include prevention in addition to the detection and reporting of fraud in financial statements. The reduction was based, in part, on the fact that this topic has become a regular part of the accounting education required for CPA licensure over the past decade.

Military Inactive Status

This proposal would create the form by which a license may apply for military inactive status as established in SB 1405. It also clarifies what sort of evidence the CBA would accept as proof of military service and discharge from military service. In addition, it would set forth the means by which a licensee could convert their license from a military inactive status to active status or inactive status.

Fees

This proposal would reduce several of the CBA's fees for a two-year period. These fees include the exam application fee, the license application fee, the initial permit fee and the

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renewal fee. The proposal would require the CBA to reexamine its actual and estimated costs by May, 2015, in order to determine appropriate levels for the initial license and renewal fees.

Practice Privilege

This proposal would make permanent the changes achieved in the emergency rulemaking regarding practice privilege. It would define substantially equivalent states, define terms, and create the forms necessary to implement the new practice privilege program as established in SB 1405. In addition, it would require out-of-state registered firms to keep certain information current and to renew their registration every two years. It also would provide for an appeals process, require a notification of intent to administratively suspend, and modify the CBA's Disciplinary Guidelines.

CBA Website

The CBA website has become a virtual “one-stop shop” for information regarding CBA activities, valuable information and resources for consumers, licensees and other stakeholders. Strategic Plan Objective 6.5 requires that the CBA maintain a secure and relevant website that provides enhanced interactive features. The CBA IT staff have been vigilant in protecting the security and integrity of the CBA website.

To assist CBA stakeholders, there have been additions to the CBA website in FY 2012-13 that reflect new information and resources. Among them:

- Modification of the existing Practice Privilege database to support consumer protection under mobility. Consumers may now use the CBA License Lookup to search registered out-of-state accounting firms; access NASBA's CPAVerify website, an online central repository of information about licensed CPAs and public accounting firms providing a single-search resource covering participating jurisdictions where a person or firm has been licensed; and a map with links to each state's board of accountancy website
- A new webpage dedicated to the new educational requirements effective January 2014
- The posting of citation orders, established by BPC section 27
- New information and resources for members and families of members of the military
- A link to an overview of the license renewal process

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The CBA homepage also offers links to several interactive features, including a central page with live links to online forms, and self-assessment worksheets for meeting the new educational requirements for CPA Licensure. More interactive capabilities are anticipated with the implementation of the BreEZe system.

Information Technology

During FY 2012-13, the IT staff have successfully completed multiple important projects that have enhanced CBA outreach and communication with stakeholders as well as internal operations. One of the projects included enhancements to the CBA's online Peer Review Reporting form. Following OAL approval of changes to the peer review reporting form, IT staff modified the online reporting form to coincide with the information licensees must report on the hard copy form. A majority of licensees have used the online reporting form to report peer review information to the CBA.

In preparation for the CBA's transition to the BreEZe system, which is expected to begin in late 2014, IT staff began a project to overhaul the internal database used to track applicants for CPA licensure. The updated database uses a new platform to support the system, streamlines the workflow for application approval, and offers easier access to statistical reports. The updated database will be beneficial when the applicant records are moved to the BreEZe system.

The most significant IT project during FY 2012-13, was the modifications and enhancements to the practice privilege database. The enhancements were required as a result of SB 1405 which created California's version of mobility. The updated database supports an out-of-state accounting firm registration requirement and includes a public "license lookup" system on the CBA's website for both out-of-state licensed individuals and out-of-state registered accounting firms. The new system launched at the end of June 2013.

Consistent with the CBA's goal of transparency, the CBA IT staff enhanced our webcasting system to add compatibility for Android and Apple iPhone/iPad devices to our archived CBA meeting webcasts on the CBA website. Additional enhancements continue into FY 2013-14.

The CBA successfully completed the migration to the State of California's vendor owned and managed California Government Enterprise Network from the Department of Technology's California State Government Network. This migration was mandated by AB 2408 (Smyth) of 2010 and the Governor's 2009 Reorganization Plan.

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As part of this migration, the CBA's Internet connection was also upgraded to improve the performance of our CBA meeting webcasts, the responsiveness of our connection to the California Email Service and to support the increased bandwidth requirements of DCA's BreZE system.

It is worth noting that in light of the State of California's fiscal crisis and the increased pressure on State agencies to reduce waste and operate more efficiently, these CBA IT projects were completed with minimal expenditures by using existing CBA resources.

ENFORCEMENT DIVISION

The Enforcement Division is responsible for overseeing the enforcement of California laws and rules governing the practice of public accountancy. Staff receives complaints from consumers, licensees, professional societies, law enforcement agencies, other government agencies and internal referrals. Enforcement staff also regularly monitors social media outlets for information that may suggest licensees' violations of the Accountancy Act and CBA Regulations. While historically consumers have been the main origin of complaints, licensees also have been a significant source, most often reporting unlicensed activity. This fiscal year, however, the main source of complaints has been internal referrals of licensees impacted by the mandatory peer review program implemented in 2010.

Consistent with the division's significant responsibilities in the area of consumer protection, workload is prioritized to ensure maximum consumer protection. Cases with the potential for ongoing consumer harm receive the highest priority and urgent attention. The options of Interim Suspension Orders (ISO) or Penal Code section 23 (PC 23) suspensions are used whenever appropriate to restrict or suspend licensee practice rights to diminish potential consumer losses. Additionally, enforcement staff seeks stipulated settlements when possible to expedite disciplinary decisions to provide consumer protection and promote cost effectiveness.

During FY 2012-13 the Enforcement Division maintained its full allocated staffing level achieved in FY 2011-12. The positive results of this achievement are reflected in the increased productivity experienced by the division. This fully staffed division yielded increased resolution of complaints, investigations, disciplinary actions, proactive enforcement activities, and a reduction in processing timeframes.

Organization

The Enforcement Division consists of 22 employees and is comprised of three business units:

Technical Investigations

Technical Investigations consists of one Supervising Investigative Certified Public Accountant and seven Investigative Certified Public Accountants who conduct the most complex investigations.

Non-Technical Investigations

Non-Technical Investigations consists of one Staff Services Manager and four analysts who conduct the less complex investigations.

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Program and Committee Support

Program and Committee Support consists of five analysts and three office technicians who provide assistance with program support activities such as issuing citations and fines, assigning and monitoring referrals to the AG's office, probation monitoring, and monitoring compliance with the mandatory peer review program. They also provide assistance to enforcement program committees including the Enforcement Advisory Committee (EAC), Peer Review Oversight Committee (PROC), and the Enforcement Program Oversight Committee (EPOC).

Complaints

The following matrix indicates the volume of complaints, convictions and arrest reports (Complaints) received during the FY 2012-13.

Complaints	FY 2011-12	FY 2012-13	Change
Received	1,765	3,094	+1,329
Closed – No Action	132	182	+50
Assigned for Investigation	1,600	2,919	+1,319
Average Days from Intake to Closure or Assign for Investigation	4	3	-1
Pending	9	2	-7
Average Age of Pending Complaints	22 days	6 days	-16
Convictions/Arrest Reports			
Received	146	177	+31
Closed – No Action	130	147	+17
Assigned for Investigation	16	32	+16
Average Days from Intake to Closure or Assign for Investigation	2	2	0
Pending	3	1	-2

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Approximately 90 percent, or 2,951², of the 3,271³ Complaints received were assigned for investigation. This is an increase from the prior year when approximately 85 percent of the Complaints received were assigned for investigation. Additionally, the Average Age of Pending Complaints decreased by 16 days. This is a further reduction from the prior year reduction of 17 days, reducing the average age of Complaints by 33 days over the past two years.

The Enforcement Division received an additional 1,360⁴ Complaints during FY 2012-13 than in FY 2011-12. Most of the additional Complaints received were internal referrals originating from the peer review program. The referrals were made since licensees failed to file the mandated Peer Review Reporting Form, received a substandard peer review, or filed a false Peer Review Reporting Form.

To facilitate the reporting of peer review information and to increase compliance, the CBA amended CBA Regulations sections 40 and 45 to require licensees to report their peer review information at the time of license renewal. This change should reduce the number of licensees who fail to file the Peer Review Reporting Form, which is the largest area of non-compliance.

Investigations

The following matrix illustrates the results achieved by the Enforcement Division during FY 2012-13 in the area of investigations:

Investigations	FY 2011-12	FY 2012-13	Change
Assigned for Investigation	1,626	2,951	+1,325
Investigations Closed	1,525	2,870	+1,345
Average Days to Close	85	73	-12
Investigations Pending	439	522	+83
Average Age of Pending Investigation	248 days	167 days	-81 days
Median Age of Pending Investigation	164 days	104 days	-60 days

² Complaints Assigned for Investigations consists of Complaints totaling 2,919 and Convictions/Arrest Reports totaling 32.

³ Complaints Received consists of Complaints totaling 3,094 and Convictions/Arrest Reports totaling 177.

⁴ Additional Complaints consists of additional Complaints totaling 1,329 and additional Convictions/Arrest Reports totaling 31.

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The average age and median age of pending investigations decreased by 81 and 60 days, respectively. The average and median age of investigations are 167 and 104 days, respectively. These are the lowest levels attained in the past three fiscal years.

Additionally, the number of investigations opened and closed increased by 1,325 and 1,345, respectively. The net effect is that Investigations Pending increased by 83, bringing the total number of pending investigations to 522. This number is the largest number of investigations pending in the past three fiscal years. This high number of investigations pending, as well as anticipated increases in enforcement workloads resulting from mandatory fingerprinting and peer review and investigative backlog, will strain investigative resources in the coming year.

As in the prior year, management is reviewing pending investigations and preparing aggressive action plans for complex cases that are over one year old and for all other cases that are over 100 days old. Additionally, staffing augmentation requests have been prepared seeking additional investigative resources to address future workload increases. These proactive managerial steps will aid in mitigating adverse impacts on the current and future investigative workload.

Disciplinary Actions

The matrix on page 26 illustrates the results achieved by the Enforcement Division during FY 2012-13 in fulfilling its consumer protection objective through referrals of matters to the AG's office, imposition of discipline, and issuance of citations.

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Attorney General	FY 2011-12	FY 2012-13	Change
Referrals	50	62	+12
Cases Pending	54	57	+3
Accusations Filed	37	50	+13
Statement of Issues Filed	2	3	+1
Petitions for Revocation of Probation Filed	3	3	0
Disciplinary Orders			
Stipulations Effective	19	39	+20
Proposed Decisions Effective	3	5	+2
Default Decisions Effective	4	14	+10
Average Days to Complete Proposed Decisions/Default Decisions/Stipulations ⁵	867	830	-37
Citations			
Final Citations	908	1,883	+975
Average Days to Complete	22	67	+45

During FY 2012-13, Disciplinary Orders increased from 26 to 58, an increase of 32 Orders or 123 percent from the prior fiscal year. At the same time, the average days to complete Disciplinary Orders decreased by 37 days.

The number of citations issued increased by 975 from the prior year. The largest increase is from licensees who failed to respond to CBA letters requesting the filing of the Peer Review Reporting Form. Licensees who failed to respond to the CBA were issued a citation and fine of \$250.

⁵ The average days to complete proposed decisions/default decisions/stipulations is from intake to final adjudication.

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Probation

Once the disciplinary process is complete, licensees placed on probation are monitored for compliance with the conditions of probation. A Petition to Revoke Probation is filed when the licensee fails to adhere to the probationary terms. Currently there are 53 licensees on probation. During the fiscal year, three Petitions to Revoke Probation were filed.

Other Enforcement Actions

Administrative Penalties

During the past three fiscal years the division has issued administrative penalties on an increasing basis. Administrative penalties issued for the past three years are \$20,000, \$302,500, and \$304,500, respectively. The increase in penalties for the past two years related directly to the number of citations issued to licensees for failing to respond to the CBA regarding Peer Review. The administrative penalties are issued pursuant to BPC section 5116 for actual and potential consumer harm.

Interim Suspension Orders

During FY 2012-13, the Enforcement Division was successful in issuing one ISO and three PC 23 suspension orders. These proactive enforcement measures provide immediate consumer protection by restricting a licensee from continuing to practice public accountancy.

Awareness of Unprofessional Conduct

In an effort to increase licensees' awareness of the consequences of unprofessional conduct, the Enforcement Division prepared several articles for the *UPDATE* publication. In FY 2012-13 articles on commissions, citations, engagement letters, and SEC Wells's submissions were published.

Performance Measures

Beginning in July 2010, the DCA, as part of the Consumer Protection Enforcement Initiative, began posting on its website, Performance Measures for each board and bureau. Following, on page 28, are the CBA's performance measures for the FY 2012-13:

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Performance Measure	Target	Result
Number complaints and convictions received	NA	3,271
Average number of days to complete complaint intake	10 days	3 days
Average number of days to complete closed cases not resulting in formal discipline	180 days	73 days
Average number of days to complete investigations for complaints resulting in formal discipline	540 days	830 days
Average number of days from the date a probation monitor is assigned, to the date the monitor makes contact	5 days	2 days
Average number of days from the time a violation is reported to the time the probation monitor responds	15 days	1 days

The CBA met all performance measures except for the “Average number of days to complete the entire enforcement process for cases resulting in formal discipline.” However, the average days decreased to 830 from 867 from the prior year, a decrease of 37 days. The CBA significantly decreased investigation timeframes and continues to work cooperatively with the AG’s office on ways to reduce the timeframes to complete the formal discipline process.

Enforcement Committees

Enforcement Program Oversight Committee

Enforcement staff act as liaisons to the EPOC. The EPOC assists the CBA members in the consideration of issues relating to the Enforcement Program. During FY 2012-13 the EPOC met four times and discussed the following issues: responsibilities of the CBA member liaison to the EAC, establishing guidelines for EPOC members to audit a closed and finalized case, adding a model petition for reinstatement checklist to the disciplinary guidelines, optional conditions of probation to be used in lieu of monetary administrative penalties, and proposed revisions to the Manual of Disciplinary Guidelines and Model Disciplinary Orders.

Enforcement Advisory Committee

Enforcement staff act as liaisons to the Enforcement Advisory Committee (EAC). The EAC assists in an advisory capacity by providing technical expertise and assistance with investigation.

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During FY 2012-13 the EAC met five times and assisted with 24 Investigative Hearings and reviewed 80 closed investigations. Of the 24 Investigative Hearings held, the EAC recommended 15 referrals to the AG's office for the filing of an Accusation, five closed with the issuance of a citation and fine, two to conduct further investigation, and two closed without findings.

Peer Review Oversight Committee

Enforcement staff act as liaisons to the Peer Review Oversight Committee (PROC). The PROC provides recommendations to the CBA on any matter upon which it is authorized to act to ensure the effectiveness of mandatory peer review.

During FY 2012-13, the PROC met five times. In March 2013, the PROC provided its Second Annual Report to the CBA on the results of its oversight. Other issues the PROC discussed during the year included collaboration with the AICPA and NASBA's Compliance Assurance Committee on oversight of the National Peer Review Committee, peer review legislative and regulatory changes, and the creation of new oversight checklists.

LICENSING DIVISION

Comprised of four units – Examination, Initial Licensing, Renewal and Continuing Competency, and Practice Privilege – and approximately 45 staff, the Licensing Division's primary responsibilities include ensuring: 1) applicants meet education requirements prior to taking the CPA Exam; 2) applicants for licensure who have passed the CPA Exam meet the education and experience requirements necessary for licensure; 3) accountancy partnerships and corporations are registered so they can offer services in California; 4) licensees have paid the required fees and have completed the required CE hours to renew their license and demonstrate minimum competency; and 5) out-of-state licensees seeking the privilege to practice public accountancy in California have notified the CBA of their intent.

Although the main focus of the Licensing Division is to regulate entry into the profession, Licensing Division staff maintains an integral part of the enforcement process as well. A large number of enforcement complaints originate from within the office, based upon information provided by the current or potential licensee. For instance, the Renewal and Continuing Competency Unit routinely refers complaints to the non-technical Enforcement Unit related to licensees practicing with CE deficiencies and practicing with expired licenses.

Consistent with the customer service goal of the 2010-2012 and 2013-2015 Strategic Plans to deliver the highest level of customer service, the Licensing Division staff strives to provide excellent service to all stakeholders including consumers, applicants, licensees, interested parties, and the CBA members themselves. As part of this effort, the report on Licensing Division activity provided at each CBA meeting was redesigned at the end of FY 2012-13 to provide members a fuller picture of Licensing Division activities throughout the year. The most significant change to the report was a shift away from providing a three-month snapshot of Licensing Division activities to providing three fiscal years of statistical data while still providing a narrative report highlighting recent activity within each program area.

As illustrated in the table on page 31, the Licensing Division receives a high volume of telephone calls and emails regarding all four program areas. Staff makes every effort to answer all telephone calls as they are received and respond to voicemail and email messages within 24 hours of receipt. There has been a significant increase in both telephone calls and emails within the Licensing Division. The CBA routinely receives comments via the online customer service survey regarding the high level of customer service and professionalism exhibited by Licensing Division staff.

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Telephone Calls Received	FY 2011-12	FY 2012-13
Examination Unit	20,511	22,610
Initial Licensing Unit	19,399	24,006
License Renewal/Continuing Competency Unit	21,579	20,958
Practice Privilege Unit	882	921
Total Telephone Calls	62,371	68,495
Emails Received		
Examination Unit	10,042	11,551
Initial Licensing Unit	7,913	9,670
License Renewal/Continuing Competency Unit	8,192	9,601
Practice Privilege Unit	1,516	583
Total Emails	27,633	31,405

Examination Unit

The Examination Unit processes applications to sit for the CPA Exam, including the review of official transcripts and foreign credential evaluations to ensure that examination candidates meet the educational qualifications pursuant to BPC sections 5092 and 5093.

The Examination Unit strives to process CPA Exam applications for first-time applicants within 30 days and repeat applicants within 10 days from the date the application is received in the CBA mailroom. Although three Examination Unit staff were partially redirected to work on the Licensing Educational Changes Taskforce discussed later in this report, staff worked diligently to maintain the application processing timeframes well within the 10- and 30-day targets.

In addition to the CPA Exam applications, staff recently began tracking the workload and average processing timeframes involved with four types of special requests – conditional credit and notice to schedule extensions, educational qualification reconsiderations, and special accommodations.

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Staff tracks the receipt and processing of requests for conditional credit and notice to schedule extensions together as the circumstances under which an applicant may receive either one of these extensions are identical. These two types of extensions are applicable when an individual is prevented from sitting for an unpassed section of the CPA Exam due to one or more of the reasons listed in sections 7.1(e) and 8.1(e) of the CBA Regulations.

Educational qualification reconsiderations refer to individuals who believe CBA staff made an error in reviewing his/her transcripts and/or foreign education evaluation. Staff relies primarily on the official college or university transcripts when determining an individual's qualifications to sit for the CPA Exam which, out of necessity, include abbreviated course titles. When an individual believes an accounting or business-related course has been misinterpreted, he/she will submit the course catalog description, syllabus, or both providing the full course title and description of the course content for reconsideration.

Special accommodations are processed in accordance with the Americans with Disabilities Act and refer to any request for reasonable accommodation to take the CPA Exam due to a medical need, disability, or both.

LICENSING DIVISION

Examination Applications Received	FY 2011-12	FY 2012-13
First-time Sitter	7,243	7,175
Repeat Sitter	17,606	18,584
Total Applications	24,849	25,759
CPA Exam Scores		
Scores Processed	34,924	36,242
Special Requests*		
Conditional Credit and Notice to Schedule Extensions	--	114
Educational Qualification Reconsiderations	--	40
Special Accommodation	--	69
Average Processing Timeframes		
First-time Applications	21 Days	23 Days
Repeat Applications	6.5 Days	8 Days
Conditional Credit and Notice to Schedule Extensions*	--	16 Days
Educational Qualification Reconsiderations*	--	20 Days
Special Accommodation*	--	8 Days

* Statistics are not available for FY 2011/12 or prior to January 1, 2013 for FY 2012/13.

Initial Licensing Unit

Upon passing the CPA Exam, completion of any additional required education, and obtaining the requisite experience, a candidate may apply for CPA licensure. For FY 2012-13, the Initial Licensing Unit (ILU) received 3,654 applications for licensure. Staff reviews each application thoroughly to ensure applicants have met the required education, examination, and experience for licensure. Additionally, the ILU processes applications for partnership and corporation licensure, and Fictitious Name Permits.⁶

⁶ A sole proprietor choosing to practice using a name other than the name under which the person holds a valid permit to practice issued by the CBA may only do so under a Fictitious Name Permit.

LICENSING DIVISION

For FY 2012-13, ILU staff received 479 accountancy partnership and corporation applications.

CPA Licenses Issued	FY 2011-12	FY 2012-13
Pathway 0*	12	4
Pathway 1	904	959
Pathway 2	2,325	2,511
Total Licensed	3,241	3,474
Firm Registrations Issued		
Corporations	223	174
Partnerships	106	70
Fictitious Name Permits	156	105
Total Registered	485	349
Average Processing Timeframes		
CPA Licenses	15 Days	25 Days
Firm Registrations	8 Days	14 Days

* Pathway 0 was repealed in January 2010, however applicants seeking re-licensure following a cancelled license can be licensed under Pathway 0, that number is reflected above.

One of the other primary responsibilities for the ILU is processing requests for certification of CBA records. Although the majority of these requests are from California licensees or CPA exam candidates who are applying for licensure out-of-state, the CBA also receives requests from other interested parties. In FY 2012-13, ILU staff received 1,073 certification requests.

Renewal and Continuing Competency Unit

The Renewal and Continuing Competency (RCC) Unit is responsible for processing license renewals for CPAs, PAs, and accountancy partnerships and corporations. CPA and PA licensees are required to renew their licenses biennially, in conjunction with their birth month. For those licensees electing to renew their license in an active status, the RCC Unit ensures that licensees complete the required CE. Accountancy corporations and partnerships are also required to renew biennially, corresponding with their registration

LICENSING DIVISION

date with the CBA. Firms must submit information pertaining to their shareholders or partners.

The majority of the work completed by RCC staff involves the review of CE Reporting Worksheets, which are submitted by licensees at the time of license renewal. When deficiencies occur, RCC staff sends a letter to the licensee informing them of the deficiency and advising them how to gain compliance. The table on page 36 provides the CE worksheet review statistics, including the number of deficiencies that were referred to the Enforcement Division for further review. As the table indicates, during FY 2012-13 RCC successfully worked with 3,453 licensees to bring them into compliance with the CBA's CE requirements.

The table also reveals that RCC staff approved an additional two Regulatory Review courses. The total number of Regulatory Review courses remains at 21 since two providers elected not to renew their courses. Additional detail regarding the Regulatory Review course is available in the chart below.

LICENSING DIVISION

License Renewal Applications Processed	FY 2011-12	FY 2012-13
Certified Public Accountant	38,329	38,334
Public Accountant	20	25
Accountancy Partnerships	653	579
Accountancy Corporations	1,654	1,560
Total Licenses Renewed	40,656	40,498
Worksheet Review Statistics		
Number of CPA/PA Worksheets Reviewed	44,749	36,927
Number of 20/12 Deficiencies Received	1,231 (124)*	2,784 (609)*
Number of Deficiencies Received	4,233	4,064
Number of Compliance Letters Sent (including inactive response)	3,502	3,453
Number of Enforcement Referrals	56	53
Number of Outstanding Deficiencies (including abandonment)	675	558
Regulatory Review Courses		
Number of Courses Received (first time submission)	7	3
Number of Courses Returned for Corrections	8	1
Number of Revised Courses Received (initial submission returned for corrections)	5	4
Number of Courses Approved	6	2

*The number outside the parenthetical reference indicates the 20/12 CE deficiency was the only requirement not met. The number inside the parenthetical reference indicates a CE deficiency was also identified and this count is included in the CE deficiencies identified.

To address an accumulation of CE worksheet reviews and pending deficiency notifications, the RCC Unit restructured its review and processing procedures. As a result of these adjustments and the dedicated hard work of the unit, the RCC Unit has been able to process license renewal applications within an approximate four week period and issue deficiency notifications within two weeks of the deficiency being identified.

Military waiver status became effective in FY 2012-13. Staff included updated information in the *Licensee Renewal Handbook* and developed internal procedures for

this new status. Additionally, staff are actively working to address implementation procedures for the new military inactive status set to take effect January 1, 2014.

As the result of rulemaking activities over the past several years, three new license renewal-related changes take effect January 1, 2014. These changes involve the retroactive fingerprint, peer review reporting, and the Fraud CE requirement. Over the past fiscal year, RCC staff has worked diligently to develop implementation procedures designed to assist licensees with compliance and ensure staff received the necessary training regarding the new requirements. Activities undertaken during this past fiscal year associated with the upcoming changes include designing a mass mailing to all licensees focused on the license renewal-related regulatory changes, developing retroactive fingerprint notification letters, developing fingerprint-related frequently asked questions, and revising the license renewal applications to capture these new regulatory requirements. Staff continues to fine-tune these implementation procedures.

Also, RCC staff used the CBA publication *UPDATE* as another tool to further inform licensees of the new license renewal-related changes and items of interest pertaining to the license renewal process. In 2012-13, RCC staff produced two articles focused on retroactive fingerprinting and tips on how to file a successful license renewal application.

California Practice Privilege

On September 20, 2012, Governor Brown signed SB 1405, eliminating the practice privilege notification and fee requirement for most out-of-state CPAs effective July 1, 2013. Prior to the July 1, 2013 effective date CPAs were required to notify the CBA of their intent to practice public accountancy in California by submitting a notification form requesting a California practice privilege and paying the required fee.

Practice rights were automatic upon submission of the notification form unless specific disqualifying conditions existed that required prior CBA approval. Since these disqualifying conditions were self-reported, the CBA performed monthly audits of California practice privilege holders' qualifications and license status to ensure effective consumer protection.

As a result of the passage of SB 1405, Practice Privilege staff took focused significant attention on preparing for the implementation of the new practice privilege program. The Licensing Division took the lead in coordinating all internal planning meetings and played a significant role in all aspects of program implementation. During these meetings, CBA staff monitored various aspects of the rulemaking process, assessed outreach and training needs, made enhancements to the CBA website, and modified its

LICENSING DIVISION

existing Practice Privilege database. These preparations spanned across all three CBA Divisions – Administration, Enforcement, and Licensing – and represent a truly collaborative effort.

In furtherance of the CBA’s outreach efforts, staff mailed over 7,800 letters to present and prior practice privilege holders notifying them of the new practice privilege provisions. Also, staff drafted an article for the winter 2013 *UPDATE* publication highlighting the new law. A new practice privilege handbook was posted to the CBA website to provide out-of-state CPAs highlights on the new provisions. The handbook provides considerable information on when and how individuals with various events must notify the CBA (whether pre- or post-practice under a practice privilege). Staff also developed a series of frequently asked questions to further aid out-of-state CPAs’ understanding of the new provisions.

Practice Privilege Notifications	FY 2011-12	FY 2012-13
Practice Privilege Notification Forms Received	2,576	2,301
Disqualifying Conditions Received	36	20

Qualifications Committee

The Qualifications Committee (QC) is a legislatively established committee that acts as an advisory committee and assists the CBA in its licensure activities. The QC is comprised of California-licensed CPAs (16 in total), with a wide background of experience in providing accounting and auditing services, which include compilation/review, government, not-for-profit, pension plan, and tax. The primary focus of the QC is to perform advisory duties to the CBA by examining an applicant’s experience and recommending applicants who fulfill the requirements for CPA licensure.

The QC has the authority to examine the qualifications of an applicant who personally appears before the committee by conducting an interview and reviewing the applicant’s work papers. The QC can also interview employers (referred to as a CBA Regulations section 69 review) who signed an applicant’s experience form, inquiring into the information provided on the experience form to ensure the employer signing the form has an appropriate understanding of the requirements for CPA licensure. Additionally, the QC performs an annual audit of licensure files. The QC conducts its business at regularly scheduled one-day meetings held four times yearly, alternating between northern and southern California.

ILU staff act as liaisons to the QC and performed significant support functions. From an administrative aspect, ILU staff secured locations for the meetings and assisted members with travel arrangements and reimbursements. Additionally, staff worked to develop agendas, minutes, and reports to aid the committee in its advisory functions for the CBA. For FY 2012-13, the QC met four times, conducting 36 appearances. As a result of these appearances, the QC recommended 25 applicants be approved for licensure and 11 applicants be deferred for additional experience.

In addition to conducting interviews of applicants, the QC concluded its discussions on peer training. As a result, the committee adopted a revised QC Manual, which now incorporates best practices identified from its discussions. The best practices serve as framework for current and new members when handling personal appearances and section 69 reviews.

Taskforce to Examine Experience for CPA Licensure

In March 2013, CBA President Leslie LaManna, CPA, established the Taskforce to Examine Experience for CPA Licensure (Taskforce). The primary purpose and goal of this Taskforce is to examine the experience requirement for CPA licensure, determine whether changes (if any) are necessary, and provide a recommendation to the CBA. The Taskforce is comprised of nine members.

ILU staff act as liaisons to this temporary Taskforce and performed significant support functions. During FY 2012-13, staff performed copious amounts of research to aid in the Taskforce's ongoing deliberation on this topic. Also, for the Taskforce's inaugural meeting, staff provided various background information to offer additional context for discussions.

New Educational Requirements

Beginning January 1, 2014, the educational requirements for CPA licensure will change dramatically. The CBA will fully transition to the 150 semester unit pathway for licensure, while also expanding the prescribed semester units for licensure from 48 to 78. These changes were a result of legislation passed in 2009 (SB 819, Yee) and 2011 (SB 773).

As reported in the 2012 CBA Annual Report, an internal taskforce comprised of Examination and Initial Licensing staff was established for the purpose of ensuring a smooth transition to the new educational requirements. The taskforce created a

LICENSING DIVISION

comprehensive project plan including an outline of the specific activities that would be undertaken in furtherance of fulfilling the taskforce's goal to increase outreach efforts, develop best practices for implementation, and develop training activities for Examination and Initial Licensing Unit staff. Activities undertaken by the taskforce over the course of the past fiscal year include the following:

- Creating and holding monthly training sessions with all Examination and Initial Licensing Unit staff discussing implementation, best practices, frequently asked questions, and performing hands-on transcript review sessions
- Publishing articles in the CBA publication *UPDATE*
- Holding live Facebook events in January 2013 and June 2013
- Sending an informational letter to multiple branches of the Beta Alpha Psi organization in May 2013
- Submitting an article for the American Accounting Association's Fall 2012 issue of *Accounting Education News*
- Sending an informational letter to all CBA-approved foreign credential evaluation services in October 2012 explaining the new educational requirements with specific emphasis on the ethics education requirement
- Creating an online self-assessment worksheet designed to assist applicants in evaluating the education they have already completed and planning for any future education needs

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CBA Item VI.D.
September 26-27, 2013

Discussion Regarding Change to May and September 2014 CBA Meeting Dates

Presented by: Kari O'Connor, Board Relations Analyst

Date: August 26, 2013

Purpose of the Item

The purpose of this agenda item is to provide California Board of Accountancy (CBA) members with a new meeting date for the May and September 2014 CBA Meetings in Southern California.

Action(s) Needed

Members will be asked to approve new meeting dates for the May and September 2014 CBA meetings.

Background

At the March 2013 CBA meeting, members adopted CBA meeting dates for 2014 (**Attachment 1**). The May and September 2014 meetings are presently scheduled for May 22-23, 2014 and September 25-26, 2014.

Comments

Due to the likelihood of travel delays leading up to Memorial Day weekend, CBA members may wish to consider changing the May 2014 CBA meeting date. CBA staff propose May 29-30, 2014 as the date for the CBA meeting.

Additionally, the September 2014 dates fall close to a religious holiday. CBA members may wish to consider changing the meeting date to September 18-19, 2014.

Attachment 2 provides an updated calendar with the proposed dates.

Fiscal/Economic Impact Considerations

None.

Recommendation

CBA staff recommend that CBA adopt the proposed change in meeting date for the May and September 2014 CBA Meetings.

Attachments

1. 2014 CBA Meeting Dates
2. 2014 CBA Meeting Dates with Proposed Change.

**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
2014 MEETING DATES/LOCATIONS CALENDAR**

JANUARY 2014

S	M	T	W	Th	F	S
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FEBRUARY 2014

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MARCH 2014

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APRIL 2014

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AUGUST 2014

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DECEMBER 2014

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GENERAL LOCATION

NC-NORTHERN CALIFORNIA

SC-SOUTHERN CALIFORNIA

**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
2014 MEETING DATES/LOCATIONS CALENDAR WITH PROPOSED CHANGES**

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SEPTEMBER 2014

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OCTOBER 2014

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DECEMBER 2014

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GENERAL LOCATION
NC-NORTHERN CALIFORNIA
SC-SOUTHERN CALIFORNIA



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CBA Item VI.E.
September 26-27, 2013

**Discussion of Possible Comments on the Uniform Accountancy Act
Exposure Draft Regarding Revised Definitions**

Presented by: Matthew Stanley, Regulation Analyst
Date: August 12, 2013

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with information regarding the Uniform Accountancy Act (UAA) exposure draft and to seek comment from the CBA.

Action(s) Needed

The CBA will be asked for any comments it may have on the exposure draft.

Background

The UAA and Model Rules, maintained and amended by the National Association of State Boards of Accountancy (NASBA) and the American Institute of Certified Public Accountants (AICPA), are guidelines and suggested laws and rules for state boards to adopt. The CBA has not adopted the UAA and Model Rules in its entirety, and historically, look at each change made to them on its own merits to determine if its inclusion in the California Accountancy Act or the CBA Regulations is warranted.

This exposure draft revises the definition of “attest” in the UAA. Historically, attestation services were generally limited to audits and reviews of financial statements. This is reflected in the UAA’s current definition of the term “attest.”

There has been a growing trend where certified public accountants (CPA) have been asked to give assurances on matters other than financial statements. According to the Exposure Draft, in some states, non-CPAs have been providing such services using CPA professional standards which can lead to a misperception by the public that they are as qualified as CPAs.

Although the definition of “attest” in the UAA currently covers most services performed in accordance with the Statements on Standards for Attestation Engagements (SSAE), the proposed changes to the UAA definition of “attest” would now include all services performed in accordance with the SSAE. By adding this new inclusion as a separate subsection (Section 3(b)(5) in **Attachment 1**), it will have minimal impact on other UAA sections regarding mobility. By including these non-financial information related services in the definition of attest, it would limit the performance of such services to licensees.

Discussion of Possible Comments on the Uniform Accountancy Act Exposure Draft Regarding Revised Definitions

Page 2 of 3

Absent CBA action and inclusion of changes in California's laws and rules, changes to the UAA have no effect on the CBA.

Comments

Should the proposed change in this exposure draft be adopted in California, it would not have a perceptible effect on how the CBA operates. Staff analyzed several areas that may have been impacted and determined that the proposal would have no effect.

First, and foremost, it would not impact our definition of practice of public accountancy in Business and Professions Code (B&P) section 5051 (**Attachment 2**). The CBA interprets B&P section 5051(c), (d) and (e) as applying to reports on internal controls and other reports covered under SSAE. This means that California law already prohibits non-licensees from performing work using professional standards.

Second, staff examined the impact the proposed change may have on CBA Regulations section 4, specifically the safe harbor letter (**Attachment 3**). The safe harbor letter is specific to the preparation of financial statements and does not cover services provided using professional standards that are not related to financial statements. Therefore, staff determined that this section would not be impacted by the proposed change.

Third, staff reviewed the CBA's peer review rules, particularly CBA Regulations section 39 (**Attachment 4**) which defines Accounting and Auditing practice. This definition already includes any services performed using SSAE, and, therefore, would not be impacted by the proposal.

Fourth, staff examined the new practice privilege program for any inconsistency with the proposal. The only section that may have been impacted relates to which accounting firms must obtain an out-of-state registration (B&P section 5096.12(c)). Those services which trigger such a requirement are all related to financial information. Again, there would be no impact from this proposal.

Finally, the CBA has its own definition of "attest services" and "attest reports" in CBA Regulations section 2.4 (**Attachment 5**). This definition is specific to the attest experience requirement for licensure with the authorization to sign attest reports. The CBA has chosen to not give a broader definition of "attest" as described in UAA Section 3(b). If the CBA wanted to discuss any changes to CBA Regulations section 2.4, staff would recommend that the discussion be held after the Taskforce to Examine Experience for CPA Licensure completes its work and the CBA acts on its final recommendation.

Staff have prepared a proposed comment letter (**Attachment 6**) for NASBA and the AICPA on the exposure draft. Staff is seeking any input the CBA may provide on this letter including any revisions or additions.

Fiscal/Economic Impact Considerations

None.

Discussion of Possible Comments on the Uniform Accountancy Act Exposure Draft Regarding Revised Definitions

Page 3 of 3

Recommendation

Staff recommend that the CBA adopt the proposed letter on the exposure draft and direct staff to send it to NASBA and the AICPA.

Attachments

1. Exposure Draft of the Uniform Accountancy Act
2. Business and Professions Code Section 5051
3. CBA Regulations Section 4
4. CBA Regulations Section 39
5. CBA Regulations Section 2.4
6. Proposed Comment Letter

Exposure Draft

Uniform

Accountancy Act

Seventh Edition

_____, 2013

Revised Definitions

Published jointly by the
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National Association of State Boards of Accountancy
150 4th Avenue, North, Nashville, TN 37219-2417

[Note: Material being deleted is stricken. New material is underlined.]

(Comments must be received by October 17, 2013.)

EXPOSURE DRAFT OF UNIFORM ACCOUNTANCY ACT

This exposure draft contains revisions to the UAA, which are designed to incorporate a change in the definition of “attest.”

The needs of clients and the marketplace, and scope of services, are changing. Historically, even as little as five years ago, assurance and attestation services were discussed in the context of, and generally limited to, audits and reviews of historical financial statements and the UAA so defined the term “attest.” These services are the most important to the public because third parties rely on the licensee’s report concerning financial statements. As a result, they are the only professional accounting services that are reserved to licensees.

Despite this targeted focus in the UAA, the scope of the definition of attest can be impacted through a change in the referenced standards, as happened when SAS 70 was reissued as SSAE 16. Further was the question of whether other SSAE engagements should be incorporated into the definition of attest. Such a change would make the Act flexible enough so major amendments would not be needed as future developments occur in assurance standards or in marketplace demands for assurance services.

In recent years, CPAs have increasingly been asked to report on representations other than historical financial statements. Some non-CPAs have stepped in and provided such services, in some cases using CPA standards of practice to perform services, giving the impression to the public that they are as qualified as CPAs.

To deal with this issue, the proposal is to change the definition of “attest” in the UAA to include all services performed in accordance with the Statements on Standards for Attestation Engagements (“SSAEs”). This is accomplished by adding those services to the attest definition as a separate subsection in the definition, apart from the examinations of prospective financial information already covered in the definition. By so doing, we minimize changes in the provisions governing individual and firm mobility.

The exposure draft includes a more detailed explanation of the proposed revisions, as well as the text of the affected UAA statutory sections that are recommended for addition or change. Statutory provisions are in **BOLD** type. New language is underlined and language that would be deleted is stricken. To see the entire UAA and Model Rules, you may view them electronically at www.aicpa.org or www.nasba.org.

The AICPA and NASBA UAA Committees welcome your comments on the proposed revisions. **The exposure period will end on Thursday, October 17, 2013.** Please send your comments to definitionofattest@aicpa.org and lhaberman@nasba.org.

The UAA Committee plans to release in the coming weeks an Exposure Draft on firm mobility.

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1 **SECTION 3**
2 **DEFINITIONS**

3
4 **When used in this Act, the following terms have the meanings indicated:**
5

6

7
8 **(b) “Attest” means providing the following ~~financial statement~~ services:**

- 9
10 (1) any audit or other engagement to be performed in accordance with the Statements
11 on Auditing Standards (SAS);
12
13 (2) any review of a financial statement to be performed in accordance with the
14 Statements on Standards for Accounting and Review Services (SSARS);
15
16 (3) any examination of prospective financial information to be performed in
17 accordance with the Statements on Standards for Attestation Engagements
18 (SSAE); ~~and~~
19
20 (4) any engagement to be performed in accordance with the standards of the
21 PCAOB; ~~and~~
22
23 (5) any examination, review, or agreed upon procedures engagement to be
24 performed in accordance with the SSAE, other than an examination described
25 in subsection (3).
26

27 **The standards specified in this definition shall be adopted by reference by the**
28 **Board pursuant to rulemaking and shall be those developed for general**
29 **application by recognized national accountancy organizations, such as the**
30 **AICPA, and the PCAOB.**
31

32 *COMMENT:* Subject to the exceptions set out in Section 7, 14, and 23 (a)(4), these services are
33 restricted to licensees and CPA firms under the Act and licensees can only perform the attest
34 services through a CPA firm. Individual licensees may perform the services described in Section
35 3(f) as employees of firms that do not hold a permit under Section 7 of this Act, so long as they
36 comply with the peer review requirements of Section 6(j). Other ~~attestation-professional~~ services
37 are not restricted to licensees or CPA firms; however, when licensees perform those services
38 they are regulated by the state board of accountancy. See also the definition of Report. The
39 definition also includes references to the Public Company Accounting Oversight Board
40 (PCAOB) which make it clear that the PCAOB is a regulatory authority that sets professional
41 standards applicable to engagements within its jurisdiction.
42

43 Regarding SSAE engagements, subsection 3(b)(3) only includes SSAE engagements pertaining
44 to the examination of prospective financial information, while subsection 3(b)(5) expressly
45 includes other SSAE engagements. Thus, like other services included in this definition of
46 “Attest,” they are all restricted to licensees and CPA firms.

1
2 However, Sections 7, 14 and 23 also mandate that certain types of “Attest” services must be
3 rendered only through licensed CPA Firms. Specifically, Section 7(a)(1)(C) requires licensure of
4 an out-of-state firm even if it does “not have an office in this state but performs attest services
5 described in Section 3(b)(1), (3) or (4) of this Act for a client having its home office in this
6 state.”

7
8 By identifying the other SSAE services (that is, other services but not “examinations of
9 prospective financial information”) in a different subsection (5), they, along with the services
10 described in subsections 3(b)(2) (reviews of financial statements according to SSARS), are
11 “Attest” services restricted to CPAs, but out-of-state CPA Firms rendering these services do not
12 have to obtain a permit in every state in which they provide that type of Attest service. Hence,
13 although both 3(b)(3) and 3(b)(5) SSAE services are “Attest” services, only those SSAE services
14 included in 3(b)(3) must be rendered through CPA Firms licensed in every state in which the
15 services are provided. The differentiation between these two categories of SSAE services
16 therefore reduces the burden of multistate licensure and enhances mobility for individual
17 licensees as well as CPA Firms.

18
19 This definition of “attest” includes both examinations of prospective financial information to be
20 performed in accordance with the Statements on Standards for Attestation Engagements (SSAE)
21 as well as any examination, review, or agreed upon procedures engagement to be performed in
22 accordance with SSAE.

23
24

25
26 (s) **“Report,” when used with reference to ~~financial statements~~ any attest or**
27 **compilation service, means an opinion, report, or other form of language that states**
28 **or implies assurance as to the reliability of ~~any the attested information or compiled~~**
29 **financial statements and that also includes or is accompanied by any statement or**
30 **implication that the person or firm issuing it has special knowledge or competence**
31 **in accounting or auditing. Such a statement or implication of special knowledge or**
32 **competence may arise from use by the issuer of the report of names or titles**
33 **indicating that the person or firm is an accountant or auditor, or from the language**
34 **of the report itself. The term “report” includes any form of language which**
35 **disclaims an opinion when such form of language is conventionally understood to**
36 **imply any positive assurance as to the reliability of the attested information or**
37 **compiled financial statements referred to and/or special competence on the part of**
38 **the person or firm issuing such language; and it includes any other form of language**
39 **that is conventionally understood to imply such assurance and/or such special**
40 **knowledge or competence.**

41
42 *COMMENT:* As has been explained in the introductory comments, the audit function, which this
43 term is intended to define, is the principal kind of professional accounting service for which a
44 license would be required under the Uniform Act. The term has its most important operative use
45 in section 14(a) of the Act, which prohibits persons not licensed from performing that function as
46 well as any attest or compilation services as defined above.

1
2 It is a point of fundamental significance that the audit function is defined, not in terms of the
3 work actually done, but rather in terms of the issuance of an opinion or a report--that is, the
4 making of assertions, explicit or implied--about work that has been done. It is such reports, or
5 | assertions, upon which persons using ~~financial statements~~ attested information (whether clients
6 or third parties) rely, reliance being invited by the assertion, whether explicit or by implication,
7 of expertise on the part of the person or firm issuing the opinion or report. Thus, this definition is
8 sought to be drawn broadly enough to encompass all those cases where either the language of the
9 report itself, or other language accompanying the report, carries both a positive assurance
10 | regarding the reliability of the ~~financial~~ information in question, and an implication (which may
11 be drawn from the language of the report itself) that the person or firm issuing the report has
12 special competence which gives substance to the assurance.
13

14 The definition includes disclaimers of opinion when they are phrased in a fashion which is
15 conventionally understood as implying some positive assurance, because authoritative
16 accounting literature contemplates several circumstances in which a disclaimer of opinion in
17 standard form implies just such assurances. The same reasoning that makes it appropriate to
18 include disclaimers of opinion in conventional form within the definition of this term makes it
19 appropriate to apply the prohibition on the issuance by unlicensed persons of reports, as so
20 defined, on "reviews" and "compilations" and other communications with respect to
21 "compilations" within the meaning of the AICPA's Statements on Standards for Accounting and
22 Review Services (SSARS), when the language in which the report or other compilation
23 communication is phrased is that prescribed by SSARS. This is done in section 14(a). These
24 prohibitions, again, do not apply to the services actually performed--which is to say that there is
25 no prohibition on the performance by unlicensed persons of either reviews or compilations, in
26 the sense contemplated by SSARS, but only on the issuance of reports or other compilation
27 communications asserting or implying that their author has complied or will comply with the
28 SSARS standards for such reviews and compilations and has the demonstrated capabilities so to
29 comply.
30

31
32

33 SECTION 7

34 FIRM PERMITS TO PRACTICE, ATTEST AND COMPILATION COMPETENCY AND PEER 35 REVIEW

36
37 (a) The Board shall grant or renew permits to practice as a CPA firm to applicants that
38 demonstrate their qualifications therefor in accordance with this Section.
39

40 (1) The following must hold a permit issued under this Section:

41
42 (A) Any firm with an office in this state performing attest services as
43 defined in Section 3(b) of this Act; or,
44

45 (B) Any firm with an office in this state that uses the title "CPA" or "CPA
46 firm;" or,

1
2 (C) Any firm that does not have an office in this state but performs attest
3 services described in Section 3(b)(1), (3) or (4) of this Act for a client
4 having its home office in this state.
5

6 (2) A firm which does not have an office in this state may perform services
7 described in subsections 3(b)(2), 3(b)(5) or 3(f) for a client having its home
8 office in this state and may use the title “CPA” or “CPA firm” without a
9 permit issued under this Section only if:

10
11 (A) it has the qualifications described in subsections 7(c) [ownership] and
12 7(h) [peer review], and

13
14 (B) it performs such services through an individual with practice
15 privileges under Section 23 of the Act.
16

17 (3) A firm which is not subject to the requirements of 7(a)(1)(C) or 7(a)(2) may
18 perform other professional services while using the title “CPA” or “CPA
19 firm” in this state without a permit issued under this Section only if:

20
21 (A) it performs such services through an individual with practice
22 privileges under Section 23 of the Act, and,

23
24 (B) it can lawfully do so in the state where said individuals with practice
25 privileges have their principal place of business.
26

27
28

29 (c) An applicant for initial issuance or renewal of a permit to practice under this
30 Section shall be required to show that:

31
32 (1) Notwithstanding any other provision of law, a simple majority of the
33 ownership of the firm, in terms of financial interests and voting rights of all
34 partners, officers, shareholders, members or managers, belongs to holders of a
35 certificate who are licensed in some state, and such partners, officers,
36 shareholders, members or managers, whose principal place of business is in
37 this state, and who perform professional services in this state hold a valid
38 certificate issued under Section 6 of this Act or the corresponding provision of
39 prior law or are public accountants registered under Section 8 of this Act.
40 Although firms may include non-licensee owners the firm and its ownership
41 must comply with rules promulgated by the Board. For firms of public
42 accountants, at least a simple majority of the ownership of the firm, in terms of
43 financial interests and voting rights, must belong to holders of registrations
44 under Section 8 of this Act. An individual who has practice privileges under
45 Section 23 who performs services for which a firm permit is required under

1 **Section 23(a)(4) shall not be required to obtain a certificate from this state**
2 **pursuant to Section 6 of this Act.**

3
4 *COMMENT:* The limitation of the requirement of certificates to partners, officers, shareholders,
5 members and managers who have their principal place of business in the state is intended to
6 allow some latitude for occasional visits and limited assignments within the state of firm
7 personnel who are based elsewhere. If those out-of-state individuals qualify for practice
8 privileges under Section 23 and do not have their principal places of business in this state, they
9 do not have to be licensed in this state. In addition, the requirement allows for non-licensure
10 ownership of licensed firms.

11
12 **(2) Any CPA or PA firm as defined in this Act may include non-licensure owners**
13 **provided that:**

14
15 **(A) The firm designates a licensee of this state, or in the case of a firm which**
16 **must have a permit pursuant to Section 23(a)(4) a licensee of another**
17 **state who meets the requirements set out in Section 23(a)(1) or in Section**
18 **23(a)(2), who is responsible for the proper registration of the firm and**
19 **identifies that individual to the Board.**

20
21 **(B) All non-licensure owners are active individual participants in the CPA or**
22 **PA firm or affiliated entities.**

23
24 **(C) The firm complies with such other requirements as the board may impose**
25 **by rule.**

26
27 **(3) Any individual licensee and any individual granted practice privileges under**
28 **this Act who is responsible for supervising attest or compilation services and**
29 **signs or authorizes someone to sign the accountant's report ~~on the financial~~**
30 **~~statements~~ on behalf of the firm, shall meet the competency requirements set**
31 **out in the professional standards for such services.**

32
33 **(4) Any individual licensee and any individual granted practice privileges under**
34 **this Act who signs or authorizes someone to sign the accountants' report ~~on the~~**
35 **~~financial statements~~ on behalf of the firm shall meet the competency**
36 **requirement of the prior subsection.**

37
38 *COMMENT:* Because of the greater sensitivity of attest and compilation services, professional
39 standards should set out an appropriate competency requirement for those who supervise them
40 and sign attest or compilation reports. However, the accountant's report in such engagements
41 may be supervised, or signed, or the signature authorized for the CPA firm by a practice
42 privileged individual.

43
44

1 **SECTION 14**
2 **UNLAWFUL ACTS**

3
4 **(a) Only licensees and individuals who have practice privileges under Section 23 of this**
5 **Act may issue a report on financial statements of any person, firm, organization, or**
6 **governmental unit or offer to render or render any attest or compilation service, as**
7 **defined herein. This restriction does not prohibit any act of a public official or**
8 **public employee in the performance of that person’s duties as such; or prohibit the**
9 **performance by any non-licensuree of other services involving the use of accounting**
10 **skills, including the preparation of tax returns, management advisory services, and**
11 **the preparation of financial statements without the issuance of reports thereon.**
12 **Non-licensurees may prepare financial statements and issue non-attest transmittals or**
13 **information thereon which do not purport to be in compliance with the Statements**
14 **on Standards for Accounting and Review Services (SSARS).**
15

16 | *COMMENT:* This provision, giving application to the definition of [attest in section 3\(b\) and](#)
17 | report in section 3(s) above, is the cornerstone prohibition of the Uniform Act, reserving the
18 | performance of those professional services calling upon the highest degree of professional skill
19 | and having greatest consequence for persons using [financial—statements attested](#)
20 | [information](#)--namely, the audit function and other attest and compilation services as defined
21 | herein -- to licensees. It is so drafted as to make as clear and emphatic as possible the limited
22 | nature of this exclusively reserved function and the rights of unlicensed persons to perform all
23 | other functions. ~~This wording addresses concerns that this exemption could otherwise, by~~
24 | ~~negative implication, allow non-licensurees to prepare any report on a financial statement other~~
25 | ~~than a SSARS—i.e., other attestation standards.~~ Consistent with Section 23, individuals with
26 | practice privileges may render these reserved professional services to the same extent as
27 | licensees [in this state](#).
28

29 This provision is also intended to extend the reservation of the audit function to other services
30 that also call for special skills and carry particular consequence for users of ~~financial statements~~
31 [attested information](#), albeit in each respect to a lesser degree than the audit function: namely, the
32 performance of compilations and reviews of financial statements, in accordance with the
33 AICPA’s Statements on Standards for Accounting and Review Services, which set out the
34 standards to be met in a compilation or review and specify the form of communication to
35 management or report to be issued [and attestation engagements performed in accordance with](#)
36 [Statements on Standards for Attestation Engagements which set forth the standards to be met and](#)
37 [the reporting on the engagements enumerated in the SSAEs](#). The subsection is intended to
38 prevent issuance by non-licensurees of reports or communication to management using that
39 standard language or language deceptively similar to it. Safe harbor language which may be used
40 by non-licensurees is set out in Rule 14-2.
41

42 **(b) Licensees and individuals who have practice privileges under Section 23 of this Act**
43 **performing attest or compilation services must provide those services in accordance**
44 **with applicable professional standards.**
45

46 **(c) No person not holding a valid certificate or a practice privilege pursuant to Section**
47 **23 of this Act shall use or assume the title “certified public accountant,” or the**

1 **abbreviation “CPA” or any other title, designation, words, letters, abbreviation,**
2 **sign, card, or device tending to indicate that such person is a certified public**
3 **accountant.**
4

5 *COMMENT:* This subsection prohibits the use by persons not holding certificates, or practice
6 privileges, of the two titles, “certified public accountant” and “CPA,” that are specifically and
7 inextricably tied to the granting of a certificate as certified public accountant under section 6.

8 **(d) No firm shall provide attest services or assume or use the title “certified public**
9 **accountants,” or the abbreviation “CPAs,” or any other title, designation, words,**
10 **letters, abbreviation, sign, card, or device tending to indicate that such firm is a**
11 **CPA firm unless (1) the firm holds a valid permit issued under Section 7 of this Act,**
12 **and (2) ownership of the firm is in accord with this Act and rules promulgated by**
13 **the Board.**
14

15 *COMMENT:* Like the preceding subsection, this one restricts use of the two titles “certified
16 public accountants” and “CPAs,” but in this instance by firms, requiring the holding of a firm
17 permit to practice. It also restricts unlicensed firms from providing attest services.
18

19 **(e) No person shall assume or use the title “public accountant,” or the abbreviation**
20 **“PA,” or any other title, designation, words, letters, abbreviation, sign, card, or**
21 **device tending to indicate that such person is a public accountant unless that person**
22 **holds a valid registration issued under Section 8 of this Act.**
23

24 *COMMENT:* This subsection, and the one that follows, reserve the title “public accountant” and
25 its abbreviation in the same fashion as subsections (c) and (d) do for the title “certified public
26 accountant” and its abbreviation. The two provisions would of course only be required in a
27 jurisdiction where there were grandfathered public accountants as contemplated by section 8.
28

29 **(f) No firm not holding a valid permit issued under Section 7 of this Act shall provide**
30 **attest services or assume or use the title “public accountant,” the abbreviation**
31 **“PA,” or any other title, designation, words, letters, abbreviation, sign, card, or**
32 **device tending to indicate that such firm is composed of public accountants.**
33

34 *COMMENT:* See the comments following subsections (d) and (e).
35

36 **(g) No person or firm not holding a valid certificate, permit or registration issued under**
37 **Sections 6, 7, or 8 of this Act shall assume or use the title “certified accountant,”**
38 **“chartered accountant,” “enrolled accountant,” “licensed accountant,” “registered**
39 **accountant,” “accredited accountant,” or any other title or designation likely to be**
40 **confused with the titles “certified public accountant” or “public accountant,” or use**
41 **any of the abbreviations “CA,” “LA,” “RA,” “AA,” or similar abbreviation likely to**
42 **be confused with the abbreviations “CPA” or “PA.” The title “Enrolled Agent” or**
43 **“EA” may only be used by individuals so designated by the Internal Revenue**
44 **Service.**
45

1 *COMMENT:* This provision is intended to supplement the prohibitions of subsections (c)
2 through (f) on use of titles by prohibiting other titles that may be misleadingly similar to the titles
3 specifically reserved to licensees or that otherwise suggest that their holders are licensed.
4

5 | **(h)(1) Non-licensees may not use language in any statement relating to the ~~financial~~ affairs**
6 **of a person or entity which is conventionally used by licensees in reports on financial**
7 **statements or on any attest service as defined herein. In this regard, the Board shall**
8 **issue safe harbor language non-licensees may use in connection with such financial**
9 **information.**

10
11 **(2) No person or firm not holding a valid certificate, permit or registration issued under**
12 **Sections 6, 7, or 8 of this Act shall assume or use any title or designation that**
13 **includes the words “accountant,” “auditor,” or “accounting,” in connection with**
14 **any other language (including the language of a report) that implies that such**
15 **person or firm holds such a certificate, permit, or registration or has special**
16 **competence as an accountant or auditor, provided, however, that this subsection**
17 **does not prohibit any officer, partner, member, manager or employee of any firm or**
18 **organization from affixing that person’s own signature to any statement in**
19 **reference to the financial affairs of such firm or organization with any wording**
20 **designating the position, title, or office that the person holds therein nor prohibit**
21 **any act of a public official or employee in the performance of the person’s duties as**
22 **such.**

23
24 *COMMENT:* This provision clarifies the language and titles that are prohibited for non-
25 licensees. Like the preceding subsection, subsection (h)(2) of this provision is intended to
26 supplement the prohibitions of subsections (c) through (f), by prohibiting other titles which may
27 be misleadingly similar to the specifically reserved titles or that otherwise suggest licensure. In
28 the interest of making the prohibition against the issuance by unlicensed persons of reports on
29 audits, reviews, ~~and~~ compilations and reports issued under the SSAE as tight and difficult to
30 evade as possible, there is also some overlap between this provision and the prohibitions in
31 subsection (a). Safe harbor language is set out in Rule 14-2.
32

33 **(i) No person holding a certificate or registration or firm holding a permit under this**
34 **Act shall use a professional or firm name or designation that is misleading about the**
35 **legal form of the firm, or about the persons who are partners, officers, members,**
36 **managers or shareholders of the firm, or about any other matter, provided,**
37 **however, that names of one or more former partners, members, managers or**
38 **shareholders may be included in the name of a firm or its successor. A common**
39 **brand name, including common initials, used by a CPA Firm in its name, is not**
40 **misleading if said firm is a Network Firm as defined in the AICPA Code of**
41 **Professional Conduct (“Code”) in effect July 1, 2011 and, when offering or**
42 **rendering services that require independence under AICPA standards, said firm**
43 **must comply with the Code’s applicable standards on independence.**
44

45 *COMMENT:* With regard to use of a common brand name or common initials by a Network
46 Firm, this language should be considered in conjunction with Rules 14-1 (c) and (d), which
47 provide further clarity and guidance.

- 1
2 (j) None of the foregoing provisions of this Section shall have any application to a
3 person or firm holding a certification, designation, degree, or license granted in a
4 foreign country entitling the holder thereof to engage in the practice of public
5 accountancy or its equivalent in such country, whose activities in this State are
6 limited to the provision of professional services to persons or firms who are
7 residents of, governments of, or business entities of the country in which the person
8 holds such entitlement, who performs no attest or compilation services as defined
9 and who issues no reports as defined in this Act with respect to the information
10 financial statements of any other persons, firms, or governmental units in this State,
11 and who does not use in this State any title or designation other than the one under
12 which the person practices in such country, followed by a translation of such title or
13 designation into the English language, if it is in a different language, and by the
14 name of such country.

15
16 *COMMENT:* The right spelled out in this provision, of foreign licensees to provide services in
17 the state to foreign-based clients, looking to the issuance of reports only in foreign countries, is
18 essentially what foreign licensees have a right to do under most laws now in effect, simply
19 because no provision in those laws restricts such a right. The foreign titles used by foreign
20 licensees might otherwise run afoul of standard prohibitions with respect to titles (such as one on
21 titles misleadingly similar to “CPA”) but this provision would grant a dispensation not found in
22 most laws now in force.

- 23
24 (k) No holder of a certificate issued under Section 6 of this Act or a registration issued
25 under Section 8 of this Act shall perform attest services through any business form
26 that does not hold a valid permit issued under Section 7 of this Act.

27
28 *COMMENT:* See the comments following Sections 6(a), 7(a) and 8.

- 29
30 (l) No individual licensee shall issue a report in standard form upon a compilation of
31 financial information through any form of business that does not hold a valid permit
32 issued under Section 7 of this Act unless the report discloses the name of the
33 business through which the individual is issuing the report, and the individual:

34
35 (1) signs the compilation report identifying the individual as a CPA or PA,

36
37 (2) meets the competency requirement provided in applicable standards, and

38
39 (3) undergoes no less frequently than once every three years, a peer review
40 conducted in such manner as the Board shall by rule specify, and such review
41 shall include verification that such individual has met the competency
42 requirements set out in professional standards for such services.

- 43
44 (m) Nothing herein shall prohibit a practicing attorney or firm of attorneys from
45 preparing or presenting records or documents customarily prepared by an attorney
46 or firm of attorneys in connection with the attorney’s professional work in the
47 practice of law.

1
2 **(n)(1) A licensee shall not for a commission recommend or refer to a client any product or**
3 **service, or for a commission recommend or refer any product or service to be**
4 **supplied by a client, or receive a commission, when the licensee also performs for**
5 **that client,**

6
7 **(A) an audit or review of a financial statement; or**

8
9 **(B) a compilation of a financial statement when the licensee expects, or reasonably**
10 **might expect, that a third party will use the financial statement and the**
11 **licensee's compilation report does not disclose a lack of independence; or**

12
13 **(C) an examination of prospective financial information.**

14
15 **This prohibition applies during the period in which the licensee is engaged to perform**
16 **any of the services listed above and the period covered by any historical financial**
17 **statements involved in such listed services.**

18 **(2) A licensee who is not prohibited by this section from performing services for or**
19 **receiving a commission and who is paid or expects to be paid a commission shall**
20 **disclose that fact to any person or entity to whom the licensee recommends or refers**
21 **a product or service to which the commission relates.**

22
23 **(3) Any licensee who accepts a referral fee for recommending or referring any service**
24 **of a licensee to any person or entity or who pays a referral fee to obtain a client shall**
25 **disclose such acceptance or payment to the client.**

26
27 **(o)(1) A licensee shall not:**

28
29 **(A) perform for a contingent fee any professional services for, or receive such a fee**
30 **from a client for whom the licensee or the licensee's firm performs,**

31
32 **(i) an audit or review of a financial statement; or**

33
34 **(ii) a compilation of a financial statement when the licensee expects, or**
35 **reasonably might expect, that a third party will use the financial**
36 **statement and the licensee's compilation report does not disclose a lack of**
37 **independence; or**

38
39 **(iii) an examination of prospective financial information; or**

40
41 **(B) Prepare an original or amended tax return or claim for a tax refund for a**
42 **contingent fee for any client.**

43
44 **(2) The prohibition in (1) above applies during the period in which the licensee is**
45 **engaged to perform any of the services listed above and the period covered by any**
46 **historical financial statements involved in any such listed services.**

1
2 **(3) Except as stated in the next sentence, a contingent fee is a fee established for the**
3 **performance of any service pursuant to an arrangement in which no fee will be**
4 **charged unless a specified finding or result is attained, or in which the amount of**
5 **the fee is otherwise dependent upon the finding or result of such service. Solely for**
6 **purposes of this section, fees are not regarded as being contingent if fixed by courts**
7 **or other public authorities, or, in tax matters, if determined based on the results of**
8 **judicial proceedings or the findings of governmental agencies. A licensee's fees may**
9 **vary depending, for example, on the complexity of services rendered.**

10
11 *COMMENT:* Section 14(n) on commissions is based on Rule 503 of the AICPA Code of
12 Professional Conduct. Section 14(o) on contingent fees is based on Rule 302 of the AICPA
13 Code of Professional Conduct.

14
15 **(p) Notwithstanding anything to the contrary in this Section, it shall not be a violation**
16 **of this Section for a firm which does not hold a valid permit under Section 7 of this**
17 **Act and which does not have an office in this state to provide its professional**
18 **services in this state so long as it complies with the requirements of Section 7(a)(2)**
19 **or 7(a)(3), whichever is applicable.**

20
21 *COMMENT:* Section 14(p) has been added along with revisions to Sections 23 and 7, to
22 provide that as long as an out-of-state firm complies with the requirements of new Section
23 7(a)(2) or 7(a)(3), whichever is applicable, it can do so through practice privileged individuals
24 without a CPA firm permit from this state.
25

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**Attachment 2****Business and Professions Code Section 5051**

5051. Except as provided in Sections 5052 and 5053, a person shall be deemed to be engaged in the practice of public accountancy within the meaning and intent of this chapter if he or she does any of the following:

- (a) Holds himself or herself out to the public in any manner as one skilled in the knowledge, science, and practice of accounting, and as qualified and ready to render professional service therein as a public accountant for compensation.
- (b) Maintains an office for the transaction of business as a public accountant.
- (c) Offers to prospective clients to perform for compensation, or who does perform on behalf of clients for compensation, professional services that involve or require an audit, examination, verification, investigation, certification, presentation, or review of financial transactions and accounting records.
- (d) Prepares or certifies for clients reports on audits or examinations of books or records of account, balance sheets, and other financial, accounting and related schedules, exhibits, statements, or reports that are to be used for publication, for the purpose of obtaining credit, for filing with a court of law or with any governmental agency, or for any other purpose.
- (e) In general or as an incident to that work, renders professional services to clients for compensation in any or all matters relating to accounting procedure and to the recording, presentation, or certification of financial information or data.
- (f) Keeps books, makes trial balances, or prepares statements, makes audits, or prepares reports, all as a part of bookkeeping operations for clients.
- (g) Prepares or signs, as the tax preparer, tax returns for clients.
- (h) Prepares personal financial or investment plans or provides to clients products or services of others in implementation of personal financial or investment plans.
- (i) Provides management consulting services to clients.

The activities set forth in subdivisions (f) to (i), inclusive, are "public accountancy" only when performed by a certified public accountant or public accountant, as defined in this chapter.

A person is not engaged in the practice of public accountancy if the only services he or she engages in are those defined by subdivisions (f) to (i), inclusive, and he or she does not hold himself or herself out, solicit, or advertise for clients using the certified public accountant or public accountant designation. A person is not holding himself or herself out, soliciting, or advertising for clients within the meaning of this section solely by reason of displaying a CPA or PA certificate in his or her office or identifying himself or herself as a CPA or PA on other than signs, advertisements, letterhead, business cards, publications directed to clients or potential clients, or financial or tax documents of a client.



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Attachment 3

CBA Regulations Section 4

§ 4. Safe Harbor Language.

A person who is not licensed by the California Board of Accountancy, and who prepares a financial report in a form substantially the same as that set forth in subsection (a) or (b) below, shall not be deemed to be engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code.

(a) "I [we] have prepared the accompanying financial statements of [name of entity] as of [time period] for the [period] then ended. This presentation is limited to preparing in the form of financial statements information that is the representation of management [owners]. I [we] have not audited, reviewed, or compiled the accompanying financial statements. I [we] do not express an opinion or any other form of assurance on them. I [We] am [are] not required to be licensed by the California Board of Accountancy for the preparation of these financial statements."

(b) "We [I] have prepared the accompanying statement of assets, liabilities and equity for [name of company] as of [month-day-year], together with the related statements of revenue, expense, [and cash flow] for the year [or month] then ended on the income tax basis of accounting.

The preparation of financial statements on the income tax basis of accounting is limited to presenting information that is the representation of management [the owners]. We [I] have not audited, reviewed, or compiled the accompanying statements. We [I] do not express an opinion or any other form of assurance on them.

Management has [The owners have] elected to omit substantially all of the disclosures ordinarily included in financial statements prepared on the income tax basis of accounting. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the company's assets, liabilities, equity, revenues, expenses [and cash flow]. Accordingly, these financial statements are not designed for those who are not informed about such matters.

We [I] are [am] not required to be licensed by the California Board of Accountancy for the preparation of these financial statements."

NOTE: Authority cited: Sections 5010, Business and Professions Code. Reference: Sections 5051 and 5052, Business and Professions Code.



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Attachment 4

CBA Regulations Section 39

§ 39. Definitions.

The following definitions shall apply to Article 6 - Peer Review:

- (a) Accounting and Auditing Practice: Any services that are performed using the following professional standards: Statements on Auditing Standards (SASs), Statements on Standards for Accounting and Review Services (SSARS), Statements on Standards on Attestation Engagements (SSAEs), Government Auditing Standards, and audits of non-Security Exchange Commission (SEC) issuers performed pursuant to the standards of the Public Company Accounting Oversight Board (PCAOB).
- (b) Peer Review Report: A report issued to the peer reviewed firm which documents the findings and conclusions reached by a qualified peer reviewer and issued in accordance with Section 48(b) of this Article.
- (c) Pass Peer Review Report: A report issued to the peer reviewed firm in accordance with either Section 48(b)(1)(A) or 48(b)(2)(A) of this Article.
- (d) Pass With Deficiencies Peer Review Report: A report issued to the peer reviewed firm in accordance with either Section 48(b)(1)(B) or 48(b)(2)(B) of this Article.
- (e) Substandard Peer Review Report: A report issued to the peer reviewed firm under either Section 48(b)(1)(C) or 48(b)(2)(C) of this Article.
- (f) Peer Reviewer: A certified public accountant holding a valid and active license to practice public accounting in good standing issued by this state or some other state who (1) maintains a currency of knowledge in professional standards governing accounting and auditing engagements, (2) meets the qualifications of Section 48(c) of this Article, and (3) is unaffiliated with the firm being reviewed.
- (g) Peer Review Team: One or more individuals who collectively conduct a peer review, at least one of whom is a qualified peer reviewer.

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

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**Attachment 5****CBA Regulations Section 2.4****§ 2.4 Definitions of Attest Services and Attest Reports.**

Attest services as used in Section 5095 of the Business and Professions Code and attest report as used in Section 5096.5 of the Business and Professions Code include an audit, a review of financial statements, or an examination of prospective financial information. Attest services shall not include the issuance of compiled financial statements.

NOTE: Authority cited: Sections 5010, 5095 and 5096.9, Business and Professions Code. Reference: Sections 5095 and 5096.5, Business and Professions Code.

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**Attachment 6**

September 30, 2013

Kenneth R. Odom, Chair
NASBA UAA Committee
National Association of State Boards of Accountancy
150 Fourth Avenue North
Nashville, TN 37219-2417

Stephen S. McConnel, Chair
AICPA UAA Task Force
American Institute of Certified Public Accountants
1455 Pennsylvania Avenue, NW
Washington, DC 20004-1081

Re: Proposed Revisions to UAA Model Rules, October 3, 2008

Dear Mr. Odom and Mr. McConnel:

At its September 2013 meeting, the California Board of Accountancy (CBA) was presented with the Uniform Accountancy Act (UAA) Exposure Draft with the proposed changes to the definition of attest. The Exposure Draft was presented to CBA with the intent of receiving comments members may have related to changes being proposed in the Exposure Draft.

While the CBA defines attest in CBA Regulations section 2.4, this definition is specific to a licensing experience requirement. The CBA does not otherwise define attest. For this reason, the CBA does not have any comment on the UAA Exposure Draft and would take a neutral position on the proposal.

Thank you for this opportunity to express the CBA's view regarding this Exposure Draft. Should you have any questions, please contact Patti Bowers, Executive Officer, at (916) 561-1718.

Sincerely,

Leslie LaManna, CPA
President



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CBA Item VI.F.
September 26-27, 2013

Update on Legislation Which the CBA Has Taken a Position (AB 186, AB 258, AB 291, AB 376, AB 1057, AB 1151, AB 1412, SB 176, SB 305, SB 822 and SB 823).

Presented by: Matthew Stanley, Regulatory Coordinator
Date: September 9, 2013

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 may wish to discontinue following AB 1412.

Background

The CBA took positions on various pieces of legislation at its March, May, and July meetings (**Attachment 1**). Of those, staff recommends maintaining the current position on the following bills which have either become two-year bills or have incurred minor, technical, or no amendments following the July CBA meeting: AB 186, AB 258, AB 291, AB 376, AB 1057, AB 1151, Senate Bill (SB) 176, SB 305, SB 822, and SB 823.

Comments

The following bill has been amended since the July CBA meeting.

AB 1412 – Income Taxes: Qualified Small Business Stock (Attachment 2)

CBA Position: Oppose Unless Amended

What It Did

This bill would have prohibited the use of a contingency fee for the assessment of overpaid sales tax of \$50,000 or greater.

Amendments

The portion of AB 1412 that prohibited the use of a contingency fee was stricken from the bill. The bill incurred additional amendments related to personal income tax and tax reimbursements.

Update on Bills on Which the CBA Has Taken a Position

Page 2 of 2

Recommendation

Staff recommends that the CBA maintain its current positions with the exception of AB 1412. Due to the bill's recent amendments, the CBA may wish to discontinue following AB 1412 as the provisions no longer relate to the CBA.

Attachments

1. Legislative Tracking List
2. AB 1412



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Attachment 1

2013 Legislative Tracking List

Bill #	Author	Topic	Position	Status
AB 186	Maienschein	Temporary licenses	Support if Amended	Two-Year Bill
AB 258	Chávez	State Agencies: Veterans	Support	Chaptered
AB 291	Nestande	California Sunset Review	Oppose	Two-Year Bill
AB 376	Donnelly	Regulations: Notice	Watch	Two-Year Bill
AB 1057	Medina	Professions and Vocations: Military Service	Support	Enrollment
AB 1151	Ting	Tax Agent Registration	Oppose	Two-Year Bill
AB 1412	Assembly Revenue and Taxation Committee	Income Taxes: Qualified Small Business Stock	Oppose Unless Amended	Senate Floor
SB 176	Galgiani	Administrative Procedures	Support	Two-Year Bill
SB 305	Price	Healing Arts: Boards	Neutral	Assembly Floor
SB 822	Business, Professions, and Economic Development Committee	Professions and Vocations.	Support	Enrollment
SB 823	Business, Professions, and Economic Development Committee	Accountancy: Licensure.	Support	Assembly Floor

AMENDED IN SENATE SEPTEMBER 6, 2013

AMENDED IN SENATE JULY 10, 2013

AMENDED IN ASSEMBLY MAY 24, 2013

california legislature—2013–14 regular session

ASSEMBLY BILL

No. 1412

**Introduced by ~~Committee on Revenue and Taxation (Bocanegra (Chair), Gordon, Mullin, Pan, V. Manuel Pérez, and Ting)~~
Assembly Members Bocanegra and Gatto
(Coauthors: Assembly Members Gorell, Perea, and Wieckowski)
(Principal coauthor: Senator Lieu)**

March 19, 2013

An act to amend ~~Section 6901 of~~ and repeal Sections 18038.5 and 18152.5 of, and to add and repeal Section 18153 of, the Revenue and Taxation Code, relating to taxation.

legislative counsel's digest

AB 1412, as amended, ~~Committee on Revenue and Taxation Bocanegra. Sales and use taxes: claim for refund: customer refunds. Income taxes: exclusion: deferral: qualified small business stock.~~

The Personal Income Tax Law, in modified conformity with federal law, provides various exclusions from gross income in computing tax liability.

This bill would, in reference to specified federal income tax laws, provide that gross income does not include 50% of any gain from the sale or exchange of qualified small business stock, as defined, held for more than 5 years, for taxable years beginning on or after January 1,

2008, and before January 1, 2013, as provided. The provisions would be repealed on January 1, 2016.

The bill, with regard to personal income tax, would provide that a penalty shall not be imposed with respect to the additional tax, as defined, of a taxpayer, and interest shall not accrue with respect to the additional tax of that taxpayer due for the taxable year. The bill would require the Franchise Tax Board, in the case of a liability for additional tax of a taxpayer, notwithstanding certain other eligibility requirements, to enter into an agreement to accept the full payment of the additional tax in installments over a period not to exceed 5 years. These provisions would be repealed on January 1, 2018.

The bill would authorize any claim for credit or refund pursuant to the bill to be filed within 180 days of its effective date, as provided.

The bill would make a legislative finding and declaration regarding the public purpose served by the bill. The bill would state that its provisions are not severable, except as provided.

~~Under the Sales and Use Tax Law, any amount collected or paid in excess of what is due under that law is required to be credited by the State Board of Equalization against any other amounts due and payable from the person from whom the excess amount was collected or by whom it was paid, and the balance refunded to the person, as provided. Under existing law, when an amount represented by a person to a customer as constituting reimbursement for taxes due under the Sales and Use Tax Law is computed upon an amount that is not taxable or is in excess of the taxable amount and is actually paid by the customer to the person, the amount paid is required to be returned by the person to the customer upon notification by the board or by the customer that this excess has been ascertained.~~

~~This bill would authorize a person to make an irrevocable election to assign to the customer the right to receive the amount that would be refunded to the person, provided specified conditions are met, and would authorize the board to make that payment to the customer, as provided.~~

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 18038.5 of the Revenue and Taxation
- 2 Code is amended to read:

1 18038.5. (a) In the case of any sale of qualified small business
2 stock held by a taxpayer other than a corporation for more than
3 six months and with respect to which that taxpayer elects the
4 application of this section, gain from that sale shall be recognized
5 only to the extent that the amount realized on that sale exceeds:

6 (1) The cost of any qualified small business stock purchased by
7 the taxpayer during the 60-day period beginning on the date of
8 that sale, reduced by

9 (2) Any portion of the cost previously taken into account under
10 this section.

11 This section shall not apply to any gain that is treated as ordinary
12 income for purposes of this part.

13 (b) For purposes of this section:

14 (1) The term “qualified small business stock” has the meaning
15 given that term by subdivision (c) of Section 18152.5.

16 (2) A taxpayer shall be treated as having purchased any property
17 if, but for paragraph (3), the unadjusted basis of that property in
18 the hands of the taxpayer would be its cost (within the meaning
19 of Section 1012 of the Internal Revenue Code).

20 (3) If gain from any sale is not recognized by reason of
21 subdivision (a), that gain shall be applied to reduce (in the order
22 acquired) the basis for determining gain or loss of any qualified
23 small business stock that is purchased by the taxpayer during the
24 60-day period described in subdivision (a).

25 (4) For purposes of determining whether the nonrecognition of
26 gain under subdivision (a) applies to stock that is sold, both of the
27 following shall apply:

28 (A) The taxpayer’s holding period for that stock and the stock
29 referred to in paragraph (1) of subdivision (a) shall be determined
30 without regard to Section 1223 of the Internal Revenue Code.

31 (B) Only the first six months of the taxpayer’s holding period
32 for the stock referred to in paragraph (1) of subdivision (a) shall
33 be taken into account for purposes of applying paragraph (2) of
34 subdivision (c) of Section 18152.5.

35 (5) Rules similar to the rules of subdivisions (f), (g), (h), (i), (j),
36 and (k) of Section 18152.5 shall apply.

37 (c) This section shall apply to sales made after August 5, 1997,
38 *and before January 1, 2013.*

1 (d) *This section shall remain in effect only until January 1, 2016,*
2 *and as of that date is repealed, unless a later enacted statute, that*
3 *is enacted before January 1, 2016, deletes or extends that date.*

4 SEC. 2. *Section 18152.5 of the Revenue and Taxation Code is*
5 *amended to read:*

6 18152.5. (a) For purposes of this part, gross income shall not
7 include 50 percent of any gain from the sale or exchange of
8 qualified small business stock held for more than five years.

9 (b) (1) If the taxpayer has eligible gain for the taxable year
10 from one or more dispositions of stock issued by any corporation,
11 the aggregate amount of the gain from dispositions of stock issued
12 by the corporation which may be taken into account under
13 subdivision (a) for the taxable year shall not exceed the greater of
14 either of the following:

15 (A) Ten million dollars (\$10,000,000) reduced by the aggregate
16 amount of eligible gain taken into account by the taxpayer under
17 subdivision (a) for prior taxable years and attributable to
18 dispositions of stock issued by the corporation.

19 (B) Ten times the aggregate adjusted bases of qualified small
20 business stock issued by the corporation and disposed of by the
21 taxpayer during the taxable year. For purposes of subparagraph
22 (B), the adjusted basis of any stock shall be determined without
23 regard to any addition to basis after the date on which the stock
24 was originally issued.

25 (2) For purposes of this subdivision, the term “eligible gain”
26 means any gain from the sale or exchange of qualified small
27 business stock held for more than five years.

28 (3) (A) In the case of a married individual filing a separate
29 return, subparagraph (A) of paragraph (1) shall be applied by
30 substituting five million dollars (\$5,000,000) for ten million dollars
31 (\$10,000,000).

32 (B) In the case of a married taxpayer filing a joint return, the
33 amount of gain taken into account under subdivision (a) shall be
34 allocated equally between the spouses for purposes of applying
35 this subdivision to subsequent taxable years.

36 (C) For purposes of this subdivision, marital status shall be
37 determined under Section 7703 of the Internal Revenue Code.

38 (c) For purposes of this section:

39 (1) Except as otherwise provided in this section, the term
40 “qualified small business stock” means any stock in a C corporation

1 which is originally issued after August 10, 1993, if both of the
2 following apply:

3 (A) As of the date of issuance, the corporation is a qualified
4 small business.

5 (B) Except as provided in subdivisions (f) and (h), the stock is
6 acquired by the taxpayer at its original issue (directly or through
7 an underwriter) in either of the following manners:

8 (i) In exchange for money or other property (not including
9 stock).

10 (ii) As compensation for services provided to the corporation
11 (other than services performed as an underwriter of the stock).

12 (2) (A) Stock in a corporation shall not be treated as qualified
13 small business stock unless, during substantially all of the
14 taxpayer's holding period for the stock, the corporation meets the
15 active business requirements of subdivision (e) and the corporation
16 is a C corporation.

17 (B) (i) Notwithstanding subdivision (e), a corporation shall be
18 treated as meeting the active business requirements of subdivision
19 (e) for any period during which the corporation qualifies as a
20 specialized small business investment company.

21 (ii) For purposes of clause (i), the term "specialized small
22 business investment company" means any eligible corporation (as
23 defined in paragraph (4) of subdivision (e)) that is licensed to
24 operate under Section 301(d) of the Small Business Investment
25 Act of 1958 (as in effect on May 13, 1993).

26 (3) (A) Stock acquired by the taxpayer shall not be treated as
27 qualified small business stock if, at any time during the four-year
28 period beginning on the date two years before the issuance of the
29 stock, the corporation issuing the stock purchased (directly or
30 indirectly) any of its stock from the taxpayer or from a related
31 person (within the meaning of Section 267(b) or 707(b)) to the
32 taxpayer.

33 (B) Stock issued by a corporation shall not be treated as qualified
34 small business stock if, during the two-year period beginning on
35 the date one year before the issuance of the stock, the corporation
36 made one or more purchases of its stock with an aggregate value
37 (as of the time of the respective purchases) exceeding 5 percent
38 of the aggregate value of all of its stock as of the beginning of the
39 two-year period.

1 (C) If any transaction is treated under Section 304(a) of the
2 Internal Revenue Code as a distribution in redemption of the stock
3 of any corporation, for purposes of subparagraphs (A) and (B), the
4 corporation shall be treated as purchasing an amount of its stock
5 equal to the amount treated as a distribution in redemption of the
6 stock of the corporation under Section 304(a) of the Internal
7 Revenue Code.

8 (d) For purposes of this section:

9 (1) The term “qualified small business” means any domestic
10 corporation (as defined in Section 7701(a)(4) of the Internal
11 Revenue Code) which is a C corporation if all of the following
12 apply:

13 (A) The aggregate gross assets of the corporation (or any
14 predecessor thereof) at all times on or after July 1, 1993, and before
15 the issuance did not exceed fifty million dollars (\$50,000,000).

16 (B) The aggregate gross assets of the corporation immediately
17 after the issuance (determined by taking into account amounts
18 received in the issuance) do not exceed fifty million dollars
19 (\$50,000,000).

20 (C) At least 80 percent of the corporation’s payroll, as measured
21 by total dollar value, is attributable to employment located within
22 California.

23 (D) The corporation agrees to submit those reports to the
24 Franchise Tax Board and to shareholders as the Franchise Tax
25 Board may require to carry out the purposes of this section.

26 (2) (A) For purposes of paragraph (1), the term “aggregate
27 gross assets” means the amount of cash and the aggregate adjusted
28 basis of other property held by the corporation.

29 (B) For purposes of subparagraph (A), the adjusted basis of any
30 property contributed to the corporation (or other property with a
31 basis determined in whole or in part by reference to the adjusted
32 basis of property so contributed) shall be determined as if the basis
33 of the property contributed to the corporation immediately after
34 the contribution was equal to its fair market value as of the time
35 of the contribution.

36 (3) (A) All corporations which are members of the same
37 parent-subsidiary controlled group shall be treated as one
38 corporation for purposes of this subdivision.

39 (B) For purposes of subparagraph (A), the term
40 “parent-subsidiary controlled group” means any controlled group

1 of corporations as defined in Section 1563(a)(1) of the Internal
2 Revenue Code, except that both of the following shall apply:

3 (i) “More than 50 percent” shall be substituted for “at least 80
4 percent” each place it appears in Section 1563(a)(1) of the Internal
5 Revenue Code.

6 (ii) Section 1563(a)(4) of the Internal Revenue Code shall not
7 apply.

8 (e) (1) For purposes of paragraph (2) of subdivision (c), the
9 requirements of this subdivision are met by a corporation for any
10 period if during that period both of the following apply:

11 (A) At least 80 percent (by value) of the assets of the corporation
12 are used by the corporation in the active conduct of one or more
13 qualified trades or businesses ~~in California~~.

14 (B) The corporation is an eligible corporation.

15 (2) For purposes of paragraph (1), if, in connection with any
16 future qualified trade or business, a corporation is engaged in:

17 (A) Startup activities described in Section 195(c)(1)(A) of the
18 Internal Revenue Code,

19 (B) Activities resulting in the payment or incurring of
20 expenditures which may be treated as research and experimental
21 expenditures under Section 174 of the Internal Revenue Code, or

22 (C) Activities with respect to in-house research expenses
23 described in Section 41(b)(4) of the Internal Revenue Code, then
24 assets used in those activities shall be treated as used in the active
25 conduct of a qualified trade or business. Any determination under
26 this paragraph shall be made without regard to whether a
27 corporation has any gross income from those activities at the time
28 of the determination.

29 (3) For purposes of this subdivision, the term “qualified trade
30 or business” means any trade or business other than any of the
31 following:

32 (A) Any trade or business involving the performance of services
33 in the fields of health, law, engineering, architecture, accounting,
34 actuarial science, performing arts, consulting, athletics, financial
35 services, brokerage services, or any trade or business where the
36 principal asset of the trade or business is the reputation or skill of
37 one or more of its employees.

38 (B) Any banking, insurance, financing, leasing, investing, or
39 similar business.

1 (C) Any farming business (including the business of raising or
2 harvesting trees).

3 (D) Any business involving the production or extraction of
4 products of a character with respect to which a deduction is
5 allowable under Section 613 or 613A of the Internal Revenue
6 Code.

7 (E) Any business of operating a hotel, motel, restaurant, or
8 similar business.

9 (4) For purposes of this subdivision, the term “eligible
10 corporation” means any domestic corporation, except that the term
11 shall not include any of the following:

12 (A) A DISC or former DISC.

13 (B) A corporation with respect to which an election under
14 Section 936 of the Internal Revenue Code is in effect or which has
15 a direct or indirect subsidiary with respect to which the election
16 is in effect.

17 (C) A regulated investment company, real estate investment
18 trust (REIT), or real estate mortgage investment conduit (REMIC).

19 (D) A cooperative.

20 (5) (A) For purposes of this subdivision, stock and debt in any
21 subsidiary corporation shall be disregarded and the parent
22 corporation shall be deemed to own its ratable share of the
23 subsidiary’s assets, and to conduct its ratable share of the
24 subsidiary’s activities.

25 (B) A corporation shall be treated as failing to meet the
26 requirements of paragraph (1) for any period during which more
27 than 10 percent of the value of its assets (in excess of liabilities)
28 consists of stock or securities in other corporations which are not
29 subsidiaries of the corporation (other than assets described in
30 paragraph (6)).

31 (C) For purposes of this paragraph, a corporation shall be
32 considered a subsidiary if the parent owns more than 50 percent
33 of the combined voting power of all classes of stock entitled to
34 vote, or more than 50 percent in value of all outstanding stock, of
35 the corporation.

36 (6) For purposes of subparagraph (A) of paragraph (1), the
37 following assets shall be treated as used in the active conduct of
38 a qualified trade or business:

1 (A) Assets that are held as a part of the reasonably required
2 working capital needs of a qualified trade or business of the
3 corporation.

4 (B) Assets that are held for investment and are reasonably
5 expected to be used within two years to finance research and
6 experimentation in a qualified trade or business or increases in
7 working capital needs of a qualified trade or business. For periods
8 after the corporation has been in existence for at least two years,
9 in no event may more than 50 percent of the assets of the
10 corporation qualify as used in the active conduct of a qualified
11 trade or business by reason of this paragraph.

12 (7) A corporation shall not be treated as meeting the
13 requirements of paragraph (1) for any period during which more
14 than 10 percent of the total value of its assets consists of real
15 property that is not used in the active conduct of a qualified trade
16 or business. For purposes of the preceding sentence, the ownership
17 of, dealing in, or renting of, real property shall not be treated as
18 the active conduct of a qualified trade or business.

19 (8) For purposes of paragraph (1), rights to computer software
20 that produces active business computer software royalties (within
21 the meaning of Section 543(d)(1) of the Internal Revenue Code)
22 shall be treated as an asset used in the active conduct of a trade or
23 business.

24 ~~(9) A corporation shall not be treated as meeting the~~
25 ~~requirements of paragraph (1) for any period during which more~~
26 ~~than 20 percent of the corporation's total payroll expense is~~
27 ~~attributable to employment located outside of California.~~

28 (f) If any stock in a corporation is acquired solely through the
29 conversion of other stock in the corporation that is qualified small
30 business stock in the hands of the taxpayer, both of the following
31 shall apply:

32 (1) The stock so acquired shall be treated as qualified small
33 business stock in the hands of the taxpayer.

34 (2) The stock so acquired shall be treated as having been held
35 during the period during which the converted stock was held.

36 (g) (1) If any amount included in gross income by reason of
37 holding an interest in a ~~pass-through~~ *pass-thru* entity meets the
38 requirements of paragraph (2), then both of the following shall
39 apply:

1 (A) The amount shall be treated as gain described in subdivision
 2 (a).

3 (B) For purposes of applying subdivision (b), the amount shall
 4 be treated as gain from a disposition of stock in the corporation
 5 issuing the stock disposed of by the ~~pass-through~~ *pass-thru* entity
 6 and the taxpayer’s proportionate share of the adjusted basis of the
 7 ~~pass-through~~ *pass-thru* entity in the stock shall be taken into
 8 account.

9 (2) An amount meets the requirements of this paragraph if both
 10 of the following apply:

11 (A) The amount is attributable to gain on the sale or exchange
 12 by the ~~pass-through~~ *pass-thru* entity of stock that is qualified small
 13 business stock in the hands of the entity (determined by treating
 14 the entity as an individual) and that was held by that entity for
 15 more than five years.

16 (B) The amount is includable in the gross income of the taxpayer
 17 by reason of the holding of an interest in the entity that was held
 18 by the taxpayer on the date on which the ~~pass-through~~ *pass-thru*
 19 entity acquired the stock and at all times thereafter before the
 20 disposition of the stock by the ~~pass-through~~ *pass-thru* entity.

21 (3) Paragraph (1) shall not apply to any amount to the extent
 22 the amount exceeds the amount to which paragraph (1) would have
 23 applied if the amount was determined by reference to the interest
 24 the taxpayer held in the ~~pass-through~~ *pass-thru* entity on the date
 25 the qualified small business stock was acquired.

26 (4) For purposes of this subdivision, the term ~~“pass-through~~
 27 *“pass-thru entity”* means any of the following:

- 28 (A) Any partnership.
- 29 (B) Any ~~§~~ “S” corporation.
- 30 (C) Any regulated investment company.
- 31 (D) Any common trust fund.

32 (h) For purposes of this section:

33 (1) In the case of a transfer described in paragraph (2), the
 34 transferee shall be treated as meeting both of the following:

35 (A) Having acquired the stock in the same manner as the
 36 transferor.

37 (B) Having held the stock during any continuous period
 38 immediately preceding the transfer during which it was held (or
 39 treated as held under this subdivision) by the transferor.

1 (2) A transfer is described in this subdivision if the transfer is
2 any of the following:

3 (A) By gift.

4 (B) At death.

5 (C) From a partnership to a partner of stock with respect to
6 which requirements similar to the requirements of subdivision (g)
7 are met at the time of the transfer (without regard to the five-year
8 holding period requirement).

9 (3) Rules similar to the rules of Section 1244(d)(2) of the
10 Internal Revenue Code shall apply for purposes of this section.

11 (4) (A) In the case of a transaction described in Section 351 of
12 the Internal Revenue Code or a reorganization described in Section
13 368 of the Internal Revenue Code, if qualified small business stock
14 is exchanged for other stock that would not qualify as qualified
15 small business stock but for this subparagraph, the other stock
16 shall be treated as qualified small business stock acquired on the
17 date on which the exchanged stock was acquired.

18 (B) This section shall apply to gain from the sale or exchange
19 of stock treated as qualified small business stock by reason of
20 subparagraph (A) only to the extent of the gain that would have
21 been recognized at the time of the transfer described in
22 subparagraph (A) if Section 351 or 368 of the Internal Revenue
23 Code had not applied at that time. The preceding sentence shall
24 not apply if the stock that is treated as qualified small business
25 stock by reason of subparagraph (A) is issued by a corporation
26 that (as of the time of the transfer described in subparagraph (A))
27 is a qualified small business.

28 (C) For purposes of this paragraph, stock treated as qualified
29 small business stock under subparagraph (A) shall be so treated
30 for subsequent transactions or reorganizations, except that the
31 limitation of subparagraph (B) shall be applied as of the time of
32 the first transfer to which the limitation applied (determined after
33 the application of the second sentence of subparagraph (B)).

34 (D) In the case of a transaction described in Section 351 of the
35 Internal Revenue Code, this paragraph shall apply only if
36 immediately after the transaction the corporation issuing the stock
37 owns directly or indirectly stock representing control (within the
38 meaning of Section 368(c) of the Internal Revenue Code) of the
39 corporation whose stock was exchanged.

40 (i) For purposes of this section:

1 (1) In the case where the taxpayer transfers property (other than
2 money or stock) to a corporation in exchange for stock in the
3 corporation, both of the following shall apply:

4 (A) The stock shall be treated as having been acquired by the
5 taxpayer on the date of the exchange.

6 (B) The basis of the stock in the hands of the taxpayer shall in
7 no event be less than the fair market value of the property
8 exchanged.

9 (2) If the adjusted basis of any qualified small business stock
10 is adjusted by reason of any contribution to capital after the date
11 on which the stock was originally issued, in determining the
12 amount of the adjustment by reason of the contribution, the basis
13 of the contributed property shall in no event be treated as less than
14 its fair market value on the date of the contribution.

15 (j) (1) If the taxpayer has an offsetting short position with
16 respect to any qualified small business stock, subdivision (a) shall
17 not apply to any gain from the sale or exchange of the stock unless
18 both of the following apply:

19 (A) The stock was held by the taxpayer for more than five years
20 as of the first day on which there was such a short position.

21 (B) The taxpayer elects to recognize gain as if the stock was
22 sold on that first day for its fair market value.

23 (2) For purposes of paragraph (1), the taxpayer shall be treated
24 as having an offsetting short position with respect to any qualified
25 small business stock if any of the following apply:

26 (A) The taxpayer has made a short sale of substantially identical
27 property.

28 (B) The taxpayer has acquired an option to sell substantially
29 identical property at a fixed price.

30 (C) To the extent provided in regulations, the taxpayer has
31 entered into any other transaction that substantially reduces the
32 risk of loss from holding the qualified small business stock. For
33 purposes of the preceding sentence, any reference to the taxpayer
34 shall be treated as including a reference to any person who is
35 related (within the meaning of Section 267(b) or 707(b) of the
36 Internal Revenue Code) to the taxpayer.

37 (k) The Franchise Tax Board may prescribe those regulations
38 as may be appropriate to carry out the purposes of this section,
39 including regulations to prevent the avoidance of the purposes of

1 this section through splitups, shell corporations, partnerships, or
2 otherwise.

3 (l) It is the intent of the Legislature that, in construing this
4 section, any regulations that may be promulgated by the Secretary
5 of the Treasury under Section 1202(k) of the Internal Revenue
6 Code shall apply to the extent that those regulations do not conflict
7 with this section or with any regulations that may be promulgated
8 by the Franchise Tax Board.

9 (m) *The amendments made to this section by the act adding this*
10 *subdivision shall apply to sales, including installment sales,*
11 *occurring in each taxable year beginning on or after January 1,*
12 *2008, and before January 1, 2013, and installment payments*
13 *received in taxable years beginning on or after January 1, 2008,*
14 *for sales of qualified small business stock made in taxable years*
15 *beginning before January 1, 2013.*

16 (n) *This section shall remain in effect only until January 1, 2016,*
17 *and as of that date is repealed, unless a later enacted statute, that*
18 *is enacted before January 1, 2016, deletes or extends that date.*

19 SEC. 3. *Section 18153 is added to the Revenue and Taxation*
20 *Code, to read:*

21 18153. (a) *In the case of a taxpayer subject to tax under this*
22 *part:*

23 (1) *A penalty shall not be imposed with respect to the additional*
24 *tax of that taxpayer.*

25 (2) *Interest shall not accrue with respect to the additional tax*
26 *of that taxpayer due for the taxable year.*

27 (3) *In the case of a liability for additional tax of a taxpayer*
28 *under this part, notwithstanding any other eligibility requirements*
29 *contained in Section 19008, the Franchise Tax Board shall enter*
30 *into an agreement under Section 19008 to accept the full payment*
31 *of the additional tax in installments over a period not to exceed*
32 *five years.*

33 (b) *For purposes of subdivision (a), the term “additional tax”*
34 *means:*

35 (1) *The increase in tax for a taxable year beginning on or after*
36 *January 1, 2008, and before January 1, 2013, to the extent that*
37 *the increase is attributable to the amendments made to Section*
38 *18152.5 by the act adding this section.*

39 (2) *If Section 18152.5, as amended by the act adding this section,*
40 *is for any reason held invalid, ineffective, or unconstitutional by*

1 *an appellate court of competent jurisdiction, the term “additional*
 2 *tax” means the increase in tax for a taxable year beginning on or*
 3 *after January 1, 2008, and before January 1, 2013, to the extent*
 4 *that the increase is attributable to the implementation of the*
 5 *appellate court holding invalidating Section 18152.5, as amended*
 6 *by the act adding this section, coupled with the implementation of*
 7 *the decision of the California Court of Appeal, Frank Cutler v.*
 8 *Franchise Tax Board, (2012) 208 Cal.App.4th 1247, as announced*
 9 *in Franchise Tax Board Notice 2012–03, dated December 21,*
 10 *2012.*

11 *(c) This section shall remain in effect only until January 1, 2018,*
 12 *and as of that date is repealed, unless a later enacted statute, that*
 13 *is enacted before January 1, 2018, deletes or extends that date.*

14 *SEC. 4. The Legislature finds and declares that the retroactive*
 15 *application of the amendments made to Section 18152.5 of the*
 16 *Revenue and Taxation Code and the addition of Section 18153 to*
 17 *the Revenue and Taxation Code by this act serve a public purpose*
 18 *by providing equitable tax treatment and fair tax relief to taxpayers*
 19 *that are stimulating the economy of the state and do not constitute*
 20 *a gift of public funds within the meaning of Section 6 of Article*
 21 *XVI of the California Constitution.*

22 *SEC. 5. Notwithstanding any other law, any claim for credit*
 23 *or refund for taxable years beginning on or after January 1, 2008,*
 24 *and ending before January 1, 2009, resulting from this act may*
 25 *be filed within 180 days of the effective date of this act.*

26 *SEC. 6. (a) Except as set forth in subdivision (b), the provisions*
 27 *of this act are not severable. If any provision of this act or its*
 28 *application is held invalid, that invalidity shall apply to the other*
 29 *provisions or applications of this act.*

30 *(b) The provisions of Section 18153 of the Revenue and Taxation*
 31 *Code as added by Section 3 of this act are severable from the*
 32 *remainder of this act. If any provision of the remainder of this act*
 33 *is held invalid, that invalidity shall not affect the provisions or*
 34 *applications of Section 18153 of the Revenue and Taxation Code*
 35 *as added by Section 3 of this act that can be given effect without*
 36 *the invalid provision or application.*

37 ~~SECTION 1. Section 6901 of the Revenue and Taxation Code~~
 38 ~~is amended to read:~~

39 ~~6901. (a) If the board determines that any amount, penalty, or~~
 40 ~~interest has been paid more than once or has been erroneously or~~

1 ~~illegally collected or computed, the board shall set forth that fact~~
2 ~~in the records of the board and shall certify the amount collected~~
3 ~~in excess of the amount legally due and the person from whom it~~
4 ~~was collected or by whom paid. The excess amount collected or~~
5 ~~paid shall be credited by the board on any amounts then due and~~
6 ~~payable from the person from whom the excess amount was~~
7 ~~collected or by whom it was paid under this part, and the balance~~
8 ~~shall be refunded to the person, or his or her successors,~~
9 ~~administrators, or executors, or customer as provided in subdivision~~
10 ~~(b), if a determination by the board is made in any of the following~~
11 ~~cases:~~

12 ~~(1) Any amount of tax, interest, or penalty was not required to~~
13 ~~be paid.~~

14 ~~(2) Any amount of prepayment of sales tax, interest, or penalty~~
15 ~~paid pursuant to Article 1.5 (commencing with Section 6480) of~~
16 ~~Chapter 5 was not required to be paid.~~

17 ~~(3) Any amount that is approved as a settlement pursuant to~~
18 ~~Section 7093.5.~~

19 ~~(b) A person may make an election to assign to the customer~~
20 ~~the right to receive the amount refunded if all of the following~~
21 ~~conditions are met:~~

22 ~~(1) The entire amount represents excess tax reimbursement that~~
23 ~~is required to be paid by the person to a single customer under~~
24 ~~Section 6901.5.~~

25 ~~(2) The amount to be refunded is fifty thousand dollars (\$50,000)~~
26 ~~or greater.~~

27 ~~(3) The election is irrevocable.~~

28 ~~(4) Contingency fees are not charged or paid in connection with~~
29 ~~the election, assignment, or claim for refund.~~

30 ~~(5) (A) The irrevocable election to assign to the customer the~~
31 ~~amount refunded is evidenced by a statement signed by the person~~
32 ~~and the customer authorizing the named customer to receive the~~
33 ~~amount refunded.~~

34 ~~(B) The signed statement described in subparagraph (A) is~~
35 ~~submitted to the board in conjunction with the person's claim for~~
36 ~~refund.~~

37 ~~(C) The signed statement described in subparagraph (A) shall~~
38 ~~be made on a form prescribed by the board, which shall include a~~
39 ~~statement that a contingency fee charged or paid in connection~~
40 ~~with the election, assignment, or claim for refund is contrary to~~

1 ~~public policy and any contingency fee charged or paid shall render~~
2 ~~the assignment null and void.~~
3 ~~(e) Any overpayment of the use tax by a purchaser to a retailer~~
4 ~~who is required to collect the tax and who gives the purchaser a~~
5 ~~receipt therefor pursuant to Article 1 (commencing with Section~~
6 ~~6201) of Chapter 3 shall be credited or refunded by the state to the~~
7 ~~purchaser.~~
8 ~~(d) Any proposed determination by the board pursuant to this~~
9 ~~section with respect to an amount in excess of fifty thousand dollars~~
10 ~~(\$50,000) shall be available as a public record for at least 10 days~~
11 ~~prior to the effective date of that determination.~~

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**California Board of Accountancy
Report on Licensing Division Activity
As of August 31, 2013**

Licensee Population

Type of License	As of June 30, 2012	As of June 30, 2013	Current
CPA	84,712	87,015	87,693
PA	122	105	105
Partnership	1,414	1,431	1,443
Corporation	3,718	3,835	3,876

Customer Service

Telephone Calls Received	FY 2011/12	FY 2012/13	FY 2013/14
Examination Unit	20,511	22,610	4,437
Initial Licensing Unit	19,399	24,006	4,827
License Renewal/Continuing Competency Unit	21,579	20,958	3,501
Practice Privilege Unit	882	921	101

Emails Received	FY 2011/12	FY 2012/13	FY 2013/14
Examination Unit	10,042	11,551	2,226
Initial Licensing Unit	7,913	9,670	2,132
License Renewal/Continuing Competency Unit	8,192	9,601	1,899
Practice Privilege Unit	1,516	583	53

Examination Statistics

- At the request of the National Association of State Boards of Accountancy (NASBA), the Examination Unit manager will be performing a comprehensive site visit at a pre-selected Prometric testing location in California. NASBA has requested the CBA perform this site visit as part of its 2013 audit and, as the site visit is intended to be unannounced, the date and location are not provided in this report.
- The Examination Unit has recently reviewed all of its standard correspondence, including letters regarding educational deficiencies and all types of special requests, to ensure information is clear and concise, and that staff are providing the highest level of customer service.

**California Board of Accountancy
Report on Licensing Division Activity
As of August 31, 2013**

- The Examination Unit continues to process first-time applications to sit for the Uniform CPA Examination (CPA Exam) within 30 days and repeat applications within 10 days.

CPA Examination Applications	FY 2011/12	FY 2012/13	FY 2013/14
First-Time Sitter			
Total Received	7,243	7,175	1,257
Total Processed	7,765	9,210	2,090
Average Days to Process	21	23	28
Repeat Sitter			
Total Received	17,606	18,584	2,867
Total Processed	17,775	18,685	2,638
Average Days to Process	7	8	7

CPA Examination Special Requests	FY 2011/12	FY 2012/13	FY 2013/14
Conditional Credit and Notice to Schedule Extensions*			
Total Received	*	114	40
Total Completed	*	104	34
Average Days to Process	*	16	20
Educational Qualification Appeals**			
Total Received	**	40	13
Total Completed	**	37	13
Average Days to Process	**	20	17
Special Accommodation Requests**			
Total Received	**	69	20
Total Completed	**	69	21
Average Days to Process	**	8	23

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

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

**California Board of Accountancy
Report on Licensing Division Activity
As of August 31, 2013**

Initial Licensing Statistics

- Initial Licensing Unit (ILU) staff continues to assist the Taskforce to Examine Experience for CPA Licensure (Taskforce) in its deliberations. The Taskforce will continue to meet in conjunction with regularly scheduled CBA meetings.
- ILU and Examination Unit staff continue to participate in training sessions in preparation of the new educational requirements set to take effect January 1, 2014. In early July, ILU and Examination staff participated in small-group training designed to cover discussions on implementation, best practices, frequently asked questions, and include participation in performing hands-on transcript review.
- ILU staff is preparing for implementation of new regulations to amend the CE requirements for state-dated experience and license reissuance, which are anticipated to take effect January 1, 2014. An article regarding the new requirements will be included in the fall edition of UPDATE.
- The ILU continues to process initial applications for licensure within the 30 days.

Individual License Applications	FY 2011/12	FY 2012/13	FY 2013/14
Certified Public Accountant			
Total Received	3,594	3,654	723
Total Processed	3,241	3,474	694
Average Days to Process	15	25	25

Method of Licensure			
Pathway 0	12	4	0
Pathway 1 – attest	405	416	77
Pathway 1 – general	499	543	116
Pathway 2 – with attest	795	756	136
Pathway 2 – without attest	1,530	1,755	365

Certifications			
Total Received	1,237	1,073	173
Total Processed	1,237	1,073	161
Average Days to Process	20	20	12

**California Board of Accountancy
Report on Licensing Division Activity
As of August 31, 2013**

Firm License Applications	FY 2011/12	FY 2012/13	FY 2013/14
Corporation			
Total Received	257	221	38
Total Processed	223	174	30
Average Days to Process	8	14	13
Partnership			
Total Received	125	89	21
Total Processed	106	70	15
Average Days to Process	8	14	13
Fictitious Name Permit			
Total Received	178	169	24
Total Processed	156	105	22
Average Days to Process	8	14	13

License Renewal Statistics

- The FY 2011/12 statistics reported in the last division report represented year to date figures and not fiscal year-end totals. As such the chart on page 5 has been revised to represent the year-end statistics for 2011/12 and 2012/13 and year to date figures for FY 2013/14.
- The License Renewal and Continuing Competency (RCC) Unit has received legal approval of the revised license renewal applications which reflect the modification to the Fraud CE requirement, as well as the retroactive fingerprint and peer review requirements. The applications have been forwarded to the Office of Information Services at the Department of Consumer Affairs for final design implementation.
- Staff has received one regulatory review course submission and two course re-submissions for review.
- The RCC Unit is actively recruiting to fill an Office Technician position.

**California Board of Accountancy
Report on Licensing Division Activity
As of August 31, 2013**

License Renewal	FY 2011/12	FY 2012/13	FY 2013/14
Total Licenses Renewed			
Certified Public Accountant	38,329	38,334	6,740
Public Accountant	20	25	2
Corporation	653	579	84
Partnership	1,654	1,560	235
License Renewal Verification			
CPA/PA Applications Reviewed	44,749	36,927	7,067
Deficient Applications Identified	4,233	4,064	681
Compliance Responses Received	3,502	3,453	702
Outstanding Deficiencies	675	558	496
Enforcement Referrals	56	53	21

Practice Privilege Statistics

- As of July 1, 2013, all out-of-state accounting firms that intend to perform any of the below services for an entity headquartered in California must first obtain a registration from the CBA.
 - An audit or review of a financial statement
 - A compilation of a financial statement when it is expected, or reasonably might be expected, that a third party will use the financial statement and the compilation report does not disclose a lack of independence
 - An examination of prospective financial information
- The out-of-state accounting firm registration forms are processed in the Initial Licensing Unit. The below chart illustrates the workload associated with this new registration requirement.

Practice Privilege	FY 2011/12	FY 2012/13	FY 2013/14
Out-of-State Accounting Firm Registrations			
Total Approved	--	--	56
Total Pending Review	--	--	1
Total Enforcement Referrals	--	--	2

California Board of Accountancy Enforcement Activity Report

Report as of August 31, 2013

Complaints

The Enforcement Division has received 151 complaints in fiscal year (FY) 2013/14 and assigned 131 for investigation.

1.1 – Complaints/Records of Convictions	FY 2011/12	FY 2012/13	FY 2013/14
Received	1,911	3,271	151
<i>Internal – Peer Review (Failure to Respond)</i>	872	1,800	0
<i>Internal – Peer Review (Other)</i>	58	508	19
<i>Internal – All Other</i>	503	510	71
<i>External</i>	478	453	61
Assigned for Investigation	1,626	2,951	131
Closed – No Action	294	329	6
Average Days from Intake to Closure or Assignment for Investigation	4	3	5
Pending	12	3	7
Average Age of Pending Complaints (days) ¹	16	3	2
¹ Represents point in time data as of August 31, 2013.			

Comments

- The CBA has received 132 non-peer review complaints in the current fiscal year.
- On average, staff assigns complaints to an investigator within five days of receipt.
- In the current fiscal year, approximately 87 percent of complaints received were opened for investigation, which is consistent with the previous rate of 90 percent.

Investigations

The CBA Enforcement Division assigned 131 cases for investigation in the current fiscal year. Enforcement staff closed 151 investigations, and there are currently 501 cases assigned for investigation.

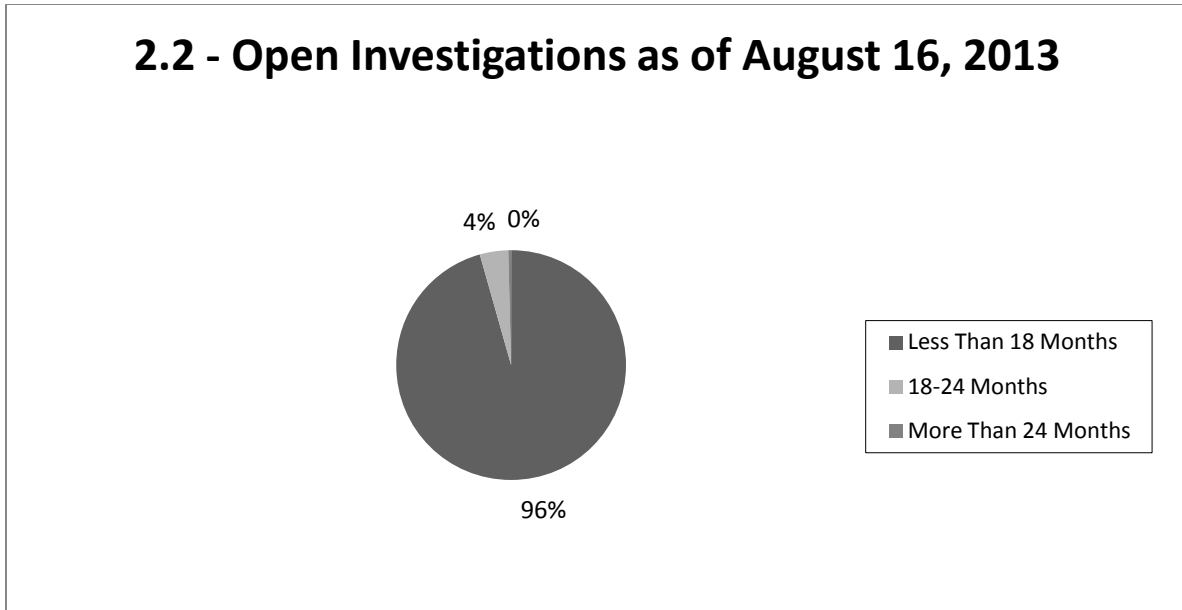
2.1 – Investigations	FY 2011/12	FY 2012/13	FY 2013/14
Assigned	1,626	2,951	131
<i>Internal – Peer Review (Failure to Respond)</i>	872	1,794	0
<i>Internal – Peer Review (Other)</i>	58	437	19
<i>Internal – All Other</i>	335	361	57
<i>External</i>	361	359	55
Closed	1,525	2,872	151
Average Days to Close	85	73	123
Investigations Pending ¹	439	518	501
<i>< 18 Months</i>	384	500	475
<i>18-24 Months</i>	26	17	23
<i>> 24 Months</i>	29	1	3
Average Age of Open Cases (days) ¹	248	166	202
Median Age of Open Cases (days) ¹	164	104	149

¹ Represents point in time data as of August 31, 2013.

Comments

- The Average Days to Close increased from 73 in the previous fiscal year to 123. This is partly due to the small sample period of 60 days. Staff expects the number to stabilize as the sample period increases.
- Three cases have been open for more than 24 months; two had Investigative Hearings (IH) held, and referrals to the Attorney General's (AG) Office are pending. Another is still undergoing investigation after the initial scope was expanded.
- The number of investigations pending has decreased since the last report. However, the average age and median age have increased slightly. Enforcement management continues to monitor and prioritize investigations to manage both the priority of cases and the age of the inventory.

Chart 2.2 illustrates the percentage of total open cases by length of time. Approximately 100 percent of investigations have been open for less than 24 months; four percent of investigations have been open for 18 to 24 months. It should be noted that three cases have been open for more than 24 months, however they represents less than one percent of the total, and therefore are rounded down to zero.



Discipline

The Enforcement Division referred 10 complaints to the AG's Office in FY 2013/14. There has been three accusations filed. There are currently 62 cases pending at the AG's Office, with three pending for more than 24 months.

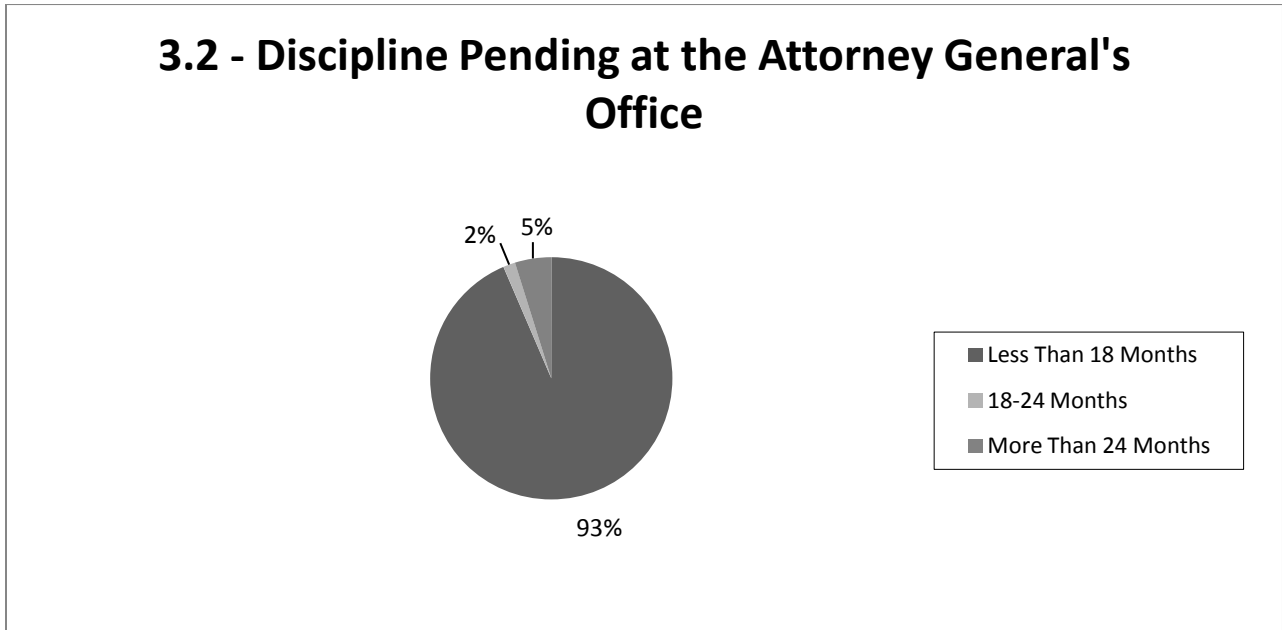
3.1 - AG Referrals	FY 2011/12	FY 2012/13	FY 2013/14
Referrals	50	62	10
Accusations Filed	37	50	3
Statements of Issues Filed	2	3	0
Petitions for Revocation of Probation Filed	3	3	2
Closed	26	58	8
<i>Via Stipulated Settlement</i>	19	39	5
<i>Via Proposed Decision</i>	3	5	0
<i>Via Default Decision</i>	4	14	3
Discipline Pending ¹	54	57	62
<i>< 18 Months</i>	44	52	58
<i>18-24 Months</i>	3	2	1
<i>> 24 Months</i>	7	3	3

¹ Represents point in time data as of August 31, 2013.

Comments

- There are three cases that have been at the AG's Office for more than 24 months:
 - One of the cases had a writ filed with the California Superior Court, and a Superior Court hearing was held in June. Staff is awaiting the decision.
 - One had an administrative hearing in June 2013, and staff is waiting for the proposed decision from the Administrative Law Judge.
 - The final case has been set for an administrative hearing in 2014.
- The CBA considered eight disciplinary matters at the July CBA meeting. Of those eight, three were default decisions, and the other five were stipulated settlements.

Chart 3.2 illustrates the number of cases pending at the AG's Office by percentage. Approximately 95 percent of all CBA cases at the AG's Office have been open less than 24 months, two percent have been pending 18-24 months, and five percent have been pending more than 24 months.



Citations and Fines

CBA Regulation 95 authorizes the CBA Executive Officer to issue a citation to licensees for violations of the Accountancy Act or CBA Regulations in lieu of formal disciplinary action. Since the beginning of FY 2013/14, two citations, with a total fine amount of \$2,000, have been issued by the Enforcement Division.

4.1 – Citations	FY 2011/12	FY 2012/13	FY 2013/14
Total Citations Issued	908	1,883	2
Total Fines Assessed	\$255,350	\$532,400	\$2,000
<i>Peer Review (Failure to Respond)</i>	872	1,800	0
<i>Peer Review Fines Assessed</i>	\$217,850	\$450,000	\$0
<i>Other Citations</i>	36	83	2
<i>Other Fines Assessed</i>	\$37,500	\$82,400	\$2,000
Average number of days from receipt of a complaint to issuance of a citation	22	67	238
Top 3 Violations			
1:	Response to CBA Inquiry (Reg 52)	Response to CBA Inquiry (Reg 52)	Response to CBA Inquiry (Reg 52)
2:	CE Basic Requirements (Reg 87)	CE Basic Requirements (Reg 87)	
3:	Name of Firm (B&P 5060)	Practice Without Permit (B&P 5050)	

Comments

- It is anticipated the number of citations issued will grow as cases are investigated and closed.
- The average number of days from receipt to citation has increased from the previous report. The previous two fiscal years include citations issued for failure to report peer review status. Those citations are generally issued within 30 days of opening the investigation, which results in lowering the average. Staff believes the number of days will normalize as the sample size increases.

Probation Monitoring

Once the disciplinary process is complete, the matter is referred to a CBA Probation Monitor for tracking and compliance with the terms of probation. As of August 31, 2013, there were 60 licensees on probation. Staff held probation meetings in conjunction with the July Enforcement Advisory Committee (EAC) meeting, and met with three new probationers. The next probation meetings will be held in conjunction with the EAC meeting in October 2013.

Peer Review

As of August 31, 2013, 58,736 Peer Review Reporting Forms have been submitted to the CBA. The reporting forms are categorized as follows:

5.1 - Peer Review						
License Ending In	Reporting Deadline	Peer Review Required	Peer Review Not Required	Not Applicable (Non-firms)	Total	Licensees Still Needing to Report
01-33	7/1/11	2,555	4,292	15,726	22,573	368
34-66	7/1/12	2,061	3,989	13,034	19,084	723
67-00	7/1/13	1,507	3,459	12,113	17,079	4,004
		6,123	11,740	40,873	58,736	5,250

Comments

- July 1, 2013 was the reporting deadline for licensees in the third and final peer review reporting phase. Staff has identified 4,004 licensees that did not submit a Peer Review Reporting Form (PR-1), and will be issuing them deficiency letters in early September. Licensees will have 30 days to report their peer review information, otherwise they will be subject to a citation and fine.
- Of the 368 licensees in phase one who still need to report:
 - 95 were issued a citation in 2012
 - 221 were issued a citation in 2013
 - 37 were referred to enforcement for investigation
 - 2 are on the extension list
 - 11 had a peer review completed, but have not yet submitted the PR-1 form
 - 2 Other
- Enforcement staff will continue to monitor compliance with the citations and will consider other enforcement actions as appropriate.

Performance Measures

As part of the Department of Consumer Affairs' (DCA) commitment to consumer protection and its ongoing efforts to better serve consumers and licensees, the DCA is improving its enforcement business function.

Table 6.1 displays a list of the performance measures that have been established by the DCA, the CBA target for each of these measures, and the results from the CBA's Performance Measures Report for the fourth quarter (April 1, 2013 – June 30, 2013).

6.1 - DCA Performance Measure	Target	4th Quarter Results
Number of Complaints and Convictions Received	N/A	494
Average number of days to complete complaint intake	10 days	3 days
Average number of days to complete closed cases not resulting in formal discipline	180 days	82 days
Average number of days to complete investigations resulting in formal discipline	540 days	707 days
Average number of days from the date a probation monitor is assigned to the date the monitor makes contact	5 days	3 days
Average number of days from the time a violation is reported to the program to the time the probation monitor responds	15 days	1 day

Comments

- The CBA continues to meet all performance measures, with the exception of the average number of days to complete investigations resulting in formal discipline. CBA management is exploring ways to address the timeframe; however several factors are outside of CBA control. In the coming months staff will identify both short term and long term solutions to improve this Performance Measure, which is consistent with the Strategic Plan Objective 1.4, "Reduce internal CBA investigative timeframes and work collaboratively with the Office of the Attorney General to both reduce timeframes and improve the overall process."

Mobility

Effective July 1, 2013, the CBA implemented a no notice, no fee practice privilege model in California. Staff has been working diligently to implement all of the requirements of Senate Bill 1405, including modifications to the CBA website, creation of a mobility tracking system, and the establishment of internal policies and procedures for when a complaint or practice privilege form is received. The table below depicts the enforcement aspects of mobility, including the receipt and investigation of Practice Privilege Pre-Notification Forms and Notification of Cessation Event forms.

7.1 - Mobility	FY 2013/14
Pre-Notification Form Received	3
Cessation Event Form Received	0
SEC Discipline Identified	3
PCAOB Discipline Identified	1
Out-of-State Accounting Firm Registrants That Reported Other Discipline	2

Comments

- Of the three Pre-Notification Forms received, two were inadvertently completed by out-of-state licensees that did not have a pre-notification reporting requirement.
- Staff continues to monitor the Securities and Exchange Commission (SEC) and Public Company Accounting Oversight Board (PCAOB) websites for discipline information. Staff has drafted informational letters to all CPAs who were disciplined from either entity to inform them that they must seek CBA authorization prior to practicing in California.

Division Highlights and Future Considerations

- The Enforcement Division has filled two vacant AGPA positions, one in non-technical investigations, and the other in peer review.
- The number of investigations open more than 24 months remains less than one percent of the total.
- Staff implemented policies and procedures for the Mobility program, and is currently investigating nine related cases.



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Taskforce Item II.

September 26, 2013

CBA Item IX.A.2.

September 26-27, 2013

Discussion on the Taskforce to Examine Experience for CPA Licensure's Final Report to be Delivered to the California Board of Accountancy

Presented by: Dominic Franzella, Chief, Licensing Division

Date: September 3, 2013

Purpose of the Item

The purpose of this item is to provide the Taskforce to Examine Experience for CPA Licensure (Taskforce) with information on preparing and presenting a final report to the California Board of Accountancy (CBA) regarding the outcomes of the Taskforce's work.

Action(s) Needed

Provided the Taskforce reaches final recommendations, it will be asked to establish a date for a subsequent meeting to approve the final report prior to the November 2013 CBA meeting.

Background

As reported by Manuel Ramirez, CPA, Taskforce Chair, the primary purpose of the Taskforce is to provide possible recommendations regarding the experience requirement for CPA licensure. Although staff has previously provided members with information based on a sampling of high-level options, namely, maintaining the status quo, increasing the required number of attest hours, reducing or eliminating the minimum number of attest hours, or eliminating the attest requirement all together, the Taskforce is not limited in its ability to consider additional, or more than one, option regarding the experience requirement.

In developing any possible recommendations and given the important nature of the topic, it necessitates that the Taskforce weigh its options objectively and with the CBA's overall priority of consumer protection in mind. The following three primary questions should continue to guide Taskforce considerations on the experience requirement:

1. What is the problem the CBA is attempting to solve?
2. Who will be impacted and how will they be impacted?
3. How will the final outcome further the CBA's primary mandate of consumer protection?

Discussion on the Taskforce to Examine Experience for CPA Licensure's Final Report to be Delivered to the California Board of Accountancy

Page 2 of 3

The overall purpose of the above questions is twofold: (1) to clearly define reasons for any changes and (2) to address any potential public perception issues and aid in the ultimate success of any potential legislation.

Comments

For this meeting, the Taskforce will be asked to make determinations regarding whether there is a need for possible modifications to either, or both, the general accounting and attest experience requirements, and the potential to allow for individuals to earn and complete the experience requirement via academia. Based on outcomes reached by the Taskforce, whether that includes maintaining the status quo or potential modifications, it is important that the Taskforce clearly articulate its recommendations and rationale to the CBA.

To assist in delivering a comprehensive recommendation package to the CBA, based on the final decisions rendered by the Taskforce, staff will compile a final report outlining:

- An overview of the Taskforce meetings
- Taskforce recommendations
- Taskforce rationale for each of the proposed recommendations
- Next steps (if necessary) should the CBA adopt any or all of the Taskforce recommendations

This final report will not only serve as a crucial component in illustrating and underpinning the Taskforce's recommendations, but will serve as foundational material should any statutory and regulatory changes be needed. Provided the Taskforce renders decisions at this meeting, the potential exists that a final report could be presented by Chairperson Ramirez at the November 2013 CBA meeting. The benefits of providing final recommendations to the CBA at the November 2013 meeting are:

- The November meeting is the meeting in which the CBA evaluates potential legislation for the upcoming year.
- It allows the CBA and staff to communicate early on with the Department of Consumer Affairs, Business, Consumer Services, and Housing Agency, and the Governor's Office on potential legislation for the upcoming year.
- It will allow the incoming CBA leadership and staff the winter recess to secure an author for the upcoming legislative year.

Discussion on the Taskforce to Examine Experience for CPA Licensure's Final Report to be Delivered to the California Board of Accountancy

Page 3 of 3

In order to allow the Taskforce to provide a final report to the CBA by the November 2013 meeting, it will need to conduct a final meeting to review and approve a final report, which could be accomplished telephonically in October. In order to provide staff time to prepare the final report, develop and post the agenda (with a required 10-day lead time in conformity with the Bagley-Keene Open Meetings Act), make final revisions per Taskforce direction, and provide to the CBA in advance of the November 2013 meeting, staff has identified the following potential meeting dates:

- Monday, October 14, 2013
- Tuesday, October 15, 2013
- Wednesday, October 16, 2013

Staff will work to secure a primary location and work with members to secure additional locations for participation telephonically.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff has no recommendation on this item.

**DEPARTMENT OF CONSUMER AFFAIRS**

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Taskforce Item III.
September 26, 2013

CBA Item IX.A.3.
September 26-27, 2013

Presentation on How Information is Presently Displayed for Consumers on the CBA Website and Staff Proposed Changes

Presented by: Dominic Franzella, Chief, Licensing Division

Date: September 9, 2013

Purpose of the Item

The purpose of this agenda item is to provide Taskforce to Examine Experience for CPA Licensure (Taskforce) members with information presently available to consumers on the California Board of Accountancy (CBA) website regarding the difference between individuals licensed with attest and general accounting experience and to present staff-proposed changes to this information.

Action(s) Needed

The Taskforce is being asked to approve the proposed changes and provide staff with any additional recommendations regarding the proposal.

Background

At the July 2013 Taskforce meeting, members expressed concern that maintaining both an attest and general accounting experience requirement may mislead consumers to believe that a CPA with an "A" in the experience completed column of the CBA License Lookup feature is fully qualified and/or specializes in attest functions. Of particular concern to members was the fact that a CPA could obtain licensure based on attest experience, never actually perform any post-licensure attest work, and continue to appear on the CBA website as though s/he has been deemed qualified by the CBA to perform attest services.

Comments

The proposed changes are based on the present experience requirements and can be implemented irrespective to any changes that members may recommend under agenda items IV – VI. Staff believes these revisions are responsive to members' concerns regarding consumer confusion, by ensuring consumers are more educated as to the meaning of authority to sign attest reports.

The CBA website is the primary source of information for consumers regarding the practice of public accountancy in California, and it is of the utmost importance to the CBA that all website information be maintained in clear, easy to understand language.

Presentation on How Information is Presently Displayed for Consumers on the CBA Website and Staff Proposed Changes

Page 2 of 3

Taking into consideration the concerns raised by Taskforce members, staff reviewed the information presently available to consumers on the CBA website to determine what improvements could be made. Staff has identified three areas of the CBA website that consumers are most likely to access in search of information related to the authorized practice of a CPA – *How to Select a CPA*, California License Lookup feature, and the *Consumer Assistance Booklet*.

The *How to Select a CPA* section of the CBA website provides guidance on several items a consumer should consider before selecting a CPA such as checking the license status on the License Lookup feature, making sure the license is current and active, checking whether the CBA has taken any enforcement actions against the licensee, and finding out how long s/he has been licensed. This section also provides the definitions for attest engagement, audit, compilation preparation, continuing education, financial statement, peer review, and review of financial statements.

The CBA License Lookup feature is where consumers are able to ascertain license status, including whether the licensee can engage in the practice of public accountancy and the type of services the licensee is authorized to perform. The information regarding authorized services presently states that if an "A" appears in the experience completed column, the licensee is authorized to perform the full range of accounting services, including signing reports on attest engagements, and if a "G" appears in the experience completed column, the licensee is not authorized to sign reports on attest engagements.

The *Consumer Assistance Booklet* combines the information from the *How to Select a CPA* webpage and CBA License Lookup feature, along with general information regarding peer review and how to file a complaint, into a concise one-stop-shop resource for consumers. Therefore, all changes made to the *How to Select a CPA* webpage and California License Lookup feature will be incorporated into the *Consumer Assistance Booklet*.

Staff are proposing changes to further explain the difference between licenses issued based on attest and general accounting experience, and identified the following areas as being in need of added emphasis and clarification:

- Importance of interviewing a prospective CPA to compare the CPA's experience to the consumer's service needs, and how this corresponds to the CPA's obligation to achieve a level of competence consistent with applicable professional standards
- Importance of asking what type of continuing education the CPA has recently completed
- Importance of asking if the CPA participates in a peer review program

Presentation on How Information is Presently Displayed for Consumers on the CBA Website and Staff Proposed Changes

Page 3 of 3

The proposed changes are intended to clarify the difference between attest and general experience, specifically, that an individual licensed with attest authority is simply that, authorized to sign reports on attest engagements. It will be made clearer to consumers that having an “A” in the experience completed column does not, in and of itself, mean that the individual is necessarily qualified or actively practicing in that area.

Staff has provided the proposed text for to *How to Select a CPA* in **Attachment 1** with strikethrough/underline format of the original text in **Attachment 1a**. Similarly, the proposed text for the California License Lookup feature is provided in **Attachments 2** and **2a**. Upon approval, staff will take the necessary steps to incorporate these changes into the *Consumer Assistance Booklet* (**Attachment 3**) and publish the revised documents to the CBA website.

These documents are provided for members’ review and consideration. Staff values any feedback, suggestions, or edits members may have that will provide added clarity, thereby increasing consumer protection. Should the Taskforce recommend, and the CBA adopt, changes to the experience requirement, these documents will be revised upon implementation of any future modifications.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff recommend the Taskforce approve the proposed changes, along with any additional information and increased clarity the Taskforce believes is necessary.

Attachments

1. Proposed *How to Select a CPA* Webpage
 - a. *How to Select a CPA* Webpage in Strikethrough/Underline Format
2. Proposed CBA License Lookup feature Webpage
 - a. CBA License Lookup feature Webpage in Strikethrough/Underline Format
3. Present *Consumer Assistance Booklet*

How to Select a CPA

A Certified Public Accountant (CPA) is a person who has met the requirements of California state law and has been issued a license to practice public accounting by the California Board of Accountancy.

A Public Accountant (PA) is a person who has met the requirements of California state law and has been issued a certificate of public accounting from the California Board of Accountancy.

Only persons who are licensed by the CBA may call themselves a Certified Public Accountant or Public Accountant.

CPAs and PAs are required to complete appropriate continuing education in order to be eligible to practice public accounting. A licensee who completes the required minimum hours and type of continuing education may have his/her license renewed as "active." A licensee who does not complete the required minimum hours and type of continuing education must renew his/her license as "inactive" and may not practice public accounting.

Word-of-mouth referrals from individuals who have used the services of a particular CPA are probably the best way to start your CPA selection. When selecting a CPA, you should also consider the following:

- Check the CPA's license status on the CBA [License Lookup](#) page or call the CBA at (916) 263-3680. Specifically, make sure the license status is clear and the expiration date has not lapsed. The search results on the license lookup page will also allow you to check how long the CPA has been licensed in California.
- Check whether the CBA has taken any enforcement action against the CPA. The CBA maintains an online [alphabetical index](#) of all disciplinary actions and license restrictions issued within the past seven years.
- Interview the prospective CPA either by telephone or in person. CPAs are authorized to perform a wide range of accounting services, including accounting, compilation preparation, management advisory, financial advisory, tax and consulting services. It is very important to ask what type of accounting work the CPA has experience in and typically performs. Compare the CPA's experience to your service needs.
- Ask what type of [continuing education](#) the CPA has taken recently. It is important to select a CPA who has completed continuing education consistent with the type of services you are seeking. Depending on the type of work the CPA performs, certain specialized continuing education may be required. For example, a CPA who engages in planning, directing, performing substantial portions of the work, or reporting on an audit, review, compilation, or attestation service, must complete a portion of his/her required continuing education hours in subject matter pertaining to financial statement preparation and/or reporting, auditing, reviews, compilations, industry accounting, attestation services, or assurance services.
- If the services you require include an audit, a review of financial statements, or an examination of prospective financial information, you need to be sure that the CPA signing the report is authorized and qualified to do so. It is important to understand that there is a distinction between a CPA who is authorized to sign reports on attest engagements and a CPA who is qualified to sign reports on attest engagements.
 - Authorized means the CBA has determined that the CPA completed a portion (minimum of 500 hours) of his/her experience required for licensure in attest work. The 500-hour minimum standard ensures entry-level exposure to attest engagements.
 - Qualified means that regardless of whether a CPA has met the minimum steps to be authorized to sign reports on attest engagements, s/he complies with applicable professional standards, which requires the CPA to undertake only those professional services that s/he can reasonably complete with professional competence, including achieving a level of competence that will assure that the quality of service meets the high level of professionalism required. It is the

responsibility of the CPA to evaluate whether his/her specific education, experience, and judgment are adequate to perform the services being requested. As a result, it is important to ask the CPA about his/her level and number of years of experience, continuing education, and recent peer review, if any.

- Before any work is done by the CPA, it is important to make certain that you receive an engagement letter detailing the work to be performed for you, who specifically will be performing the work, including whether the work is outsourced, confirming that all private and personal information is secure, and specifying the cost of the services.
- If the services you require include either reviewed or audited financial statements, ask the CPA if he or she participates in a [peer review](#) program? If yes, ask the year and month - and the result - of the most recent review. If no, you may wish to inquire further. Peer review is a systematic review of a firm's accounting and auditing services performed by a CPA who is unaffiliated with the firm being reviewed to ensure work performed conforms to professional standards.

Peer review is required of all California-licensed accounting firms, including sole proprietorships, that perform accounting and auditing services using the following professional standards:

- Statements on Auditing Standards (SAS)
 - Statements on Standards for Accounting and Review Services (SSARS)
 - Statements on Standards on Attestation Engagements (SSAE)
 - Government Auditing Standards (Yellow Book)
 - Audits of non-Security Exchange Commission (SEC) issuers performed pursuant to the standards of the Public Company Accounting Oversight Board (PCAOB)
- Ask about the office hours of the CPA; determine whether the office is open year-round; inquire if the CPA is available to take telephone inquiries.
 - CPAs are required to comply with CBA Regulations section 54.1. This regulation provides that no confidential information obtained by a CPA shall be disclosed without the client's permission. Therefore, you should ask whether the CPA discloses any of your confidential information to persons or entities outside the United States in connection with outsourcing any services provided by the CPA on your behalf. While other persons or entities may provide you with financial services, including tax preparation, it is important to be aware that CBA Regulations [section 54.1](#) pertains only to licensees of the CBA.
 - Be aware that if your CPA prepares your tax return and offers you a Refund Anticipation Loan (RAL), the CPA must comply with disclosure requirements specified in the California Accountancy Act and CBA Regulations. An RAL is a loan that allows a taxpayer to borrow against an anticipated income tax refund. These loans actually are made by banks, but are frequently offered by tax preparers including CPAs in conjunction with preparation of the tax return.

While these loans are most frequently described as an instant tax refund - as if they come directly from the California State Franchise Tax Board or Internal Revenue Service - they are in reality short-term loans that often have very high costs associated with them. Both the tax preparer and the lending institution often take commissions against the calculated tax refund - so the RAL is less than the amount of the actual tax return refund. CPAs offering RALs are required by CBA Regulations [section 56](#) to make specified written disclosures to consumers, including the dollar amount the CPA will receive for facilitating the loan. These disclosures must be made at or before the time of making the referral to the lender or performing other activities to facilitate the loan, regardless of whether the taxpayer actually accepts the loan.

Definitions

Attest Engagement: One in which the practitioner is engaged to issue, or does issue a written communication that expresses a conclusion about the reliability of a written assertion that is the responsibility of another party. Attest services include an audit, a review of financial statements, or an

examination of prospective financial information; however, attest services do not include the issuance of compiled financial statements.

Audit: Examination of a client's accounting records by an independent Certified Public Accountant (CPA) or Public Accountant (PA) to formulate an opinion on financial statements and/or financial information. The auditor must follow generally accepted auditing standards.

Compilation Preparation: Presentation of data in financial statement format without the accountant's assurance.

Continuing Education: Acceptable continuing education is a formal program of learning that contributes directly to the professional competence of a licensee in public practice.

Financial Statement: Contains financial information about an organization. The required financial statements are balance sheet, income statement, and statement of cash flows. They may be combined with supplementary information to depict the financial status or performance of the organization.

Peer Review: The study, appraisal, or review conducted in accordance with professional standards of the professional work of a licensee or registered firm by another licensee unaffiliated with the licensee or registered firm being reviewed.

Review of Financial Statement: To perform an inquiry and analytical procedures that permit a Certified Public Accountant (CPA) or Public Accountant (PA) to determine whether there is a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with other comprehensive basis of accounting.

How to Select a CPA

A Certified Public Accountant (CPA) is a person who has met the requirements of California state law and has been issued a license to practice public accounting by the California Board of Accountancy.

A Public Accountant (PA) is a person who has met the requirements of California state law and has been issued a certificate of public accounting from the California Board of Accountancy.

Only persons who are licensed by the CBA may call themselves a Certified Public Accountant or Public Accountant.

CPAs and PAs are required to complete appropriate continuing education in order to be eligible to practice public accounting. A licensee who completes the required minimum hours and type of continuing education ~~is~~ may have his/her license renewed as "active." A licensee who does not complete the required minimum hours and type of continuing education ~~is renewed~~ must renew his/her license as "inactive" and may not practice public accounting.

Word-of-mouth referrals from individuals who have used the services of a particular CPA are probably the best way to ~~select a CPA~~ start your CPA selection. When selecting a CPA, you should also consider the following:

- Check the CPA's license status ~~from our Web~~ on the CBA [License Lookup](#) page or call the California Board of Accountancy CBA at (916) 263-3680. Specifically, make sure the license status is current and active (renewed with continuing education) clear and the expiration date has not lapsed. The search results on the license lookup page will also allow you to check how long the CPA has been licensed in California.
- Check whether ~~there have been~~ the CBA has taken any enforcement actions against the licensee CPA. ~~and how long he or she has been licensed~~. The CBA maintains an online [alphabetical index](#) of all disciplinary actions and license restrictions issued within the past seven years.
- Interview the prospective CPA either by telephone or in person. A common inquiry is "what type of accounting work do you typically perform?" ~~Compare the CPA's experience to your service needs.~~ CPAs are authorized to perform a wide range of accounting services, including accounting, compilation preparation, management advisory, financial advisory, tax and consulting services. It is very important to ask what type of accounting work the CPA has experience in and typically performs. Compare the CPA's experience to your service needs.
- Ask about the office hours of the CPA; determine whether the office is open year round; inquire if the CPA is available to take telephone inquiries. Ask what type of [continuing education](#) the licensee CPA has taken recently. It is important to select a CPA who has completed continuing education consistent with the type of services you are seeking. Depending on the type of work the CPA performs, certain specialized continuing education may be required. For example, a CPA who engages in planning, directing, performing substantial portions of the work, or reporting on an audit, review, compilation, or attestation service, must complete a portion of his/her required continuing education hours in subject matter pertaining to financial statement preparation and/or reporting, auditing, reviews, compilations, industry accounting, attestation services, or assurance services.
- If the services you require include either reviewed or audited financial statements, ask the CPA if he or she participates in a peer review or quality review program? If yes, ask the year and month ~~and the result~~ of the most recent review. If the services you require include an audit, a review of financial statements, or an examination of prospective financial information, you need to be sure that the CPA signing the report is authorized and qualified to do so. It is important to understand that there is a distinction between a CPA who is authorized to sign reports on attest engagements and a CPA who is qualified to sign reports on attest engagements.

- Authorized means the CBA has determined that the CPA completed a portion (minimum of 500 hours) of his/her experience required for licensure in attest work. The 500-hour minimum standard ensures entry-level exposure to attest engagements.
- Qualified means that regardless of whether a CPA has met the minimum steps to be authorized to sign reports on attest engagements, s/he complies with applicable professional standards, which requires the CPA to undertake only those professional services that s/he can reasonably complete with professional competence, including achieving a level of competence that will assure that the quality of service meets the high level of professionalism required. It is the responsibility of the CPA to evaluate whether his/her specific education, experience, and judgment are adequate to perform the services being requested. As a result, it is important to ask the CPA about his/her level and number of years of experience, continuing education, and recent peer review, if any.
- Before any work is done by the CPA, it is important to make certain that you receive an engagement letter detailing the work to be performed for you, who specifically will be performing the work, including whether the work is outsourced, confirming that all private and personal information is secure, and specifying the cost of the services. (This bullet was simply relocated to improve the flow of information.)
- Effective January 1, 2002, some CPAs are authorized to perform a full range of accounting services including signing reports on attest engagements. Attest engagements include an audit, a review of financial statements, or an examination of prospective financial information. Others will be authorized to perform a full range of accounting services, including accounting, compilation preparation, management advisory, financial advisory, tax and consulting services, but will not be authorized to sign reports on attest engagements.
- If the services you require include either reviewed or audited financial statements, ask the CPA if he or she participates in a [peer review](#) program? If yes, ask the year and month - and the result - of the most recent review. If no, you may wish to inquire further. Peer review is a systematic review of a firm's accounting and auditing services performed by a CPA who is unaffiliated with the firm being reviewed to ensure work performed conforms to professional standards.

Peer review is required of all California-licensed accounting firms, including sole proprietorships, that perform accounting and auditing services using the following professional standards:

- Statements on Auditing Standards (SAS)
- Statements on Standards for Accounting and Review Services (SSARS)
- Statements on Standards on Attestation Engagements (SSAE)
- Government Auditing Standards (Yellow Book)
- Audits of non-Security Exchange Commission (SEC) issuers performed pursuant to the standards of the Public Company Accounting Oversight Board (PCAOB)
- Ask about the office hours of the CPA; determine whether the office is open year-round; inquire if the CPA is available to take telephone inquiries.
- CPAs are required to comply with CBA Regulations section 54.1. This regulation provides that no confidential information obtained by a CPA shall be disclosed without the client's permission. Therefore, you should ask whether the CPA discloses any of your confidential information to persons or entities outside the United States in connection with outsourcing any services provided by the CPA on your behalf. While other persons or entities may provide you with financial services, including tax preparation, it is important to be aware that CBA Regulations [section 54.1](#) pertains only to licensees of the CBA.
- Be aware that if your CPA prepares your tax return and offers you a Refund Anticipation Loan (RAL), the CPA must comply with disclosure requirements specified in the California Accountancy Act and CBA Regulations. An RAL is a loan that allows a taxpayer to borrow against an anticipated income tax refund. These loans actually are made by banks, but are frequently offered by tax preparers including CPAs in conjunction with preparation of the tax return.

While these loans are most frequently described as an instant tax refund - as if they come directly from the California State Franchise Tax Board or Internal Revenue Service - they are in reality short-term loans that often have very high costs associated with them. Both the tax preparer and the lending institution often take commissions against the calculated tax refund - so the RAL is less than the amount of the actual tax return refund. CPAs offering RALs are required by CBA Regulations [section 56](#) to make specified written disclosures to consumers, including the dollar amount the CPA will receive for facilitating the loan. ~~These disclosures must be made at or before the time of making the referral to the lender or performing other activities to facilitate the loan.~~ These disclosures must be made at or before the time of making the referral to the lender or performing other activities to facilitate the loan, regardless of whether the taxpayer actually accepts the loan.

- ~~Before any work is done by the CPA, it is important to make certain that you receive an engagement letter detailing the work to be performed for you, who will specifically be performing the work, including whether the work is outsourced, confirming that all private and personal information is secure, and specifying the cost of the services.~~ (This bullet was simply relocated to improve the flow of information.)

Definitions

Attest Engagement: One in which the practitioner is engaged to issue, or does issue a written communication that expresses a conclusion about the reliability of a written assertion that is the responsibility of another party. Attest services include an audit, a review of financial statements, or an examination of prospective financial information; however, attest services do not include the issuance of compiled financial statements.

Audit: Examination of a client's accounting records by an independent Certified Public Accountant (CPA) or Public Accountant (PA) to formulate an opinion on financial statements and/or financial information. The auditor must follow generally accepted auditing standards.

Compilation Preparation: Presentation of data in financial statement format without the accountant's assurance.

Continuing Education: Acceptable continuing education (CE) is a formal program of learning that contributes directly to the professional competence of a licensee in public practice.

Financial Statement: Contains financial information about an organization. The required financial statements are balance sheet, income statement, and statement of cash flows. They may be combined with supplementary information to depict the financial status or performance of the organization.

Peer Review: The study, appraisal, or review conducted in accordance with professional standards of the professional work of a licensee or registered firm by another licensee unaffiliated with the licensee or registered firm being reviewed.

Review of Financial Statement: To perform an inquiry and analytical procedures that permit a Certified Public Accountant (CPA) or Public Accountant (PA) to determine whether there is a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with other comprehensive basis of accounting.

California License Lookup

[California-Licensed CPAs](#)

[California-Licensed Accounting Firms](#)

When you search for and locate a licensee, you will see the following information listed:

- Licensee / Firm Name
- Type of License
- License Number
- [License Status](#)
- [Experience Completed](#)
- Expiration Date
- Issue Date
- Address of Record
- Disciplinary Actions / License Restrictions ("yes" or "no")
 - If "yes" appears in Disciplinary Actions / License Restrictions, please click on "Details" for further information.

For more information, please see [How to Select a CPA](#).

Please note: Name searches can only be performed under the present name.

The information available through this search is public information pursuant to California Code of Regulations, Title 16, Article 1, [Section 3 - Notification of Change of Address](#) and the California Public Records Act.

CANCELED

A license is canceled if not renewed within five years following its expiration date. A licensee with a canceled license may reapply as a new applicant and meet the current requirements for approval. Upon approval, a new CPA license number is issued.

CLEAR

The license is current and valid. The licensee can engage in the practice of public accountancy prior to the license expiration date.

CLEAR, PROBATION

The license is current and valid. The licensee can engage in the practice of public accountancy prior to the license expiration date. Additionally, the licensee has been disciplined and may have part of the disciplinary order (for example, revocation or suspension) stayed and may continue to practice under specific terms and conditions. Please contact the CBA for further information.

CLEAR, RESTRICTED

The license is current and valid. The licensee can engage in the practice of public accountancy prior to the license expiration date. Additionally, the licensee has permanent license restriction(s) as part of a disciplinary order (for example, permanently prohibited from performing audits or reviews). Please contact the CBA for further information.

DECEASED

The licensee is deceased.

DELINQUENT

The license was not renewed by its expiration date.

DELINQUENT, PROBATION

The license was not renewed by its expiration date. Additionally, the licensee has been disciplined and may have part of the disciplinary order (for example, revocation or suspension) stayed with specific terms and conditions. Please contact the CBA for further information.

DENIED

The license is denied and no longer valid pursuant to Section 17520 of the Family Code. Any questions should be directed to the Family Support Unit at (916) 323-0884.

INACTIVE

An inactive license is current; however, the licensee is not required to meet the continuing education requirements and is not permitted to engage in the practice of public accountancy.

INACTIVE, PROBATION

An inactive license is current; however, the licensee is not required to meet the continuing education requirements and is not permitted to engage in the practice of public accountancy. Additionally, the licensee has been disciplined and may have part of the disciplinary order (for example, revocation or suspension) stayed with specific terms and conditions. Please contact the CBA for further information.

MILITARY

The license is current. The licensee may not engage in the practice of public accountancy and may not provide public accounting services in private practice (public accounting services to the general public.) If, however, the licensee is required by the military to provide public accounting services while on active duty, the license shall be considered to be in military active status.

RENEWAL IN PROCESS

A renewal application has been submitted and is being processed. Please contact the CBA for further information.

REVOKED

The individual, partnership, or corporation is no longer licensed as a result of a disciplinary action.

SURRENDERED

The licensee has surrendered the license. The individual, partnership, or corporation is no longer licensed. The CBA, however, may impose discipline against a surrendered license in certain circumstances. Surrender also may require certain conditions be met should the former licensee ever choose to reapply for licensure.

SUSPENDED / DISCIPLINE, PROBATION

The licensee is prohibited from engaging for a specific period of time in the activities for which licensure is required. The licensee has been disciplined and may have part of the disciplinary order (for example, revocation or suspension) stayed with specific terms and conditions. Please contact the CBA for further information.

Experience Completed

All CPAs are authorized to perform a wide range of accounting services, including accounting, compilation preparation, management advisory, financial advisory, tax and consulting services. When selecting a CPA it is very important to ask what type of accounting work the CPA has experience in and typically performs. Compare the CPA's experience to your service needs.

If the services you require include an audit, a review of financial statements, or an examination of prospective financial information, you need to be sure that the CPA signing the report is authorized and qualified to do so. It is important to understand that there is a distinction between a CPA who is *authorized* to sign reports on attest engagements and a CPA who is *qualified* to sign reports on attest engagements.

Authorized

The CBA has determined that the CPA completed a portion (minimum of 500 hours) of his/her experience required for licensure in attest work. The 500-hour minimum standard ensures entry-level exposure to attest engagements.

Qualified

Regardless of whether a CPA has met the minimum steps to be authorized to sign reports on attest engagements, s/he is required to comply with applicable professional standards, which requires the CPA to undertake only those professional services that s/he can reasonably complete with professional competence, including achieving a level of competence that will assure that the quality of service meets the high level of professionalism required. It is the responsibility of the CPA to evaluate whether his/her specific education, experience, and judgment are adequate to perform the services being requested. As a result, it is important to ask the CPA about his/her level and number of years of experience, continuing education, and recent peer review, if any.

The Experience Completed field reflects the type of experience the individual completed in order to obtain his/her CPA license.

- **A** All CPAs must complete a minimum amount of experience providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills. The experience may have been gained through employment in public accounting, private industry, or government.

This CPA also completed at least 500 hours of experience in attest services, the minimum amount of experience required to sign reports on attest engagements. This experience may have been completed before or after receiving his/her CPA license. This CPA can sign reports on attest engagements

- **G** All CPAs must complete a minimum amount of experience providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills. The experience may have been gained through employment in public accounting, private industry, or government.

This CPA can perform a wide range of accounting services, including participating in attest engagements; however, the CPA may not sign reports on attest engagements.

All CPAs who practice public accounting in California must complete 80 hours of acceptable continuing education in the 24-month period preceding his/her license expiration date.

- It is important to select a CPA who has completed continuing education consistent with the type of services you are seeking.
- Depending on the type of work the CPA performs, certain specialized continuing education may be required. In all instances, it is required that all CPAs complete continuing education which directly contributes to their competence as accountants.
- A licensee who performs substantial portions of an attest or compilation engagement is required to complete a portion of his/her continuing education hours in subject matter pertaining to financial statement preparation and/or reporting, auditing, reviews, compilations, industry accounting, attestation services, or assurance services.

All CPAs are required to comply with CBA Regulations section 58, which requires the CPA to comply with all applicable professional standards, including but not limited to, generally accepted accounting principles and generally accepted auditing standards. This includes compliance with ET Section 56, Article V of the American Institute of Certified Public Accountants' Code of Professional Conduct which

states that in all engagements and in all responsibilities, each CPA should undertake to achieve a level of competence that will assure that the quality of service meets the high level of professionalism required.

NOTE: The Experience Completed field is left blank for firm licenses, as the designation applies only to individual licenses.

California License Lookup

[California-Licensed CPAs](#)

[California-Licensed Accounting Firms](#)

California License Lookup Information

When you search for and locate a licensee, you will see the following information listed:

- Licensee / Firm Name
- Type of License
- License Number
- [License Status](#)
- [Experience Completed](#)
- ~~If an "A" appears, licensee is authorized to perform the full range of accounting services, including signing attest reports on attest engagements.~~
- ~~If a "G" appears, licensee is NOT authorized to sign reports on attest engagements.~~
- Expiration Date
- Issue Date
- Address of Record
- Disciplinary Actions/License Restrictions ("yes" or "no")
 - If a "yes" appears in Disciplinary Actions/License Restrictions, please click on "Details" for further information.

For more information, please see [How to Select a CPA](#).

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Status Code Definitions

CANCELED

A license is canceled if not renewed within five years following its expiration date. A licensee with a canceled license may reapply as a new applicant and meet the current requirements for approval. Upon approval, a new CPA license number is issued.

CLEAR

The license is current and valid. The licensee can engage in the practice of public accountancy prior to the license expiration date.

CLEAR, PROBATION

The license is current and valid. The licensee can engage in the practice of public accountancy prior to the license expiration date. Additionally, the licensee has been disciplined and may have part of the disciplinary order (for example, revocation or suspension) stayed and may continue to practice under specific terms and conditions. Please contact the CBA for further information.

CLEAR, RESTRICTED

The license is current and valid. The licensee can engage in the practice of public accountancy prior to the license expiration date. Additionally, the licensee has permanent license restriction(s) as part of a disciplinary order (for example, permanently prohibited from performing audits or reviews). Please contact the CBA for further information.

DECEASED

The licensee is deceased.

DELINQUENT

~~A license is delinquent if~~ The license was not renewed by its expiration date.

DELINQUENT, PROBATION

~~A license is delinquent if~~ The license was not renewed by its expiration date. Additionally, the licensee has been disciplined and may have part of the disciplinary order (for example, revocation or suspension) stayed with specific terms and conditions. Please contact the CBA for further information.

DENIED

The license is denied and no longer valid pursuant to Section 17520 of the Family Code. Any questions should be directed to the Family Support Unit at (916) 323-0884.

INACTIVE

An inactive license is current; however, the licensee is not required to meet the continuing education requirements and ~~they may not~~ is not permitted to engage in the practice of public accountancy.

INACTIVE, PROBATION

An inactive license is current; however, the licensee is not required to meet the continuing education requirements and ~~they may not~~ is not permitted to engage in the practice of public accountancy. Additionally, the licensee has been disciplined and may have part of the disciplinary order (for example, revocation or suspension) stayed with specific terms and conditions. Please contact the CBA for further information.

MILITARY

The license is current. The licensee may not engage in the practice of public accountancy and may not provide public accounting services in private practice (public accounting services to the general public.) If, however, the licensee is required by the military to provide public accounting services while on active duty, the license shall be considered to be in military active status.

RENEWAL IN PROCESS

A renewal application has been submitted and is being processed. Please contact the CBA for further information.

REVOKED

The individual, partnership, or corporation is no longer licensed as a result of a disciplinary action.

SURRENDERED

The licensee has surrendered the license. The individual, partnership, or corporation is no longer licensed. The CBA, however, may impose discipline against a surrendered license in certain circumstances. Surrender also may require certain conditions be met should the former licensee ever choose to reapply for licensure.

SUSPENDED / DISCIPLINE, PROBATION

The licensee is prohibited from engaging for a specific period of time in the activities for which licensure is required. The licensee has been disciplined and may have part of the disciplinary order (for example, revocation or suspension) stayed with specific terms and conditions. Please contact the CBA for further information.

Experience Completed

The Experience Completed field reflects the type of experience the licensee completed either at the time of initial application for licensure as a CPA, or subsequent to obtaining the CPA license. The "A" designation indicates the licensee completed the experience required to perform the full range of accounting services, including signing attest reports on attest engagements. The "G" designation indicates the licensee completed the experience required, except attest experience, and therefore is **not authorized to sign reports on attest engagements**. This licensee can perform all other accounting services and may also participate in attest engagements.

All CPAs are authorized to perform a wide range of accounting services, including accounting, compilation preparation, management advisory, financial advisory, tax and consulting services. When selecting a CPA it is very important to ask what type of accounting work the CPA has experience in and typically performs. Compare the CPA's experience to your service needs.

If the services you require include an audit, a review of financial statements, or an examination of prospective financial information, you need to be sure that the CPA signing the report is authorized and qualified to do so. It is important to understand that there is a distinction between a CPA who is authorized to sign reports on attest engagements and a CPA who is qualified to sign reports on attest engagements.

Authorized

The CBA has determined that the CPA completed a portion (minimum of 500 hours) of his/her experience required for licensure in attest work. The 500-hour minimum standard ensures entry-level exposure to attest engagements.

Qualified

Regardless of whether a CPA has met the minimum steps to be authorized to sign reports on attest engagements, s/he is required to comply with applicable professional standards, which requires the CPA to undertake only those professional services that s/he can reasonably complete with professional competence, including achieving a level of competence that will assure that the quality of service meets the high level of professionalism required. It is the responsibility of the CPA to evaluate whether his/her specific education, experience, and judgment are adequate to perform the services being requested. As a result, it important to ask the CPA about his/her level and number of years of experience, continuing education, and recent peer review, if any.

The Experience Completed field reflects the type of experience the individual completed in order to obtain his/her CPA license.

- ~~A~~ This licensee completed the experience required to perform the full range of accounting services, including signing attest reports on attest engagements.
- A All CPAs must complete a minimum amount of experience providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills. The experience may have been gained through employment in public accounting, private industry, or government.
This CPA also completed at least 500 hours of experience in attest services, the minimum amount of experience required to sign reports on attest engagements. This experience may have been completed before or after receiving his/her CPA license. This CPA can sign reports on attest engagements
- ~~G~~ This licensee completed the experience required, except attest experience, and therefore is not authorized to sign reports on attest engagements. This licensee can perform all other accounting services and may also participate in attest engagements.
- G All CPAs must complete a minimum amount of experience providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills. The experience may have been gained through employment in public accounting, private industry, or government.

This CPA can perform a wide range of accounting services, including participating in attest engagements; however, the CPA may not sign reports on attest engagements.

~~NOTE: The Experience Completed field is left blank on the Web License Lookup for firm licenses, as the designation applies only to individual licenses.~~

~~Licensees~~ All CPAs who practice public accounting in California must complete 80 hours of acceptable continuing education in the 24-month period preceding ~~the~~ his/her license expiration date.

- It is important to select a CPA who has completed continuing education consistent with the type of services you are seeking.
- Depending on the type of work the CPA performs, certain specialized continuing education may be required. In all instances, it is required that all CPAs complete continuing education which directly contributes to their competence as accountants.
- A licensee who performs substantial portions of an attest or compilation engagement is required to complete a portion of his/her continuing education hours in subject matter pertaining to financial statement preparation and/or reporting, auditing, reviews, compilations, industry accounting, attestation services, or assurance services.

All CPAs are required to comply with CBA Regulations section 58, which requires the CPA to comply with all applicable professional standards, including but not limited to, generally accepted accounting principles and generally accepted auditing standards. This includes compliance with ET Section 56, Article V of the American Institute of Certified Public Accountants' Code of Professional Conduct which states that in all engagements and in all responsibilities, each CPA should undertake to achieve a level of competence that will assure that the quality of service meets the high level of professionalism required.

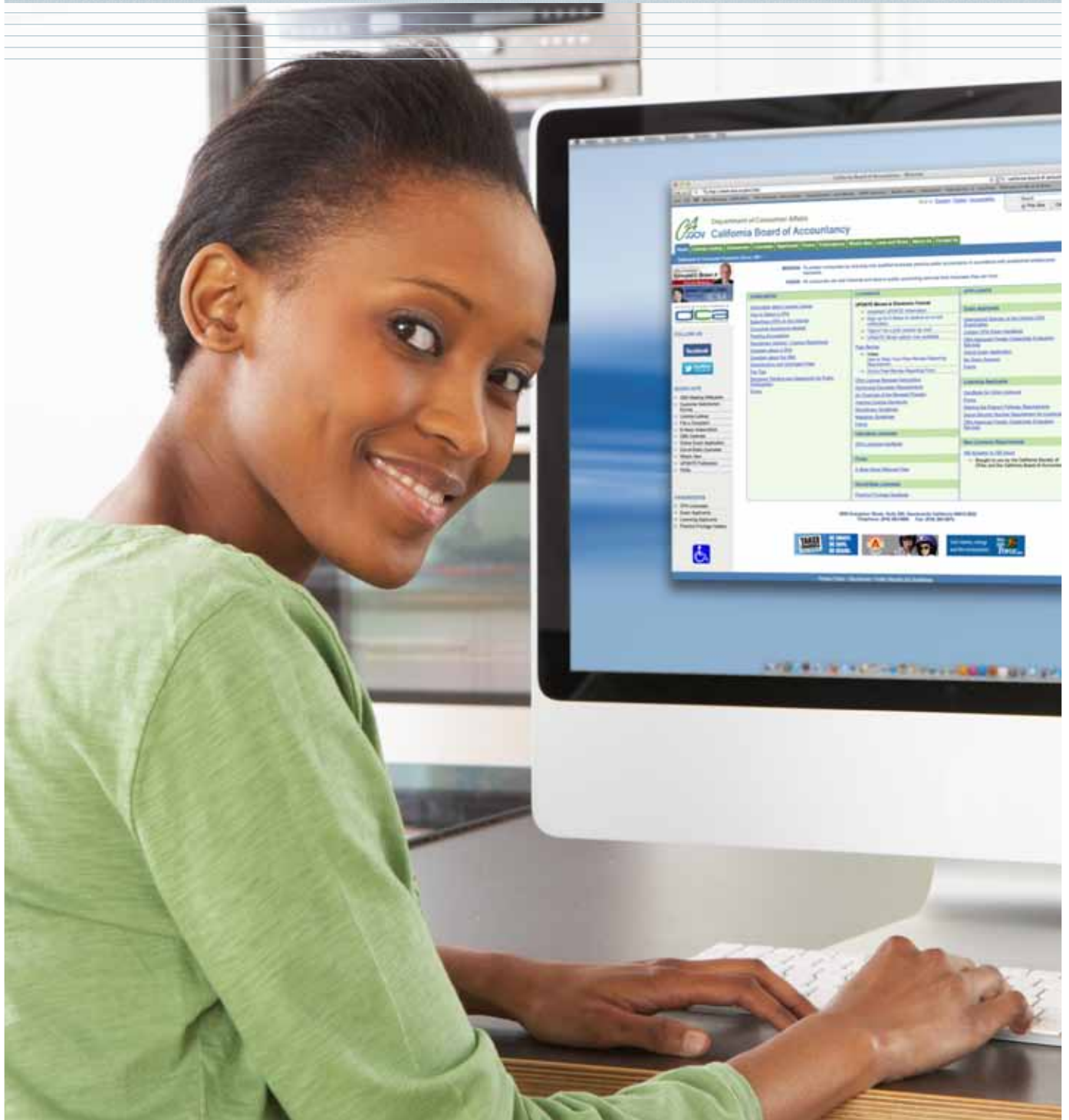
~~NOTE: The Experience Completed field is left blank for firm licenses, as the designation applies only to individual licenses.~~

~~A licensee who performs substantial portions of an attest or compilation engagement is required to complete continuing education in accounting and auditing. Information about continuing education is reported to the CBA at license renewal.~~

~~In all instances, it is required that licensees engage in continuing education which directly contributes to their competence as accountants. Consumers are advised to ask the licensee for up-to-date information on the continuing education the licensee has completed.~~



CONSUMER ASSISTANCE BOOKLET



The mission of the California Board of Accountancy is to protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards.

We hope you will find this booklet a helpful tool in providing information you can use to make decisions as you seek to use the services of a California-licensed Certified Public Accountant.





What is a CPA?

A California-licensed Certified Public Accountant (CPA) is a person who has met the education, examination, and experience requirements of California state law, and has been issued a license to practice public accountancy by the California Board of Accountancy (CBA). The CBA regulates the largest group of CPAs in the United States.

What Services are Provided by CPAs?

CPAs can provide a range of accounting services, including corporate finance and governance; auditing; estate planning; financial accounting, analysis, and planning; forensic accounting and litigation support; management consulting; and tax planning and preparation. Only a CPA can issue a compilation report under the professional standards for CPAs.

Only a CPA or ¹Public Accountant (PA) with the attest authority can sign reports on attest engagements. Attest services include an audit or review of financial statements, or an examination of prospective financial information. The attest is a written communication issued by an independent accountant as to whether financial statements fairly represent the financial position and operating results of individuals, companies, nonprofits and governments.

1 - The last PA license was issued in 1968 and as these licenses expire, California will no longer have licensees with this designation.

Who can Provide Tax Services in California?

In California, the only individuals allowed to charge a fee for preparing taxes are CPAs, PAs, Enrolled Agents, Attorneys, and California Registered Tax Preparers.

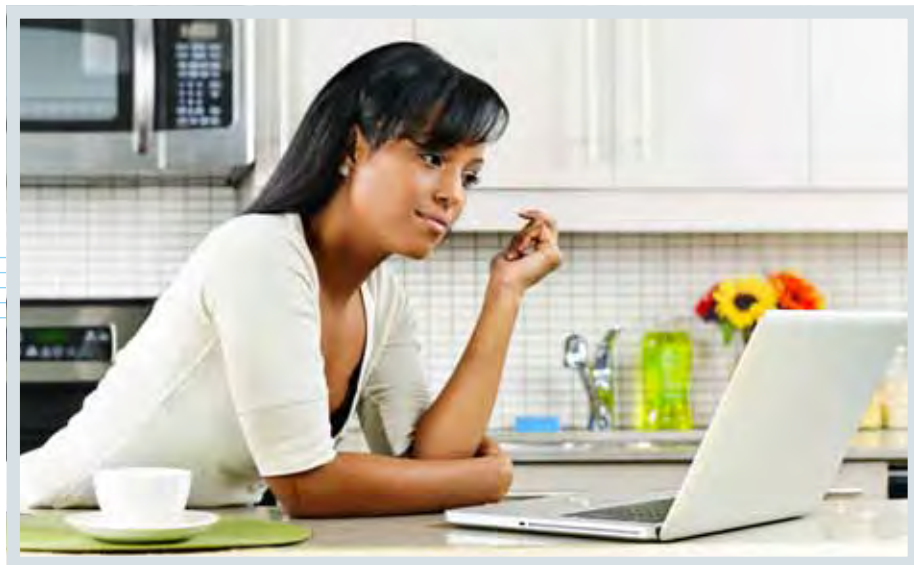
What is Peer Review?

A peer review is a study of a firm's accounting and auditing work by an unaffiliated CPA following professional standards. Peer review is required for all California-licensed firms, including sole proprietorships, which perform accounting and auditing services using specified professional standards. Tax practice is not required to be monitored by peer review.

A peer review provides firms an educational opportunity to learn best-practice techniques and improve services, so they can provide up-to-date methods and practices to consumers. Peer review also better equips firms to deliver high quality accounting and auditing services to consumers and helps in designing quality control systems that ensure the work products meet professional standards.

How to Select a CPA

Most of us will need the advice and services of a CPA at some time in our lives, and establishing a relationship with a CPA you trust can be important to the financial health of your family and/or your business.





Whether a CPA will be preparing your taxes, helping you create a roadmap for your financial future, keeping your books and preparing financial statements for your business, auditing your financial statements, or any number of other services a CPA can offer, selecting the best person or firm for your needs is an important decision.

Here are some helpful tips to assist in making this very important hire.

1. GET RECOMMENDATIONS FROM FAMILY AND FRIENDS

Ask for recommendations from those you trust and who may have had similar accounting needs. Here are some considerations:

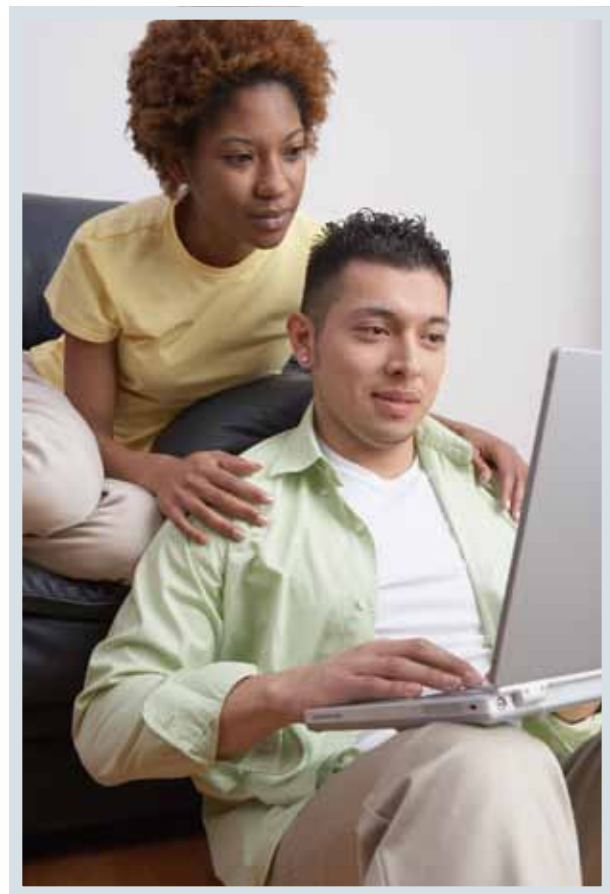
- Do you have a small business? Are you looking for someone to help keep your books and prepare monthly financials? Are you looking for an annual audit and periodic advice? Are there other areas in which you need an accountant's help?
- Are you looking for an accountant to assist with financial planning, estate issues, tax return or IRS issues?

Recommendations should be where your search begins, not ends. Once you get several recommendations, be thorough in checking out potential candidates. Be aware that in recent years there have been several high profile cases of "affinity fraud," in which an unscrupulous individual takes advantage of people connected by religion, group membership, or other "affinity" in order to easily gain access and trust to sizable groups of people.

2. VERIFY ON LICENSE LOOKUP

Visit www.cba.ca.gov and click on License Lookup. You can search for a licensee by the name of the CPA or firm, or by license number if you have it. When you search for a license status and locate a licensee, you will see the following information listed:

- Licensee / Firm Name
- Type of License
- License Number
- License Status
- Experience Completed
 - If an “**A**” appears, the licensee is authorized to sign attest reports on attest engagements.
 - If a “**G**” appears, the licensee is NOT authorized to sign reports on attest engagements. This licensee can perform all other accounting services and may also participate in attest engagements.
- Expiration Date
- Issue Date
- Address of Record
- Disciplinary Actions/License Restrictions (“yes” or “no”)
 - If a “**yes**” appears in Disciplinary Actions/License Restrictions, please click on “Details” for further information.



License Lookup will allow you to see if the CPA you are considering has a current and active license, and if there have been any disciplinary actions or license restrictions.

A new resource for consumers desiring to check the status of a CPA practicing in other parts of the nation is CPAverify.org. This website, hosted by the National Association of State Boards of Accountancy, features a central database of information about CPAs licensed in other states. Although populated by official state regulatory data received from participating State Boards of Accountancy and the CBA, you may want to verify the accuracy of the information received from “CPAverify” with the applicable state licensing board. Access to the website is free and open to the public.

3. MEET THE CPA

Now that you have recommendations for CPAs that perform the type of services you may need and have determined they are licensed and in good standing, the next step is to find out if you are a good “match.” Because you will be trusting someone with your financial information, being comfortable that they can meet your needs is important to a good long-term relationship. The best way to determine that is through an interview, preferably in person, but at the very least, by telephone.

What to ask:

- What type of accounting work do they typically perform? Compare the CPA’s experience to your service needs.
- What office hours does the CPA or firm keep? Determine whether the office is open year-round; inquire if the CPA is available to take telephone inquiries. Ask what type of *continuing education* the licensee has taken recently.
- Has the CPA been disciplined?
- Is the CPA licensed in another state? If yes, you may check **CPAverify.org** to review the status of that license.
- If the services you require include either reviewed or audited financial statements, ask the CPA if he or she participates in a *peer review* or quality review program. If yes, ask the month, year, and result of the most recent review. A more detailed description of the peer review program appears in the Peer Review section of this brochure.



- You may also want to ask if the CPA carries professional liability insurance. This helps protect consumers in the event a claim is made for damages arising from a CPA's failure to perform tax or other services satisfactorily.

If your CPA prepares your tax return and offers you a Refund Anticipation Loan (RAL), the CPA must comply with disclosure requirements specified in the California Accountancy Act and CBA Regulations. A RAL, frequently described as an “instant tax refund,” is in reality a short-term loan that will often have very high costs associated with it. CPAs offering RALs are required by Section 56 of the CBA's Regulations to make specified written disclosures to the consumer, including the dollar amount the CPA will receive for facilitating the loan. These disclosures must be made at or before the time of making the referral to the lender or performing other activities to facilitate the loan, regardless of whether you actually accept the loan.

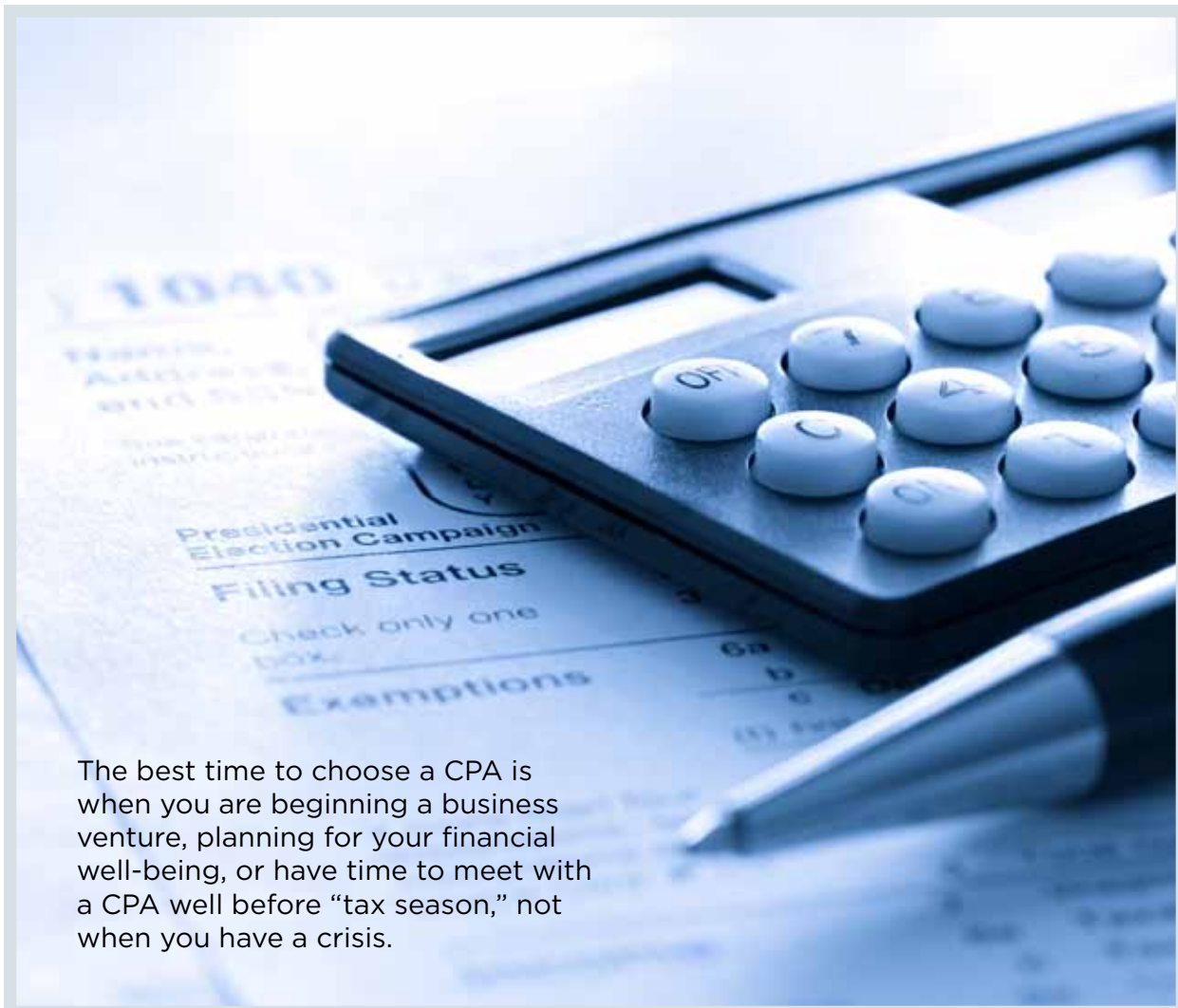


Some final advice on selecting a CPA

Before any work is done by the CPA, it is important to make certain that you receive an engagement letter detailing the work to be performed for you. The engagement letter should detail who will be performing the work, including whether the work is outsourced, confirm that all private and personal information is secure, and specify the cost of the services.

CPAs are required by law to ensure that none of your confidential information is disclosed without your permission. Therefore, you should ask whether the CPA discloses any of your confidential information to persons or entities in connection with outsourcing any services provided by the CPA on your behalf. While other persons or entities may provide you with financial services, including tax preparation, it is important to be aware that this regulation pertains only to California-licensed CPAs.

The best time to choose a CPA is when you are beginning a business venture, planning for your financial well-being, or have time to meet with a CPA well before “tax season,” not when you have a crisis. This approach provides you both the opportunity to gather the necessary documents and make the necessary preparations to launch a successful professional relationship.



The best time to choose a CPA is when you are beginning a business venture, planning for your financial well-being, or have time to meet with a CPA well before “tax season,” not when you have a crisis.

What if I have a Complaint?

Consumers can file a complaint with the CBA when they've experienced service or work that is of poor or substandard quality, or professional service or conduct that may be dishonest, negligent, or unprofessional. There are several avenues available if you wish to file a complaint.

ONLINE

You may file a complaint via the CBA website, www.cba.ca.gov. Click on the "Consumers" tab then select and click the "Complain about a CPA" text link. This action opens the complaint page containing information on filing a complaint, how to file a complaint, and what happens once a complaint is filed.

U.S. MAIL

You may visit the CBA website, www.cba.ca.gov, and download and print a complaint form. Simply select the "PDF format" text link.

REQUEST BY PHONE

If you prefer, you may also call the CBA's Enforcement Division directly at (916) 561-1729 to have a complaint form mailed to you.

Complete as much information as possible, and submit the form and copies of supporting documents related to your complaint to the CBA in person or by mail at:

CALIFORNIA BOARD OF ACCOUNTANCY
ATTN: Enforcement Division
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

The information provided in this form will be used by the CBA to follow up on your complaint. If you do not wish to identify yourself, you may remain anonymous; however, this may limit the CBA's ability to contact you or help you resolve your complaint.

After submitting your complaint, you will receive an acknowledgement that your complaint was received by the CBA within 10 days of receipt of your complaint. This acknowledgement will contain an initial complaint referral number. Please reference this number in all communications with the CBA's Enforcement Division regarding your complaint.





CALIFORNIA BOARD OF ACCOUNTANCY
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832
www.cba.ca.gov



DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY
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Taskforce Item IV. **CBA Item IX.A.4.**
September 26, 2013 September 26-27, 2013

**Discussion on Possible Recommendations by the Taskforce Regarding
Acceptance of Academia as Qualifying Experience for CPA Licensure**

Presented by: Kathryn Kay, Licensing Coordinator

Date: August 30, 2013

Purpose of the Item

The purpose of this item is for the Taskforce to Examine Experience for CPA Licensure (Taskforce) to determine whether to recommend to the California Board of Accountancy (CBA) to accept academia as qualifying experience for certified public accountant (CPA) licensure.

Action(s) Needed

The Taskforce will be asked to determine if a recommendation to the CBA should be made regarding the acceptance of academia as qualifying experience for CPA licensure.

Background

California does not presently allow for academia to qualify toward the experience requirement for CPA licensure. The Uniform Accountancy Act (UAA) developed to provide a uniform approach to regulation of the accounting profession, does include academia as a qualifying area. The UAA allows for experience obtained through academia to be deemed equivalent on a year-for-year basis to experience obtained in public accounting, private industry, and government. The UAA also allows for experience obtained in academia to be supervised by a non-licensee but states that it must be verified by a licensee.

Comments

If the Taskforce elects to include a recommendation to the CBA that academia should qualify toward the experience requirement for licensure, it will also need to recommend:

- how the experience should be calculated (on a year-for year basis or some other option).
- how the experience should be verified.

To assist the Taskforce in evaluating this possible option, below is a summary of information included in the staff research on academia provided at the July 2013

Discussion and Possible Recommendations by the Taskforce Regarding Acceptance of Academia as Qualifying Experience for CPA Licensure

Page 2 of 3

Taskforce meeting. Additionally, in the **Attachment**, Professor Gary McBride, Taskforce member, has provided details on academia experience for New York and Texas.

When staff researched the other state boards of accountancy, it identified 41 states that allow an applicant to become licensed with experience obtained via academia. Staff found that experience obtained via academia is not always equivalent on a year-for-year basis to the practice-related types of experience. For example, Georgia and South Carolina require five years of experience in academia while only one year is required for all other types of experience. One year of experience in academia is usually defined as equivalent to teaching 12 semester units in accounting courses.

While the number of years of experience may vary by state, over half of the states that accept experience obtained via academia deem this type of experience to be equivalent on a year-for-year basis to experience obtained in public accounting, private industry, and government. These states/jurisdictions include:

Commonwealth of Northern Mariana Islands	Delaware	Guam		
Hawaii	Kansas	Illinois	Louisiana	Maryland
Mississippi	Missouri	Montana	New Mexico	North Dakota
Ohio	Oregon	Puerto Rico	South Dakota	Tennessee
Utah	Virginia	West Virginia	Wyoming	

The following five states/jurisdictions accept experience obtained in academia on a case by case basis only:

District of Columbia	Minnesota	Oklahoma	Washington	Wisconsin
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As for how other states handle verifying experience earned in academia, most require some form of employer verification regarding the courses taught, which may include a letter from the dean or department head submitted on university letterhead. In all states, except Florida, Iowa, North Carolina, and Georgia, the dean or the department head must be a licensed CPA and/or the experience must be supervised by a CPA.

Staff would like to highlight that in order to modify the current experience requirement to allow for the acceptance of academia, the CBA will need to sponsor legislation to amend the Business and Professions Code and pursue a rulemaking to amend CBA Regulations.

Discussion and Possible Recommendations by the Taskforce Regarding Acceptance of Academia as Qualifying Experience for CPA Licensure

Page 3 of 3

Fiscal/Economic Impact Considerations

Staff will be better equipped to provide information for the Taskforce's consideration once a fuller picture regarding experience-related modifications are made.

Recommendation

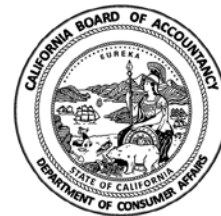
Staff has no recommendation on this item.

Attachment

Details on Academia Experience – New York and Texas

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**Attachment****Details on Academia Experience – New York and Texas****Following are pertinent excerpts from the State of New York Board of Accountancy description of the experience requirement relating to the teaching of accounting:**

What is acceptable experience? An applicant must present evidence, satisfactory to the State Board for Public Accountancy, of full-time experience providing accounting services or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax or consulting skills under the supervision of a certified public accountant licensed in one of the U.S. jurisdictions or a public accountant licensed in New York State. Acceptable experience may be earned in a public accounting firm, government, private industry or an educational institution.

Full-time employment is considered to be a 5-day, 35-40 hour week, excluding overtime. Acceptable part-time (no less than 20 hours per week) experience will be considered on the basis of one week of experience for every two weeks worked.

Teaching College Accounting: Preparation and delivery of accounting courses for academic credit at a regionally accredited 4 year degree granting college or university. Teaching by a full-time faculty member is considered to be full-time during the semester of course delivery. Adjunct faculty must deliver 9 or more credits of course work per semester to be considered "full-time." Teaching assignments must be certified by an accounting department chair or Dean who is licensed as a CPA.

Texas Board of Accountancy experience includes:

"Education. Work experience gained as an instructor at a college or university will qualify if evidence is presented showing independent thought and judgment was used on non-routine accounting matters. Only the teaching of upper division courses on a full time basis may be considered. All experience shall be supervised by the department chair or a faculty member who is a CPA."

Issues raised by New York and Texas:

Should only full-time teaching count? Texas insists on full-time only. New York provides for adjunct faculty within limits.

Should only upper division (beyond the first two years of college) count? Texas requires upper division but not New York.

Who can sign? New York allows a department chair or Dean (who happen to be CPAs) to sign while Texas wants it to be the department chair.



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Taskforce Item V.
September 26, 2013

CBA Item IX.A.5.
September 26-27, 2013

**Discussion on Possible Recommendations by the Taskforce Regarding
Modification to the General Accounting Experience Requirement for CPA Licensure**

Presented by: Kathryn Kay, Licensing Coordinator

Date: September 3, 2013

Purpose of the Item

The purpose of this item is for the Taskforce to Examine Experience for CPA Licensure (Taskforce) to determine whether to recommend to the California Board of Accountancy (CBA) modifications to the present general accounting experience requirement.

Action(s) Needed

The Taskforce will be asked to determine if a recommendation to the CBA should be made regarding possible modifications to the general accounting experience requirement.

Background

On January 1, 2002, California implemented statutory and regulatory changes that provided the option of obtaining CPA licensure with general accounting experience pursuant to Business and Professions (B&P) Code sections 5092 (Pathway 1) and 5093 (Pathway 2), and CBA Regulations section 12. In order for general accounting experience to qualify, it must comply with the following requirements:

- Providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills
- The experience shall have been performed in accordance with applicable professional standards
- Experience obtained in public accounting shall be completed under the supervision or in the employ of a person licensed or otherwise having comparable authority under the laws of any state or country to engage in the practice of public accountancy
- Experience obtained in private industry or governmental accounting or auditing shall be completed under the supervision of an individual licensed by a state to engage in the practice of public accountancy

Discussion on Possible Recommendations by the Taskforce Regarding Modifications to the General Accounting Experience Requirement for CPA Licensure

Page 2 of 4

General accounting experience must be documented on the *Certificate of General Experience (CGE)*¹ and submitted by the supervisor on the applicant's behalf. The supervisor shall have reviewed and evaluated the applicant's qualifying work on a routine and recurring basis and shall have authority and oversight over the applicant. In signing the form, under penalty of perjury, the supervisor is confirming the fact that s/he has supervised the applicant and the applicant has completed general accounting experience. The supervisor is not required to express an opinion as to whether the applicant understands the applicable professional standards.

An applicant is not required to earn experience in all of the previously outlined areas. Theoretically, an applicant can satisfy the general accounting experience requirement by completing a minimum of one or two years of experience in any one of the qualifying areas.

Comments

To aid the Taskforce in its deliberation, staff has highlighted three possible options for consideration:

1. Maintain Status Quo
2. Require a Supervisor to Render an Opinion Regarding the Applicant's Understanding of the Professional Standards in Relation to the General Accounting Experience Performed
3. Further Define the General Accounting Experience Requirement in the B&P Code and CBA Regulations

Staff recognizes that these options do not represent the totality of possible options for the Taskforce's consideration. Furthermore, staff would like to highlight that Options 2 and 3 are not mutually exclusive and the Taskforce could include in its final recommendation to the CBA a combination of options. Additionally, if either Options 2 or 3, or both are recommended, the CBA will need to sponsor legislation to amend the B&P Code and pursue a rulemaking to amend CBA Regulations.

Option 1 – Maintain Status Quo

This option will not require any CBA action and would leave, as is, the B&P Code and CBA Regulations, and maintain the process as outlined in the Background section of this item.

¹ See Taskforce-Related Resource Materials, Appendix 2, which was provided to members in advance of the May 2013 meeting.

Discussion on Possible Recommendations by the Taskforce Regarding Modifications to the General Accounting Experience Requirement for CPA Licensure

Page 3 of 4

Option 2 – Require a Supervisor to Render an Opinion Regarding the Applicant's Understanding of the Professional Standards in Relation to the General Accounting Experience Performed

Under this option, the role of supervisors will expand to ensure that applicants are not only performing the work in conformity with applicable professional standards, but demonstrate a knowledge and understanding of the applicable professional standards.

The general accounting experience requirement, unlike the attest experience requirement, does not presently include a section for supervisors to opine on applicants' understanding of applicable professional standards. As a result, there is not the same level of assurance regarding applicants' experience qualifications prior to entering the profession.

As the Taskforce discusses Option 2, first, it may wish consider that some types of qualifying advice and services outlined in the general accounting experience definition may not have existing applicable professional standards that are similar to the authoritative standards governing accounting, taxation, attest, and compilation services. B&P Code sections 5092 and 5093 only require that the experience earned meet "applicable professional standards." As a result, when no applicable professional standards exist, supervisors may be unable to render an opinion regarding those areas of service unless other criteria were developed.

Second, modifying the present general accounting experience requirement to include a supervisory opinion could be seen as an increase to the minimum standards. By requiring demonstrated knowledge of the applicable professional standards, individuals obtaining licensure under the modified general experience requirement may be better equipped to serve consumers, thereby increasing consumer protection.

Option 3 – Further Define the General Accounting Experience Requirement in the B&P and CBA Regulations

Further defining the general accounting experience could involve:

- eliminating certain areas where individuals could obtain general accounting experience.
- requiring individuals to complete a portion of general accounting experience in select areas.
- placing a cap on the amount of experience an individual could obtain in select areas.

In January 2010, the CBA requested that the QC discuss and make recommendations on whether to further define general accounting experience in regulation.² The CBA

² See Taskforce-Related Resource Materials, Appendix 7.e.i-vi.

Discussion on Possible Recommendations by the Taskforce Regarding Modifications to the General Accounting Experience Requirement for CPA Licensure

Page 4 of 4

made the request to address concerns raised by licensee supervisors, CBA members, and QC members regarding whether certain experience obtained by applicants would qualify as general accounting experience.

After extensive deliberations undertaken by the QC, it determined, with the assistance of legal counsel, that the manner in which B&P Code sections 5092 and 5093 are presently structured, the CBA is limited in the ability to require experience be obtained in any one area. As a result, the QC made the following recommendations to the CBA in connection with its evaluation:

- No change to the regulations because based on the present statutory language in B&P Code sections 5092 and 5093, there is no effective way to further define general accounting experience
- If the CBA wants to further define general accounting experience in regulation, it first consider a change to how general accounting experience is defined in statute
- Better disclosure and outreach to inform consumers of the limitations of CPAs licensed without the authority to sign reports on attest engagements

The CBA took no action on the QC's recommendations.

Should the Taskforce include Option 3 as part of its recommendations to the CBA on potential modifications to the general accounting experience requirement, for any of the sub-options listed in this section, the Taskforce would need to identify the specified areas and why eliminating, requiring, or placing a cap on the areas is necessary.

As the Taskforce gives consideration to Options 2 and 3 (or any other option developed by the Taskforce), one other item worth noting is the potential impact on the role of the QC. Pursuant to B&P Code section 5023, the CBA employs the QC in an advisory capacity to examine the qualifications of all applicants for licensure. Presently, the QC focuses on the attest experience requirement. Depending on any eventual modifications to the general accounting experience requirement, the focus of the QC may need to adjust.

Fiscal/Economic Impact Considerations

Staff will be better equipped to provide information for Taskforce and CBA consideration once a fuller picture regarding experience-related modifications are made.

Recommendation

Staff has no recommendation on this item.



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Taskforce Item VI.
September 26, 2013

CBA Item IX.A.6.
September 26-27, 2013

Discussion on Possible Recommendations by the Taskforce Regarding Modification to the Attest Experience Requirement for CPA Licensure

Presented by: Dominic Franzella, Chief, Licensing Division

Date: September 3, 2013

Purpose of the Item

The purpose of this item is for the Taskforce to Examine Experience for CPA Licensure (Taskforce) to determine whether to recommend to the California Board of Accountancy (CBA) modifications to the present attest experience requirement.

Action(s) Needed

The Taskforce will be asked to determine if a recommendation to the CBA should be made regarding possible modifications to the attest experience requirement.

Background

Presently, California requires all licensees desiring to sign reports on attest engagements to complete a minimum of 500 hours of experience in attest services to the satisfaction of the CBA (Business and Professions (B&P) Code section 5095¹). In most instances, individuals complete this requirement as part of the 12- or 24-month experience requirement necessary for initial licensure. Individuals originally licensed with general accounting experience and who subsequently complete the required attest experience, may apply to the CBA to obtain the authorization to sign reports on attest engagements.

While California has maintained the minimum 500 hours associated with the attest experience requirement in statute since 2002, it only represents one part of, what is in essence, a two-part approach to the attest experience requirement. The second part focuses on ensuring the experience earned was to the satisfaction of the CBA. The importance of this second part of the attest experience requirement is evident in the determination by the CBA to further define it via regulation.

Pursuant to CBA Regulations section 12.5², as part of the 500 hours, the experience earned by the individual must include all of the following:

¹ See Taskforce-Related Resource Materials, Appendix 1, which was provided to members as part of the May 2013 meeting.

² See Taskforce-Related Resource Materials, Appendix 1.

Discussion on Possible Recommendations by the Taskforce Regarding Modification to the Attest Experience Requirement for CPA Licensure

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1. Experience in planning of the audit including the selection of the procedures to be performed
2. Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions included in financial statements
3. Experience in the preparation of working papers in connection with the various elements of 1 and 2 above
4. Experience in the preparation of written explanations and comments on the work performed and its findings
5. Experience in the preparation of and reporting on full disclosure financial statements

The applicant must complete the experience under the supervision of an individual maintaining a valid CPA license or comparable authority to provided attest services. The supervisor shall have reviewed and evaluated the applicant's qualifying work on a routine and recurring basis and shall have authority and oversight over the applicant. In assessing whether the applicant meets the 500 hours and has satisfactorily completed experience in attest services, the signing supervisor must complete and submit to the CBA on the applicant's behalf the *Certificate of Attest Experience (CAE)*.³

On the *CAE*, the supervisor notes the time period and type of employment (fulltime or part time), renders an opinion on the qualifying experience, and highlights the total number of hours the applicant spent performing various attest functions and in what area/type of attest services (audits, reviews, other attest services). When rendering his/her opinion on the qualifying experience, the supervisor must answer either 'yes' or 'no' to the five areas listed above. Additionally, as part of his/her opinion, the supervisor must opine whether the applicant demonstrates a satisfactory understanding of the current practice standards and pronouncements of the profession in relation to each of the five areas.

Comments

The issue before the Taskforce relative to this item is whether modifications should be made to the attest experience requirement, and if so what modifications. To aid the Taskforce in its deliberation, staff has highlighted four possible options:

1. Maintain Status Quo
2. Increase the Minimum Number of Hours Associated with the Attest Experience Requirement

³ See Taskforce-Related Resource Materials, Appendix 2.b.

Discussion on Possible Recommendations by the Taskforce Regarding Modification to the Attest Experience Requirement for CPA Licensure

Page 3 of 6

3. Reduce or Eliminate the Minimum Number of Hours Associated with the Attest Experience Requirement
4. Eliminate the Attest Experience Requirement

Staff recognizes that these do not represent the totality of possible options for the Taskforce's consideration. The options presented represent some of the most direct options, with Options 2 and 3 having sub-options available in relation to the possibility of increasing or reducing/eliminating the minimum number of required attest hours. Additionally, with the exception of Option 1, in order to effectuate changes associated with the other options, the CBA will need to sponsor legislation to amend B&P Code section 5095 and pursue a rulemaking to amend CBA Regulations section 12.5.

Option 1 – Maintain Status Quo

This option will not require any CBA action. This would leave, as is, the B&P Code and CBA Regulations, and would maintain the process as outlined in the Background section of this item.

Option 2 – Increase the Minimum Number of Hours Associated with the Attest Experience Requirement

This option would have the Taskforce offer a recommendation to the CBA that it increase the minimum number of hours beyond the presently defined 500 hours.

On two occasions, the CBA Qualifications Committee (QC) evaluated this topic – 2006 and 2009.⁴ As part of its discussion in 2006, the QC believed that with the attest function no longer representing a barrier to entry with the advent of the option to obtain licensure with general accounting experience, in addition to furthering the mission of the CBA to protect the public, it recommended an increase to 1,000 hours. As it related to this item, the CBA referred it to the Committee on Professional Conduct for future discussion.

In 2009, the QC again began the task of evaluating an increase in the minimum number of hours from 500 to 1,000. Over the course of several meetings, it reviewed various statistics related to attest hours, possible correlations between enforcement actions and the attest experience hours, and other states' attest experience requirement; the QC decided to maintain the status quo and not recommend to the CBA an increase in the minimum hours.

As the Taskforce evaluates this option, it may find useful the research performed by staff and provided to members at the July meeting. In preparation of the July meeting staff performed research on qualifying general accounting and attest experience earned

⁴ See Taskforce-Related Resource Materials Appendices 7.b.iv and 7.d.i-viii.

Discussion on Possible Recommendations by the Taskforce Regarding Modification to the Attest Experience Requirement for CPA Licensure

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in public and non-public accounting. The research covered the most recent two-year period.

For the two-year period, staff performed an in-depth analysis of the data for the most recent six-months and discovered the following related to attest experience:

- The average number of attest hours for which an applicant with either public or non-public experience has been issued a license with attest authority is 2,581.
- The average number of attest hours for which an applicant with solely public experience has been issued a license with attest authority is 2,931.
- The lowest number of attest hours for which an applicant has been issued a license with attest authority is 500 hours. The one applicant approved with this number of hours gained experience entirely in the auditing category while employed at a public accounting firm.

Option 3 – Reduce or Eliminate the Minimum Number of Hours Associated with the Attest Experience Requirement

This option would have the Taskforce offer a recommendation to the CBA that it reduce the total number of minimum hours (400, 300, 250, etc.) or eliminate the 500 hours associated with the attest experience requirement. With either a reduction or elimination, the requirement that the experience be to the satisfaction of the CBA will remain. Therefore, applicants/licensees will still need to obtain experience in the five areas outlined on page 2, and the supervisor will still need to opine on whether the applicant has completed the experience and done so in accordance with the present practice standards and pronouncements of the profession.

To staff's knowledge, since the addition of the 500-hour requirement in 2002, neither the CBA nor one of its committees/taskforces has evaluated a reduction or elimination of the 500-hour requirement. As the Taskforce evaluates this option, it again may wish to reflect on the research performed by staff for the last meeting, which included the average number of attest hours completed (highlighted above in Option 2).

Additionally, the Taskforce may wish to reflect on why the 500-hour requirement was originally added. As reported to the Taskforce at the previous two meetings, prior to the establishment of the 500 hours, no specific time period was in place related to completing the attest experience requirement. Applicants sought a benchmark as to when a sufficient period of time elapsed to begin seeking supervisor approval related to satisfying the attest experience requirement.

Option 4 – Eliminate the Attest Experience Requirement

This option is straightforward and would simply involve eliminating the requirement that applicants/licensees complete the attest experience requirement prior to the CBA

Discussion on Possible Recommendations by the Taskforce Regarding Modification to the Attest Experience Requirement for CPA Licensure

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authorizing individuals to sign reports on attest engagements. The last time this option was discussed was in relation to the CBA's sunset review process in 2000.

As part of the materials the CBA submitted to the Legislature for the 2000 sunset review, it included the CBA's rationale for eliminating the attest experience requirement.⁵ The CBA's position rested on a couple of factors:

- Based on a study the CBA performed, only 13 percent of licensees indicated that auditing was their primary area of practice
- Many individuals who passed the Uniform CPA Examination indicated that obtaining attest experience represented a significant barrier
- It would achieve greater consistency with the Uniform Accountancy Act
- Because of the rapid pace of technological change related to financial transactions, the attest experience requirement was no longer reflective of the current public accounting environment

The CBA believed that a better approach to regulating the attest function in California was to require accounting firms performing attest services to obtain a special designation (*i.e.* "attest status").

As noted in the materials, the CBA received opposition regarding the elimination of the attest experience requirement, both from the Department of Consumer Affairs (DCA) and Center for Public Interest Law (CPIL).⁶ DCA voiced its concern that audit services are of value to consumers and eliminating the requirement could "compromise a consumer's ability to have a thorough and accurate audit performed." Similarly, CPIL indicated that weakening the attest function would hurt consumers and the investing public.

During the 2000 sunset review process a compromise was reached regarding several of the CBA's proposals, one of which included the elimination of the attest experience requirement. As it related specifically to experience, legislation was passed that allowed an individual to obtain a CPA license by completing general accounting experience only.

As the Taskforce considers this option, it has been noted at the two previous meetings that one problem that presently exists related to having the attest experience requirement is the potential for consumer confusion related to the qualifications of a CPA licensed with attest experience and authorized to sign reports on attest

⁵ See Taskforce-Related Resource Materials Appendix 6.b.i., page 61.

⁶ See Taskforce-Related Resource Materials Appendix 6.b.iii, and 6.b.v-vi.

Discussion on Possible Recommendations by the Taskforce Regarding Modification to the Attest Experience Requirement for CPA Licensure

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engagements. Specifically, certain members have raised concern that consumers, when evaluating CPAs' licenses on the CBA License Lookup feature could be confused or misled as to the qualifications of licensees noted to have completed the attest experience requirement. Staff provided revisions to the CBA License Lookup feature in response to the Taskforce's concerns and are included the Taskforce's meeting materials under **Agenda Item II**.

Finally, as the Taskforce considers Options 3 and 4, if the Taskforce selects either option to include as part of its recommendation to the CBA related to a possible modification to the attest experience requirement, it will need to clearly articulate its rationale as this option could be viewed as a lowering of the minimum standards.

Fiscal/Economic Impact Considerations

Staff will be better equipped to provide information for the Taskforce's consideration once a fuller picture regarding experience-related modifications are made.

Recommendation

Staff has no recommendation on this item.



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Taskforce Item VII.
September 26, 2013

CBA Item IX.A.7.
September 26-27, 2013

Enforcement-Related Statistics From Other States That Recently Converted From an Attest Experience Requirement and Redistribution of the Bonnie Moore Case Decision and Results of Legal Cases Research

Presented by: Kathryn Kay, Licensing Coordinator
Date: September 26, 2013

Purpose of the Item

The purpose of this agenda item is to provide requested enforcement-related statistics regarding states that have recently converted from an attest experience requirement to a general accounting experience requirement and to redistribute Taskforce Item VI from the July 24, 2013 Taskforce meeting – Bonnie Moore Case Decision and Results of Legal Cases Research.

Action(s) Needed

No specific action is required on this agenda item.

Background

At the July 24, 2013 meeting the Taskforce directed CBA staff to provide enforcement-related statistics regarding states that have transitioned from an attest experience requirement to a general accounting experience requirement.

It was also requested that Taskforce Item VI – Bonnie Moore Case Decision and Results of Legal Cases Research from the July 24, 2013 meeting (**Attached**) be redistributed to members for review at the September meeting.

Comments

CBA staff contacted representatives from the following state boards of accountancy: New York, Ohio, Texas, Florida and Illinois. CBA staff posed several questions to staff from these states to determine if enforcement-related actions had increased, decreased or remained the same following the elimination of the attest experience requirement and whether other influencing factors could have resulted in any statistical change.

The New York Board of Accountancy reported that there has been no significant changes in reports of professional misconduct and no increase to its enforcement actions since the elimination of its attest experience requirement for initial CPA licensure.

Enforcement-Related Statistics From Other States That Recently Converted From an Attest Experience Requirement and Redistribution of the Bonnie Moore Case Decision and Results of Legal Cases Research

Page 2 of 2

The Ohio Board of Accountancy could not provide the requested statistics, however, it was noted that staff reviews enforcement data monthly and there have been no trends that would indicate CPAs are not receiving enough attest experience. The Ohio Board believes that its peer review program prevents most of these types of enforcement issues.

The Texas and Florida Boards of Accountancy indicated that enforcement information related to this request was not available. Lastly, as of the date of this item, staff has yet to receive the requested information from the Illinois Board of Accountancy.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff has no recommendation on this item.

Attachment

Taskforce Item VI, July 24, 2013 - Bonnie Moore Case Decision and Results of Legal Case Research



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Taskforce Item VI.
July 24, 2013

CBA Item VIII.A.6.
July 25, 2013

Bonnie Moore Case Decision and Results of Legal Cases Research

Presented by: Kristy Shellans, Legal Counsel

Date: July 10, 2013

Purpose of the Item

The purpose of this agenda item is to provide the Taskforce to Examine the Experience for CPA Licensure (Taskforce) members with requested information on court cases regarding the use of the term "accountant."

Action(s) Needed

No specific action is required on this agenda item.

Background

At the May 23, 2013 Taskforce meeting, members discussed the meaning of a certified public accountant (CPA) license and whether there are functions that a CPA performs that do not require a license. To aid in this discussion, members requested that legal counsel provide information regarding the July 2, 1992 California Supreme Court Case, *Bonnie Moore v. the California Board of Accountancy (CBA)* decision (**Attachment 1**) and other court cases regarding the use of the term "accountant."

Comments

Legal counsel review of over 44 cases resulted in the findings of one additional case, which may be of interest to members. The September 26, 1994 Division 4, First District California Court of Appeal Case, *Shaun Carberry v. the CBA* decision is provided as **Attachment 2**. Legal counsel will be present at the Taskforce meeting to provide further details and answer any questions members may have.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff has no recommendation on this item.

Attachments

1. July 2, 1992 California Supreme Court Case, *Bonnie Moore v. the CBA*
2. September 26, 1994 Division 4, First District California Court of Appeal Case, *Shaun Carberry v. the CBA*

H

Supreme Court of California,
 In Bank.

Bonnie MOORE et al., Plaintiffs, Cross-defendants
 and Appellants,
 v.
 CALIFORNIA STATE BOARD OF ACCOUNT-
 ANCY, Defendant, Cross-complainant and Re-
 spondent.

No. S017399.
 July 2, 1992.

Rehearing Denied Aug. 27, 1992.

Unlicensed persons brought suit against State Board of Accountancy seeking declaratory judgment that Board could not constitutionally enjoin or prohibit unlicensed persons from using terms “accountant” and “accounting” in referring to licensed persons or services rendered by them, and permanent injunction ordering Board to cease all enforcement actions against use of those terms. Board filed cross complaint for injunctive relief. The Superior Court, San Francisco County, Thomas J. Dandurand, J., granted Board's request, and appeal was taken. The Court of Appeal reversed and remanded for modification of injunction, appeal was taken. The Supreme Court, [Baxter](#), J., held that: (1) regulation prohibiting use of title “accountant” or description of services offered as “accounting” by unlicensed person was authorized by Accountancy Act, and (2) Act could only ban those uses of terms “accountant” and “accounting” that stood to potentially mislead public regarding user's licensee or nonlicensee status.


Affirmed.

[Mosk](#), J., filed dissenting opinion.

[George](#), J., filed dissenting opinion in which [Mosk](#) and [Kennard](#), JJ., joined.

Opinion, [272 Cal.Rptr. 108](#), superceded.

West Headnotes

[1] Statutes 361  **181(1)****361** Statutes


361VI Construction and Operation

361VI(A) General Rules of Construction

361k180 Intention of Legislature

361k181 In General

361k181(1) k. In general. [Most Cited](#)

Cases**Statutes 361**  **194****361** Statutes

361VI Construction and Operation

361VI(A) General Rules of Construction

361k187 Meaning of Language

361k194 k. General and specific words and provisions. [Most Cited Cases](#)

Fundamental rule that court's objective in construing statute is to ascertain and effectuate underlying legislative intent overrides doctrine of ejusdem generis or any maxim of jurisprudence, if application of doctrine or maxim would frustrate any intent of underlying statute. [West's Ann.Cal.Civ.Code § 3509](#).

[2] Accountants 11A  **3.1****11A** Accountants

11Ak3 Regulation; License or Certificate

11Ak3.1 k. In general. [Most Cited Cases](#)

(Formerly 11Ak3)

State Board of Accountancy regulation prohibiting use of title “accountant” or description of services offered as “accounting” by unlicensed person was authorized by section of Accountancy Act prohibiting use by unlicensed person of any designation that was likely to be confused with “certified public accountant” or “public accountant”; Board could reasonably conclude that terms “accountant” and “accounting” were likely to be confused with official titles denoting licensure. [West's Ann.Cal.Bus. & Prof.Code §§ 5010, 5058](#).

[3] Statutes 361 ↪ **212.1**

361 Statutes

361VI Construction and Operation

361VI(A) General Rules of Construction

361k212 Presumptions to Aid Construction

361k212.1 k. Knowledge of legislature. [Most Cited Cases](#)

Presumption that legislature is aware of administrative construction of statute should be applied if agency's interpretation of statutory provisions is of such longstanding duration that legislature may be presumed to know of it; such presumption should also be applied on showing that construction or practice of agency has been made known to legislature.

[4] Accountants 11A ↪ **3.1**

11A Accountants

11Ak3 Regulation; License or Certificate

11Ak3.1 k. In general. [Most Cited Cases](#)

(Formerly 11Ak3)

Accountancy Act could constitutionally ban only those uses of generic terms "accountant" and "accounting" that stood to potentially mislead public regarding user's licensee or nonlicensee status; unlicensed persons were entitled to use those terms, if such use was further qualified by explanation, disclaimer or warning stating that advertiser was not licensed by the state, or that services being offered did not require state license. [West's Ann.Cal.Bus. & Prof.Code § 5058](#); [U.S.C.A. Const.Amend. 1](#).

[5] Judgment 228 ↪ **251(1)**

228 Judgment

228VI On Trial of Issues

228VI(C) Conformity to Process, Pleadings, Proofs, and Verdict or Findings

228k247 Conformity to Pleadings and Proofs

228k251 Issues Raised by Pleadings

228k251(1) k. In general. [Most Cited](#)

[Cases](#)

Judgment 228 ↪ **255**

228 Judgment

228VI On Trial of Issues

228VI(C) Conformity to Process, Pleadings, Proofs, and Verdict or Findings

228k247 Conformity to Pleadings and Proofs

228k255 k. Facts and evidence. [Most Cited Cases](#)

Trial court rendered judgment outside issues raised by pleadings or at trial by holding that preparation of compilation reports, review reports and audit reports by persons unlicensed by State Board of Accountancy was illegal, where Board had never alleged in its cross complaint that unlicensed persons were engaged in such illegal activities and presented no evidence at trial to establish that such activities were illegal.

*****359** ***1003** ****799** Kronick, Moskovitz, Tiedemann & Girard, [Leonard M. Friedman](#), Sacramento, and [Ralph C. Alldredge](#), San Francisco, for plaintiffs, cross-defendants and appellants.

[Robert C. Fellmeth](#), Julianne B. D'Angelo, San Diego, [Gerald J. Thain](#), Madison, Wis., William H. Sager and [James G. Seely](#), San Francisco, as amici curiae on behalf of plaintiffs, cross-defendants and appellants.

John K. Van de Kamp and [Daniel E. Lungren](#), Attys. Gen., and [Wilbert E. Bennett](#), Deputy Atty. Gen., for defendant, cross-complainant and respondent.

BAXTER, Justice.

We granted review in this case to determine whether persons *unlicensed* by the State Board of Accountancy (Board), the public agency charged with administering the regulatory scheme governing the profession of public accountancy in California (Bus. & Prof.Code, § 5000 ^{FNI} et seq., commonly known as the Accountancy Act), may hold themselves out to the public as "accountants," or as persons qualified and *****360** ****800** lawfully able to offer "accounting" services for compensation.

FNI. All further statutory references are to the Business and Professions Code unless otherwise indicated.

***1004** As will be shown, under California's reg-

ulatory scheme, accounting activities falling within the statutory definition of the “practice of public accountancy” are reserved to the Board’s licensees. “Public accountancy” is broadly defined; a person is deemed to be practicing public accountancy, and is thus subject to the jurisdiction and licensing requirements of the Board, if the person does any of the following: “[h]olds himself or herself out to the public *in any manner* as one skilled in the knowledge, science and practice of accounting, and as qualified and ready to render professional service therein as a public accountant for compensation” (§ 5051, subd. (a), italics added); “[o]ffers to prospective clients to perform for compensation ... professional services that involve or require an audit, examination, verification, investigation, certification, presentation, or review, of financial transactions and accounting records” (*id.*, subd. (c)); or “[i]n general or as an incident to that work, renders professional services to clients for compensation *in any or all matters relating to accounting procedure* and to the recording, presentation, or certification of financial information or data” (*id.*, subd. (e), italics added).

In contrast, unlicensed persons may offer to the public only a limited category of basic accounting services when performed “as a part of bookkeeping operations.” (§§ 5051, subd. (f), 5052.) Furthermore, they may not assume or use any title or designation “likely to be confused” with the two official titles reserved for licensed accountants: “certified public accountant” and “public accountant.” (§ 5058.) Exercising the rulemaking authority granted to it in the Accountancy Act, the Board has adopted a regulation which prohibits the use of either the title “accountant” or the description of services offered as “accounting” by an unlicensed person. ([Cal.Code of Regs., tit. 16, sec. 2](#) [hereafter Regulation 2].) Appellants contend that in so doing the Board exceeded its authority, that the regulation is therefore invalid, and that even if the regulation is permissible under [section 5058](#), the restriction denies them rights under the First Amendment to the United States Constitution.

California’s statutory scheme reserves the practice of public accountancy to the Board’s licensees—persons who have been certified as qualified to offer and perform the full gamut of accounting services, and whose educational, experience, and ethical qualifications have been established as a prerequisite to licensing. To protect members of the public from

the unlicensed practice of public accountancy, [section 5058](#) prohibits the use by an unlicensed person of *any* designation or term describing the person’s profession, or services he or she offers, that is likely to cause a layperson to believe that the provider is licensed. Thus, the section expressly prohibits the use by an unlicensed person of any designation that is “likely to be confused with ‘certified public accountant’ or ‘public accountant.’ ”

***1005** The Board has determined that the terms “accountant” and “accounting” are misleading to members of the public, many of whom believe that a person who uses these terms must be licensed. For the reasons explained below, we conclude that the adoption and enforcement of Regulation 2 is a proper exercise of the Board’s authority to administer the Accountancy Act, and, in particular, [section 5058](#). We further conclude, however, that the regulatory scheme may constitutionally ban only those uses of the terms “accountant” and “accounting” that may potentially mislead the public regarding the user’s licensee or nonlicensee status. Where the terms are used in conjunction with a modifier or modifiers that serve to dispel any possibility of confusion—for example, an express disclaimer stating that the “accounting” services being offered do not require a state license—their use in such a context may not be constitutionally enjoined.

I

Facts and Procedural Background

In 1986, appellants Bonnie Moore, an unlicensed individual, Accounting Center, a California corporation of which Moore is ***361 **801 president, and the California Association of Independent Accountants (CAIA), a nonprofit membership organization affiliated with the National Society of Public Accountants (NSPA), collectively filed suit against respondent Board for declaratory relief and a permanent injunction. ([Code Civ.Proc., § 1060.](#)) The complaint alleged that Moore had received a letter from the Board ordering her and Accounting Center to cease and desist from using the terms “accountant” and “accounting” in referring to herself, the business of Accounting Center, or the services she offered to the public. The complaint further alleged that resolution of the question of whether the Board may constitutionally prohibit use of generic terms such as “accountant” and “accounting” by unlicensed individuals will affect thousands of other unlicensed persons

practicing throughout the state of California. At that time approximately 700 such individuals were members of CAIA, and the officers and directors of CAIA joined the lawsuit to challenge the Board's actions on behalf of CAIA's membership. The complaint sought a declaratory judgment that the Board may not constitutionally enjoin or prohibit appellants or members of CAIA from using the terms "accountant" and "accounting" in referring to unlicensed persons or the services rendered by them, and a permanent injunction ordering the Board to cease all enforcement actions against the use of those terms.

After its demurrer to the complaint was overruled, respondent Board filed an answer and a cross-complaint for injunctive relief against the named *1006 plaintiffs plus 2,000 Doe defendants. Does 1 through 1,000 were designated California members of CAIA, and Does 1,001 through 2,000 were designated as individuals who "have transacted and continue to transact business in the County of San Francisco and elsewhere in the State of California." The cross-complaint alleged that the cross-defendants were engaged in the practice of public accountancy and of tax preparation within California, yet were not licensed as public accountants or certified public accountants. The first amended cross-complaint prayed in part that cross-defendants be enjoined from using the words "accountant," "accounting," or "accounting services" in referring to themselves or their businesses, or representing themselves as "accountants" in any other manner which would tend to mislead or confuse the public.

During the ensuing court trial, evidence was introduced establishing that Moore possesses a college degree with a major in accounting. She has never taken the examination to become a certified public accountant (CPA), nor is she interested in doing so. Respondent Board concedes she meets the educational eligibility requirements for the CPA examination, but not the experience requirement for licensure. As a practical matter, in order to satisfy the latter requirement—two years of public accounting experience under the supervision of a licensed accountant (§§ 5081.1, 5083)—she would have to secure employment with a CPA for at least two years.

Accounting Center primarily designs and installs basic accounting systems for small business clients. Once the system is set up, bookkeepers service the

accounts, supervised by degreed accountants. The firm prepares monthly financial statements and long-range financial projections for its clients in furtherance of budgetary control and sound financial management practices. In a generic sense, the firm "audits" its client's books for internal purposes, although it does not produce formal signed audits. Moore conceded she is not qualified to perform the type of formal audits that a CPA does, nor is she qualified to perform services that require a certification of financial statements.

Moore uses the terms "accountant" and "accounting" to describe herself and her services in 90 percent of her advertising. She refers to her business on building directories, in the telephone directory, and in radio and television advertising as "Accounting Center."

Like Moore, none of the various officers or members of CAIA who testified at trial have ever passed the CPA examination. Ronald Duffin, a former president of CAIA, operates an accounting and tax service***362 **802 Edwin Greenstreet, another former president of CAIA, operates a tax, accounting *1007 and bookkeeping business. John Jenkins, president-elect of CAIA at the time of trial, owns a bookkeeping and income tax business. Among other services, he prepares reports that are filed with various governmental agencies, and signs the reports as "John Jenkins, Accountant."

In January 1987, after respondent Board had unsuccessfully demurred to appellants' complaint and filed its answer, the Board, through its counsel, the Office of the California Attorney General, contacted the Field Research Corporation, an independent opinion research firm that conducts the California Poll, an ongoing survey of Californians that attempts to measure public attitudes on various unrelated topics. All results from the polls are made public. The Attorney General sought to determine the public's perception of whether a person is licensed by the State of California when that person holds himself or herself out as an "accountant" ready and able to offer "accounting services." To this end, the following two questions were included in the April 1987 California Poll: (1) "Do you think that persons who refer to themselves as accountants in advertising to the public are required to be licensed by the State of California?," and (2) "Do you think persons who advertise

accounting services to the public are required to be licensed by the State of California to offer such services?”

The results of the poll with respect to the first question indicated that 55 percent of those surveyed believed that a person who advertised as an “accountant” had to be licensed, 26 percent did not believe a license was required, and 19 percent did not know. The results of the second question indicated that 53 percent believed that a person who advertised “accounting services” to the public was required to be licensed by the state, 29 percent did not believe a license was required, and 18 percent did not know.

Appellants introduced expert testimony in an effort to establish the ordinary meaning and usage of the terms “accountant,” “accounting,” and “bookkeeping.” Dr. Maurice Moonitz, Accounting Professor Emeritus at the University of California, testified that over the years “double entry bookkeeping,” a “fairly simple recording technology” by which business transactions are recorded, evolved into the field now commonly known as accounting. Today, according to Moonitz, the accounting profession, which he characterizes as the “umbrella term,” has absorbed the basic recording or bookkeeping functions which, in years past, were performed by “bookkeepers.” Traditionally, the bookkeeper would identify the transactions that are taking place, and then record the transactions according to a “predesigned pattern” or system of recordation. Today, the accountant “would probably be the one who designed the system in the first place,” and “would take over the financial statements, preparation of those, because then those would need *1008 analysis so that the accountant could inform management of the meaning of what took place during the year.”

At the completion of trial, the court entered judgment denying relief to appellants, and granting respondent Board’s request for a permanent injunction enjoining appellants from “[u]sing the words ‘accountant,’ ‘accounting,’ or ‘accounting services’ in referring to themselves, their businesses or their services in the context of holding themselves out to the public in the offering or rendering of professional services, or representing themselves as ‘accountants’ in any other manner which would tend to mislead or confuse the public.”

This appeal followed. The Court of Appeal, relying in part on the only California case to have considered whether use of the terms at issue here may be banned— [People v. Hill \(1977\) 66 Cal.App.3d 320, 136 Cal.Rptr. 30 \(Hill \)](#)—concluded the statutory scheme prohibited an unlicensed person from holding himself or herself out to the public as an “accountant,” or as a person otherwise qualified to provide “accounting services” for compensation. Crediting the California Poll survey evidence introduced by respondent Board, the Court of Appeal found that “the terms ‘accountant’ and ‘accounting,’ standing ***363 **803 alone, are misleading to the public and may not be utilized by unlicensed persons.”

The Court of Appeal went on to observe that the [Hill](#) court ([supra](#), [66 Cal.App.3d 320, 136 Cal.Rptr. 30](#)), in upholding the preliminary injunction before it in that case, did not reach or consider the constitutional limitations called into play by the United States Supreme Court’s commercial speech decisions of the past decade. The Court of Appeal therefore proceeded to reach the constitutional issue, concluding that the high court’s commercial speech cases “make it clear that to satisfy the First Amendment, we must permit the use of [the generic terms] if they are qualified by a warning or disclaimer that avoids their misleading impact.” The Court of Appeal concluded, “While we do not intend to dictate the language which would be acceptable, it is obvious that the term ‘unlicensed accountant,’ for instance, is not misleading. Thus, the judgment and injunction in this case must be modified to prohibit only the use of the terms ‘accountant’ or ‘accounting’ without a modifier, qualifier, disclaimer, or warning stating either that the advertiser is not licensed by the state or that the services provided do not require a state license.”

Appellants urge this court to reverse the Court of Appeal decision. They contend that the key statute, [section 5058](#), neither expressly nor implicitly prohibits an unlicensed person from using the unqualified generic terms. To the extent [Hill, supra, 66 Cal.App.3d 320, 136 Cal.Rptr. 30](#), held that the Accountancy Act *1009 permits such a prohibition, appellants urge that it was wrongly decided and should be disapproved. Appellants further contend that Regulation 2, the Board’s administrative regulation implementing [section 5058](#) by prohibiting *any* use of the terms “accountant” or “accounting” by unlicensed persons, improperly expands the scope of that statute

and should therefore be declared invalid. It is asserted that if unlicensed persons can lawfully offer basic “accounting” services to the public under the state’s regulatory scheme, then such persons’ use of the generic terms “accountant” or “accounting” in holding themselves out to the public is constitutionally protected commercial speech, and consequently, the Board’s blanket prohibition upon their use of the generic terms imposes an unconstitutional restraint on their First Amendment rights.

Appellants further contend that the California Poll survey evidence introduced by respondent below established, at best, only that use of the generic terms “accountant” or “accounting” by unlicensed individuals is *potentially* misleading to the public. Although appellants *concede* that a state may implement a less restrictive alternative than an outright ban in order to remedy the harmful effects on the public of potentially misleading professional advertising, they urge that such is a legislative prerogative, that California’s Legislature has never implemented any such regulation, and that a court may not “rewrite” a statute absent clear legislative intent.^{FN2}

[FN2.](#) The Center for Public Interest Law, the NSPA, and the California Society of Enrolled Agents, have each filed amicus curiae briefs in support of the position taken by appellants. In addition, this court is in receipt of numerous letters in support of appellants from unlicensed individuals and businesses that practice bookkeeping and offer basic accounting and tax preparation services to the public.

Respondent in turn argues *Hill* was correctly decided and should be deemed controlling here, i.e., that the use of the terms “accountant” or “accounting,” whether qualified or standing alone, by unlicensed persons offering their services to the public for compensation, is statutorily prohibited. In particular, respondent points to the language of [section 5058](#) that prohibits unlicensed persons from using *any* title or designation “likely to be confused” with the two official terms denoting licensure (“certified public accountant” and “public accountant”). The generic terms “accountant” and “accounting,” respondent asserts, are titles “likely to be confused” with those official terms, and are thus subject to [section 5058](#)’s prohibition.

Respondent contends the Accountancy Act, thusly construed, passes constitutional ***364 **804 muster. Relying on the California Poll survey evidence which, respondent claims, established that an unlicensed person’s use of the generic terms in fact misleads the public, respondent concludes the use of such titles *1010 constitutes misleading advertising that is not subject to First Amendment protection, and may be banned entirely by the state. (See [In re R.M.J. \(1982\) 455 U.S. 191, 203, 102 S.Ct. 929, 937, 71 L.Ed.2d 64.](#))

II

At the threshold, it is undisputed that the Legislature, in the public interest and in furtherance of the general welfare, is empowered to regulate the profession of public accountancy. (See, e.g., 1 Am.Jur.2d, Accountants (1962) [§ 2.](#)) California’s first entry into the regulation of the profession came in 1901, when the Legislature established a five-member State Board of Accountancy, and vested in it the power to examine applicants, and grant certificates of qualification to practice public accountancy. (Stats.1901, ch. 213, p. 645.) The regulatory scheme underwent a major revision in 1945, and the Board was expanded to seven members. (Stats.1945, ch. 1353, § 2, pp. 2529–2545.) Presently, the Board consists of 12 members, 8 of them state-licensed accountants, and 4 public members. ([§ 5000.](#)) It is empowered, among other things, to adopt regulations as may be reasonably necessary to administer the Accountancy Act ([§ 5010](#)), and to adopt rules of professional conduct governing its licensees. ([§ 5018.](#)) The Board is also authorized to seek injunctions against persons who have engaged or are about to engage in conduct or practices which violate the Accountancy Act. ([§ 5122.](#))

Under the present California licensing scheme, certified public accountants must satisfy rigorous educational, experience, and examination requirements prior to obtaining licensure. Applicants must take and pass a written examination in accounting theory and practice, auditing, commercial law as affecting accountancy, and other related subjects. ([§ 5082.](#)) They may be denied a license (or a licensee’s license may be suspended or revoked, or renewal of a license refused) if they have committed certain crimes, committed an act of fraud or dishonesty, or done other specified acts which would be cause for discipline by the Board. ([§§ 480, 5081, 5100.](#)) The Board’s licen-

sees must adhere to professional standards and continuing education requirements in order to maintain licensure; noncompliance with such professional standards or other licensure requirements can lead to suspension, revocation, or refusal to renew a license. (§ 5100.)

In contrast, the Board's enforcement activities against *unlicensed persons* engaged in the practice of public accountancy are limited to responding to those consumer complaints over which it has jurisdiction. It has jurisdiction over complaints involving unlicensed persons holding themselves out to the public as licensed accountants. It has no jurisdiction over complaints involving the quality of “accounting” work or services performed by nonlicensees. *1011 Section 5050 provides that “No person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy issued by the board [.]” According to the testimony of the executive officer of the Board, violators of section 5050 may be referred to the Division of Investigation, a state agency, for investigation and possible referral to the local district attorney's office for civil or criminal prosecution, but the Board itself is not empowered to “prosecute” unlicensed persons for the unlawful practice of public accountancy.

Accordingly, for purposes of our analysis herein, the term “unlicensed person” includes *any* person who does not hold a valid permit issued by the Board to practice public accountancy. It includes persons, like appellant Bonnie Moore, who, the Board concedes, can meet the educational eligibility requirements for the CPA examination but not the experience requirement for licensure. It would also include persons without any formal educational background or experience in the accounting profession whatsoever, who nonetheless attempt to seek compensation from members of the public for the rendering of “accounting”***365 **805 services. And it would include a former Board licensee who, due to a breach of professional ethics or the commission of a crime or act of fraud or dishonesty, has had his or her license revoked by the Board. All such persons, although unlicensed, may nonetheless seek to offer to the public for compensation a limited category of basic accounting services “*as a part of bookkeeping operations.*” (§ 5051, subd. (f), italics added; § 5052.) ^{FN3}

^{FN3}. Section 5052, commonly referred to as the “bookkeeping exception,” provides: “Nothing in this chapter shall apply to any person who as an employee, independent contractor, or otherwise, contracts with one or more persons, organizations, or entities, for the purpose of keeping books, making trial balances, statements, making audits or preparing reports, *all as a part of bookkeeping operations*, provided that such trial balances, statements, or reports are not issued over the name of such person as having been prepared or examined by a certified public accountant or public accountant.” (Italics added.)

With this background in mind, we turn to the principal statute at issue in this case, [section 5058](#). [Section 5058](#) provides, in pertinent part: “No person or partnership shall assume or use the title or designation ‘chartered accountant,’ ‘certified accountant,’ ‘enrolled accountant,’ ‘registered accountant’ or ‘licensed accountant,’ or any other title or designation likely to be confused with ‘certified public accountant’ or ‘public accountant,’ or any of the abbreviations ‘C.A.,’ ‘E.A.,’ ‘R.A.,’ or ‘L.A.,’ or similar abbreviations likely to be confused with ‘C.P.A.’ or ‘P.A.’ ...” ^{FN4}

^{FN4}. The above quoted portion of [section 5058](#) is identical to the text of its 1945 predecessor statute (former § 5065).

Appellants urge us to invoke the principle of statutory construction known by the Latin names *eiusdem generis* and *noscitur a sociis*; that when *1012 a statute contains a list or catalogue of items, a court should determine the meaning of each by reference to the others, giving preference to an interpretation that uniformly treats items similar in nature and scope. (See [People v. Rogers \(1971\) 5 Cal.3d 129, 142, 95 Cal.Rptr. 601, 486 P.2d 129](#) [conc. & dis. opn. of Mosk, J.]; [Armenta v. Churchill \(1954\) 42 Cal.2d 448, 454, 267 P.2d 303](#); [People v. Thomas \(1945\) 25 Cal.2d 880, 899–900, 156 P.2d 7](#); [Treasure I.C. Co. v. St. Bd. of Equal. \(1941\) 19 Cal.2d 181, 188, 120 P.2d 1](#); see generally, 2A Sutherland, Statutory Construction (4th ed. 1984) §§ 47.16–47.22, pp. 161–193.) In accordance with this principle of construction, a court will adopt a restrictive meaning of a listed item if acceptance of a more expansive meaning would make

other items in the list unnecessary or redundant, or would otherwise make the item markedly dissimilar to the other items in the list. (See *Harris v. Capital Growth Investors XIV* (1991) 52 Cal.3d 1142, 1159–1160, 278 Cal.Rptr. 614, 805 P.2d 873; *Peralta Community College Dist. v. Fair Employment & Housing Com.* (1990) 52 Cal.3d 40, 50, 276 Cal.Rptr. 114, 801 P.2d 357; *Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1390–1391, 241 Cal.Rptr. 67, 743 P.2d 1323.)

Appellants point to the fact that [section 5058](#) contains a list of titles that, the Legislature has determined, are designations “likely to be confused” with the two titles reserved to Board-licensed accountants: “certified public accountant” and “public accountant.” Each of the five expressly prohibited titles is comprised of the generic term “accountant” coupled with a modifier. Appellants urge that if the Legislature deemed the unadorned generic term “accountant” a title “likely to be confused” by the public with the two official designations denoting licensure, its unmodified use would have been expressly prohibited in [section 5058](#).

Respondent urges us to instead focus on [section 5058](#)'s catchall language prohibiting an unlicensed person's use of “any other title or designation likely to be confused with [the two official terms denoting licensure]....” The generic terms “accountant” and “accounting” services are two such confusing designations, argues respondent, and thus the statute should be construed to include the use of the unadorned generic terms within the statutory ban.

***366 **806 [1] In construing a statute a court's objective is to ascertain and effectuate the underlying legislative intent. (*People v. Woodhead* (1987) 43 Cal.3d 1002, 1007, 239 Cal.Rptr. 656, 741 P.2d 154.) This fundamental rule overrides the *ejusdem generis* doctrine, just as it would any maxim of jurisprudence, if application of the doctrine or maxim would frustrate the intent underlying the statute. (*Civ.Code*, § 3509; *1013 *Larcher v. Wanless* (1976) 18 Cal.3d 646, 658, 135 Cal.Rptr. 75, 557 P.2d 507; *Irwin v. City of Manhattan Beach* (1966) 65 Cal.2d 13, 21, 51 Cal.Rptr. 881, 415 P.2d 769; *Matter of La Societe Francaise etc.* (1899) 123 Cal. 525, 530–531, 56 P. 458; *Worthington v. Unemployment Ins. Appeals Bd.* (1976) 64 Cal.App.3d 384, 388, 134 Cal.Rptr. 507; *Coleman v. City of Oakland* (1930) 110 Cal.App.

[715, 295 P. 59.](#))

[2] We are not persuaded that the approach of either party is consistent with the legislative intent reflected in [section 5058](#). Application of the doctrine of *ejusdem generis* would be inappropriate in this context. The Legislature used all-encompassing language in banning not only the expressly identified designations but also “any other title or designation that is likely to be confused with ‘certified public accountant’ or ‘public accountant.’ ” (§ 5058, emphasis added.) Appellants' construction of [section 5058](#) would require us to assume that notwithstanding that broad prohibition of potentially confusing titles, use of the unmodified terms “accountant” and “accounting” was permissible regardless of whether that use was then or proved at some later date to be “likely confused with” licensed status, i.e., that use of those terms was to be permitted no matter how misleading they were. That construction cannot be reconciled with the clear purpose of the statute—ensuring that members of the public who seek the services of a licensed accountant are not misled regarding the status of the person who provides accounting services.

We agree with appellants, however, that [section 5058](#) does not itself expressly prohibit the use of the unmodified terms “accountant” and “accounting.” To read the section in that manner would render the identification of the specific terms which were banned surplusage, since the ban on “any ... title or designation likely to be confused with ‘certified public accountant’ or ‘public accountant’ ” encompasses those terms. The Legislature therefore had some other purpose for both identifying specific terms that are not to be used and banning other potentially misleading designations that it did not identify. Since that purpose could not have been to permit the use of misleading terms, it is reasonable to conclude that when the statute was amended in 1945 the Legislature was aware that the titles or designations it specifically identified were or had been in use and were misleading. Recognizing that other terms it had not then identified as misleading could be so, or might become misleading in the future, however, the Legislature made provision for that possibility by prohibiting the use of “any” misleading term.

Inasmuch as enforcement of the provisions of the Accountancy Act, including [section 5058](#), is entrusted to the Board, it seems apparent that the *1014 Legis-

lature delegated to the Board the authority to determine whether a title or designation not identified in the statute is likely to confuse or mislead the public. Since the Board was also authorized to seek an injunction against the use of such terms, its authority to “adopt, repeal, or amend such regulations as may be reasonably necessary and expedient for the ... administration of [the Accountancy Act]” (§ 5010) includes the power to identify by regulation those terms which it finds are “likely to be confused with ‘certified public accountant’ or ‘public accountant,’ ” the use of which may be enjoined under the broad prohibition of [section 5058](#). To conclude otherwise would contravene the intent and purpose behind the statute.

In 1948, the Board exercised its authority to identify other potentially misleading designations that were subject to the catchall prohibition of what was then section 5065 (the predecessor statute to [§ 5058](#), identical in all respects relevant here) by the adoption of Regulation 2, which provides:

***367 ***807 “[§ 2 Confusing Titles](#)

“The following are titles or designations likely to be confused with the titles Certified Public Accountant and Public Accountant within the meaning of [Section 5058 of the Business and Professions Code](#):

“(a) ‘Accountant,’ ‘auditor,’ ‘accounting,’ or ‘auditing,’ when used either singly or collectively or in conjunction with other titles.

“(b) Any other titles or designations which imply that the individual is engaged in the practice of public accountancy.”

In considering whether Regulation 2 is a valid exercise of the Board's power to adopt regulations necessary for the administration of the Accountancy Act, and in particular [section 5058](#),^{FN5} “our task is to inquire into the legality of the ... regulation, not its wisdom. (*Morris v. Williams* (1967) 67 Cal.2d 733, 737 [63 Cal.Rptr. 689, 433 P.2d 697]) ... [I]n reviewing *1015 the legality of a regulation adopted pursuant to a delegation of legislative power, the judicial function is limited to determining whether the regulation (1) is ‘within the scope of the authority conferred’ (Gov.Code, [former] § 11373 [see current [Gov.Code § 11342.1](#)]) and (2) is ‘reasonably necessary to effectuate the purpose of the statute’

([Gov.Code, \[former\] § 11374](#) [see current [Gov.Code § 11342.2](#)]). [Fn. omitted.] Moreover, ‘these issues do not present a matter for the independent judgment of an appellate tribunal; rather, both come to this court freighted with the strong presumption of regularity accorded administrative rules and tions.’ (*Ralphs Grocery Co. v. Reimel* (1968) 69 Cal.2d 172, 175 [70 Cal.Rptr. 407, 444 P.2d 79].) And in considering whether the regulation is ‘reasonably necessary’ under the foregoing standards, the court will defer to the agency's expertise and will not ‘superimpose its own policy judgment upon the agency in the absence of an arbitrary and capricious decision.’ (*Pitts v. Perluss* (1962) 58 Cal.2d 824, 832 [27 Cal.Rptr. 19, 377 P.2d 83].)” (*Agricultural Labor Relations Bd. v. Superior Court* (1976) 16 Cal.3d 392, 411, 128 Cal.Rptr. 183, 546 P.2d 687.)

[FN5](#). The Board's Regulation 2 was placed in issue in this case through the parties' pleadings in the trial court. Appellants alleged in their complaint for declaratory relief that, “The Board has taken the position that any use of the terms ‘accountant’ or ‘accounting’ by a non-licensed accountant is a violation of [Business and Professions Code Section 5058](#)...” Respondent Board countered the allegation in its answer as follows: “[D]efendant admits that the Board has taken the position, based on statutory and case law, that unlicensed persons may not legally use the terms ‘accounting’ or ‘accountant’ in describing themselves or their services... Further answering [the allegation,] defendant affirmatively alleges that the Board has duly adopted and filed a regulation (Title 16, California [Code of Regulations,] section 2(a)) stating that the terms ‘accountant,’ ‘auditor,’ ‘accounting,’ or ‘auditing’ are titles or designations likely to be confused with the titles Certified Public Accountant and Public Accountant within the meaning of [Business and Professions Code section 5058](#).”

The promulgation of Regulation 2, which implements the catchall language of [section 5058](#), appears well within the authority conferred on the Board by the Legislature to “adopt ... such regulations as may be reasonably necessary and expedient for the ... administration of [the Accountancy Act].” ([§ 5010](#).) Furthermore, Regulation 2's declaration—that the

generic terms “accountant” and “accounting” are themselves titles or designations likely to be confused with “certified public accountant” and “public accountant”—appears reasonably necessary to effectuate the purpose and intent behind [section 5058](#): the protection of the public from the unlicensed practice of public accountancy through the elimination of any likelihood of confusion from the use of potentially misleading or confusing titles. The results of the California Poll survey evidence introduced in this case tend to bear this out.

The following two questions were asked of those responding to the poll: (1) “Do you think that persons who refer to themselves as accountants in advertising to the public are required to be licensed by the State of California?,” and (2) “Do you think persons who advertise accounting services to the public are required to be licensed by the State of California to offer such services?”

The results of the poll with respect to the first question indicated that 55 percent of ***368 **808 those surveyed believed a person who advertised as an “accountant” had to be licensed, 26 percent did not believe a license was required, and 19 percent did not know. The results of the second question indicated *1016 that 53 percent believed that a person who advertised “accounting services” to the public was required to be licensed by the state, 29 percent did not believe a license was required, and 18 percent did not know.

The survey responses, at the very least, support the inference that members of the public who believe that licensing is required would assume that a person who uses the title “accountant” and the designation “accounting” to describe the services offered is licensed by the state.^{FN6}

[FN6](#). We do not, in this regard, mean to suggest that the response to a public opinion poll is itself an appropriate basis for “deciding an issue of statutory construction.” (See dis. opn. of George, J., *post*, at pp. 379–380, and fn. 7, of [9 Cal.Rptr.2d at pp. 819–820](#), and fn. 7, of [831 P.2d](#); dis. opn. of Mosk, J., *post*, at p. 375 of [9 Cal.Rptr.2d](#), at p. 815 of [831 P.2d](#).) Obviously, the Legislature did not have the results of this opinion poll before it upon enacting [section 5058](#). What

must be determined is whether the Board could reasonably conclude that use of the unmodified terms “accountant and accounting services,” as a factual matter, is misleading or potentially misleading to the public’s detriment, and if so, whether the Legislature nonetheless intended to exclude those terms from the scope of the prohibitory catchall language when it enumerated a list of specifically prohibited titles which utilize the term “accountant” in conjunction with modifiers.

The survey evidence introduced below merely informs us as to the first, factual inquiry. By analogy, in change of venue cases, survey evidence is often admitted as probative of the determination whether prevailing community attitudes warrant a change of venue. (See, e.g., [Frazier v. Superior Court \(1971\) 5 Cal.3d 287, 293–294, fn. 6, 95 Cal.Rptr. 798, 486 P.2d 694](#); see also [James Burrough Ltd. v. Sign of Beefeater, Inc. \(7th Cir.1976\) 540 F.2d 266, 277–278](#) [results of plaintiff-distiller’s face-to-face survey of 500 households admissible in trademark infringement action to establish “likelihood of confusion, deception or mistake” among consuming public regarding defendant’s use of plaintiff’s registered “Beefeater” mark].) Indeed, at trial respondent introduced evidence of a similar poll taken in Texas in 1985. In the Texas poll, 62 percent of those responding to the survey answered “yes” when asked whether people who advertise as “accountants” are required to be licensed by the State of Texas; 19 percent said “no”; and 19 percent did not know. Michael Hagen, a specialist in the analysis of public opinion research data, testified that in his opinion the data from the Texas poll could inform the conclusions to be drawn from the California poll because of the similarity of responses to comparable questions and the similarity of certain demographic factors in each of the surveys. Based on his review and analysis of the data from the California and Texas polls, Hagen concluded that a majority of Californians believe persons who advertise as “accountants” are required to hold at

least a college degree, take a qualifying examination, and be licensed by the state.

We also note that, at oral argument, regarding the circumstance of licensed and unlicensed persons alike using the title “accountant,” counsel for appellants readily acknowledged, “There is a possibility that the public might be misled.”

In a somewhat analogous context—attorney advertising—it has been observed that special considerations apply to advertising by professionals: “[I]t has been noted that special considerations apply to advertising by lawyers because they ‘do not dispense standardized products; they render professional services of almost infinite variety and nature, with the consequent enhanced possibility for confusion and deception if they were to undertake certain kinds of advertising.’ (*Va. Pharmacy Board v. Va. Consumer Council* (1976) 425 U.S. 748, 773, fn. 25 [96 S.Ct. 1817, 1831, fn. 25, 48 L.Ed.2d 346].) This *1017 court analyzed the above quoted language in *Jacoby v. State Bar* (1977) 19 Cal.3d 359 [138 Cal.Rptr. 77, 562 P.2d 1326]. Writing for the court, Justice Mosk explained that the footnote ‘stands for the proposition that while the First Amendment values in commercial advertising remain constant regardless of the profession involved, the governmental regulatory interest may vary from profession to profession.’ (*Id.*, at p. 377 [138 Cal.Rptr. 77, 562 P.2d 1326].)” (*Leoni v. State Bar* (1985) 39 Cal.3d 609, 625, 217 Cal.Rptr. 423, 704 P.2d 183.)

As the court in *Texas State Board of Public Accountancy v. Fulcher* (Tex.Civ.App.1974) 515 S.W.2d 950 observed nearly two decades ago: “[T]he need to protect the public against fraud, deception [and] the consequences of ignorance or incompetence***369 **809 in the practice of most professions makes regulation necessary. The state may exact the requisite degree of skill and learning in professions which affect the public, or at least a substantial portion of the public, such as the practice of law, medicine, engineering, dentistry, and many others. The [accountancy] Act before us recognizes public accountancy as one of such professions. Public accountancy now embraces many intricate and technical matters dealing with many kinds of tax laws, unfair trade practices, rate regulations, stock exchange regulations, reports required by many governmental agencies,

financial statements and the like.” (*Id.*, at pp. 954–955.)

These observations apply with even more force to the practice of the profession of public accountancy in the 1990’s. We conclude that the Board’s determination, embodied in Regulation 2, that the terms “accountant” and “accounting” are titles or designations likely to be confused with the official titles denoting licensure, is consistent with the intent and purpose behind [section 5058](#) and the provisions of the related statutes, and is “reasonably necessary” to effectuate the purpose and intent underlying the legislation. (*Pitts v. Perluss* (1962) 58 Cal.2d 824, 832, 27 Cal.Rptr. 19, 377 P.2d 83.)

[3] As further evidence that Regulation 2 is consistent with the legislative intent behind [section 5058](#), it is significant that in the nearly half a century since the Board adopted the regulation, shortly after enactment of the statutory provision, the Legislature has not sought to amend [section 5058](#) to defeat the Board’s interpretation of the scope of its authority under [section 5058](#). Although the Legislature twice amended [section 5058](#), first in 1959 (Stats.1959, ch. 310, § 42, p. 2228) and again in 1979 (Stats.1979, ch. 25, § 1, p. 70), the substantive provisions with which we are here concerned have remained *unchanged* in the 44 years since the Board adopted Regulation 2. In this regard, a presumption that the Legislature is aware of an administrative construction of a statute should be applied if the agency’s *1018 interpretation of the statutory provisions is of such longstanding duration that the Legislature may be presumed to know of it. (*Robinson v. Fair Employment & Housing Com.* (1992) 2 Cal.4th 226, 235, fn. 7, 5 Cal.Rptr.2d 782, 825 P.2d 767; *El Dorado Oil Works v. McColgan* (1950) 34 Cal.2d 731, 739, 215 P.2d 4.)

Such a presumption should also be applied on a showing that the construction or practice of the agency has been made known to the Legislature. (*Robinson v. Fair Employment & Housing Com.*, *supra*, 2 Cal.4th at p. 235, fn. 7, 5 Cal.Rptr.2d 782, 825 P.2d 767; *Pacific Greyhound Lines v. Johnson* (1942) 54 Cal.App.2d 297, 303, 129 P.2d 32.) To this end we note that in 1965, an assemblyman from the Third Assembly District requested an opinion from the California Attorney General as to whether a member of the public, who is not licensed as a certified public accountant or public accountant to practice accounting

in California, is in violation of the Accountancy Act when he or she uses the word “accounting” on a building directory or on an office door. The Attorney General’s conclusion was that: “The use of the word ‘accounting’ on a building directory and an office door by an unlicensed individual is a representation to the public that such individual is skilled in accounting and that the user is qualified and ready to perform professional services. Such a representation by an unlicensed individual is in violation of the Accountancy Act....” (46 Ops.Cal.Atty.Gen. 140, 141 (1965).)

Finally, the Legislature may also be presumed to have been aware of the decision filed in 1977 in [Hill, supra, 66 Cal.App.3d 320, 136 Cal.Rptr. 30](#), the only published California case to have addressed the right of an unlicensed person to use the terms in issue here. The [Hill](#) court concluded that use of a business name “A–Accounting—Jack M. Hill & Co.” violated section 5050, and affirmed an order granting a preliminary injunction against use of the words “accountant” and “accounting” by the defendant in conjunction with his business title.

***370 **810 Section 5050 prohibits the practice of public accountancy by an unlicensed person. The [Hill](#) court reasoned that by use of the name in issue the defendant was holding himself out to the public as being engaged in the provision of professional accounting services. That conduct constituted the practice of public accountancy as defined in section 5051. “[T]he use of the title ‘A–Accounting’ like the use of the word ‘accounting’ on the building directory and office door can only be interpreted to mean that he is representing to the public that he is skilled in the practice of accounting and is qualified and ready to provide accounting services to the public, a *1019 representation that an unlicensed person is prohibited from doing.” ([Hill, supra, 66 Cal.App.3d at 329, 136 Cal.Rptr. 30.](#))

The [Hill](#) court recognized that an unlicensed person is permitted by law to offer certain basic accounting services to the public for compensation *when offered in connection with bookkeeping operations* (see §§ 5051, subd. (f), 5052), but concluded nonetheless that because the public may be misled concerning whether such a person *is licensed* when he or she uses the title “accountant” or the term “accounting services,” use of those terms could be enjoined under the Accountancy Act. ([66 Cal.App.3d at pp. 328–330,](#)

[136 Cal.Rptr. 30.](#)) ^{FN7} While the [Hill](#) court relied on sections 5050 and 5051, rather than [section 5058](#) and Regulation 2 in upholding the injunction against use of the title “accountant” and term “accounting” by an unlicensed person in describing services offered to the public, the Legislature is presumed to be aware of that decision and to have acquiesced in the result, one identical to the result under Regulation 2 and the trial court ruling in this case.

^{FN7}. The Court of Appeal below also cited the case of [Chen Chi Wang v. United States \(9th Cir.1985\) 757 F.2d 1000](#), as further authority consistent with the analysis and conclusions reached in [Hill, Chen Chi Wang](#) involved a taxpayer’s attempt to quash an Internal Revenue Service summons issued to the financial services organization which had prepared the taxpayer’s tax returns. At issue was a treasury regulation defining “accountant” for purposes of a statutory notice requirement for subpoenas issued to third party record keepers. ([26 U.S.C. § 7609.](#)) In determining that an accountant who is “registered, licensed, or certified under State law” falls under the definition of third party record keeper within the meaning of the treasury regulation, the [Chen Chi Wang](#) court relied on [Hill, supra, 66 Cal.App.3d 320, 136 Cal.Rptr. 30](#), for the proposition that, in California, only licensees under state law may represent themselves to the public as accountants. ([757 F.2d at p. 1003.](#)) The court went on to observe that, “The fact that a person performs some of the functions of an accountant (e.g., tax preparation) does not make that person an accountant if he or she is unlicensed, just as the fact that a person performs some of the functions of an attorney (a bank officer drafts a will; an insurance officer drafts an insurance contract) does not make that person an attorney.” ([757 F.2d at p. 1003.](#))

In sum, we conclude that by inclusion of the catchall language in [section 5058](#), the Legislature plainly intended that the enumerated list of five prohibited titles *not* be deemed an exclusive one. The Board’s determination, embodied in Regulation 2, that the generic terms “accountant” and “accounting” fall within the legislatively defined class of titles or des-

ignations “likely to confuse the public,” appears reasonably necessary to effectuate the purpose and intent underlying [section 5058](#). Pursuant to [section 5010](#), Regulation 2 is well within the scope of the rulemaking authority conferred upon the Board to “adopt ... such regulations as may be reasonably necessary ... for the ... administration of [the Accountancy Act].” Moreover, for the reasons discussed, the Legislature may also be presumed to have acquiesced in the Board's long standing interpretation of [section 5058](#). The regulatory scheme thus validly prohibits unlicensed persons from using the *1020 generic terms “accountant” or “accounting” standing alone, or in combination with other words that comprise a title or designation “likely to be confused” with the official titles reserved to the Board's licensees.^{FN8}

FN8. Justice George draws a contrary conclusion respecting the legislative intent behind [section 5058](#) and the related statutory provisions. His analysis appears grounded on a restrictive reading of those provisions of the act which define the practice of “public accountancy” and thereby circumscribe the Board's jurisdiction. (§§ 5051, 5052.) He interprets the statutory scheme as creating a “special class of accountants comprised of certified public accountants and public accountants,” who are in turn a subgroup of the broader class of accountants. (Dis. opn. of George, J., *post*, at p. 376 of 9 Cal.Rptr.2d, at p. 816 of 831 P.2d.) According to Justice George's analysis, the unlicensed members of this class of accountants are “authorized ... to perform a wide range of accounting services....” (*Ibid.*) In short, under Justice George's interpretation of the statutory scheme, the majority of these unlicensed accountants fall *outside* the regulatory jurisdiction of the Board. With all due respect, this interpretation appears to us to belie the legislative intent underlying the regulatory scheme.

Justice George further reasons that because section 5051, the key provision defining the practice of public accountancy, permits an unlicensed person to perform many of the tasks that are also performed by licensed accountants “[as long as] he or she does not hold himself or herself out, solicit,

or advertise for clients using the certified public accountant or public accountant designation,” that person may use the title “accountant.” (Dis. opn. of George, J., *post*, at pp. 377, 378 of 9 Cal.Rptr.2d, at pp. 817, 818 of 831 P.2d.) Such an interpretation, however, essentially begs the question posed in this case: whether use of the terms “accountant” or “accounting” services, by virtue of their potential likelihood to be confused with the official titles denoting licensure, is tantamount to holding oneself out to the public “as qualified and ready to render professional service ... as a public accountant for compensation.” (§ 5051, subd. (a).)

*****371 **811 III**

The Court of Appeal in this case reached substantially the same conclusion in construing the scope of [section 5058](#),^{FN9} and went on to hold: “The rulings by the United States Supreme Court in [Virginia Pharmacy \[Va. Pharmacy Bd. v. Va. Consumer Council \(1975\) 425 U.S. 748, 96 S.Ct. 1817, 48 L.Ed.2d 346\]](#) and [Bates \[v. State Bar of Arizona \(1977\) 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810\]](#) make it clear that to satisfy the First Amendment, we must permit the use of [the generic terms ‘accountant’ and ‘accounting’] if they are qualified by a warning or disclaimer that avoids their misleading impact.”

FN9. The Court of Appeal did not rely on Regulation 2 or consider its validity, holding only that because the terms “Accountant” and “Accounting” are misleading to the public they may not be used by unlicensed persons.

Respondent urges that [section 5058](#), as interpreted by the Board in Regulation 2, prohibits *any and all use* of the generic terms “accountant” and “accounting” by unlicensed persons. As stated in respondent's brief on the merits, “[The Court of Appeal] decision did not go far enough by failing to unqualifiedly affirm the state's prohibition of the misleading terms in question rather than permitting unlicensed persons to use disclaimer language qualifying such terms.” We disagree.

***1021** The First Amendment cases do not question the authority of the state to regulate misleading

advertising. In *In re R.M.J.*, *supra*, 455 U.S. 191, 102 S.Ct. 929, 71 L.Ed.2d 64, a case dealing with lawyers' First Amendment commercial speech rights in the advertising of their services to the public, the United States Supreme Court explained:

“Commercial speech doctrine, in the context of advertising for professional services, may be summarized generally as follows: Truthful advertising related to lawful activities is entitled to the protections of the First Amendment. But when the particular content or method of the advertising suggests that it is inherently misleading or when experience has proved that in fact such advertising is subject to abuse, the States may impose appropriate restrictions. Misleading advertising may be prohibited entirely. But the States may not place an absolute prohibition on certain types of potentially misleading information, *e.g.*, a listing of areas of practice, if the information may also be presented in a way that is not deceptive. Thus, the Court in *Bates v. State Bar of Arizona*, *supra*, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810 suggested that the remedy in the first instance is not necessarily a prohibition but preferably a requirement of disclaimers or explanation. 433 U.S., at 375 [97 S.Ct. at 2704]. Although the potential for deception and confusion is particularly strong in the context of advertising professional services, restrictions upon such advertising may be no broader than reasonably necessary to prevent the deception.” (*In re R.M.J.*, *supra*, 455 U.S. at p. 203, 102 S.Ct. at p. 937.)

The high court's most recent commercial speech decisions have consistently applied ***372 **812 the holding of *In re R.M.J.*, *supra*. Thus, in *Peel v. Attorney Disciplinary Comm'n. of Ill.* (1990) 496 U.S. 91, 110 S.Ct. 2281, 110 L.Ed.2d 83 it was held that an attorney holding a “Certificate in Civil Trial Advocacy” from the “National Board of Trial Advocacy” could not be enjoined by the State of Illinois, which had no similar officially sanctioned certification program of its own, from advertising on his letterhead the truthful fact of his “certification” by that organization. Following its decisions in *Bates v. State Bar of Arizona*, *supra*, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810, and *In re R.M.J.*, *supra*, 455 U.S. 191, 102 S.Ct. 929, 71 L.Ed.2d 64, the court concluded that Attorney Peel's letterhead was entitled to First Amendment protection since the facts stated thereon were “true and verifiable.” (110 S.Ct. at p. 2288.)

The high court in *Peel* explained further: “Even if we assume that petitioner's letterhead may be potentially misleading to some consumers, that potential does not satisfy the State's heavy burden of justifying a categorical prohibition against the dissemination of accurate factual information to the public. *In re R.M.J.*, *supra*, 455 U.S., at 203 [102 S.Ct. at 937].” (*Peel v. Attorney Disciplinary Comm'n. of Ill.*, *supra*, 110 S.Ct. at p. 2292.) The court went on to conclude:

*1022 “To the extent that potentially misleading statements of private certification or specialization could confuse consumers, a State might consider screening certifying organizations or requiring a disclaimer about the certifying organization or the standards of a specialty. *In re R.M.J.*, [*supra*,] 455 U.S., at 201–203 [102 S.Ct. at 936–937]. A State may not, however, completely ban statements that are not actually or inherently misleading....” (*Peel v. Attorney Disciplinary Comm'n. of Ill.*, *supra*, 110 S.Ct. at pp. 2292–2293, fn. omitted; accord *Bates v. State Bar of Arizona*, *supra*, 433 U.S. at p. 384, 97 S.Ct. at p. 2709; *Va. Pharmacy Board v. Va. Consumer Council*, *supra*, 425 U.S. 748, 771–772, 96 S.Ct. 1817, 1830–1831, 48 L.Ed.2d 346.)^{FN10}

FN10. Appellants cite the Eleventh Circuit's recent opinion in *Abramson v. Gonzalez* (11th Cir.1992) 949 F.2d 1567 (*Gonzalez*), as supportive of their claim that they must be permitted to use the generic terms “accountant” or “accounting services” without any restriction. *Gonzalez* addressed the question of whether the State of Florida could ban unlicensed practitioners of psychology from holding themselves out to the public as “psychologists,” consistent with First Amendment commercial speech doctrine. Relying principally on the high court's opinion in *Peel v. Attorney Disciplinary Comm'n. of Ill.*, *supra*, 110 S.Ct. 2281, the *Gonzalez* court concluded Florida's statute placed an unconstitutional restraint on the commercial speech rights of that state's unlicensed psychologists.

Critically, however, under the present state of the law in Florida, *anyone* can practice psychology without a license. That law is slated to change on October 1, 1995, after

which date the profession of psychology in Florida will be *entirely circumscribed* by the Florida Department of Regulation. This anomaly was not lost on the [Gonzalez](#) court, which observed: “Florida, at least until October 1, 1995, does not require a license for the practice of psychology. The license granted to those who meet certain educational and professional requirements then, is not so much a license to practice as it is a license to speak and advertise.” (949 F.2d at p. 1573.) The court concluded: “We hold that as long as Florida has not restricted the practice of psychology, the state may not prevent the plaintiffs from calling themselves psychologists in their commercial speech. If they are allowed to practice psychology, as they apparently are until October 1, 1995 when the law changes, they must be allowed to say truthful things about their work. As long as the plaintiffs do not hold themselves out as *licensed* professionals, they are not saying anything untruthful, for they are in fact psychologists and are permitted to practice that profession under current state law.” (*Id.*, at p. 1576, italics in original.)

The relevant commercial speech principles invoked in [Gonzalez](#), *supra*, 949 F.2d 1567, apply in equal fashion to this case. The holding of [Gonzalez](#) is plainly distinguishable, however, because here the statutory scheme under scrutiny has, as its very purpose, the regulation of the profession of public accountancy; its provisions circumscribe those functions which fall within the definition of “public accountancy” and are thereby expressly reserved to the Board’s licensees.

We believe the Maryland Court of Appeals in [Comprehensive, etc. v. Maryland State Bd.](#) (1979) 284 Md. 474, 397 A.2d 1019, correctly applied the commercial speech principles first announced by the high court in [Va. Pharmacy Board v. Va. Consumer Council](#), *supra*, 425 U.S. 748, 96 S.Ct. 1817, 48 L.Ed.2d 346 and ***373**813 [Bates v. State Bar of Arizona](#), *supra*, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810, to the arena of state regulation of the profession of accountancy. In that case, the Compre-

hensive Accounting Service Company, which did not hold an enrollment *1023 certificate to practice public accounting in Maryland, challenged a Maryland statute that provided no person, partnership or corporation not holding an enrollment certificate “ ‘shall practice or hold himself or itself out to the public as “accountant” or “auditor” in connection with his own or any other name, nor describe or designate the services offered or performed by him or it as “accounting” or “auditing,” with or without any other designation or description....’ ” (397 A.2d at p. 1020.) Comprehensive Accounting Service Company argued that Maryland’s express statutory ban unconstitutionally abridged its right of free speech because the statute prevented uncertified persons, who were otherwise permitted to perform ordinary accounting work under that state’s so-called “bookkeeping exception,” from advertising the true nature of their services.

Invoking the rationale of the United States Supreme Court’s decisions in [Va. Pharmacy Board v. Va. Consumer Council](#), *supra*, 425 U.S. 748, 96 S.Ct. 1817, 48 L.Ed.2d 346, and [Bates v. State Bar of Arizona](#), *supra*, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810, the [Comprehensive](#) court concluded that the State of Maryland could not, consistent with the First Amendment, completely suppress the dissemination of truthful information about an entirely lawful business activity. ([Comprehensive, etc. v. Maryland St. Bd.](#), *supra*, 397 A.2d at pp. 1023–1027.) But the [Comprehensive](#) court also acknowledged the high court’s recognition in [Va. Pharmacy Board v. Va. Consumer Council](#), *supra*, and [Bates v. State Bar of Arizona](#), *supra*, that, “in some cases it may be ‘appropriate to require that a commercial message appear in such a form, or include such additional information, warning, and disclaimers as are necessary to prevent its being deceptive.’ ” (397 A.2d, at p. 1025, quoting [Va. Pharmacy Board v. Va. Consumer Council](#), *supra*, 425 U.S. at pp. 771–772, fn. 24, 96 S.Ct. at pp. 1830–1831, fn. 24.)

[4] As the rulings by the United States Supreme Court in [Va. Pharmacy Board v. Va. Consumer Council](#), [Bates v. State Bar of Arizona](#), [In re R.M.J.](#), and [Peel v. Attorney Disciplinary Comm’n. of Ill.](#), all *supra*, make clear, in order to satisfy the First Amendment, appellants must be permitted to use the terms “accountant,” “accounting,” or “accounting services,” if the use of those terms is further qualified by an explanation, disclaimer or warning stating that

the advertiser is not licensed by the state, or that the services being offered do not require a state license, thereby eliminating any potential or likelihood of confusion regarding those terms.

In sum, [section 5058](#) may constitutionally ban only those uses of the generic terms “accountant” and “accounting” that stand to potentially mislead the public regarding the user’s licensee or nonlicensee status. The evidence in this case supports the longstanding interpretation of [section 5058](#) as including within its ban the *unqualified* use of those terms as potentially ***1024** misleading, to the public’s detriment. In contrast, where the generic terms are used in conjunction with a modifier or modifiers that serve to dispel any possibility of confusion—for example, an express disclaimer stating that the “accounting” services being offered do not require a state license—their use in such a context may not be constitutionally enjoined.

IV

The trial court’s judgment and injunction provided, in pertinent part: “Plaintiffs and Cross–Defendants ... who are not licensed as certified public accountants or public accountants are hereby permanently enjoined directly or indirectly from engaging in any of the following acts or practices: ... [¶] b. Engaging in the practice of public accountancy without prior compliance with the requirements of [sections 5000 et seq. of the Business and Professions Code](#) relating to the licensing of accountants; provided, however, nothing herein is intended to enjoin unlicensed persons from preparing compilation reports, *****374** ****814** review reports, or audit reports, *although such activities are declared to be unlawful.*” (Italics added.)

[5] Appellants contended on appeal that the trial court exceeded its authority in holding the preparation of compilation reports, review reports and audit reports by unlicensed persons to be illegal. The Court of Appeal agreed, explaining that the Board had never alleged *in its cross-complaint* that appellants were engaged in such illegal activities, and presented no evidence at trial to establish that such activities are illegal; hence, the trial court erred in rendering judgment outside the issues raised by the pleadings or at trial. (7 Witkin, Cal. Procedure (3d ed. 1985) Judgment, § 30, p. 472.) In its answer to the petition for review, respondent Board has asked this court to fur-

ther consider whether the Court of Appeal erred in this regard.

We agree with the conclusions of the Court of Appeal respecting the procedural bar. In any event, the trial court’s injunction, as worded, is erroneous; unlicensed persons are permitted to make “audits” and prepare “reports,” when such is performed “as a part of bookkeeping operations.” (§ 5052; *ante*, at p. 365, fn. 3 of 9 Cal.Rptr.2d at p. 805, fn. 3, of 831 P.2d.)

V

The judgment of the Court of Appeal is affirmed.

[LUCAS](#), C.J., and [PANELLI](#) and ARABIAN, JJ., concur.

***1025** [MOSK](#), Justice, dissenting.

I dissent. The majority opinion not only violates the intent of the Accountancy Act ([Bus. & Prof.Code, § 5000 et seq.](#)),^{FN1} as Justice George’s dissent points out, but it also violates the First Amendment of the United States Constitution and article I, section 2(a) of the California Constitution.

^{FN1}. All further statutory references are to the Business and Professions Code.

On the first of these issues, the State Board of Accountancy (Board) in issuing regulations to effectuate the Accountancy Act ([Calif. Code of Regs., tit. 16, § 2](#), hereinafter Regulation 2) prohibits what the statute permits. That is, section 5052 allows nonlicensed persons to offer basic accounting services “in connection with bookkeeping operations.” Thus, such persons are authorized by law to perform accounting; it is axiomatic that those who perform accounting are accountants. Even [People v. Hill \(1977\) 66 Cal.App.3d 320, 325, 136 Cal.Rptr. 30](#), a case on which the majority rely, acknowledges that unlicensed persons perform accounting services.

In the face of specific statutory authorization, the Board has in Regulation 2 prohibited unlicensed persons to hold themselves out as accountants or as performing accounting services. The majority uphold this anomalous result by which a truthful representation specifically sanctioned by statute is labelled as misleading to the public.

Indeed, the holding of the majority would render improper a representation by an unlicensed person couched in the specific words of section 5052. The majority hold that an unlicensed person must include an “express disclaimer stating that the ‘accounting’ services being offered do not require a state license.” Thus, such a person who advertises that he or she offers accounting services “in connection with bookkeeping operations,” the very language used in section 5052, would run afoul of Regulation 2, according to the majority. An incomprehensible result indeed.

Nor do I agree with the majority's analysis of the purpose of [section 5058](#). They attempt to circumvent application of the doctrine of *ejusdem generis* by holding that the purpose of the catchall phrase (“any other title or designation that is likely to be confused with ‘certified public accountant’ or ‘public accountant’”) in that provision was to prevent the use of “other terms” the Legislature “had not then identified as misleading ... or might become misleading in the future.” The Legislature could not have had “accountant” in mind as a misleading term not then identified, since that designation was in common use then, ***375 **815 as it is now. If the Legislature had wanted to prohibit use of the term by unlicensed persons, it would have done so.

The majority fail to mention that every jurisdiction but one that has considered the issue before us has held, on either statutory or constitutional *1026 grounds, that use of the term “accountant” or “accounting” by unlicensed persons is proper. ([People v. Freedman](#) (1960) 144 Colo. 438, 356 P.2d 899; [Florida Accountants Association v. Dandelake](#) (Fla.1957) 98 So.2d 323; [Comprehensive, etc. v. Maryland State Bd. of Accountancy](#) (1979) 284 Md. 474, 397 A.2d 1019; [State v. Riedell](#) (1924) 109 Okl. 35, 233 P. 684; [Burton v. Accountant's Society of Virginia, Inc.](#) (1973) 213 Va. 642, 194 S.E.2d 684; [Tom Welch Accounting Service v. Walby](#) (1965) 29 Wis.2d 123, 138 N.W.2d 139.) Only a single intermediate appellate court in Texas has held to the contrary. ([Fulcher v. Texas State Bd. of Public Acc.](#) (Tex.Civ.App.1978) 571 S.W.2d 366; [Texas State Board of Public Accountancy v. Fulcher](#) (Tex.Civ.App.1974) 515 S.W.2d 950.)

I have serious doubts also whether the majority's conclusion complies with the First Amendment of the

federal Constitution or with the California Constitution. While [Peel v. Attorney Disciplinary Comm'n of Ill.](#) (1990) 496 U.S. 91, 109–110, 110 S.Ct. 2281, 2292–2293, 110 L.Ed.2d 83, does hold that some form of disclaimer may be required if commercial speech would be misleading without it, it also warns that the state has a “heavy burden of justifying a categorical prohibition against the dissemination of accurate factual information to the public.” (*Ibid.*, see so [Anderson v. Department of Real Estate](#) (1979) 93 Cal.App.3d 696, 155 Cal.Rptr. 307.) As we point out above, the unadorned designations “accountant” and “accounting” are accurate as applied to unlicensed persons. The state's interest in preventing misrepresentation can be met by prohibiting persons who are not certified public accountants or public accountants to advertise themselves as such, or to use terms that indicate they have been licensed by the state, rather than insisting upon an express disclaimer, as the majority gratuitously require.

Furthermore, Regulation 2 is itself of questionable validity. In 1948, at the time it was adopted, the Board consisted entirely of licensed accountants. (Stats.1945, ch. 1353, § 2, p. 2530.) The membership of the Board was broadened in 1961 to include public members (Stats.1961, ch. 1821, § 39, p. 3877); presently, it consists of 12 persons, 8 of them accounting professionals licensed by the state, and 4 public members. ([Bus. & Prof.Code, §§ 5000, 5001.](#)) None of the members of the Board, according to *amicus curiae*, the Center for Public Interest Law, is an unlicensed person performing accounting work. *Amicus curiae* states that a large percentage of the accounting work available is of the type that is performed by both licensed and unlicensed accountants. The Board majority has an obvious pecuniary interest in preventing those without a license from advertising to the public that they are performing accounting services. Regulation 2 furthers that interest. The law has long looked with disfavor on rules adopted by a *1027 regulatory body the majority of which consists of members of a profession with a pecuniary stake in restricting the rights of competitors. ([State Board v. Thrift–D–Lux Cleaners](#) (1953) 40 Cal.2d 436, 449, 254 P.2d 29; [Allen v. California Board of Barber Examiners](#) (1972) 25 Cal.App.3d 1014, 1017, 102 Cal.Rptr. 368; [Bayside Timber Co. v. Board of Supervisors](#) (1971) 20 Cal.App.3d 1, 12–14, 97 Cal.Rptr. 431.)

One additional point needs to be made. Court

opinions should not rely on public opinion polls to support their conclusions. Judicial integrity suffers when judges hold a finger up to see which way the wind is blowing. Indeed, I doubt that poll results—which are notoriously inaccurate—should be admitted in evidence. (There may be one exception, however: in change of venue motions in criminal cases, surveys are often used merely to reveal if the crime, the victim and the alleged perpetrator are generally known in the community in which the case is to be tried.)

****376 **816** I would reverse the judgment of the Court of appeal.

GEORGE, Justice, dissenting.
I respectfully dissent.

The majority affirms a judgment granting a permanent injunction enjoining appellants from referring to themselves as “accountants” or describing the services they offer as “accounting.” Appellants include Bonnie Moore, who possesses a college degree with a major in accounting, and officers and members of the California Association of Independent Accountants, a nonprofit membership organization affiliated with the National Society of Public Accountants. I would reverse the judgment.

As explained more fully below, the Legislature has not required that all accountants be licensed. Instead, it has defined a special class of accountants comprised of certified public accountants and public accountants who exclusively are authorized to perform certain types of accountancy and thus must be licensed. Other accountants are prohibited by [Business and Professions Code section 5058](#) ^{FN1} and related statutes from using these titles, or similar titles that might be confused with these titles.

^{FN1}. All further statutory references are to the Business and Professions Code unless otherwise indicated.

The majority acknowledges that unlicensed accountants may perform basic accounting services, but holds that such persons may not call themselves “accountants” or describe the services they offer as “accounting.” This holding is not based upon the language of [section 5058](#), which does not expressly prohibit use of the terms “accountant” and “accounting”

by unlicensed accountants, but upon a regulation promulgated by the Board of ***1028** Accountancy (the Board) which prohibits such use of these terms. I disagree with the majority.

I would hold that the Legislature has authorized unlicensed accountants to perform a wide range of accounting services and did not intend to prohibit such persons from accurately referring to themselves as accountants or describing the services they provide as accounting. Because an administrative regulation may not expand the scope of the statute it purports to enforce, the Board lacked the authority to alter this statutory scheme by prohibiting unlicensed accountants from using the terms “accountant” and “accounting.” Accordingly, I find it unnecessary to consider the impact of the First Amendment on this sue. ([Ashwander v. Valley Authority \(1936\) 297 U.S. 288, 347, 56 S.Ct. 466, 483, 80 L.Ed. 688.](#))

“Pursuant to established principles, our first task in construing a statute is to ascertain the intent of the Legislature so as to effectuate the purpose of the law. In determining such intent, a court must look first to the words of the statute themselves, giving to the language its usual, ordinary import and according significance, if possible, to every word, phrase and sentence in pursuance of the legislative purpose. A construction making some words surplusage is to be avoided. The words of the statute must be construed in context, keeping in mind the statutory purpose, and statutes or statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible. tions.]” ([Dyna-Med, Inc. v. Fair Employment & Housing Com. \(1987\) 43 Cal.3d 1379, 1386–1387, 241 Cal.Rptr. 67, 743 P.2d 1323.](#))

A license is not required to practice “accountancy” in this state, but only to practice “public accountancy” as that term is defined. (§ 5050.) ^{FN2}

^{FN2}. Section 5050 states, in part: “No person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy issued by the board....”

Section 5051 provides that a person is “engaged in the practice of public accountancy” if he or she provides “profes-

sional services that involve or require an audit, examination, verification, investigation, certification, presentation, or review, of financial transactions and accounting records ... [¶] [or] [p]repares or certifies for clients reports on audits or examinations of books or records of account, balance sheets, and other financial, accounting and related schedules, exhibits, statements, or reports which are to be used for publication or for the purpose of obtaining credit or for filing with a court of law or with any governmental agency, or for any other purpose ... [¶] [or] renders professional services to clients for compensation in any or all matters relating to accounting procedure and to the recording, presentation, or certification of financial information or data.” (§ 5051, subs. (c)–(e).)

***377 **817 Section 5051 provides, in part, that an accountant is not engaged in the practice of public accountancy and, thus, does not require a license, if he or *1029 she: “(f) Keeps books, makes trial balances, or prepares statements, makes audits, or prepares reports, all as a part of bookkeeping operations for clients. [¶] (g) Prepares or signs as the tax preparer, tax returns for clients. [¶] (h) Prepares personal financial or investment plans or provides to clients products or services of others in implementation of personal financial or investment plans. [¶] (i) Provides management consulting services to clients. [¶] ... [As long as] he or she does not hold himself or herself out, solicit, or advertise for clients using the certified public accountant or public accountant designation.” ^{FN3}

^{FN3}. This portion of section 5051, which the Legislature stated was “declaratory of existing law,” was added to the statute after the trial in the present case. (Stats.1989, ch. 489, § 3.) “Under settled principles, the version of the [statute] in force at present is the relevant legislation for purposes of this appeal. ‘It is ... an established rule of law that on appeals from judgments granting or denying injunctions, the law to be applied is that which is current at the time of judgment in the appellate court.’ [Citations.]” (*Kash Enterprises, Inc. v. City of Los Angeles* (1977) 19 Cal.3d 294, 306, fn. 6, 138 Cal.Rptr. 53, 562 P.2d 1302; *Building Industry Assn. v. City of*

Oxnard (1985) 40 Cal.3d 1, 3, 218 Cal.Rptr. 672, 706 P.2d 285.)

Section 5052 provides that an unlicensed accountant may “contract[] with one or more persons, organizations, or entities, for the purpose of keeping books, making trial balances, statements, making audits or preparing reports, all as a part of bookkeeping operations, provided that such trial balances, statements, or reports are not issued over the name of such person as having been prepared or examined by a certified public accountant or public accountant.”

Sections 5055 and 5056 state that no person other than a certified public accountant (C.P.A.) ^{FN4} or public accountant (P.A.) ^{FN5} may use those titles or any other title or designation “tending to indicate” that the person is a C.P.A. or P.A.

^{FN4}. To use the title certified public accountant, a person must receive from the State Board of Accountancy (Board) a “certificate of certified public accountant” and hold a valid permit to practice. (§§ 5033, 5055.) In order to receive a certificate of certified public accountant, a person must earn a baccalaureate degree, with a major in accounting, from an accredited university or its equivalent (§ 5081.1), pass “written examinations in theory of accounts, in accounting practice, in auditing, in commercial law as affecting accountancy, and other related subjects as the certified public accountant members of the board may deem advisable” (§ 5082), and have from three to four years (depending upon the circumstances) of “public accounting experience” (§ 5083).

^{FN5}. To use the title public accountant, a person must receive from the Board a “certificate of public accountant” and be issued a permit to practice public accountancy. (§§ 5034, 5056.) For limited periods of time, the first being within six months of the enactment in 1945 of the prohibition against practicing public accountancy without a license and the last ending in 1968, a person who had been engaged in the practice of public accountancy prior to 1945 (and some others including veterans of the armed forces) could

receive a “certificate of public accountant” without passage of an examination or meeting any educational requirements. (Stats.1945, ch. 1353, § 2, p. 2537; Stats.1967, ch. 709, § 1, p. 2082; Stats.1968, ch. 519, § 1, p. 1160.)

*1030 In similar fashion, [section 5058](#) provides, in pertinent part: “No person or partnership shall assume or use the title or designation ‘chartered accountant,’ ‘certified accountant,’ ‘enrolled accountant,’ ‘registered accountant’ or ‘licensed accountant,’ or any other title or designation *likely to be confused with* ‘certified public accountant’ or ‘public accountant,’ or any of the abbreviations ‘C.A.,’ ‘E.A.,’ ‘R.A.,’ or ‘L.A.,’ or similar abbreviations likely to be confused with ‘C.P.A.’ or ‘P.A.’....” (Italics added.)

What the foregoing statutes expressly prohibit is the use by unlicensed accountants of the titles C.P.A. or P.A., or any title or designation likely to be confused with C.P.A. or P.A. The latter titles are reserved for those accountants who are licensed to perform types of accountancy which unlicensed accountants may not perform.***378 **818 But the Legislature did not require that all accountants be licensed and, consistently, did not prohibit unlicensed accountants from using the title “accountant.”

This interpretation of [section 5058](#) is supported by one of the basic tenets of statutory construction, the principle of *ejusdem generis*, which instructs that “ ‘where general words follow the enumeration of particular classes of persons or things, the general words will be construed as applicable only to persons or things of the same general nature or class as those enumerated. [It] is based on the obvious reason that if the [writer] had intended the general words to be used in their unrestricted sense, [he or she] would not have mentioned the particular things or classes of things which would in that event become mere surplusage.’ ” [Citations.]” ([Harris v. Capital Growth Investors XIV \(1991\) 52 Cal.3d 1142, 1160, 278 Cal.Rptr. 614, 805 P.2d 873](#), fn. omitted.) This principle applies with particular force in the present case.

The “general words” in [section 5058](#) form the catchall phrase, upon which the majority relies, prohibiting unlicensed persons from using “any *other* title or designation likely to be confused with ‘certified public accountant’ or ‘public accountant’....” (Italics

added.) Considered apart from the context of the statute and the overall scheme of which the statute is a part, this phrase could be construed to prohibit unlicensed accountants from using the term “accountant.” But under this construction, which the majority adopts, the enumeration of examples which precede the general words becomes mere surplusage, in violation of the principle of *ejusdem generis*.

This is so because each of the enumerated examples of titles likely to be confused with the titles C.P.A. and P.A. is comprised of the term “accountant” coupled with a modifier, as are the titles C.P.A. and P.A. themselves. The principle of *ejusdem generis* leads me to conclude, therefore, that the *1031 catchall phrase in [section 5058](#) does not prohibit the use of the title “accountant” standing alone.

The majority states that the doctrine of *ejusdem generis* is inapplicable because its application “would frustrate the intent underlying the statute.” (Maj. opn., ante, p. 366 of [9 Cal.Rptr.2d, p. 806 of 831 P.2d.](#)) The majority fails, however, to describe the method it uses to discern the statute’s underlying intent. Instead, the majority simply states its conclusion without explaining its reasoning. I disagree that the doctrine of *ejusdem generis* is inapplicable; rather, it is a useful tool for determining the intent of the Legislature based on the language used in drafting the statute.

Had the Legislature meant to prohibit use of the unmodified term “accountant,” it simply would have said so. Just as sections 5055 and 5056 expressly prohibit unlicensed accountants from using the titles “certified public accountant” and “public accountant,” the Legislature could have added a similar provision expressly prohibiting unlicensed accountants from using the term “accountant” as well. Presumably the Legislature would have done so, had it intended to prohibit such accountants from calling themselves “accountants.” “ ‘Where the [Legislature] has demonstrated the ability to make [its] intent clear, it is not the province of this court to imply an intent left unexpressed.’ [Citation.]” ([Peralta Community College Dist. v. Fair Employment & Housing Com. \(1990\) 52 Cal.3d 40, 50, 276 Cal.Rptr. 114, 801 P.2d 357.](#))

The majority agrees “that [section 5058](#) does not itself expressly prohibit the use of the unmodified terms ‘accountant’ and ‘accounting’ ” (maj. opn.,

ante, p. 366 of [9 Cal.Rptr.2d, p. 806 of 831 P.2d](#)) and relies instead on a regulation promulgated by the Board which provides in pertinent part: “The following are titles or designations likely to be confused with the titles Certified Public Accountant and Public Accountant within the meaning of [Section 5058 of the Business and Professions Code](#): [¶] (a) ‘Accountant,’ ‘auditor,’ ‘accounting,’ or ‘auditing,’ when used either singly or collectively*****379** ****819** or in conjunction with other titles.” ([Cal.Code Regs., tit. 16, § 2.](#))

Such an administrative construction, “although not controlling, is entitled to great weight. [Citations.] ... The final meaning of a statute, [however], rests with the courts.... ‘*Administrative regulations that alter or amend the statute or enlarge or impair its scope are void and courts not only may, but it is their obligation to strike down such regulations.*” [Citation.] *And this is the rule even when, as here, “the statute is subsequently reenacted without change.”* [Citations.]” ([Dyna-Med, Inc. v. Fair Employment & Housing Com., supra, 43 Cal.3d 1379, 1388–1389, 241 Cal.Rptr. 67, 743 P.2d 1323](#), italics added.)

***1032** The above quoted regulation is invalid because it would expand the scope of [section 5058](#). Nothing in [section 5058](#), or in the statutory scheme of which it is a part, exhibits a legislative intent to prohibit unlicensed accountants from referring to themselves as accountants, or from describing the services they render as accounting. The Board may not expand the scope of [section 5058](#) by enacting a regulation prohibiting conduct which [section 5058](#) would permit.^{FN6}

^{FN6} The majority also notes that both the Court of Appeal ([People v. Hill \(1977\) 66 Cal.App.3d 320, 136 Cal.Rptr. 30](#)) and the Attorney General (46 Ops.Cal.Atty.Gen. 140, 141 (1965)) have concluded that unlicensed accountants are precluded from using the title “accountant.” Citing the decision in [Pacific Greyhound Lines v. Johnson \(1942\) 54 Cal.App.2d 297, 303, 129 P.2d 32](#), the majority concludes that it must be presumed that the Legislature was aware of these constructions of [section 5058](#) when it thereafter amended the statute. I agree that these factors are significant, but, as recognized in [Pacific Greyhound Lines v. Johnson, supra, 54 Cal.App.2d 297, 303, 129 P.2d 32](#),

they “are only aids in statutory construction of a legislative enactment which is so general in its terms as to render an interpretative rule or regulation appropriate. They are not conclusive upon the courts.”

The majority concludes that by including the catchall phrase in [section 5058](#), the Legislature vested the Board with discretion to prohibit unlicensed accountants from using the title “accountant” if the Board determined the public otherwise might be misled. I disagree for two reasons.

First, the Legislature would not have prefaced the catchall phrase in [section 5058](#) with a list of examples, all of which consist of the term “accountant” coupled with a modifier, had it intended to prohibit, or to authorize the Board to prohibit, the use of the term “accountant” standing alone. Had the Legislature intended to vest the Board with unfettered discretion to prohibit the use of any title the Board found to be misleading, including the unadorned term “accountant,” it would have used only the catchall phrase employed in [section 5058](#).

By including the examples found in [section 5058](#), the Legislature described the types of titles which might be confused with the titles C.P.A. and P.A. and which the Legislature intended to prohibit unlicensed accountants from using. The title “accountant,” standing alone, does not fit this description. To ignore these examples, as does the majority, violates the doctrine of *ejusdem generis*, a doctrine which merely reflects our common experience with the manner in which language is used.

Second, the Board's decision to prohibit use of the term “accountant,” because it may be confused with the terms C.P.A. and P.A., constitutes a significant alteration of the statutory scheme. The Accountancy Act creates a rather subtle distinction between “public accountancy,” which only C.P.A.'s and P.A.'s may perform, and other types of accountancy, which unlicensed ***1033** accountants may perform. If the public finds this distinction confusing and erroneously believes that all accountants must be licensed, it must be left to the Legislature to alleviate this confusion by amending the statutes. Neither the Board nor this court possesses the authority to alter the statutory scheme established by the Accountancy Act, however beneficial such alterations might appear to be.

The majority finds persuasive the results of a public opinion poll, commissioned by the state, which posed the following questions: (1) “Do you think that persons who refer to themselves as accountants in advertising***380 **820 to the public are required to be licensed by the State of California,” and (2) “Do you think persons who advertise accounting services to the public are required to be licensed by the State of California to offer such services?” More than half the number of persons queried believed that a license was required in both situations.

The majority concludes that the results of this survey “support the inference that members of the public who believe that licensing is required would assume that a person who uses the title ‘accountant’ and the designation ‘accounting’ to describe the services offered is licensed by the state. [Fn. omitted.]” (Maj. opn., *ante*, p. 368 of 9 Cal.Rptr.2d, p. 808 of 831 P.2d.) This information, however, is not helpful in resolving the issue before us. It is not surprising that a person who erroneously believes that all accountants must be licensed would assume that a person using the title “accountant” is licensed. Just as significantly, the survey sheds no light on the relevant issue under [section 5058](#); namely, whether the public is likely to confuse the terms “accountant” and “accounting” with the titles “certified public accountant” and “public accountant.” Instead, the survey reveals only that a majority of the public erroneously believes that all accountants must be licensed.^{FN7} It is beyond dispute that no license is required to perform certain types of accounting. The circumstance that a majority of the public believes otherwise is irrelevant.

[FN7](#). Assuming, without deciding, that the response to a public opinion poll is an appropriate basis for deciding an issue of statutory construction, a more useful query would have been: “Do you believe that persons who refer to themselves as accountants are certified public accountants?”

[Section 5058](#) prohibits unlicensed accountants from using any title that might be confused with the titles C.P.A. and P.A. Contrary to the conclusion reached by the majority, the statute was not intended to prohibit, or to authorize the Board to prohibit, an accountant's use of any term that the public might construe as implying licensure by the state. (Maj. opn.,

ante, pp. 360–361 of 9 Cal.Rptr.2d, pp. 800–801 of 831 P.2d.)

The importance of this distinction is demonstrated by the following example. The majority concedes that unlicensed accountants may use the *1034 term “accountant” if “used in conjunction with a modifier or modifiers that serve to dispel any possibility of confusion...” (Maj. opn., *ante*, pp. 360, 373 of 9 Cal.Rptr.2d, pp. 800, 813 of 831 P.2d.) Consider an unlicensed accountant who uses the title “accountant” but adds an express disclaimer that he or she is not a C.P.A. or P.A. Such a designation certainly would dispel any possibility that the term “accountant” might be confused with the titles C.P.A. or P.A. and, accordingly, would satisfy even the most stringent interpretation of [section 5058](#). It would not, however, dispel possible confusion concerning whether the accountant was licensed by the state because, according to the poll upon which the majority relies, the public mistakenly believes that all accountants are required to be licensed. It can be seen, therefore, that the public's belief as to whether accountants must be licensed is irrelevant to the determination of the proper scope of [section 5058](#).

Neither the Accountancy Act in general, nor [section 5058](#) in particular, prohibits an unlicensed accountant from using the title “accountant.” As the majority recognizes, it is *lawful* for *unlicensed* accountants to perform certain types of accounting services. Nothing in the statutory scheme prohibits unlicensed accountants who lawfully provide accounting services from referring to themselves as accountants, nor does anything in the act authorize the Board to prohibit by regulation what the Legislature has permitted by statute.

Accordingly, I would reverse the judgment of the Court of Appeal. I reach this conclusion on the basis of the plain meaning of the words of the statute as interpreted with the aid of settled principles of statutory construction, and in the absence of any clear expression of legislative intent to the contrary, without regard, of course, to whether it would be good public policy for the Legislature to prohibit unlicensed accountants, whatever their level of education***381 **821 and experience, from calling themselves “accountants.”

[MOSK](#) and [KENNARD](#), JJ., concur.

831 P.2d 798
2 Cal.4th 999, 831 P.2d 798, 9 Cal.Rptr.2d 358
(Cite as: 2 Cal.4th 999, 831 P.2d 798, 9 Cal.Rptr.2d 358)

Cal.,1992.
Moore v. California State Bd. of Accountancy
2 Cal.4th 999, 831 P.2d 798, 9 Cal.Rptr.2d 358

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28 Cal.App.4th 770, 33 Cal.Rptr.2d 788, 63 USLW 2274
(Cite as: 28 Cal.App.4th 770, 33 Cal.Rptr.2d 788)

C

Court of Appeal, First District, Division 4, California.
Shaun CARBERRY, Plaintiff and Appellant,

v.

STATE BOARD OF ACCOUNTANCY, Defendant
and Respondent.

No. A064735.
Sept. 26, 1994.

Business owner sought declaration that he was entitled to advertise his business as “accounting” service, even though he was not certified public accountant. The Superior Court, San Francisco County, No. 954687, [William J. Cahill](#), J., dismissed complaint. Business owner appealed. The Court of Appeal, [Dossee](#), J., held that: (1) business owner could not use “accounting” in his business name without a disclaimer qualifying the term; (2) business owner's use of term “EA” when advertising his business, signifying that business owner was “enrolled agent,” did not alert consuming public that business owner was not licensed accountant; and (3) statute prohibiting business owner from using “accounting” in business name was not preempted by federal statute governing enrolled agents.

Affirmed.

West Headnotes

[1] Accountants 11A 2

[11A](#) Accountants

[11Ak2](#) k. Constitutional and statutory provisions. [Most Cited Cases](#)

Accountants 11A 3.1

[11A](#) Accountants

[11Ak3](#) Regulation; License or Certificate

[11Ak3.1](#) k. In general. [Most Cited Cases](#)

Statute which prohibited person from holding himself out as certified public accountant unless licensed by Board of Accountancy was not unconstitutional and, thus, business owner who was not certified public accountant could not use “accounting” in his business name without a disclaimer qualifying the term. [West's Ann.Cal.Bus. & Prof.Code § 5058](#); [Cal.Code Regs. tit. 16, § 2](#).

[2] Accountants 11A 3.1

[11A](#) Accountants

[11Ak3](#) Regulation; License or Certificate

[11Ak3.1](#) k. In general. [Most Cited Cases](#)

Business owner's use of term “EA” when advertising his business, signifying that business owner was “enrolled agent,” did not alert consuming public that business owner was not licensed accountant and, thus, business owner was prohibited from using “accounting” in his business name by statute prohibiting a person from holding himself out as certified public accountant unless licensed by Board of Accountancy. [West's Ann.Cal.Bus. & Prof.Code § 5058](#); [Cal.Code Regs. tit. 16, § 2](#).

[3] Accountants 11A 2

[11A](#) Accountants

[11Ak2](#) k. Constitutional and statutory provisions. [Most Cited Cases](#)

States 360 18.67

28 Cal.App.4th 770, 33 Cal.Rptr.2d 788, 63 USLW 2274
(Cite as: **28 Cal.App.4th 770, 33 Cal.Rptr.2d 788**)

[360](#) States

[360I](#) Political Status and Relations

[360I\(B\)](#) Federal Supremacy; Preemption

[360k18.67](#) k. Professions. [Most Cited Cases](#)

Federal statute governing practice of “enrolled agents” who appear before Treasury Department did not preempt state statute prohibiting a person from holding himself out as certified public accountant and, thus, business owner’s status as enrolled agent did not exempt him from operation of state statute where federal statute contained no expression of congressional intent to preempt state law, nothing in federal regulations governing conduct of enrolled agents precluded supplementary state regulation, and state regulatory scheme governing accountants did not conflict with federal regulations governing enrolled agents. [West’s Ann.Cal.Bus. & Prof.Code § 5058](#); [Cal.Code Regs. tit. 16, § 2](#); [31 U.S.C.A. § 330](#).

****789 *772** Shaun Carberry, in pro. per.

[Daniel E. Lungren](#), Atty. Gen., Robert L. Mukai, Chief Asst. Atty. Gen., [John M. Huntington](#), Sr. Asst. Atty. Gen., [Wilbert E. Bennett](#), Supervising Deputy Atty. Gen., San Francisco, for defendant and respondent.

[DOSSEE](#), Associate Justice.

In this action for declaratory relief plaintiff sought a declaration that he is entitled to advertise his business as an “accounting” service even though he is not a certified public accountant. The State Board of Accountancy successfully demurred to the complaint, and the action was dismissed. Plaintiff appeals.

FACTS

Plaintiff is not a certified public accountant. He has completed all the eligibility requirements except for the two-year work experience requirement, but he has deliberately chosen not to fulfill that requirement.

Plaintiff is an enrolled agent, admitted to practice before the Internal Revenue Service. He operates a sole proprietorship accounting and tax preparation service in San Francisco under the name “Citizens Accounting & Tax Service.”

In March 1993 the Board of Accountancy, the state agency empowered to license certified public accountants, ordered plaintiff either to cease using the term “accounting” in his business name or to add a disclaimer that plaintiff is not licensed by the state. After an exchange of correspondence with the board, plaintiff filed this lawsuit seeking a declaration of his First Amendment right to use the word “accounting” in his business name.

DISCUSSION

[1] [Business and Professions Code section 5058](#) provides that no person may hold himself out as a certified public accountant unless licensed by the Board of Accountancy. ****790** The Board’s Regulation 2 ([Cal.Code Regs., tit. 16, § 2](#)) declares the following designations likely to be confused with the title of certified public accountant: “accountant,” “auditor,” “accounting,” or “auditing.”

***773** In [Moore v. California State Bd. of Accountancy](#) (1992) **2 Cal. 4th 999**, 9 Cal.Rptr.2d 358, 831 P.2d 798, certiorari denied (1993) [507 U.S. 951](#), [113 S.Ct. 1364](#), [122 L.Ed.2d 742](#), the Supreme Court rejected the constitutional argument raised by plaintiff here. The court held that although the terms “accounting” or “accountant” may not constitutionally be enjoined if they are accompanied by an explanatory disclaimer, the use of such terms without a modifier is potentially misleading commercial speech and may be banned to prevent deception of the public. The court explained that a disclaimer might, for instance, state that the advertiser is not licensed by the state or that the services offered do not require a state license. ([2 Cal.4th at pp. 1023–1024](#), 9 Cal.Rptr.2d 358, 831 P.2d 798.)

28 Cal.App.4th 770, 33 Cal.Rptr.2d 788, 63 USLW 2274
(Cite as: 28 Cal.App.4th 770, 33 Cal.Rptr.2d 788)

We are bound by principles of stare decisis to follow the holding of that case. ([Auto Equity Sales, Inc. v. Superior Court \(1962\) 57 Cal.2d 450, 20 Cal.Rptr. 321, 369 P.2d 937.](#)) In accordance with [Moore](#), then, we must conclude as a matter of law that the board may constitutionally prohibit plaintiff from using the term “accounting” unless he includes additional language qualifying the term.

[2] Plaintiff contends that because his business name, “Citizens Accounting & Tax Service,” is always accompanied by his name and designation, “Shaun Carberry, EA” (meaning “enrolled agent”), he has provided an adequate modifier pursuant to [Moore](#). We cannot agree.

The disclaimer needed to permit the use of the term “accounting” by an unlicensed person is one that serves “to dispel any possibility of confusion.” ([Moore, supra, 2 Cal.4th at p. 1024, 9 Cal.Rptr.2d 358, 831 P.2d 798.](#)) The mere insertion of the designation “EA” does not adequately eliminate potential confusion from the term “accounting.” It does not alert the consuming public that the advertiser is not a licensed accountant.

[3] Plaintiff seeks to exempt himself from Regulation 2 and the [Moore](#) decision by virtue of his status as an enrolled agent. Plaintiff reasons that because enrolled agents are regulated by the Treasury Department and because the Treasury Department regulations govern advertising, the board is without authority to impose its own advertising restrictions on plaintiff.

The argument is unsound. The preemption doctrine, upon which plaintiff relies, was explained by the United States Supreme Court as follows: “Federal law may supersede state law in several different ways. First, when acting within constitutional limits, Congress is empowered to pre-empt state law by so stating

in express terms. Second, congressional intent to pre-empt state law in a particular area may be inferred where *774 the scheme of federal regulation is sufficiently comprehensive to make reasonable the inference that Congress ‘left no room’ for supplementary state regulation.... [¶] As a third alternative, in those areas where Congress has not completely displaced state regulation, federal law may nonetheless pre-empt state law to the extent it actually conflicts with federal law.” ([California Federal S. & L. Assn. v. Guerra \(1987\) 479 U.S. 272, 280–281, 107 S.Ct. 683, 689, 93 L.Ed.2d 613](#), citations omitted.)

Although Congress has granted to the Secretary of the Treasury broad authority to regulate the practice of persons appearing before the Treasury Department ([31 U.S.C. § 330](#)), the statute contains no expression of congressional intent to preempt state law. Nor is there anything in the regulations issued by the secretary governing the qualifications and conduct of enrolled agents or other persons representing clients before the Internal Revenue Service ([31 C.F.R. § 10.0 et seq.](#)) to preclude supplementary state regulation.

The regulations do include one pertaining to advertising.^{FN1} Yet, there is no suggestion **791 that this regulation was intended to be the exclusive restriction on advertising by enrolled agents. Indeed, on its face the regulation is confined to “any Internal Revenue Service matter.” We see nothing to preclude a state restriction on the use of the term “accounting” in a business name so as to prevent confusion of the public. The fact that the federal regulation permits an enrolled agent to use the designation “EA” in no way suggests that such designation is sufficient to prevent confusion over the term “accounting.”

^{FN1}. The regulation provides: “(a) *Advertising and solicitation restrictions.* (1) No attorney, certified public accountant, enrolled agent, enrolled actuary, or other individual eligible to practice before the Internal Revenue Service shall, with respect to any

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(Cite as: **28 Cal.App.4th 770, 33 Cal.Rptr.2d 788**)

Internal Revenue Service matter, in any way use or participate in the use of any form of public communication containing (i) A false, fraudulent, unduly influencing, coercive, or unfair statement or claim; or (ii) a misleading or deceptive statement or claim. [¶] Enrolled agents, in describing their professional designation, may not utilize the term of art ‘certified’ or indicate an employer/employee relationship with the Internal Revenue Service. Examples of acceptable descriptions are ‘enrolled to represent tax payers before the Internal Revenue Service,’ ‘enrolled to practice before the Internal Revenue Service,’ and ‘admitted to practice before the Internal Revenue Service.’ Enrolled agents and enrolled actuaries may abbreviate such designation to either EA or E.A.” ([31 C.F.R. § 10.30\(a\)\(1\).](#))

END OF DOCUMENT

Finally, the state regulatory scheme does not conflict with the federal regulations. There is nothing in the state board's restriction on the use of the term “accounting” in a business name that interferes with the Treasury Secretary's governance of enrolled agents. Enrolled agents remain free to perform all necessary activities in their practice before the IRS,*775 even accounting services, and they remain free to advertise their services. What they cannot do is hold themselves out to the public as certified public accountants when in fact they are unlicensed by the state.

The judgment is affirmed.

[STRANKMAN](#), P.J., and [NEWSOM](#), J., concur.

Cal.App. 1 Dist.,1994.

Carberry v. State Bd. of Accountancy

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EPOC Item II.
September 26, 2013

CBA Item IX.B.2.
September 26-27, 2013

**Discussion and Possible Action Regarding Proposed
New Additions and Previously Requested Changes
to the Disciplinary Guidelines and Model Orders**

Presented by: Rafael Ixta, Chief, Enforcement Division

Date: August 22, 2013

Purpose of the Item

The purpose of this agenda item is to present the proposed modifications to the California Board of Accountancy (CBA) Model Disciplinary Guidelines and Model Orders (Guidelines) to the Enforcement Program Oversight Committee (EPOC) members and to discuss proposed revisions to the Guidelines.

Action(s) Needed

Staff is requesting the EPOC approve the attached additions and modifications requested at the May 2013 EPOC meeting to the Guidelines and provide additional revisions as needed (**Attachment**).

Background

On a tri-annual basis, the Guidelines are revised by the EPOC, and adopted by the CBA. At the March 2013 EPOC meeting, staff presented a three part approach to updating the Guidelines. At that meeting the EPOC approved the timeline and conceptual changes presented. At the May 2013 EPOC meeting, staff presented revisions to the current version of the Guidelines, and did not include statutory or regulatory changes. After review of the materials provided, the EPOC approved the Guidelines recommended, with three minor modifications.

Comments

The changes presented in the attachment encompass new statutes and regulations enacted since the last revision of the Guidelines. Although the list is diminutive, that is a result of the CBA actively updating the Guidelines on an as needed basis when major program changes, such as creation of the Peer Review program, and modification of the Mobility program, are enacted.

Discussion and Possible Action Regarding New Additions and Previously Requested Changes to the Disciplinary Guidelines and Model Orders

Page 2 of 2

Staff recommends the attached six sections be added to the Guidelines. The basis for the suggested additions are as follows:

Business and Professions (B&P) Code

- **5058.3 - RETIRED DESIGNATION**

This code section is similar to 5058.2, which requires a licensee with an inactive license status to indicate that inactive status whenever using the CPA title. The proposed guideline is the same as 5058.2.

- **5070.1(b) - PRACTICE WITH A RETIRED LICENSE STATUS**

Practice with a retired license status is similar to practice without a permit, as the licensee has not taken the required continuing education, and does not have practice rights. Staff recommends the same guideline as 5050(a).

- **5071.2(b) - PRACTICE WITH A MILITARY LICENSE STATUS**

Practice with a military license status is similar to practice without a permit, as the licensee has not taken the required continuing education, and does not have practice rights. Staff recommends the same guideline as 5050(a).

CBA Regulations

- **37.5 - FINGERPRINTING**

Staff recommends a penalty similar to failure to report a peer review status to the CBA, which is CBA Regulation section 45.

- **50.1 - ATTEST CLIENT NOTIFICATION**

This regulation requires a licensee employed by a firm, in which no licensee owners are authorized to sign attest reports, provide written notification to any attest client or prospective attest client of the ownership composition of the firm. This regulation is similar to the requirement outlined in B&P Code section 5079, regarding failure to disclose non-licensee ownership of a firm; therefore staff recommends the guideline be the same.

- **80 - INACTIVE LICENSE STATUS**

Practice with an inactive license status is similar to practice without a permit, as the licensee has not taken the required continuing education, and does not have practice rights. Staff recommends the same guideline as B&P Code section 5050(a).

Staff also made three changes to the Guidelines presented at the previous EPOC meeting, including modifying the restitution section, and changing the descriptions of B&P Code sections 5104 and 5105.

Fiscal/Economic Impact Considerations

There is minimal fiscal or economic impact to updating the disciplinary guidelines.

Recommendation

Staff recommends the EPOC members adopt the proposed additions to the Guidelines.

Attachment

Suggested additions to the California Board of Accountancy Disciplinary Guidelines and Model Orders, 9th Edition, 2013

Attachment

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Section 5058.3 RETIRED DESIGNATION

Minimum Penalty - Continuing Education Courses [36]
Maximum Penalty - Revocation stayed, 3 years probation [1,2,4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [15-24]

If warranted: 1. Probation Monitoring Costs [27]
2. Continuing Education Courses [36]
3. Administrative Penalty not to exceed maximum set forth in Section 5116 [43]

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Section 5070.1(b) PRACTICE WITH A RETIRED LICENSE STATUS

Minimum Penalty - Continuing Education Courses [36]
Maximum Penalty - Revocation [1,2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [15-24]

If warranted: 1. Suspension [3] with/without stay [4]
2. Probation Monitoring Costs [27]
3. Restricted Practice [28]
4. Ethics Continuing Education [31]
5. Regulatory Review Course [32]
6. Continuing Education Courses [36]
7. Active License Status [37]
8. Administrative Penalty not to exceed maximum set forth in Section 5116 [43]

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Section 5071.2(b) PRACTICE WITH A MILITARY LICENSE STATUS

Minimum Penalty - Continuing Education Courses [36]
Maximum Penalty - Revocation [1,2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [15-24]

If warranted: 1. Suspension [3] with/without stay [4]
2. Probation Monitoring Costs [27]
3. Restricted Practice [28]
4. Ethics Continuing Education [31]
5. Regulatory Review Course [32]
6. Continuing Education Courses [36]
7. Active License Status [37]
8. Administrative Penalty not to exceed maximum set forth in Section 5116 [43]

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Section 37.5 FINGERPRINTING

Minimum Penalty - Continuing Education Courses [36]
Maximum Penalty - Revocation [1,2]

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CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [15-24]

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If warranted: 1. Probation Monitoring Costs [27]
 2. Ethics Continuing Education [31]
 3. Regulatory Review Course [32]
 4. Continuing Education Courses [36]
 5. Administrative Penalty not to exceed maximum set forth in Section 5116 [43]

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Section 50.1 ATTEST CLIENT NOTIFICATION

Minimum Penalty - Continuing Education Courses [36] for California licensee partners or
for licensee shareholders of corporation
Maximum Penalty - Revocation of partnership or corporate registration and individual licenses

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [15-24]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Probation Monitoring Costs [27]
 3. Restricted Practice [28]
 4. Ethics Continuing Education [31]
 5. Regulatory Review Course [32]
 6. Administrative Penalty not to maximum set forth in Section 5116 [43]

Section 80 INACTIVE LICENSE STATUS

Minimum Penalty - Continuing Education Courses [36]
Maximum Penalty - Revocation [1,2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [15-24]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Probation Monitoring Costs [27]
 3. Restricted Practice [28]
 4. Ethics Continuing Education [31]
 5. Regulatory Review Course [32]
 6. Continuing Education Courses [36]
 7. Active License Status [37]
 8. Administrative Penalty not to exceed maximum set forth in Section 5116 [43]

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Sections Changed From The Previous Version:

Page 3, Restitution:

Restitution should be considered for all cases in which harm is demonstrated against the complainant. However, restitution should consider the actual harm to a complainant; it is not intended to award punitive or compensatory damages.

Page 44, Descriptions:

Section 5104 RELINQUISHMENT OF CERTIFICATE OR PERMIT (revocation or suspension)

Minimum/Maximum Penalty - Revocation [1,21-2]

Section 5105 RELINQUISHMENT OF CERTIFICATE OR PERMIT (delinquent) DELINQUENCY IN PAYMENT OF RENEWAL FEE

Minimum/Maximum Penalty - Revocation [1,2]

~~Minimum Penalty — Relinquish certificate [30] which will be reissued under Section 5070.6 guidelines (payment of renewal and delinquency fees and compliance with continuing education guidelines)~~

~~Maximum Penalty — Revocation [1-2]~~

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EPOC Item III.
September 26, 2013

CBA Item IX.B.3.
September 26-27, 2013

Discussion and Possible Action to Recommend Initiation of a Rulemaking to Make Changes to the Disciplinary Guidelines and Model Orders at Title 16, California Code of Regulations Section 98

Presented by: Rafael Ixta, Chief, Enforcement Division

Date: August 22, 2013

Purpose of the Item

The purpose of this agenda item is to present the final draft of the California Board of Accountancy (CBA) Model Disciplinary Guidelines and Model Orders (Guidelines) to the Enforcement Program Oversight Committee (EPOC) members.

Action(s) Needed

Staff is requesting the EPOC approve the attached final draft of the Guidelines and provide additional revisions as needed (**Attachment**).

Background

On a tri-annual basis, the Guidelines are revised by the EPOC, and adopted by the CBA. At the March 2013 EPOC meeting, staff presented a three part approach to updating the Guidelines. At that meeting the EPOC approved the timeline and conceptual changes presented.

At the May 2013 EPOC meeting, staff presented and members approved revisions to the current version of the Guidelines. Under EPOC **Agenda Item II**, members considered additions to the Guidelines for regulatory and statutory changes enacted since the last revision.

Comments

The attached Guidelines contain revisions approved by the EPOC in May, as well as those presented to the EPOC under **Agenda Item II**. One of the most identifiable changes includes the name, which was changed in order to shorten the title, and to omit the word "disciplinary" in front of orders because all of the orders included are no longer disciplinary in nature.

Previously adopted major changes include:

- Adding a Petition for Reinstatement Checklist for CBA members to use when considering a petition.
- Adding clarifying language related to administrative penalties and restitution.

Discussion and Possible Action to Recommend Initiation of a Rulemaking to Make Changes to the Disciplinary Guidelines and Model Orders at Title 16, California Code of Regulations Section 98

Page 2 of 3

- Removing “Correction of Violation” as the standard minimum guideline, as that would not be discipline.
- Creating new Model Orders for use by CBA staff or an Administrative Law Judge when preparing a stipulated settlement or proposed decision, respectively.
- Creating new and modifying existing optional probationary terms, including recovering probation monitoring costs, and making all continuing education ordered to be in addition to that required for license renewal.

A highlight of the changes to specific Business and Professions Code and CBA Regulations sections adopted at the May 2013 EPOC meeting includes:

- Page 21: Modifying the maximum penalty for section 5063.3 from revocation stayed, 90 day suspension, three years probation to revocation. Staff recommended revoking a license for extreme cases of disclosure of confidential information.
- Page 22 Deleting section 5070.7 as no guideline is needed since a license will automatically cancel by operation of law if not renewed within five years.
- Page 26: Modifying section 5081(a-c) to include the imposition of an administrative penalty, if warranted, pursuant to section 5116.
- Page 27: Increasing the minimum penalty for section 5095(a) from Correction of Violation to Revocation Stayed, three years probation. Staff recommended this minimum penalty because receiving a license without obtaining the required experience should be equivalent to fraudulently obtaining a license. Therefore, the minimum is similar to section 5100(b).
- Page 44: The minimum penalty for violating section 5101 was changed from probation to revocation stayed, three years probation. Staff recommended this change because there is no mechanism to place a licensee or firm on probation without revocation or suspension.
- The minimum penalty for violating section 5105 from relinquish certificate to revocation since the licensee is delinquent and is practicing without a valid license.
- Page 46: The minimum and maximum penalty of section 5155 was changed from continuing education (CE) courses to revocation stayed since section 5155 only applies to a disqualified shareholder. A disqualified person is defined as a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the professional services that the particular professional corporation of which he or she is an officer, director, shareholder, or employee is or was rendering.
- Page 57: The maximum penalty for Regulation 54.1 was increased from revocation stayed, 90 day suspension, three years probation to revocation. Staff

Discussion and Possible Action to Recommend Initiation of a Rulemaking to Make Changes to the Disciplinary Guidelines and Model Orders at Title 16, California Code of Regulations Section 98

Page 3 of 3

recommended revoking a license for extreme cases of disclosure of confidential information.

Page 62: The minimum penalty of Regulation 65 was changed from Correction of Violation and/or CE courses to revocation stayed, three years probation. This regulation deals with independence, a core value of a CPA. Staff believed the new penalty is appropriate, and will promote consumer protection.

Fiscal/Economic Impact Considerations

There is minimal fiscal or economic impact to updating the disciplinary guidelines.

Recommendation

Staff recommends the EPOC members review and recommend the CBA initiate rulemaking to adopt the revision of the Guidelines and place them in regulation.

Attachment

Suggested changes to the California Board of Accountancy Disciplinary Guidelines and Model Orders, 9th Edition, 2013

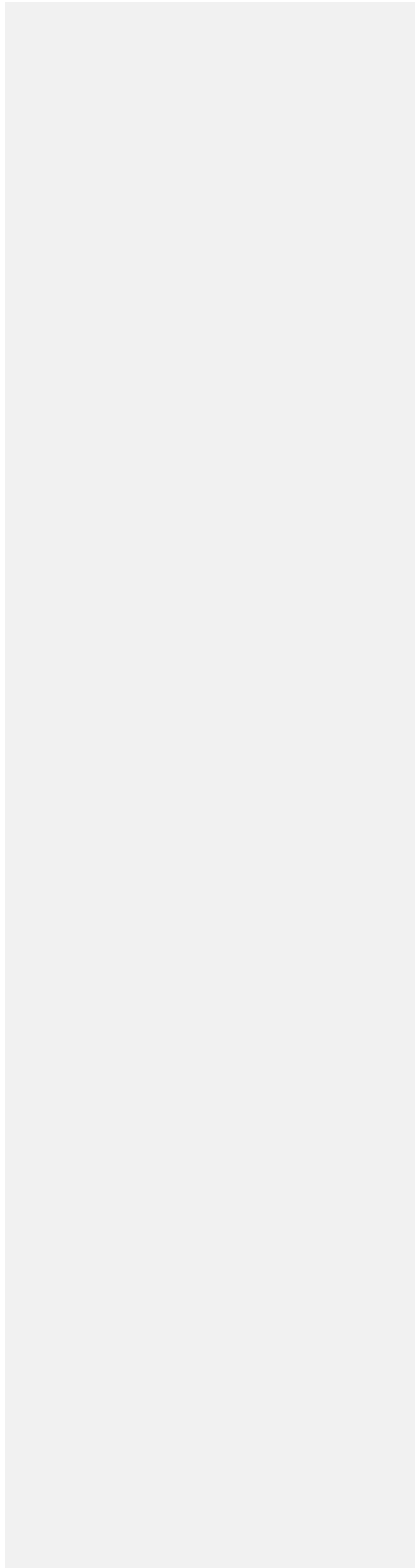
CALIFORNIA BOARD OF ACCOUNTANCY

DISCIPLINARY GUIDELINES AND MODEL ORDERS 9TH EDITION, 2013

A MANUAL OF DISCIPLINARY GUIDELINES AND MODEL DISCIPLINARY ORDERS 8TH EDITION, 2013

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California Board of Accountancy

Disciplinary Guidelines and Model Orders

~~DISCIPLINARY GUIDELINES AND MODEL DISCIPLINARY ORDERS~~

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ATTACHMENTS:

[Petition for Reinstatement Decision Checklist](#)

DISCIPLINARY GUIDELINES AND MODEL ~~DISCIPLINARY~~ ORDERS

I. INTRODUCTION

The California Board of Accountancy (CBA) licenses the practice of accountancy in the State of California and may revoke, suspend, or refuse to renew any permit or certificate for violation of applicable statutes or regulations. The CBA examines applicants, sets education requirements, and may deny licensure and the authority to practice under practice privilege (California Business and Professions Code Section 5096 et seq.). The CBA may, by regulation, prescribe, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and competency in the profession.

The CBA, through its Enforcement Division, assisted by its statutorily established Enforcement Advisory Committee, receives and investigates complaints; initiates and conducts investigations or hearings, with or without the filing of a complaint; and obtains information and evidence relating to any matter involving the conduct of ~~California Public Accountants and Certified Public Accountants (CPA), Public Accountants (PA), and Accountancy Firms, as well as any alleged violation of the California Accountancy Act.~~ The California Accountancy Act and the ~~CBA regulations of the California Board of Accountancy~~ provide the basis for CBA disciplinary action. (See ~~California Business and Professions (B&P) Codes~~ Sections 5000 et seq., and Title 16 California Code of Regulations Sections 1 through 99.1.)

The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice public accountancy in California, or the voluntary surrender of a license by a licensee shall not deprive the CBA of the authority to proceed with an investigation, action, or disciplinary proceeding against the licensee or to render a decision suspending or revoking the license. (See California Business and Professions Code Section 5109.)

These disciplinary guidelines, designed for the use of Administrative Law Judges (~~ALJ~~), attorneys, CBA licensees, and others involved in the CBA's disciplinary process, are revised from time to time. The guidelines cover model ~~disciplinary~~ orders, including factors to be considered in aggravation and mitigation; standard probationary terms; and guidelines for specific offenses. The guidelines for specific offenses are referenced to the statutory and regulatory provisions violated.

These disciplinary guidelines set forth recommended discipline for the violation of current statutes and regulations; includes a provision for community service; and provides additional guidance regarding disciplinary and model orders. ~~This revised edition was adopted by the CBA on September 23, 2010.~~

The CBA recognizes that these recommended penalties and conditions of probation are merely guidelines and that mitigating or aggravating circumstances and other factors may necessitate deviations, as discussed herein.

II. GENERAL CONSIDERATIONS

The CBA requests that **Proposed Decisions** following administrative hearings include the following:

- a. Specific code sections violated with their definitions.
- b. Clear description of the violation.
- c. Respondent's explanation of the violation if he or she is present at the hearing.
- d. Findings regarding aggravation, mitigation, and rehabilitation where appropriate (See factors set forth below/Section 99.1).
- e. When suspension or probation is recommended, the CBA requests that the disciplinary order include terms within the recommended guidelines for that offense unless the reason for departure there from is clearly set forth in the findings and supported by the evidence.

If the respondent fails to appear for the scheduled hearing, such action shall result in a **default decision** to revoke license.

When the CBA, at a **reinstatement hearing**, denies a petitioner's request for reinstatement, the CBA requests that the Administrative Law Judge provide technical assistance in formulating language clearly setting forth the reasons for denial. Such a **statement** should include, for example, a statement on rehabilitation, including suggestions for further approaches by petitioner to demonstrate rehabilitation, where appropriate. [The Petition for Reinstatement Checklist was designed to assist the CBA members and an ALJ with the preparation of a petition for reinstatement. See Attachment 1 for additional information.](#)

- f. **Reimbursement** to the CBA for costs of investigation and prosecution as warranted by [Business and Professions B&P Code Section 5107.](#)
- g. [Imposition of an Administrative Penalty if warranted. See section VI for guidance.](#)

The CBA will consider **stipulated settlements** to promote cost effectiveness and to expedite disciplinary decisions if such agreements achieve its disciplinary objectives. Deputy Attorneys General should inquire as to respondent's interest in stipulated settlement promptly after receipt of a notice of defense. If stipulated settlement appears unlikely, the case should be set for hearing.

The CBA's policy is that all disciplinary actions will be published.

It is also the CBA's policy that matters resolved by stipulation include **cost recovery**.

The CBA's Executive Officer is authorized by statute to request an Administrative Law Judge, as part of any proposed decision in a disciplinary proceeding, to order the recovery of

reasonable costs of investigation and prosecution (California Business and Professions Code Section 5107). This statute does not preclude the CBA from seeking recovery of costs through stipulations; thus, it does not change the CBA's policy of requesting and recovering costs where appropriate in stipulated settlements. Restitution to victims and/or administrative penalties should not be reasons to reduce, eliminate, or stay full recovery of all reasonable costs of investigation and prosecution.

In stipulated decisions involving **revocation** (no revocation stayed), the order will generally include the requirement that respondent must reimburse the CBA for all reasonable costs of investigation and prosecution prior to or upon reinstatement of respondent's revoked certificate under Section 5115 of the California Business and Professions Code.

The period of **probation** is generally three years. During the probation period, licensees are required to appear in person at interviews/meetings as directed by the CBA or its designated representatives to report on probation compliance.

Where an actual **suspension** is imposed, the order shall include the requirement that respondent engage in no activities for which certification is required (see model disciplinary orders). In addition, the respondent shall relinquish the certificate in question to the CBA and shall notify clients regarding the suspended status of the certificate, if directed to do so by the CBA.

When discipline includes a violation that can be corrected, **correction of the violation** should be included as the basis for any discipline.

Restitution should be considered for all cases in which harm is demonstrated against the complainant. However, restitution should consider the actual harm to a complainant; it is not intended to award ~~punitive or compensatory~~ damages.

III. EVIDENCE IN AGGRAVATION OF PENALTY

The following are among aggravating circumstances to be considered by Administrative Law Judges in providing for penalties in proposed decisions:

1. Evidence that the violation was knowingly committed and/or was premeditated.
2. Licensee has a history of prior discipline, particularly where the prior discipline is for the same or similar type of conduct.
3. Licensee's actions resulted in financial damage to his or her clients or other consumers. The amount of loss may be an additional aggravating factor.
4. Violation of CBA probation.
5. Failure to comply with a final citation order.
6. Failure to comply with a notice to appear before the CBA or its designated representatives.
7. Failure to comply with continuing education requirements as ordered by the CBA or its designated representatives pursuant to Section 87.5.
8. Evidence that the licensee has not cooperated with the CBA's investigation.
9. Misappropriation of entrusted funds or other breach of fiduciary responsibility.
10. Duration of violation(s).
11. Evidence that the licensee knew or should have known that his or her actions could harm his or her clients or other consumers.
12. Evidence that the licensee took advantage of his or her client for personal gain, especially if the licensee was able to take advantage due to the ignorance, age, or lack of sophistication of the client.

IV. EVIDENCE IN MITIGATION OF PENALTY

The following are among mitigating circumstances that may be taken into account by Administrative Law Judges in providing for penalties in proposed decisions:

1. The licensee has cooperated with the California Board of Accountancy's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
2. The passage of considerable time since an act of professional misconduct occurred with no evidence of recurrence or evidence of any other professional misconduct.
3. Convincing proof of rehabilitation, including the factors in Section 99.1 as well as other relevant considerations.
4. Demonstration of remorse by the licensee.
5. Recognition by licensee of his or her wrongdoing and demonstration of corrective action to prevent recurrence.
6. Violation was corrected without monetary losses to consumers and/or restitution was made in full.
7. If violation involved multiple licensees, the relative degree of culpability of the subject licensee should be considered.

V. REHABILITATION CRITERIA

The CBA's rehabilitation criteria, set forth in Section 99.1, are as follows:

When considering the denial of a certificate or permit under Section 480 of the Business and Professions Code, the suspension or revocation of a certificate or permit or restoration of a revoked certificate under Section 5115 of the California Business and Professions Code, the CBA, in evaluating the rehabilitation of the applicant and his or her present eligibility for a certificate or permit, will consider the following criteria:

1. Nature and severity of the act(s) or offense(s).
2. Criminal record and evidence of any act(s) committed subsequent to the act(s) or offense(s) under consideration that could also be considered as grounds for denial, suspension, or revocation.
3. The time that has elapsed since commission of the act(s) or offense(s) referred to in subdivision (1) or (2).
4. The extent to which the applicant or respondent has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or respondent.
5. If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
6. Evidence, if any, of rehabilitation submitted by the applicant or respondent.

VI. ADMINISTRATIVE PENALTIES

California Business and Professions Code Section 5116 et seq. allow the CBA to order any licensee or applicant for licensure or examination to pay an administrative penalty as part of any disciplinary proceeding. In matters that go through the administrative hearing process, the CBA's Executive Officer may request an Administrative Law Judge to impose an administrative penalty as part of any proposed decision.

The administrative penalty assessed shall be in addition to any other penalties or sanctions imposed on the licensee or other person, including but not limited to, license revocation, license suspension, denial of the application for licensure, or denial of admission to the licensing examination. When probation is ordered, an administrative penalty may be included as a condition of probation.

For any violation, with the exception of violation of subdivisions (a), (c), (i), (j), or (k) of Section 5100, any licensee may be assessed an administrative penalty of not more than \$5,000 for the first violation and not more than \$10,000 for each subsequent violation.

For violation of subdivisions (a), (c), (i), (j), or (k) of Section 5100, licensed firms may be assessed an administrative penalty of not more than \$1,000,000 for the first violation and not more than \$5,000,000 for any subsequent violation. The administrative penalty that may be assessed an individual licensee who violates these sections is limited to not more than \$50,000 for the first violation and not more than \$100,000 for any subsequent violation.

Administrative penalties may be assessed under one or more violations; however, the total administrative penalty shall not exceed the amount of the highest administrative penalty allowed.

The term "violation" used in Sections 5116.1, 5116.2, and 5116.3 is intended to include the total violations in the disciplinary proceeding. Accordingly, "first violation" refers to the respondent's first disciplinary action and "subsequent violations" refers to any subsequent disciplinary actions.

Cost recovery ordered under California Business and Professions Code Section 5107 should not be a reason to reduce or eliminate the amount of administrative fines.

The following criteria should be considered in assessing administrative penalties.

1. Nature and extent of actual and potential consumer harm.
2. Nature and extent of actual and potential harm to clients.
3. Nature and severity of the violation.
4. The role of the person in the violation.

5. The person's attitude toward his or her commission of the violations.
6. Recognition of wrongdoing.
7. Person's history of violations.
8. Nature and extent of cooperation with the CBA's investigation.
9. The person's ability to pay the administrative penalty.
10. The level of administrative penalty necessary to deter future violations.
11. Nature and extent to which the person has taken corrective action to ensure the violation will not recur.
12. Nature and extent of restitution to consumers harmed by violations.
13. The violations involve sanctions by other government agencies or other regulatory licensing bodies, i.e. Internal Revenue Service, Securities and Exchange Commission, and Public Company Accounting Oversight Board.
14. Other aggravating or mitigating factors.

California Board of Accountancy

Index to Disciplinary Guidelines

(Refer to page 50 for Index to Model Disciplinary Orders)

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The offenses and penalties are listed chronologically by statute number in the Business and Professions Code and by regulation number in Title 16 of the California Code of Regulations. The number in brackets following each condition of probation refers to the model disciplinary order so numbered (See **Model Disciplinary Orders**). The probation terms listed under "if warranted" for each violation are to be considered, and imposed, if facts and circumstances warrant.

CALIFORNIA ACCOUNTANCY ACT: BUSINESS AND PROFESSIONS CODE, DIVISION 3, CHAPTER 1

ARTICLE 2

Section 5037(a) OWNERSHIP OF ACCOUNTANTS' WORKPAPERS

Minimum Penalty - Continuing Education Courses [\[3625\]](#)
Maximum Penalty - Revocation stayed, [1,2,4] 3 years probation

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [\[15-245-14\]](#)

If warranted:

1. Suspension [3] with/without stay [4]
2. Supervised Practice [\[2545\]](#)
3. [Probation Monitoring Costs \[27\]](#)
- ~~4~~3. Restricted Practice [\[2847\]](#)
- ~~5~~4. Ethics Continuing Education [\[3029\]](#)
- ~~6~~5. Regulatory Review Course [\[3224\]](#)
- ~~7~~6. Continuing Education Courses [\[3625\]](#)
- ~~8~~7. Administrative Penalty not to exceed maximum set forth in Section 5116 [\[4332\]](#)

(Reference Section 54.1)

Section 5037(b)(1)(2) RETURN OF CLIENT DOCUMENTS

Minimum Penalty - Continuing Education Courses ~~[3625]~~
Maximum Penalty - Revocation ~~[1,24-2]~~

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation ~~[15-245-44]~~
- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice ~~[2546]~~
 3. Restitution ~~[2646]~~
 4. Probation Monitoring Costs [27]
 54. Restricted Practice ~~[2847]~~
 65. Engagement Letters ~~[2948]~~
 76. Ethics Continuing Education ~~[3120]~~
 87. Regulatory Review Course ~~[3224]~~
 98. Continuing Education Courses ~~[3625]~~
 109. Community Service – Free Services ~~[4029]~~
 1140. Administrative Penalty not to exceed maximum set forth in Section 5116 ~~[4332]~~
 1244. Conditions as appropriate relating to physical or mental disability or condition ~~[44-4934-36]~~

(Reference Section 68)

ARTICLE 3

**Section 5050(a) PRACTICE WITHOUT PERMIT;
TEMPORARY PRACTICE**

.....
Except as provided for in Section 5050(c), Section 5054, and Section 5096.12, this section applies to a respondent who practices for a time without a valid license to practice or to respondent who practices without obtaining a practice privilege.

Minimum Penalty - Continuing Education Courses ~~[3625]~~
Maximum Penalty - Revocation ~~[1,24-2]~~

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation ~~[15-245-44]~~
- If warranted:
1. Suspension [3] with/without stay [4]
 2. Probation Monitoring Costs [27]
 32. Restricted Practice ~~[2847]~~
 43. Ethics Continuing Education ~~[3120]~~
 54. Regulatory Review Course ~~[3224]~~
 65. Continuing Education Courses ~~[3625]~~
 76. Active License Status ~~[3726]~~
 87. Administrative Penalty not to exceed maximum set forth in Section 5116 ~~[4332]~~

**Section 5050(c) PRACTICE WITHOUT PERMIT;
TEMPORARY PRACTICE; FOREIGN ACCOUNTANTS**

Applies to respondents licensed in a foreign country who are temporarily practicing in California and hold out as California licensees.

Minimum Penalty - ~~Cease and Desist Letter~~Correction of Violation
Maximum Penalty - ~~Refer to Prosecutorial Agency for Unlicensed Practice~~ ~~Revoke~~
~~authorization to practice~~
(See section on Unlicensed Activities.)

~~**Section 5054 PREPARATION OF TAX RETURNS BY INDIVIDUALS AND FIRMS
OUTSIDE THE STATE**~~

~~Minimum Penalty - Correction of Violation
Maximum Penalty - Revoke authorization to practice~~

**Section 5055 TITLE OF CERTIFIED PUBLIC ACCOUNTANT/
Section 5056 TITLE OF PUBLIC ACCOUNTANT**

(Applies to respondent who assumes or uses the title certified public accountant, CPA, public accountant, or PA without having an appropriate permit to practice.)

Minimum Penalty - Continuing Education Courses ~~[3625]~~
Maximum Penalty - Revocation ~~[1,24-2]~~

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation ~~[15-245-14]~~

If warranted: 1. Suspension [3] with/without stay [4]
~~2. Probation Monitoring Costs [27]~~
~~3. Restricted Practice [2847]~~
~~4. Ethics Continuing Education [3120]~~
~~5. Regulatory Review Course [3224]~~
~~6. Continuing Education Courses [3625]~~
~~7. Active License Status [3726]~~
~~8. Administrative Penalty not to exceed maximum set forth in
Section 5116 [4332]~~

Section 5058 USE OF CONFUSING TITLES OR DESIGNATIONS PROHIBITED

Minimum Penalty - Continuing Education Courses [\[3625\]](#)
Maximum Penalty - Revocation stayed with actual suspension [1-4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [\[15-245-44\]](#)

If warranted: 1. Suspension [3] with/without stay [4]
[2. Probation Monitoring Costs \[27\]](#)
[3. Restricted Practice \[2847\]](#)
[4. Ethics Continuing Education \[3129\]](#)
[5. Regulatory Review Course \[3224\]](#)
[6. Continuing Education Courses \[3625\]](#)
[7. Administrative Penalty not to exceed maximum set forth in Section 5116 \[4332\]](#)

(Reference Section 2)

Section 5058.1 TITLES IN CONJUNCTION WITH CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT

Minimum Penalty - Continuing Education Courses [\[3625\]](#)
Maximum Penalty - Revocation stayed with actual suspension [1-4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [\[15-245-44\]](#)

If warranted: 1. Suspension [3] with/without stay [4]
[2. Probation Monitoring Costs \[27\]](#)
[3. Restricted Practice \[2847\]](#)
[4. Ethics Continuing Education \[3129\]](#)
[5. Regulatory Review Course \[3224\]](#)
[6. Continuing Education Courses \[3625\]](#)
[7. Administrative Penalty not to exceed maximum set forth in Section 5116 \[4332\]](#)

Section 5058.2 INACTIVE DESIGNATION

Minimum Penalty - [Continuing Education Courses \[36\]](#)[Correction of Violation](#)
Maximum Penalty - Revocation stayed, 3 years probation [\[1,2,41-2,4\]](#)

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [\[15-245-44\]](#)

If warranted: 1. [Probation Monitoring Costs \[27\]](#)
[2. Continuing Education Courses \[36\]](#)
[3. Administrative Penalty not to exceed maximum set forth in Section 5116 \[4332\]](#)

Section 5058.3 RETIRED DESIGNATION

Minimum Penalty - Continuing Education Courses [36]

Maximum Penalty - Revocation stayed, 3 years probation [1,2,4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [15-24]

If warranted: 1. Probation Monitoring Costs [27]

2. Continuing Education Courses [36]

3. Administrative Penalty not to exceed maximum set forth in Section 5116 [43]

ARTICLE 3.5

Section 5060 NAME OF FIRM

Minimum Penalty - ~~Continuing Education Courses [36] for licensee, licensee partners, licensee directors, shareholders, and/or officers of corporation Continuing Education Courses [25]~~

Maximum Penalty - Revocation stayed with actual suspension [1-4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~15-245-14~~]

If warranted: 1. Suspension [3] with/without stay [4]
~~2. Probation Monitoring Costs [27]~~
~~32. Restricted Practice [2847]~~
~~43. Ethics Continuing Education [3120]~~
~~54. Regulatory Review Course [3224]~~
~~65. Continuing Education Courses [3625]~~
~~76. Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]~~

(Reference Section 5072 ~~and 5150~~)

Section 5061 COMMISSIONS

Minimum Penalty - Continuing Education ~~Courses [3625]~~

Maximum Penalty - Revocation [~~1,24-2~~]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~15-245-14~~]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2546~~]
3. Restitution [~~2646~~]
~~4. Probation Monitoring Costs [27]~~
~~54. Restricted Practice [2847]~~
~~65. Engagement Letters [2948]~~
~~76. Ethics Continuing Education [3120]~~
~~87. Regulatory Review Course [3224]~~
~~98. Continuing Education Courses [3625]~~
~~109. Community Service – Free Services [4029]~~
~~1140. Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]~~

Section 5062 REPORT CONFORMING TO PROFESSIONAL STANDARDS

Minimum Penalty - Continuing Education Courses [\[3625\]](#)

Maximum Penalty - Revocation [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [\[15-245-44\]](#)
 3. Continuing Education Courses [\[3625\]](#)

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [\[2546\]](#)
 3. Restitution [\[2646\]](#)
 4. [Probation Monitoring Costs \[27\]](#)
 54. Restricted Practice [\[2847\]](#)
 65. Engagement Letters [\[2948\]](#)
 76. Ethics Continuing Education [\[3029\]](#)
 87. Regulatory Review Course [\[3224\]](#)
 98. Peer Review [\[3322\]](#)
 109. CPA Exam [\[3423\]](#)
 1149. Samples - Audits, Review or Compilation [\[3827\]](#)
 1244. Community Service – Free Services [\[4029\]](#)
 1342. Notice to Clients [\[4234\]](#)
 1443. Administrative Penalty not to exceed maximum set forth in Section 5116 [\[4332\]](#)

(Reference Section 5100(j))

Section 5062.2 RESTRICTIONS ON ACCEPTING EMPLOYMENT WITH AN AUDIT CLIENT

Minimum Penalty - Revocation stayed, 30 day suspension, 3 years probation [1-4]

Maximum Penalty - Revocation [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation of 3 to 5 years
 2. Suspension [3]
 3. Standard Conditions of Probation [\[15-245-44\]](#)

- If warranted:
1. [Probation Monitoring Costs \[27\]](#)
 24. Ethics Continuing Education [\[3129\]](#)
 32. Regulatory Review Course [\[3224\]](#)
 43. Community Service – Free Services [\[4029\]](#)
 54. Administrative Penalty not to exceed maximum set forth in Section 5116 [\[4332\]](#)

Section 5063 REPORTABLE EVENTS

Minimum Penalty - ~~Correction of Violation and/or~~ Continuing Education Courses [3625]

Maximum Penalty - Revocation [1,24-2]

CONDITIONS OF PROBATION

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~15-245-44~~]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2545~~]
~~3. Probation Monitoring Costs [27]~~
~~43. Restricted Practice [2847]~~
~~54. Ethics Continuing Education [3129]~~
~~66. Regulatory Review Course [3224]~~
~~76. Continuing Education Courses [3625]~~
~~87. Samples – Audit, Review or Compilation [3827]~~
~~98. Prohibition from Handling Funds [3928]~~
~~109. Community Service – Free Services [4029]~~
~~1140. Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]~~
~~1244. Conditions as appropriate relating to physical or mental disability or condition [44-4931-36]~~

(Reference Sections 59, 60, 61)

Section 5063.3 CONFIDENTIAL INFORMATION DISCLOSURE

Minimum Penalty - Continuing Education Courses [3625]

Maximum Penalty - ~~Revocation [1,2] Revocation stayed; 90 day suspension, 3 years probation [1-4]~~

CONDITIONS OF PROBATION:

Required: 1. ~~If revocation stayed [4], 3 years probation 3 years probation~~
2. Standard Conditions of Probation [~~15-245-44~~]

If warranted: 1. Suspension [3] ~~with/without stay [4]~~
2. Supervised Practice [~~2545~~]
~~3. Probation Monitoring Costs [27]~~
~~4. Restricted Practice [28]~~
~~53. Ethics Continuing Education [3129]~~
~~64. Regulatory Review Course [3224]~~
~~75. Continuing Education Courses [3625]~~
~~8. Samples – Audit, Review or Compilation [38]~~
~~9. Prohibition from Handling Funds [39]~~
~~10. Community Service – Free Services [40]~~
~~116. Notice to Clients [4234]~~
~~12. Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]~~

ARTICLE 4

~~Section 5070.7 — FAILURE TO RENEW WITHIN FIVE YEARS~~

~~Minimum Penalty — Certificate canceled immediately and returned to the Board
Maximum Penalty — CPA Exam [23]~~

Section 5070.1(b) PRACTICE WITH A RETIRED LICENSE STATUS

Minimum Penalty - Continuing Education Courses [36]
Maximum Penalty - Revocation [1,2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [15-24]

If warranted: 1. Suspension [3] with/without stay [4]
2. Probation Monitoring Costs [27]
3. Restricted Practice [28]
4. Ethics Continuing Education [31]
5. Regulatory Review Course [32]
6. Continuing Education Courses [36]
7. Active License Status [37]
8. Administrative Penalty not to exceed maximum set forth in Section 5116

[43]

Section 5071.2(b) PRACTICE WITH A MILITARY LICENSE STATUS

Minimum Penalty - Continuing Education Courses [36]
Maximum Penalty - Revocation [1,2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [15-24]

If warranted: 1. Suspension [3] with/without stay [4]
2. Probation Monitoring Costs [27]
3. Restricted Practice [28]
4. Ethics Continuing Education [31]
5. Regulatory Review Course [32]
6. Continuing Education Courses [36]
7. Active License Status [37]
8. Administrative Penalty not to exceed maximum set forth in Section 5116

[43]

Section 5072(a) REQUIREMENTS FOR REGISTRATION AS A PARTNERSHIP

Applies to licensee(s) in a partnership who practices for a time without partnership license (Section 5073) and subsequently renews, or to a partnership in practice without a license.

Minimum Penalty - Continuing Education Courses [for Licensee Partners \[3625\]](#)

Maximum Penalty - Revocation of partnership/individual licenses [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [\[15-245-44\]](#)

- If warranted:
1. Suspension [3] with/without stay [4]
 2. [Probation Monitoring Costs \[27\]](#)
 3. [Restricted Practice \[2847\]](#)
 4. [Ethics Continuing Education \[3120\]](#)
 5. [Regulatory Review Course \[3224\]](#)
 6. [Continuing Education Courses \[3625\]](#)
 7. [Administrative Penalty not to exceed maximum set forth in Section 5116 \[4332\]](#)

(See ~~also~~ section on **Unlicensed Activities**.)

**Section 5073(d) PARTNERSHIP APPLICATIONS
(ADMISSION OR WITHDRAWAL OF PARTNER)**

Minimum Penalty - Continuing Education Courses [for Licensee Partners \[3625\]](#)

Maximum Penalty - Revocation [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [\[15-245-44\]](#)

- If warranted:
1. [Probation Monitoring Costs \[27\]](#)
 2. [Ethics Continuing Education \[3120\]](#)
 3. [Regulatory Review Course \[3224\]](#)
 4. [Administrative Penalty not to exceed maximum set forth in Section 5116 \[4332\]](#)

Section 5076(a) PEER REVIEW

Minimum Penalty - [Continuing Education Courses \[36\]](#)~~Correction of Violation~~

Maximum Penalty - Revocation [~~1,24-2~~]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~15-245-44~~]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2545~~]
 3. [Probation Monitoring Costs \[27\]](#)
 4. ~~3. Restricted Practice [2847]~~
 5. [Ethics Continuing Education \[3129\]](#)
 6. [Regulatory Review Course \[3224\]](#)
 7. [Peer Review \[33\]](#)
 8. [Continuing Education Courses \[3625\]](#)
 9. [Sample – Audit, Review or Compilation \[3827\]](#)
 10. [Notification to Clients/Cessation of Practice \[4234\]](#)
 11. [Administrative Penalty not to exceed maximum set forth in Section 5116 \[4332\]](#)

(Reference Sections 40, 41, 43)

Section 5076(f) PEER REVIEW – DOCUMENT SUBMISSION REQUIREMENT

Minimum Penalty - [Continuing Education Courses \[36\]](#)~~Correction of Violation~~

Maximum Penalty - Revocation [~~1,24-2~~]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~15-245-44~~]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2545~~]
 3. [Probation Monitoring Costs \[27\]](#)
 4. ~~3. Restricted Practice [2847]~~
 5. [Ethics Continuing Education \[3129\]](#)
 6. [Regulatory Review Course \[3224\]](#)
 7. [Peer Review \[3322\]](#)
 8. [Continuing Education Courses \[3625\]](#)
 9. [Sample – Audit, Review or Compilation \[3827\]](#)
 10. [Notification to Clients/Cessation of Practice \[4234\]](#)
 11. [Administrative Penalty not to exceed maximum set forth in Section 5116 \[4332\]](#)

(Reference Section 46)

Section 5078 OFFICES NOT UNDER PERSONAL MANAGEMENT OF CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT; SUPERVISION

- Minimum Penalty - Continuing Education ~~e~~ Courses for Licensee Owners [3625] and/or require CPA or PA to develop standards for supervision, and implement a practice plan; permit practice investigation within 3 months to insure compliance [2049]
- Maximum Penalty - Revocation [1,24-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [15-245-44]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [2545]
 3. Probation Monitoring Costs [27]
 4. ~~3.~~ Restricted Practice [2847]
 5. ~~4.~~ Ethics Continuing Education [3129]
 6. ~~5.~~ Regulatory Review Course [3224]
 7. ~~6.~~ Continuing Education Courses [3625]
 8. ~~7.~~ Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]

Section 5079(a)(b)(d) NONLICENSEE OWNERSHIP OF FIRMS

- Minimum Penalty - Continuing Education Courses [3625] for California licensee partners or for licensee shareholders of corporation
- Maximum Penalty - Revocation of partnership or corporate registration and individual licenses [1,2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed, 3 years probation
 2. Standard Conditions of Probation [15-245-44]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Probation Monitoring Costs [27]
 3. ~~2.~~ Restricted Practice [2847]
 4. ~~3.~~ Ethics Continuing Education [3129]
 5. ~~4.~~ Regulatory Review Course [3224]
 6. ~~5.~~ Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]

(Reference Section 51.1)

ARTICLE 5

Section 5081(a) REQUIREMENTS FOR ADMISSION TO CERTIFIED PUBLIC ACCOUNTANT EXAMINATION (ACTS DENYING ADMISSION TO EXAM)

Minimum Penalty - Probationary conditions on initial license (if not yet licensed) or revocation, stayed with probation (if already licensed); reference appropriate subsection of Section 5100 for applicable provisions

Maximum Penalty - Denial of admission to examination or revocation of license if issued

If warranted: 1. Administrative Penalty not to exceed maximum set forth in Section 5116 [43]

(Reference relevant section for discipline based upon nature of act.)

Section 5081(b)(c) REQUIREMENTS FOR ADMISSION TO CERTIFIED PUBLIC ACCOUNTANT EXAMINATION

Minimum/Maximum Penalty - Denial of admission to examination, or revocation of license if issued.

If warranted: 1. Administrative Penalty not to exceed maximum set forth in Section 5116 [43]

Section 5088 INTERIM PRACTICE RIGHTS: OUT OF STATE CPA

Minimum/Maximum Penalty - If Board rejects application, cease practice immediately. If practice continues, see provisions on **Unlicensed Activities** and Practice Privilege.

**Section 5095(a) MINIMUM NUMBER OF ATTEST SERVICES HOURS;
ATTEST EXPERIENCE**

Minimum Penalty - Revocation stayed and 3 years probation (if license was issued). Cannot apply for license for 12 months (if not yet licensed), and, if application is subsequently approved, conditional license with probation for 3 years.
~~Correction of Violation~~

Maximum Penalty - Revocation [~~1,21-2~~]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~15-245-14~~]

If warranted: 1. Suspension [3] with/without stay [4]
~~2. Probation Monitoring Costs [27]~~
~~3. Restricted Practice [2847]~~
4. Ethics Continuing Education [3129]
5. Regulatory Review Course [3224]
~~6. CPA Exam [3429]~~
7. Continuing Education Courses [3625]
8. Active License Status [3626]
9. Notification to Clients/Cessation of Practice [4234]
10. Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]

ARTICLE 5.1: Practice Privilege

**~~Section 5096(e)(3) PRACTICE PRIVILEGE –
PRACTICE FROM OFFICE IN THIS STATE~~**

~~Minimum Penalty – Revocation stayed [1-21,2,4]; 3 years probation~~

~~Maximum Penalty – Revoke Practice Privilege [1-21,2]~~

~~CONDITIONS OF PROBATION~~

~~Required: 1. If revocation stayed [4], probation 3 to 5 years
2. Suspension [3]
3. Standard Conditions of Probation [5-14]~~

~~If warranted: 1. Ethics Continuing Education [20]
2. Regulatory Review Course [21]
3. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]~~

~~Section 5096(e)(5) PRACTICE PRIVILEGE — COOPERATE WITH BOARD INQUIRY~~

~~Minimum Penalty — Administrative Suspension pursuant to Section 5096.4; or Board approval required before commencing practice under future practice privilege~~

~~Maximum Penalty — Revoke Practice Privilege [1-21,2]~~

~~CONDITIONS OF PROBATION~~

~~Required: — 1. If revocation stayed [4], probation 3 to 5 years
— 2. Suspension [3]
— 3. Standard Conditions of Probation [5-14]~~

~~If warranted: — 1. Ethics Continuing Education [20]
— 2. Regulatory Review Course [21]
— 3. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]~~

~~Section 5096(g)(1) PRACTICE PRIVILEGE — DISQUALIFYING CONDITIONS~~

~~Minimum Penalty — Revocation stayed [1-21,2,4]; 3 years probation~~

~~Maximum Penalty — Revoke Practice Privilege [1-21,2]~~

~~CONDITIONS OF PROBATION~~

~~Required: — 1. If revocation stayed [4], probation 3 to 5 years
— 2. Suspension [3]
— 3. Standard Conditions of Probation [5-14]~~

~~If warranted: — 1. Ethics Continuing Education [20]
— 2. Regulatory Review Course [21]
— 3. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]~~

~~Section 5096.5 — PRACTICE PRIVILEGE — SIGN ATTEST REPORTS~~

~~Minimum Penalty — Revocation stayed [1-21,2,4]; 3 years probation~~

~~Maximum Penalty — Revoke Practice Privilege [1-21,2]~~

~~CONDITIONS OF PROBATION~~

~~Required: — 1. If revocation stayed [4], probation 3 to 5 years
— 2. Suspension [3]
— 3. Standard Conditions of Probation [5-14]~~

~~If warranted: — 1. Ethics Continuing Education [20]
— 2. Regulatory Review Course [21]
— 3. Administrative Penalty not to exceed maximum set forth in~~

~~Section 5116 [32]~~

~~**Section 5096.12(a) PRACTICE PRIVILEGE—LIMITED FIRM PRACTICE**~~

~~(Applies to an out-of-state firm practicing through a practice privilege holder.)~~

~~Minimum Penalty—Revocation stayed [1-21,2, 41,2,4]; 3 years probation~~

~~Maximum Penalty—Revoke Practice Privilege [1-21,2]~~

~~**CONDITIONS OF PROBATION**~~

~~Required: 1. If revocation stayed [4], probation 3 to 5 years~~

~~2. Standard Conditions of Probation [5-14]~~

~~If warranted: 1. Suspension [3]~~

~~2. Ethics Continuing Education [20]~~

~~3. Regulatory Review Course [21]~~

~~4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]~~

~~**Section 5096.13—FIRM INFORMATION**~~

~~Minimum Penalty—Correction of Violation~~

~~Maximum Penalty—Revoke authorization to practice~~

Section 5096(d) PRACTICING THROUGH AN UNREGISTERED FIRM

Minimum Penalty: Revocation stayed [1,2,41-2, 4] 3 years probation

Maximum Penalty: Revoke Practice Privilege [1,24-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation 3 to 5 years

2. Standard Conditions of Probation [15-21,23,24]13-19,21,22,]

If warranted: 1. Suspension [3]

2. Probation Monitoring Costs [27]

3. Ethics Continuing Education [3129]

4. Regulatory Review Course [3230]

5. Administrative Penalty not to exceed maximum set forth in Section 5116 [43]

Section 5096(e)(2) COMPLY WITH RULES, LAWS, AND STANDARDS

Minimum Penalty: One year suspension [3]
Maximum Penalty: Revoke Practice Privilege [~~1,2~~]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation 3 to 5 years
2. Suspension [3] (Section 5096(g)).
3. Standard Conditions of Probation [~~15-21,23,24~~]

If warranted: 1. Probation Monitoring Costs [27]
~~2~~4. Ethics Continuing Education [3129]
~~3~~2. Regulatory Review Course [3224]
~~4~~3. Administrative Penalty not to exceed maximum set forth in Section 5116 [4344]

Section 5096(e)(3) PRACTICE FROM AN UNAUTHORIZED OFFICE IN THIS STATE

Minimum Penalty: One year suspension [3]
Maximum Penalty: Revoke Practice Privilege [~~1,2~~]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation 3 to 5 years
2. Suspension [3] (Section 5096(g)).
3. Standard Conditions of Probation [~~15-21,23,24~~]

If warranted: 1. Probation Monitoring Costs [2725]
~~2~~4. Ethics Continuing Education [3129]
~~3~~2. Regulatory Review Course [3224]
~~4~~3. Administrative Penalty not to exceed maximum set forth in Section 5116 [4344]

Section 5096(e)(5) COOPERATE WITH BOARD

Minimum Penalty: One year suspension [3]
Maximum Penalty: Revoke Practice Privilege [~~1,2~~]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation 3 to 5 years
2. Suspension [3] (Section 5096(g)).
3. Standard Conditions of Probation [13-19,21,22,~~23~~]

If warranted: 1. Probation Monitoring Costs [25]
~~2~~4. Ethics Continuing Education [2929]
~~3~~2. Regulatory Review Course [3024]
~~4~~3. Administrative Penalty not to exceed maximum set forth in Section 5116 [4344]

Section 5096(e)(6), (7), (8), & (9) FAILURE TO CEASE EXERCISING THE PRACTICE PRIVILEGE

Minimum Penalty: One year suspension [3]
Maximum Penalty: Revoke Practice Privilege [~~1,2~~]

CONDITIONS OF PROBATION:

Required:

1. If revocation stayed [4], probation 3 to 5 years
2. Suspension [3] (Section 5096(g)).
3. Standard Conditions of Probation [~~15-21, 23, 24~~13-19,21,22,23]

If warranted:

1. Probation Monitoring Costs [27]
2. Ethics Continuing Education [~~31~~29]
3. Regulatory Review Course [~~23~~24]
4. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~43~~44]

If it is determined that the failure to cease practice or provide the notice was intentional, that individual's practice privilege shall be revoked and there shall be no possibility of reinstatement for a minimum of two years pursuant to Section 5096(g).

Section 5096(f) FAILURE TO NOTIFY THE BOARD/CEASE PRACTICE

Minimum Penalty: One year suspension [3]
Maximum Penalty: Revoke Practice Privilege [~~1,2~~]

CONDITIONS OF PROBATION:

Required:

1. If revocation stayed [4], probation 3 to 5 years
2. Suspension [3] (Section 5096(g)).
3. Standard Conditions of Probation [~~15-21,23,24~~13-19,21,22,23]

If warranted:

1. Probation Monitoring Costs [27]
2. Ethics Continuing Education [~~31~~29]
3. Regulatory Review Course [~~32~~24]
4. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~43~~44]

If it is determined that the failure to cease practice or provide the notice was intentional, that individual's practice privilege shall be revoked and there shall be no possibility of reinstatement for a minimum of two years pursuant to Section 5096(g).

Section 5096(i) FAILURE TO FILE PRE-NOTIFICATION FORM

Minimum Penalty: One year suspension [3]
Maximum Penalty: Revoke Practice Privilege [~~1,2~~-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation 3 to 5 years
2. Suspension [3] (Section 5096(g)).
3. Standard Conditions of Probation [~~15-21,23,24~~13-19,21,22,23]

If warranted: 1. Probation Monitoring Costs [27]
~~2~~4. Ethics Continuing Education [3129]
~~3~~5. Regulatory Review Course [3224]
~~4~~6. Administrative Penalty not to exceed maximum set forth in Section 5116 [4344]

If it is determined that the failure to cease practice or provide the notice was intentional, that individual's practice privilege shall be revoked and there shall be no possibility of reinstatement for a minimum of two years.

Section 5096.5 UNAUTHORIZED SIGNING OF ATTEST REPORTS

Minimum Penalty: Revocation stayed [~~1,2,4~~1-2,4] 3 years probation
Maximum Penalty: Revoke Practice Privilege [~~1,2~~-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation 3 to 5 years
2. Suspension [3] (Section 5096(g)).
3. Standard Conditions of Probation [~~15-21,23,24~~13-19,21,22,23]

If warranted: 1. Probation Monitoring Costs [27]
~~2~~4. Ethics Continuing Education [3129]
~~3~~5. Regulatory Review Course [3224]
~~4~~6. Administrative Penalty not to exceed maximum set forth in Section 5116 [4344]

Section 5096.12 FIRM PRACTICING WITHOUT A PRACTICE PRIVILEGE HOLDER

Minimum Penalty: Revocation stayed [1,2,41-2,4] 3 years probation

Maximum Penalty: Revoke Practice Privilege [1,21-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation 3 to 5 years
 2. Standard Conditions of Probation [~~15-21,23,24~~13-19,21,22,23]

- If warranted:
12. Probation Monitoring Costs [2725]
 23. Suspension [3] (Section 5096(g)).
 34. Ethics Continuing Education [3129]
 45. Regulatory Review Course [3224]
 56. Administrative Penalty not to exceed maximum set forth in Section 5116 [4344]

ARTICLE 5.5

Section 5097 AUDIT DOCUMENTATION

Minimum Penalty - Continuing Education Courses [3625]

Maximum Penalty - Revocation [1,21-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~15-24~~5-14]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [2545]
 3. Probation Monitoring Costs [27]
 4. Restricted Practice [2847]
 5. Library Reference Material [3049]
 6. Ethics Continuing Education [3129]
 7. Regulatory Review Course [3224]
 8. Peer Review [3322]
 9. CPA Exam [3423]
 10. Continuing Education Courses [3625]
 11. Samples - Audits, Review or Compilation [3827]
 12. Community Service – Free Services [4029]
 13. Notice to Clients [4234]
 - 14.13. Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]

(Reference Sections 68.2, 68.3, 68.4, 68.5)

ARTICLE 6

Section 5100 DISCIPLINE IN GENERAL, (including but not limited to that set forth in Subsections (a) through (l) of this Section)

Minimum Penalty - Continuing Education Courses ~~[3625]~~

Maximum Penalty - Revocation ~~[1,24-2]~~

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation of 3 to 5 years
 2. Standard Conditions of Probation ~~[15-245-44]~~

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Probation Monitoring Costs [27]
 - ~~3~~2. Optional conditions which relate to underlying facts and circumstances;
reference conditions listed in 5100 (a)-(j)
 - ~~4~~3. Administrative Penalty not to exceed maximum set forth in
Section 5116 ~~[4332]~~

Section 5100(a) CONVICTION OF ANY CRIME SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS AND DUTIES OF A CPA/PA

FOR FELONY CONVICTIONS OR ~~MULTIPLE SEVERAL~~ MISDEMEANOR CONVICTIONS:

Minimum Penalty - Revocation stayed. Actual suspension from practice 120 days. Three years probation [1-4]

Maximum Penalty - Revocation [~~1,24-2~~]

CONDITIONS OF PROBATION:

Required:

1. If revocation stayed [4], probation of 3 to 5 years
2. Suspension [3]
3. Standard Conditions of Probation [~~15-245-44~~]

If warranted:

1. Supervised Practice [~~2545~~]
2. Restitution [~~2646~~]
3. Probation Monitoring Costs [27]
43. Restricted Practice [~~2847~~]
54. Engagement Letters [~~2948~~]
65. Ethics Continuing Education [~~3120~~]
76. Regulatory Review Course [~~3224~~]
87. CPA Exam [~~3423~~] or Enrolled Agents Exam [~~3524~~]
98. Continuing Education Courses [~~3625~~]
109. Samples - Audit, Compilation or Review [~~3827~~]
1140. Prohibition from Handling Funds [~~3928~~]
1244. Community Service – Free Services [~~4029~~]
1342. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]
13. Conditions as appropriate relating to physical or mental disability or condition [~~44-4931-36~~]

IN THE CASE OF A SINGLE MISDEMEANOR VIOLATION, TAILOR PROBATION TO CIRCUMSTANCES; ADJUSTING THE REQUIRED CONDITIONS ACCORDINGLY AND CHOOSING APPROPRIATE WARRANTED CONDITIONS FROM THE ABOVE LIST.

Section 5100(b) FRAUD OR DECEIT IN OBTAINING LICENSE/PERMIT/REGISTRATION

Minimum Penalty - Revocation stayed with 180 days actual suspension and 3 years probation (if license was issued). Cannot apply for license for 12 months (if not yet licensed), and, if application is subsequently approved, conditional license with probation for 3 years.

Maximum Penalty - Revocation or application denied. [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

Required:

1. If revocation stayed [4], probation of 3 to 5 years
2. Suspension [3]
3. Standard Conditions of Probation [\[15-245-44\]](#)

If warranted:

1. [Probation Monitoring Costs \[27\]](#)
2. [Ethics Continuing Education \[3129\]](#)
3. [Regulatory Review Course \[3224\]](#)
4. [Continuing Education Courses \[3625\]](#)
5. [Administrative Penalty not to exceed maximum set forth in Section 5116 \[4332\]](#)

Section 5100(c) DISHONESTY, FRAUD, GROSS NEGLIGENCE, OR REPEATED ACTS OF NEGLIGENCE IN THE PRACTICE OF PUBLIC ACCOUNTANCY OR THE PERFORMANCE OF BOOKKEEPING

Minimum Penalty - Revocation stayed [\[4-21,2,4\]](#), 3 years probation

Maximum Penalty - Revocation [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

Required:

1. If revocation stayed [4], probation of 3 to 5 years
2. Standard Conditions of Probation [\[15-245-44\]](#)

If warranted:

1. [Supervised Practice \[2546\]](#)
2. [Restitution \[2646\]](#)
3. [Probation Monitoring Costs \[27\]](#)
4. [Restricted Practice \[2847\]](#)
5. [Ethics Continuing Education \[3129\]](#)
6. [Regulatory Review Course \[3224\]](#)
7. [Peer Review \[3322\]](#)
8. [CPA Exam \[3423\]](#)
9. [Continuing Education Courses \[3625\]](#)
10. [Samples - Audit, Review or Compilation \[3827\]](#)
11. [Prohibition from Handling Funds \[3928\]](#)
12. [Community Service – Free Services \[4029\]](#)
13. [Notification to Clients \[4234\]](#)
14. [Administrative Penalty not to exceed maximum set forth in Section 5116 \[4332\]](#)
15. [Conditions as appropriate relating to physical or mental disability or condition \[44-4931-36\]](#)

**Section 5100(d) CANCELLATION, REVOCATION OR SUSPENSION
BY ANY OTHER STATE OR FOREIGN COUNTRY**

Minimum Penalty - Revocation stayed [1,2,4], probation 3 years

Maximum Penalty - Revocation [~~1,24-2~~]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation of 3 to 5 years
 2. Standard Conditions of Probation [~~15-245-14~~]

If warranted (include those related to underlying offense(s)):

1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2545~~]
3. Restitution [~~2646~~]
4. Probation Monitoring Costs [27]
54. Restricted Practice [~~2847~~]
65. Ethics Continuing Education [3129]
76. Regulatory Review Course [~~3224~~]
87. CPA Exam [~~3423~~] or Enrolled Agents Exam [3524]
98. Continuing Education Courses [~~3625~~]
109. Samples - Audit, Review or Compilation [3827]
1140. Prohibition from Handling Funds [~~3928~~]
1244. Community Service – Free Services [4029]
1342. Notice to Clients [~~4234~~]
1443. Conditions as appropriate relating to physical or mental disability or condition [~~44-4934-36~~]

Section 5100(e) VIOLATION OF PROVISIONS OF SECTION 5097

Minimum Penalty - Continuing Education Courses [\[3625\]](#)

Maximum Penalty - Revocation [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [\[15-245-44\]](#)
 3. Continuing Education Courses [\[3625\]](#)

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [\[2545\]](#)
 3. [Probation Monitoring Costs \[27\]](#)
 4. ~~43.~~ Restricted Practice [\[2847\]](#)
 5. ~~54.~~ Library Reference Material [\[3049\]](#)
 6. ~~65.~~ Ethics Continuing Education [\[3120\]](#)
 7. ~~76.~~ Regulatory Review Course [\[3224\]](#)
 8. ~~87.~~ Peer Review [\[3322\]](#)
 9. ~~98.~~ CPA Exam [\[3423\]](#)
 10. ~~109.~~ Samples - Audits, Review or Compilation [\[3827\]](#)
 11. ~~1140.~~ Community Service – Free Services [\[4029\]](#)
 12. ~~1244.~~ Notice to Clients [\[4234\]](#)
 13. ~~1342.~~ Administrative Penalty not to exceed maximum set forth in Section 5116 [\[4332\]](#)

Section 5100(f) VIOLATIONS OF PROVISIONS OF SECTION 5120

Section 5120 states "Any person who violates any of the provisions of Article 3 (commencing with Section 5050) is guilty of a misdemeanor, punishable by imprisonment for not more than six months, or by a fine of not more than one thousand dollars, or both." Whenever the Board has reason to believe that any person is liable for punishment under this article, the Board, or its designated representatives, may certify the facts to the appropriate enforcement officer of the city or county where the alleged violation had taken place and the officer may cause appropriate proceedings to be brought.

Violations of Article 3 include:

- | | |
|-----------------|---|
| 5050 and 5051 | PRACTICE WITHOUT PERMIT/" PUBLIC ACCOUNTANCY" DEFINED |
| 5055 and 5056 | TITLE OF CERTIFIED PUBLIC ACCOUNTANT/ PUBLIC ACCOUNTANT |
| 5058 | USE OF CONFUSING TITLES OR DESIGNATIONS PROHIBITED |
| 5060 | NAME OF FIRM |
| 5061 | COMMISSIONS |
| 5062 | REPORT CONFORMING TO PROFESSIONAL STANDARDS |

Minimum/Maximum Penalty - See specific statute/regulation violated for recommended penalty

Section 5100(g) WILLFUL VIOLATION OF THE ACCOUNTANCY ACT, OR A RULE OR REGULATION PROMULGATED BY THE BOARD

Minimum/Maximum Penalty - See specific statute or regulation violated for recommended penalty

Section 5100(h) SUSPENSION OR REVOCATION OF THE RIGHT TO PRACTICE BEFORE ANY GOVERNMENTAL BODY OR AGENCY

Minimum Penalty - Revocation stayed [~~1,2,41-2,4~~], 3 years probation

Maximum Penalty - Revocation [~~1,21-2~~]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~15-245-44~~]

If warranted ~~(include those related to underlying offense(s))~~:

1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2515~~]
3. Restitution [~~2616~~]
4. Probation Monitoring Costs [27]
5. Restricted Practice [~~2817~~]
6. Ethics Continuing Education [3120]
7. Regulatory Review Course [~~3224~~]
8. CPA Exam [~~3423~~] or Enrolled Agents Exam [3524]
9. Continuing Education Courses [~~3625~~]
10. Samples - Audit, Review or Compilation [~~3827~~]
11. Prohibition from Handling Funds [~~3928~~]
12. Community Service – Free Services [~~4029~~]
13. Notice to Clients [~~4234~~]
14. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]
15. Conditions as appropriate relating to physical or mental disability or condition [~~44-4931-36~~]

Section 5100(i) FISCAL DISHONESTY OR BREACH OF FIDUCIARY RESPONSIBILITY OF ANY KIND

Minimum Penalty - Revocation stayed, 30 day suspension, 3 years probation [1-4]

Maximum Penalty - Revocation [~~1,24-2~~]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation of 3 to 5 years
 2. Suspension [3]
 3. Standard Conditions of Probation [~~15-245-14~~]

- If warranted:
1. Supervised Practice [~~2546~~]
 2. Restitution [~~2646~~]
 3. Probation Monitoring Costs [27]
 - ~~43~~. Restricted Practice [~~2847~~]
 - ~~54~~. Ethics Continuing Education [~~3120~~]
 - ~~65~~. Regulatory Review Course [~~3224~~]
 - ~~76~~. CPA Exam [~~3423~~] or Enrolled Agents Exam [~~3524~~]
 - ~~87~~. Continuing Education Courses [~~3625~~]
 - ~~98~~. Prohibition from Handling Funds [~~3828~~]
 - ~~109~~. Community Service – Free Services [~~4029~~]
 - ~~1140~~. Notice to Clients [~~4234~~]
 - ~~1244~~. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]
 - ~~1342~~. Conditions as appropriate relating to physical or mental disability or condition [~~44-4934-36~~]

Section 5100(j) KNOWING PREPARATION, PUBLICATION OR DISSEMINATION OF FALSE, FRAUDULENT, OR MATERIALLY MISLEADING FINANCIAL STATEMENTS, REPORTS, OR INFORMATION

Minimum Penalty - Revocation stayed, 60 days suspension, 3 years probation [1-4]

Maximum Penalty - Revocation [~~1,24-2~~]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 to 5 years probation
 2. Suspension [3]
 3. Standard Conditions of Probation [~~15-245-14~~]

- If warranted:
1. Supervised Practice [~~2545~~]
 2. Restitution [~~2646~~]
 3. Probation Monitoring Costs [27]
 43. Restricted Practice [~~2847~~]
 54. Engagement Letters [~~2948~~]
 65. Ethics Continuing Education [3129]
 76. Regulatory Review Course [~~3224~~]
 87. CPA Exam [~~3423~~] or Enrolled Agents Exam [~~3524~~]
 98. Continuing Education Courses [~~3625~~]
 109. Samples - Audit, Review or Compilation [~~3827~~]
 1140. Community Service – Free Services [~~4029~~]
 1244. Notice to Clients [~~4234~~]
 1342. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]
 1443. Conditions as appropriate relating to physical or mental disability or condition [~~44-4931-36~~]

Section 5100(k) EMBEZZLEMENT, THEFT, MISAPPROPRIATION OF FUNDS OR PROPERTY, OR OBTAINING MONEY, PROPERTY OR OTHER VALUABLE CONSIDERATION BY FRAUDULENT MEANS OR FALSE PRETENSES

Minimum Penalty - Revocation stayed, 90 day suspension, 3 years probation [1-4]

Maximum Penalty - Revocation [~~1,24-2~~]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation of 3 to 5 years
 2. Suspension [3]
 3. Standard Conditions of Probation [~~15-245-14~~]

- If warranted:
1. Supervised Practice [~~2545~~]
 2. Restitution [~~2646~~]
 3. Probation Monitoring Costs [27]
 43. Restricted Practice [~~2847~~]
 54. Ethics Continuing Education [~~3129~~]
 65. Regulatory Review Course [~~3224~~]
 76. CPA Exam [~~3423~~] or Enrolled Agents Exam [~~3524~~]
 87. Continuing Education Courses [~~3625~~]
 98. Prohibition from Handling Funds [~~3928~~]
 109. Notice to Clients [~~4234~~]
 1140. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]
 1244. Conditions as appropriate relating to physical or mental disability or condition [~~44-4931-36~~]

Section 5100(l) DISCIPLINE, PENALTY, OR SANCTION BY THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD OR SECURITIES AND EXCHANGE COMMISSION

Minimum Penalty - Revocation stayed [~~1,2,41-2,4~~], 3 years probation
Maximum Penalty - Revocation [~~1,21-2~~]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~15-245-44~~]

If warranted (include those related to underlying offense(s)):

1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2546~~]
3. Restitution [~~2646~~]
4. Probation Monitoring Costs [27]
54. Restricted Practice [~~2847~~]
65. Ethics Continuing Education [~~3120~~]
76. Regulatory Review Course [~~3224~~]
87. CPA Exam [~~3423~~] or Enrolled Agents Exam [~~3524~~]
98. Continuing Education Courses [~~3625~~]
109. Samples - Audit, Review or Compilation [~~3827~~]
1140. Prohibition from Handling Funds [~~3928~~]
1244. Community Service – Free Services [~~4029~~]
1342. Notice to Clients [~~4234~~]
1443. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]
1544. Conditions as appropriate relating to physical or mental disability or condition [~~44-4931-36~~]

Section 5100(m) UNLAWFULLY ENGAGING IN PRACTICE OF PUBLIC ACCOUNTANCY IN ANOTHER STATE

Minimum Penalty - Continuing Education Courses [~~3625~~]
Maximum Penalty - Revocation [~~1,21-2~~]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~15-245-44~~]

If warranted:

1. Suspension [3] with/without stay [4]
2. Probation Monitoring Costs [27]
32. Restricted Practice [~~2847~~]
43. Ethics Continuing Education [~~3120~~]
54. Regulatory Review Course [~~3224~~]
65. Continuing Education Courses [~~3625~~]
76. Active License Status [~~3726~~]
7. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]

Section 5101 DISCIPLINE OF PARTNERSHIP

Minimum Penalty - ~~Revocation stayed [1,2,4], 3 years probation, Probation; require CPA or PA partners to develop standards for supervision, and implement a practice plan; permit practice investigation within 3 months to ensure compliance [40]~~

Maximum Penalty - Revocation [1,24-2]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~15-245-14~~]

If warranted: 1. ~~Suspension [3] with/without stay [4]~~
2. ~~Supervised Practice [2545]~~
3. ~~Restitution [2646]~~
4. ~~Probation Monitoring Costs [27]~~
5. ~~Restricted Practice [2847]~~
6. ~~Engagement Letters [2948]~~
7. ~~Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]~~

Section 5104 RELINQUISHMENT OF CERTIFICATE OR PERMIT (revocation or suspension)

Minimum/Maximum Penalty - Revocation [1,24-2]

Section 5105 RELINQUISHMENT OF CERTIFICATE OR PERMIT (delinquent) DELINQUENCY IN PAYMENT OF RENEWAL FEE

~~Minimum/Maximum Penalty - Revocation [1,2]~~

~~Minimum Penalty — Relinquish certificate [30] which will be reissued under Section 5070.6 guidelines (payment of renewal and delinquency fees and compliance with continuing education guidelines)~~

~~Maximum Penalty — Revocation [1-2]~~

Section 5110(a) ACTS CONSTITUTING CAUSE FOR BOARD'S DENIAL OF EXAM APPLICATION OR ADMISSION, VOIDANCE OF GRADES, OR DENIAL OF LICENSE APPLICATION OR REGISTRATION

Minimum/Maximum Penalty - Denial of admission to examination, denial of licensure application, or revocation of license if issued.

If warranted: 1. Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]

ARTICLE 7

Sections 5120/5121 VIOLATIONS AS MISDEMEANOR/EVIDENCE OF VIOLATION

See Section 5100(f) and section on **Unlicensed Activities**.

ARTICLE 9

Section 5152 CORPORATION REPORTS

Minimum Penalty - Continuing Education ~~Courses for officers of corporation [3625] for licensee directors, shareholders, and/or officers of corporation~~

Maximum Penalty - Suspend corporate accountancy registration and/or individual licenses for 90 days [3]

Section 5152.1 ACCOUNTANCY CORPORATION RENEWAL OF PERMIT TO PRACTICE

Minimum Penalty - ~~Continuing Education Courses [36] for licensee directors, shareholders, and/or officers of corporation~~ ~~Continuing Education for officers of corporation [25]~~

Maximum Penalty - Suspend corporate accountancy registration and/or individual licenses for 90 days [3]

~~See Sections 5050 and 5060(b)~~

Section 5154 DIRECTORS, SHAREHOLDERS, AND OFFICERS MUST BE LICENSED

Minimum Penalty - Continuing Education Courses ~~[3625] for licensee directors, shareholders, and/or officers of corporation~~

Maximum Penalty - Revocation of corporate registration ~~[1,24-2]~~ and discipline of individual licenses

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation ~~[15-245-44]~~

If warranted: 1. Suspension [3] with/without stay [4]
2. ~~Probation Monitoring Costs [27]~~
3. ~~Ethics Continuing Education [3120]~~
4. ~~Regulatory Review Course [3224]~~
5. ~~Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]~~

Section 5155 DISQUALIFIED SHAREHOLDER NONPARTICIPATION

Minimum Penalty - ~~Revocation stayed [1,2,4], 3 years probation Continuing Education Courses [25]~~

Maximum Penalty - Revocation of individual and corporate license [~~1,24-2~~]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~15-245-44~~]

If warranted: 1. Suspension [3] with/without stay [4]
 2. ~~Probation Monitoring Costs [27]~~
 3. ~~Ethics Continuing Education [3129]~~
 4. ~~Regulatory Review Course [3224]~~
 5. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]

**Section 5156 UNPROFESSIONAL CONDUCT
(ACCOUNTANCY CORPORATION)**

Minimum Penalty - Continuing Education Courses [~~3625~~] for licensee directors, shareholders, and/or officers of corporation

Maximum Penalty - Revocation of individual and corporate licenses [~~1,24-2~~]

CONDITIONS OF PROBATION:

Required: 1. ~~If Revocation stayed [4], 3-5 years probation~~
 2. Standard Conditions of Probation [~~15-245-44~~]

If warranted: 1. Suspension [3] with/without stay [4]
 2. ~~Probation Monitoring Costs [27]~~
 3. ~~Ethics Continuing Education [3129]~~ for licensee directors, shareholders and/or officers
 4. ~~Regulatory Review Course [3224]~~ for licensee directors, shareholders and/or officers
 5. ~~Community Service – Free Services [4029]~~
 6. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]

Note: An accountancy corporation is bound by the same regulations as individual respondents. See specific statute or regulation violated for recommended penalty.

**Section 5158 PRACTICE OF PUBLIC ACCOUNTANCY; MANAGEMENT
(ACCOUNTANCY CORPORATION)**

- Minimum Penalty - Continuing Education [Courses \[36\] for licensee directors, shareholders, and/or officers of corporation](#). Require CPA or PA to develop management plan; permit practice investigation within 3 months to ensure compliance with management requirement and plan [\[20,3340,23\]](#)
- Maximum Penalty - Revocation [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

- Required: [1. If Revocation stayed \[4\], 3-5 years probation](#)
[24. Standard Conditions of Probation \[15-245-14\]](#)
- If warranted:
1. Supervised Practice [\[2545\]](#)
 2. Restitution [\[2646\]](#)
 3. Probation Monitoring Costs [\[27\]](#)
 43. Restricted Practice [\[2847\]](#)
 54. Engagement Letters [\[2948\]](#)
 66. Ethics Continuing Education [\[3129\]](#)
 76. Regulatory Review Course [\[3224\]](#)
 87. Administrative Penalty not to exceed maximum set forth in Section 5116 [\[4332\]](#)
 98. Conditions as appropriate relating to physical or mental disability or condition [\[44-4931-36\]](#)

**CALIFORNIA BOARD OF ACCOUNTANCY REGULATIONS
TITLE 16 CALIFORNIA CODE OF REGULATIONS**

ARTICLE 1: GENERAL

SECTION 3 NOTIFICATION OF CHANGE OF ADDRESS

Minimum Penalty - Continuing Education Courses [\[3625\]](#)
Maximum Penalty - 90 day Suspension [\[3\]](#)

SECTION 5 OBSERVANCE OF RULES

Minimum Penalty - Continuing Education Courses [\[3625\]](#)
Maximum Penalty - Revocation [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [\[41-2,4\]](#), 3 years probation
2. Standard Conditions of Probation [\[15-245-44\]](#)

If warranted: 1. [Probation Monitoring Costs \[27\]](#)
2. [Ethics Continuing Education \[3129\]](#)
~~3~~ [Regulatory Review Course \[3224\]](#)
~~4~~ [Continuing Education Courses \[3625\]](#)
~~5~~ [Samples - Audit, Review or Compilation \[3827\]](#)
~~6~~ [Community Service – Free Services \[4029\]](#)
~~7~~ [Administrative Penalty not to exceed maximum set forth in Section 5116 \[4332\]](#)

Note: Reference the specific regulation for appropriate discipline.

ARTICLE 2: EXAMINATIONS

**SECTION 8.2 REQUIREMENTS FOR
ISSUANCE OF THE AUTHORIZATION TO TEST**

Minimum Penalty - Probationary conditions on initial license (if not yet licensed) or revocation, stayed with probation (if already licensed); reference appropriate subsection of Section 5100 for applicable provisions

Maximum Penalty - Denial of admission to examination or revocation of license if issued; Administrative Penalty not to exceed maximum set forth in Section 5116 [\[4332\]](#)

ARTICLE 3: PRACTICE PRIVILEGES

SECTION 20 NOTIFICATION OF CHANGE OF INFORMATION FOR REGISTERED OUT-OF-STATE ACCOUNTING FIRMS

Minimum Penalty: Correction of Violation
Maximum Penalty: 90 day Suspension [3]

CONDITIONS OF PROBATION:

Required: 1. If suspension stayed [4], probation 3 to 5 years
2. Standard Conditions of Probation [15-2413-22]

If warranted: 1. Administrative Penalty [41]

ARTICLE 4: PRACTICE PRIVILEGE

Section 32 BOARD APPROVAL REQUIRED

Minimum Penalty Revocation stayed [1-2, 4]; 3 years probation
Maximum Penalty Revoke Practice Privilege [1-2]

CONDITIONS OF PROBATION

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [5-14]

If warranted: 1. Suspension [3] with/without stay [4]
2. Ethics Continuing Education [20]
3. Regulatory Review Course [21]
4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

(Reference Section 5096(g))

SECTION 33(a) CHANGES TO INFORMATION ON NOTIFICATION

Minimum Penalty Correction of Violation
Maximum Penalty Revoke Practice Privilege [1-2]

CONDITIONS OF PROBATION

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [5-14]

If warranted: 1. Suspension [3] with/without stay [4]
2. Ethics Continuing Education [20]
3. Regulatory Review Course [21]
4. Administrative Penalty not to exceed maximum set forth in Section 5116 [32]

~~SECTION 35 CONTINUING EDUCATION REQUIREMENTS~~

~~Minimum Penalty — Correction of Violation
Maximum Penalty — Revoke Practice Privilege [1-2]~~

~~CONDITIONS OF PROBATION~~

~~Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [5-14]~~

~~If warranted: 1. Suspension [3] with/without stay [4]
2. Ethics Continuing Education [20]
3. Regulatory Review Course [21]
4. Continuing Education Courses [25]
5. Administrative Penalty not to exceed maximum set forth in
Section 5116 [32]~~

ARTICLE 5: REGISTRATION

Section 37.5 FINGERPRINTING

~~Minimum Penalty - Continuing Education Courses [36]
Maximum Penalty - Revocation [1,2]~~

CONDITIONS OF PROBATION:

~~Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [15-24]~~

~~If warranted: 1. Probation Monitoring Costs [27]
2. Ethics Continuing Education [31]
3. Regulatory Review Course [32]
4. Continuing Education Courses [36]
5. Administrative Penalty not to exceed maximum set forth in Section 5116~~

~~[43]~~

ARTICLE 6: PEER REVIEW

SECTION 40(a)(b)(c) ENROLLMENT AND PARTICIPATION

Minimum Penalty - ~~Continuing Education Courses [36]~~ ~~Correction of Violation~~
Maximum Penalty - Revocation [~~1,24-2~~]

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~15-245-44~~]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2515~~]
~~3.~~ Probation Monitoring Costs [27]
~~43.~~ Restricted Practice [~~2847~~]
~~54.~~ Ethics Continuing Education [3120]
~~65.~~ Regulatory Review Course [~~3224~~]
~~76.~~ Peer Review [~~3322~~]
~~87.~~ Continuing Education Courses [~~3625~~]
~~98.~~ Sample – Audit, Review or Compilation [~~3827~~]
~~109.~~ Notification to Clients/Cessation of Practice [~~4234~~]
~~1140.~~ Administrative Penalty not to exceed maximum set forth in
Section 5116 [~~4332~~]

(Reference Section 5076(a))

SECTION 41 FIRM RESPONSIBILITIES

Minimum Penalty - Continuing Education Courses ~~[3625]~~
Maximum Penalty - Revocation ~~[1,24-2]~~

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation ~~[15-245-44]~~

If warranted: ~~1. Probation Monitoring Costs [27]~~
~~24. Ethics Continuing Education [3129]~~
~~32. Regulatory Review Course [3224]~~
~~43. Continuing Education Courses [3625]~~
~~54. Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]~~
(Reference Section 5076(a))

SECTION 43 EXTENSIONS

Minimum Penalty - Continuing Education Courses ~~[3625]~~
Maximum Penalty - Revocation stayed with actual suspension [1-4]

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation ~~[15-245-44]~~

If warranted: ~~1. Probation Monitoring Costs [27]~~
~~24. Ethics Continuing Education [3129]~~
~~32. Regulatory Review Course [3224]~~
~~43. Continuing Education Courses [3625]~~
~~54. Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]~~

SECTION 44 NOTIFICATION OF EXPULSION

Minimum Penalty - [Continuing Education Courses \[36\]](#)~~Correction of Violation~~
Maximum Penalty - Revocation [~~1,24-2~~]

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~15-245-44~~]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2545~~]
[3. Probation Monitoring Costs \[27\]](#)
~~43. Restricted Practice [2847]~~
[54. Ethics Continuing Education \[3129\]](#)
~~65. Regulatory Review Course [3224]~~
~~76. Continuing Education Courses [3625]~~
~~87. Sample – Audit, Review or Compilation [3827]~~
~~98. Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]~~
[109. Conditions as appropriate relating to physical or mental disability or condition \[44-4931-36\]](#)

SECTION 45 REPORTING TO BOARD

Minimum Penalty - [Continuing Education Courses \[36\]](#)~~Correction of Violation~~
Maximum Penalty - Revocation [~~1,24-2~~]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [~~1-2,4~~], 3 years probation
2. Standard Conditions of Probation [~~15-245-44~~]

If warranted: [1. Probation Monitoring Costs \[27\]](#)
~~24. Ethics Continuing Education [3129]~~
~~32. Regulatory Review Course [3224]~~
~~43. Continuing Education Courses [3625]~~
~~54. Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]~~

(Reference Section 5076(a))

SECTION 46(a) DOCUMENT SUBMISSION REQUIREMENTS

Applies to firms that receive a substandard peer review rating.

Minimum Penalty - ~~Continuing Education Courses [36]~~~~Correction of Violation~~
Maximum Penalty - Revocation [~~1,24-2~~]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [~~4-2,4~~], 3 years probation
2. Standard Conditions of Probation [~~15-245-44~~]

If warranted: 1. ~~Probation Monitoring Costs [27]~~
~~24.~~ Ethics Continuing Education [~~3129~~]
~~32.~~ Regulatory Review Course [~~3224~~]
~~43.~~ Continuing Education Courses [~~3625~~]
~~54.~~ Administrative Penalty not to exceed maximum set forth in
Section 5116 [~~4332~~]

(Reference Section 5076(f))

SECTION 46(b) DOCUMENT SUBMISSION REQUIREMENTS

Applies to firms that receive a "pass" or "pass with deficiencies" peer review rating.

Minimum Penalty - ~~Continuing Education Courses [36]~~~~Correction of Violation~~
Maximum Penalty - Revocation [~~1,24-2~~]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [~~4-2,4~~], 3 years probation
2. Standard Conditions of Probation [~~15-245-44~~]

If warranted: 1. ~~Probation Monitoring Costs [27]~~
~~24.~~ Ethics Continuing Education [~~3129~~]
~~32.~~ Regulatory Review Course [~~3224~~]
~~43.~~ Administrative Penalty not to exceed maximum set forth in
Section 5116 [~~4332~~]

ARTICLE 9: RULES OF PROFESSIONAL CONDUCT

SECTION 50 CLIENT NOTIFICATION

Minimum Penalty – [Continuing Education Courses \[36\]](#)~~Correction of Violation~~
Maximum Penalty – Revocation stayed, suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION

Required: 1. Standard Conditions of Probation [~~15-245-14~~]

If warranted: 1. Suspension [3] with/without stay [4]
2. [Probation Monitoring Costs \[27\]](#)
3. [Ethics Continuing Education \[3129\]](#)
4. [Regulatory Review Course \[3224\]](#)
5. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]

Section 50.1 ATTEST CLIENT NOTIFICATION

Minimum Penalty - [Continuing Education Courses \[36\]](#) for California licensee partners or for licensee shareholders of corporation
Maximum Penalty - [Revocation of partnership or corporate registration and individual licenses](#)

CONDITIONS OF PROBATION:

Required: 1. [If revocation stayed \[4\], 3 years probation](#)
2. [Standard Conditions of Probation \[15-24\]](#)

If warranted: 1. [Suspension \[3\] with/without stay \[4\]](#)
2. [Probation Monitoring Costs \[27\]](#)
3. [Ethics Continuing Education \[31\]](#)
4. [Regulatory Review Course \[32\]](#)
5. Administrative Penalty not to maximum set forth in Section 5116 [43]

SECTION 51 FIRMS WITH NONLICENSEE OWNERS

Minimum Penalty – [Continuing Education Courses \[36\]](#) for California licensee partners or for licensee shareholders of corporation ~~Correction of Violation~~
Maximum Penalty – Revocation stayed, suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION

Required: 1. Standard Conditions of Probation [~~15-245-14~~]

If warranted: 1. Suspension [3] with/without stay [4]
2. [Probation Monitoring Costs \[27\]](#)
3. [Restricted Practice \[2847\]](#)
4. [Ethics Continuing Education \[3129\]](#)
5. [Regulatory Review Course \[3224\]](#)
6. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]

SECTION 51.1 NOTIFICATION OF NON-LICENSEE OWNERSHIP

Minimum Penalty - Continuing Education [Courses \[3625\]](#) for California licensee partners or for licensee shareholders of corporation

Maximum Penalty - Revocation of partnership or corporate registration and individual licenses

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [\[4\]](#), 3 years probation
2. Standard Conditions of Probation [\[15-245-44\]](#)

If warranted: 1. Suspension [3] with/without stay [4]
2. [Probation Monitoring Costs \[27\]](#)
~~3~~2. Ethics Continuing Education [\[3129\]](#)
~~4~~3. Regulatory Review Course [\[3224\]](#)
~~5~~4. Administrative Penalty not to maximum set forth in Section 5116 [\[4332\]](#)

(Reference Section 5079)

SECTION 52 RESPONSE TO BOARD INQUIRY

Minimum Penalty - Continuing Education Courses [\[3625\]](#)

Maximum Penalty - Revocation [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [\[4-2,4\]](#), 3 years probation
2. Standard Conditions of Probation [\[15-245-44\]](#)

If warranted: 1. [Probation Monitoring Costs \[27\]](#)
~~2~~4. Ethics Continuing Education [\[3129\]](#)
~~3~~2. Regulatory Review Course [\[3224\]](#)
~~4~~3. Continuing Education Courses [\[3625\]](#)
~~5~~4. Community Service – Free Services [\[4029\]](#)
~~6~~5. Administrative Penalty not to exceed maximum set forth in Section 5116 [\[4332\]](#)

SECTION 53 DISCRIMINATION PROHIBITED

Minimum Penalty - Continuing Education Courses [\[3625\]](#)

Maximum Penalty - Revocation stayed, 3 years probation [\[1,2,44-2,4\]](#)

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [\[15-245-44\]](#)

If warranted: 1. [Probation Monitoring Costs \[27\]](#)
~~2~~4. Ethics Continuing Education [\[3129\]](#)
~~3~~2. Regulatory Review Course [\[3224\]](#)
~~4~~3. Continuing Education Courses [\[3625\]](#)
~~5~~4. Administrative Penalty not to exceed maximum set forth in Section 5116 [\[4332\]](#)

SECTION 54.1 DISCLOSURE OF CONFIDENTIAL INFORMATION PROHIBITED

Minimum Penalty - Continuing Education Courses [3625]
Maximum Penalty - ~~Revocation [1,2]Revocation stayed; 90 day suspension, 3 years probation [4-4]~~

CONDITIONS OF PROBATION:

Required: 1. ~~If revocation stayed [4], 3 years probation 3 years probation~~
2. Standard Conditions of Probation [15-245-44]

If warranted: 1. ~~Suspension [3] with/without stay [4]Suspension [3]~~
2. Supervised Practice [2545]
3. Probation Monitoring Costs [27]
43. Ethics Continuing Education [3129]
54. Regulatory Review Course [3224]
65. Continuing Education Courses [3625]
76. Notice to Clients [4234]
87. Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]

(Reference Section ~~5063.3 5037~~)

SECTION 54.2 RECIPIENTS OF CONFIDENTIAL INFORMATION

Minimum Penalty - Continuing Education Courses [3625]
Maximum Penalty - Revocation [1,24-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed, [1-2, 4], 3 years probation
2. Standard Conditions of Probation [15-245-44]

If warranted: 1. Supervised Practice [2545]
2. Probation Monitoring Costs [27]
32. Ethics Continuing Education [3129]
43. Regulatory Review Course [3224]
54. Continuing Education Courses [3625]
65. Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]

SECTION 56 COMMISSIONS – BASIC DISCLOSURE REQUIREMENT

Minimum Penalty – ~~Correction of Violation and/or~~ Continuing Education Courses [3625]

Maximum Penalty – Revocation [1,24-2]

CONDITIONS OF PROBATION

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~15-245-44~~]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2545~~]
 3. Restitution [~~2646~~]
 4. Probation Monitoring Costs [27]
 5. Restricted Practice [~~2847~~]
 6. Engagement Letters [29]
 7. Ethics Continuing Education [3120]
 8. Regulatory Review Course [3224]
 9. Continuing Education Courses [3625]
 10. Community Service – Free Services [40]
 11. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]

SECTION 56.1 COMMISSIONS – PROFESSIONAL SERVICES PROVIDED TO CLIENT

Minimum Penalty – ~~Correction of Violation and/or~~ Continuing Education Courses [3625]

Maximum Penalty – Revocation [1,24-2]

CONDITIONS OF PROBATION

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [~~15-245-44~~]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [~~2545~~]
 3. Restitution [~~2646~~]
 4. Probation Monitoring Costs [27]
 5. Restricted Practice [~~2847~~]
 6. Ethics Continuing Education [3120]
 7. Regulatory Review Course [3224]
 8. Continuing Education Courses [3625]
 9. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]

SECTION 57 INCOMPATIBLE OCCUPATIONS AND CONFLICT OF INTEREST

Minimum Penalty - Continuing Education Courses [\[3625\]](#)

Maximum Penalty - Revocation [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [\[4-2,4\]](#), 3 years probation
2. Standard Conditions of Probation [\[15-245-44\]](#)

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [\[2545\]](#)
[3. Probation Monitoring Costs \[27\]](#)
[43. Restricted Practice \[2847\]](#)
[54. Engagement Letters \[2948\]](#)
[65. Ethics Continuing Education \[3120\]](#)
[76. Regulatory Review Course \[3224\]](#)
[87. Continuing Education Courses \[3625\]](#)
[98. Prohibition from Handling Funds \[3928\]](#)
[109. Community Service – Free Services \[4029\]](#)
[1140. Administrative Penalty not to exceed maximum set forth in Section 5116 \[4332\]](#)

SECTION 58 COMPLIANCE WITH STANDARDS

Minimum Penalty - Continuing Education Courses [\[3625\]](#)

Maximum Penalty - Revocation [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [\[4-2,4\]](#), 3 years probation
2. Standard Conditions of Probation [\[15-245-44\]](#)

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [\[2545\]](#)
[3. Probation Monitoring Costs \[27\]](#)
[43. Restricted Practice \[2847\]](#)
[54. Engagement Letters \[2948\]](#)
[65. Ethics Continuing Education \[3120\]](#)
[76. Regulatory Review Course \[3224\]](#)
[87. Peer Review \[3322\]](#)
[98. CPA Exam \[3423\]](#)
[109. Continuing Education Courses \[3625\]](#)
[1140. Samples - Audit, Review or Compilation \[3827\]](#)
[1244. Administrative Penalty not to exceed maximum set forth in Section 5116 \[4332\]](#)

SECTION 59 REPORTING OF RESTATEMENTS

Minimum Penalty - ~~Correction of Violation and/or~~ Continuing Education Courses [3625]

Maximum Penalty - Revocation [1,24-2]

CONDITIONS OF PROBATION

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~15-245-44~~]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2545~~]
~~3.~~ Probation Monitoring Costs [27]
~~43.~~ Restricted Practice [~~2847~~]
~~54.~~ Ethics Continuing Education [3129]
~~65.~~ Regulatory Review Course [3224]
~~76.~~ Continuing Education Courses [3625]
~~87.~~ Community Service – Free Services [4029]
~~98.~~ Administrative Penalty not to exceed maximum set forth in
Section 5116 [~~4332~~]

(Reference Section 5063)

SECTION 60 REPORTING OF INVESTIGATIONS BY THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

Minimum Penalty - ~~Correction of Violation and/or~~ Continuing Education Courses [3625]

Maximum Penalty - Revocation [~~4-21,2~~]

CONDITIONS OF PROBATION

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~15-245-44~~]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2545~~]
~~3.~~ Probation Monitoring Costs [27]
~~43.~~ Restricted Practice [~~2847~~]
~~54.~~ Ethics Continuing Education [3129]
~~65.~~ Regulatory Review Course [3224]
~~76.~~ Continuing Education Courses [3625]
~~87.~~ Community Service – Free Services [4029]
~~98.~~ Administrative Penalty not to exceed maximum set forth in
Section 5116 [~~4332~~]

(Reference Section 5063)

SECTION 61 THE REPORTING OF SETTLEMENTS, ARBITRATION AWARDS, AND JUDGMENTS

Minimum Penalty - ~~Correction of Violation and/or~~ Continuing Education Courses [3625]
Maximum Penalty - Revocation [1,24-2]

CONDITIONS OF PROBATION

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~15-245-14~~]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2545~~]
3. Probation Monitoring Costs [27]
4. Restricted Practice [~~2847~~]
5. Engagement Letters [~~2948~~]
6. Ethics Continuing Education [3120]
7. Regulatory Review Course [3224]
8. Continuing Education Courses [3625]
9. Community Service – Free Services [4029]
10. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]

(Reference Section 5063)

SECTION 62 CONTINGENT FEES

Minimum Penalty - ~~Continuing Education Courses [36]~~ Correction of Violation
Maximum Penalty - Revocation [1,24-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [~~1-2~~,4], 3 years probation
2. Standard Conditions of Probation [~~15-245-14~~]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2545~~]
3. Restitution [~~2646~~]
4. Probation Monitoring Costs [27]
5. Restricted Practice [~~2847~~]
6. Engagement Letters [~~2948~~]
7. Ethics Continuing Education [3120]
8. Regulatory Review Course [3224]
9. Continuing Education Courses [3625]
10. Community Service – Free Services [4029]
11. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]

SECTION 63 ADVERTISING

Minimum Penalty - ~~Correction of Violation and/or~~ Continuing Education Courses [3625]
Maximum Penalty - Revocation [1,24-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4-2,4], 3 years probation
 2. Standard Conditions of Probation [15-245-44]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Probation Monitoring Costs [27]
 3. Ethics Continuing Education [3129]
 4. Regulatory Review Course [3224]
 5. Community Service – Free Services [4029]
 6. Administrative Penalty not to exceed maximum set forth in
 Section 5116 [4332]

SECTION 65 INDEPENDENCE

Minimum Penalty - ~~Revocation stayed [1,2,4], 3 years probation.~~ ~~Correction of Violation and/or~~
~~Continuing Education Courses [25]~~
Maximum Penalty - Revocation [1,24-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4-2,4], probation of 3 to 5 years
 2. Standard Conditions of Probation [15-245-44]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Supervised Practice [2545]
 3. Restitution [2646]
 4. Probation Monitoring Costs [27]
 5. Restricted Practice [2847]
 6. Engagement Letters [2948]
 7. Ethics Continuing Education [3129]
 8. Regulatory Review Course [3224]
 9. Peer Review [3322]
 10. CPA Exam [3423]
 11. Samples - Audit, Review or Compilation [3827]
 12. Administrative Penalty not to exceed maximum set forth in
 Section 5116 [4332]

SECTION 67 APPROVAL OF USE OF FICTITIOUS NAME

Minimum Penalty - ~~Continuing Education Courses [36]~~~~Correction of Violation~~
Maximum Penalty - Revocation stayed, 90 day suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~15-245-44~~]

If warranted: ~~1. Probation Monitoring Costs [27]~~
~~24. Ethics Continuing Education [3129]~~
~~32. Regulatory Review Course [3224]~~
~~43. Community Service – Free Services [4029]~~
~~54. Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]~~

SECTION 68 RETENTION OF CLIENT'S RECORDS

Minimum Penalty - Continuing Education Courses [~~3625~~]
Maximum Penalty - Revocation [~~1,24-2~~]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [~~4-2,4~~], 3 years probation
2. Standard Conditions of Probation [~~15-245-44~~]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2545~~]
3. Restitution [~~2646~~]
~~4. Probation Monitoring Costs [27]~~
~~54. Restricted Practice [2847]~~
~~65. Engagement Letters [2948]~~
~~76. Ethics Continuing Education [31929]~~
~~87. Regulatory Review Course [3224]~~
~~98. Continuing Education Courses [3625]~~
~~109. Community Service – Free Services [4029]~~
~~1140. Administrative Penalty not to exceed maximum set forth in Section 5116 [4332]~~
~~1244. Conditions as appropriate relating to physical or mental disability or condition [44-4931-36]~~

(Reference Section 5037)

SECTION 68.1 WORKING PAPERS DEFINED; RETENTION

Minimum Penalty - Continuing Education Courses [\[3625\]](#)

Maximum Penalty - Revocation [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

Required:

1. If revocation stayed [\[4-2,4\]](#), 3 years probation
2. Standard Conditions of Probation [\[15-245-44\]](#)

If warranted:

1. Suspension [3] with/without stay [4]
2. Restitution [\[2646\]](#)
3. Probation Monitoring Costs [\[27\]](#)
4. Restricted Practice [\[2847\]](#)
5. Engagement Letters [\[2948\]](#)
6. Ethics Continuing Education [\[3120\]](#)
7. Regulatory Review Course [\[3424\]](#)
8. Continuing Education Courses [\[3625\]](#)
8. Community Service – Free Services [\[4029\]](#)
10. Administrative Penalty not to exceed maximum set forth in Section 5116 [\[4332\]](#)
11. Conditions as appropriate relating to physical or mental disability or condition [\[44-4931-36\]](#)

SECTION 68.2 COMPONENTS OF AUDIT DOCUMENTATION

Minimum Penalty - Continuing Education Courses [\[3625\]](#)

Maximum Penalty - Revocation [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

Required:

1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [\[15-245-44\]](#)
3. Continuing Education Courses [\[3625\]](#)

If warranted:

1. Suspension [3] with/without stay [4]
2. Supervised Practice [\[2545\]](#)
3. Probation Monitoring Costs [\[27\]](#)
4. Restricted Practice [\[2847\]](#)
5. Ethics Continuing Education [\[3120\]](#)
6. Regulatory Review Course [\[3224\]](#)
7. Peer Review [\[3322\]](#)
8. CPA Exam [\[3423\]](#)
9. Samples - Audits, Review or Compilation [\[3827\]](#)
10. Community Service – Free Services [\[4029\]](#)
11. Notice to Clients [\[4234\]](#)
12. Administrative Penalty not to exceed maximum set forth in Section 5116 [\[4332\]](#)

(Reference Section 5097)

SECTION 68.3 RETENTION PERIOD FOR AUDIT DOCUMENTATION

Minimum Penalty - Continuing Education Courses [\[3625\]](#)

Maximum Penalty - Revocation [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

Required:

1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [\[15-245-44\]](#)
3. Continuing Education Courses [\[3625\]](#)

If warranted:

1. Suspension [3] with/without stay [4]
2. Supervised Practice [\[2546\]](#)
3. Probation Monitoring Costs [\[27\]](#)
43. Restricted Practice [\[2847\]](#)
54. Library Reference Material [\[3049\]](#)
65. Ethics Continuing Education [\[3120\]](#)
76. Regulatory Review Course [\[3224\]](#)
87. Peer Review [\[3322\]](#)
98. CPA Exam [\[3423\]](#)
109. Samples - Audits, Review or Compilation [\[3827\]](#)
1140. Community Service – Free Services [\[4029\]](#)
1244. Notice to Clients [\[4234\]](#)
1342. Administrative Penalty not to exceed maximum set forth in Section 5116 [\[4332\]](#)

(Reference Section 5097)

**SECTION 68.4 CHANGES IN AUDIT DOCUMENTATION AFTER
ISSUANCE OF REPORT**

Minimum Penalty - Continuing Education Courses [\[3625\]](#)

Maximum Penalty - Revocation [\[1,21-2\]](#)

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [\[15-245-44\]](#)
 3. Continuing Education Courses [\[3625\]](#)

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [\[2545\]](#)
 3. [Probation Monitoring Costs \[27\]](#)
 43. [Restricted Practice \[2847\]](#)
 54. [Library Reference Material \[3049\]](#)
 65. [Ethics Continuing Education \[3120\]](#)
 76. [Regulatory Review Course \[3224\]](#)
 87. [Peer Review \[3322\]](#)
 98. [CPA Exam \[3423\]](#)
 107. [Samples - Audits, Review or Compilation \[3827\]](#)
 118. [Community Service – Free Services \[4029\]](#)
 129. [Notice to Clients \[4234\]](#)
 1340. [Administrative Penalty not to exceed maximum set forth in Section 5116 \[4332\]](#)

(Reference Section 5097)

**SECTION 68.5 AUDIT DOCUMENTATION
RETENTION AND DESTRUCTION POLICY**

Minimum Penalty - Continuing Education Courses [\[3625\]](#)
Maximum Penalty - Revocation [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [\[15-245-44\]](#)
 3. Continuing Education Courses [\[3625\]](#)

If warranted: 1. Suspension [3] with/without stay [4]
 2. Supervised Practice [\[2545\]](#)
 3. [Probation Monitoring Costs \[27\]](#)
 43. Restricted Practice [\[2847\]](#)
 54. Library Reference Material [\[3049\]](#)
 65. Ethics Continuing Education [\[3129\]](#)
 76. Regulatory Review Course [\[3224\]](#)
 87. Peer Review [\[3322\]](#)
 98. CPA Exam [\[3423\]](#)
 109. Samples - Audits, Review or Compilation [\[3827\]](#)
 1140. Community Service – Free Services [\[4029\]](#)
 1244 Notice to Clients [\[4234\]](#)
 1342. Administrative Penalty not to exceed maximum set forth in
 Section 5116 [\[4332\]](#)

(Reference Section 5097)

SECTION 69 CERTIFICATION OF APPLICANT'S EXPERIENCE

Minimum Penalty - [Continuing Education Courses \[36\]](#)[Correction of Violation](#)
Maximum Penalty - Revocation [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [\[1-2,4\]](#), 3 years probation
 2. Standard Conditions of Probation [\[15-245-44\]](#)

If warranted: 1. Suspension [3] with/without stay [4]
 2. Supervised Practice [\[2545\]](#)
 3. [Probation Monitoring Costs \[27\]](#)
 43. Ethics Continuing Education [\[3129\]](#)
 54. Regulatory Review Course [\[3224\]](#)
 65. Community Service – Free Services [\[4029\]](#)
 76. Administrative Penalty not to exceed maximum set forth in
 Section 5116 [\[4332\]](#)

ARTICLE 11: ACCOUNTANCY CORPORATION RULES

SECTION 75.8 SECURITY FOR CLAIMS AGAINST AN ACCOUNTANCY CORPORATION

- Minimum Penalty - [Continuing Education Courses \[36\] for licensee directors, shareholders, and/or officers of corporation](#)~~Correction of Violation~~
Maximum Penalty - Revocation [\[1,24-2\]](#)

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation of 3 to 5 years
 2. Standard Conditions of Probation [\[15-245-44\]](#)
- If warranted:
1. Supervised Practice [\[2546\]](#)
 2. Restitution [\[2646\]](#)
 3. [Probation Monitoring Costs \[27\]](#)
 4. Restricted Practice [\[2847\]](#)
 5. Ethics Continuing Education [\[3120\]](#)
 6. Regulatory Review Course [\[3224\]](#)
 7. Continuing Education Courses [\[3625\]](#)
 8. Samples - Audit, Review or Compilation [\[3827\]](#)
 9. Prohibition from Handling Funds [\[3928\]](#)
 10. Community Service – Free Services [\[4029\]](#)
 11. Notification to Clients [\[4234\]](#)
 12. Administrative Penalty not to exceed maximum set forth in Section 5116 [\[4332\]](#)

SECTION 75.9 SHARES: OWNERSHIP AND TRANSFER

- Minimum Penalty - [Continuing Education Courses \[36\] for licensee directors, shareholders, and/or officers of corporation](#)~~Correction of Violation~~
Maximum Penalty - [Revocation of corporate registration \[1,2\] and discipline of individual licenses](#)~~Revocation stayed, 90-day suspension, 3-years probation [1-4]~~

CONDITIONS OF PROBATION:

- Required:
1. [If revocation stayed \[4\], 3 years probation](#)
 2. Standard Conditions of Probation [\[15-245-44\]](#)
- If warranted:
1. Suspension [3] with/without stay [4]
 2. [Probation Monitoring Costs \[27\]](#)
 3. Restricted Practice [\[2847\]](#)
 4. Ethics Continuing Education [\[3120\]](#)
 5. Regulatory Review Course [\[3224\]](#)
 6. Administrative Penalty not to exceed maximum set forth in Section 5116 [\[4332\]](#)

[\(Reference Section 5154\)](#)

SECTION 75.11(b) CERTIFICATION OF REGISTRATION; CONTINUING VALIDITY; NOTIFICATION OF NAME AND ADDRESS CHANGES

Minimum Penalty - Continuing Education Courses [33] for licensee directors, shareholders, and/or officers of corporation~~Correction of Violation~~
Maximum Penalty - Suspend corporate accountancy registration and/or individual licenses for 90 days [3]~~Revocation stayed, 90 day suspension, 3 years probation [1-4]~~

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~15-245-44~~]

If warranted: 1. Suspension [3] with/without stay [4]
2. Restricted Practice [~~2847~~]
3. Ethics Continuing Education [~~3129~~]
4. Regulatory Review Course [~~3224~~]
5. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]

(Reference Section 5152)

ARTICLE 12: CONTINUING EDUCATION RULES

Section 80 INACTIVE LICENSE STATUS

Minimum Penalty - Continuing Education Courses [36]

Maximum Penalty - Revocation [1,2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [15-24]

If warranted: 1. Suspension [3] with/without stay [4]
2. Probation Monitoring Costs [27]
3. Restricted Practice [28]
4. Ethics Continuing Education [31]
5. Regulatory Review Course [32]
6. Continuing Education Courses [36]
7. Active License Status [37]
8. Administrative Penalty not to exceed maximum set forth in Section 5116 [43]

**SECTION 81(a) CONTINUING EDUCATION REQUIREMENTS
FOR RENEWING AN EXPIRED LICENSE**

Minimum Penalty – ~~Correction of Violation and/or~~ Continuing Education Courses [3625]
Maximum Penalty – Revocation [1,24-2]

CONDITIONS OF PROBATION

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [15-245-44]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [2545]
3. Probation Monitoring Costs [27]
43. Restricted Practice [2847]
54. Ethics Continuing Education [3120]
65. Regulatory Review Course [3224]
76. Continuing Education Courses [3625]
87. Samples – Audit, Review or Compilation [3827]
98. Administrative Penalty not to exceed maximum set forth in
Section 5116 [4332]

SECTION 87 BASIC REQUIREMENTS (Continuing Education)

Minimum Penalty – ~~Correction of Violation and/or~~ Continuing Education Courses [3625]
Maximum Penalty – Revocation [~~1,2,4~~]

CONDITIONS OF PROBATION

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [~~15-245-44~~]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~2545~~]
~~3.~~ Probation Monitoring Costs [27]
~~43.~~ Restricted Practice [~~2847~~]
~~54.~~ Ethics Continuing Education [3129]
~~66.~~ Regulatory Review Course [3224]
~~76.~~ Continuing Education Courses [3625]
~~87.~~ Samples – Audit, Review or Compilation [3827]
~~98.~~ Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]

SECTION 87.5 ADDITIONAL CONTINUING EDUCATION REQUIREMENTS

Minimum Penalty - Continuing Education Courses [36] ~~Correction of Violation~~
Maximum Penalty - Revocation stayed, 3 years probation [~~1-2,1,2,4~~]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~15-245-44~~]

If warranted: 1. Probation Monitoring Costs [27]
~~24.~~ Ethics Continuing Education [3129]
~~32.~~ Regulatory Review Course [3224]
~~43.~~ Continuing Education Courses [3625]
~~54.~~ Active License Status [3726]
~~65.~~ Samples - Audit, Review or Compilation [3827]
~~76.~~ Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]

**SECTION 87.6 RECORDS REVIEW
CONTINUING EDUCATION REQUIREMENTS**

Minimum Penalty - [Continuing Education Courses \[36\]](#)~~Correction of Violation~~
Maximum Penalty - Revocation stayed, 3 years probation [~~1,2,4~~-2,4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~15-245-44~~]

If warranted: [1. Probation Monitoring Costs \[27\]](#)
~~2~~4. Ethics Continuing Education [~~31~~29]
~~3~~2. Regulatory Review Course [~~32~~24]
~~4~~3. Continuing Education Courses [~~36~~25]
~~5~~4. Samples - Audit, Review or Compilation [~~38~~27]
~~6~~5. Administrative Penalty not to exceed maximum set forth in
Section 5116 [~~43~~32]

SECTION 87.8 REGULATORY REVIEW COURSE

Minimum Penalty - [Continuing Education Courses \[36\]](#)~~Correction of Violation~~
Maximum Penalty - Revocation stayed, 3 years probation [~~1,2,4~~-2,4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~15-245-44~~]

If warranted: [1. Probation Monitoring Costs \[27\]](#)
~~2~~4. Ethics Continuing Education [~~31~~29]
~~3~~2. Continuing Education Courses [~~36~~25]
~~4~~3. Administrative Penalty not to exceed maximum set forth in
Section 5116 [~~43~~32]

SECTION 89 CONTROL AND REPORTING

Minimum Penalty - [Continuing Education Courses \[36\]](#)~~Correction of Violation~~
Maximum Penalty - Revocation [~~1,2~~-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [~~1-2~~-4], 3 years probation
2. Standard Conditions of Probation [~~15-245-44~~]

If warranted: [1. Probation Monitoring Costs \[27\]](#)
~~2~~4. Ethics Continuing Education [~~31~~29]
~~3~~2. Regulatory Review Course [~~32~~24]
~~4~~3. Continuing Education Courses [~~36~~25]
~~5~~4. Administrative Penalty not to exceed maximum set forth in
Section 5116 [~~43~~32]

SECTION 89.1 REPORTS

Minimum Penalty - [Continuing Education Courses \[36\]](#)~~Correction of Violation~~

Maximum Penalty - Revocation stayed, 3 years probation [~~1,2,4~~-2,4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [~~15-24~~5-44]

If warranted:

1. [Probation Monitoring Costs \[27\]](#)
- ~~2~~4. Ethics Continuing Education [~~31~~20]
- ~~3~~2. Regulatory Review Course [~~32~~24]
- ~~4~~3. Continuing Education Courses [~~36~~25]
- ~~5~~4. Samples - Audit, Review or Compilation [~~38~~27]
- ~~6~~5. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~43~~32]

SECTION 90 EXCEPTIONS AND EXTENSIONS

Minimum Penalty – Continuing Education [Courses \[36\]](#)~~25~~

Maximum Penalty – Revocation [~~1,2~~4-2]

CONDITIONS OF PROBATION

Required:

1. If revocation stayed [4] 3 years probation
2. Standard Conditions of Probation [~~15-24~~5-44]

If warranted:

1. Suspension [3] with/without stay [4]
2. Supervised Practice [~~25~~45]
3. [Probation Monitoring Costs \[27\]](#)
- ~~4~~3. Restricted Practice [~~28~~47]
- ~~5~~4. Ethics Continuing Education [~~31~~20]
- ~~6~~5. Regulatory Review Course [~~32~~24]
- ~~7~~6. Continuing Education Courses [~~36~~25]
- ~~8~~7. Samples – Audit, Review or Compilation [~~38~~27]
- ~~9~~8. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~43~~32]

ARTICLE 12.5: CITATIONS AND FINES

SECTION 95.4 FAILURE TO COMPLY WITH CITATION

Minimum Penalty - Compliance with Citation Abatement Order and/or Fine as issued

Maximum Penalty - Revocation stayed, 3 years probation [~~1,2,41-2,4~~]

CONDITIONS OF PROBATION:

- Required:
1. Standard Conditions of Probation [~~15-245-44~~]
 2. Restitution [~~2646~~]
 3. Compliance with Citation Abatement Order and/or Fine

- If warranted:
1. Probation Monitoring Costs [27]
 2. Administrative Penalty not to exceed maximum set forth in Section 5116 [~~4332~~]

VIOLATION OF PROBATION

- Minimum penalty - Citation and Fine ~~191(13)~~
- Maximum penalty - Vacate stay order and impose penalty that was previously stayed; and/or revoke, separately and severally, for violation of probation and/or for any additional offenses. [1-4]

California Code of Regulations Section 95 provides the authority for the Executive Officer to issue citations and fines from \$100 to \$5000 to a licensee for violation of a term or condition contained in a decision placing that licensee on probation.

The maximum penalty is appropriate for repeated **similar** offenses, or for probation violations indicating a cavalier or recalcitrant attitude. If the probation violation is due in part to the commission of additional offense(s), additional penalties shall be imposed according to the nature of the offense; and the probation violation shall be considered as an aggravating factor in imposing a penalty for those offenses.

UNLICENSED ACTIVITIES

If any unlicensed individual or firm violates, or is suspected of violating, any of the following Business and Professions Code sections, the matter may be referred to the Division of Investigation and if the allegation is confirmed, to the District Attorney or other appropriate law enforcement officer for prosecution.

Section 5050	Section 5056	Section 5072
Section 5051	Section 5058	Section 5088
Section 5055	Section 5071	

Board Section 95.6 also provides the authority for the Executive Officer to issue citations and fines from \$100 to \$5000 and an order of abatement against any person defined in Business and Professions Code Section 5035 who is acting in the capacity of a licensee under the jurisdiction of the CBA.

Section 5120 provides that any person who violates any provisions of Article 3 is guilty of a misdemeanor and can be imprisoned for not more than 6 months or assessed a fine of not more than \$1,000 or both. Injunctions may be requested (see Section 5122 immediately following).

INJUNCTIONS

Section 5122 provides that "Whenever in the judgment of the Board (or with its approval, in the judgment of the Enforcement Advisory Committee), any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the Board may make application to the appropriate court for an order enjoining the acts or practices, and upon showing by the Board that the person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order that may be appropriate shall be granted by the court." This section applies to licensees and unlicensed persons.

California Board of Accountancy

Index to Model ~~Disciplinary~~ Orders and Conditions of Probation

(Refer to page 4 for ~~Index to Disciplinary Guidelines~~)

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VIII. MODEL ~~DISCIPLINARY~~ ORDERS

LICENSEES

1. **Revocation** - Single Cause:

_____ License No. _____ issued
(Ex: Certified Public Accountant) (Ex: 00000)

to respondent _____ is revoked.
(Name)

2. **Revocation** - Multiple Causes:

_____ License No. _____ issued to respondent _____ is revoked
pursuant to Determination(s) of Issues _____ separately and for all of them.

3. **Suspension:**

_____ License No. _____ issued to respondent _____ is suspended for
_____. During the period of suspension the respondent shall engage in no activities
for which certification as a Certified Public Accountant or Public Accountant is required as
described in Business and Professions Code, Division 3, Chapter 1, Section 5051.

4. **Standard Stay Order:**

However, _____ (revocation/suspension) _____ is stayed and respondent is placed on
probation for _____ years upon the following terms and conditions:

PETITIONS FOR REINSTATEMENT

5. Grant petition without restrictions on the license:

The petition for reinstatement filed by _____ is hereby granted and Petitioner's
certificate shall be fully restored.

6. Grant petition and place license on probation:

The petition for reinstatement filed by _____ is hereby granted. Petitioner's
certificate shall be fully restored. However, the certificate shall then be immediately
revoked, the revocation shall be stayed, and petitioner shall be placed on probation for
_____ years upon the following terms and conditions (list standard and applicable optional
conditions of probation):

7. Grant petition and place license on probation after petitioner completes conditions precedent to reinstatement of the license:

The petition for reinstatement filed by _____ is hereby granted and
Petitioner's certificate shall be fully reinstated upon the following conditions precedent (list

conditions precedent such as restitution, cost reimbursement, completion of CE, completion of rehabilitation program, take and pass CPA/Enrolled Agents exam, etc):

Upon completion of the conditions precedent above, Petitioner's certificate shall be reinstated. Upon reinstatement, Petitioner's certificate shall be revoked. However, said revocation shall be stayed and Petitioner shall be placed on probation for a period of _____ years under the following terms and conditions (list standard and applicable optional conditions of probation):

8. Deny Petition:

The petition for reinstatement filed by _____ is hereby denied.

Option: In accordance with Section 5115(a) of the Business and Professions Code, Petitioner may file a new petition for reinstatement only after _____ years have elapsed from the effective date of this decision.

Note: (3 years maximum)

Note: Business and Professions Code section 5115 also allows a person to file a petition for a reduction in penalty. The above checklist can also be used for these petitions.

PETITION FOR REVOCATION OF PROBATION

9. Revocation of Probation:

_____, Certified Public Accountant Certificate No. _____, heretofore issued to Respondent _____, is revoked.

10. Continuance of Probation:

However, revocation is stayed and respondent is placed on probation for _____ years upon the following terms and conditions:

APPLICANTS

11. Grant application without restrictions on the license:

The application of respondent _____ for initial licensure is hereby granted and a license shall be issued to respondent upon successful completion of all licensing requirements including payment of all fees.

12. Grant application and place license on probation:

The application of respondent _____ for initial licensure is hereby granted and a license shall be issued to respondent upon successful completion of all licensing requirements including payment of all fees. Said license shall immediately be revoked, the order of revocation stayed and respondent's license placed on probation for a period of _____ years on the following conditions:

13. Grant application and place license on probation after applicant completes conditions precedent to reinstatement of the license:

The application filed by _____ for initial licensure is hereby granted and a license shall be issued upon the following conditions precedent (*list conditions precedent such as restitution, cost reimbursement, completion of CE, completion of rehabilitation program, take and pass CPA/Enrolled Agents exam, etc*):

Upon completion of the conditions precedent above and successful completion of all licensing requirements, Respondent shall be issued a license. However, the license shall be immediately revoked, and Respondent shall be placed on probation for a period of _____ years under the following terms and conditions (*list standard and applicable optional conditions of probation*):

14. Deny Application:

The application of Respondent _____ for initial licensure is hereby denied.

STANDARD CONDITIONS OF PROBATION (TO BE INCLUDED IN ALL CASES OF PROBATION)

15. ~~5.~~ Obey All Laws

Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

16. ~~6.~~ Cost Reimbursement

Respondent shall reimburse the Board \$ _____ for its investigation and prosecution costs. The payment shall be made within __ days/months of the date the Board's decision is final.

Option: The payment shall be made as follows: _____ [specify either prior to the resumption of practice or in quarterly payments (due with quarterly written reports), the final payment being due one year before probation is scheduled to terminate].

17. ~~7.~~ Submit Written Reports

Respondent shall submit, within 10 days of completion of the quarter, written reports to the Board on a form obtained from the Board. The respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

18. ~~8.~~ Personal Appearances

Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the Board or its designated representatives, provided such notification is accomplished in a timely manner.

19. ~~9.~~ Comply With Probation

Respondent shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the California Board of Accountancy in its monitoring and investigation of the respondent's compliance with probation terms and conditions.

20. ~~10.~~ Practice Investigation

Respondent shall be subject to, and shall permit, a practice investigation of the respondent's professional practice. Such a practice investigation shall be conducted by representatives of the Board, provided notification of such review is accomplished in a timely manner.

21. ~~11.~~ Comply With Citations

Respondent shall comply with all final orders resulting from citations issued by the California Board of Accountancy.

| **22.~~12.~~Tolling of Probation for Out-of-State Residence/Practice**

In the event respondent should leave California to reside or practice outside this state, respondent must notify the Board in writing of the dates of departure and return. Periods of non-California residency or practice outside the state shall not apply to reduction of the probationary period, or of any suspension. No obligation imposed herein, including requirements to file written reports, reimburse the Board costs, and make restitution to consumers, shall be suspended or otherwise affected by such periods of out-of-state residency or practice except at the written direction of the Board.

| **23.~~13.~~Violation of Probation**

If respondent violates probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

The CBA's Executive Officer may issue a citation under California Code of Regulations, Section 95, to a licensee for a violation of a term or condition contained in a decision placing that licensee on probation.

| **24.~~14.~~Completion of Probation**

Upon successful completion of probation, respondent's license will be fully restored.

OPTIONAL CONDITIONS OF PROBATION (To Be Included In Cases Where Appropriate)

25. ~~15.~~ Supervised Practice

Within thirty days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval a plan of practice that shall be monitored by another CPA or PA who provides periodic reports to the Board or its designee. Respondent shall pay all costs for such monitoring.

26. ~~16.~~ Restitution

Respondent shall make restitution to _____ in the amount of \$_____ and shall provide the Board with a written release from _____ attesting that full restitution has been paid.

Restitution shall be completed before the termination of probation.

27. Probation Monitoring Costs

Respondent shall pay all costs associated with probation monitoring as determined by the CBA. Such costs shall be payable to the CBA within 30 days. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation. If costs are billed after the completion of the probationary period, the obligation to pay the costs shall continue, but the probation shall not be extended.

28. ~~17.~~ Restricted Practice

Respondent shall be prohibited from _____ (performing certain types of engagements such as audits, reviews, compilations, or attestation engagements, etc.), and/or from practice in _____ (certain specialty areas, i.e. bookkeeping, write-up, tax, auditing, etc.).

29. ~~18.~~ Engagement Letters

Respondent shall use engagement letters with each engagement accepted during probation and shall provide copies of same to the Board or its designee upon request.

30. ~~19.~~ Library Reference Materials

Respondent shall have immediate access to, shall use, and shall maintain published materials and/or checklists that are consistent with the practice. Such materials and checklists shall be produced on-site for review by the Board or its designee upon reasonable notice.

31. ~~20.~~ Ethics Continuing Education

Respondent shall complete four hours of continuing education in course subject matter pertaining to the following: a review of nationally recognized codes of conduct emphasizing how the codes relate to professional responsibilities; case-based instruction focusing on real-life situational learning; ethical dilemmas facing the accounting profession; or business ethics, ethical sensitivity, and consumer expectations (within a given period of time or prior to resumption of practice). Courses must be a minimum of one hour as described in California Code of Regulations Section 88.2, (Courses will be passed prior to resumption of practice where license has been suspended or where otherwise appropriate.)

If respondent fails to complete said courses within the time period provided, respondent shall so notify the CBA and shall cease practice until respondent completes said courses, has submitted proof of same to the CBA, and has been notified by the CBA that he or she may resume practice. Failure to complete the required courses no later than 100 days prior to the termination of probation shall constitute a violation of probation. This shall be in addition to continuing education requirements for relicensing.

32. ~~24.~~ Regulatory Review Course

Respondent shall complete a CBA-approved course on the provisions of the California Accountancy Act and the California Board of Accountancy Regulations specific to the practice of public accountancy in California emphasizing the provisions applicable to current practice situations (within a given period of time or prior to resumption of practice). The course also will include an overview of historic and recent disciplinary actions taken by the CBA, highlighting the misconduct which led to licensees being disciplined. The course shall be (a minimum of two ~~hours~~) hours.

If respondent fails to complete said courses within the time period provided, respondent shall so notify the CBA and shall cease practice until respondent completes said courses, has submitted proof of same to the CBA, and has been notified by the CBA that he or she may resume practice. Failure to complete the required courses no later than 100 days prior to the termination of probation shall constitute a violation of probation. This shall be in addition to continuing education requirements for relicensing.

33. ~~22.~~ Peer Review

During the period of probation, all audit, review, and compilation reports and work papers shall be subject to peer review by a certified peer reviewer at respondent's expense. The review shall evaluate the respondent's and his/her firm's system of quality control, including its organizational structure, the policies and procedures established by the firm, and the firm's compliance with its quality control system as determined on the basis of a review of selected engagements. The specific engagements to be reviewed shall be at the discretion of the peer reviewer.

Upon completion of the peer review, respondent shall submit a copy of the report with the reviewer's conclusions and findings to the Board.

34. ~~23.~~ CPA Exam

Respondent shall take and pass the (section) of the CPA examination (within a given period of time - e.g., within 180 days of the effective date of the decision or within 180 days of completion of educational program, etc. or prior to the resumption of practice). (Exam will be passed prior to resumption of practice where license has been suspended or where otherwise appropriate.)

If respondent fails to pass said examination within the time period provided or within two attempts, respondent shall so notify the Board and shall cease practice until respondent takes and successfully passes said exam, has submitted proof of same to the Board, and has been notified by the Board that he or she may resume practice. Failure to pass the required examination no later than 100 days prior to the termination of probation shall constitute a violation of probation.

35. ~~24.~~ Enrolled Agents Exam

Respondent shall take and pass the enrolled agents exam (within a given period of time or prior to the resumption of practice). (Exam will be passed prior to resumption of practice where license has been suspended or where otherwise appropriate.)

If respondent fails to pass said examination within the time period provided or within two attempts, respondent shall so notify the Board and shall cease practice until respondent takes and successfully passes said examination, has submitted proof of same to the Board, and has been notified by the Board that he or she may resume practice. Failure to pass the required examination no later than 100 days prior to the termination of probation shall constitute a violation of probation.

36. ~~25.~~ Continuing Education Courses

Respondent shall complete and provide proper documentation of (specified) professional education courses within (a designated time). This (~~shall be/shall not be~~) in addition to continuing education requirements for relicensing.

~~OR~~

~~Respondent shall complete professional education courses as specified by the Board or its designee at the time of respondent's first probation appearance. The professional education courses shall be completed within a period of time designated and specified in writing by the Board or its designee, which time frame shall be incorporated as a condition of this probation. This (~~shall be/shall not be~~) in addition to continuing education requirements for relicensing.~~

~~Failure to satisfactorily complete the required courses as scheduled or failure to complete same no later than 100 days prior to the termination of probation shall constitute a violation of probation.~~

37. ~~26.~~ Active License Status

Respondent shall at all times maintain an active license status with the Board, including during any period of suspension. If the license is expired at the time the Board's decision becomes effective, the license must be renewed within 30 days of the effective date of the decision.

38. ~~27.~~ Samples - Audit, Review or Compilation

During the period of probation, if the respondent undertakes an audit, review or compilation engagement, the respondent shall submit to the Board as an attachment to the required quarterly report a listing of the same. The Board or its designee may select one or more from each category and the resulting report and financial statement and all related working papers must be submitted to the Board or its designee upon request.

39. ~~28.~~ Prohibition from Handling Funds

During the period of probation the respondent shall engage in no activities which require receiving or disbursing funds for or on behalf of any other person, company, partnership, association, corporation, or other business entity.

40. ~~29~~ Community Service - Free Services

Respondent shall participate in a community service program as directed by the Board or its designee in which respondent provides free professional services on a regular basis to a community or charitable facility or agency, amounting to a minimum of ____ hours. Such services to begin no later than __ days after respondent is notified of the program and to be completed no later than _____. Respondent shall submit proof of compliance with this requirement to the Board. Respondent is entirely responsible for his or her performance in the program and the Board assumes neither express nor implied responsibility for respondent's performance nor for the product or services rendered.

41. ~~30~~ Relinquish Certificate

Respondent shall relinquish and shall forward or deliver the certificate or permit to practice to the Board office within 10 days of the effective date of this decision and order.

42. ~~34~~ Notification to Clients/Cessation of Practice

In orders that provide for a cessation or suspension of practice, respondent shall comply with procedures provided by the California Board of Accountancy or its designee regarding notification to, and management of, clients.

43. ~~32~~ Administrative Penalty

Respondent shall pay to the Board an administrative penalty in the amount of \$_____ for violation of Section(s) _____ of the California Accountancy Act. The payment shall be made within __days/months of the date the Board's decision is final.

44. ~~33~~ Medical Treatment

Respondent shall undergo and continue treatment by a licensed physician of respondent's choice and approved by the Board or its designee until the treating physician certifies in writing in a report to the Board or its designee that treatment is no longer necessary. Respondent shall have the treating physician submit reports to the Board at intervals determined by the Board or its designee. Respondent is responsible for costs of treatment and reports.

(Optional)

Respondent shall not engage in practice until notified by the Board of its determination that respondent is physically fit to practice.

45. ~~34~~ Psychotherapist

Respondent shall undergo and continue treatment by a licensed psychotherapist of respondent's choice and approved by the Board or its designee until the treating psychotherapist certifies in writing in a report to the Board or its designee that treatment is no longer necessary. Respondent shall have the treating psychotherapist submit reports to the Board at intervals determined by the Board or its designee. Respondent is responsible for costs of treatment and reports.

(Optional)

Respondent shall not engage in practice until notified by the Board of its determination that respondent is mentally fit to practice.

| 46. ~~35.~~ **Rehabilitation Program/Chemical Dependence**

Respondent shall successfully complete or shall have successfully completed a rehabilitation program for chemical dependence that the Board or its designee approves and shall have reports submitted by the program. If a program was not successfully completed prior to the period of probation, the respondent, within a reasonable period of time as determined by the Board or its designee but not exceeding 90 days of the effective date of the decision, shall be enrolled in a program. In addition, respondent must attend support groups, (e.g. Narcotics Anonymous, Alcoholic Anonymous etc.), as directed by the Board or its designee. Respondent is responsible for all costs of such a program.

| 47. ~~36.~~ **Drugs - Abstain From Use**

Respondent shall completely abstain from the personal use of all psychotropic drugs, including alcohol, in any form except when the same are lawfully prescribed.

| 48. ~~37.~~ **Drugs - Screening**

Respondent shall participate or shall have participated in a drug screening program acceptable to the Board and shall have reports submitted by the program. Respondent is responsible for all costs associated with said screening and reporting.

| 49. ~~38.~~ **Biological Fluid Testing**

Respondent, at any time during the period of probation, shall fully cooperate with the Board or its designee in its supervision and investigation of compliance with the terms and conditions of probation, and shall, when requested, submit to such tests and samples as the Board or its designee may require for the detection of alcohol, narcotics, hypnotic, dangerous drugs, or controlled substances. Respondent is responsible for all costs associated with this investigation and testing.

| Conditions ~~33-38~~ 42-47 shall be used when evidence indicates respondent may have physical or mental ailment(s) or condition(s) which contributed to the violation or when the same are alleged by respondent to be a contributing factor to the violation(s).



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CBA Item X.A.
 September 26-27, 2013

DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
JULY 25, 2013
CBA MEETING

DRAFT

Hyatt Regency Sacramento
 1209 L Street
 Sacramento, CA 95814
 Telephone: (916) 443-1234
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Roll Call and Call to Order.

President Leslie LaManna called the meeting to order at 9:42 a.m. on Thursday, July 25, 2013 at the Hyatt Regency in Sacramento. The meeting adjourned at 1:30 p.m.

CBA Members

Leslie LaManna, President	9:42 a.m. to 1:30 p.m.
Michael Savoy, Vice President	9:42 a.m. to 1:30 p.m.
Kitak (KT) Leung, Secretary/Treasurer	9:42 a.m. to 1:30 p.m.
Sarah (Sally) Anderson,	9:42 a.m. to 1:30 p.m.
Diana Bell	9:42 a.m. to 1:30 p.m.
Alicia Berhow	9:42 a.m. to 1:30 p.m.
Michelle Brough	9:42 a.m. to 1:30 p.m.
Jose Campos	9:42 a.m. to 1:30 p.m.
Herschel Elkins	9:42 a.m. to 1:30 p.m.
Laurence (Larry) Kaplan	9:42 a.m. to 1:30 p.m.
Louise Kirkbride	Absent
Kitak (K.T.) Leung	9:42 a.m. to 1:30 p.m.
Manuel Ramirez	9:42 a.m. to 1:30 p.m.
Katrina Salazar	9:42 a.m. to 1:30 p.m.

Staff and Legal Counsel

Rich Andres, Information Technology Staff
Patti Bowers, Executive Officer
Andrew Breece, Legislative Coordinator
Paul Fisher, Supervising Investigative CPA
Dominic Franzella, Chief, Licensing Division
Rafael Ixta, Chief, Enforcement Division
Kari O'Connor, Board Relations Analyst
Deanne Pearce, Assistant Executive Officer
Kristy Shellans, Legal Counsel, Department of Consumer Affairs (DCA)
Carl Sonne, Deputy Attorney General, Department of Justice
Matthew Stanley, Legislation/Regulation Analyst

Committee Chairs and Members

Mary Rose Caras, Vice Chair, Enforcement Advisory Committee (EAC)
Nancy Corrigan, Chair, Peer Review Oversight Committee (PROC)
Robert Lee, Vice Chair, PROC

Other Participants

Corrine Fishman, DCA
Jason Fox, California Society of Certified Public Accountants (CalCPA)
Pilar Onate-Quintana, KP Public Affairs
Hal Schultz, CalCPA
Jeannie Tindel, CalCPA

I. Report of the President.

A. Director's Report.

There was no report for this item.

B. Project to Review and Possibly Expand the Role of CBA Committee Liaisons.

President LaManna stated that a survey will be sent to current and prior CBA committee liaisons to gain input and feedback regarding the role of CBA committee liaisons. Ms. LaManna stated that once she receives the survey responses, she will communicate with current committee chairs and vice chairs to discuss the survey results and overall expectations of committee liaisons. She further stated that conducting an orientation for newly appointed CBA committee liaisons would also be discussed.

II. Report of the Vice President.

A. Recommendation for Appointments to the Enforcement Advisory Committee (EAC).

It was moved by Mr. Savoy, seconded by Mr. Ramirez and carried by those present to reappoint Mervyn J. McCulloch to the EAC. Mr. Campos abstained.

It was moved by Mr. Savoy, seconded by Mr. Elkins and unanimously carried to reappoint Jeffrey DeLyser to the EAC.

B. Recommendation for Appointments to the Qualifications Committee (QC).

There was no report for this item.

C. Recommendation for Appointment to the Peer Review Oversight Committee (PROC) Vice Chair.

It was moved by Mr. Savoy, seconded by Ms. Anderson and unanimously carried by those present to appoint Ms. McCoy as Vice Chair of the PROC, effective January 1, 2014.

III. Report of the Secretary/Treasurer.

A. Discussion of Governor's Budget.

There was no report for this item.

IV. Report of the Executive Officer (EO).

A. Update on Staffing.

Ms. Bowers stated that the Enforcement Division is completing the recruitment process to fill several vacancies. She noted that retired annuitants will be hired to fill positions effected by the transition to BreZE.

B. Update on CBA Working Conference.

There was no report for this item.

C. Update on CBA 2013-2015 Communications and Outreach Plan (Written Report Only).

There were no comments on this item.

V. Report of the Licensing Chief.

A. Report on Licensing Division Activity.

Mr. Franzella provided an overview of this item. Mr. Franzella stated that the report was redesigned to include additional information, including prior

fiscal year data and customer service statistics. He further reported that the processing time for initial licensing remains less than 30 days.

Mr. Campos requested that staff provide further information regarding the increase in year-end, outstanding renewal deficiencies.

B. Planned Implementation for License Renewal-Related Changes Effective January 1, 2014.

Mr. Franzella reported that there are several regulation changes that will impact the license renewal process beginning January 1, 2014. He stated that these regulations include peer review reporting, retroactive fingerprinting and a decrease in the amount of fraud continuing education. He stated that staff is conducting outreach to licensees including publishing several UPDATE articles and sending a letter to licensees about these changes.

Ms. Anderson inquired how many licensees will need to provide fingerprints.

Mr. Franzella stated that there are approximately 27,000 licensees who will need to be fingerprinted.

Mr. Campos inquired about the transition period for receiving fingerprints from 27,000 licensees.

Mr. Franzella clarified that fingerprints are due at the time of license renewal. He noted that that licensees may submit fingerprints prior to the time of license renewal.

Ms. Tindel commented that licensees are frustrated that they have to be fingerprinted specifically for the CBA.

Ms. Shellans stated that it is illegal for agencies to share Criminal Offender Record Information which is why another agency cannot share results with the CBA.

VII. Report of the Enforcement Chief.

A. Enforcement Activity Report.

Mr. Ixta provided an overview of this item. Mr. Ixta noted that 518 investigations are pending. He also stated that there is one investigation that has been pending over 24 months, and three cases are pending at the Office of the Attorney General.

Mr. Ixta stated that 83 non peer review related citations have been issued for fiscal year 2012-2013, primarily for continuing education deficiencies.

Mr. Ixta indicated that three probation hearings were conducted at the July 2013 EAC meeting. He also noted that July 1, 2013 was the final reporting date for the third phase of peer review reporting.

Mr. Ramirez complimented the Enforcement Division on addressing the concerns of the board members and improving processing times.

VI. Regulations.

A. Regulation Hearing Regarding Title 16, California Code of Regulations (CCR) Sections 5.5, 18, 19, 20, 21, 22, 26, 36.1, and 98 – Practice Privilege.

Mr. Stanley read the following statement regarding the regulation hearing into the record:

“This is a public hearing on proposed regulations of the California Board of Accountancy, Department of Consumer Affairs, to consider adopting regulations to specify and clarify the CBA’s requirements pertaining to practice privilege.

The CBA is contemplating this action pursuant to the authority vested by sections 5010, 5018, 5092, 5093 and 5116 of the Business and Professions Code and section 11400.20 of the Government Code, authorizing the CBA to amend, adopt, or repeal regulations for the administration and enforcement of the Chapter 1 of Division 3 of the Business and Professions Code.

For the record, the date today is July 25, 2013 and the time is approximately 1:01 p.m. This hearing is being held at The Hyatt Regency, located at 1209 L Street, in Sacramento, California.

The notice for the hearing on these proposed regulations was published by the Office of Administrative Law. Interested parties on our mailing list have been notified of today's hearing. The language of the proposed regulations has been mailed to those who requested it and has been available on the CBA's Web site and upon request by other members of the public. Copies of the proposed regulations are available at the back of the room.

If the CBA has received written comments on the proposal, those comments will be entered into the official record of the proceedings. The CBA shall be provided and shall consider all written comments received up until 5:00 p.m., May 27, 2013. Anyone who wishes to comment in writing but does not want to speak today is welcome to do so. If we receive written comments on the proposed regulations, they will be acknowledged and entered into the official record of the rulemaking proceedings.

Those persons interested in testifying today should identify themselves and the section or subsection of the proposed regulations that they wish to address. Individuals will be called to testify in the order determined by recognition from the hearing officer. If you have a comment about the proposed regulation or any part or specific subsection of the proposal, please step up to the microphone and give your name, spelling your last name and tell us what organization you represent, if any. Speak loudly enough for your comments to be heard and recorded. Remember, it's not necessary to repeat the testimony of previous commentators. It is sufficient if you simply say that you agree with what a previous speaker has stated. Written testimony can be summarized but should not be read. When you are testifying, please identify the particular regulation proposal you are addressing. Please comment only on provisions of the article under discussion.

If you have a question about a proposed regulation, please re-phrase your question as a comment. For example, instead of asking what a particular subdivision means, you should state that the language is unclear and why. This will give the CBA an opportunity to address your comments directly when the CBA makes its final determination of its response to your comments.

Please keep in mind that this is a public forum to receive comments on the proposed regulations from interested parties. It is not intended to be a forum for debate or defense of the regulations. After all witnesses have testified, the testimony phase of the hearing will be closed.”

No public comments were received.

Mr. Stanley adjourned the regulation hearing at 1:04 p.m.

B. Discussion and Possible Action to Adopt or Amend Proposed Text at Title 16, California Code of Regulations (CCR) Sections 5.5, 18, 19, 20, 21, 22, 26, 36.1, and 98 – Practice Privilege.

Mr. Stanley stated that OAL approved emergency regulations regarding Practice Privilege on June 10, 2013. Mr. Stanley further stated that this proposed regulation will make the rulemaking permanent.

It was moved by Mr. Ramirez, seconded by Mr. Leung and unanimously carried by those present to direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text and documents added to the file 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 documents added to the file, and adopt the proposed regulations as described in the

modified text notice.

VIII Committee and Taskforce Reports.

A. Taskforce to Examine Experience for CPA Licensure (Taskforce).

1. Report of the July 24, 2013 Taskforce Meeting.

Mr. Ramirez reported that while no comprehensive recommendation has been reached regarding possible modifications to California's experience requirement, the Taskforce made a preliminary recommendation to not revert back to the pre-2002 licensure requirements which require attest experience for all applicants.

Mr. Ramirez commended staff for providing excellent written information to the Taskforce.

2. Overview of Information Related to State Boards of Accountancy Experience Requirements for CPA Licensure and Available Consumer Information Regarding Authorized Services Provided by CPAs.

There was no action on this item.

3. Overview of CBA-Related Licensure Information Regarding CPA Applicant Qualifying Experience Earned in Public and Non-Public Accounting and Areas of Practice, and Enforcement Statistical Information.

There was no action on this item.

4. Overview of Post-CPA Licensure Specializations and Affiliations and CBA Post-Licensure Requirements to Perform Certain Accounting and Auditing Services.

There was no action on this item.

5. Discussion on Modifications to the Experience Requirement for CPA Licensure Mandated Pursuant to Business and Professions Code Sections 5092, 5093, and 5095 and Title 16 California Code of Regulations Sections 12 and 12.5.

There was no action on this item.

6. Bonnie Moore Case Decision and Results of Legal Cases Research.

There was no action on this item.

B. Legislative Committee (LC).

1. Report of the July 25, 2013 LC Meeting.
2. Update on Legislation Which the CBA Has Taken a Position (AB 186, AB 258, AB 291, AB 376, AB 1057, AB 1151, AB 1420, SB 176, SB 305, SB 822, and SB 823).

It was moved by Mr. Kaplan, seconded by Ms. Brough and unanimously carried by those present to accept the LC's recommendation to remove the CBA's Watch position and stop following AB 1420.

It was moved by Mr. Oldman, seconded by Ms. Bell and unanimously carried by those present to accept the LC's recommendation that the CBA take a Support position on SB 176.

It was moved by Mr. Kaplan, seconded by Mr. Ramirez and unanimously carried by those present to accept the LC's recommendation to adopt an Oppose Unless Amended position on AB 1412 and send a letter to the author's office specifically objecting to the language in the bill that relates to non-licensees.

3. Additional Legislation Impacting the CBA Identified by Staff After the Posting of the Meeting Notice.

There was no report for this item.

C. Peer Review Oversight Committee (PROC).

1. Report of the June 21, 2013 PROC Meeting.

Ms. Corrigan introduced Mr. Lee, Vice Chair of the PROC. Mr. Lee reported that the PROC discussed its participation in oversight activities including the AICPA board meeting, the CalCPA Advanced Peer Review class, CalCPA's Peer Review Committee Meeting and a site visit to CalCPA. Mr. Lee noted that future agenda items for the PROC include review of the PROC Procedures Manual and CalCPA's Annual Oversight Report.

D. Enforcement Advisory Committee (EAC).

1. Report of the July 11, 2013 EAC Meeting.

Ms. Caras reported that six investigative hearings were conducted. She stated that five cases concluded with a recommendation to the Attorney General's Office for preparation of an accusation. She further reported that the EAC review nine closed cases and agreed with the closure on all of the cases.

E. Qualifications Committee (QC).

There was no report for this item.

IX. Acceptance of Minutes

A. Draft Minutes of the May 23-24, 2013 CBA Meeting.

B. Draft Minutes of the May 23, 2013 LC Meeting.

C. Minutes of the May 23, 2013 Taskforce Meeting.

D. Minutes of the February 22, 2013 PROC Meeting.

It was moved by Mr. Ramirez seconded by Ms. Bell and carried by those present to accept agenda items X.A.-X.D. Ms. Berhow abstained.

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. Update on NASBA Committees.

a. Accountancy Licensee Database Task Force (ALD).

Ms. Bowers reported that 44 states are presently participating in ALD. Ms. Bowers further stated that 40 states are participating in CPA Verify.

b. Board Relevance & Effectiveness Committee.

There was no report for this item.

At this time, the CBA heard Item XII., Closed Session Disciplinary Matters.

XII. Closed Session. Pursuant to Government Code Section 11126(c)(3), the CBA Convened Into Closed Session to Deliberate on Disciplinary Matters (Stipulations, Default Decisions, and Proposed Decisions).

XI. Closing Business.

A. Public Comments.

There were no public comments.

B. Agenda Items for Future CBA Meetings.

Ms. LaManna commented that a topic of discussion for a future CPC meeting be to evaluate whether the current requirements for continuing education are overly prescriptive.

Mr. Ramirez suggested that to ensure consumer protection, the LC discuss a taxpayer's bill of rights and systems of accountability for taxing agencies in California such as the Franchise Tax Board and Board of Equalization.

C. Press Release Focus.

Ms. Pearce suggested a press release focused on the CBA's new Practice Privilege program and the final approval of the regulations for Practice Privilege.

Mr. Ramirez also suggested a press release highlighting the achievements and statistics of the Enforcement Division.

Adjournment.

President LaManna adjourned the meeting at 1:30 p.m.

Leslie LaManna CPA, President

K.T. Leung, CPA, Secretary-Treasurer

Kari O'Connor, Board Relations Analyst, and Patti Bowers, Executive Officer, CBA, prepared the CBA meeting minutes. If you have any questions, please call (916) 561-1718.



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Taskforce Item I.
 September 26, 2013

CBA Item X.B.
 September 26-27, 2013

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

MINUTES OF THE
July 24, 2013
TASKFORCE TO EXAMINE EXPERIENCE FOR CPA LICENSURE
(TASKFORCE) MEETING

Hyatt Regency Sacramento
 1209 L Street
 Sacramento, CA 95814
 Telephone: (916) 443-1234
 Facsimile: (916) 321-3779

The meeting of the Taskforce was called to order at approximately 1:30 p.m. on July 24, 2013 by Chair, Manuel Ramirez.

Taskforce Members

Manuel Ramirez, Chair	1:30 p.m. to 4:41 p.m.
Sarah (Sally) Anderson	1:30 p.m. to 4:41 p.m.
Dan Dustin	1:30 p.m. to 4:41 p.m.
Ed Howard	Absent
Laurence (Larry) Kaplan	1:30 p.m. to 4:41 p.m.
Kris Mapes	1:30 p.m. to 4:41 p.m.
Gary McBride	1:30 p.m. to 4:41 p.m.
Marshal Oldman	1:30 p.m. to 4:41 p.m.
Hal Schultz	1:30 p.m. to 4:41 p.m.

Staff and Legal Counsel

Rich Andres, Information Technology Staff
 Patti Bowers, Executive Officer
 Angie Crawford, Executive Secretary
 Veronica Daniel, Licensing Manager
 Paul Fisher, Supervising Investigative CPA
 Dominic Franzella, Chief, Licensing Division
 Rafael Ixta, Chief, Enforcement Division
 Kathryn Kay, Licensing Coordinator

Kari O'Connor, Board Relations Analyst
Deanne Pearce, Assistant Executive Officer
Kristy Shellans, Legal Counsel
Carl Sonne, Deputy Attorney General, Department of Justice

CBA Members and Committee Chairs

Alicia Berhow, CBA Member
Leslie LaManna, CBA President

Other Participants

Jason Fox, California Society of Certified Public Accountants (CalCPA)
Jeannie Tindel, CalCPA
Joe Petito, The Accountants Coalition
Jon Ross, KP Public Affairs

- I. Approval of the May 23, 2013 Taskforce Meeting Minutes.

It was moved by Mr. Kaplan, seconded by Ms. Anderson and unanimously carried by those present to adopt the minutes of the May 23, 2013 Taskforce Meeting.

- II. Overview of Information Related to State Boards of Accountancy Experience Requirements for CPA Licensure and Available Consumer Information Regarding Authorized Services provided by CPAs.

Ms. Kay provided members an overview of the State Boards of Accountancy Experience Requirement Resource Materials associated with this item.

Mr. Ramirez reiterated that attest services are the sole function that requires a CPA license yet many states have transitioned from an attest experience requirement to a general accounting experience requirement. He inquired if any states have recorded their challenges from a consumer protection standpoint.

Mr. Franzella responded that although staff is not aware of the particular challenges of other states which transitioned to a general accounting experience requirement, Agenda Item III provides the Taskforce with CBA enforcement-related statistics since California introduced the general accounting experience requirement option for licensure.

Mr. Schultz stated that professional standards require auditors to be knowledgeable regarding the complexity of their client's situation. He added that peer review is mandatory and measures the actual work performed by licensees.

Mr. Kaplan pointed out that only CPAs can do attest work and expressed concern regarding states that do not have an attest experience requirement.

Mr. Schultz stated that it does not necessarily disadvantage the client if the CPA does not have attest experience. He added there is value in other requirements for licensure such as education, examination, ethics, and experience in the specific area for which the applicant plans to specialize.

Mr. McBride added that federal enrolled agents are not required to have a baccalaureate degree or an accounting background and stated that people hire and value CPAs because of their unique ability to perform complex tax services. Mr. McBride also added that although he values the 500-hour attest experience requirement, he does not believe it is imperative to require the 500 hours of tax professionals.

Mr. Ramirez stated that without the 500-hour requirement, accomplishing financial statement literacy in relation to preparing tax returns could be difficult.

Ms. Anderson stated that it should be up to the professional to get experience in the area s/he wishes to practice. She added this approach to experience not only benefits the professional, but also the client for which s/he serves. She further stated it is more beneficial to review attest authority post-licensure. She also noted that New York and Texas have moved away from requiring attest experience for licensure.

Mr. Dustin stated that New York made revisions to its experience requirement for licensure in 2008, which previously required a majority (75 percent) of the qualifying experience to be attest experience, and implemented a one-year general accounting experience requirement. He added there were several experienced tax preparer's that were not able to get licensed under the previous experience requirement because they did not have attest experience but were able to obtain a license under the new requirements. He added that New York addressed attest by looking at peer review.

Mr. Ramirez stated attestation is a helpful skill for CPAs to have and there is value associated with it regarding consumer protection. He added that although attest services are limited to CPAs, the profession has evolved in complexity.

Mr. Ramirez inquired about the number of states that require a supervisor's opinion on the quality of work performed by the applicant. Ms. Kay stated there are 16 states that require a supervisor's opinion. Mr. Franzella added that in California, an opinion is not required for general accounting experience, but noted it is required for attest experience and addresses whether the applicant's experience

demonstrates satisfactory understanding of the requirements of planning and conducting a financial statement audit or perform other attest services with minimal supervision.

Mr. McBride stated that as a college professor, he has noticed a recent shift for all business programs to have a greater emphasis on balancing theory and practice. He added that experiential learning enhances performance quality. He further stated that although the 500-hour attest requirement is optional, he still struggles with the possibility of eliminating the requirement.

Mr. Schultz raised questions regarding language on the current general experience form and expressed that he believes there is an implied opinion expressed when the CPA signs the form that the applicant has completed general accounting experience.

Mr. Ramirez stated there should be some system of accountability to ensure the quality of the work experience performed by the applicant.

Mr. Schultz added it may be beneficial to add definitions and standards to the general accounting experience form.

Ms. Anderson expressed concern regarding the possibility of academia qualifying for licensure. Ms. Anderson added she is not inclined to give credit to this type of experience.

Mr. McBride stated he understands that teaching is very different from practical experience. He expressed the Taskforce should consider allowing the academia to qualify as experience because it is beneficial for college professors to be CPAs and requires them to do continuing education to maintain their license. He further stated that if professors are licensed CPAs, it can bridge the gap between theory and practice, which directly benefits students.

Mr. Dustin stated that New York permits experience obtained in academia and the requirements emphasize full-time status including a specific number of teaching units in accounting subjects. He added that in the event it was unclear if this type of experience qualified, staff sought board-level guidance.

Mr. Schultz stated that he sees how the profession could be benefited by involving academia which would encourage a relationship between professors and students that are analogous to the clinical model in the medical field.

Mr. McBride suggested experience in academia could be combined with present qualifying experience for consideration. He added he would like to contemplate with his colleagues for additional input on the topic.

The Taskforce requested that staff provide an agenda item at the next meeting to discuss the option of accepting experience obtained in academia.

III. Overview of CBA-Related Licensure Information Regarding California CPA Applicant Qualifying Experience Earned in Public and Non-Public Accounting and Areas of Practice, and Enforcement-Related Statistical Information.

Ms. Kay provided statistics requested by the Taskforce which included the types of experience for which general and attest applicants are initially licensed, the percentage of California licensees practicing in the public versus the non-public sector, peer review reporting information, and enforcement-related disciplinary actions taken against licensees with general and attest experience.

Ms. Anderson inquired how an individual originally issued a license to perform general accounting services can obtain a license with attest authority.

Mr. Franzella explained the individual would need to complete a Type F application, submit a \$25 processing fee, and a certificate of attest experience documenting completion of the required attest experience outlined in Business and Professions Code section 5093.

IV. Overview of Post-CPA Licensure Specializations and Affiliations and CBA Post-Licensure Requirements to Perform Certain Accounting and Auditing Services.

Ms. Kay outlined several post-licensure specializations, designations, and certifications available to CPAs by various professional organizations, governmental agencies and international bodies. Ms. Kay also provided information regarding continuing education and outlined the requirements for licensees performing certain government and non-governmental auditing or accounting services. Lastly, Ms. Kay highlighted requirements in California, as they relate to individuals and firms practicing accounting and auditing services, regarding peer review.

Mr. McBride stated that specializations are designed to benefit consumers, but it is ultimately up to the consumer to do their due diligence before selecting a CPA.

Ms. Bowers stated that the CBA has a *Consumer Assistance Booklet* available on its website designed to assist consumers when selecting a CPA. Ms. Bowers highlighted several helpful tips within the booklet such as reviewing the CPAs completed continuing education information, requesting a copy of peer review, inquiring about enforcement actions and

verifying protection of private information. She added the CBA website provides instructions on how to file a complaint against a CPA.

At this time, the Taskforce discussed Agenda Item VI.

- V. Discussions on Modifications to the Experience Requirement for CPA Licensure Mandated Pursuant to Business and Professions Code sections 5092, 5093, and 5095 and Title 16 California Code of Regulations sections 12 and 12.5.

Mr. Franzella provided an overview of some high level potential options the Taskforce may wish to consider. Mr. Franzella stated that these options do not represent the limits of alternatives available to the Taskforce. Mr. Franzella added that with additional clarification and direction, staff will be better equipped to begin evaluating how certain recommendations may impact the CBA and its stakeholders, provide a timeline to achieve the various recommendations, and assess how the various recommendations align with the CBA's priorities regarding consumer protection.

Ms. Anderson stated the Taskforce should explore eliminating the attest experience requirement for licensure. Ms. Anderson added the *Consumer Assistance Booklet* increases consumer awareness by encouraging consumers to get involved and ask questions.

Mr. Schultz agreed with Ms. Anderson's comments and stated that peer review is a quality control measure of audit experience and more meaningful. He added that regarding consumer protection, the completion of the 500-hour attest experience requirement may be misleading to consumers because a license obtained with attest experience does not mean the licensee is a qualified auditor but that they met a 500-hour requirement.

Mr. Dustin stated he agreed that the attest experience requirement should be removed and that the 500-hour requirement at the time of initial licensure may become less meaningful over time.

Ms. Mapes stated she had previously felt strongly that the attest experience requirement should not be eliminated, but now sees some possible benefit of elimination.

Mr. Kaplan suggested considering a substitute for the attest experience requirement in order to eliminate it.

Mr. McBride stated he is wavering and struggles with eliminating the attest experience requirement. He posed the question whether 500 hours of attest experience means the individual can perform a better audit than someone without that experience. Mr. McBride added it would be difficult to reconcile eliminating the attest experience requirement with consumer

protection.

Mr. Dustin stated he believes there is a short term benefit to having an attest license but added that if the licensee does not perform attest work for several years, then s/he would need to re-educate themselves regarding present standards.

Mr. Ramirez recognized the academic approach to initial licensure in relation to the evolving profession. Mr. Ramirez added he feels conflicted regarding the elimination of the attest experience requirement and acknowledged strong arguments on both sides of the issue such as the benefit of the 500-hour attest experience requirement on consumer protection and the quality control measure of peer review.

Mr. Schultz expressed concern regarding terms used on the CBA License Lookup feature in relation to a licensee's authorization to perform attest services. He stated the term "authorized" may be misleading regarding a licensee's qualifications and more descriptive language would be helpful.

Ms. Bowers stated there is language presently on the website staff could make more visible in the CBA License Lookup feature to address this concern. Ms. Bowers added staff would be happy to provide the Taskforce more information regarding the conveyance of attest and general accounting experience distinctions to consumers and recommendations.

Mr. Ramirez stated there may be legislative constraints associated with two pathways for licensure and suggested the Taskforce consider recommending one pathway to licensure.

It was moved by Ms. Anderson, seconded by Mr. Schultz and unanimously carried by those present to not recommend to the CBA the elimination an applicant's ability to obtain licensure with general accounting experience.

Ms. LaManna stated that in addition to enforcement data from New York, failed peer review from this state may also be useful to the Taskforce's discussion.

Members directed staff to provide enforcement-related statistics regarding states that have transitioned from an attest experience requirement to a general accounting experience requirement.

VI. Bonnie Moore Case Decision and Results of Legal Cases Research.

Ms. Shellans provided an overview of requested information regarding the July 2, 1992 California Supreme Court Case, Bonnie Moore v. the CBA decision and other court cases regarding the use of the term "accountant."

Mr. McBride stated the item was informative, but did not feel it was particularly meaningful to this discussion because the courts look to the accounting profession for its scope.

Mr. Ramirez highlighted information in the item regarding the Center for Public Interest and Law's support to allow unlicensed individuals to use the term accounting.

It was requested that this item be redistributed at the September Taskforce meeting for informational purposes.

VII. Agenda Items for Next Meeting.

None.

VIII. Public Comments.

None.

Adjournment.

There being no further business to be conducted, the meeting was adjourned at 4:41 p.m.

The next meeting of the Taskforce will be held on September 26, 2013.



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DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
ENFORCEMENT ADVISORY COMMITTEE (EAC)

MINUTES OF THE
MAY 2, 2013
EAC MEETING

Sheraton Gateway LAX
 6101 West Century Blvd.
 Los Angeles, CA 90045

FINAL

I. Roll Call and Call to Order

Enforcement Advisory Committee Chair Cheryl Gerhardt called the regularly scheduled meeting of the EAC of the California Board of Accountancy (CBA) to order at 9:00 a.m. on May 2, 2013.

Enforcement Advisory Committee

Cheryl Gerhardt, Chair	9:00 a.m. to 5:00 p.m.
Mary Rose Caras, Vice Chair	9:00 a.m. to 5:00 p.m.
Joseph Buniva	9:00 a.m. to 5:00 p.m.
Nancy Corrigan	9:00 a.m. to 5:00 p.m.
Jeffrey De Lyser	9:00 a.m. to 5:00 p.m.
Bill Donnelly	9:00 a.m. to 5:00 p.m.
Robert A. Lee	9:00 a.m. to 5:00 p.m.
Mervyn McCulloch	9:00 a.m. to 5:00 p.m.
James Rider	9:00 a.m. to 5:00 p.m.
Joseph Rosenbaum	9:00 a.m. to 5:00 p.m.
Seid Sadat	9:00 a.m. to 5:00 p.m.
Michael Schwarz	9:00 a.m. to 5:00 p.m.

Staff and Legal Counsel

Rafael Ixta, Enforcement Chief
 Paul Fisher, Supervising Investigative CPA
 Allison Nightingale, Enforcement Secretary
 Vincent Johnston, Enforcement Analyst
 Kay Lewis, Investigative CPA
 Dorothy Osgood, Investigative CPA
 David Jones, Investigative CPA
 Gogi Overhoff, Investigative CPA
 Melissa Raposa, Enforcement Analyst
 Marla Weitzman, Investigative CPA
 Carl Sonne, Deputy Attorney General, Department of Justice

Other Participants

Hershel Elkins, CBA Liaison

II. Review Enforcement Files on Individual Licensees

The EAC adjourned into closed session under provisions of Government Code Section 11126(c)(2) and Business and Professions, (B&P) Code Section 5020.

EAC members convened into closed session at 9:10 a.m. and reconvened into open session at 10:30 a.m.

III. Report of the Committee Chair

A. Approval of the January 31, 2013 EAC Meeting Minutes

Following review, it was moved by Mr. Lee, seconded by Mr. Rider, and unanimously carried to approve the minutes of the January 31, 2013 EAC meeting.

The minutes for this meeting will be submitted to the CBA members for review at the next CBA meeting.

B. Report of the March 21-22, 2013 CBA Meeting

Ms. Gerhardt attended the March 21-22, 2013 CBA meeting. She reported that Bill Donnelly was appointed to the EAC. She also reported that the EAC is now fully staffed.

Mr. Ixta attended the March 21-22, 2013 CBA Meeting. He reported that Nancy Corrigan presented the 2012 Peer Review Oversight Committee Annual Report to the CBA members.

IV. Report of the Enforcement Chief

A. Enforcement Activity Report

Mr. Ixta reported that the number of investigations open more than 24 months has decreased from 29 for the fiscal year ending June 30, 2012 to four for the current fiscal year as of February 15. He also reported the number of cases at the Attorney General's office pending for more than 24 months has decreased from six in the prior report to four. The report was provided in the EAC packets.

V. Other Business

A. Report of the March 21, 2013 Committee on Professional Conduct Meeting

Mr. Ixta reported that the new practice privilege regulations will go into effect on July 1, 2013.

Mr. Ixta stated that the CBA was asked to determine whether to require an out-of-state licensee exercising a practice privilege in California to notify the CBA of any pending criminal charges and to approve legislative language. Mr. Ixta reported that currently all California CPA applicants are required to submit fingerprints to the California Department of Justice (DOJ). Whenever a California licensee, who

has a record of fingerprints on file with the DOJ, is arrested or has criminal charges filed, the CBA receives a notification directly from the DOJ. Out-of-state licensees who exercise a practice privilege in California are not required to notify the CBA of any pending criminal charges. By requiring notification by out-of-state licensees of pending criminal charges, the CBA will be able to evaluate the pending criminal charges and may initiate appropriate enforcement actions. This will allow for consistent treatment of all CPAs practicing in California.

B. Report of the March 21, 2013 Legislative Committee Meeting

Mr. Ixta reported on the status of seeking legislation to remove citation and fine information from the CBA website after five years provided the fine was \$1,500.00 or less. He stated that at the January CBA meeting, staff reported they were unsuccessful in securing an author to carry the proposed legislation. The proposal in its current form would not impact the removal of citations until 2017. CBA members approved staff's recommendation to conduct further analysis and work with stakeholders and report back to the CBA at a future meeting with findings and recommendations on how best to move forward.

C. Report of the March 21, 2013 Enforcement Program Oversight Committee Meeting

Mr. Ixta reported that the EPOC discussed a timeline for updating the CBA Model Disciplinary Guidelines and Model Disciplinary Orders (Guidelines) and also discussed conceptual revisions to the Guidelines.

Mr. Ixta reported that every three years, the Guidelines are revised. Due to the length of the Guidelines, a phased revision schedule was adopted by the EPOC:

- March 2013-EPOC would review and implement the conceptual changes.
- May 2013-Staff will present to the EPOC with the proposed changes.
- September 2013-Staff will present the new additions to the Guidelines, including law and regulation changes and additions since 2010.
- November 2013-Final draft of the Guidelines will be presented to the EPOC.

Mr. Ixta also reported that staff identified the following conceptual changes to the Guidelines:

- Model Orders
- Restitution
- Minimum Penalties
- Continuing Education Courses
- New Optional Term-Probation Monitoring Costs

The EPOC members approved the conceptual revisions to the Guidelines.

VI. Public Comments for Items Not on the Agenda

There were no public comments offered during the meeting.

VII. Conduct Closed Hearings

[Closed session as authorized by Government Code Sections 11126(c)(2) and (f)(3) and B&P Code Section 5020 conducted after the general meeting to interview individual accountants and to consider possible disciplinary action against accountants prior to the filing of an accusation.]

VIII. Adjournment

The next EAC meeting is scheduled for July 11, 2013 at the Hilton in San Jose.

Having no further business to conduct, the EAC general meeting adjourned at approximately 11:15 a.m. to reconvene in closed session at 1:00 p.m.

Cheryl Gerhardt, CPA, Chair
Enforcement Advisory Committee

Prepared by: Allison Nightingale, Enforcement Secretary



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EPOC Item I.
September 26, 2013

CBA Item X.D.
September 26-27, 2013

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
ENFORCEMENT PROGRAM OVERSIGHT COMMITTEE (EPOC)

MINUTES OF THE
May 23, 2013
EPOC MEETING

DRAFT

Hilton Pasadena
168 S. Los Robles Avenue
Pasadena, CA 91101
Telephone: (626) 557-1000
Fax: (626) 584-3148

CALL TO ORDER

Michael Savoy, Acting Chair, called the meeting of the Enforcement Program Oversight Committee (EPOC) to order at 1:30 p.m. on Thursday, May 23, 2013 at the Hilton Pasadena. Mr. Savoy requested that the roll be called.

Present

- Michael Savoy, Acting Chair
- Marshal Oldman
- Katrina Salazar
- Herschel Elkins
- KT Leung
- Diana Bell

CBA Members Observing

- Leslie LaManna
- Manuel Ramirez
- Michele Brough
- Larry Kaplan

CBA Staff and Legal Counsel

Patti Bowers, Executive Officer
Deanne Pearce, Assistant Executive Officer
Rich Andres, Information Technology Staff
Andrew Breece, Legislation Coordinator
Dominic Franzella, Chief, Licensing Division
Kari O'Connor, Executive Analyst
Kristy Shellans, Senior Staff Counsel, DCA Legal Affairs
Matthew Stanley, Regulations Analyst
Paul Fisher, ICPA Supervisor
Rafael Ixta, Chief, Enforcement Division
Nicholas Ng, Staff Services Manager 1, Administration Unit

Other Participants

Carl Sonne, Deputy Attorney General
Ed Howard, Center for Public Interest Law

I. Approve Minutes of the March 21, 2013 EPOC Meeting

It was moved by Mr. Elkins, seconded by Mr. Leung and carried unanimously to approve the minutes of the March 21, 2013 EPOC Meeting.

II. Discussion and possible action regarding the revisions to the CBA Manual of Model Disciplinary Guidelines and Manual Disciplinary Orders.

Mr. Ixta reported that there were many minor changes to the Guidelines, but that he intended to highlight the major changes. He indicated that CBA legal counsel had suggested additional minor edits to the Guidelines before the meeting. He provided a copy of hand carried changes to the Guidelines suggested by CBA legal Counsel, and discussed them in concert with the previously suggested changes.

Mr. Elkins asked why the first five rehabilitation criteria are all clearly defined, but the sixth relating to evidence of rehabilitation supplied by the respondent is not clearly defined. Mr. Ixta responded that the language comes directly from CBA Regulation section 99.1, and that staff provides additional clarification to the respondent when they request a petition for reinstatement packet. Ms. Shellans indicated the language is fairly standard, and left open so that the applicant is free to provide any documentation or evidence of rehabilitation.

Mr. Ixta stated that new language was added to the beginning of the Guidelines related to administrative penalties.

Mr. Ixta stated a new paragraph was added to the Guidelines related to restitution. Mr. Oldman questioned the use of the phrase "compensatory damages", as that may not be the most accurate legal term. There was discussion related to the

restitution verbiage. Mr. Oldman recommended deleting the words “punitive or compensatory” from the paragraph as there may be confusion between compensatory damages and restitution.

Mr. Ixta stated that section 5054 has been deleted from the Guidelines, as it is clarifies section 5050 and is not a violation by itself. Additionally, he reported that the maximum penalty for section 5063.3 was increased from revocation stayed, 90 day suspension, three years probation to revocation. Mr. Ixta indicated revoking a license for extreme cases of disclosure of confidential information should be the maximum penalty.

Mr. Ixta continued that the next major change related to section 5081(a-b). These sections were modified to include the imposition of an administrative penalty, if warranted, pursuant to section 5116. The minimum penalty for section 5095(a) was increased from “correction of violation” to “revocation stayed, three years probation.” Mr. Ixta recommended this minimum penalty because obtaining a license without the required experience should be equivalent to fraudulently obtaining a license. Therefore, the minimum is similar to section 5100(b).

Mr. Ixta stated that section 5100(f) was modified to delete sections 5060, 5061, and 5062 from the possible violations as these sections occur in Article 3.5, and therefore are not applicable to Article 3. Next, Mr. Ixta stated the minimum penalty for violating Section 5101 was changed from probation to revocation stayed, three years probation. Mr. Ixta recommended this change because there is no mechanism to place a licensee or firm on probation without revocation or suspension of their license.

Mr. Ixta further recommended changing the minimum penalty for violating section 5105 from relinquish certificate to revocation since the licensee is delinquent and is practicing without a valid license.

Mr. Ixta recommended changing the minimum and maximum penalty of section 5155 from continuing education courses to revocation stayed since section 5155 only applies to a disqualified shareholder. A disqualified person is defined as a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the professional services that the particular professional corporation of which he or she is an officer, director, shareholder, or employee is or was rendering.

Mr. Elkins questioned the title of section 5105, as it may be misleading. Mr. Fisher read the actual code section, and after discussion it was suggested the title of Section 5104 be changed to: RELINQUISHMENT OF CERTIFICATE OR PERMIT (expired or suspension) and Section 5105 changed to: RELINQUISHMENT OF CERTIFICATE OR PERMIT (delinquent).

Mr. Ixta then recommended the maximum penalty for CBA Regulation section 54.1 be increased from revocation stayed, 90 day suspension, three years probation to revocation. This would make the minimum and maximum consistent with section 5063.3.

Mr. Ixta recommended changing the minimum penalty of CBA Regulation section 65, which deals with independence, from correction of violation and/or continuing education (CE) courses to revocation stayed, three years probation.

Mr. Ixta reported that in the Model Orders, Section VIII, staff has incorporated the model orders that were approved by the EPOC for Petitions for Reinstatements, and developed model orders for applicants and a Petition for Revocation. Mr. Ixta also presented language for an optional probation term related to probation monitoring costs, and modified the CE optional condition to require additional CE ordered to be in addition to the CE required for license renewal.

It was moved by Mr. Oldman, seconded by Mr. Leung and carried unanimously to approve the changes with the suggested title change to Business and Professions Code sections 5104 and 5105 and the modifications to the restitution paragraph on page 3.

III. Public Comments

No public comments were received.

IV. Agenda Items for next meeting

No agenda items were identified.

There being no further business, the meeting was adjourned at 1:58 p.m.



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CBA Item X.E
 September 26-27, 2013

**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
 PEER REVIEW OVERSIGHT COMMITTEE (PROC)**

**MINUTES OF THE
 JUNE 21, 2013
 PROC MEETING**

California Board of Accountancy
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 Sacramento, CA 95815
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Roll Call and Call to Order.

PROC Vice Chair Robert Lee called the meeting to order at 9:28 a.m. on Friday, June 21, 2013 at the CBA. The meeting adjourned at 12:44 p.m.

PROC Members:

June 21, 2013

Nancy Corrigan, Chair	9:28 a.m. – 12:44 p.m.
Robert Lee, Vice Chair	9:28 a.m. – 12:44 p.m.
Katherine Allanson	9:28 a.m. – 12:44 p.m.
Jeffrey DeLyser	9:28 a.m. – 12:44 p.m.
Sherry McCoy	9:28 a.m. – 12:44 p.m.
Seid M. Sadat	9:28 a.m. – 12:44 p.m.

Staff:

Rafael Ixta, Chief, Enforcement Division
 Julie Morrow, Peer Review Analyst
 Sara Narvaez, Enforcement Manager

Other Participants:

Jason Fox, California Society of Certified Public Accountants (CalCPA)

- I. Report of the Committee Chair.
 - A. Approval of February 22, 2013 Minutes.

Mr. Lee asked if members had any edits to the minutes of the February 22, 2013 PROC meeting. Ms. McCoy stated that on page 3, paragraph E, the abbreviation should be "SSARS."

It was motioned by Mr. Sadat, seconded by Ms. Allanson, and unanimously carried by those present to accept the revision and adopt the revised minutes of the February 22, 2013 PROC meeting.

B. Report on the March 21-22, 2013 CBA Meeting.

Ms. Corrigan stated that she attended the CBA meeting. She reported that the 2nd Annual Report of the PROC was presented and was well received by the CBA. She stated that an educational presentation was made by Kristy Shellans, DCA Legal Counsel, and Carl Sonne, Deputy Attorney General regarding their role with the CBA. She stated that President Leslie LaManna appointed a taskforce to review the experience required for issuance of a CPA license. The first meeting of the taskforce was scheduled for the May 23-24, 2013 CBA meeting.

C. Report on the May 23-24, 2013 CBA Meeting.

Ms. Corrigan stated that she attended the CBA meeting, but because there was not a PROC meeting since the last CBA meeting, she did not have a PROC report to present. She stated the National Association of State Boards of Accountancy (NASBA) maintains an Accounting Licensee Database (ALD) that can be used by state boards to check for CPAs licensed in other jurisdictions. There is also a public version of this database that is known as CPAVerify that provides similar licensing information to the public.

Ms. Corrigan also stated that the CBA members inquired if the PROC had appointed a Vice Chair as they are concerned about the continuity of the PROC. She stated that Mr. Lee, Vice Chair, had been appointed at a previous CBA meeting and would be requested to present the PROC report at the next CBA meeting.

Mr. Ixta stated that the taskforce looking at the experience for CPA licensure met for three hours and will meet again for a half day at the July CBA meeting. The core issue is what the appropriate level of experience is for CPAs. He stated that many states no longer require attest experience and most states are moving in that direction.

D. Appointment of New PROC member.

Jeff DeLyser was appointed by the CBA as a member of the PROC. He is a partner at a firm in Roseville. Prior to the start of the PROC meeting, Mr. Ixta and Ms. Corrigan gave Mr. DeLyser an orientation of the PROC and member responsibilities.

E. Reappointment of PROC members.

Ms. Corrigan stated that the PROC members, Nancy Corrigan, Robert Lee, Katharine Allanson, Sherry McCoy, and Seid Sadat, have been reappointed for another two-year term.

F. Reappointment of the PROC chair.

Ms. Corrigan stated that she was reappointed for a one-year term.

II. Report on PROC Activities.

A. Report on the April 18, 2013 California Society of Certified Public Accountants' (CalCPA) Report Acceptance Body (RAB) Meeting.

PROC members did not attend due to scheduling conflicts.

- B. Report on the May 7, 2013 American Institute of Certified Public Accountants (AICPA) Peer Review Board (PRB) Meeting.

Mr. Sadat attended the AICPA PRB meeting. He stated that it is a very technical committee. The most significant items discussed were rule changes and the tracking of Matters for Further Consideration (MFC) through the AICPA PRISM system. The MFCs will be tracked across jurisdictions to gather data and promote uniformity.

- C. Report on the May 8, 2013 CalCPA Advanced Peer Review Class.

Mr. DeLyser attended the CalCPA Advanced Peer Review class. He stated that the MFCs will go to an electronic format and there will be less flexibility in how the MFCs are written. He indicated this is a concern as many firms being reviewed are small firms and may not have the level of technical sophistication to deal with the change. He stated the class was well-conducted and the instructor is well-respected.

- D. Report on the May 9-10, 2013 CalCPA Peer Review Committee (PRC) meeting.

Mr. Sadat and Ms. Allanson attended the CalCPA PRC meeting. Ms. Allanson stated that there was significant discussion about the electronic MFCs and that the peer reviewers identified a mechanism to deal with the new format by inputting the information electronically during a peer review. Ms. Allanson asked what will happen with the MFCs since new peer reviewers don't know how to write them; will the peer reviewers have access to other MFCs to use as a template? Ms. Allanson stated that the answer they received is that peer reviewers would not have access to other MFCs and will only have access to their own MFCs. Ms. Corrigan stated that the AICPA peer review manual includes samples on how to write the MFCs. She said that people don't become peer reviewers until they have a foundation and that it is a learning process.

Ms. Allanson stated that the PRC members discussed communicating to CPAs when they've had two failed peer reviews in a row. The PRC said that the CBA opens an investigation if there is a second failed peer review. Mr. Ixta stated that the CBA investigates every failed peer review to ensure the firm complies with the corrective actions. If the firm complies and there is no evidence of egregious conduct, the investigation is usually closed.

Ms. Allanson stated that if the firm doesn't agree with the peer review, there is a disagreement panel. Ms. Allanson observed the disagreement panel while she attended the meeting.

Ms. Allanson stated that there is a belief by the California PRC that the AICPA has concerns about the volume of reviews conducted by PRC reviewers at RAB meetings. Ms. Corrigan stated that the RAB members have prepared ahead of time, know the issues in the reports and are able to discuss them in detail. Mr. Lee stated the RAB members weigh in and discuss issues and know their reports. He did not see a lack of passion from the RAB members. The PROC members believe the RAB members are thorough and that they are doing their due diligence.

- E. Report on the May 15-16, 2013 Administrative Site Visit of CalCPA.

Mr. Lee and Ms. McCoy performed the onsite visit to CalCPA in one visit this year. Ms. McCoy stated that CalCPA is using more electronic documents in their processes. They are also using more checklists. Mr. Lee and Ms. McCoy reviewed correspondence from other oversight entities and reviewed the RAB binder. There

were 2,300 reviews on the PRISM report and out of those, approximately 600 are in progress. They conducted file reviews and looked at compliance with record retention and separation between active items and those to shred. They selected active file reviews to review for compliance and did not identify any findings.

Mr. Lee stated they had not yet received the oversight report from the AICPA, but will be able to obtain it later from the AICPA website. According to the oversight report, CalCPA passed with no issues. He stated that a closure letter from the CBA needs to be finalized and sent to CalCPA.

Mr. Ixta stated that oversight checklists are going to be stored in a PROC library on the network. Ms. Morrow will send out checklists to the PROC members to ensure they have the latest version of checklists.

F. Discussion of the July 10, 2013 PROC Summit in Nashville, TN.

Mr. Ixta stated that the CBA is still waiting for approval for Mr. Lee to attend the summit. Mr. Ixta stated that Ms. Janice Gray told him that the summit would be streamed via webcast, but he has not received the details yet.

G. Discussion of Questions to Submit for Discussion at the July 10, 2013 PROC Summit.

Mr. Ixta said we can submit questions in advance of the summit. Mr. Ixta reviewed the questions that were on the issue paper. Mr. Ixta asked for additional questions. The additional questions identified by PROC members included:

- How do states request documents from an Administrating Entity?
- How are PROC members accessing Administering Entities electronic materials, such as Report Acceptance Body materials?
- Are there states with peer review program providers other than the American Institute of Certified Public Accountants?
- What criteria are used by states to evaluate new peer review program providers?
- Are there plans to allow state PROC members to participate in CAC meetings and the NPRC oversight process?
- Should a taskforce be established by the CAC to achieve uniformity in the checklists used by state PROCs?

It was motioned by Mr. Sadat, seconded by Ms. McCoy, and unanimously carried by those present to direct staff to work with Mr. Lee to finalize questions for the July 10, 2013 PROC Summit.

H. Assignment of Future PROC Activities.

Ms. Morrow stated that the PROC has only attended one RAB meeting. Mr. Sadat stated that there is always a RAB meeting at a PRC meeting and he attended one on May 9, 2013.

Mr. Lee confirmed the following assignments:

- July 10, 2013 PROC Summit in Nashville (pending approval) – Bob Lee
- July 10, 2013 PROC Summit in Nashville (webcast) – Kathy Allanson.
- July 25, 2013 CBA Meeting – Nancy Corrigan & Bob Lee.
- July 25, 2013 Peer Review Class (LAX) – Seid Sadat.
- August 14, 2013 AICPA Meeting – Jeff DeLyser & Sherry McCoy.
- August 21, 2013 CalCPA RAB Meeting – Seid Sadat.

- September 24, 2013 CalCPA RAB Meeting – Kathy Allanson & Nancy Corrigan.
- November 21-22, 2013 CalCPA PRC Meeting– Jeff DeLyser & Bob Lee

III. Reports and Status of Peer Review Program.

A. Updates on Peer Review Reporting Forms Received and Correspondence to Licensees.

Ms. Morrow reported that as of As of May 21, 2013, 55,918 peer review reporting forms have been submitted to the CBA. The reporting forms are categorized as follows:

License Ending In	Reporting Deadline	Peer Review Required	Peer Review Not Required	Not Applicable (Non-firms)	Total	Licensees Still Needing to Report
01-33	7/1/11	2,501	4,277	15,700	22,478	575
34-66	7/1/12	1,937	3,968	12,990	18,895	1,273
67-00	7/1/13	1,160	2,789	10,596	14,454	6,409
		5,598	11,034	39,286	55,918	8,257

Ms. Morrow stated that Enforcement staff plans to send letters to licensees notifying them of the new peer review reporting requirements effective January 1, 2014. The letters will go out at the end of July.

Mr. Sadat requested clarification regarding the 575 licensees from phase 1 who haven't reported their peer review information. Mr. Ixta indicated that some have licenses in a delinquent status, some have moved, and some aren't practicing. He added that licensees in phase 3 who have not reported will get a deficiency letter in August or September and will have 30 days to comply, otherwise, they will be issued a citation and fine.

B. Status of PROC Roles and Responsibilities Activity Tracking.

Ms. Morrow stated that the activity tracking chart for 2013 has been updated to capture recently attended activities and upcoming events as of May 23, 2013. The number of RABs attended will be updated by reviewing checklists and prior minutes to verify the number of RABs completed.

IV. Report of the Task Force Created to Review the Voluntary Peer Review Survey

Ms. Corrigan stated that she and Mr. Sadat comprised the taskforce assigned to review the voluntary peer review survey. She stated that following the review of the survey comments, they identified the following four recommendations:

1. Provide more education on the benefits of peer review
2. Provide more education on the concept that a CPA's primary objective is to protect the public interest.
3. Provide a simple chart showing the chronology of the peer review process.
4. CalCPA should continue to remind peer reviewers about the best approach to the peer review process when working with firms.

Mr. Sadat stated that practitioners are relying on misinformation to understand the rules of the peer review program under the AICPA and California's peer review regulations. He stated that peer review should be discussed in the CBA approved regulatory CE classes.

Mr. Ixta suggested that the PROC look at existing peer review publications and see if they can be revised to incorporate the recommendations. This will be an agenda item at the next meeting.

V. Report of the Enforcement Chief.

A. Report on Revisions to CBA Regulations 40, 43, and 45.

Mr. Ixta stated that the regulations regarding peer review were amended requiring reporting of the peer review information at the time of license renewal. Staff is in the process of revising the renewal application to incorporate the regulatory changes.

B. Report on Revision to Business and Professions Code section 5076.

Mr. Ixta stated that there were changes to Business and Professions Code section 5076, effective January 1, 2013. Licensees do not need a peer review if they are renewing their license in an inactive status. They will need a peer review if they renew in an active status or convert to an active status.

C. Discussion Regarding PROC Oversight for AICPA Peer Reviews Conducted by Administering Entities Other than CalCPA and the National Peer Review Committee (NPRC).

Mr. Ixta stated that none of the states requiring peer review are in the high or medium categories identified in the issue paper. Ms. Corrigan stated that she wanted to make sure we addressed this issue. She suggested that maybe we should create a task force to take a look at 2-3 AICPA reports a year.

Mr. Ixta stated that staff will review AICPA peer review oversight reports from states with over 10 peer reviews conducted by administering entities other than CalCPA and the NPRC and develop an oversight checklist for the PROCs consideration. This will be an agenda item for the August meeting.

D. Discussion Regarding the Percentage of CPAs Subject to Peer Review in Other States.

Mr. Ixta stated that NASBA was contacted to identify the percentage of CPAs subject to peer review in other states. Based on that information, California is in the middle with approximately 5.7 percent of the CPAs subject to peer review. Approximately 25 states have a higher percentage. However, a simple comparison across states is not possible since peer review requirements vary from state to state.

E. Discussion Regarding California's PROC compared to Other Large States' PROCs.

Mr. Ixta stated that staff looked at the five largest states, California, New York, Texas, Florida, and Illinois to determine which states have a Peer Review Oversight Committee. He indicated that the research reflected that Florida and Illinois do not have a PROC. Texas, New York, and California do have a PROC. The PROCs for each were established in 2009, 2012, and 2010, respectively.

F. Discussion and Revisions to the PROC Procedures Manual.

Mr. Ixta provided an overview of the PROC Procedures Manual. Mr. Ixta stated that revisions made prior to July 2012 are not listed in strikethrough and underline and the significant revisions include:

- Addition of the Conflict of Interest memos dated August 30, 2011 and March 2, 2012 (Appendixes D and E)
- Addition of the Peer Review Board Meeting Checklist (Appendix I)
- Addition of the Peer Review Program Provider Checklist (Appendix M)

Mr. Ixta reported that staff could not locate a checklist for the Summary of Sample Reviews. Ms. McCoy stated that sample reviews are included in the site visit checklist. Ms. McCoy stated that the manual should be updated to reflect that the sample reviews are part of the Administrative Site Visit.

Ms. Allanson stated that the statistics section on page seven should be revisited to determine whether they are necessary.

Ms. Corrigan suggested that we include language about oversight of out-of-state Administering Entities.

Ms. McCoy requested inclusion of a more current version of the AICPA Glossary of Terms. She also had a question on the organization chart regarding the placement of the PROC. Mr. Ixta stated that the PROC is there as an extension of the CBA and AICPA is the peer review program provider. A suggestion was made to add a sideways line to clarify the relationship between the PROC and the provider. Mr. Sadat suggested we add the titles "oversight" and "providers."

Regarding Appendix L (Application to Become a Board-recognized Peer Review Program Provider), Mr. Sadat asked if there is more to the application and if not, the PROC should review it. Mr. Ixta stated that the form is in regulation and a regulatory change is required in order to make any changes to the form.

VI. Future Agenda Items.

Future agenda items include:

- Fold recommendations of Task Force for voluntary peer review survey into current outreach materials.
- See what PROC oversight materials are available in Nevada, Oregon, Texas, and New York.
- Revisions to the PROC Procedures Manual.
- FAQs to address appeal process for peer reviewers.

VII. Public Comment for Items Not on the Agenda.

Mr. Ixta stated that at the last PROC meeting, members discussed a letter sent from a licensee requesting an exemption from peer review. The outcome was that the PROC would send a final letter to the licensee. Copies of the final letter were distributed to the PROC members.

VIII. Adjournment.

There being no further business, Vice Chair Lee adjourned the meeting at 12:24 p.m. on Friday, June 21, 2013.

A handwritten signature in black ink, appearing to read 'Robert Lee', written over a horizontal line.

Robert Lee, CPA, Vice Chair

Julie Morrow, Peer Review Analyst, prepared the PROC meeting minutes. If you have any questions, please call (916) 561-1762.



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CBA Item X.F.
September 26-27, 2013

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

MINUTES OF THE
APRIL 24, 2013
QUALIFICATIONS COMMITTEE (QC) MEETING

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA

The regularly scheduled meeting of the QC was called to order at approximately 10:00 a.m. on April 24, 2013 by QC Chair, Maurice Eckley, Jr.

QC Members

Maurice Eckley, Jr., Chair
Kristina Mapes, Vice Chair
Carlos Aguila - Absent
Jenny Bolsky
Gary Bong
Brian Cates
Lewis Fisher
Michael Haas
Chuck Hester
Fausto Hinojosa
Casandra Moore Hudnall
Alan Lee
Robert Ruehl
Jeremy Smith
James Woyce

CBA Liaison Present

K.T. Leung

Staff Present

Dominic Frazella, Chief, Licensing Division
Veronica Daniel, Licensing Manager
Emily Cole, Licensing Coordinator
Kathryn Kay, Licensing Coordinator

I. Chairperson's Report.

A. Approval of the January 23, 2013, QC Meeting Minutes.

It was moved by Mr. Lee, seconded by Mr. Woyce and unanimously carried by those present to adopt the minutes of the January 23, 2013 QC Meeting.

B. Report on the March 21-22, 2013 CBA Meeting.

Mr. Eckley announced that the CBA appointed Ms. Mapes as Vice Chair of the QC and introduced the new licensing coordinator Ms. Cole.

Mr. Eckley reported that the CBA took its final step as part of the emergency rulemaking process to adopt regulatory text for practice privilege regulations. The proposed text and underlying documents were recently posted by staff to the CBA website. The CBA has requested that the regulations take effect July 1, 2013 to coincide with the start of the new practice privilege statutes.

Mr. Eckley reported that findings from the reexamination of CBA Regulation Section 70 fee levels prior to the submission to the Office of Administrative Law (OAL) will be reported at the May CBA Meeting.

Mr. Eckley reported that in late January OAL disapproved the CBA's retired status rulemaking. In OAL's estimation, the CBA did not provide the evidence required that the fees associated with the rulemaking do not exceed the reasonable cost of providing service. The original fee structure required a \$100 initial application fee and restoration fee of \$200 up to \$1,000 based on the number of renewal cycles the license was in a retired status.

At the meeting, staff presented revised language with a new fee structure that calls for a \$75 initial application fee and a fixed \$50 restoration fee. The CBA approved the revised text and directed staff to complete the rulemaking process.

Mr. Eckley also reported that urgency omnibus legislation, Senate Bill 823, was introduced and includes legislative language to allow candidates to qualify for the Uniform CPA Examination prior to the conferral of a baccalaureate degree. The legislation would also extend the deadline for candidates to qualify for licensure under Pathway 1 or Pathway 2 after the new educational requirements take effect on January 1, 2014.

Staff will be providing the CBA a bill analysis at the May meeting.

Mr. Franzella reported that the CBA has established a taskforce to examine licensure experience requirements, specifically the general and attest requirements. He noted that Ms. Mapes will serve on the taskforce, with the

first task force meeting to be held in conjunction with the May CBA meeting. Mr. Franzella reported that a considerable amount of resource materials is being compiled for the taskforce's review, including copies of QC meeting materials and minutes that capture past discussions on relevant topics. The QC discussed its interest in offering its services to the CBA and taskforce regarding this matter.

II. Report on Activities in the Initial Licensing Unit.

Ms. Daniel provided an overview of this item. She informed members that since the publication of the report the Associate Governmental Program Analyst and Office Technician positions have been filled.

III. Consideration and possible adoption of the QC Manual.

Mr. Franzella introduced the QC Manual for feedback and approval.

Mr. Hester complimented staff on the manual and offered some suggested changes.

Ms. Mapes requested that further information be added regarding what an applicant can expect following an appearance at a QC meeting, timeframes, and the denial process.

Mr. Hinojosa noted that one area for future clarification is the Certificate of Attest (CAE) form fields for preparing work papers and audit procedures. When preparing the CAE, most CPA's estimate the number of hours for these fields because they are part of a larger category. Mr. Franzella noted that this could be addressed the next time a regulation change occurs.

It was moved by Ms. Bolsky, seconded by Mr. Hester and unanimously carried that the QC adopt the QC Manual to include the suggested revisions.

IV. Agenda Items for Future CPA QC Meetings

Mr. Bong suggested that the process for applicant selection be reviewed. Mr. Hinojosa requested that a staff briefing of the current selection process be placed on a future agenda for QC feedback.

Mr. Haas requested an agenda item regarding the policy for evaluating review hours. Mr. Franzella noted that the taskforce may address this issue and that QC consideration of this topic should be delayed until after the taskforce completes its review of the experience requirement.

Mr. Hester requested that an agenda item regarding the progress of the taskforce be placed on the QC agenda.

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 conduct closed hearings to interview individual applicants for CPA licensure]

C13-010 – Applicant and her employer appeared and presented work papers for her private accounting experience. She has 54.75 months of experience, with a 12-month experience requirement. She is currently licensed with general experience.

The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C13-011 - Applicant and his employer appeared and presented work papers from his public accounting experience. He has 57 months of experience, with a 24-month experience requirement.

The employer's understanding of the Certificate of Attest Experience was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure. However, it was suggested that for any future appearances the employer bring a representative sample of all review work for comparison to attest hours.

Recommendation: Approve.

C13-012 - Applicant appeared via Skype and presented work papers from her governmental accounting experience. She has 13.25 months of experience, with a 12-month experience requirement.

The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C13-013 – Applicant and his employer appeared and presented work papers from his private accounting experience. He has 26.25 months of experience, with a 12-month experience requirement.

The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C13-014 – Applicant and his employer appeared and presented work papers from his private accounting experience. He has 24.25 months of experience, with a 12-month experience requirement.

The work performed by the applicant was reviewed and no deficiencies were

noted. The work was adequate to support licensure.

Recommendation: Approve.

C13-015 - Applicant and her employer appeared and presented work papers from her public accounting experience. She has 24.5 months of experience, with a 24-month experience requirement.

The employer's understanding of the Certificate of Attest Experience was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure. The appearance was due to a family relationship. There was no conflict of interest.

Recommendation: Approve.

C13-016 – Applicant appeared and presented work papers from his non-public accounting experience. He is currently licensed with general experience.

The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C13-017 - Employer appeared and presented work papers from applicant's public accounting experience. She has 15.25 months of experience, with a 12-month experience requirement.

The employer's understanding of the Certificate of Attest Experience was adequate. The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure. The appearance was due to a family relationship. There was no conflict of interest.

Recommendation: Approve.

C12-030 – Applicant and his employer appeared and presented work papers for his public accounting experience. He has 60.25 months of experience, with a 24-month experience requirement.

The employer's understanding of the Certificate of Attest Experience was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

The firm is placed on reappearance status.

The following Section 69 review took place on May 2, 2013, and is made a part of these minutes.

C13-002 - Applicant and his employer appeared and presented work papers from his public accounting experience. He has 25.25 months of experience, with a 12-month experience requirement.

The employer's understanding of the Certificate of Attest Experience was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C13-018 - Applicant and his employer appeared and presented work papers from his public accounting experience. He has 14 months of experience, with a 12-month experience requirement.

The employer's understanding of the Certificate of Attest Experience was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure. However, it was suggested that for any future appearances the employer bring a representative sample of all review work for comparison to attest hours.

Recommendation: Approve.

C13-020 - Applicant appeared and presented work papers from his private accounting experience. He has 24.25 months of experience, with a 12-month experience requirement.

The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

Adjournment.

There being no further business to be conducted, the meeting was adjourned at approximately 3:30 P.M. on April 24, 2013. The next meeting of the QC will be held on July 31, 2013.

Maurice Eckley, Jr., Chair

Prepared by Emily Cole, Licensing Coordinator



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CBA Item XI.B.2.
September 25-26, 2013

Proposed Responses to NASBA Focus Questions

Presented By: Kari O'Connor, Board Relations Analyst

Date: September 9, 2013

Purpose of the Item

The purpose of this agenda item is to provide proposed responses on behalf of the the California Board of Accountancy (CBA) to the National Association of State Boards of Accountancy (NASBA) regarding practice and regulatory issues impacting the accountancy profession. **(Attachment)**

Action(s) Needed

The CBA will be requested to either approve, or direct staff to make changes to, the proposed responses.

Background

Attached for your information are draft responses to NASBA Regional Directors' Focus Questions, which were issued on August 7, 2013. These responses have been prepared for Don Aubrey, Pacific Regional Director, and are due to Mr. Aubrey by October 10, 2013.

Comments

Staff has been informed that the Focus Questions are used to help NASBA regional directors stay apprised of each state's policies and procedures, and to see where improvements or adjustments might be made. The eight regional directors review the states' answers and then present their findings to NASBA.

Fiscal/Economic Impact Considerations

None.

Recommendation

The draft responses to the NASBA Focus Questions were prepared by CBA staff from the Enforcement, Licensing, and Administration Divisions.

Attachment

NASBA Focus Questions

NATIONAL ASSOCIATION OF STATE BOARDS OF ACCOUNTANCY, INC.

MEMORANDUM

August 7, 2013

To: State Board Chairs and Executive Directors
From: Jefferson Chickering - Chair, Committee on Relations with Member Boards
Re: Focus Questions

Over the last few months, the Committee on Relations with Member Boards has been discussing the usefulness of our Focus Questions. We appreciate the time many Boards have put into responding to our queries and we have found those responses extremely helpful in fashioning NASBA's meetings and policies. However, we have heard that these questions sometimes prove too time consuming. In the future, we will try to more strictly control the number of questions we pose and will forego asking questions when none seem pressing. Our goals have always been to keep the Regional Directors attuned to the views of the State Boards -- and to keep the Boards aware of emerging issues.

We would like to thank you for your enthusiastic participation in the 2013 Regional Meetings and we hope you will be able to join us for the Annual Meeting in Maui. Your continued support helps keep NASBA an organization that responds to its member Boards. Should your Board be unable to send a voting delegate (i.e., current Board member) to the Annual Meeting, please contact Communications Director Thomas Kenny (tkenny@nasba.org) to arrange for a scholarship. We would like to see all Boards represented at the 2013 Annual Meeting.

In the meantime, please do not hesitate to call your Regional Director to discuss the following questions or any other issues you feel NASBA should consider. We look forward to hearing from you.

Sincerely,

Jeff Chickering

Central Director – Douglas W. Skiles Phone:

Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota

Great Lakes Director – Kim L. Tredinnick Phone:

Illinois, Indiana, Michigan, Ohio, Pennsylvania, Wisconsin

Middle Atlantic Director – Bucky Glover Phone: 704-283-8189 bglover@gotopotter.com

DC, Delaware, Maryland, North Carolina, South Carolina, Virginia, West Virginia

Mountain Director – Karen F. Turner Phone: 970-351-1216 karen.turner@unco.edu

Colorado, Idaho, Montana, Nevada, Utah, Wyoming

Northeast Director – Jefferson M. Chickering Phone: 603-620-1961 jeffchickering@msn.com

Conn., Maine, Mass., New Hampshire, New Jersey, New York, Rhode Island, Vermont

Pacific Director – Donald Aubrey Phone:

Alaska, Arizona, California, CNMI, Guam, Hawaii, Oregon, Washington

Southeast Director – Jimmy E. Burkes Phone: 601-326-7118 jburkes@hrbccpa.com

Alabama, Florida, Georgia, Kentucky, Mississippi, Puerto Rico, Tennessee, Virgin Islands

Southwest Director – Janice L. Gray Phone: 405-360-5533 ext.103 janiceg@cpagray.com

Arkansas, Louisiana, New Mexico, Oklahoma, Texas

REGIONAL DIRECTORS' FOCUS QUESTIONS

*The input received from our focus questions is reviewed by all members of NASBA's Board of Directors, committee chairs and executive staff and used to guide their actions. We encourage you to place the following questions early on the agenda of your next Board meeting to allow for sufficient time for discussion. **Please send your Board's responses to your Regional Director by October 10, 2013.** Use additional sheets for your responses if needed.*

JURISDICTION: California Board of Accountancy **DATE:** September 9, 2013

NAME OF PERSON SUBMITTING FORM Kari O'Connor

1- NASBA continues to work to improve its vetting process so that when it takes a position on a controversial matter it represents our best effort to ascertain what State Boards support. What is the most effective way to communicate matters requiring vetting with your Board?

The most effective and timely way to communicate matters requiring vetting with the CBA is through Focus Questions or via request to the CBA's Executive Officer. Ideally, allowing a minimum of 60 days to respond would ensure the CBA has sufficient time to deliberate any matters during its six regularly scheduled board meetings.

2- NASBA has taken a position on firm mobility that, if Boards want to adopt it, they should do it in a consistent and uniform fashion. However, NASBA is not advocating that every Board adopt firm mobility, taking into consideration each Board's unique circumstances. Accordingly, the UAA Committee is working on proposed language for a uniform approach to firm mobility. When a UAA exposure draft is ready, is there any additional background information you would like to see that would assist your Board in its consideration of firm mobility?

The CBA needs sufficient time to consider the UAA exposure draft. Given that the CBA meets every other month, the comment period should be at least 60 days or longer. Additionally, the exposure draft should be broad enough to allow for forms of organization not recognized in a state. It should also consider other registrations required by each state such as registering with the Secretary of State or state taxing authorities.

3- What is happening in your jurisdiction that other Boards and NASBA should know about?

California implemented mobility for CPAs on July 1, 2013. Most CPAs are able to exercise their practice privilege rights in California with no notice and no fee. CPAs with certain disqualifying conditions must get approval from the CBA prior to practicing in California. Additionally, CPAs from ALL substantially equivalent jurisdictions who are disciplined by the SEC and PCAOB will be posted on the CBA website and need to get CBA approval prior to practicing in California. Out of state CPAs who wish to perform an audit, review or compilation for an entity headquartered in California can only do so through a firm registered with the CBA.

Beginning January 1, 2014, two important regulatory changes will take effect that will significantly impact the license renewal requirements. First, licensees renewing in their license in an active status for whom no criminal offender record information is on file with the California Department of Justice will need to undergo fingerprinting and a criminal background clearance. The CBA anticipates that this will impact approximately 28,000 licensees. Second, with the initial peer review phase-in now complete (which took three years), the reporting requirement will be moved to the time of license renewal. This change is designed to aid in compliance with the peer review reporting requirement.

4 - Are there any ways in which NASBA can assist your Board at the present time?

Due to budgetary considerations, California has been unable to attend NASBA events held outside of California. Until these budgetary considerations are resolved, it would be beneficial if more NASBA events were held in California.

5 - NASBA's Board of Directors would appreciate as much input on the above questions as possible. How were the responses shown above compiled? Please check all that apply.

- Input only from Board Chair
- Input from all Board Members
- Input only from Executive Director
- Input from some Board Members
- Input only from Board Chair and Executive Director
- Input from some Board Members and ED
- Input from all Board Members and Executive Director
- Other (please explain):



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CBA Item XII.C.
September 26-27, 2013

Press Release Focus

Presented by: Deanne Pearce, Assistant Executive Officer

Date: September 11, 2013

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

There have been nine press releases since the July 2013 CBA meeting; one post-meeting release, which highlighted the work of the CBA's Enforcement Division in a license revocation in a high-profile case, and eight additional enforcement action releases. A press advisory notifying the media of the September 26-27, 2013 CBA meeting is scheduled to be sent out September 23, 2013.

Comments

None.

Fiscal/Economic Impact Considerations

None.

Recommendation

Staff recommendation will be made at the time of this presentation.

Attachments

1. Focused Press Release
2. Enforcement Action Press Releases



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Attachment 1

FOR IMMEDIATE RELEASE

Contact: Lauren Hersh
(916) 561-1789

FRAUD, MONEY LAUNDERING AND ATTEMPTED MURDER MARK RECENT ENFORCEMENT CASES

SACRAMENTO - A recent spate of high dollar, high profile cases investigated by the CBA's Enforcement Division has resulted in the revocation of several CPA licenses.

Among those disciplined:

- San Diego area accountant Steven Martinez (CPA 64798), on or about April 16, 2013, in a criminal proceeding entitled *United States of America v. Steven Martinez*, in United States District Court, Southern District of California, case number 11CR1445-WQH, pleaded guilty to 12 felony counts including mail fraud, procuring a false tax return, fraudulent use of a Social Security number of another person, aggravated identity theft, making a false tax return, money laundering, witness tampering (attempted murder), use of facility of interstate commerce in murder for hire, and solicitation of a crime of violence.

http://www.dca.ca.gov/cba/discipline/index.shtml#M_1245

- Stephen Durland, (CPA #67595) of Palm Beach, Florida and the former chief financial officer of Fremont, CA technology company, Pegasus Wireless Corporation, was convicted of securities fraud and sentenced to 33 months in federal prison. On or about October 13, 2011, Judgment was imposed on Mr. Durland based on his guilty plea on March 17, 2011, to violation of section 18 U.S.C. Section 1349 (conspiracy to commit securities fraud), 1348 (securities fraud) and 15 U.S.C. Section 78m(b)(2)(A), 78m(b)(5) and 78ff, 17 C.F.R. Section 240.13b2-1 (false books and records.)

http://www.dca.ca.gov/cba/discipline/index.shtml#D_1042

- Anton A. Ewing, of San Diego, CA (CPA 83510) on or about August 27, 2010, in a criminal proceeding entitled *United States of America v. Anton Ewing*,

in United States District Court, Southern District of California, case number 09CR1209-H, the court issued an order accepting Mr. Ewing's plea of guilty to Count 1 of the criminal indictment, conspiracy to conduct enterprise affairs through a pattern of racketeering activity, in violation of Title 18 of the United States Code, section 1962, subdivision (d), a felony.

http://www.dca.ca.gov/cba/discipline/index.shtml#E_1082

All of the revocations are effective as of August 31, 2013. CBA Chief of Enforcement Rafael Ixta said he doesn't believe the cases indicate any particular trend. "It is unusual to have such serious cases come up in such a close timeframe, but it does happen from time to time," said Ixta. "But no matter when they occurred," he continued, "it's a good reminder to consumers to know who they're dealing with before doing business."

The CBA encourages consumers who have a complaint against any accountant licensed in California to file a complaint directly on the CBA Web site, www.cba.ca.gov.

Created by statute in 1901, the CBA's mandate is to protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards. The CBA currently regulates more than 85,000 licensees, the largest group of licensed accounting professionals in the nation, including individuals, partnerships, and corporations.

For news and information updates from the CBA as they become available, subscribe to [E-News](#), follow us on [Twitter](#), [Facebook](#), [LinkedIn](#) and [Pinterest](#).

**California Board of Accountancy
Enforcement Action News Release**

**Sent to Elizabeth Clark, Managing Editor (Palm Beach Daily News) on
September 3, 2013**

Stephen Durland, Palm Beach, FL (CPA 67595) 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#D_1042

**Sent to diana.mccabe@utsandiego.com (San Diego Union Tribune) on
September 3, 2013**

Anton A. Ewing, San Diego, CA (CPA 83510) has 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#E_1082

**Sent to business@ocregister.com (Orange County Register) and
nisha.gutierrez@patch.com (Newport Beach Patch) on September 3, 2013**

Michael Alan Kuhn, Newport Beach, CA (CPA 21402) 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#K_936

**Sent to jbarrette@nevadaappeal.com and bodriscoll@rgj.com (Reno Gazette
Journal) on September 3, 2013**

Rodney D. Lampson, Minden, NV (CPA 61650) 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 disciplinary 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 disciplinary action.

http://www.dca.ca.gov/cba/discipline/index.shtml#L_1058

Sent to diana.mccabe@utsandiego.com on September 3, 2013

Steven Martinez, San Diego, CA (CPA 64798) 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#M_1245

Sent to business@ocregister.com (Orange County Register) on September 3, 2013

Hee Yong Park, Cypress, CA (CPA 94928) 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#P_1105

Sent to business@ocregister.com (Orange County Register), peter.schelden@patch.com (Anaheim-Laguna Niguel-Dana Point Patch) on September 3, 2013

Reza Shahabdonbali (aka Reza Shahab) and Ray Shahab, CPA, Anaheim, CA (CPA 103288 and FNP 2365) 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#S_1242

http://www.dca.ca.gov/cba/discipline/index.shtml#R_1243

Sent to business@mercurynews.com (San Jose Mercury News) and genevieve.bookwalter@patch.com (Sunnyvale-Cupertino Patch) on September 3, 2013

Owen Nabor Yap, Sunnyvale, CA (CPA 58295) 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#Y_879
