



**DEPARTMENT OF CONSUMER AFFAIRS**  
 CALIFORNIA BOARD OF ACCOUNTANCY  
 2000 EVERGREEN STREET, SUITE 250  
 SACRAMENTO, CA 95815-3832  
 TELEPHONE: (916) 263-3680  
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**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)  
 PUBLIC MEETING NOTICE FOR THE LEGISLATIVE COMMITTEE (LC),  
 COMMITTEE ON PROFESSIONAL CONDUCT (CPC), ENFORCEMENT PROGRAM  
 OVERSIGHT COMMITTEE (EPOC) AND CBA MEETINGS**

<b>DATE:</b> Thursday, January 23, 2014	<b>LC MEETING</b> <b>TIME:</b> 10:15 a.m.
<b>DATE:</b> Thursday, January 23, 2014	<b>CPC MEETING</b> <b>TIME:</b> 11:15 a.m. or upon adjournment of the LC meeting.
<b>DATE:</b> Thursday, January 23, 2014	<b>EPOC MEETING</b> <b>TIME:</b> 11:45 a.m. or upon adjournment of the CPC meeting.
<b>DATE:</b> Thursday, January 23, 2014	<b>CBA MEETING</b> <b>TIME:</b> 1:30 p.m. to 5:00 p.m.
<b>DATE:</b> Friday, January 24, 2014	<b>CBA MEETING</b> <b>TIME:</b> 9:00 a.m. to 12:00 p.m.
<b>PLACE:</b> Irvine Marriott 18000 Von Karman Avenue Irvine, CA 92612 Telephone: (949) 553-0100 Fax: (949) 261-7059	

Enclosed for your information is a copy of the agendas for the LC, CPC, EPOC and CBA meetings on January 23-24, 2014. For further information regarding these meetings, please contact:

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

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

**The next CBA meeting is scheduled for March 20-21, 2014 in Southern 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 Corey Riordan at (916) 561-1718, or email [cfriordan@cba.ca.gov](mailto:cfriordan@cba.ca.gov), or send a written request to the CBA Office at 2000 Evergreen Street, Ste. 250, Sacramento, CA 95815. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.



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

**LC MEETING  
 AGENDA**

**Thursday, January 23, 2014  
 10:15 a.m.**

**Irvine Marriott  
 18000 Von Karman Avenue  
 Irvine, CA 92612  
 Telephone: (949) 553-0100  
 Fax: (949) 261-7059**

	<b><u>CBA Item #</u></b>
Roll Call and Call to Order ( <b>Larry Kaplan, Chair</b> ).	
I. Approve Minutes of the July 25, 2013 LC Meeting.	IX.E.
II. Discussion Regarding Legislative Proposals for Inclusion in the Annual Omnibus Bill ( <b>Matthew Stanley, Legislation Analyst</b> ).	VI.B.2.
III. Discussion and Possible Recommendation Regarding Sponsorship of Legislation to Collect Email Addresses from Licensees ( <b>Matthew Stanley</b> ).	VI.B.3.
IV. Approval of Proposed Legislative Language Regarding Acceptance of Academia Experience to Qualify for CPA Licensure ( <b>Matthew Stanley</b> ).	VI.B.4.
V. Overview of the Legislative Process and the Legislative Committee's Role (Written Report Only).	VI.B.5.
VI. Public Comments.*	
VII. Agenda Items for Next Meeting.	

**Adjournment**

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

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

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



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

**CPC MEETING  
 AGENDA**

**Thursday, January 23, 2014  
 11:15 a.m.**

**Or Upon Adjournment of the Legislative Committee Meeting**

**Irvine Marriott  
 18000 Von Karman Avenue  
 Irvine, CA 92612  
 Telephone: (949) 553-0100  
 Fax: (949) 261-7059**

Roll Call and Call to Order (**Jose Campos, Chair**).

**CBA Item #**

- |      |   |         |
|------|---|---------|
| I.   | Approve Minutes of the November 21, 2013 CPC Meeting.   | IX.B.   |
| II.  | Discussion Regarding Initiating a Rulemaking to Amend Title 16, California Code of Regulations Section 19 (Practice Privilege Forms for Individuals) ( <b>Matthew Stanley, Legislation Analyst</b> ). | VI.A.2. |
| III. | Public Comments.*   |         |
| IV.  | Agenda Items for Next Meeting.  |         |

Adjournment

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

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



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

**EPOC MEETING  
 AGENDA**

**Thursday, January 23, 2014  
 11:45 a.m.**

**Or Upon Adjournment of the Committee on Professional Conduct Meeting**

**Irvine Marriott  
 18000 Von Karman Avenue  
 Irvine, CA 92612  
 Telephone: (949) 553-0100  
 Fax: (949) 261-7059**

Roll Call and Call to Order (**Alicia Berhow, Chair**).

**CBA Item #**

- |      |   |         |
|------|---|---------|
| I.   | Approve Minutes of the September 26, 2013 EPOC Meeting.   | IX.F.   |
| II.  | Discussion of Recommended Changes to the Disciplinary Guidelines and Model Orders Regarding Changes to Business and Professions Code Section 5096(e)(10) – Notification of Pending Criminal Charges for Practice Privilege Holders ( <b>Rafael Ixta, Enforcement Chief</b> ). | VI.C.2. |
| III. | Public Comments.*   |         |
| IV.  | Agenda Items for Next Meeting.  |         |

Adjournment

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

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



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

**CBA MEETING  
AGENDA**

**January 23, 2014  
1:30 p.m. – 5:00 p.m.**

**January 24, 2014  
9:00 a.m. – 12:00 p.m.**

**Irvine Marriott  
18000 Von Karman Avenue  
Irvine, CA 92612  
Telephone (949) 553-0100  
Fax (949) 261-7059**

**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,  
January 23, 2014**

**1:30 p.m. –  
2:20 p.m.**

- Roll Call and Call to Order (**Michael Savoy, President**).
- I. Report of the President (**Michael Savoy**).
    - A. Resolutions for Retiring Qualifications Committee Members  
Carlos Aguila, Gary Bong and Michael Haas.
    - B. Report on CBA Leadership Roundtable.
      1. Training for New Committee Leadership.
      2. Next Steps in Evaluating Attest Experience Requirement for CPA Licensure.
    - C. Announcement of New Committee and Liaison Appointments.

- D. Overview of Upcoming Legislative Reports on Sunset Review and Peer Review.
- E. Proposed Comment Letter on the National Association of State Boards of Accountancy's (NASBA) and the American Institute of Certified Public Accountants' (AICPA) Firm Mobility Exposure Draft.
- F. DCA Director's Report.

2:20 p.m. –  
2:30 p.m.

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

- III. Report of the Secretary/Treasurer (**Katrina Salazar**).

- A. Discussion of Governor's Budget.

2:30 p.m. –  
2:50 p.m.

- IV. Report on the Enforcement Advisory Committee, Qualifications Committee and Peer Review Oversight Committee.
  - A. Enforcement Advisory Committee (EAC) (**Cheryl Gerhardt, Chair/Herschel Elkins, CBA Member Liaison**).
    - 1. Report of the December 12, 2013 EAC Meeting.
  - B. Qualifications Committee (QC) (**Maurice Eckley, Chair/K.T. Leung, CBA Member Liaison**).
    - 1. Report of the January 22, 2014 QC Meeting.
  - C. Peer Review Oversight Committee (PROC) (**Nancy Corrigan, Chair**).

There is no report for this item.

2:50 p.m. –  
3:20 p.m.

- V. Report of the Executive Officer (EO) (**Patti Bowers**).
  - A. Update on Locations for 2014 CBA Meetings (**Corey Riordan, Board Relations Analyst**).
  - B. Update on Staffing.

- C. Review and Approval of Proposed Changes to the CBA Member Guidelines and Procedures Manual (**Deanne Pearce, Assistant Executive Officer**).
- D. Update on Practice Privilege Program (**Dominic Franzella, Licensing Chief**).
- E. Report on Implementation of Fingerprint Requirement (**Dominic Franzella**).
- F. Update on the CBA 2013–2015 Communications and Outreach Plan (Written Report Only).

3:20 p.m. –  
4:05 p.m.

VI. Committee Reports.

A. Committee on Professional Conduct (CPC) (**Jose Campos**).

- 1. Report of the January 23, 2014 CPC Meeting.
- 2. Discussion Regarding Initiating a Rulemaking to Amend Title 16, California Code of Regulations Section 19 (Practice Privilege Forms for Individuals) (**Matthew Stanley, Legislation Analyst**).

B. Legislative Committee (LC) (**Larry Kaplan**).

- 1. Report of the January 23, 2014 LC Meeting.
- 2. Discussion Regarding Legislative Proposals for Inclusion in the Annual Omnibus Bill (**Matthew Stanley**).
- 3. Discussion and Possible Recommendation Regarding Sponsorship of Legislation to Collect Email Addresses from Licensees (**Matthew Stanley**).
- 4. Approval of Proposed Legislative Language Regarding Acceptance of Academia Experience to Qualify for CPA Licensure (**Matthew Stanley**).
- 5. Overview of the Legislative Process and the Legislative Committee’s Role (Written Report Only).

C. Enforcement Program Oversight Committee (EPOC) (**Alicia Berhow**).

- 1. Report of the January 23, 2014 EPOC Meeting.

2. Discussion of Recommended Changes to the Disciplinary Guidelines and Model Orders Regarding Changes to Business and Professions Code Section 5096(e)(10) – Notification of Pending Criminal Charges for Practice Privilege Holders **(Rafael Ixta, Enforcement Chief)**.

4:05 p.m. –  
4:15 p.m.

VII. Report of the Licensing Chief **(Dominic Franzella)**.

- A. Report on Licensing Division Activity.

4:15 p.m. –  
4:35 p.m.

VIII. Report of the Enforcement Chief **(Rafael Ixta)**.

- A. Enforcement Activity Report.

4:35 p.m. –  
4:45 p.m.

IX. Acceptance of Minutes.

- A. Draft Minutes of the November 21-22, 2013 CBA Meeting.
- B. Minutes of the November 21, 2013 CPC Meeting.
- C. Minutes of the October 23, 2013 QC Meeting.
- D. Minutes of the October 24, 2013 EAC Meeting.
- E. Minutes of the July 25, 2013 LC Meeting.
- F. Minutes of the September 26, 2013 EPOC Meeting.

4:45 p.m. –  
4:50 p.m.

X. 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. NASBA's Request for Vice Chair Recommendations for 2014-2015 **(Corey Riordan)**.

- C. Proposed Responses to NASBA Focus Questions **(Corey Riordan)**.

4:50 p.m. –  
5:00 p.m.

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

**Friday**  
**January 24, 2013**  
9:00 a.m. –  
12:00 p.m.

- XII. Closed Session. Pursuant to Government Code Section 11126(c)(3), the CBA Will Convene Into Closed Session to Deliberate on Disciplinary Matters (Stipulated Settlements and Reconsideration of Board’s Decision).

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.

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Department of Consumer Affairs  
**California Board of Accountancy**



**RESOLUTION**

***WHEREAS**, Carlos Aguila has faithfully served as a member of the California Board of Accountancy's Certified Public Accountants Qualifications Committee from December 1, 2006 to November 5, 2013; and*

***WHEREAS**, throughout his years of service he has given fully of himself and his ideas and has acted forthrightly and conscientiously, always with the public interest and welfare in mind; and*

***WHEREAS**, he has discharged these important responsibilities in a manner reflecting great credit upon himself and the accounting profession; and*

***WHEREAS**, his colleagues wish to express to him their high esteem and regard;*

***NOW, THEREFORE, BE IT RESOLVED**, that the members of the California Board of Accountancy express heartfelt appreciation to Carlos Aguila for the outstanding contribution he made during his term of service on the Qualifications Committee.*

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*Michael M. Savoy, CPA, President*

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*Katrina Salazar, CPA, Secretary-Treasurer*

*Dated: January 23, 2014*

Department of Consumer Affairs  
**California Board of Accountancy**



**RESOLUTION**

***WHEREAS**, Gary Bong has faithfully served as a member of the California Board of Accountancy's Certified Public Accountants Qualifications Committee from December 1, 2006 to November 21, 2013; and*

***WHEREAS**, throughout his years of service he has given fully of himself and his ideas and has acted forthrightly and conscientiously, always with the public interest and welfare in mind; and*

***WHEREAS**, he has discharged these important responsibilities in a manner reflecting great credit upon himself and the accounting profession; and*

***WHEREAS**, his colleagues wish to express to him their high esteem and regard;*

***NOW, THEREFORE, BE IT RESOLVED**, that the members of the California Board of Accountancy express heartfelt appreciation to Gary Bong for the outstanding contribution he made during his term of service on the Qualifications Committee.*

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*Michael M. Savoy, CPA, President*

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*Katrina Salazar, CPA, Secretary-Treasurer*

*Dated: January 23, 2014*

Department of Consumer Affairs  
**California Board of Accountancy**



**RESOLUTION**

***WHEREAS**, Michael Haas has faithfully served as a member of the California Board of Accountancy's Certified Public Accountants Qualifications Committee from December 1, 2006 to November 21, 2013; and*

***WHEREAS**, throughout his years of service he has given fully of himself and his ideas and has acted forthrightly and conscientiously, always with the public interest and welfare in mind; and*

***WHEREAS**, he has discharged these important responsibilities in a manner reflecting great credit upon himself and the accounting profession; and*

***WHEREAS**, his colleagues wish to express to him their high esteem and regard;*

***NOW, THEREFORE, BE IT RESOLVED**, that the members of the California Board of Accountancy express heartfelt appreciation to Michael Haas for the outstanding contribution he made during his term of service on the Qualifications Committee.*

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*Michael M. Savoy, CPA, President*

---

*Katrina Salazar, CPA, Secretary-Treasurer*

*Dated: January 23, 2014*



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**CBA Item I.B.2.**  
January 23-24, 2014

## **Next Steps in Evaluating Attest Experience Requirement for CPA Licensure**

**Presented by:** Michael M. Savoy, CPA, President

**Date:** January 6, 2014

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### **Purpose of the Item**

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with information regarding Leadership's direction on next steps in evaluating California's attest experience requirement.

### **Action(s) Needed**

None.

### **Background**

As members are aware, in March 2013, immediate-past President Leslie LaManna, CPA, established the Taskforce to Examine Experience for CPA Licensure (Taskforce). Ms. LaManna charged the Taskforce with examining a possible shift to a single experience requirement for CPA licensure. The Taskforce met three times (May, July, and September) to discuss all aspects of the experience requirement.

Over the course of the meetings, the Taskforce discussed the possible addition of allowing experience earned as a teacher/instructor in academia to qualify for CPA licensure and possible modifications to the general accounting and attest experience requirements. The Taskforce ultimately recommended that the CBA: (1) continue to explore the topic of academia as qualifying experience,<sup>1</sup> (2) maintain the status quo related to California's general accounting experience requirement, and (3) eliminate the attest experience requirement. The CBA adopted the first two of the Taskforce's recommendations, but rejected the Taskforce's third recommendation.

At the September 2013 CBA meeting, the CBA spent considerable time discussing the topic of the Taskforce's recommendation to eliminate the attest experience requirement, and heard testimony from Ed Howard, Senior Counsel, Center for Public Interest Law (CPIL), and Taskforce member, regarding CPIL's opposition to elimination of the attest

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<sup>1</sup> The CBA discussed the topic of academia at its November 2013 meeting and adopted a position to move forward with sponsoring legislation to allow for academia experience to qualify for general accounting experience. The proposed statutory language is provided in Legislative Committee Agenda Item IV.

## **Next Steps in Evaluating Attest Experience Requirement for CPA Licensure**

Page 2 of 3

experience requirement. After the CBA's discussions on the issue, it directed staff to gather research data of California licensees regarding the 500 attest hours, work with the National Association of State Boards of Accountancy (NASBA) or others to obtain out-of-state data, and analyze enforcement criteria.

### **Comments**

At the recent Leadership Roundtable, CBA Leadership discussed the CBA's direction provided at the September 2013 meeting and established a course of action for the upcoming year that would focus on collecting data in California and nationally. As it related to performing data collection for California, Leadership directed staff to begin work on securing an outside consultant. As for work nationally, Leadership recognized that a focus on the larger states would provide the most comparable information, while minimizing the resource impact a national review could have.

With the use of a consultant, the CBA will maintain the ability to facilitate the needs and direction of the data collection. Further, some of the benefits of using a consultant include: (1) being able to draw on an individual or group that has the expertise necessary in conducting surveys, thus ensuring that a statistically reliable sample size is gathered, and (2) ensuring the independence of the survey as it relates to data collection and final reporting of findings.

The CBA will need to enter into a contract with an individual or group to perform these services. The contracting process for this type of contract can take between three to six months. Staff has already begun work on developing the contract. Given the CBA's desire to continue its work on this important topic, staff are working diligently to complete the contracting process quickly, hopefully within three months.

To ensure involvement and participation by the CBA in the survey process, the scope of work for the contract will include active participation by the consultant with the CBA in evaluating the nature/focus of the survey, types of questions, target audience, and timing. With staff's expectation that a vendor can be selected within the next three to four months, my hope is that this process can begin at the May 2014 CBA meeting.

I have selected the Committee on Professional Conduct (CPC) as the group to aid the CBA in guiding the data collection, including working with the consultant. Additionally, the CPC will work with staff in collecting information nationally. Staff will begin developing a plan of action for collecting information nationally for CPC consideration and present it at the March 2014 meeting.

Leadership also stressed the importance of ensuring various stakeholders could actively participate in the continued evaluation of the attest experience requirement. By doing so, it will establish a collaborative process that will hopefully extend into the legislative arena should the need arise. Therefore, Leadership will work to ensure that groups who have previously showed an interest in the discussion on the attest experience requirement, such as the NASBA, CPIL, and California Society of CPAs, are extended invitations to the various CBA discussions on the topic.

**Fiscal/Economic Impact Considerations**

The fiscal impact to the CBA will be determined on the final terms outlined in the contract.

**Recommendation**

None.



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**CBA Item I.D.**  
January 23-24, 2014

## **Overview of Upcoming Legislative Reports on Sunset Review and Peer Review**

**Presented by:** Michael M. Savoy, CPA, President

**Date:** December 20, 2013

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### **Purpose of the Item**

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with information regarding the sunset review report and the peer review report which are due to the Legislature within the next 12 months.

### **Action(s) Needed**

None.

### **Background**

The CBA is required to file certain mandated reports with the Legislature on various topics as described by law. There are two legislatively mandated reports that the CBA will be writing during 2014. The CBA will be preparing its sunset review report, which is due to the Legislature every four years, and the peer review report which will provide the Legislature with the status of the program.

### **Comments**

#### *Sunset Review Report*

Sunset review is a process that Department of Consumer Affairs (DCA) boards undergo every four years as the Legislature reviews the effectiveness of a board and its programs before renewing a board's statutory authority to exist. Boards that do not pass the sunset review are dissolved and the Executive Officer (EO) is dismissed. The appointing authorities reappoint a new board, and a new EO is hired. The method the Legislature uses to collect much of the information it needs for this process is the sunset review report, prepared by each board.

The CBA's sunset date is January 1, 2016. Legislation will need to be passed in 2015 to extend that date. Therefore, the Legislature will need the CBA's sunset review report sometime late in 2014. The Legislature has not yet released details regarding reporting requirements, but it is expected that more detail regarding this report will be available in March or April.

#### *Peer Review Report*

Business and Professions Code section 5076(m) requires the preparation of the peer review report and states that it is due by January 1, 2015. This report was originally a justification of the peer review program which was supposed to sunset on January 1,

## **Overview of Upcoming Legislative Reports on Sunset Review and Peer Review**

Page 2 of 2

2014, but was subsequently made permanent. However the report not only remained intact, it was expanded. The first four points of the following list comprised the original peer review report, and the rest of the points were added when the report was expanded. The report must, by law, include the following information:

- The extent to which mandatory peer review of small firms or sole practitioners that prepare nondisclosure compiled financial statements on an other comprehensive basis of accounting enhances consumer protection
- The impact of peer review on small firms and sole practitioners that prepare nondisclosure compiled financial statements on an other comprehensive basis of accounting
- The impact of peer review on small businesses, nonprofit corporations, and other entities that utilize small firms or sole practitioners for the purposes of nondisclosure compiled financial statements prepared on an other comprehensive basis of accounting
- A recommendation as to whether the preparation of nondisclosure compiled financial statements on an other comprehensive basis of accounting should continue to be a part of the mandatory peer review program
- The number of peer review reports completed to date
- The number of substandard reports which were submitted
- The number of enforcement actions that were initiated as a result of a substandard report
- The number of firms that were recommended to take corrective actions to improve their practice through the mandatory peer review process
- The number of firms that took corrective actions to improve their practice following recommendations resulting from the mandatory peer review process
- The extent to which mandatory peer review of accounting firms enhances consumer protection
- The cost impact on firms undergoing mandatory peer review
- The cost impact of mandatory peer review on the firm's clients
- A recommendation as to whether the mandatory peer review program should continue

Staff have been collecting data and information that will assist in the preparation of this report.

I will be assigning oversight of the preparation of this report to the Committee on Professional Conduct (CPC). It is expected staff will have a draft for the CPC's review later this year.

### **Fiscal/Economic Impact Considerations**

There is no fiscal or economic impact from preparing these reports.

### **Recommendation**

None.



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**CBA Item I.E.**  
January 23-24, 2014

**Proposed Comment Letter on the National Association of State Boards of Accountancy's (NASBA) and the American Institute of Certified Public Accountants' (AICPA) Firm Mobility Exposure Draft**

**Presented by:** Michael M. Savoy, CPA, President

**Date:** December 31, 2013

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**Purpose of the Item**

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with a proposed comment letter for the Uniform Accountancy Act (UAA) firm mobility exposure draft.

**Action(s) Needed**

The CBA will be asked to approve the proposed comment letter.

**Background**

At its November 2013 meeting, Mr. Ken Bishop, President of the National Association of State Boards of Accountancy (NASBA), provided the CBA with an overview of the UAA firm mobility exposure draft, which was prepared by NASBA and the American Institute of Certified Public Accountants (AICPA). The CBA tasked Mr. Campos and myself with reviewing the exposure draft and preparing a comment letter (**Attachment 1**) for its review.

**Comments**

In preparation for drafting the proposed comment letter, staff provided Mr. Campos and myself with the following documents:

- Firm Mobility Exposure Draft (**Attachment 2**)
- Attest Definition Exposure Draft (**Attachment 3**)
- CBA comment letter on the Attest Definition Exposure Draft (**Attachment 4**)
- Firm Mobility Exposure Draft comment letters from Arkansas, Guam, Kansas, Oregon, and South Dakota (**Attachment 5**)
- Comments from NASBA's Pacific Regional Director, Donald Aubrey, made shortly before the release of the exposure draft (**Attachment 6**)
- An eight-page paper on firm mobility by Mr. Aubrey (**Attachment 7**)
- CBA Staff's firm mobility exposure draft discussion paper (**Attachment 8**)

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**Fiscal/Economic Impact Considerations**

There is no fiscal or economic impact from submitting a comment letter.

**Recommendation**

I recommend that the CBA adopt the proposed comment letter and direct staff to send it to the appropriate contacts at NASBA and the AICPA.

**Attachments**

- 1 – Proposed Comment Letter
- 2 – Firm Mobility Exposure Draft
- 3 – Attest Definition Exposure Draft
- 4 – CBA comment letter on the Attest Definition Exposure Draft
- 5 – Firm mobility exposure draft comment letters from other state boards of accountancy
- 6 – NASBA Pacific Regional Director, Donald Aubrey comments
- 7 – NASBA Pacific Regional Director, Donald Aubrey paper
- 8 – CBA Staff's Firm mobility exposure draft discussion paper

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**Attachment 1**

January 27, 2014

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 Regarding Firm Mobility

Dear Mr. Odom and Mr. McConnel:

At its November 2013 and January 2014 meetings, the California Board of Accountancy (CBA) was presented with the Uniform Accountancy Act (UAA) exposure draft with the proposed changes regarding firm mobility. The exposure draft was presented to the CBA with the intent of receiving comments members may have related to changes being proposed in the exposure draft.

The exposure draft provides for “no notice, no fee, no escape” mobility for accounting firms.

California’s current mobility law meets the spirit of the exposure draft with the exception that California still requires notification from accounting firms that provide certain attest services to California-headquartered entities. These services include the following:

- an audit or review of a financial statement,
- a compilation of a financial statement when that person expects, or reasonably might expect, that a third party will use the financial statement and the compilation report does not disclose a lack of independence, and,
- an examination of prospective financial information.

Current law, which became effective July 1, 2013, requires these accounting firms to file an Out-of-State Firm Registration form with the CBA. The work must be performed by a licensee who holds a practice privilege in California. The CBA does not charge a fee for the firm registration, and, per Business and Professions Code (BPC) section 5096.12, California maintains jurisdiction over the firm.

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The only professional services in California requiring licensure as a certified public accountant (CPA) are attest services; therefore, the California Legislature placed special emphasis on attest services when writing California's mobility law. Only firms performing attest services for clients headquartered in California were required to notify the CBA, and even then without a fee. This is what the Legislature and the CBA deems to be the minimum level of consumer protection for firm mobility at this time.

In addition, the provisions of California's mobility law include a five-year sunset date and a detailed report to the Legislature before these provisions may be made permanent. Considering the effort expended to pass these provisions, it is unlikely that the Legislature or stakeholders would want to revisit them before the five years and the legislative report are complete.

Finally, the one portion of the exposure draft that could not be implemented in California is found in the proposed UAA section 7(c)(2)(B) where NASBA and AICPA add that non-licensee owners of firms must be of "good moral character." Section 475(c) of the BPC states that boards and bureaus under the Department of Consumer Affairs cannot deny an application on the grounds of a lack of good moral character. This particular portion of the proposal is not possible in California.

For the reasons stated above, the CBA is opposed to the changes outlined in the exposure draft. The CBA thanks you for this opportunity to express its views. Should you have any questions, please contact Patti Bowers, Executive Officer, at (916) 561-1711.

Sincerely,

Michael M. Savoy, CPA  
President

# **Exposure Draft**

# **Uniform Accountancy Act**

**Seventh Edition**  
**\_\_\_\_\_, 2013**

**Firm Mobility Guidance**

Published jointly by the  
American Institute of Certified Public Accountants  
1211 Avenue of the Americas, New York, NY 10036-8775  
and  
National Association of State Boards of Accountancy  
150 4th Avenue, North, Nashville, TN 37219-2417

The base document is the 6th Edition of the UAA (pertinent parts). Changes made per the Attest ED are shown as either single blackline underlined or ~~single blackline strike through~~. Changes made per the firm mobility proposal are shown as either double blackline underlined or ~~double blackline strike through~~. Note: If the firm mobility language resulted in a change to language from the Attest ED, the Attest ED is shown as a ~~double blackline strike through~~.

**(Comments must be received by January 17, 2014.)**

## **EXPOSURE DRAFT OF UNIFORM ACCOUNTANCY ACT**

After thorough consideration of the key issues discussed below, leadership of NASBA and AICPA strongly believe, as long as the existing element of public protection is preserved, the time has come to give serious consideration to enact firm mobility, as a logical extension of individual mobility. The necessary changes to the Uniform Accountancy Act reflected in the accompanying Exposure Draft retain the essential ownership, peer review and consent to jurisdiction concepts, and thus the vital element of protection of the public is preserved.

Beginning in 2006, the efforts of NASBA, State Boards of Accountancy, AICPA and state CPA societies resulted in virtually uniform enactment by NASBA's 55 jurisdictions of "no notice, no fee, no escape" practice privileges for qualified ("substantially equivalent") individuals who cross state lines. While there are professional services which the practice privilege individuals can perform without creating a registration requirement for the out-of-state firms that employ them, such firm registration is required if the individuals are performing certain specified attest services.

The essential element of protection of the public interest was carefully considered when the individual practice privilege provision was added to the UAA. The substantial equivalence requirements (education, examination and experience) provide the "host" state with the assurance that the "visiting" individuals are equal to its own state's licensees. The same quality assurance concept exists as to the visiting firms which employ these individuals performing attest services. The firms are required to meet the host state's ownership and peer review requirements. Furthermore, both the individuals and the firms that employ them automatically consent to the jurisdiction and disciplinary authority of the host state's Board of Accountancy. This is critical to effective protection of the public.

The enactment of practice privileges has created a significantly greater similarity in licensure requirements among the vast majority of states. The public has benefited through an enhanced ability to engage the CPA firm/individuals they believe to be most appropriate, without concerning themselves with the various state licensure issues. This conformity has also been very beneficial for both the qualified individuals and their firms, as they can now practice across state lines without dealing with either uncertainty as to their status from state to state or the burden of excess paperwork.

There are currently about 16 states (by statute or practice) that do not specifically require a visiting firm to obtain a permit even when their employed individuals are performing attest services. Considering this factor, in addition to the significant increase in the volume of cross-border practice that has resulted from the virtually complete enactment of individual practice privileges, it is appropriate to consider the issue of whether the various states have experienced a rise in the number of related consumer complaints. In this regard, surveys performed to date clearly indicate that the states are not experiencing increased disciplinary problems attributable to the increase in practice across state lines. In the few instances when such problems have arisen, they have been effectively dealt with by the host state, with additional referral to the Board of Accountancy in the principal place of business state of the visiting licensee.

The combination of the attest definition change and the firm mobility proposal presents a logical extension of substantial equivalence for individuals: if a CPA firm complies with peer review and firm ownership, for all practical purposes it has a gold pass and only has to register in states where it has an office. Furthermore, firms (without in-state offices) can use the CPA title and provide compilations and other nonattest services without a permit so long as they do so through an individual with practice privileges and the firm can lawfully render those services in the principal place of business states of the practice privilege individuals.

Public protection is enhanced because the proposal favors firms that are peer reviewed, avoids the potential ambiguity of the “home office” issue, and extends administrative jurisdiction over any firm offering or rendering services in the state. The greatest protection is simply and logically provided for all attest services including various SSAE services that also require technical competence, independence in mental attitude, due professional care, adequate planning and supervision, sufficient evidence, and appropriate reporting. From the standpoint of both public protection and firm mobility, the CPAs and CPA firms from the 48 states which already require peer review will be able to “move freely about the country...” without obtaining permits in states where they have no office or worrying about whether their client has a “home office” in a particular state.

In conclusion, the digital age continues to generate a significant expansion of the interstate practice of public accountancy. Consequently, it is important to our economy that such practice be encouraged / facilitated in a manner consistent with the protection of all users of the services – i.e., the public. Enactment of this proposal will enable firms that are licensed in at least one state and meet the UAA ownership and peer review requirements to temporarily practice across state lines without a permit. Firms that do not meet such requirements will still have to obtain a permit in the visiting state. Enactment could also have the positive effect of providing strong incentive for those states whose licensure requirements do not conform to those prescribed by the UAA to amend their statutes, in order to enhance protection of the public and create a more efficient pathway to interstate practice for their own licensees. The entire proposal is thus presented in the spirit of providing all stakeholders with a safe and more efficient pathway for the interstate practice of public accountancy.

Stephen S. McConnel, CPA  
Chair, AICPA UAA Committee

Kenneth R. Odom, CPA  
Chair, NASBA UAA Committee

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NOTE: This proposed language builds upon the current exposure draft revising the definition of “attest.” Thus, changes arising solely from the “attest” exposure draft are marked in single underline or single strikethrough, while additional revisions from the new firm mobility language are identified by double underlining and double strikethrough.

## Introductory Comments

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### The Fundamental Principles That Should Govern the Regulation of Certified Public Accountants

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*Eighth*, it is desirable that there be, to the maximum extent feasible, uniformity among jurisdictions with regard to those aspects of the regulatory structure that bear upon the qualifications required of licensees. Because many of the clients or employers of CPAs are multistate enterprises, much of the practice of CPAs has an interstate character; consequently, CPAs must be able to move freely between states. The need for interstate mobility and maintenance of high minimum standards of competence in the public interest requires uniform licensing qualifications, insofar as possible, among the states.

*Ninth*, and finally, it is essential that mobility for individual CPAs and CPA Firms be enhanced. With respect to the goal of portability of the CPA title and mobility of CPAs across state lines, the cornerstone of the approach recommended by this Act is the standard of "substantial equivalency" set out in Section 23. Under substantial equivalency, a CPA's ability to obtain reciprocity ~~would be~~ is simplified and they ~~would~~ have the right to practice in another state without the need to obtain an additional license in that state unless it is where their principal place of business is located, as determined by the licensee. Individuals ~~would~~ are not ~~be~~ denied reciprocity or practice rights because of minor or immaterial differences in the requirements for CPA certification from state-to-state. ~~However, individuals with practice privileges who wish to provide certain attest services for a client whose home office is in a state must do so only through a firm with a permit in the practice privilege state.~~

Substantial equivalency is a determination by the Board of Accountancy, or NASBA, that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to, or exceed, the education, examination and experience requirements contained in the Uniform Accountancy Act. If the state of licensure does not meet the substantial equivalency standard, individual CPAs may demonstrate that they

personally have education, examination and experience qualifications that are comparable to or exceed those in the Uniform Accountancy Act.

For purposes of individual practice ~~rights~~ privileges, an applicant that has an active certificate as a certified public accountant from any jurisdiction that has obtained from the Board of Accountancy or NASBA a determination of substantial equivalency with the Uniform Accountancy Act's CPA certificate requirements shall be presumed to have qualifications substantially equivalent to this jurisdiction's. Individual CPAs from states that are not substantially equivalent may qualify under the substantial equivalency standard on an individual basis. Any CPA that wants to obtain a reciprocal certificate under substantial equivalency must personally possess qualifications that are substantially equivalent to, or exceed, the CPA licensure provisions in the Uniform Accountancy Act.

Firm mobility would be enhanced because even though an individual using practice privileges must render attest services through a CPA firm licensed in some state, if the firm complies with the ownership (Section 7(c)) and peer review (Section 7(h)) requirements, the firm would only need a permit in the states in which it has an office, regardless of the type of service or where such service is performed. The ownership and peer review requirements would thus protect the "visiting state" through firm quality standards comparable to substantial equivalency for practice privilege individuals. For purposes of firm mobility, a firm holding a valid permit from a U.S. jurisdiction, complying with the firm ownership and peer review requirements, would be able to perform any professional service (including attest) in any other state so long as it does so through individuals with practice privileges who can lawfully do so in the state where said individuals have their principal place of business. A firm not meeting both the ownership and peer review requirements could provide nonattest services and use the "CPA" title in any other state so long as it does so through individuals with practice privileges, and so long as the firm can lawfully do so in the state where said individuals with practice privileges have their principal place of business. Indeed, a firm complying with Section 7(a)(1)(C) would only have to obtain permits in states where it has offices.

In the interest of obtaining maximum uniformity and interstate mobility, and assuring that CPAs are subject to only one type of regulatory scheme, the Uniform Act should be the standard of regulation for certificate holders in the U.S. and its jurisdictions. All states and jurisdictions should seek to adopt the Uniform Act to provide uniformity in accountancy regulation. Uniformity will become even more essential in the future as international trade agreements continue to be adopted causing the accounting profession to adopt a global focus.

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UAA Section 3

Definitions

When used in this Act, the following terms have the meanings indicated:

- (a) "AICPA" means the American Institute of Certified Public Accountants.
- (b) "Attest" means providing the following ~~financial statement services~~:
  - (1) any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);
  - (2) any review of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS);
  - (3) any examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE); ~~and~~
  - (4) any engagement to be performed in accordance with the standards of the PCAOB; and
  - (5) any examination, review, or agreed upon procedures engagement to be performed in accordance with the SSAE, other than an examination described in subsection (3).

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

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

Regarding SSAE engagements, subsections 3(b)(3) and (5) ~~only includes~~ include SSAE engagements pertaining to the examination of prospective financial information, while ~~subsection 3(b)(5) expressly includes~~ as well as other SSAE engagements. Thus, like other services included in this definition of "Attest," they are all restricted to licensees and CPA firms. Although these respective services have been bifurcated in the definition of "Attest," only CPAs

can provide the services, and they must do so only through firms that either have a permit or comply with Section 7(a)(1)(C).

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

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

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

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~~(h) — "Home office" is the location specified by the client as the address to which a service described in Section 23(a)(4) is directed.~~

~~*Comment:* Under this provision, as a practical matter, a firm must have a permit in the state specified by the client for Section 23(a)(4) services. Thus, for example, the client may specify that a Section 23(a)(4) service for a subpart or subsidiary of an entity be directed to the location of that subpart or subsidiary. It should also be remembered that, regardless of whether or not the firm has a permit in that state, under Section 23(a)(3), a state board has administrative jurisdiction over individual licensees as well as firms offering or rendering professional services in that state. It should also be noted that other terms such as "headquarters" and "principal place of business" were not used because of extant uses of both terms that might be confusing or defeat the purpose of the mobility revisions.~~

ih) "License" means a certificate issued under Section 6 of this Act, a permit issued under Section 7 or a registration under Section 8; or, in each case, a certificate or permit issued under corresponding provisions of prior law.

COMMENT: See commentary to ~~section~~ Section 3(ji) below.

(j) **“Licensee” means the holder of a license as defined in Section 3(~~j~~h).**

COMMENT: This term is intended simply to allow for briefer references in provisions that apply to holders of certificates, holders of permits and holders of registrations. See ~~section~~ Section 4(h), regarding rules to be promulgated by the Board of Accountancy; ~~section~~ Section 5(b), regarding the meaning of “good moral character” in relation to the professional responsibility of a licensee; Sections 11(c) and (d), regarding Board investigations; Sections 12(a)-(c), (i), and (k), relating to hearings by the Board; ~~section~~ Section 18, relating to confidential communications; and Sections 19(a) and (b), regarding licensees’ working papers and clients’ records. Pursuant to Section 14(p), individuals and firms using practice privileges in this State are treated as “Licensees” for purposes of other requirements and restrictions in Section 14.

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

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

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

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

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**SECTION 7**  
**FIRM PERMITS TO PRACTICE, ATTEST AND COMPILATION COMPETENCY,**  
**AND PEER REVIEW**

- (a) The Board shall grant or renew permits to practice as a CPA firm to applicants that demonstrate their qualifications therefor in accordance with this Section.
- (1) The following must hold a permit issued under this Section:

- (A) Any firm with an office in this state performing attest services as defined in Section 3(b) of this Act; or
- (B) Any firm with an office in this state that uses the title "CPA" or "CPA firm"; or
- (C) Any firm that does not have an office in this state but ~~performs~~ offers or renders attest services as described in subsections Section 3(b)(2), 3(b)(5) or 3(f) of this Act for a client having its home office in this state, unless it meets each of the ~~A firm which does not have an office in this state may perform services described in subsections 3(b)(2) or 3(f) for a client having its home office in this state and may use the title "CPA" or "CPA firm" without a permit issued under this Section only if:~~ following requirements:

- ~~(A) it has~~(i) it complies with the qualifications described in Section 7(c);

- ~~(ii) it complies with the qualifications described in subsections 7(e) [ownership] and Section 7(h) [peer review], and;~~

- ~~(B) it~~iii) it performs such services through an individual with practice privileges under Section 23 of the this Act; and

- ~~(iv) it can lawfully do so in the state where said individuals with practice privileges have their principal place of business.~~

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

- ~~(A) it has the qualifications described in subsections 7(e) [ownership] and 7(h) [peer review], and~~

- ~~(B) it performs such services through an individual with practice privileges under Section 23 of the Act.~~

~~(2) (3) A firm which is not subject to the requirements of Section 7(a)(1)(C) or 7(a)(2) may perform services described in Section 3(f) and other nonattest professional services while using the title "CPA" or "CPA firm" in this state without a permit issued under this Section only if:~~

- ~~(A) it performs such services through an individual with practice privileges under Section 23 of the Act; and~~

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

*COMMENT:* This Uniform Act departs from the pattern of some accountancy laws now in effect in eliminating any separate requirement for the registration of firms and of offices. The information gathering and other functions accomplished by such registration should be equally easily accomplished as part of the process of issuing firm permits under this section. The difference is, again, one of form more than of substance but one that should be kept in mind if consideration is given to fitting the permit provisions of this Uniform Act into an existing law.

As pointed out in the comment following ~~section~~ Section 3(g), above, because a CPA firm is defined to include a sole proprietorship, the permits contemplated by this section would be required of sole practitioners as well as larger practice entities. To avoid unnecessary duplication of paperwork, a Board could, if it deemed appropriate, offer a joint application form for certificates and sole practitioner firm permits.

This provision also makes it clear that firms with an office in this state may not provide attest services as defined, or call themselves CPA firms without a license in this state. Certified Public Accountants are not required to offer services to the public, other than attest services, through a CPA firm. CPAs may offer non-attest services through any type of entity they choose, and there are no requirements in terms of a certain percentage of CPA ownership for these types of entities as long as they do not call themselves a "CPA firm" or use the term "CPA" in association with the entity's name. These non-CPA firms are not required to be licensed by the State Board.

Out-of-state firms without an office in this state may provide ~~attest~~ services other than those described in Section ~~23(a)(4)(b)~~ for a client ~~which has its home office~~ in this state and call themselves CPA firms in this state without having a permit from this state, so long as they do so through a licensee or individual with practice privileges, and so long as they are qualified to do so under the requirements of Section 7(a)(2). Depending on the services provided, and In addition, if the firm calls itself a CPA firm, such a firm is subject is exempt from the permit requirement pursuant to the requirements described in revised subsection 7(a)(2)(A) or subsection 7(a)(3)(B), whichever is applicable. Section 7(a)(1)(C), no permit is required regardless of the type of attest services or where the services are performed.

A firm that does not comply with ownership (Section 7(c)) and peer review (Section 7(h)) requirements must obtain a permit in a state before offering or rendering any attest service in that state.

- (b) Permits shall be initially issued and renewed for periods of not more than three years but in any event expiring on [specified date] following issuance or renewal. Applications for permits shall be made in such form, and in the case of applications for renewal, between such dates as the Board may by rule specify, and the Board shall grant or deny any such application no later than \_\_\_\_\_ days after the application is filed in proper form. In any case where the applicant seeks the opportunity to show that issuance or renewal of a permit was mistakenly denied or

where the Board is not able to determine whether it should be granted or denied, the Board may issue to the applicant a provisional permit, which shall expire ninety days after its issuance or when the Board determines whether or not to issue or renew the permit for which application was made, whichever shall first occur.

*COMMENT:* See the comment following ~~section~~ Section 6(b) regarding the renewal period.

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

(1) Notwithstanding any other provision of law, a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members or managers, belongs to holders of a certificate who are licensed in some state, and such partners, officers, shareholders, members or managers, whose principal place of business is in this state, and who perform professional services in this state hold a valid certificate issued under Section 6 of this Act or the corresponding provision of prior law or are public accountants registered under Section 8 of this Act. Although firms may include non-licensee owners, the firm and its ownership must comply with rules promulgated by the Board. For firms of public accountants, at least a simple majority of the ownership of the firm, in terms of financial interests and voting rights, must belong to holders of registrations under Section 8 of this Act. An individual who has practice privileges under Section 23 who performs services for which a firm permit is required under Section 23(a)(4) shall not be required to obtain a certificate from this state pursuant to Section 6 of this Act.

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

(2) Any CPA or PA firm as defined in this Act may include non-licensee owners provided that:

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

- (B) All non-licensee owners are of good moral character and active individual participants in the CPA or PA firm or affiliated entities.
  - (C) The firm complies with such other requirements as the ~~board~~ Board may impose by rule.
- (3) Any individual licensee and any individual granted practice privileges under this Act who is responsible for supervising attest or compilation services and signs or authorizes someone to sign the accountant's report on ~~the financial statements on~~ behalf of the firm, shall meet the competency requirements set out in the professional standards for such services.
  - (4) Any individual licensee and any individual granted practice privileges under this Act who signs or authorizes someone to sign the accountants' report on ~~the financial statements on~~ behalf of the firm shall meet the competency requirement of the prior subsection.

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

\*\*\*\*

#### SECTION 14 UNLAWFUL ACTS

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

*COMMENT:* This provision, giving application to the definition of attest in Section 3(b) and report in ~~section~~ Section 3 (~~st~~) above, is the cornerstone prohibition of the Uniform Act, reserving the performance of those professional services calling upon the highest degree of professional skill and having greatest consequence for persons using financial statements attested information--namely, the audit function and other attest and compilation services as defined herein -- to licensees. It is so drafted as to make as clear and emphatic as possible the limited

nature of this exclusively reserved function and the rights of unlicensed persons to perform all other functions. ~~This wording addresses concerns that this exemption could otherwise, by negative implication, allow non licensees to prepare any report on a financial statement other than a SSARS—i.e., other attestation standards.~~ Consistent with Section 23, individuals with practice privileges may render these reserved professional services to the same extent as licensees in this state.

This provision is also intended to extend the reservation of the audit function to other services that also call for special skills and carry particular consequence for users of such other services of financial statements attest information albeit in each respect to a lesser degree than the audit function—~~namely,~~ Thus, reserved services include the performance of compilations and reviews of financial statements, in accordance with the AICPA's Statements on Standards for Accounting and Review Services, which set out the standards to be met in a compilation or review and specify the form of communication to management or report to be issued, ~~and~~ Also reserved to licensees are attestation engagements performed in accordance with Statements on Standards for Attestation Engagements which set forth the standards to be met and the reporting on the engagements enumerated in the SSAEs. The subsection is intended to prevent issuance by non-licensees of reports or communication to management using that standard language or language deceptively similar to it. Safe harbor language which may be used by non-licensees is set out in Model Rule 14-2.

- (b) **Licensees and individuals who have practice privileges under Section 23 of this Act performing attest or compilation services must provide those services in accordance with applicable professional standards.**
- (c) **No person not holding a valid certificate or a practice privilege pursuant to Section 23 of this Act shall use or assume the title “certified public accountant,” or the abbreviation “CPA” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant.**

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

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

*COMMENT:* Like the preceding subsection, this one restricts use of the two titles “certified public accountants” and “CPAs,” but in this instance by firms, requiring the holding of a firm

permit to practice unless they qualify for exemption as explained in Section 14(p). It also restricts unlicensed firms from providing attest services.

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

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

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

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

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

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

- (h)(1) Non-licensees may not use language in any statement relating to the ~~financial~~ affairs of a person or entity which is conventionally used by licensees in reports on financial statements or any attest service as defined herein. In this regard, the Board shall issue safe harbor language non-licensees may use in connection with such financial information.
- (2) No person or firm not holding a valid certificate, permit or registration issued under Sections 6, 7, or 8 of this Act shall assume or use any title or designation that includes the words "accountant," "auditor," or "accounting," in connection with any other language (including the language of a report) that implies that such person or firm holds such a certificate, permit, or registration or has special

competence as an accountant or auditor, provided, however, that this subsection does not prohibit any officer, partner, member, manager or employee of any firm or organization from affixing that person's own signature to any statement in reference to the financial affairs of such firm or organization with any wording designating the position, title, or office that the person holds therein nor prohibit any act of a public official or employee in the performance of the person's duties as such.

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

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

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

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

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

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

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

- (l) No individual licensee shall issue a report in standard form upon a compilation of financial information through any form of business that does not hold a valid permit issued under Section 7 of this Act unless the report discloses the name of the business through which the individual is issuing the report, and the individual:**
- (1) signs the compilation report identifying the individual as a CPA or PA,**
  - (2) meets the competency requirement provided in applicable standards, and**
  - (3) undergoes no less frequently than once every three years, a peer review conducted in such manner as the Board shall by rule specify, and such review shall include verification that such individual has met the competency requirements set out in professional standards for such services.**
- (m) Nothing herein shall prohibit a practicing attorney or firm of attorneys from preparing or presenting records or documents customarily prepared by an attorney or firm of attorneys in connection with the attorney's professional work in the practice of law.**
- (n)(1) A licensee shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the licensee also performs for that client,**
- (A) an audit or review of a financial statement; or**
  - (B) a compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or**

**(C) an examination of prospective financial information**

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

- (2) A licensee who is not prohibited by this section from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact to any person or entity to whom the licensee recommends or refers a product or service to which the commission relates.**
- (3) Any licensee who accepts a referral fee for recommending or referring any service of a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose such acceptance or payment to the client.**

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

- (A) perform for a contingent fee any professional services for, or receive such a fee from a client for whom the licensee or the licensee's firm performs,**
    - (i) an audit or review of a financial statement; or**
    - (ii) a compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or**
    - (iii) an examination of prospective financial information.; or**
  - (B) Prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client.**
- (2) The prohibition in (1) above applies during the period in which the licensee is engaged to perform any of the services listed above and the period covered by any historical financial statements involved in any such listed services.**
  - (3) Except as stated in the next sentence, a contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies. A licensee's fees may vary depending, for example, on the complexity of services rendered.**

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

- (p) Notwithstanding anything to the contrary in this Section, it shall not be a violation of this Section for a firm which does not hold a valid permit under Section 7 of this Act and which does not have an office in this state to use the title "CPA" or "Certified Public Accountants" as a part of the firm's name and to provide its professional services in this state, and licensees and individuals with practice privileges may provide services on behalf of such firms so long as # the firm complies with the requirements of Section 7(a)(1)(C) or Section 7(a)(2) or 7(a)(3), whichever is applicable. An individual or firm authorized under this provision to use practice privileges in this state shall comply with the requirements otherwise applicable to licensees in Section 14 of this Act.

COMMENT: Section 14(p) has been added along with revisions to Sections 23 and 7, to provide that as long as an out-of-state firm complies with the requirements of new-Section 7(a)(21)(C) or 7(a)(32), whichever is applicable, it can do so through practice privileged individuals without a CPA firm permit from this state. The addition of the last sentence of this Section 14(p) makes certain other provisions of Section 14 that otherwise pertain only to "licensees" (specifically, Sections 14 (h), (k), (l), (n), and (o)) directly applicable to individuals and firms which are exempt from licensing or permit requirements in this state.

\*\*\*\*

## SECTION 23 SUBSTANTIAL EQUIVALENCY

\*\*\*

- (a) (4) An individual who has been granted practice privileges under this section who, ~~for any entity with its home office in this state, performs any of the following services;~~
- ~~(A) any financial statement audit or other engagement to be performed in accordance with Statements on Auditing Standards;~~
  - ~~(B) any examination of prospective financial information to be performed in accordance with Statements on Standards for Attestation Engagements; or~~
  - ~~(C) any engagement to be performed in accordance with PCAOB auditing standards;~~

May attest service described in Section 3(b) may only do so through a firm which meets the requirements of Section 7(a)(1)(C) or which has obtained a permit issued under Section 7 of this Act.

*COMMENT:* Subsection 23(a)(3) is intended to allow state boards to discipline licensees from other states that practice in their state. If an individual licensee is using these practice privileges to offer or render professional services in this state on behalf of a firm, Section 23(a)(3) also facilitates state board jurisdiction over the firm as well as the individual licensee even if the firm is not required to obtain a permit in this state. Under Section 23(a), State Boards could utilize the NASBA National Qualification Appraisal Service for determining whether another state's certification criteria are "substantially equivalent" to the national standard outlined in the AICPA/NASBA Uniform Accountancy Act. If a state is determined to be "substantially equivalent," then individuals from that state would have ease of practice rights in other states. Individuals who personally meet the substantial equivalency standard may also apply to the National Qualification Appraisal Service if the state in which they are licensed is not substantially equivalent to the UAA.

Individual CPAs who practice across state lines or who service clients in another state via electronic technology would not be required to obtain a reciprocal certificate or license if their state of original certification is deemed substantially equivalent, or if they are individually deemed substantially equivalent. However, licensure is required in the state where the CPA has their principal place of business. If a CPA relocates to another state and establishes their principal place of business in that state or if a firm performs any of the services described in Section 23(a)(4) and does not qualify for exemption under Section 7(a)(1)(C), then they would be required to obtain a license certificate in that state. ~~As a result of the elimination of any notification requirement combined with the automatic jurisdiction over any firm that has employees utilizing practice privileges in the state, former subsections 7(i) and 7(j) have been deleted.~~

~~Unlike prior versions of this Section, the revised~~ The provision provides that practice privileges shall be granted and that there shall be no notification. With the strong addition of a stronger Consent requirement (subsection 23(a)(3)), (i) there appears to be no need for individual notification\_ since the nature of an enforcement complaint would in any event require the identification of the CPA, (ii) online licensee databases have greatly improved, and (iii) both the individual CPA practicing on the basis of substantial equivalency as well as the individual's employer will be subject to enforcement action in any state under Section 23(a)(3) regardless of a notification requirement.

Implementation of the "substantial equivalency" standard and creation of the National Qualification Appraisal Service have made a significant improvement in the current regulatory system and assist in accomplishing the goal of portability of the CPA title and mobility of CPAs across state lines.

Section 23(a)(4) clarifies situations in which the individual could be required to provide services through a CPA firm holding a permit issued by the state in which the individual is using practice privileges in providing attest services.

Section 23(a)(4) in conjunction with companion revisions to Sections 3, 7 and 14, ~~still provide that an enhanced firm mobility by allowing the individual with to use practice privileges cannot do the following as an employee of in providing attest services through a firm unless the firm holds with a CPA firm permit from this any state:~~

- ~~• perform an examination of prospective financial information in accordance so long as the firm complies with SSAE for any entity with its home the ownership and peer review requirements. Such firms would only need to obtain permits from states in which they have an office. in this state~~

~~perform an engagement. The types of attest services and where the services are performed would not matter. Any firm that does not satisfy both requirements (ownership and peer review) would have to obtain a permit in accordance with PCAOB standards for any entity with its home office the state in this state which the firm is providing attest services.~~

- ~~• perform an audit or other engagement in accordance with SAS for any entity with its home office in this state~~

In order to be deemed substantially equivalent under Section 23(a)(1), a state must adopt the 150-hour education requirement established in Section 5(c)(2). A few states have not yet implemented the education provision. In order to allow a reasonable transition period, Section 23(a)(2) provides that an individual who has passed the Uniform CPA examination and holds an active license from a state that is not yet substantially equivalent may be individually exempt from the 150-hour education requirement and may be allowed to use practice privileges in this state if the individual was licensed prior to January 1, 2012.

Section 23(a)(3)(D) simplifies state board enforcement against out-of-state persons using practice privileges by requiring consent to appointment of the state board of the person's principal place of business for service of process. This important provision facilitates the prerogative of the state board to administratively discipline or revoke the practice privilege. This provision supplements Section 9, which provides for the appointment of the Secretary of State as the agent upon whom process may be served in any action or proceeding against the applicant arising out of any transaction or operation connected with or incidental to services performed by the applicant while a licensee within this State.

**Exposure Draft**  
**Uniform**  
**Accountancy Act**

**Seventh Edition**  
**\_\_\_\_\_, 2013**

Revised Definitions

Published jointly by the  
American Institute of Certified Public Accountants  
1211 Avenue of the Americas, New York, NY 10036-8775  
and  
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](http://www.aicpa.org) or [www.nasba.org](http://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](mailto:definitionofattest@aicpa.org) and [lhaberman@nasba.org](mailto:lhaberman@nasba.org).

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

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July 17, 2013

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,

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- (C) Any firm that does not have an office in this state but performs attest services described in Section 3(b)(1), (3) or (4) of this Act for a client having its home office in this state.
  
- (2) A firm which does not have an office in this state may perform services described in subsections 3(b)(2), 3(b)(5) or 3(f) for a client having its home office in this state and may use the title "CPA" or "CPA firm" without a permit issued under this Section only if:
  - (A) it has the qualifications described in subsections 7(c) [ownership] and 7(h) [peer review], and
  - (B) it performs such services through an individual with practice privileges under Section 23 of the Act.
  
- (3) A firm which is not subject to the requirements of 7(a)(1)(C) or 7(a)(2) may perform other professional services while using the title "CPA" or "CPA firm" in this state without a permit issued under this Section only if:
  - (A) it performs such services through an individual with practice privileges under Section 23 of the Act, and,
  - (B) it can lawfully do so in the state where said individuals with practice privileges have their principal place of business.
  
- .....
  
- (c) An applicant for initial issuance or renewal of a permit to practice under this Section shall be required to show that:
  - (1) Notwithstanding any other provision of law, a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members or managers, belongs to holders of a certificate who are licensed in some state, and such partners, officers, shareholders, members or managers, whose principal place of business is in this state, and who perform professional services in this state hold a valid certificate issued under Section 6 of this Act or the corresponding provision of prior law or are public accountants registered under Section 8 of this Act. Although firms may include non-licensee owners the firm and its ownership must comply with rules promulgated by the Board. For firms of public accountants, at least a simple majority of the ownership of the firm, in terms of financial interests and voting rights, must belong to holders of registrations under Section 8 of this Act. An individual who has practice privileges under 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-licensee  
10 ownership of licensed firms.

11  
12           **(2) Any CPA or PA firm as defined in this Act may include non-licensee 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-licensee 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-licensee 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-licensees 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-licensees 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-licensees 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-licensees 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



**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  
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Attachment 4

October 2, 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

ARKANSAS STATE BOARD OF PUBLIC ACCOUNTANCY

Dr. Mike Moore, CPA, President  
Karen Garrett, CPA, Secretary  
Wade Turner, CPA, Treasurer  
Jeremy Watson, CPA



Robert Redfern, CPA  
Lloyd Franklin, CFE  
W. R. "Bill" Millager, MBA

Jimmy Corley, CPA  
Executive Director

November 18, 2013

VIA E-mail

Ken Odom, CPA – Chair  
NASBA UAA Committee

Stephen McConnel, CPA – Chair  
AICPA UAA Committee

Mr. Odom and Mr. McConnel,

Our board has reviewed the UAA exposure draft relating to firm mobility and has discussed the issue internally as well as with other regulators at the NASBA regional and annual meetings. At this time we do not believe we have sufficient information to support a decision to allow firm mobility and as such do not currently support it.

We also wanted to share relevant compliance cases that contribute to the Board's hesitancy to support firm mobility. In recent months firms have applied for licensure in Arkansas that have had issues with peer reviews. When inquiring with the home state board of those firms, we have encountered problems in getting information regarding the firms in question due to laws in those states concerning the sharing of information involving ongoing investigations or peer review in general.

These cases give us concern about relying on other states to effectively investigate and adjudicate cases that involve firms that have done substandard or fraudulent work within the borders of Arkansas. We believe more study of the issue would be prudent for the profession.

Regards,

A handwritten signature in cursive script that reads "Jimmy Corley".

Jimmy Corley

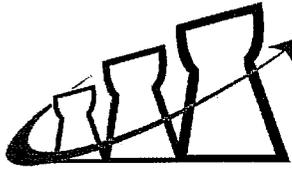
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# GUAM

## board of accountancy

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Suite 101, 335 South Marine Corps Drive, Tamuning, GU 96913

December 13, 2013

VIA EMAIL

Ken Odom, CPA, Chair  
NASBA UAA Committee

Stephen S. McConnel, CPA, Chair  
AICPA UAA Committee

re: **Exposure Draft, Uniform Accountancy Act Seventh Edition \_\_, 2013**  
Firm Mobility Guidance

Dear Mr. Odom and Mr. McConnel:

On November 21, 2013, the Guam Board of Accountancy voted unanimously to oppose adopting the concept of firm mobility as proposed in the UAA Exposure Draft relating to firm mobility.

It is our Board's firm belief that protection of the public through the regulation of attest services is a primary function of a board of accountancy's existence, ergo any real or perceived reduction in such a board's ability to regulate those services will likely have a negative impact on the public and, as well, may certainly be met with resistance by local legislators and consumer watchdog groups.

Under the exposure draft's Firm Mobility "No Notice, No Fee, No Escape" premise, the need for notification by, or licensing/permitting of CPA firms from other jurisdictions rendering attest services is eliminated, provided such firms meet certain requirements for firm ownership and peer review. How then is a board of accountancy to know if such firms do meet applicable ownership and/or peer review requirements? Only when a complaint is filed with the board by a constituent or another regulatory agency of the jurisdiction? This after-the-fact notification process seemingly obviates a board's ability to proactively protect the public, perhaps thus fueling the argument for a board's consolidation "to reduce expenses" (given the

inability of the jurisdiction to collect fees from such firms), in direct contradiction of NASBA's independent board initiative.

Additionally, though the exposure draft's language requires licensees and their firms operating under practice privileges to "consent" to the disciplinary authority of the board in the jurisdictions in which they perform certain attest services and to the appointment of their home-jurisdiction Board as their agent, the legal authority of a board to restrict a licensee of another jurisdiction from practicing in their jurisdiction absent action by the licensee's home-jurisdiction Board is unclear. Most non-firm-mobility jurisdictions appear to have a clear legal pathway for imposing sanctions on out-of-jurisdiction licensees engaged in substandard work in their jurisdiction because the licensee is required to have a license issued by the jurisdiction and the jurisdiction has clear legal authority to sanction the licensee. However, a licensee's "consent" (above) does not mean the local board has legal authority to revoke or restrict a license issued by another jurisdiction. Absent action by the home-jurisdiction Board, the local Board may not be able to prevent a licensee from continuing to enter the jurisdiction to provide attest or other services. In instances where the home-jurisdiction board is operating under a consolidated structure or otherwise has limited resources, concern exists as to the timeliness of any action to be taken regarding such a problematic licensee. Again, ultimately, this apparent inability of local regulators to identify and timely sanction licensees or firms involved in substandard attestation services could have a substantial impact on the public as well as a local board of accountancy's relevance.

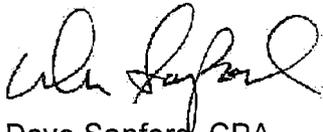
Finally, Guam, like some other jurisdictions, links its Board of Accountancy licensure to registration with the Guam Department of Revenue and Taxation. This ensures individuals and firms doing business in Guam are properly registered and are appropriately paying taxes. Removing the requirement for licenses under firm mobility likely would result in losses of local revenue and could be expensive from a political standpoint. This is especially so in a closed economic environment such as Guam. Without clarifying firm mobility implementation, it is difficult to see any benefit exceeding the costs of lost board revenues, expenditure of political capital, magnified enforcement uncertainty and jeopardized relevancy.

In the event, NASBA has supported the initiative for self-governing boards and performance measures to evaluate the effectiveness of Boards of Accountancy in meeting their statutory, as well as, their public obligations. While we understand the desire to afford and effect uniformity in policy and language among all jurisdictions through the UAA, we can only see the exposure draft's proposed changes to the UAA leading to the weakening of a Board of Accountancy's ability to regulate, and by extension, its relevancy.

At this juncture, we believe a white paper discussion of the pros and cons concerning a jurisdiction's acceptance of "firm mobility" and a "plain language" legal

pro forma "Q&A" defining and discussing a board's ability to regulate (authorize, oversee and/or discipline) a firm's activities within its jurisdiction with real-world and/or hypothetical case analyses, addressing the implications of accepting firm mobility and the ensuing implementation practicalities faced by a board doing so should be promulgated and discussed openly before any action on the exposure draft's proposed changes for firm mobility is taken.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dave Sanford". The signature is fluid and cursive, with a large initial "D" and "S".

Dave Sanford, CPA  
Executive Director

cc: Ken Bishop, NASBA President and CEO  
Carlos Johnson, CPA, NASBA Chair  
Noel Allen, Esq. NASBA Legal Counsel  
Boards of Accountancy

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Susan L. Somers, Executive Director

Board of Accountancy

Sam Brownback, Governor

October 21, 2013

VIA EMAIL

Ken Odom, CPA, Chair  
NASBA UAA Committee

Stephen S. McConnel, CPA, Chair  
AICPA UAA Committee

Dear Mr. Odom and Mr. McConnel:

On October 18, 2013, the Kansas Board of Accountancy met and reviewed the UAA Exposure Draft relating to firm mobility. Thereafter, the Board members expressed unanimous opposition to the concept of firm mobility as proposed. As a result, the Board will not support adoption of the firm mobility concept as expressed in the UAA. The Board does not believe that firm mobility, as proposed, is in the best interest of the public.

Very truly yours,

A handwritten signature in cursive script that reads "Kathryn J. Mitchell".

Kathryn J. Mitchell, CPA  
Chair

KJM:sls

cc: Ken Bishop, NASBA President and CEO  
Gaylen R. Hansen, CPA, NASBA Chair  
Noel Allen, Esq. NASBA Legal Counsel  
Boards of Accountancy

Emailed Comment from Oregon Board of Accountancy

From: PITTIONI Martin W \* BOA  
Sent: Thursday, December 12, 2013 12:48 PM  
To: Louise Haberman  
Cc: 'UAAFirmMobility@AICPA.org'  
Subject: Oregon Board of Accountancy Comment - UAA 7th Ed. Firm Mobility Exposure Draft

Dear AICPA and NASBA UAA Committees,

The Oregon Board of Accountancy (Board) appreciates the opportunity to comment on the UAA Seventh Edition Exposure Draft on Firm Mobility. The Board considered this matter at its October 20, 2013, work session and approved this comment at its December 9, 2013 meeting.

The Board is unified in its opposition to including firm mobility in the Seventh Edition of the Uniform Accountancy Act (UAA). This opposition reflects a combination of opposition by some board members to firm mobility on policy grounds, and the view of other Board members that there simply is insufficient information on the impact of firm mobility at this time to justify its inclusion in the UAA.

Thank you for your consideration of this comment by the Board.

Sincerely,

Martin Pittioni  
Executive Director  
Board of Accountancy  
3218 Pringle Rd SE, Suite 110  
Salem, OR 97302-6307



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December 11, 2013

VIA Email

Ken Odom, CPA – Chair  
NASBA UAA Committee

Stephen McConnel, Chair  
AICPA UAA Committee

Dear Mr. Odom & Mr. McConnel,

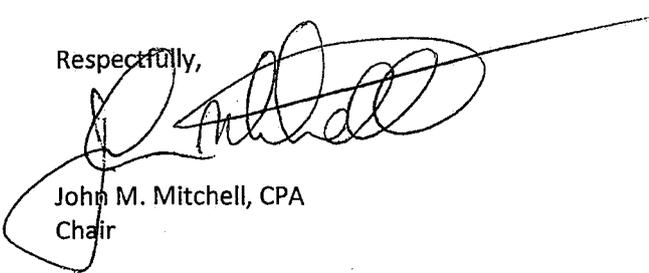
One of the primary responsibilities of the South Dakota Board of Accountancy (the “Board”) is to protect the public. With protection of the public at the forefront, the Board has reviewed the UAA Exposure Draft on Firm Mobility.

The Board expressed grave concern in the area of peer review. Some states have no peer review programs at their board level, and other states are not allowed to see the peer review reports. The application of peer review between states and the enforcement taken in regards to the reports needs to become more uniform among all states, prior to an implementation of the concept of firm mobility.

It is the position of the Board that the inconsistencies of peer review among the various states from which a firm resides, who are performing attest work in South Dakota, creates a situation where the Board would be considered remiss in our duties with respect to protecting the public interest.

It is the unanimous decision of the board to not support the concept of firm mobility.

Respectfully,



John M. Mitchell, CPA  
Chair

cc: All State Boards of Accountancy

**From:** Don Aubrey [<mailto:don@rebarcpa.com>]

**Sent:** Friday, October 04, 2013 10:32 AM

**To:** [llamannacpa@gmail.com](mailto:llamannacpa@gmail.com); [msavoy@gscpa.com](mailto:msavoy@gscpa.com); [kt@cpa-lac.com](mailto:kt@cpa-lac.com); [sally.anderson@cox.net](mailto:sally.anderson@cox.net); [diana.bell@comcast.net](mailto:diana.bell@comcast.net); [aliciaberhow@yahoo.com](mailto:aliciaberhow@yahoo.com); [broughmichelle@hotmail.com](mailto:broughmichelle@hotmail.com); [jcampos@deloitte.com](mailto:jcampos@deloitte.com); [elkins.herschel@gmail.com](mailto:elkins.herschel@gmail.com); [larry-kaplan@sbcglobal.net](mailto:larry-kaplan@sbcglobal.net); [louisek@lipes.com](mailto:louisek@lipes.com); [mao@ocslaw.com](mailto:mao@ocslaw.com); [mr Ramirez@rjicpas.com](mailto:mr Ramirez@rjicpas.com); Salazar, Katrina@CBA; Bowers, Patti@CBA; [carl.sonne@doj.ca.gov](mailto:carl.sonne@doj.ca.gov)

**Subject:** FW: Firm Mobility

Dear California Board Member-

On Wednesday, September 25, 2013 the NASBA Board of Directors voted 9-2 to accept a recommendation from the UAA Committee regarding model language changes for firm mobility and to release the draft language for a 90 day comment period. You should be receiving a notice of the release of the exposure draft from NASBA and a request for comments in the near future.

Based upon the comments I received from Boards in the Pacific Region, my recommendation to the NASBA Board of Directors was to shelf the UAA Committee recommendation until such time as NASBA has had a chance to conduct more research into the impact firm mobility would have on the regulatory environment, state boards, and the accounting profession. Full disclosure; I was one of the no votes against releasing the exposure draft at this time.

Attached is an updated version of a memo regarding firm mobility I prepared for the Washington State Board of Accountancy following the Western Regional Meeting in New Orleans. I thought it may be useful to provide a recap of the talking points surrounding firm mobility in order to help you formulate a response to the exposure draft.

I know it is unusual to be considering an exposure draft of UAA language regarding firm mobility before NASBA or Boards of Accountancy have had a chance to fully review the potential impact of such changes. It is made even more difficult by the fact the 90 day comment period includes the holidays. In spite of the timing of the release of the exposure draft, I urge you to send your comments to NASBA as soon as possible.

Even though your state has firm mobility, it is critical you respond to the exposure draft. Please let NASBA know how firm mobility is working in your state and if you have any enforcement issues between or among firm mobility states and those states that have not adopted form mobility.

Please contact me if you have any questions.

Sincerely,

Don

Donald Aubrey  
Pacific Regional Director  
National Association of  
State Boards of Accountancy

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Seattle, WA 98116

(206) 938-2906  
(206) 933-0381 Fax

## Changes to the UAA regarding mobility for attest services

### **Mobility**

The discussion regarding potential changes to the UAA is currently framed in terms of "individual mobility" and "firm mobility." That characterization is somewhat misleading. Individuals and firms already have mobility for all services except most attest services. Neither firms nor individuals currently have mobility for attest services (other than review of financial statements) under UAA model language. The proposed changes to the UAA for the definition of "attest" services would include those additional services in the definition of services allowed under current mobility. The proposed changes to the UAA for mobility would address mobility as it relates to all other attest services. The proper characterization of the issue should be "complete attest mobility" rather than "firm mobility."

### **Why is the distinction for attest services important?**

Attest services are the franchise of the profession and the accounting profession does not have a sterling record when it comes to protecting its franchise. CPAs were given a monopoly for attest services which was granted to them by the states and they turned it into a commodity. Worse yet, they later turned it into a loss leader. It took an act of Congress to tell the profession they could no longer do that. The profession gave some attest services away and is now struggling to claw them back. From a regulatory standpoint, without attest services there may be no need for a Board of Accountancy. Most non-attest services have some form of regulation by other bodies or governmental agencies. In addition, the types of violations applicable to licensees operating under individual mobility statutes would not have any impact on the capital markets. The inability of regulators to identify and timely sanction firms involved in substandard attestation services could have a substantial impact on the capital markets. That is why changes having a direct impact on the delivery of franchise services should be viewed very carefully and should consider the long term impact on the profession and the public.

Because potential changes will deal with the profession's franchise, it is important that all questions regarding those changes should be considered valid. As regulators, our primary duty is to protect the public interest. It is, therefore, fair to ask regarding each change; How does this protect the public interest?

It should be noted that approximately 15 of the 55 licensing jurisdictions have already enacted complete attest mobility. At this point, it is uncertain how many of those jurisdictions are comfortable with attest mobility and with how it is working for them. Many of the remaining jurisdictions have expressed opposition to firm mobility for their jurisdictions. It is unclear how those jurisdictions feel about mobility in other jurisdictions and the impact on their ability to regulate across state lines.

### **No notification, no fee, and no escape.**

The language for firm mobility in the exposure draft is based on the same concept used for individual mobility; no notification, no fee, no escape.

*No Notification.* The language in the exposure draft eliminates the need for notification, licensing or the need for a permit by out-of-state firms rendering attest services as long as they meet certain requirements for firm ownership and peer review. The only way a Board would know an out-of-state CPA was performing attest services in their jurisdiction would be from a complaint filed with the Board or from communication with the Secretary of State, Department of Revenue (assuming the out of state CPA firm registered with those agencies) or some other in-state agency.

*No Fee.* Since the UAA draft language does not have a requirement for notification, a permit, or license, there is no provision for any fee to be paid to a local Board of Accountancy.

*No escape.* Like mobility for non-attest services, the UAA requires licensees and their firms operating under practice privileges to consent to the disciplinary authority of the Board in the states in which they perform certain attest services and to the appointment of their home-state Board as their agent. Boards can fine out-of-state licensees. However, the legal authority of a Board to restrict an out-of-state licensee's ability to practice in the state absent action by their home-state Board is unclear.

### **Arguments in favor of complete attest mobility**

The following is a review of the arguments and counter arguments in favor of adopting model language in the UAA that could then be adopted by the states to provide complete attest mobility.

*We already have "individual mobility" so why not move toward "firm mobility?"* Since mobility for non-attest services already exists and is working very well, it is logical to extend mobility to attest services.

One counter argument is that it is too early to determine if mobility for non-attest services is working well. A second counter argument is that most of the non-attest services allowed under "individual mobility" are subject to redundant regulatory systems. For example, the Board of Accountancy regulates the conduct of CPAs engaged in tax work. In addition, the IRS also regulates CPAs engaged in tax work. Thus, a real or perceived reduction in a Board's ability to monitor the activity of CPAs in their state may not cause harm to the public. The public, on the other hand, has only a Board of Accountancy to rely upon for the regulation and oversight of most attest services for private companies. Since attest services are the franchise upon which the profession is built and the regulation thereof is the primary reason for Boards of Accountancy, any real or perceived reduction in a Board's ability to regulate those activities could have a negative impact on the public and would certainly be met with resistance by many state legislatures and consumer watchdog groups.

*A promise was made to Boards that complete attest mobility would be included in UAA language when "individual mobility" was being considered. At the time mobility was first being considered, some states passed complete attest mobility. The UAA model language was subsequently changed to only allow mobility for non-attest services and limited other attest services. At the time of that change, the states having passed complete attest mobility were assured that UAA language would, in the future, be changed to include mobility for all attest services.*

The counter argument is that many people who participated in the original discussions regarding mobility are unaware of a promise and were not a party to any such promise. Indeed, some participants in the individual mobility discussions have indicated the promise made to them was that the passage of individual mobility would not be followed by an attempt to enact firm mobility. In any event, it is difficult to understand how a promise made without complete knowledge of how it would be implemented could be considered binding.

*There are currently states allowing complete attest mobility and they have not experienced any problems. Since complete attest mobility already exists in some states and they have not experienced any difficulties, there is proof that complete attest mobility would work for the profession and for Boards of Accountancy.*

The counter argument is that it may be too early to determine if those states have problems or not. Perhaps they simply do not know if there are problems. A discussion with an ED from a state with complete attest mobility indicated that they simply do not know if such mobility has resulted in increased violations or not. They are not comfortable not knowing who is operating in their state. In addition, they are not clear on what course of action they would take if they were to receive a complaint regarding work done by an out-of-state licensed firm. Their AG's office has informally raised into question the state's authority to act under those circumstances.

Perhaps this argument in support of complete attest mobility could be resolved if representatives from the Boards of Accountancy in states allowing mobility for attest services would affirmatively state the benefits their states have experienced.

*If states don't want to adopt the UAA model language, they don't have to adopt it. There is no requirement for a jurisdiction to adopt firm mobility if it determines it is not in the best interests of the citizens of their state.*

The counter argument regarding states allowing complete attest mobility has to do with whether a minority of states offering mobility for all attest services should prompt a change in the UAA. As a practical matter, State Boards of Accountancy do not adopt changes to their statutes. State legislatures (subject to lobbying efforts) adopt whatever laws they deem appropriate for their state. UAA firm mobility language will continually find sponsors having a financial interest in the legislation and be supported in state legislatures even if the state Board of Accountancy considers the changes to be detrimental to the public interest or to their ability to regulate the industry. It will be easier for Boards of Accountancy in favor of attest mobility to support adoption of a form of attest mobility language than it will be for Boards opposing attest mobility to fight it if the UAA model language is changed.

*Adopting complete attest mobility would reduce the administrative burden on CPAs and would, therefore, allow for more choice for consumers.* Clearly, eliminating the need for licenses in multiple states and eliminating license fees will make it easier for CPAs to cross state lines to provide attest services. That, in turn, will allow consumers in the state more choice. It appears that both sides to the attest mobility debate agree on that point.

The counter argument is that the actual reduction in administrative burden is minimal because it only applies to interaction with a Board of Accountancy and has no effect on the burden of dealing with any other state agencies. It would not relieve the CPA of acquiring knowledge of the rules of the Board of Accountancy. It would not relieve CPAs from the burden of registering with other state agencies and paying applicable state taxes. Complete attest mobility would benefit only firms providing attest services in states where they do not have an office. It would not have any impact on firms who do not provide attest services or firms who do not cross state lines to practice.

*Requiring any notification may provide false comfort to states allowing complete attest mobility.* State boards receiving notification of CPAs intending to provide attest services and failing to act upon the notification could be detrimental to a Board if the work of the CPAs later proves to be substandard.

The counter argument is that, with notification, a board at least had the opportunity to be proactive. Without notification, the Board can only react to a complaint and follow-up may be difficult once the CPA has left the state.

*Complete attest mobility could provide additional opportunities for in-state CPA firms.* Both sides of the aisle agree there could be an opportunity for in-state CPAs to export services, leading to more choice for consumers. But, the door swings both ways. Any potential increase in revenue for in-state CPAs would be difficult to measure.

*NASBA has committed to support Boards of Accountancy in opposing complete attest mobility in jurisdictions where such mobility may be proposed.* NASBA has committed substantial resources to supporting Board of Accountancy. There is no reason to believe NASBA would not support a Board if it requested assistance in opposing a move to adopt complete attest mobility in their jurisdiction.

The counter argument has to do with how many resources NASBA may be willing or able to commit to Boards opposing firm mobility. Most non-firm-mobility jurisdictions have indicated they oppose firm mobility for their jurisdiction. Changing the UAA to allow firm mobility helps create an environment in which state societies and some licensees will continually propose legislation permitting firm mobility. NASBA may find itself helping a significant number of Boards to oppose firm mobility legislation at the same time. Not only does that utilize Board time and resources, it may be a significant drain on the resources of NASBA. It is up to NASBA's management and Directors to decide if that is the best use of the organization's resources.

*Eliminating the need for a license when providing certain attest services in a state would eliminate the need for CPE ethics training on the laws of that state and reduce the administrative burden of providing cross-border attest services.* There is no doubt that eliminating the need for separate and distinct CPE classes for each state would ease the administrative burden for CPAs.

The counter argument is that, from the standpoint of the state, eliminating the need for a license when providing certain attest services in a state would eliminate the need for CPE ethics training. Many states consider CPE ethics training important for people doing business in their state.

### **Arguments opposed to complete attest mobility**

The following is a review of the arguments and counter arguments opposed to adopting model language in the UAA that could then be adopted by states to provide complete attest mobility.

*The loss of revenue for Boards could cripple the ability of Boards in states with smaller populations to regulate any activity in their state.* Both sides of the aisle agree the loss in revenues for Boards could have an impact on the Board's ability to operate. The impact of the revenue loss will have to be analyzed by each jurisdiction. No solution has yet been proposed to mitigate the impact a significant revenue loss would have on Boards from lower population states. If a Board of Accountancy does experience a significant loss of revenue, they are at an increased risk of being consolidated with other state agencies.

*Lack of a state license would lead to uncertainty on the part of the general public over where to file a complaint.* Boards of Accountancy list licensees in their jurisdiction and the public can check on the status of each licensee. Without a license under complete attest mobility, the public may not know where the CPA is licensed or where to file a complaint. A Board, upon receiving a complaint, would first have to determine if the licensee did, in fact, perform services in their state and try to find out where the CPA is licensed before opening a formal investigation. That process increases the administrative burden on Boards at the same time their budgets are being cut.

The counter argument is that inclusion of licensees in the ALD and CPA Verify provide the needed information. In addition, users of attest reports would likely know the preparers or would be able to find information regarding firms on Google.

*Uncertainty exists over procedures by Boards regarding investigations and imposing sanctions.* State statutes and rules for most non-firm-mobility jurisdictions appear to provide a clear path for imposing sanctions on out-of-state licensees engaged in substandard work in their jurisdiction because the licensee is required to have a license issued by the state and the state has clear legal authority to sanction the licensee. The proposed UAA language regarding firm mobility requires the out-of-state licensee to consent to the disciplinary authority of the Board in the state in which they are offering attest services and appoints the home-state Board as the agent for the licensee. That consent does not mean the local Board has legal authority to revoke or restrict a license issued by another state. Absent action by the home-state Board, it means the local Board may

not be able to prevent a licensee from continuing to enter the state to provide attest or other services. In instances where the home-state Board is located in a jurisdiction operating under a consolidated structure or otherwise has limited resources, concern exists as to the timeliness of any action on the license of a CPA engaged in providing substandard attest services.

Discussions with a Board operating under firm mobility statutes have indicated their statutes and rules are unclear regarding their authority to sanction out-of-state licensees. The uncertainty could be a result of vague statutes or unfamiliarity with existing statutes or rules. Although the UAA is an effort to promote consistency and uniformity with the regulatory community, absolute uniformity is a mythical concept in the profession and in the political structure of the nation.

*There is a political cost to asking a state legislature to reduce reporting requirements for foreign businesses operating in the state.* Issuing a license requires some form of pre-screening. Asking a legislature to eliminate pre-screening and allow anyone claiming to have a license (without the ability to verify) to operate in the state could be politically expensive. It may be difficult to convince a legislature their Board of Accountancy is still protecting the public interest in these circumstances.

The counter argument is that most states have already passed individual mobility and it has not appeared to result in a loss of public protection.

*Potential loss of other state revenues from firms failing to register while doing business in the state and the political costs related thereto.* Some states or licensing jurisdictions link licensure with their Board of Accountancy to registration with the state's Department of Revenue. That helps assist the state in its tax collections. Other states' Departments of Revenue communicate with state licensing agencies to insure individuals and firms doing business in the state are properly registered with the state and are appropriately paying states taxes. Removing the requirement for state licenses under complete attest mobility could result in losses of state revenue and could be expensive from a political standpoint.

The counter argument is that CPAs, as a condition of their home state license, are required to timely file tax returns where necessary. In addition, CPAs with individual mobility operate in other states and are required to comply with state laws.

*There would be an inability of certain Boards of Accountancy with limited resources in home states to timely enforce sanctions.* Many independent or semi-independent boards from large population states have the resources to conduct costly assurance failure investigations and the ability to impose fines and restrict an out-of-state licensee's ability to practice in the state. They cannot, however, revoke the license of an out-of-state licensee under current mobility because the CPA does not have a license in their jurisdiction. Violations severe enough to require revoking a license or restricting the services a licensee may provide would be referred to the Board of Accountancy of the licensee's home state. Boards with limited resources (due to consolidation or from reduced revenues due to firm mobility) may not have the resources to act timely, if at all. Until the home-state Board acts, the licensee would be free to engage in practice in other states without notice. The public in neighboring states is not protected if violations occur in a state where the Board of Accountancy has limited resources.

One consolidated Board of Accountancy faced a situation where a licensee in their state was convicted of a serious crime, served two years in jail, and was back practicing as a CPA before the Board could get an investigator assigned and open a formal investigation.

The counter argument is that mobility already exists for many services and it appears to work quite well in regulating cross-border CPA services.

*Without notification information and lacking an ALD equivalent, it could be difficult for Boards to efficiently follow up on complaints regarding out-of-state firms.* A Board may not have contact information for the CPA firm, know the home state of the CPA firm and may have to travel to other states to conduct investigations. Relying on the home state to conduct the investigation would depend entirely upon the resources of the Board of Accountancy in the home state.

The counter argument is that both sides of the aisle agree that attest mobility could only work if the ability of Boards to regulate the industry is not diluted or otherwise impaired. The ALD is a corner stone of mobility for non-attest services and providing comparable information for CPA firms providing attest services would be critical.

*Not requiring notification or a license may lead CPAs to mistakenly believe they do not need to learn about and comply with the public accountancy requirements of operating in the state in which they perform services.* Most jurisdictions have adopted a form of the UAA model language and have their own set of rules. Although their statutes may be similar, they are not the same. Applying for and receiving a license to operate in a state carries with it a responsibility to learn the public accountancy rules of the state. Allowing CPAs to freely cross state lines to perform services without any notification may lead practitioners to think they need only comply with the laws and rules of their home state.

The counter argument is that situation currently exists with "individual mobility" and it has not appeared to lead to confusion or increased violations by CPAs providing services across state lines.

### **Cost vs. benefit of complete attest mobility**

As noted above, there are cases to be made on either side of the firm mobility argument and the passions on both sides of the aisle are high. Without clarifying how complete attest mobility would be implemented, it is nearly impossible to see how the benefit of mobility for attest services (reduced administrative burden for licensees, potential increased choice for consumers) would exceed the costs (loss of board revenues, expenditure of political capital, enforcement uncertainty).

It is the obligation of Boards of Accountancy to protect the public. There appears to be a disproportionate burden of the cost of complete attest mobility falling on the Boards while a vast majority of the benefit accrues to the licensees. Public protection and preserving Board disciplinary authority to facilitate timely and effective public protection measures and rapidly communicate public protection information should be the paramount issue upon which this discussion should be focused.

There may be some ways of mitigating the perceived costs. For instance, replacing the requirement for a license with a notification requirement may help facilitate complete attest mobility by replacing a license application with a notice giving information regarding the name, address, access to peer review reports, and home state of the licensees to the Board would allow the Board to know who is practicing in their state and be proactive in protecting the public interest. Such a process would eliminate the greater burden of a license application while allowing the board a channel for follow-up if needed. However, the current vision of "no notification" is one of no license, permit, or other form of notification.

The adverse revenue impact on some Boards of Accountancy and their ability to function has been acknowledged. However, there have not been any suggested remedies to help alleviate the problem.

NASBA had supported the initiative for self-governing boards and performance measures to evaluate the effectiveness of Boards of Accountancy in meeting their statutory, as well as, their public obligations in efficient and effective ways. If you believe the draft changes to the UAA language would, if adopted by state legislatures, lead to weakening a Board of Accountancy's ability to regulate, please send your comments to NASBA. You should also let NASBA know if you support the draft changes to the UAA, would like to offer suggested changes to the proposed language, or if you believe any action on the UAA language regarding firm mobility should be deferred until such time as regulators have a better understanding of the consequences of its adoption.

**DEPARTMENT OF CONSUMER AFFAIRS**

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**Attachment 8**

## CBA Staff's Firm Mobility Exposure Draft Discussion Paper

The National Association of State Boards of Accountancy (NASBA) and the American Institute of Certified Public Accountants (AICPA) recently released an exposure draft of the Uniform Accountancy Act (UAA) that provides for “no notice, no fee, no escape” mobility for firms.

California's current mobility law already meets the spirit (if not the text) of the exposure draft. The only exception is that California still requires notification from accounting firms that provide certain attest services to California-headquartered entities. These services include the following:

- An audit or review of a financial statement,
- A compilation of a financial statement when that person expects, or reasonably might expect, that a third party will use the financial statement and the compilation report does not disclose a lack of independence, and,
- An examination of prospective financial information.

Current law, which became effective July 1, 2013, requires these firms to file an Out-of-State Firm Registration (OSR) form with the California Board of Accountancy (CBA). The work must be performed by a licensee who holds a practice privilege in California. The CBA does not charge a fee for the firm registration, and, per Business and Professions Code (BPC) section 5096.12, California maintains jurisdiction over the firm.

After five months of the new mobility provisions, as of November 30, 2013, the CBA has received 207 OSR forms and approved 198 of them. Only five were referred to the Enforcement Division for further evaluation, and those were eventually approved.

The only professional services that must be performed by a certified public accountant (CPA) are attest services. Therefore, the Legislature placed special emphasis on attest services when writing California's mobility law. Of the firms performing attest services, only those performing them for clients headquartered in California were required by the Legislature to notify the CBA, and even then without a fee. This is what the Legislature deems to be the minimum level of consumer protection for out-of-state accounting firms at this time.

At the CBA's November 2013 meeting, Mr. Ken Bishop spent significant time discussing how the new UAA Attest Definition exposure draft was tied to the firm mobility exposure draft. However, as the CBA discussed at its September 2013 meeting, the new attest definition would not affect how California and the CBA already interpret “attest.” This is

why the CBA issued a comment letter on the Attest Definition exposure draft with a neutral position.

The Legislature passed the new mobility provisions in 2012, and they became effective in July 2013. The provisions include a five-year sunset date and a detailed report to the Legislature before these provisions may be made permanent. Considering the effort expended to pass these provisions, it is unlikely that the Legislature or stakeholders would want to revisit them before the five years are complete.

On a final note, the one portion of the exposure draft that could not be implemented in California is found in the proposed UAA section 7(c)(2)(B) where NASBA and AICPA add the non-licensee owners of firms must be of "good moral character." Section 475(c) of the BPC states that boards and bureaus under the Department of Consumer Affairs cannot deny an application on the grounds of a lack of good moral character. This particular portion of the proposal is not possible in California.



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**CBA Item V.A.**  
January 23-24, 2014

## Update on Locations for 2014 CBA Meetings

**Presented by:** Corey Riordan, Board Relations Analyst

**Date:** December 30, 2013

---

### Purpose of the Item

The purpose of this agenda item is to present the California Board of Accountancy (CBA) with an update on meeting locations for the remaining 2014 CBA meetings.

### Action(s) Needed

None.

### Background

At the March 2013 CBA meeting, members approved the 2014 meeting calendar and locations, which included the March meeting location in Northern California.

### Comments

The CBA staff was unable to secure a March meeting location in Northern California and as a result had to relocate the meeting to Southern California.

Even with this change, the CBA is in compliance with California Business and Professions Code section 101.7, which requires boards to meet at least once in Northern California and Southern California each calendar year.

Below are the planned meeting locations for the remainder of 2014:

- March – Southern California
- May – Southern California
- July – Northern California
- September – Southern California
- November – Northern California

An updated calendar is **Attached** for reference.

### Fiscal/Economic Impact Considerations

None.

### Recommendation

None.

**Update on Locations for 2014 CBA Meetings**

Page 2 of 2

**Attachment**

2014 meeting Dates/Locations Calendar.

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

**JANUARY 2014**

S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	SC	SC	SC	25
26	27	28		NC	NC	31

**FEBRUARY 2014**

S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

**MARCH 2014**

S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	SC	SC	22
23	24	25	26			29
30	31					

**APRIL 2014**

S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	NC	24	25	26
27	28	29	30			

**MAY 2014**

S	M	T	W	Th	F	S
				1	2	3
4	5	6	7	SC	SC	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	SC	SC	31

**JUNE 2014**

S	M	T	W	Th	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

**JULY 2014**

S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	NC	11	12
13	14	15	16	17	18	19
20	21	22	23	NC	25	26
27	28	29	SC	31		

**AUGUST 2014**

S	M	T	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	NC	23
24	25	26	27	28	29	30
31						

**SEPTEMBER 2014**

S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	SC	SC	20
21	22	23	24	25	26	27
28	29	30				

**OCTOBER 2014**

S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	19
19	20	21	NC	SC	24	25
26	27	28	29	30	31	

**NOVEMBER 2014**

S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	NC	NC	22
23	24	25	26	27	28	29
30						

**DECEMBER 2014**

S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	SC	SC	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

**COMMITTEES**

EAC - Enforcement Advisory Committee  
 QC - Qualifications Committee  
 PROC - Peer Review Oversight Committee

**GENERAL LOCATION**

NC-NORTHERN CALIFORNIA  
 SC-SOUTHERN CALIFORNIA

	CBA OFFICE CLOSED
	CBA MEETING
	EAC MEETING
	PROC MEETING
	QC MEETING



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**CBA Item V.C.**  
January 23-24, 2014

## **Review and Approval of Proposed Changes to the CBA Member Guidelines and Procedures Manual**

**Presented by:** Deanne Pearce, Assistant Executive Officer

**Date:** January 7, 2014

---

### **Purpose of the Item**

The purpose of this agenda item is to provide an overview of the updates made to the California Board of Accountancy (CBA) Member Guidelines and Procedures Manual (G&P Manual).

### **Action(s) Needed**

The CBA will be asked to approve the January 2014 version of the CBA G&P Manual.

### **Background**

The CBA G&P Manual is designed to serve as a reference guide regarding the functions of the CBA and its committees, the roles of CBA members, CBA leadership and committee members, and procedures for CBA and committee meetings. The G&P Manual includes, but is not limited to, summarizing existing law and policy of the CBA as it relates to the functions of the board, roles of CBA members and CBA leadership, board committees and task forces, representations on behalf of the CBA, training, expense reimbursement and other helpful resources to assist members in better understanding the responsibilities of their appointment.

### **Comments**

The CBA G&P Manual has been updated to incorporate program changes, guidance on officer elections, new roles for CBA liaisons, board member required training, updated statistics, and other minor changes that were made for clarity and consistency throughout the manual. All edits to the G&P Manual are identified by underline and strikethrough. The following highlights the more substantive edits made to the G&P Manual:

### **Section I – The California Board of Accountancy**

- Revised Information Regarding the Practice Privilege Program – Updated the information to reflect the Practice Privilege changes, which became effective on July 1, 2013. Most notably, the changes implemented California's version of Mobility, allowing no notice, no fee, no escape provisions for out-of-state CPAs to practice in California.

# **Review and Approval of Proposed Changes to the CBA Member Guidelines and Procedures Manual**

Page 2 of 3

- Revised Guidelines for Election of Officers – Amendments and additional steps were added to provide further guidance on the process of electing officers, including eliminating the option of applying for multiple officer positions.
- Update to CBA Meeting Locations – A reference was added to reflect Business and Professions Code section 101.7, relating to the number and location of meetings that DCA boards, including the CBA, must hold.
- Minutes – Updated the information to reflect the present process of how the meeting minutes are distributed and approved.
- Appeals to the CBA – Expanded the information regarding appeals being heard by the CBA.
- CBA Member Liaisons – Added additional roles for CBA member liaisons as approved at the November 2013 CBA Meeting.

## Section II – CBA Committees and Task Forces

- Mobility Stakeholder Group (MSG) – Added the MSG under the statutory committees section. Once the MSG holds its first meeting, additional edits may be needed to reflect number and frequency of meetings.
- Legislative Committee – Updated the purpose of the Legislative Committee to include reference to legislation relating to consumer protection.

## Section III – Representations on Behalf of the CBA

- Public and Media Relations – Updated what information was available through License Lookup on the CBA website to reference the new practice privilege changes.

## Section IV – Board Member Required Training and Forms

- This section was changed from “Conflict of Interest” to “Board Member Training and Forms” to focus on the various training that is required of CBA members. The conflict of interest form is included in the training information as well as ethics, sexual harassment prevention, DCA Board Member Orientation and the Form 700 – Statement of Economic Interest.

## Section V – Expense Reimbursement

- To add clarity regarding travel expense reimbursement, information regarding the policies that govern travel expense reimbursement as well as the Department of Consumer Affairs Travel Guide was included.

# **Review and Approval of Proposed Changes to the CBA Member Guidelines and Procedures Manual**

Page 3 of 3

## **Section VI – Commonly Used Acronyms**

- Updated the commonly used acronyms.

## **Fiscal/Economic Impact Considerations**

None.

## **Recommendation**

Staff welcome any additional input regarding the revised manual and further recommend that the CBA adopt the January 2014 version of the CBA G&P Manual.

## **Attachment**

CBA Member G&P Manual

# California Board of Accountancy

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**CBA Member**

## **Guidelines and Procedures Manual**

CALIFORNIA BOARD OF  
ACCOUNTANCY

---

Updated  
January 2014



AMENDMENTS TO THE GUIDELINES AND PROCEDURES MANUAL  
Formerly: BOARD OPERATIONS MANUAL

September 30, 1994  
March 15, 1995  
June 10, 1997  
November 21, 1997  
January 23, 1998  
March 21, 1998  
January 26, 2001  
January 1, 2003  
April 1, 2004

Revised and Restated  
January, 2010

Amendments to the Guidelines and Procedures Manual  
July 2012  
January 2013  
January 2014

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## SECTION I.

### THE CALIFORNIA BOARD OF ACCOUNTANCY

---

Created in 1901, The California Board of Accountancy (CBA) licenses and regulates over 88,000 licensees and 5,000 firms, the largest group of accounting professionals in the nation.

By authority of the California Accountancy Act, the CBA:

- Ensures that only candidates who meet certain qualifications are allowed to take the national Uniform Certified Public Accountant (CPA) Examination.
- Certifies, licenses and renews licenses of individual CPAs and Public Accountants (PAs).
- Registers accountancy partnerships and accountancy corporations.
- Takes disciplinary action against licensees for violation of CBA statutes and regulations.
- Monitors compliance with continuing education and peer review requirements.
- Reviews work products of CPAs, PAs and accountancy firms to ensure adherence to professional standards.

The CBA establishes and maintains entry-level standards of qualification and conduct within the accounting profession, primarily through its authority to license.

Through its Examination and Initial Licensure Programs, the CBA qualifies California candidates for the national Uniform CPA Examination, certifies and licenses individual CPAs, and registers accountancy firms. The CBA's License Renewal and Continuing Competency Program focuses on license renewal, ensuring that licensees maintain a currency of professional knowledge to competently practice public accountancy.

~~Through its Practice Privilege Program, the CBA registers out-of-state CPAs who do not maintain a principal place of business in California to practice public accountancy in California if they meet one of the following sets of criteria: Possess a valid and active license, certificate, or permit from a substantially equivalent state as deemed by the CBA and defined by Section 5093 of the California Accountancy Act, possess individual education, examination, and experience qualifications that have been determined by the CBA to be substantially equivalent to the qualifications under Section 5093 of the California Accountancy Act, or have continually practiced public accountancy under a valid license issued by any state for at least four of the last 10 years. With the signing of Senate Bill 1405 and beginning July 1, 2013, the Practice Privilege Program will be substantially changed to allow most out-of-state CPAs to practice public accountancy in California with no notice and no fee. In limited circumstances, out-of-state CPAs will need to obtain CBA approval prior to practicing, and accounting firms performing specified services for companies headquartered in California will need to obtain licensure.~~

Through its Practice Privilege program, the CBA oversees a no notice, no fee, no escape authority for out-of-state licensed CPAs who meet specific conditions to practice public accountancy in California. The CBA registers out-of-state accounting firms and for certain individuals who do not meet the criteria to practice with no notice or obtains a disqualifying condition while practicing, the CBA reviews pre-notification and cessation notifications from licensees to determine whether they can be granted continued practice rights. Just like a California license, a practice privilege may be revoked, suspended, or otherwise disciplined. In addition, a practice privilege may be administratively suspended pending an investigation by the CBA. To ensure that the consumers of

California are protected under this new program, the CBA maintains a website with any public information in its possession about individuals exercising a practice privilege in California. In addition, it contains a search mechanism by which consumers can find current license status information on out-of-state licensees.

The objective of the CBA Enforcement Program is to protect consumers, minimize substandard practice, and rehabilitate and discipline licensees, as warranted. The CBA has the authority to discipline not only individuals, but firms as well. Enforcement activities include investigating complaints against persons practicing public accountancy without a license and taking disciplinary actions against licensees for violations of statutes and regulations. The CBA's Enforcement Program receives complaints from consumers, licensees, professional societies, law enforcement agencies, other government agencies, and internal referrals. While historically consumers and internal referrals have been the main origin of complaints, licensees also have been a significant source, most often reporting unlicensed activity. CBA members and staff also regularly monitor the news media for information regarding licensees that may suggest violations of the Accountancy Act.

In addition, the program monitors compliance with continuing education and peer review requirements, and it actively reviews the work products of CPAs, PAs and accountancy firms to ensure compliance with appropriate professional standards.

#### A. MISSION AND VISION OF THE CBA.

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.

The Vision of the California Board of Accountancy is that all consumers are well informed and receive quality accounting services from licensees they can trust.

#### B. COMPOSITION (Ref. Business & Professions Code §§ 5000 & 5001(b)).

The CBA consists of 15 members, seven of whom must be certified public accountants, and eight of whom must be public members who are not licensees of the CBA.

The Governor appoints four of the public members and all of the licensee members with at least two licensees representing a small public accounting firm and one licensee may be an educator in a program that emphasizes the study of accounting within a college, university, or four-year educational institution. The Senate Rules Committee and the Speaker of the Assembly each appoints two public members.

#### C. QUALIFICATIONS (Ref. Business & Professions Code §§ 5000.5 & 5001(a)).

Each public member of the CBA must not:

- Be a current or former licensee of the CBA
- Be an immediate family member of a licensee

- Be currently or formerly employed by a public accounting firm, bookkeeping firm, or firm engaged in providing tax preparation as its primary business
- Have any financial interest in the business of a licensee

Each licensee member of the CBA must:

- Currently be engaged in the practice of public accountancy for a period of not less than five years preceding the date of their appointment, except for the educator position authorized by Section 5001(b)

All members of the CBA must:

- Currently be a citizen of the United States and a resident of California for at least five years preceding the date of their appointment
- Be of good character
- Take and subscribe to the Oath of Office and file the Oath with the Secretary of State

D. CBA MEMBER RESPONSIBILITIES AND DUTIES (Ref. Business & Professions Code § 5000.1)

1. Responsibilities.

The CBA members are responsible for carrying out the mission of the CBA as delineated in Section I.A. of this manual. As noted in the CBA Strategic Plan (**Appendix 1**), protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. In addition, members are to adhere to all statutory and regulatory requirements as well as all policies and procedures contained in this Guidelines and Procedures Manual.

2. Duties.

All members are to attend CBA meetings and volunteer to participate as CBA Liaison to at least one non-CBA member Committee and participate as a member of at least one of the following committees comprised of only CBA members:

- Legislative Committee
- Committee on Professional Conduct
- Enforcement Program Oversight Committee
- Other Committees and Task Forces

3. Mentoring.

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

E. TENURE (Ref. Business & Professions Code § 5002).

Each member is appointed for a term of four years and holds office until they are reappointed, a successor is appointed, or until one year has elapsed since the expiration of the term for which he/she was appointed, whichever occurs first.

No person shall serve more than two terms consecutively.

Vacancies must be filled by a person in the same capacity (public or licensee member) as the person being replaced.

The Governor must remove any licensee member whose permit to practice becomes void, revoked, or suspended.

Any member may, after an administrative hearing, be removed for neglect of duty or other just cause.

If a member is appointed to fill a vacant seat in what would be the middle of the previous member's term, the rest of that term does not count against the two term limit, as it is still defined as the previous member's term.

F. OFFICERS (Ref. Business & Professions Code §§ 5003, 5004 & 5007).

The officers of the CBA are President, Vice-President, and Secretary-Treasurer.

1. Election of Officers.

The process for the election of officers is as follows:

- At the September CBA meeting, the President shall inform members that the election of officers will be held at the November CBA meeting.
- Interested candidates are requested to prepare a one page written summary outlining their qualifications for the position for which they are applying, which will serve as a self nomination. Candidates are limited to being nominated for one officer position. The summary is to be sent to the Executive Analyst by a date determined by the Executive Officer and CBA President.
- The nominations summaries of qualification shall be distributed as part of the agenda items for the November CBA meeting.
- At the November CBA meeting, the President shall ask if there are any additional nominations for the officer positions. All candidates Any member who is nominated

may be given up to five minutes of floor time to describe why they are qualified for the position.

- After all nominations have been confirmed, the President will close nominations.
- The vote for officer positions shall be held in the following order: Secretary-Treasurer, Vice-President, and President.
- A simple hand vote will be taken for each officer position nominee, starting in alphabetical order by the candidate's last name.
- Members can vote "Yes", "No", or abstain from the vote for each nominee.
- The first nominee to receive a majority vote will win the officer position.
- In the event none of the nominees receive a majority vote, the voting will continue until a majority vote is received. To assist in this process, the President may allow nominees to make a statement regarding their qualifications, within an established and reasonable time limit.
- ~~The vote for officers shall be taken by a simple hand vote.~~
- The President, Vice-President, and Secretary-Treasurer serve one-year terms and may not serve more than two consecutive one-year terms. The newly elected President, Vice-President, and Secretary-Treasurer shall assume the duties of their respective offices at the conclusion of the annual meeting at which they were elected.

## 2. Vacancy.

In the event of a vacancy of the Vice President or Secretary-Treasurer prior to the annual election of officers, the CBA President shall make an interim appointment to fill the vacancy effective until the next election cycle. In the event of a vacancy of the President, the Vice President shall become the president.

## 3. Duties.

### a. President.

The President shall perform general administrative duties, as well as the following:

- Preside over CBA meetings
- Approve the agenda and time schedule
- Appoint CBA members as Liaison to the Enforcement Advisory Committee (EAC) and Qualifications Committee (QC)
- Appoint CBA members to CBA committees and task forces

- Establish other CBA committees as needed
- Make decisions regarding CBA matters between meetings
- Coordinate the annual evaluation of the Executive Officer
- When necessary, make interim appointments to the EAC, Peer Review Oversight Committee (PROC) and QC committees, subject to ratification at the next CBA Meeting
- Monitor CBA Member attendance at CBA Meetings, and report issues to the Department of Consumer Affairs (DCA)
- Make interim appointments to the Vice-President and Secretary-Treasurer positions should they become vacant mid-term
- Review and approve CBA member travel expenditures

b. Vice-President.

The Vice-President shall perform the following:

- Act in the absence of the President
- Review the EAC, PROC and QC committee members and recommend appointments and reappointments
- Perform any other duties as assigned by the CBA President
- Review and act upon time sensitive appeals to the CBA by Examination and Licensure candidates
- Serve as the CBA “Ambassador,” performing and coordinating outreach on behalf of the CBA members

c. Secretary-Treasurer.

The Secretary-Treasurer shall perform the following:

- Act as Liaison to the staff of the CBA for fiscal/budgetary functions and routinely report to the CBA regarding relevant matters. This includes reviewing the quarterly and year-end financial statements, in concert with the President. After review, the Secretary-Treasurer presents the financial statement to the CBA
- Interface with the DCA’s internal auditors regarding internal audit matters affecting the CBA. These matters include such issues as internal audit findings, requests for special reviews, and other related concerns or topics
- Perform other duties as requested by the CBA President

G. MEETINGS (Ref. Business & Professions Code §§ 5016 & 5017).

All meetings of the CBA and its committees, subcommittees and task forces are subject to the Bagley-Keene Open Meeting Act. This Act is summarized in a document developed by the DCA, and includes statutory requirements for conducting Teleconference and/or Emergency Meetings. **(Appendix 2)**

1. Frequency.

The CBA meets regularly during the year. The dates are normally established annually at the March meeting for the following calendar year.

2. Locations.

~~The CBA chooses locations that are ADA compliant, easily accessible to the public, applicants, and licensees, alternating between northern and southern California. The CBA also recognizes its responsibility regarding the public's concern for the judicious use of public funds when choosing meeting facilities and overnight accommodations.~~

The CBA chooses locations that are ADA compliant and easily accessible to the public, applicants, and licensees. Pursuant to Business and Professions Code section 101.7, the CBA must meet at least three times each calendar year, once in Northern California and once in Southern California to facilitate participation by the public and its licensees. The CBA also recognizes its responsibility regarding the public's concern for the judicious use of public funds when choosing meeting facilities and overnight accommodations.

3. Attendance.

Members are expected to attend all scheduled meetings of the CBA. Regular attendance ensures current knowledge of procedures and policies as well as an equitable sharing of duties and responsibilities.

Should a member miss two consecutive meetings, the CBA President may notify the Director of the DCA.

Arrival and departure times of each member are recorded in the CBA minutes.

4. Agenda.

The CBA President, with the assistance of the Executive Officer, shall prepare the agenda and tentative time schedule. Any request not approved by the Executive Officer and CBA President shall be included in a standing agenda item, "Agenda Items for Future CBA Meetings," "~~Issues to be discussed at the next meeting,~~" for consideration and vote by the full CBA.

Except where an accusation or statement of issues has been filed, and with reference to disclosure of enforcement matters, it shall be the policy of the CBA that, meeting notices or other public documents of the CBA and its committees shall, when necessary, identify enforcement matters solely by case or investigation number.

The agenda mailing list shall include CBA members, committee, and task force chairs and vice-chairs, as well as those parties who have requested to be notified.

5. Notice Requirements.

The notice requirements defined by the Bagley-Keene Open Meeting Act are summarized in the guide provided by the DCA. **(Appendix 2)**

6. Closed Session.

Closed sessions, if conducted by an Administrative Law Judge (ALJ), may be attended by CBA members only, unless otherwise invited by the ALJ to remain. Those individuals the CBA President deems appropriate as dictated by a need for their expertise may attend all other closed sessions.

Matters that can be considered in closed session are defined by the Bagley-Keene Open Meeting Act.

7. Minutes.

~~Preliminary draft minutes are prepared and distributed to the CBA President and DCA Legal Counsel, and CBA members prior to the subsequent meeting. The reviewed preliminary draft minutes will be distributed to CBA members, allowing five working days for comment. After all comments are incorporated, the minutes will become draft and be available for distribution to the public.~~

Preliminary draft minutes are prepared and distributed to the CBA President, DCA Legal Counsel, and CBA members prior to the subsequent meeting. Draft minutes are also available for public viewing via the CBA website. During the CBA meeting, any necessary corrections are incorporated into the minutes and are then moved for adoption.

After adoption by the CBA, the minutes are signed by the CBA President and Secretary-Treasurer, bound by year, and retained in the CBA office as a public record of the CBA's activities. The minutes are also posted on the CBA website for at least three years.

8. Voting.

A majority of the CBA shall constitute a quorum for the transaction of any business.

a. Recording.

For each motion, the following information is recorded in the minutes: the name of the person making the motion, seconding the motion, opposing, abstaining and absent, respectively. Those absent are recorded after every motion unless the member is shown as absent for the entire meeting.

Excerpts from minutes must be accompanied by the first two pages of the same minutes that list those in attendance.

b. Abstentions.

A CBA member will abstain from voting on an issue if for any reason a conflict of interest is or may be perceived to be present.

Abstentions do not prevent a motion from carrying. For example, if seven members vote in favor of a motion, six members vote against, and two abstain, the motion would carry.

c. Mail Votes.

Mail votes are not permitted except in disciplinary matters. The CBA has 100 days from the receipt by the CBA of a proposed decision by an ALJ to adopt or non-adopt the decision (Section 11517 (c) (2) California Administrative Procedure Act). A mail vote may be taken at the direction of the CBA President.

9. Webcast. (Ref. Business and Professions Code § 5017.5)

All CBA meetings are recorded and Webcast live.

H. APPEALS TO THE CBA.

~~Exam appeals should be submitted a minimum of 20 working days prior to a CBA meeting to be considered. In the event the CBA does not meet at a time to enable an exam candidate to sit for the exam, then the Vice-President shall act on behalf of the CBA.~~

Applicants who are aggrieved by any action taken by a committee or staff of the CBA, can submit an appeal. Appeals should be submitted a minimum of 20 working days prior to a CBA meeting to be considered. In the event the appeal is related to qualifying for the Uniform CPA Examination or for CPA licensure, and the CBA does not have a meeting scheduled within a reasonable amount of time, then the Vice-President shall act on behalf of the CBA in rendering a decision on the appeal.

~~In the event the CBA does not meet at a time to enable an exam candidate to sit for the exam, then the Vice-President shall act on behalf of the CBA.~~

The CBA will not consider new information unless previously reviewed by the appropriate committee, subcommittee, task force, or staff.

I. PETITION FOR REINSTATEMENT OR REDUCTION OF PENALTY.

Petitions must be received in a sufficient amount of time prior to any CBA meeting to allow processing and compiling of the information for CBA consideration. ~~Petitions must be received a minimum of 120 days prior to any CBA meeting.~~ The CBA generally will hold a formal hearing, with an ALJ, to consider these matters. In some instances, the CBA may review only the written record and render a decision without a hearing. Only CBA members who are present for the entire hearing shall be permitted to vote.

J. PRESENTATIONS.

Individuals and/or groups wishing to make a formal presentation to the CBA are requested to notify the CBA office 20 working days prior to the meeting. This is not intended to preclude public comment on specific agenda items or on other general matters. If the CBA President approves the request and places the item on the agenda, presenters should provide any written material to supplement their presentations 14 days in advance of the meeting.

K. COMMITTEES AND TASK FORCES.

Committees and task forces, other than those created by statute, are established by the CBA President on behalf of the CBA. A CBA and committee roster ~~organizational chart~~ is included as **(Appendix 3)**.

L. APPOINTMENTS TO THE EAC, PROC, AND QC.

Reappointments and new appointments are made as needed. Reappointments are determined through the interest survey and evaluation process. The committee chairs recommend new appointments through the process outlined in each committee manual. Opportunities to participate on a CBA committee is noticed in the CBA' newsletter, **UPDATE**, and on the CBA website.

M. RESPONSIBILITY OF CBA MEMBER LIAISONS TO COMMITTEES AND TASK FORCES.

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

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

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

N. EXAMINATION, LICENSURE, AND LICENSE RENEWAL PROGRAMS

The information below is being provided for CBA members to reference as it contains a brief overview of the process to receive and maintain a license in California.

1. CPA Examination.

The national exam (Uniform CPA Examination) is administered throughout 55 jurisdictions, including the 50 states and the U.S. territories of District of Columbia, Guam, Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

Staff has delegated authority to the National Association of State Boards of Accountancy (NASBA) for maintaining a national computerized CPA examination candidate database that stores information for the 55 jurisdictions on candidate's eligibility to test. The CBA qualifies candidates and provides oversight and policy/procedural direction.

The examination is written and graded by the American Institute of Certified Public Accountants (AICPA).

An information booklet for examination applicants regarding requirements to sit for the examination and the CBA's policies and procedures for exam candidates requesting accommodations for disabilities and medical considerations are included in this manual as **Appendix 4**.

## 2. Initial Licensing.

After passage of the examination, and fulfillment of the requisite experience, an applicant may apply for licensure. Approximately ~~3,500~~ 3,600 applications are received each year and the CBA licenses approximately ~~3,200~~ 3,400 individuals annually.

Applications are reviewed by staff, and if warranted, an employer may be asked to appear with work papers to substantiate the verification of experience (Form E) that was submitted on an applicant's behalf. This review is done by the QC. Individual applicants may also be required to appear before the QC to substantiate their experience if deemed necessary. Effective January 1, 2002, applicants may obtain licensure with general experience only which requires the completion of a Form G for verification of experience.

An information ~~packet~~ booklet regarding licensure requirements is included in this manual as **Appendix 5**.

## 3. Renewal/Continuing Competency.

Functions related to continuing education (CE) and the review of professional competence of licensees who practice public accountancy are included in the Renewal and Continuing Competency Program. The primary function within the Continuing Competency Program is Continuing Education Review.

Licensees are required to complete 80 hours of CE to renew licenses in active status. Licensees report their CE by listing all courses at the time of license renewal.

Two programs are used to monitor licensees' compliance with the CE requirements – the CE Worksheet Review Process and the CE Audit Program. With the CE Worksheet Review Process, staff review all licensees self-reported CE at the time of license renewal to ensure all CE requirements are met, while for the CE Audit Program, a licensee must submit substantiating documentation to demonstrate proof of completion for the reported CE.

The other CE-related program activities include approval of courses to qualify for the Regulatory Review requirement, and review of requests for extension of time or exemption from completion of CE.

An information booklet for licensees is included in this manual as **Appendix 6**.

## O. ENFORCEMENT PROGRAM.

The CBA receives and investigates approximately ~~700~~ 1,000 complaints each year. CBA members will routinely see three different types of enforcement action, including:

### 1. Default Decisions

Default decisions are presented to the CBA whenever an accusation has been filed by the Executive Officer, and the named respondent has either failed to file a Notice of Defense, or failed to appear at a scheduled administrative hearing. The former is much more common, and default decisions occur in about 20% of the matters brought before the CBA.

Documents CBA members will receive with the agenda packets:

- Accusation
- Draft default decision
- Transmittal memorandum that summarizes the causes for discipline and the CBA's costs invested in the case

Adoption of a default decision results in the revocation of the CPA's license, but **will not** result in the imposition of cost recovery.

### 2. Stipulated Settlements.

Stipulated settlements are presented to the CBA whenever an accusation has been filed by the Executive Officer and the parties involved on both sides agree to a draft stipulated settlement that they believe to be appropriate for CBA review and consideration. The ~~assigned Deputy Attorney General~~, Executive Officer, Chief of Enforcement, and Investigative CPA collaborate in preparing appropriate proposals.

Documents CBA members will receive with the agenda packets:

- Accusation
- Draft stipulated settlement
- Letter from the Deputy Attorney General that supports the settlement
- Transmittal memorandum that summarizes the causes for discipline and the CBA costs

Adoption will result in the imposition of whatever sanctions are reflected in the draft stipulated settlement. Non-adoption will result in either a revised draft stipulated settlement or the matter proceeding to administrative hearing.

CBA members are free to broadly discuss cases involving stipulated settlements with the Chief of Enforcement prior to taking action on a case. The CBA cannot unilaterally increase the discipline terms of a draft stipulated settlement, but it can provide guidance to the Chief of Enforcement regarding future settlement revisions.

Stipulated settlements occur in about 70% of the matters brought before the CBA.

### 3. Proposed Decisions.

Proposed decisions are presented to the CBA after a contested accusation has proceeded through an administrative hearing and the administrative law judge has prepared a proposed decision.

Documents CBA members will receive with the agenda packets:

- Accusation
- Proposed decision
- Transmittal memorandum that summarizes the findings and proposed discipline reflected in the proposed decision

CBA members may ask DCA Legal Counsel procedural questions regarding matters that involve proposed decisions; but must otherwise take their action based upon “the record,” which includes the accusation and the ALJ’s proposed decision. Furthermore, the liaison Deputy Attorney General should not be present for the CBA’s discussion of proposed decisions.

Adoption of the proposed decision will result in imposition of whatever sanctions are reflected in the proposed decision. Nonadoption would generally result in the CBA’s later review of the hearing transcript and counsel’s arguments and then the CBA making a decision after nonadopt. The CBA could remand a nonadopt decision back to the ALJ for further hearing, but this option is rarely used.

Proposed decisions occur in about ~~20%~~ 10% of the matters brought before the CBA.

Some factors to consider when regarding an ALJ’s proposed decisions are:

- a. Consider accepting an ALJ’s proposed decision where:
  - i. The decision is based upon an assessment of the credibility of the witnesses.
  - ii. The law and ethical standards are interpreted correctly.
  - iii. The CBA is simply unhappy with the result but there are no legal problems with the decision.
  - iv. The costs of proceeding are so extreme in comparison with the severity of the offense and the probability of the success for the respondent is high.
  - v. The CBA does not approve the respondent’s practices, but the prevailing standards at the time of the alleged violations did not prohibit such conduct.
- b. Consider non-adopting an ALJ’s proposed decision where:
  - i. The record reflects the ALJ clearly abused his or her discretion.
  - ii. The ALJ was clearly erroneous in his or her application of the relevant standard of practice for the issues in controversy at the administrative hearing.

- iii. The ALJ was clearly erroneous in his or her interpretation of the licensing law and/or implementing regulations.
- iv. The ALJ failed to interpret properly and/or to apply the appropriate ethical guidelines and standards to the specific facts of the case.
- v. The ALJ failed to understand the significance of the testimony of respondent with respect to the likelihood of future danger to the public.
- vi. The ALJ made the correct conclusions of law and properly applied ethical standards and rules of conduct, but the penalty is substantially less than is appropriate to protect the public.

P. CBA MEMBER CONFLICT OF INTEREST IN DISCIPLINARY MATTERS.

Individual CBA members should not vote and should not be present for discussions on any disciplinary matter in which they have a conflict of interest. CBA counsel should be contacted if you have a question of whether you have a conflict of interest in a particular case.

1. Investigative Consultants.

An Investigative Consultant is prohibited from working on any case where it is determined that he or she has a conflict of interest. CBA committee members may not be utilized in paid positions; e.g., investigative consultant or expert witness (\$100 per day per diem excluded).

2. Conflict of Interest Disclosure Statement.

In disciplinary matters the conflict of interest disclosure statement used by the Enforcement Advisory Committee members should be used as a guide for determining whether a CBA member should participate or vote in CBA deliberations. *Conflict of Interest information can be found in Section IV, beginning on page 26.*

In some instances the relationship or conflict is of such significance the member should not be present during the CBA's deliberations. In all other matters the same guidelines generally apply although the law and rules are less stringent.

If a CBA member believes there is a potential or perceived conflict, the CBA member is to disclose the facts to the full CBA and legal counsel to obtain a determination as to the level of participation permitted.

3. Exparte Communications.

Exparte communications in disciplinary matters are strictly prohibited. Should information come to a member's attention that is not part of the administrative record or if contact is made by any of the participants, the member should immediately contact legal counsel for advice. A case may not be discussed with any person, including CBA members, other than at the CBA meeting when the matter is scheduled for discussion. A limited exception to this policy is when a member is acting in a Liaison capacity on one or more specific cases. If acting as a Liaison, the member may not vote or be present during CBA

deliberations. If there are two or more Liaison members, at least one should attend each meeting.

## SECTION II.

### CBA COMMITTEES AND TASK FORCES

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The intent of all committees is to serve in an advisory capacity to the CBA. The Enforcement Advisory, Peer Review Oversight, ~~and~~ Qualifications Committees, and Mobility Stakeholder Group (MSG) are statutory in nature, meaning their use is written into the Accountancy Act. All other committees are standing in nature, and may be created or dissolved at the CBA's discretion.

Each standing committee and/or task force shall have a Chairperson. The Chairperson is designated by the CBA President, and is tasked with running the committee/task force meeting. The Chair opens and closes the meeting, and counts the vote. The Chair is also responsible for coordinating with staff the creation of the minutes, and the presentation of those minutes to the CBA. CBA members who wish to attend standing committee meetings, but are not a part of the committee, may do so. However, pursuant to the Bagley-Keene Open Meetings Act, if the CBA member's presence at the committee meeting would constitute a CBA quorum, they may make no comment, vote on any agenda item, or sit at the table with the committee.

Each year at the November CBA meeting, the President shall inform CBA members that if they wish to participate on a committee for the following year, they must submit written notice to the Executive Analyst. The Executive Analyst will then compile the list of interested parties, and supply it to the President in December. The President, at their discretion, will then make appointments to CBA committees effective the first of January, the following year.

Each statutory committee shall have a Chairperson and Vice Chairperson. Recommendations for each are made by the CBA Vice President and approved by the CBA. The Chairperson is tasked with running the committee meeting, open and closing the meeting, and counting the votes. The Chair is also responsible for coordinating with staff the creation of the minutes for approval by the committee and CBA. The Vice Chairperson assists the Chairperson, when necessary, and assumes the Chairperson's functions in his or her absence. Appointments to the MSG are made by the CBA President.

Statutory committees are advisory in nature and are not policy setting committees. Prior to any statutory committee discussing or taking action on a policy related issue, the Chairperson, Vice Chairperson, or other designee should present the issue before the CBA for input and direction.

#### A. STATUTORY COMMITTEES (Ref. Business & Professions Code §§ 5020, 5023, and 5024).

##### 1. Enforcement Advisory Committee (EAC).

###### a. Purpose.

To assist the CBA in an advisory nature with its enforcement activities by:

- Serving in a technical advisory capacity to the Executive Officer and the Enforcement Program. The EAC members may participate in investigative hearings along with staff investigators; counsel from the Attorney General's Office and where appropriate, outside counsel.

- In an appropriate manner, consistent with the Administrative Procedure Act, reporting its findings from any investigation or hearing to the CBA, or upon direction of the CBA, to the Executive Officer.
- Reviewing open investigations upon request by Enforcement staff and providing technical assistance.
- Reviewing closed investigations and reporting its findings and recommendations to the CBA or upon direction of the CBA, to the Executive Officer.
- Making recommendations and forwarding reports to the CBA for action on any matter on which it is authorized by the CBA to consider.

b. Membership.

The EAC is comprised of up to 13 licensees.

c. Meetings/Minutes.

The EAC meets approximately four times annually, generally for one day each meeting. Minutes are prepared from the meeting, and presented to the CBA for acceptance.

2. Peer Review Oversight Committee (PROC)

a. Purpose.

To act as an advisory committee and assist the CBA in its oversight of the Peer Review Program by:

- Holding meetings as necessary in order to conduct business and report to the CBA regarding the effectiveness of mandatory peer review.
- Ensuring that Board-recognized peer review program providers (Provider) administer peer reviews in accordance with the standards set forth in Title 16, California Code of Regulations Section 48:
  - Conduct an annual administrative site visit.
  - Attend peer review board meetings, as necessary but sufficient to evaluate and assess the effectiveness of the program.
  - Attend peer review committee meetings, as necessary but sufficient to evaluate and assess the effectiveness of the program.
  - Attend meetings conducted for the purposes of accepting peer review reports, as necessary but sufficient to evaluate and assess the effectiveness of the program.
  - Conduct reviews of peer review reports on a sample basis.
  - Attend, on a regular basis, peer reviewer training courses.

- Evaluating any *Application to Become A Board-recognized Peer Review Provider* and recommending approval or denial to the CBA.
- Referring to the CBA any Provider that fails to respond to any request.
- Collecting and analyzing statistical monitoring and reporting data from each Provider on an annual basis.
- Preparing an Annual Report to the CBA regarding the results of its oversight.

b. Membership.

The PROC is comprised of 7 licensees.

c. Meetings/Minutes.

The PROC meets approximately four times annually, generally for one day each meeting. Minutes are prepared from the meeting, and presented to the CBA for acceptance.

3. Qualifications Committee (QC)

a. Purpose.

To act as an advisory committee and assist the CBA in its licensure activities by:

- Conducting work paper reviews of experience of applicants appearing before the committee.
- Interviewing employers that appear before the committee under the provision of Section 69, of the Accountancy Regulations.
- Making recommendations and forwarding reports to the CBA for action on any matter on which it is authorized to act.

b. Membership.

The QC is comprised of 16 licensees.

c. Meetings/Minutes.

The QC meets approximately four times annually, generally for one day each meeting. An additional Section 69 review may be conducted by QC members approximately one month prior to each committee meeting for those employers not in the geographic area of the upcoming QC meeting. Minutes are prepared from the meeting, and presented to the CBA for acceptance.

#### 4. Mobility Stakeholder Group.

##### a. Purpose.

To consider whether the provisions of the practice privilege law are consistent with the CBA's duty to protect the public, and whether the provisions of the practice privilege law satisfy the objectives of stakeholders of the accounting profession in this state, including consumers.

##### b. Membership.

- Two members of the CBA
- Two representatives of the accounting profession
- Two consumer representatives
- One CBA enforcement staff

##### c. Meetings/Minutes.

The MSG will establish the frequency and locations of meetings, although it's anticipated that it will meet four to six times per year, alternating between southern and northern California. Minutes will be prepared from the meeting, and presented to the CBA for acceptance.

#### 5. Other Committees.

The CBA may create and appoint other committees consisting of certified public accountants in good standing of this State or other qualified interested parties, who may but need not be members of the CBA for the purpose of making recommendations on such matters as may be specified by the CBA.

#### B. STANDING, AD HOC, and OTHER COMMITTEES/TASK FORCES.

##### 1. Committee on Professional Conduct (CPC).

##### a. Purpose.

To assist the CBA in consideration of issues relating to professional conduct by:

- Considering and developing recommendations on issues that apply to the practice of public accountancy and affect consumers
- Considering, formulating, and proposing policies and procedures related to emerging and unresolved issues
- Reviewing selected exposure drafts and developing recommendations to present to the CBA

##### b. Membership.

The CPC may be comprised of up to seven CBA members.

c. Meetings/Minutes.

The CPC generally meets before scheduled CBA meetings. Minutes are prepared from the meeting, and presented to the CBA for acceptance.

2. Enforcement Program Oversight Committee (EPOC).

a. Purpose.

To assist the CBA in the consideration of issues relating to the Enforcement Program by:

- Reviewing and proposing revisions to the CBA's *Manual of Disciplinary Guidelines and Model Disciplinary Orders*.
- Providing oversight on enforcement goals and objectives.
- Recommending proposed legislative and/or regulatory changes related to the Enforcement Program.
- Performing an internal audit of a closed and finalized enforcement case when specific concerns are raised by the CBA in a final decision, in accordance with established guidelines **(Appendix 7)**.
- Defining the responsibilities of the CBA member liaison to the Enforcement Advisory Committee .

b. Membership.

The EPOC may be comprised of up to seven CBA members.

c. Meetings/Minutes

The EPOC generally meets before scheduled CBA meetings as deemed necessary. Meetings to review the CBA's Disciplinary Guidelines shall be held on a tri-annual basis. Minutes are prepared from the meeting, and presented to the CBA for acceptance.

3. Legislative Committee (LC).

a. Purpose.

To assist the CBA in its activities by:

- Reviewing, recommending, and advancing legislation relating to consumer protection and the practice of public accountancy.

- Coordinating the need for and use of CBA members to testify before the Legislature.

b. Membership.

The LC may be comprised of up to seven CBA members.

c. Meetings/Minutes.

The LC generally meets before scheduled CBA meetings. The frequency of the meetings is determined by the urgency of the issue(s) at hand and as required by the Chair. Minutes are prepared from the meeting, and presented to the CBA for acceptance.

4. Strategic Planning Committee (SPC).

a. Purpose.

To assist the CBA in the development and implementation of the CBA Strategic Plan by:

- Assisting with and overseeing the development of the CBA Strategic Plan on a triennial basis.
- Reviewing progress on completing goals and objectives outlined in the CBA Strategic Plan.
- Reporting updates to the CBA on a yearly basis, on the progress of the Strategic Plan.

a. Membership.

- The SPC may be comprised of up to seven CBA members.

c. Meetings/Minutes.

- The frequency of the meetings is at least once per year, or as required by the Chair. Minutes are prepared from the meeting and presented to the CBA for acceptance.

5. Task Forces.

Under the CBA's General Authority, the CBA may create Task forces, which are temporary and terminate at a prescribed time. Task forces may be comprised of CBA members, licensees, staff, and the general public. For a list of all current task forces, refer to the latest CBA and Committee roster. **(Appendix 3)**

6. National Committees.

The CBA encourages its members to participate in national committees, including committees of the American Institute of Certified Public Accountants (AICPA) and National Association of State Boards of Accountancy (NASBA). Members are presented with information on committee participation and an interest form each year during the March CBA meeting. **Appendix 8** includes a link to NASBA and AICPA national committees and information on participation.

## SECTION III.

### REPRESENTATIONS ON BEHALF OF THE CBA

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#### A. USE OF CBA STATIONERY.

Only correspondence that is transmitted directly by the CBA office may be printed or written on CBA stationery. Any correspondence from a CBA, committee, or task force member requiring use of CBA stationery or California Board of Accountancy/Department of Consumer Affairs logo or emblem, should be transmitted to the CBA office for finalization and distribution. Any correspondence transmitted directly from a CBA, committee, or task force member must be printed or written on their personal, firm, or business stationery.

Members have the option of obtaining a CBA email account solely for the purpose of conducting CBA board-related business. Members obtaining a CBA email account are subject to the provisions identified in DCA Policy ISO 0601, regarding Acceptable Use of Information Technology Systems. A copy of the policy will be provided upon request for a CBA email account.

#### B. TESTIMONY BEFORE THE LEGISLATURE.

Primary responsibility for testifying before the Legislature is the responsibility of the Executive Officer and CBA President, or their designee, as delegated by the CBA. Members are also asked to participate as deemed necessary by the President.

#### C. PUBLIC AND MEDIA RELATIONS.

It is important that the consumers of California have information regarding the activities, responsibilities, and mission of the CBA. This information must be disseminated properly and responsibly. Information is conveyed to consumers, licensees, examination applicants, constituents, and other stakeholders by two mechanisms: responding to inquiries, and initiating the release or communication of information. Nearly all information to consumers and the general public is communicated through the Internet, e-mail, and the news media; other information is conveyed by professional organizations, such as consumer advocacy groups, other regulatory entities, and professional society publications.

It is the CBA's policy to provide the public with as much information as possible about its activities in a manner that is both objective and factual. For example, the CBA's tri-annual publication, **UPDATE**, and the CBA's website list disciplinary actions taken against licensees. This information provides the name and locality of the licensee, the license number, the cause for discipline, the effective date of discipline, and the code violation(s) that were cited in the findings.

The CBA's website also has a License Lookup feature. Consumers and licensees can check the status of California licensed individuals, licenses, as well as partnerships, and corporations, and out-of-state accounting firms registered in California. The License Lookup feature also provides Consumers a link to search out-of-state licensed CPAs. ~~Information available includes: Licensee/Firm Name, Type of License, License Number, Status, Expiration Date, Issue Date, Address of Record, and any disciplinary actions within the past seven years.~~

**Statements to the News Media:** To establish a foundation for accurate news coverage regarding CBA activities, statements to the news media by the Executive Officer, the CBA President, or their designee, are to be confined to matters of procedure and matters of fact already on the record. All information conveyed must be fact, not opinion. Editorializing or interpreting the facts of a situation is inappropriate and ~~only~~ can lead to misunderstandings and misinformation.

When queried about matters under investigation, in which an Accusation has not been filed, it is the policy of the CBA for the spokesperson to state: "It would be premature to discuss any matter that may or may not be under investigation by the CBA."

#### D. NEWS RELEASES.

The CBA issues three categories of news releases:

- Declarations of disciplinary actions when the CBA deems such an action necessary or desirable
- Information about CBA actions, findings, or other facts or details related to matters in which the consumers of California are clearly involved
- Information about the CBA's policies, actions, activities, or programs which may affect the consumers of California

The authority for issuing news releases relating to routine CBA business and notice of disciplinary actions resides with the Executive Officer and CBA President, who decide jointly whether a news release is appropriate.

News releases, information in **UPDATE** and on the website reporting actions by the CBA during closed session relating to disciplinary cases, may not be released for a period of 30 days, pending appeal by the respondent. If a writ of mandate is filed within the 30 days, the disciplinary action will still be published unless a stay order is issued by the court. In all instances, the composition of the vote of CBA members in closed session is not a matter of public record.

The content of each news release will determine the course of review the document must take. The Executive Officer, in consultation with the CBA President, will identify those parties to review each news release and identify the responsible party to draft the news release. While legal counsel will review the material prior to dissemination, final review, and authority to disseminate the news release is the charge of the CBA President, or his or her designee.

#### E. RESPONDING TO INQUIRIES.

All technical, license, or disciplinary inquiries to a CBA, committee, or task force member from applicants, licensees, or members of the public should be referred to the Executive Officer. Contact of a CBA, committee, or task force member by a member of the news media should be referred to the Executive Officer.

Other inquiries may be received such as:

Public Records Act — permits the CBA to withhold disclosing information during a pending investigation.

F. SPEAKING ENGAGEMENTS.

CBA, committee, and task force members sometimes are requested to make presentations before various organizations regarding CBA business or activities. Such requests must be approved by the CBA President or the Executive Officer. A written list of topics the speaker intends to present must be provided prior to the presentation.

G. UPDATE (Reference Business and Professions Code section 5008).

The CBA issues a tri-annual periodical publication **UPDATE**. This publication serves as a communication link between the CBA, its licensee population, and other interested parties.

All articles and any information offered for submission to the **UPDATE** for publication should be submitted to the **UPDATE** staff managing editor. All material, including informational or instructive articles, notices, forms, proposed statutory or regulatory language, or any other information for publication should be presented in final form. Upon receipt, all material will be reviewed by the **UPDATE** staff, appropriate CBA division managers and the Executive Officer, and subsequently forwarded to the and DCA's Communications and Education Division, Legal Office and Executive Office for review before publication. Issues of **UPDATE** are also posted on the CBA's website.

## SECTION IV.

### ~~CONFLICT OF INTEREST~~

#### BOARD MEMBER REQUIRED TRAINING AND FORMS

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California law requires various training and forms be completed by those who are appointed to positions within State of California Government. The training and forms are necessary to ensure members are aware of, and adhere to, the applicable laws surrounding conflict of interest, ethics, and sexual harassment prevention.

In addition to the required training, the Department of Consumer Affairs also requires new members to attend a Board Member Orientation session.

#### A. CONFLICT OF INTEREST - GENERAL GUIDELINES.

The Political Reform Act of 1974 (Proposition 9), as it governs conflicts of interest, was primarily designed to prevent persons from financially benefiting by virtue of their official position.

This act requires state agencies to adopt a Conflict of Interest Code that outlines the specific responsibilities of CBA members and employees in that agency. There are two major aspects of the Political Reform Act included in the Conflict of Interest Code: one refers to disqualification, the other to financial disclosure. CBA members have responsibilities under each of these aspects which are separately discussed.

DCA also has an on-line resource center for board members where information regarding conflict of interest can found at:

[http://www.dcaboardmembers.ca.gov/member\\_info/conflict\\_interest.shtml](http://www.dcaboardmembers.ca.gov/member_info/conflict_interest.shtml)

##### 1. Disqualification.

Government Code Section 87100 sets forth the general prohibition: "No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest."

Any CBA member who has a financial interest must disqualify himself/herself from making or attempting to use his/her official position to influence the decision. The question of whether a CBA member has a financial interest that would present a legal conflict of interest is a complex one and must be decided on a case-by-case review of the particular facts involved. For more information on disqualifying yourself due to a possible conflict of interest, please refer to the Fair Political Practice Committee's manual, located on their website. <http://www.fppc.ca.gov/index.php?id=37>

##### 2. Financial Disclosure.

The Conflict of Interest Code also requires all CBA members to file annual financial disclosure statements. This is accomplished by submitting a Form 700 – Statement of

Economic Interest (Appendix 9). New CBA members are required to file a disclosure statement within 30 days after assuming office; or, if subject to Senate confirmation, 30 days after being appointed or nominated. Annual financial statements must be filed not later than April 1 of each year.

A "leaving office statement" must also be filed within 30 days after an affected CBA member or other official leaves office.

CBA members are not required to disclose all their financial interests. Government Code Section 87302(b) indicates when an item is reportable:

An investment, interest in real property, or income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of his or her position.

To determine what investments, interests in property, or income must be reported by a CBA member, reference should be made to the DCA's Conflict of Interest Code. Questions concerning particular financial situations and related requirements should be directed to the DCA's Legal Office. More information is also available on DCA's website, [http://www.dca.ca.gov/publications/coi\\_regs.pdf](http://www.dca.ca.gov/publications/coi_regs.pdf)

3. DCA's Policy: Incompatible Activities (Reference Government Code Section 19990).

The following is a summary of the employment, activities, or enterprises, which might result in, or create the appearance of being inconsistent, incompatible, or in conflict with the duties of state officers:

- Using the prestige or influence of a state office or employment for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- Using state time, facilities, equipment, or supplies for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- Using confidential information acquired by virtue of state employment for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- Receiving or accepting money, or any other consideration, from anyone other than the state for the performance of an act which the officer or employee would be required or expected to render in the regular course or hours of his or her state employment or as a part of his or her duties as a state officer or employee.
- Performance of an act in other than his or her capacity as a state officer or employee knowing that such an act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by such officer or employee or the agency by which he or she is employed. [This, of course, would not preclude an "industry" member of a CBA or commission from performing the normal functions of his or her occupation.]

- Receiving or accepting, directly or indirectly, any gift, including money, any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the state or whose activities are regulated or controlled in any way by the state, under circumstances from which it reasonably could be inferred that the gift was intended to influence him or her in his or her official duties or was intended as a reward for any official action on his or her part.
- The aforementioned limitations do not attempt to specify every possible limitation on employee activity that might be determined and prescribed under the authority of Section 19990 of the Government Code. DCA's Incompatible Work Activities Policy and Procedure OHR 10-01 is included in ~~Appendix 9~~ **Appendix 10**. This policy acknowledgement is required when a member is initially appointed

~~4. Ethics Training Requirement.~~

**B. ETHICS TRAINING REQUIREMENT**

With the passage of Assembly Bill 2179 (1998 Chapter 364), state appointees and employees in exempt positions are required to receive an ethics orientation within the first six months of their appointment and every two years thereafter. To comply with that directive you may either complete the interactive training on the website of the Office of the Attorney General or view an interactive video available upon request. Ethics training information may be found at: [http://www.dcaboardmembers.ca.gov/training/ethics\\_orientation.shtml](http://www.dcaboardmembers.ca.gov/training/ethics_orientation.shtml)

**C. SEXUAL HARASSMENT PREVENTION TRAINING**

In accordance with the DCA Sexual Harassment Prevention (SHP) Policy (EEO 12-01), (Appendix 11) and to ensure compliance with Assembly Bill (AB) 1825 (Reyes, Chapter 933, Statutes of 2004), all DCA employees are required to receive biennial Sexual Harassment Prevention training. The training is mandatory for Rank and File Employees, Temporary Employees (Retired Annuitants, Proctors, Seasonal Employees, and Student Assistants), Managers, Supervisors, Board, and Commission Members. The SHP training titled *Preventing Harassment and Other EEO Issues at Work: It's All About Respect (AB 1825 Compliance)* offers real life scenarios and interactive question and answer segments. Sexual Harassment Prevention Training is required every two (2) years. Training is offered via webinars or in a classroom.

**D. BOARD MEMBER ORIENTATION TRAINING**

Newly appointed members are required to attend a Board Member Orientation session within one year of assuming office. The orientation covers the information member previously mentioned regarding required training, in addition to covering other topics that will ensure a members success, including an overview of DCA, the Bagley-Keene Open Meetings Act, the Discipline Process, and the Administrative Procedure Act. This training is in addition to an orientation provide by CBA staff.

DCA also maintains a website which serves as a resource center for board members. The website link is provided in **Appendix 12**.

## SECTION V.

### EXPENSE REIMBURSEMENT

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#### A. PER DIEM AND TRAVEL.

##### ~~1. Travel to the Meeting~~

##### 1. Board Member Travel

CBA staff is always available to assist members with any CBA-related travel arrangements including their flight or rental car needs. If a CBA member chooses to coordinate their own flight arrangements, they should use [www.SWABIZ.com](http://www.SWABIZ.com) to book their flight. Travelers not currently utilizing SWABIZ will need to establish a traveler account. The steps for creating a traveler account are included in Appendix 9. (Corporate ID: 99039695, IRN: 57448).

Occasionally a CBA member may need to rent a car. The State of California has a contract with Enterprise Rental Company for all car rental needs. CBA members may contact staff, or utilize the DCA established web link when reserving vehicles:

[http://www.enterprise.com/car\\_rental/deeplinkmap.do?bid=002&cust=DBCA181](http://www.enterprise.com/car_rental/deeplinkmap.do?bid=002&cust=DBCA181)  
(A justification may be necessary in the event car rental is needed, which CBA staff will prepare).

CBA members are also encouraged to utilize the most economic source of transportation available. For example, if there is a shuttle from the airport to the hotel available, it is not fiscally responsible to rent a car or take a taxi.

##### 2. Lodging for the Board/Committee Meeting.

Approximately four weeks before CBA and Committee meetings, the Executive Analyst will send out a memorandum detailing the name and address of the chosen hotel. Each member must contact the hotel directly to secure a room reservation. CBA staff is available to assist CBA members in making travel reservations, or members are free to coordinate them on their own.

##### 3. Reimbursement for Travel and Per Diem expenses.

All new CBA members are provided with an electronic copy of the Per Diem and Travel Expense Worksheet when they are appointed. A paper copy is also available at all meetings. **(Appendix 13)**. Please complete the worksheet, and return it to the CBA office as soon as possible following the CBA meeting. Staff cannot process your Per Diem and travel expense claim without it. A few key notes regarding the completion of the form:

- The form is actually two forms in one. The top section authorizes the payment of Per Diem of \$100 per day; the bottom section is where CBA members claim expenses for reimbursement.

- Please make sure to complete the time section of the Travel Expense Claim. Breakfast, lunch, dinner, and incidental payments all correspond to the time the traveler left and arrived at travel headquarters.
- In order to complete your travel expense claim, you must submit the original copy of all receipts, with the exception of meals. This includes a copy of your airline itinerary and hotel receipt. Please make sure that the hotel receipt you submit has a zero balance. DCA will NOT pay any receipts that show a balance due.
- When requesting reimbursement for personal vehicle mileage, you must include where the trip originated from, where it ended, and the license plate number of the vehicle. For example, enter From: Home, 123 Green Street, Sacramento, CA 95815 To: CBA Office, 2000 Evergreen St., Sacramento, CA 95815.

Travel expenses are reimbursed in accordance with the policies found within the California Code of Regulations, Title 2 (Personnel Administration), Division 1 (Administrative Personnel), Chapter 3 (Department of Personnel Administration), Subchapter 1 (General Civil Service Rules), Article 2 (Travel Expenses), and employee Memoranda of Understanding (MOU).

The Department of Consumer Affairs has compiled a guide to assist in interpreting the various policies, which is what CBA staff use when processing travel expense claims. The DCA Travel Guide is provided as **Appendix 14**.

## SECTION VI.

### COMMONLY USED ACRONYMS

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AAA	American Accounting Association
AB	Assembly Bill
AEO	Assistant Executive Officer
AG	Attorney General
AICPA	American Institute of Certified Public Accountants
ALD	Accountancy License Database
ALJ	Administrative Law Judge
APA	Administrative Procedure Act
BCSHA	Business, Consumer Services, and Housing Agency
<del>B&amp;P Code</del>	<del>Business and Professions Code</del>
BPC	Business and Professions Code
BreZE	DCA's New Automated On-Line Licensing System
CA	Chartered Accountant
CAC	Compliance Assurance Committee (NASBA)
CalCPA	California Society of Certified Public Accountants
CalHR	California Department of Human Resources (Formerly State Personnel Board and Department of Personnel Administration)
CBA	California Board of Accountancy
CBT	Computer Based Testing
CCR	California Code of Regulations
CE	Continuing Education
CFE	Certified Fraud Examiner
CLEP	College Level Examination Program
CMA	Certified Management Accountant
CORI	Criminal Offender Record Information
CPA	Certified Public Accountant
CPAVerify	Centralized database of licensing professionals from participating jurisdictions
CPC	Committee on Professional Conduct
CPE	Continuing Professional Education
CPIL	Center for Public Interest Law
CSEA	California Society of Enrolled Agents
CTEC	California Tax Education Council
DA	District Attorney
DAG	Deputy Attorney General
DCA	Department of Consumer Affairs
DGS	Department of General Services
DOF	Department of Finance
DOI	Division of Investigation
<del>DPA</del>	<del>Department of Personnel Administrations</del>
EA	Enrolled Agent
EAC	Enforcement Advisory Committee
EO	Executive Officer
EPOC	Enforcement Program Oversight Committee
FAF	Financial Accounting Foundation
FASB	Financial Accounting Standards Board

FTB	Franchise Tax Board
GAAP	Generally Accepted Accounting Principles
GAAS	Generally Accepted Accounting Standards
GAGAS	Generally Accepted Government Accounting Standards
GAO	Government Accounting Office
GASB	Governmental Accounting Standards Board
IASB	International Accounting Standards Board
ICPA	Investigative Certified Public Accountant
iExam	International Delivery of the Uniform CPA Exam
IFRS	International Financial Reporting Standards
IH	Investigative Hearing
IRS	Internal Revenue Service
LC	Legislative Committee
MOU	Memorandum of Understanding
<u>MSG</u>	<u>Mobility Stakeholder Group</u>
NASBA	National Association of State Boards of Accountancy
NPRC	National Peer Review Committee (AICPA)
OAHA	Office of Administrative Hearings
OAL	Office of Administrative Law
PA	Public Accountant
PCAOB	Public Company Accounting Oversight Board
PROC	Peer Review Oversight Committee
QC	Qualifications Committee
RAB	Report Acceptance Body (CalCPA)
SAS	Statement on Auditing Standards
SB	Senate Bill
SCA	Society of California Accountants
SCO	State Controller's Office
<del>SCSA</del>	<del>State and Consumer Services Agency</del> Restructured to Business, Consumer Services, and Housing Agency
SEC	Securities and Exchange Commission
<del>SPB</del>	<del>State Personnel Board</del>
SSAEs	Statements on Standards for Attestation Engagements
SSARS	Statement on Standards for Accounting and Review Services
TEC	Travel Expense Claim

## SECTION VII.

### RESOURCE LIST

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APPENDIX 1	CBA Strategic Plan <a href="http://www.dca.ca.gov/cba/publications/stratpln2013-2015.pdf">http://www.dca.ca.gov/cba/publications/stratpln2013-2015.pdf</a>
APPENDIX 2	DCA guide to the Bagley Keene Open Meeting Act <a href="http://www.dca.ca.gov/publications/bagleykeene_meetingact.pdf">http://www.dca.ca.gov/publications/bagleykeene_meetingact.pdf</a>
APPENDIX 3	CBA and Committee Roster <a href="http://www.dca.ca.gov/cba/board_info/commitroster.pdf">http://www.dca.ca.gov/cba/board_info/commitroster.pdf</a>
APPENDIX 4	Uniform CPA Examination Handbook <a href="http://www.dca.ca.gov/cba/publications/exambook.pdf">http://www.dca.ca.gov/cba/publications/exambook.pdf</a>
APPENDIX 5	CPA Licensing Applicant Handbook <a href="http://www.dca.ca.gov/cba/publications/applbook.pdf">http://www.dca.ca.gov/cba/publications/applbook.pdf</a>
APPENDIX 6	CPA License Renewal Handbook <a href="http://www.dca.ca.gov/cba/publications/applbook.pdf">http://www.dca.ca.gov/cba/publications/applbook.pdf</a>
APPENDIX 7	Guidelines for Performing an Internal Audit of a Closed and Finalized Enforcement Case.
APPENDIX 8	NASBA and AICPA National Committees: <a href="http://www.nasba.org/mc/committees/">http://www.nasba.org/mc/committees/</a> <a href="https://volunteers.aicpa.org/">https://volunteers.aicpa.org/</a>
APPENDIX 9	Form 700 – Statement of Economic Interests <a href="http://www.fppc.ca.gov/forms/700-13-14/Form700-13-14.pdf">http://www.fppc.ca.gov/forms/700-13-14/Form700-13-14.pdf</a>
APPENDIX 10	DCA’s Incompatible Work Activities Policy and Procedure OHR 10-01 (Attachment)
APPENDIX 11	DCA’s Sexual Harassment Prevention Policy EEO 12-01 (Attachment)
APPENDIX 12	DCA’s Board Member Resource Center <a href="http://www.dcaboardmembers.ca.gov/index.shtml">http://www.dcaboardmembers.ca.gov/index.shtml</a>
APPENDIX 13	Per Diem and Travel Expense Worksheet with Travel Reimbursement Guidelines (Attachment)
APPENDIX 14	DCA Travel Guide (Attachment)

**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>

**Appendix 7**

**Guidelines for the  
Enforcement Program Oversight Committee Members  
to Perform an Internal Audit of a Closed and Finalized Enforcement Case**

The California Board of Accountancy (CBA) may take disciplinary action to revoke, suspend, or refuse to renew any permit or certificate or may censure the holder of that permit or certificate for unprofessional conduct. Disciplinary actions are the result of investigations conducted by the CBA Enforcement Program and are presented to the CBA for consideration during closed-session deliberations as proposed decisions, stipulated settlements, or default decisions.

The CBA President may appoint two CBA members to perform an internal audit of the investigation of a final disciplinary action<sup>1</sup>. The CBA members shall be appointed from the Enforcement Program Oversight Committee (EPOC). Any potential for a conflict of interest shall be resolved in accordance with the CBA Member Guidelines and Procedures Manual.

CBA staff will contact the appointed EPOC members to schedule the internal audit at the CBA office or another location.

Provided below are guidelines to assist the EPOC members in performing an internal audit. The scope of the audit may be narrowed or expanded to address specific concerns raised by CBA members. At any time during the audit, the appointed EPOC members may direct questions to enforcement management.

The CBA understands that a final disciplinary action may not be reopened or modified based on the findings of the internal audit.

**I. REVIEW INVESTIGATIVE REPORT AND EXHIBITS**

Each EPOC member will be provided a copy of the investigative file and exhibits for review. Review may include, but is not limited to, the following:

- A. Nature of the complaint.
- B. Evidence collected.

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<sup>1</sup> A disciplinary action is final when all opportunities for reconsideration and judicial review are completed pursuant to the Administrative Procedure Act and the decision is in effect.

C. Conclusion and recommendation.

D. Formal Discipline

## **II. REPORT TO THE EXECUTIVE OFFICER**

At the conclusion of the internal audit, the EPOC members shall meet and prepare a report for the Executive Officer to include the following:

A. Summary of what was audited.

B. Findings.

C. Recommendations.

The internal audit notes and report shall be subject to the record retention period established by the CBA. Any communications related to the audit, including the audit notes and report, may be withheld from disclosure under the Public Records Act as “official information privilege” pursuant to Government Code Section 6254(k) and under Evidence Code Section 1040 when the CBA has determined that there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure (e.g., disclosure would hamper current or future investigations and/or disclosure would chill candid deliberations on the development of new investigative processes, procedures, or techniques).

## **III. EXECUTIVE OFFICER REPORT TO THE CBA**

The Executive Officer shall consider the findings and recommendations and report to the CBA the following:

A. Summary of findings.

B. Implementation of recommendations.

C. Timeframe for implementation.



## DEPARTMENTAL POLICY



<b>TITLE</b>	<b>INCOMPATIBLE WORK ACTIVITIES</b>		
<b>POLICY OWNER</b>	<b>LEGAL AFFAIRS AND OFFICE OF HUMAN RESOURCES</b>		
<b>POLICY NUMBER</b>	OHR 10-01	<b>SUPERSEDES</b>	<b>ADM 99-02</b>
<b>ISSUE DATE</b>	April 8, 2010	<b>EFFECTIVE</b>	IMMEDIATELY
<b>DISTRIBUTE TO</b>	<b>ALL EMPLOYEES</b>		
<b>ORIGINAL APPROVED BY</b>	<b>Original signature on file</b>  Brian Stiger, Director Department of Consumer Affairs		
<b>PAGE</b>	1 of 9	<b>ATTACHMENT</b>	ATTACHMENT A

**POLICY**

It is the policy of the Department of Consumer Affairs (DCA) to promote and adhere to all policy directives and all laws, rules, and regulations concerning Incompatible Work Activities.

**APPLICABILITY**

This policy applies to all employees, governmental officials, contractors, consultants, and temporary staff of DCA, and any of its divisions, bureaus, boards, programs, and other constituent agencies. Within this policy, the generic acronym "DCA" applies to all of these entities.

**PURPOSE**

The purpose of this policy is to outline the State laws set forth in the standards of conduct with which State civil service officers and employees are expected to comply. All of the employees of the DCA have a responsibility to their employer, their fellow employees, and the people of California to conduct themselves in an ethical manner so as not to bring discredit to themselves or the State and the department.

**AUTHORITY**

- Government Code Section 19990
- Executive Order 66-2, "Standards of Ethical Conduct"
- Penal Code Section 502
- DPA Rule 599.859

**PROVISIONS**

## **Responsibility of Employees**

Employees of the DCA have a responsibility to their employer, their fellow employees, and the people of California to conduct themselves in an ethical manner so as not to bring discredit to themselves or the State and the department.

The policy in this statement must be observed by each employee of the DCA in order to avoid activities which are clearly inconsistent, incompatible, or in conflict with his [or her] official duties. Employees must review this policy with a view toward their particular job duties and responsibilities.

This policy specifically relates to incompatible activities and does not include all provisions of law or regulations with which employees must comply.

If an employee is uncertain as to whether certain activity, employment, or enterprise is in violation of this policy, the employee should immediately consult with his [or her] supervisor who will indicate in writing whether the activity, employment or enterprise is prohibited.

## **State Law Prescribed Standards of Conduct**

**Civil Service Employees:** To protect the integrity of the California State Civil Service, State law sets forth standards of conduct with which State civil service officers and employees are expected to comply. Although Government Code Section 19990 is not applicable to those persons exempt from the civil service system, they are also subject to standards of ethical conduct, discussed below. Section 19990 of the Government Code requires that:

**A state officer or employee shall not engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his [or her] duties as a state officer or employee.**

Each appointing power shall determine, subject to approval of the Department of Personnel Administration (DPA), those activities which, for employees under its jurisdiction, are inconsistent, incompatible or in conflict with their duties as State officers or employees. Activities and enterprises deemed to fall in these categories shall include, but not be limited to, all the following:

## **Using Prestige or Influence and Examples**

- (a) **Using the prestige or influence of the State or the appointing authority** for the officer's or employee's private gain or advantage or the private gain of another.

*Examples of such activities include:*

- (1) *Soliciting business from persons licensed by the employee's agency (Board or Bureau) under the guise that the licensee may receive special benefits from the employee's agency.*
- (2) *Soliciting money from a licensee or from other departmental employees for the employee's private gain.*

(3) *Providing or using the names and/or addresses of licensees, vendors, or other entities subject to regulation by the Department for mailing lists or solicitation unless authorized to do so as part of the employee's duties.*

(4) *Using the badge, uniform, or identification card of a State position for private gain or advantage.*

### **Use of State Time, Facilities, etc., and Examples**

(b) **Using State time, facilities, equipment, or supplies** for private gain or advantage.

*Examples of such activities include:*

(1) *Using State vehicles or credit cards for personal gain; using State letterhead stationery for private correspondence; using State office supplies, State postage stamping facilities, State copy machines, or computer equipment and software for home or personal business.*

(2) *Selling products such as cosmetics, jewelry, stationery plastics, etc., at times other than regularly scheduled breaks and lunch periods, or to other employees when they are not on such breaks.*

### **Using Confidential Information and Examples**

(c) **Using, or having access to, confidential information** available by virtue of State employment for private gain or advantage or providing confidential information to persons to whom issuance has not been authorized.

*Examples of such activities include:*

(1) *Disclosing confidential investigative reports or confidential examination materials or information.*

(2) *Providing or using, unless authorized to do so by the department or by someone to whom that responsibility has been delegated, licensee social security numbers, birth dates, gender, and/or complaint activity reports.*

(3) *Requesting, acquiring, examining, or disseminating confidential or employee personnel records or personal information maintained by the Department unless authorized in the assignment of related duties.*

(4) *Willfully misusing, misplacing or destroying confidential information, including but not limited to, the disclosure of passwords or permitting access to computer information systems, programs or other data to unauthorized personnel.*

### **Accepting Money or Other Consideration and Examples**

- (d) **Receiving or accepting money, or any other consideration**, from anyone other than the State for the performance of his [or her] duties as a State officer or employee.

*Examples of such activities include:*

- (1) Requesting or accepting money, or other consideration, from applicants or licensees for the priority processing of license applications.*
- (2) Charging a fee for helping an applicant complete documents for licensure.*

### **Performance of an Activity and Examples**

- (e) **Performance of an activity, in other than his [or her] capacity as a State officer or employee**, which is subject directly or indirectly, to the control, inspection, review, audit, or enforcement by the officer or employee.

Each board should evaluate its own mission and job classifications to determine what activities are covered by this category. Specific applications may vary by board or bureau. The following examples are provided for guideline purposes only:

- (1) Engaging in a personal medical practice or activity, which is regulated by the employee's licensing board, when the employee's duties are to review, inspect, audit, or enforce the regulated activity.*
- (2) Engaging in a nursing practice or activity, which is regulated by the employee's licensing board, when the employee's duties are to review, inspect, audit, or enforce the regulated activity.*
- (3) Engaging in a construction business or activity, which is regulated by the employee's licensing board, when the employee's duties are to review, inspect, audit, or enforce the regulated activity.*
- (4) Engaging in an automobile related business or activity which, is regulated by the employee's bureau, when the employee's duties are to review, inspect, audit, or enforce the regulated activity.*
- (5) Engaging in a private legal practice where the employee represents clients in any matter or venture subject to the regulation of an agency in DCA, or represents any licentiate in any enforcement matter before an agency in the Department.*

### **Exception: to Prohibition in paragraph (e)**

A board, bureau, commission, or other employment unit in the DCA may determine that it is in the interests of the agency to allow specified employees to engage in activities, which would otherwise be prohibited under the above guidelines. Examples may include allowing employees holding professional or vocational licenses to engage in the licensed business or profession in order to maintain current skills.

Any agency deciding to allow such employment or activities shall develop criteria to evaluate whether requests to engage in such employment or activities will be approved. The criteria must include, but need not be limited to: the time-base of the employee, the benefit to the organization of the employment or activity, a policy to avoid an actual conflict of interest or the appearance of a conflict of interest, and periodic review of the employment or activity.

Any employee currently engaged in, or desiring to engage in, such employment or activities shall submit a written request to his [or her] supervisor, describing the type and scope of outside employment or activity. The supervisor shall review the request and make a recommendation to approve or disapprove the request, based on the criteria developed by the agency. The request and recommendation shall be submitted through the supervisory chain to the program manager, division chief or executive officer, or designee who will make the determination. The approving officer may review the matter with the DCA's Legal Office and request legal review and a legal opinion regarding the proposed activity. The decision of the approving officer shall be in writing with reasons set forth for the decision.

### **Gratuities, other things of value**

- (f) **Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or other thing of value** from anyone who is doing or seeking to do business of any kind with the officer's or employee's appointing authority, or whose activities are regulated or controlled by the appointing authority under circumstances from which it could reasonably be substantiated that the gift was intended to influence the officer or employee in his [or her] official duties, or was intended as a reward for any official action performed by the officer or employee.

Although this section does not preclude acceptance of gifts, it clearly establishes that if the intent of the giver is to influence future, or reward past, official actions, the gift cannot be accepted. Since determining intent may be difficult, the following guidelines are provided:

- (1) *Does the value of the gift, in itself, suggest an intent other than routine hospitality or gratuity? It may be useful to apply the Fair Political Practices laws as a general guide. These laws require certain employees (**only those who meet specific "Designated Employee" criteria**) to report gifts worth more than \$50 and also specify that gifts totaling more than \$300 during any twelve-month period from any one source establish a financial interest between the source and the recipient. Thus, it follows that gifts approaching these value limits could raise questions under Government Code Section 19990. In addition, gifts considerably below these limits can also be inappropriate if they raise concern under any of the following standards:*
- (2) *Do the circumstances surrounding the gift suggest an improper intent? For example, a gift given on the eve of an important decision involving the donor is of much greater concern than a routine holiday gift or an invitation to an annual reception. Gifts directly or indirectly identified as a reward for specific past decisions or actions usually raise questions of improper relationships.*

(3) *Is the gift characteristic of the gratuities, hospitalities, or other items typically received from organizations and/or individuals, similar to the donor? The key here is to not accept a gift from one party, which could be viewed as an attempt to gain an advantage over others who have a similar relationship with the recipient.*

(4) *How strongly does the form of the gift suggest that it is a routine part of an on-going business relationship as opposed to something more? For example, occasional business lunches or the receipt of mementos bearing the name or insignia of the donor raise fewer questions than gifts of cash, merchandise, extraneous travel or entertainment that have value beyond the business relationship.*

### **Not Devoting Full Time Efforts to State Office**

(g) Subject to any other laws, rules, or regulations as pertained thereto, **not devoting his [or her] full time, attention, and efforts to his or her State office or employment** during his or her hours of duty as a State officer or employee.

*An example of such activity would be conducting a private business during employee's regular hours of duty.*

### **Exempt Appointees/Employees**

Appointees/Employees exempt from Civil Service: Pursuant to Executive Order 66-2, please be advised that there exists a code of ethical standards, which is applicable to gubernatorial appointees, not including judicial or county board of supervisor employees. This code of ethical standards is to be followed in addition to any and all other statutes and executive orders (i.e. the Fair Political Practices Act) which might affect questions of conflict of interest, incompatibility or ethics relating to gubernatorial appointees.

Applicable portions of the Executive Order are set out below. You are requested to carefully read these sections and to comply with both their letter and spirit.

### **Standards of Ethical Conduct for Exempt appointees/employees**

#### **"Standards of Ethical Conduct"**

"No employment, activity, or enterprise shall be engaged in by any officer or employee of the Executive Department of the State which might result in, or create the appearance of resulting in any of the following:

- (1) Using the prestige or influence of a State office or employment** for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- (2) Using State time, facilities, equipment, or supplies** for the officer's or employee's private gain or advantage, or the private gains or advantage of another.

- (3) Using confidential information** acquired by virtue of State employment for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- (4) Receiving or accepting money or any other consideration** from anyone other than the State for the performance of an act which the officer or employee would be required or expected to render in the regular course or hours of his [or her] State employment or as a part of his [or her] duties as a State officer or employee.
- (5) Performance of an act in other than his [or her] capacity as a State officer or employee** knowing that such an act may later be subject, directly or indirectly, to the control, inspection, review, audit or enforcement by such officer or employee or the agency by which he or she is employed. [This, of course, would not preclude an "industry" member of a board or commission from performing the normal functions of his or her occupation.]
- (6) Receiving or accepting, directly or indirectly, any gift**, including money, any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the State or whose activities are regulated or controlled in any way by the State, under circumstances from which it reasonably could be inferred that the gift was intended to influence him [or her] in his [or her] official duties or was intended as a reward for any official action on his [or her] part." (Emphasis added.)

### **Other Acts that maybe Incompatible**

The aforementioned limitations do not attempt to specify every possible limitation on employee activity that might be determined and prescribed under the authority of Section 19990 of the Government Code. If later experience shows a need for additions to, deletions from, or clarification of the aforementioned limitations, the DCA will request the approval of the Department of Personnel Administration (DPA) in making changes it determines necessary. Upon such approval, the listing will be amended. Nothing in this statement or listing should be construed by any employee as the sole provisions of law and administrative rules, which should be observed by each State officer, and employee of this department.

### **Procedures for Determining Incompatible Work Activity**

This procedure applies to all requests to engage in outside employment or activity other than a request for an exemption from the prohibitions contained in Government Code Section 19990(e), which procedure is set forth above.

Any officer or employee who is engaging, or intends to engage, in outside employment or an activity or enterprise which may be in conflict with the provisions of this policy shall submit a written request for review of the matter to his [or her] immediate supervisor.

The written request from the employee shall include the following information:

- (1) The name of the officer or employee.
- (2) The name of the board, unit or office by which the person is employed.
- (3) The classification of the officer or employee.
- (4) The collective bargaining unit representing the officer or employee, if applicable.
- (5) The officer's or employee's duty statement, along with a statement describing the extent to which the employee's duties pertain to any confidential information that would come under his [or her] direct review.
- (6) A detailed description of the specific activity in which the officer or employee intends to engage.

The immediate supervisor shall review the request and discuss it with the administrative head of the board, office or unit, as applicable. The administrative head may review the matter with the DCA's Legal Office and request a legal opinion on whether the proposed activity is prohibited by the DCA's Incompatible Work Activity Statement. If the supervisor approves the employee's request, then, upon written approval of the employee's first line supervisor, the employee may continue to, or proceed to, engage in the activity or business. If the supervisor denies the employee's request, a written statement detailing the reason(s) for the denial will be provided to the employee.

Represented employees may appeal a denial in accordance with the terms of the employee's collective bargaining agreement. Non-represented employees may appeal under DPA Rule 599.859 to the Director. In all cases, the Director's decision shall be final.

### **State Attorney and Administrative Law Judges; Service on Governmental Bodies**

Service on a local appointed or elected governmental board, commission, committee, or other body or as a local elected official by an attorney employed by the state in a nonelected position or by an administrative law judge, as defined in Section 11475.10, shall not, by itself, be deemed to be inconsistent, incompatible, in conflict with, or inimical to, the duties of the attorney or administrative law judge as a state officer or employee and shall not result in the automatic vacation of either office.

Nothing in this section shall be construed to prohibit an administrative law judge, as defined in Section 11475.10, or an attorney employed by the state in a nonelected position from serving on any other appointed or elected governmental board, commission, committee, or other body, consistent with all applicable conflict-of-interest statutes and regulations and judicial canons of ethics.

### **Violation of Policy**

Failure to follow any of the provisions of this policy is cause for discipline, which may include termination of employment.

In addition, any tampering, interference, damage, or unauthorized access to computer data or computer systems may constitute a criminal violation of Penal Code Section 502.

### **Revision of Policy**

Determination of the need for revisions to this policy is the responsibility of the Legal Affairs Division and the Office of Human Resources (916) 574-8300.

Specific questions regarding the status or maintenance of this policy should be directed to the Division of Legislative and Policy Review at (916) 574-7800.

### **Security Agreement and Language Attachment**

Incompatible Work Activity Security Agreement is attached.

## **RECOMMENDED IMPLEMENTATION STRATEGY**

This policy is distributed to all new employees in the new employee packets or transfer packets.

The department may wish to implement this policy on an annual basis and distribute to all employees to ensure everyone has read and signed the “Incompatible Work Activity Security Agreement.”

***My signature on this acknowledgement for does not modify my employment relationship with DCA as set forth in the most current Memorandum of Understanding (MOU) appropriate to my employee bargaining unit.***

\_\_\_\_\_  
***(Printed Name)***

\_\_\_\_\_  
***(Signature)***

\_\_\_\_\_  
***(Date)***

\_\_\_\_\_  
***(Board/Bureau/Committee/Commission/Program/Division/Office)***

***Original: Office of Human Resources (Official Personnel File)***  
***Copies: Employee, Supervisor***



## DEPARTMENTAL POLICY



<b>TITLE</b>	SEXUAL HARASSMENT PREVENTION (SHP) POLICY		
<b>POLICY OWNER</b>	EQUAL EMPLOYMENT OPPORTUNITY (EEO) OFFICE		
<b>POLICY NUMBER</b>	EEO 12-01	<b>SUPERSEDES</b>	EEO 09-02
<b>ISSUE DATE</b>	AUGUST 15, 2012	<b>EFFECTIVE</b>	IMMEDIATELY
<b>DISTRIBUTE TO</b>	ALL EMPLOYEES		
<b>ORIGINAL APPROVED BY</b>	<b>Original signature on file</b>  Denise D. Brown Director		
<b>NUMBER OF PAGES</b>	10	<b>ATTACHMENTS</b>	A-E

**POLICY**

It is the policy of the Department of Consumer Affairs (DCA) that all employees and non-employees assume responsibility for maintaining a work environment free from all forms of sexually harassing conduct and/or behavior.

**APPLICABILITY**

This policy applies to all employees, governmental officials, contractors, consultants, and temporary staff of DCA, and any of its divisions, bureaus, boards, programs, and other constituent agencies. Within this policy, the generic acronym "DCA" applies to all of these entities and the term employees includes all employees, governmental officials, contractors, consultants, and temporary staff of DCA. If any provisions of this policy are in conflict with a Memorandum of Understanding (MOU), the applicable sections of the MOU shall be controlling.

**PURPOSE**

The purpose of this policy is to provide all DCA employees, applicants, licensees, and consumers with a uniform method of to addressing allegations and complaints of sexual harassment in the DCA workplace. The DCA affirms its moral and legal obligation to ensure that all employees are provided a harassment free environment to realize their goals and function effectively in the workplace.

All employees should be made aware of the seriousness of violations of the Sexual Harassment Prevention Policy. All Employees are expected to adhere to a standard of conduct, and understand their responsibility to maintain a sexual harassment free work environment. Managers and supervisors will understand their responsibility to enforce conduct that is respectful of all persons within the work environment.

## **ZERO TOLERANCE**

It is the policy and intent of the DCA to provide employees a safe work environment free from sexual harassment. Sexual harassment and any form of sex discrimination including harassment based on gender or sexual orientation will not be tolerated by the DCA. Therefore, for the purposes of this policy, "Zero Tolerance" means: 1) inappropriate behavior and policy violations will be addressed seriously and 2) appropriate corrective action(s) or disciplinary action(s) will be taken when policy violations occur, even if violations are not so serious as to be unlawful. For example, even though a sexual comment does not in itself rise to the level of creating a hostile work environment under the law, such a comment is unacceptable in the workplace, violates the DCA's Zero Tolerance Policy, and will be subject to a corrective action.

A program to eliminate sexual harassment from the workplace is not only required by law, but it is the most practical way to avoid or limit damages if harassment should occur despite preventative efforts.

## **AUTHORITY**

- Title VII of the Civil Rights Act of 1964
- California Government Code Sections 12925-12928
- California Government Code Sections 12940-12951
- California Government Code Section 19572(w)
- California Government Code Sections 19700-19706
- California Fair Employment and Housing Act, commencing with Government Code Section 12900 et seq.
- California Code of Regulations, Title 2, Sections 7287.6 and 7291.1
- California Civil Code Sections 51.9 and 52
- California Executive Order B-54-79
- 29 Code of Federal Regulations Section 1604.11
- Penal Code Section 422.76

Government Code Section 12926 has been amended to expand the prohibition on sexual discrimination and harassment by including gender, as defined, in the Sex and Gender section of this policy.

Government Code Section 12949 provides that an employer shall allow an employee to appear or dress consistently with the employee's gender identity. Nothing in this part relating to gender-based discrimination affects the ability of an employer to require an employee to adhere to reasonable workplace appearance, grooming and dress standards not precluded by other provisions of state or federal law.

## **DEFINITION OF SEXUAL HARASSMENT**

Sexual harassment is defined as unsolicited, unwanted and unwelcome sexual advances, requests for sexual favors, sexual demands and or other verbal, physical, visual or written conduct of a sexual nature directed to persons of the same or opposite sex, when it unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment.

Such acts are considered sexual harassment when:

1. Submission to such conduct is either an explicit or implicit term or condition of employment.
2. Submission to, or rejection of, such conduct is used as a basis for an employment decision affecting the individual.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

The courts have defined two forms of sexual harassment:

1. **Quid Pro Quo** (Latin, meaning "this for that") or conditional sexual harassment: This form of sexual harassment occurs when a supervisor or manager:
  - Demands, as an explicit or implied term or condition of employment decisions, a subordinate submit to sexual advances (this may include situations which began as reciprocal relationships, but which later ceased to be reciprocal): and/or
  - Makes requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature that is an explicit or implied term or condition of employment decisions.

Examples of quid pro quo harassment include:

- Requests for sexual favors in exchange for a promotion or raise;
  - Express or implied statement that a person will be demoted or fired if he or she does not submit to a sexual request or actually carrying out a threat.
2. **Hostile Work Environment** – This form of sexual harassment occurs when an individual is subjected to unwelcome sexual advances or other gender based conduct that is sufficiently severe or pervasive to interfere with an individual's work performance or creates an intimidating, hostile, or offensive work environment. The courts look at the totality of the circumstances surrounding the alleged incidents of harassment to determine whether unlawful conduct has occurred. A single incident involving unwelcome sexual behavior is harassment, but may not necessarily serve as a basis for a hostile work environment complaint unless it is either severe or repeated, and management does nothing to stop the behavior.

The Fair Employment and Housing Commission, California appellate courts, and the Ninth Circuit Court apply the standard of a **reasonable person of the same gender** as the complainant to their evaluation of whether the conduct is severe or pervasive enough to create a hostile work environment. This standard, known as the Ellison Standard after the precedential court case of this name, recognizes that men and women react differently to unwanted sexual conduct. It acknowledges that conduct that many men consider harmless is often objectionable and offensive to the "reasonable woman." The Ellison Standard instructs the fact-finder to evaluate the unwanted sexual conduct in light of the gender-specific experiences and perspective of the victim.

A consensual relationship may lead to claims by non-involved employees who believe that they were disadvantaged when favoritism is shown to a paramour, but is not shown to an employee who did not have a romantic relationship with the employee granting the favors. If such sexual favoritism is widespread, it can create an atmosphere where employees believe they must consent to such relationships as a term or condition of employment.

Any employee, who initiates or persists in conduct that is viewed by another as being of a sexual nature, assumes the risk of liability and the possible penalties for such conduct. An employee who violates the DCA Sexual Harassment Prevention Policy may face a range of disciplinary actions, including dismissal. Furthermore, offending employees, including supervisors and non-supervisors, can be held personally liable for monetary damages (and may be required to pay for their own attorney) if an offended employee files a lawsuit.

**Intent vs. Impact** – Whether the conduct is considered unwelcome is determined by the recipient of the behavior. The intent of the alleged harasser is irrelevant. Therefore, it is the **impact** of the behavior and the victim’s perception of the situation, not the **intent** of the alleged harasser that determines if sexual harassment has occurred.

## **TYPES OF SEXUAL HARASSMENT**

Sexual harassment is behavior that threatens, intimidates, humiliates, embarrasses, or irritates. Types of prohibited sexual harassment include, but are not limited to the following:

**Written:** Sexually aggressive or obscene letters, notes, email messages, or invitations.

**Visual:** Leering, or making sexual gestures. Displaying sexually suggestive objects, pictures, cartoons, posters or drawings in hard copy or on-line.

**Verbally:** Using sexually patronizing terms such as “honey,” “doll,” or “babe,” using sexually derogatory comments, slurs, jokes, remarks, invitations, epithets, or making verbal sexual advances or propositions.

Note: In addition to using graphic or sexually explicit language, other gender-neutral language, spoken in a suggestive tone of voice or accompanied by visual or physical harassment, can also be considered sexual harassment.

**Physical:** Sexual assault, attempted rape, impeding or blocking movements, touching or indecent exposure, such conduct, even in a single incident, may constitute actionable sexual harassment or criminal conduct. Criminal violations should be reported immediately to the proper law enforcement authorities. Common physical gestures like hugging or other physical contact can be properly taken in context with other comments and/or behaviors.

**Other:** Sexual advances which are unwanted. This may include situations that began as reciprocal attractions, but later ceased to be reciprocal. Reprisals or threats after a negative response to sexual advances; implying or actually withholding support for appointment, promotion, transfer or change of assignment; initiating a rejection on probation, an adverse action, or suggesting that a poor performance report will be prepared, if requests for sexual favors are not met. Hazing employees in the work environment; this may include being dared or asked to perform unsafe work practices, or having tools and equipment stolen, moved, etc. because of a person's gender or sexual orientation; causing an employee to feel stressed about a situation involving unwelcome behavior of a sexual nature.

## **DEFINITION OF SEX AND GENDER**

Sex includes, but is not limited to pregnancy, childbirth, or medical conditions related to pregnancy, or childbirth. Sex also includes, but is not limited to, a person's gender.

Gender is defined as the employee's or applicant's actual sex or the employer's perception of the employee or applicant's sex, and includes the employer's perception of the employee's or applicant's identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the employee or applicant's sex at birth.

Sexual orientation means heterosexuality, homosexuality, and bisexuality.

## **ROLES AND RESPONSIBILITIES**

Government Code Section 12940(j) requires an entity to take "all reasonable steps to prevent harassment from occurring." If an employer has failed to take such preventative measures, the employer can be held liable for the harassment. DCA managers and supervisors who do not enforce a work environment free of sexual harassment, or who do not provide adequate guidance and assistance to employees are subject to disciplinary action.

### **Employees are responsible for:**

Under State law, any person (employee) may be personally liable for his/her own acts of unlawful harassment, including harassment based on sex or gender per Government Code Section 12940. This means that a co-worker who harasses his or her colleagues may have a judgment levied against his or her own assets. Therefore, each employee has the responsibility not to engage in sexually harassing conduct.

All employees who perceive they are victims of sexually harassing behavior should understand the importance of promptly informing the individual(s) that his/her behavior is unwelcome, offensive, in poor taste, or highly inappropriate. Any employee who perceives the comments, gestures, or actions of another employee or supervisor to be sexually harassing should communicate to that person that such behavior is unwelcome. However, failure to express opposition to the unwelcomed behavior does not prevent the employee from filing a complaint nor does it in any way exonerate the harasser.

Any employee, including a supervisor, who believes he/she has been sexually harassed or asked to perform a sexual favor, should immediately report the incident to a supervisor. If the harasser is the employee's supervisor or if the employee does not feel that the situation was adequately resolved, he/she should report the incident(s) to a higher-level supervisor or to the EEO Office.

Any employee who witnesses this type of behavior is strongly encouraged to report it to an appropriate supervisor. If the harasser is an employee's immediate supervisor, the witness should report the incident to another supervisor or to the EEO Office.

If the harasser is an employee of a another department in State government, a non-employee, contractor, or vendor, the harassed employee, and any employee witnessing the incident, is strongly encouraged to report the incident to their supervisor or the EEO Office.

### **All managers and supervisors have a responsibility to:**

- Follow the procedures for reporting a Sexual Harassment Complaint listed in this document when employees report complaints of sexual harassment;
- On an annual basis, ensure that all employees are given DCA's *Discrimination Policy and Complaint Procedures* and *Sexual Harassment Prevention Policy* prior to the need to know.
- After each annual review of the policies, ensure that each employee reads and signs the "Acknowledgement of Receipt and Understanding" forms for each EEO policy and sends the forms to the EEO Office;
- Ensure that all subordinate managers/supervisors and employees attend mandatory sexual harassment prevention training;
- Establish and maintain a working environment that is free from discrimination, intimidation, ridicule, and insult;
- Take immediate and appropriate corrective action to prevent or stop sexual harassment. This responsibility applies even if the complaint is withdrawn or if the complainant requests that no action be taken. Once a manager/supervisor has knowledge of an alleged act of sexual harassment, he/she has a duty to follow through with a preliminary investigation and immediately notify the EEO Office for direction;
- Make best efforts to ensure that complaints (formal or informal) are investigated in a timely, thorough, and confidential manner and are immediately reported to the EEO Office.

Under State law, managers/supervisors who engage in sexual harassment may be held personally liable for harassment.

### **The Department is responsible for:**

- The actions of managers and supervisors, and for acts of other employees and non-employees if management knew, or should have known, of such acts and failed to take immediate and appropriate action.
- Ensuring that all employees are informed of the DCA's discrimination complaint process and sexual harassment prevention policy prior to the need to know, and again when a complaint is brought forth.
- Providing complainants an opportunity to discuss the matter with a trained EEO Counselor/Specialist.
- Investigating complaints of sexual harassment in a timely, thorough and confidential manner.
- Taking appropriate action against the harasser where a violation of the policy has occurred or sexual harassment is found.
- Taking action to remedy the situation in a manner, which protects potential future victims.
- Protecting the employee(s) complaining of harassment from any form of reprisal/retaliation.
- Annually providing all employees with a copy of the *Sexual Harassment Prevention Policy*, and *Non-Discrimination Policy*, and *Complaint Procedures* in a manner that ensures receipt of the notice.

- Conducting or sponsoring mandatory sexual harassment prevention training, such as interactive classroom or on-line computer based training. As part of Assembly Bill (AB) 1825 (Reyes, Chapter 933, Statutes of 2004), supervisors and managers are required to attend training every two years. Rank and file employees are mandated by departmental policy to attend similar training in the same training year as supervisors and managers. The EEO Office will determine the training cycle and announce the mandatory classes for all employees.

## **PROCEDURES FOR REPORTING A SEXUAL HARASSMENT COMPLAINT**

### **Filing a Complaint**

All Sexual Harassment complaints are considered formal complaints and will be investigated. Any employee, consumer, applicant or licensee who believes he/she has been sexually harassed may file a written complaint with the DCA's EEO Office in accordance with the Non-Discrimination Policy and Complaint Procedures, (EEO 11-01), using the attached Sexual Harassment/ Discrimination Complaint Form (DCA 99K-60). The EEO Office has jurisdiction over a complaint if the last incident occurred within 365 days of filing.

Employees may also concurrently file a complaint with the California Department of Fair Employment and Housing (365-day filing period), and/or the Federal Equal Employment Opportunity Commission (300-day filing period).

Employees who believe they are or have been the victims of sexual harassment should report the incident promptly to their supervisors. The employee's supervisor will follow the DCA procedures to conduct a preliminary investigation of the incident and report it immediately to the EEO Office for direction.

If the alleged harasser is the employee's supervisor, the employee should immediately contact either a higher-level manager/supervisor or the EEO Office.

All criteria, including timelines and the appeal process, as specified in the Non-Discrimination Policy and Complaint Procedures, will be followed to investigate and resolve complaints of sexual harassment.

The EEO Office is responsible for providing leadership in resolving informal and formal complaints of discrimination by working with complainants, providing EEO counseling, and/or investigating complaints as necessary. A complaint can be received formally or informally, directly from the complainant, with or without the supervisor's knowledge.

A supervisor must forward a complaint of sexual harassment to the EEO Office for investigation after his/her initial review or preliminary investigation.

A third party (a witness to an incident who is offended by the conduct) can also bring a complaint to the attention of the EEO Office.

## **Responding to Complaints:**

The EEO Office is responsible for developing and implementing a plan to resolve discrimination complaints. Based on the nature of the allegations, the plan can include: (1) EEO counseling, (2) informal complaint resolution procedures, or (3) formal complaint investigation and findings. Throughout the investigation, only people who have a business need to know will be informed of the investigation and everyone with whom the investigator talks will be required to keep the investigation confidential.

## **Role of the Manager/Supervisor in Complaints of Sexual Harassment:**

When a complaint of sexual harassment is brought to the attention of a manager/ supervisor, it is the manager /supervisor's responsibility to:

- Listen to the complaint as soon as it is brought to your attention. Do not postpone the meeting with the alleged victim.
- Do not promise confidentiality or anonymity, although you can promise discretion. Inform the employee that the Department must take appropriate action even if the employee insists that no investigation occur or that nothing be done.
- Permit the employee to tell his/her story without interruption.
- Listen objectively. Do not judge the employee or imply that the employee may have "asked for it" or invited the alleged advances or conduct.
- Document the incident. Obtain the details of the alleged harassment, the names of possible witnesses, and a description of how the alleged harassment affected the employee's well being and work environment. Ask for any documentation from the complainant to support the allegations.
- Ask the employee to describe his/her current, and/or former relationship with the alleged harasser, and whether that person is a co-worker, supervisor, subordinate, or friend. Determine if the parties have had any other difficulties working together.
- Ask the employee if he/she objected verbally to the alleged conduct or indicated to the alleged harasser that the conduct was unwanted or unwelcome.
- Determine the remedy sought by the employee.
- Assure the employee that you take the matter seriously and will make an immediate inquiry into the allegation. Notify the employee that you will contact and seek the assistance of the DCA's EEO Office.
- Advise the employee of his/her right to file a discrimination complaint. Provide the employee with a copy of the Department's *Sexual Harassment Prevention Policy* and the *Non-Discrimination Policy & Complaint Procedures*, including the *Statement of Rights (99K-70)*.
- Remind the employee of his/her right to be free from reprisal/retaliation for complaining. Advise the employee that he/she should immediately bring any incidents of reprisal/retaliation to your attention.
- Advise the employee of his/her right to use the services of the Employee Assistance Program (EAP). Document the reminder.
- Record and document the complaint and perform an immediate preliminary investigation to determine the validity of the complaint. Document all reminders that the employee has a right to file a discrimination complaint, the right to be free from retaliation, and the right to a harassment free work environment.

- **Contact the EEO Office immediately** to discuss the incident and your actions to date. You may be advised to meet with the alleged harasser and to put him/her on notice to immediately stop the alleged behavior. Give the alleged harasser copies of the EEO policies.
- Provide a copy of your preliminary investigation report to the EEO Office, regardless of the findings.
- Cooperate fully with the EEO Office if an investigation is initiated to determine the pervasiveness or severity of the alleged harassment.
- In conjunction with the EEO Office, initiate appropriate and immediate action against the alleged harasser (respondent) where sexual harassment is found.

## **CONSEQUENCES / VIOLATIONS**

Violators of this policy will be subject to immediate disciplinary action, which may include letters of reprimand, suspension, demotion, and/or dismissal. The violator may also be subject to civil and/or personal liability.

The Department also recognizes that false accusations of sexual harassment can have a serious effect on an innocent person's reputation and character and, therefore, any individual found to have filed a false accusation/complaint may be subject to disciplinary action. Each complaint will be evaluated on a case-by-case basis.

All employees who testify in EEO investigations are required to cooperate with the investigation and to tell the truth. Employees who do not cooperate or who compromise the integrity of the investigation by violating confidentiality may be subject to disciplinary action.

Supervisors/managers may be subject to disciplinary action for failure to take appropriate and expedient corrective action to ensure a safe work place.

## **PROVISIONS**

To ensure that DCA employees are aware of the laws that protect them from discrimination and the process involved in reporting discrimination based on sexual harassment.

## **REVISIONS**

Determination of the need for revision of this policy is the responsibility of the Manager of the Equal Employment Opportunity (EEO) Office. Questions about specific sexual harassment issues should be directed to the EEO Office at (916) 574-8281. Policy information can also be found on the EEO Office's Intranet webpage at <http://inside.dca.ca.gov/eo/index.html>

Specific questions regarding the status or maintenance of this policy should be directed to the Policy & Publications Development (PPD) Office at (916) 574-7370.

## **ATTACHMENTS**

- Attachment A: *Annual Acknowledgement of Receipt and Understanding of the Sexual Harassment Prevention Policy Form, DCA 99K-80 (Rev. 12/11)*
- Attachment B: *Discrimination Complaint Process Statement of Rights Form, DCA 08K-70, (Rev 11/10)*
- Attachment C: *Equal Employment Opportunity Office Sexual Harassment/Discrimination Complaint Form, DCA 08K-60 (Rev. 12/11)*
- Attachment D: *Sexual Harassment/ Discrimination Complaint Form Instructions; DCA 99K-61 (Rev. 12/11)*
- Attachment E: *California Department of Consumer Affairs Privacy Policy Statement*

Every employee must acknowledge that he/she has read and understood this policy **on an annual basis**. Please complete, sign, date the acknowledgement form, and return it to the EEO Office as indicated on the form.



**ANNUAL  
ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING OF  
SEXUAL HARASSMENT PREVENTION (SHP) POLICY**

This is to acknowledge receipt of the Department's Sexual Harassment Prevention Policy

I have read this policy and understand that:

- 1) Every employee has the right to work in an environment free from sexual harassment;
- 2) I have a responsibility not to engage in behaviors that constitute sexual harassment;
- 3) If I feel I am being harassed, I have the right, and understand that the Department strongly encourages me, to either communicate this directly to the harasser, to my supervisor, to a non-involved supervisor/manager, or the Department's Equal Employment Opportunity (EEO) Office;
- 4) I have the right to file a sexual harassment complaint without threat of reprisal or retaliation.

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Signature) Please complete in Ink

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Board/Bureau/Division/Program

**COMPLETED FORM SHOULD BE RETURNED TO:**

Department of Consumer Affairs  
Equal Employment Opportunity (EEO) Office  
1625 North Market Blvd., Suite N-330  
Sacramento, CA 95834

Note: This document will be inserted into your Official Personnel File

***DISCRIMINATION COMPLAINT PROCESS  
STATEMENT OF RIGHTS***

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With regard to complaints of discrimination, all employees are assured of the following rights:

1. The right to an informal, confidential presentation of the complaint to a qualified Equal Employment Opportunity (EEO) Counselor, using a reasonable amount of State time.
2. The right to a confidential complaint until:
  - Such time as the complainant gives permission to release information in order to bring the complaint to the appropriate authority for remedy; or
  - Such time as a formal complaint is filed; or
  - Such time as appropriate action must be taken to resolve the situation.

*In some cases, (i.e., sexual harassment), the Complainant should be aware that complete confidentiality cannot be assured because of the legal obligation to take immediate and corrective action.*

3. The right to a full, impartial, and prompt investigation by a trained EEO Investigator, if a formal complaint is filed.
4. The right to a notification of the findings.
5. The right to a timely decision from the appointing power or authority designated by the appointing power after full consideration of all relevant facts and circumstances.
6. The right to representation by a person of the complainant's own choosing at each step of the process.
7. The right to file concurrent complaints with the Equal Employment Opportunity Commission (EEOC), the Department of Fair Employment and Housing (DFEH), and the State Personnel Board (SPB), or other appropriate State and Federal compliance agencies; or to file a civil action in the appropriate court.
8. The right to appeal the appointing power's decision to the Executive Officer of the SPB.
9. Freedom from influence to refrain from filing a complaint, and freedom from reprisal for opposing discrimination and filing a complaint. Complaints of reprisal may be filed directly with the SPB.

*A Complainant is obligated to provide accurate and factual information during all phases of the complaint process.*

**I have read and understand these rights.**

*Complainant's Signature* \_\_\_\_\_

*Date:* \_\_\_\_\_ *Board/Bureau/Division/Program* \_\_\_\_\_



DAY \_\_\_\_\_ MONTH \_\_\_\_\_ YEAR \_\_\_\_\_

VI. **DESCRIPTION OF DISCRIMINATION:** *Describe fully the alleged discriminatory act and/or violation. Provide what reason or evidence you have to support your feeling that discrimination occurred. Please include dates. (Attach additional pages, if necessary.)*

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VII. **PERSON (S) WHO HAVE INFORMATION OR KNOWLEDGE OF THE ALLEGED DISCRIMINATION:** *List name (s) of witness (es).*

NAME	WORK LOCATION	PHONE NUMBER

VIII. **REMEDY REQUESTED:** *Describe your desired outcome.*

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IX. **COMPLAINANT SIGNATURE:**

*I believe the foregoing to be true and correct to the best of my knowledge.*

\_\_\_\_\_  
Complainant's Signature

\_\_\_\_\_  
Date

**SEXUAL HARASSMENT/ DISCRIMINATION COMPLAINT FORM**  
**INSTRUCTIONS**

**PLEASE NOTE:** The Sexual Harassment/Non-Discrimination Complaint Form must be filed with the Department of Consumer Affairs (DAC) Equal Employment Opportunity Office within 365 days of the last incident of discrimination. Please submit the Sexual Harassment/Non-Discrimination Complaint Form to the DCA EEO Office, at 1625 North Market Blvd., Suite N-330, Sacramento, CA 95834.

**I. COMPLAINANT INFORMATION:** Please Print Legibly

- Name:** Complainant's first and last name
- Email Address:** Complainant's email address
- Work Address:** Complainant's full address, include city, state and zip code
- Home Address:** Complainant's full address, include city, state and zip code
- Classification:** Complainant's classification
- Office Unit or Section:** Complainant's Board, Bureau, Program Unit or Section
- Work Telephone:** Complainant's office telephone number
- Home Telephone:** Complainant's home telephone number
- Immediate Supervisor:** Complainant's immediate supervisor

**II. BASIS OF DISCRIMINATION:** Please check appropriate box (es).

Check the area (s) on the EEO Complaint Form in which you have been discriminated against based on:

<input type="checkbox"/> Age (40 years or older)	<input type="checkbox"/> Medical Condition <input type="checkbox"/> Genetic Information	<input type="checkbox"/> Pregnancy	<input type="checkbox"/> Sexual Harassment/ Quid Pro Quo or Hostile Work Environment
<input type="checkbox"/> Ancestry	<input type="checkbox"/> Marital Status	<input type="checkbox"/> Race	<input type="checkbox"/> Sex (Gender)
<input type="checkbox"/> Color	<input type="checkbox"/> National Origin	<input type="checkbox"/> Religion	<input type="checkbox"/> Sexual Orientation
<input type="checkbox"/> Disability	<input type="checkbox"/> Political Affiliation/Opinion	<input type="checkbox"/> Retaliation	<input type="checkbox"/> Vietnam Era Veteran <input type="checkbox"/> Other Military Status
<input type="checkbox"/> Harassment (Specify Basis) <u>insert protected group category.</u> *See also, the attachment entitled "Basis of Discrimination" for more information and examples of protected group categories.			

**III. PERSON (S) RESPONSIBLE FOR THE ALLEGED ACTION:**  
Please enter all available information. Provide the name (s), work location and phone number of the person (s) that have discriminated against you.

**IV. DATE OF FIRST INCIDENT OF DISCRIMINATION:**  
Please enter day, month, and year.

**V. DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE:**  
Please enter day, month, and year.

**VI. DESCRIPTION OF DISCRIMINATION:**  
Please provide an explanation of how you were discriminated against and describe fully the alleged discriminatory act and/or violation. Provide the reason(s) and/or evidence you have to support your allegation that discrimination occurred. Please include dates. (Attach additional pages, if necessary.)

It is important to note that treatment that may be perceived as "unfair" may not necessarily be unlawful under the law or violate the Department's Non-Discrimination policies. Certain employment actions may be harsh, insensitive or unjust, but they do not become unlawful under the law or violate the Department's policies unless the unfair treatment is motivated in part because of a person's protected status.

**VII. PERSON (S) WHO HAVE INFORMATION OR KNOWLEDGE OF THE ALLEGED DISCRIMINATION:** List name (s) of witness (es).  
Please enter all available information:

**VIII. REMEDY REQUESTED:** Describe your desired outcome.

**IX. COMPLAINANT SIGNATURE:**  
I believe the foregoing to be true and correct to the best of my knowledge.

Complainant's signature and the date that the complaint was filed.

**Please submit the Sexual Harassment/Discrimination Complaint Form to DCA EEO Office, 1625 North Market Blvd., Suite N-330, Sacramento, CA 95834.**

# California Department of Consumer Affairs

## Privacy Policy Statement

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The California Department of Consumer Affairs (DCA) is committed to the free flow of information that can help consumers make good marketplace decisions. The DCA is also committed to promoting and protecting the privacy rights of individuals, as enumerated in Article 1 of the California Constitution, the Information Practices Act of 1977, and other state and federal statutes.

It is the policy of the DCA and its constituent agencies to limit the collection and safeguard the privacy of personal information collected or maintained by the DCA or by any of its constituent agencies. The DCA's information management practices are consistent with the Information Practices Act (Civil Code section 1798 et seq.), the Public Records Act (Government Code section 6250 et seq.), Government Code sections 11015.5 and 11019.9, and with other applicable laws pertaining to information privacy.

The DCA follows these principles in collecting and managing personal information:

- **We collect personal information on individuals only as allowed by law.** We limit the collection of personal information to what is relevant and necessary to accomplish a lawful purpose of the DCA. For example, we need to know someone's address, telephone number, and social security number, among other things, to properly identify the person before issuing a professional license. Personal information, as defined in the Information Practices Act, is information that identifies or describes an individual including, name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history.
- **We do not collect home, business or e-mail addresses, or account information from individuals who simply browse our Internet websites.** The information that we automatically collect includes your domain name or Internet Protocol address, the type of browser and operating system you used, date and time you visited the site, web pages you visited, and any forms you downloaded. Cookies are simple text files stored on your computer by your web browser. We do not use cookies to collect or store personal information. We collect personal information about you through our website only if you provide it to us voluntarily through e-mail, registration forms, or surveys.
- **We inform individuals who provide personal information to the DCA the purpose for which the information is collected.** We inform individuals who are asked to provide personal information about the general uses that we will make of that information. We do this at the time of collection. With each request for personal information, we provide information on the authority

under which the request is made, the principal uses we make of the information and the possible disclosures we are obligated to make to other government agencies and to the public.

- **We inform individuals who provide personal information about their opportunity to review that information.** The DCA allows individuals who provide personal information to review the information and contest its accuracy or completeness.
- **We use personal information only for the specified purposes, or purposes consistent with those purposes, unless we get the consent of the subject of the information, or unless required by law or regulation.** The Public Records Act exists to ensure that government is open and that the public has a right to have access to appropriate records and information possessed by state government. At the same time, there are exceptions in both state and federal law to the public's right to access public records. These exceptions serve various needs, including maintaining the privacy of individuals. In the event of a conflict between this Policy and the Public Records Act, the Information Practices Act or other law governing the disclosure of records, the applicable law will control.
- **We use information security safeguards.** We take reasonable precautions to protect the personal information on individuals collected or maintained by the DCA against loss, unauthorized access, and illegal use or disclosure. On our websites, we protect the security of your personal information during transmission by using Secure Sockets Layer (SSL) software, which encrypts the information you type in. Personal information is stored in secure locations. Our staff are trained on procedures for the release of information, and access to personal information is limited to those staff whose work requires it. Confidential information is destroyed according to the DCA's Records Retention Schedule. The DCA conducts periodic audits to ensure that proper information management policies and procedures are being followed.
- **We will provide additional explanations of our Privacy Policy, if requested.** If you have further questions about the DCA's Privacy Policy, you may contact the Information Security Office at 1625 North Market Boulevard, Sacramento, CA 95834, or by e-mail: [dca@dca.ca.gov](mailto:dca@dca.ca.gov).

# CALIFORNIA BOARD OF ACCOUNTANCY PER DIEM AND TRAVEL EXPENSE WORKSHEET

Claimant Name \_\_\_\_\_ Vehicle License Plate # \_\_\_\_\_

Method of travel from headquarters to meeting (Check all that apply) Auto\*  Airline\*  Rail  Taxi  Shuttle  Other

Method of travel from airport to meeting (if applicable) Taxi  Shuttle  Other  \_\_\_\_\_

Method of travel from meeting to airport (if applicable) Taxi  Shuttle  Other  \_\_\_\_\_

Airfare Amount \$ \_\_\_\_\_ (Check one) Charged to DCA  Paid by employee

Auto Rental Amount \$ \_\_\_\_\_ (Check one) Charged to DCA  Paid by employee

List Names of all Vehicle Passengers \_\_\_\_\_

Mileage Claimed is from \_\_\_\_\_ to \_\_\_\_\_

**\*Airline itinerary and auto rental receipts must be included with claim, regardless of the payor.**

**PER DIEM CLAIM SECTION:** (Please Print Legibly)

ACTIVITY or Case Name/ Number	PURPOSE	Month/Day/Year	TIME From:	TIME To:

**TRAVEL EXPENSE CLAIM SECTION:** (Please Print Legibly)

#1 Date Depart and Return	#1 Time Depart And Return	#2 LOCATION WHERE EXPENSES WERE INCURRED	#3 LODGING **	#4 ACTUAL \$ AMOUNT & SPECIFY MEAL CLAIMED (i.e. B/L/D)			#5 Transportation COST and TYPE: Taxi, Shuttle, Bus Parking, Tolls Train and Air**	Private Vehicle MILEAGE	#6 BUSINESS EXPENSE Other
				B	L	D			

\*\* Attach receipts for ALL expenses except meals. (We do not need receipts for meals; however; you **MUST** keep them for your own tax and internal audit purposes.) **PLEASE NOTE:** if you provide no dollar amount in the meal portion of the worksheet, no meal reimbursement will be provided.

**I HEREBY CERTIFY** that the above is a true statement of the per diem time worked and travel expenses incurred by me.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Please mail to:

California Board of Accountancy, Attention Travel Claims Coordinator, 2000 Evergreen St., Suite 250, Sacramento, CA 95815-3832

## PER DIEM/TRAVEL REIMBURSEMENT GUIDELINES

It is important that all Per Diem/Travel Expense Worksheets contain complete and legible information as well as supporting documents. Incomplete Per Diem/Travel Expense Worksheet must be returned for corrections, which will delay processing and payments of claims.

Per Diem for services and attendance at regularly scheduled Board or Committee meetings must be reported on the Per Diem/Travel Expense Worksheet. Please submit one worksheet per calendar month. The Worksheet must be received in the Board office by the 7<sup>th</sup> working day of the following month so that Controller's filing deadline of the 15<sup>th</sup> of the month can be met without cost to the Board.

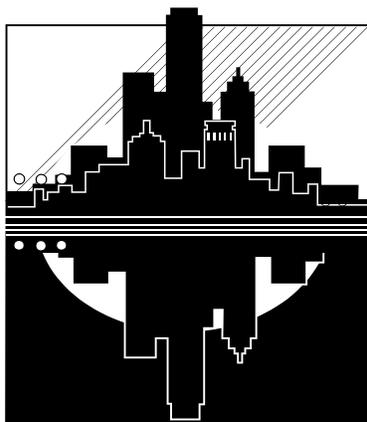
### Per Diem

- ◆ Do not include travel time in the Per Diem section, only the time of the actual meeting.
- ◆ All meetings of the Board and its Committees will qualify for an 8-hour per day Diem. If you do work for the Board other than meetings, you will be paid for actual hours worked. The Personnel Technician will hold your time until you have accumulated 8-hours before submitting the time to the Department.
- ◆ Please be advised that the Board of Accountancy has to pay a fine for delays.

### Travel Expense Claim

- ◆ Please include date and time – Include date and time of departure and date and time of return.
- ◆ Please include the location where expenses were incurred.
- ◆ Include all receipts for lodging. (NOTE: The lodging receipts must be broken down. The State will only pay \$90.00 before taxes. The amount of reimbursement depends on the county.) The amount of tax is not restricted.
- ◆ Provide receipt for all transportation cost, except for mileage. **ALWAYS ENCLOSE YOUR AIRLINE ITINERARY**, even if your ticket was purchased by the State through SWABIZ.
- ◆ A receipt is required for any business expense over \$1.00.
- ◆ For postage and telephone charges, a justification form must be completed and attached to the receipt.
- ◆ You must include your vehicle license number on the Per Diem/Travel Expense Worksheet.
- ◆ All **MEALS** claimed are to be for the **ACTUAL AMOUNT OF EXPENSE** up to the maximum allowed. Submission of receipts is not required; however; it is the member's responsibility to retain receipts of the expense and have them available for audit.
- ◆ **PLEASE NOTE:** If you provide no dollar amount in the meal portion of the worksheet, no meal reimbursement will be provided.

# DEPARTMENT OF CONSUMER AFFAIRS TRAVEL GUIDE



Office of Administrative Services  
Accounts Payable Unit  
January 2013

### *Disclaimer*

*Bargaining Contracts, Department of Personnel Administration (DPA), Departmental Policy and the State Administrative Manual (SAM) sets forth the information contained in this Travel Guide. If any of the information within is in conflict with the most recent provisions set forth by the said mentioned above then those provisions will supersede this guide. Information provided in this guide is routinely updated by various control agencies. The traveler or user of this guide must always make sure they have the most current information.*

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## CHAPTER 1 INTRODUCTION AND DEFINITIONS

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### *Introduction*

The purpose of this guide is to provide and define the basic travel reimbursement rules for employees who are required to travel on official state business, methods of travel that are available, and how to use them. In accordance with the State Bargaining Contracts, Department of Personnel Administration Sections 599.615 - 599.638.1 and the State Administrative Manual (SAM) Section 0700. If any of the information herein is in conflict with the most recent provisions set forth by the bargaining contract or government code sections cited above, then those provisions will supersede this guide. In addition, information provided in this guide is routinely updated by various control agencies. The traveler or user of this guide must always make sure they have the most current information.

Note: The travel reimbursement program is subject to Internal Revenue Service (IRS) requirements. There are no flat reimbursement rates. All items claimed are to be for the actual amount of the expense, up to the maximum rates allowed for all State officers, employees, and agents of the State traveling on official state business.

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### *Who can file a claim*

**All DCA employees** and any agent of the State (listed below) may request a travel advance and/or travel reimbursement using the appropriate department forms. Certain restrictions may apply (See reference-related section for specific requirements).

**Statutory Board Members** are individuals appointed to serve on boards or commissions established by law. Members are appointed by the Governor, Legislature or Department Head. Reimbursement for necessary travel expenses is based on the rates for non-represented employees.

**Non-Statutory Board Members** are individuals appointed to serve on boards, commissions or task forces that are created by agency secretaries, department directors, or executive officers on an as-needed basis to fulfill the department's mission. Reimbursement for necessary travel expenses is based on the rates for non-represented employees.

**Proctors** are intermittent hires through State Personnel Board. Proctors administer written or physical agility exams for civil service classification. Reimbursement for necessary travel expenses is based on the rates for non-represented employees.

**Volunteers** are individuals who voluntarily perform services for the State without pay. The volunteer must sign an Oath of Allegiance, which is kept on file at the department with the Volunteer Service Agreement. Volunteers will be reimbursed for necessary travel expenses at the rate negotiated for State employees performing comparable duties.

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## Terms

**Short Term Travel:** Expenses incurred at least 50 miles (one-way) from headquarters and/or residence when applicable, and is less than 31 consecutive days.

**Long Term Travel:** Travel that is in excess of 30 consecutive days becomes Long Term Travel. Specific reimbursement rates and reporting requirements apply, contact your Travel Liaison.

**Per Diem Expenses:** State business meals, lodging and all appropriate incidental expenses incurred while on travel status.

**Transportation Expenses:** Various modes of transportation used while on official state business. For example: airfare, vehicle, taxi and shuttles expenses.

**Business Expenses:** Charges necessary to the completion of official state business; such as business phone calls, emergency clothing and emergency supplies. All purchases shall be justified, and if the total business expense is over \$25.00, the claim must be approved by the DCA Fiscal Officer.

**Conference or Convention:** A meeting with a formal agenda, of persons to discuss or consult on specific work related subjects with the purpose of exchanging views, providing lectures or dialogue or providing or gaining skills and/or information for the good of the State. Require an approved training class request, must attached to Travel Expense Claim.

**Non-State Sponsored Conference:** Planned, arranged and funded by an outside entity.

**State Sponsored Conference:** Planned, arranged and funded by state agencies for the benefit of the State and/or outside parties for the purpose of conducting state business.

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## Policies

**Official Established Headquarters:** Shall be designated for each state officer and employee and defined as the place where the officer or employee spends the largest portion of their regular workdays or working time, or the place to which he/she returns upon completion of special assignments. In some instances, however, it may be in the best interest of the department to designate either an employee's residence address or an assigned geographic area as his/her headquarters. Home-as-headquarters and geographic area designations will be based upon a determination of "economic merit" for geographic and logistical circumstances where the State benefits from such a determination, either in increased efficiencies or reduced costs.

**Signature Authority:** The signature of the approving officer certifies that the traveler is authorized to travel, the expenses incurred were to conduct official State business and that the items claimed are appropriate and keeping within the rules that govern state business travel. Typically the approving officer would be the traveling employee's immediate supervisor.

The Deputy Director of Board Relation approves Board Presidents travel expense claims. Once they have been reviewed and initialed by the Executive Officer. The Board President shall approve the Executive Officers & the Board Members travel claims. All approving officers must have a signature card on file with the Cashier's Office.

**Note:** See DCA Policy, Form and procedures regarding Authorized Signatures posted on the DCA Intranet.

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## CHAPTER 2

### PER DIEM ALLOWANCES

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#### *Introduction*

The State provides for reimbursement of actual and necessary out of pocket expenses while traveling on state business. When determining the appropriate amount of reimbursement allowed for meals, lodging and incidentals, two criteria need to be considered distance and time. Employees on travel status must be at least 50 miles from home/headquarters. The most direct route determines this distance.

For Short Term Travel Status Per Diem (meals, lodging and incidentals), several factors need to be considered such as:

- The bargaining unit of the employee (Represented or excluded).
- Geographical location of travel must be at least 50 miles (one-way) from where the trip begins headquarters and/or home. Factors: Which is the closest distance? Is travel during normal working hours or not? Is it a second work site? Etc.
- The time frames the trip started and stopped.
- The type and location of facilities used for lodging.

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#### *Lodging Rates*

Short-term reimbursement rates for lodging expenses are as follows:

<b>Lodging Reimbursement</b>	<b>Up to the Maximum Rate</b>
Statewide (except for those listed below.)	<b>\$84.00</b> room rate plus taxes.
<b>Los Angeles &amp; San Diego County.</b>	<b>\$110.00</b> room rate plus taxes.
<b>Alameda, San Francisco, San Mateo &amp; Santa Clara Counties.</b>	<b>\$140.00</b> room rate plus taxes.
<b><i>For R-BU 2 employees only Orange &amp; Marin Counties</i></b>	<b>\$110.00</b> room rate plus taxes <i>with prior supervisor approval.</i>

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#### *Hotel Tax Waiver*

The Hotel/Motel Transient Occupancy Tax Waiver, Form 236 (New 9-91) should be used whenever possible. This form must be completed in advance and given to the hotel for their records. In most cases, employees must ask for the exemption at time of reservation. Some hotels will not honor the tax waiver.

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#### *Acceptable Receipts*

Lodging receipt must indicate the establishment's name, address, and check in/out date and time, number of occupancy, room rate, taxes and method of payment.

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#### *Sharing a Room*

When sharing a room with another state employee each person can claim ½ the room rate or one employee can claim the entire amount and reference the other person in the comment section. Both employees should file their travel expense claims at the same time and a copy of the other's claim should be attached to their own.

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## Meal Rates

There are no flat reimbursement rates. All items claimed are to be for the ACTUAL AMOUNT OF EXPENSE, up to the following maximum reimbursement amounts listed below. The employee (or agent of the state) shall not claim reimbursement for any meals provided by or included in the cost of the hotel stay, airfare, and conference or convention registration fee and/or provided by the terms stated in a state contract.

Expense	Max Reimbursement	Expense	Max Reimbursement
Breakfast	\$6.00	Dinner	\$18.00
Lunch	\$10.00	Incidental	\$6.00

---

## Less Than 24 Hours

The following table shows conditions under which a represented or non-represented employee may be reimbursed for meals while on travel status, if the trip is less than 24 hours:

Starts trip on OR before	Returns from trip on OR after	Entitled to
6:00 a.m.	9:00 a.m.	Breakfast
4:00 p.m.	7:00 p.m.	Dinner

**NOTE:** Board and Committee Members are entitled to meals, including lunch, on a one-day trip only when attending official scheduled Board or Committee meetings. These meal expenses are excused from the travel status mileage requirement, but all time requirements are applicable. (Example: Start trip at or before 11:00 a.m. and end at or after 2:00 p.m. to claim lunch). In addition, meals on trips of less than 24 hours will be reported as a taxable fringe benefit as required by the IRS.

---

## Over 24 Hours

If a trip is over 24 hours but less than 31 consecutive days, a represented or non-represented employee is entitled to Breakfast, Lunch and Dinner for every full 24 hour period of time while on travel status. The following table shows the meal entitlements for the last fractional period of time:

Starts trip on OR before	Returns from trip on OR after	Entitled to
0600	0800	Breakfast
1100	1400	Lunch
1700	1900	Dinner

---

## Incidentals

Incidental reimbursement is allowed for every full 24 hours of travel up to the maximum of \$6.00 for actual, necessary expenses. Incidentals include, but are not limited to, expenses for laundering/pressing of clothing and tips or gratuities for services such as porters and baggage handlers.

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## *Business Related Meals*

In rare instances, the cost of business-related meal expenses may be allowed. It must be clearly shown that it was impractical to conduct the State's business during working hours and that the meal took place in conditions beyond the employee's control. Justification should be provided on the TEC. The statement must include the purpose or goal of each business-related meal and the unusual conditions that justify payment. The employee may claim expenses not to exceed the breakfast, lunch or dinner allowance, whichever meal was consumed. The amount must be supported by a voucher or receipt for represented employees. Claims must include the establishment, the persons in attendance and the business conducted during the meal period. No reimbursement is allowed for the meal if the employee claims per diem for that day.

Allowable meals may include: participants from different cities hold a luncheon to allow one or more of them to make connections on a scheduled flight; an employee is required to go to lunch as a member of a group, such as a Board or Commission where official business is conducted; the meeting does not adjourn during the lunch and the employee has no choice of place to eat.

Non-allowable meals include: two or more employees go to lunch together and continue their business as an incidental to the meal; the meal is strictly for public relations purposes; when departments call meetings with their own and /or other department employees to conduct state business; the meeting could have taken place during regular working hours.

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## *Receipts*

Although the DCA does not currently require receipts for most meals or incidentals (except as noted above), the traveler must retain all their meal and incidental receipts for IRS purposes.

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## *Overtime Meals and Rates*

Overtime meal reimbursement is allowed when the employee works two excess hours either consecutive or contiguous to regular scheduled work hours. Rates and terms are defined by each bargaining unit contract as stated below. In determining the overtime hours worked for meal compensation, do not include any breaks for meals. Only one meal allowance may be claimed each day unless the employee has worked a minimum of 16 hours. For every six additional hours worked in excess of 10 hours, another meal allowance may be claimed, not to exceed three overtime meals within twenty-four hours.

<b>Bargaining Unit</b>	<b>Rate</b>	<b>Consecutive*</b>	<b>Contiguous*</b>
7 & 10	\$7.50	X	
1, 4, & 11	\$8.00		X
2, 9, 12, 19, & 21	\$8.00	X	
Excluded , 16 & 21 (exempt FLSA)	\$8.00	X	

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## *Definitions*

**Consecutive:** works either 2 hours before or 2 hours after normal work hours on a regular scheduled workday. Works 2 hours in excess of normal work hours on weekends, holidays, or regular scheduled day off (RDO).

**Contiguous:** Works 2 or more hours in excess of the number of hours worked on regularly scheduled workday.

**Excluded WWGE & Represented Employees Exempt From FLSA** is only entitled to overtime meals for extended arduous work.

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### *Arduous Work OT Meal\**

Meals for Extended Arduous Work. On those rare occasions when an employee who is in a work week group other than work week group 2 would be required to physically or mentally work 10 hours or more (not including any breaks for meals) for an extended period of time. The employee, with approval of the appointing authority, may claim the actual cost of an arduous work meal up to \$8.00. Such meals should only be approved when it is clear that the work schedule is consistently in excess of a normal full time schedule. Occasional extra hours worked, consistent with the nature of other than Work Week Group 2 work schedule; do not meet the criteria for Extended Arduous Work Meals.

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### *Excess Lodging Policy and Procedure*

Reimbursement for lodging expenses in excess of the state specified rates, excluding taxes, require prior written approval from DPA and/or the DCA. A completed Excess Lodging Request (STD 255C) form should contain:

- ✓ A list of at least three hotels contacted using the American Express Lodging guide website to obtain state rate lodging. Contact additional hotels if no state rate hotels are found within the work area.
  - ✓ Supporting documentation that a reasonable effort was made to locate lodging at the state-specified rates. Using only higher rate hotels in the documentation cannot be considered reasonable efforts.
  - ✓ Explain any applicable reasons for the state business need for an exception to the State's standard lodging rate.
  - ✓ Obtain all required signatures and submit the request to the DCA Travel Unit at least 15 working days prior to the trip, when possible.
  - ✓ Employees who incur expenses in excess of standard reimbursement will be responsible for the difference if the excess lodging request is denied.
  - ✓ Attach agendas for any conference or convention that would assist in the travel justification.
- 

### *Reasonable Accommodation*

Can be obtained through Health & Safety when travel requirements are a hardship to the employee for medical reasons with supporting documentation. Please obtain the Reasonable Accommodation approval prior to commencing the trip.

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### *Exception to Travel Status Policy*

It is the policy of the DCA to adhere to the rules and regulations as defined by the Department of Personal Administration (DPA) regarding the approval of requests for reimbursement within 50 miles of the employees home or headquarters when conducting official state business. Extreme Acts of God and Nature that place the employee in harms way are automatic and will be approved after the fact, when fully documented.

**Note:** All exceptions to travel status reimbursements will be reported as a taxable fringe benefit as required by the IRS.

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### *Exception Authority, Limits and Criteria*

The DPA delegated the exception to travel status authority to the Director of the DCA who delegated the authority to the Deputy Director. There is no other allowable signature authority for this delegation. This delegation is extended with the provision that it will be administered according to the criteria, considerations and record keeping requirements as stated below. All exceptions are subject to audit by the DPA. Exceptions are to be granted in advance of the occurrence by the appointing power.

This delegation does not extend to the approval of meals or lodging at either the home or headquarters location. There is no allowance for any increase in the standard short-term travel reimbursement rates for meals and lodging or partial exceptions, such as lodging allowance without meals. When exceptions meet all the requirements and are granted by the Deputy Director, the employee is entitled to full short term travel reimbursement rates. This exception is not to be used in lieu of overtime for one-day travel.

Exception requests will be considered under a limited number of circumstances, when the employee is required to be away from his/her home and headquarters locations for more than a single day, but less than 50 miles. Based on the nature of the work performed, the hours of work or the apparent road/weather conditions make it impractical for the employee to return home or to the headquarters location at night.

The DPA has provided guidelines for an exception approval criterion that includes reasonable commute mileage. State departments are expected to demonstrate that every consideration has been given to minimize the cost to the State through responsible planning and scheduling.

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### *Exception Process*

A written request must be submitted in advance of the occurrence to the Accounting office for review and submission to the Deputy Director. The Executive Officer or the Division/Bureau/Program Chief must approve all exception requests.

Requests must contain the following information for each attendee:

- ✓ Name and classification of employee(s) requesting exception. If the time period and reason for expense are the same, submit a group request listing each employee's name, classification, the time period and reason.
- ✓ Name and address of the location expenses will be incurred.
- ✓ Name of the sponsor of the event.
- ✓ Reason(s) for the exception request; attempts made to reduce the costs.
- ✓ Amount of the anticipated expenses, including tax.
- ✓ For a conference or convention, when more than one attendee, explain why one employee could not achieve the goal and attach Training & Development request with approval.

***Provide copies of the agenda, conference/convention announcements and map/mileage print outs. Once the exception request has been processed, a copy will be forwarded to the requesting office by the DCA Accounting Office. The requesting office must maintain a record of each request for the standard five-year record retention schedule.***

## CHAPTER 3 TRANSPORTATION

### *Introduction*

The cost of transportation while on official state business should be accomplished by using the ***most economical*** means for the State.

Transportation expenses consist of:

- Commercial air fares
- Private vehicle use
- Commercial rental car use
- Gasoline for state or rental cars
- Taxis, shuttles or streetcar fares
- Parking of state, rental or privately owned vehicles
- Bridge and road tolls
- Emergency repairs (state cars only)
- Commuting Transit/Vanpool (EE Benefit) use

### *Supervisor's Responsibility*

It is the supervisor's responsibility to ensure the method chosen for travel on State business is in the best interest of the State and not for the employee's convenience.

### *Determining the Most Economical Mode of Travel*

When determining the most economical mode of transportation, the following costs should be considered:

- Employee's time
- Expenses for transportation (airline, bus, train, parking, shuttle, tolls, etc.)
- Expenses for meals, incidentals, lodging and any other state business expense
- The urgency of the situation
- If the employee must carry specialized equipment
- The number of stops and amount of equipment
- The number of persons to be transported (is it more economical?)
- Driving time one-way (is it over 2 hours?)
- Availability of transportation to and from the destination
- Overtime wages

### Cost Comparison

Reimbursement will be made for the mode of transportation which is in the best interest of the State, considering direct expenses as well as the employee's time. If the employee chooses a more expensive mode of transportation, reimbursement will be for the least expensive mode of travel. Expenses incurred at the travel destination will be reimbursed based on the actual business expenses incurred while at that location. A cost comparison must:

- ✓ Be completed and attached to the TEC, showing both methods of travel.
- ✓ Include the least costly methods of travel for those expenses actually being substituted.
- ✓ Include only the expenses of traveling from one location to another. Do not include any work site expenses. Expenses incurred on site are to be claimed separately.

An employee choosing to use a more expensive mode of transportation will only be reimbursed for the amount it would have cost for the most economical mode of travel.

A cost comparison showing actual cost incurred versus the most economical mode and cost must be submitted with an employee's TEC. The cost comparison form is provided in Appendix A, for your convenience.

### Example of Cost Comparison

The most common cost comparison is when the employee chooses to drive their personal vehicle versus using normal air transportation. For example, when an employee drives (having obtained supervisor's prior approval) to Los Angeles from Sacramento, the comparison is computed from the point the employee would normally have left on travel status in Sacramento to the point of landing in Los Angeles.

Air Costs		Vehicle Costs	
Ticket round trip	\$116.00	Mileage: city-to-city round trip:	
Mileage to/from airport		720 miles x <u>.565</u> cents per mile = <b><u>\$406.80</u></b>	
30 miles x .565 cents =	\$ 16.95		
Parking	<u>\$ 12.00</u>		
<b>Total</b>	<b>\$144.95</b>		

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### Reimbursement

The least expensive method of transportation will be reimbursed on the TEC.

The time requirement for meals and lodging would be allowed for the time the employee would have left and returned had they flown. Additional meal and lodging expenses incurred as a result of using an alternative method of transportation is at the employee's own expense.

### Exception

An exception to the least expensive requirement would be if an employee has a reasonable accommodation approval through the DCA Health and Safety Office, which prevents the employee from specific modes of travel, such as air travel.

Request guidance from the Accounting Office's Travel Unit when special circumstances arise, prior to commencing the trip.

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## *Direct and Indirect Travel Arrangements*

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All travel arrangements for official state business should be made through the Department's approved travel agency or directly with Southwest Airlines.

For Air Travel click on the link below.

[Air Travel](#)

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## *State-owned, Privately-owned and Commercially-owned Rental Vehicle Use*

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*Agencies determine who will drive on official state business and the vehicle type to be used: State-owned, privately-owned, or commercially-owned vehicles. The definition of "use of a state vehicle in the conduct of state business" includes the use of state vehicles "when driven in the performance of, or necessary to, or in the course of, the duties of state employment and shall include the operation of state-owned or leased vehicles as commute vehicles in a carpool or vanpool program authorized by a state agency."*

**State vehicles** may be authorized when two or more employees are traveling together. The trip includes intermediate stops not feasible for public transportation; the schedule of public carriers does not fit the itinerary; transportation is not available at the destination; an employee must carry specialized tools, books, etc.

**Privately-owned Vehicles.** Employees may use their privately-owned automobiles on official State business if this is approved by DCA. If the use is not less costly, the supervisor may authorize the use, but the payment will be for the less costly alternative. No agency will require an employee to use their privately-owned vehicle unless this is a formal condition for employment.

The following circumstances are prohibited uses of state vehicles:

- Using the state vehicle for anything other than conducting state business
- Carrying in the vehicle non-Departmental employees, friends or family members
- Private or recreational use

**Commercially-owned Rental Vehicles** may be rented when a State vehicle is not available and automobile travel is essential. Refer to the Department of General Services (DGS) Rental Car contract in order to ensure adherence to State policy. See Appendix.

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## *Commercial Rental Cars*

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[Commercially-owned Rental Vehicles](#)

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### *Private Vehicle Authorization and Use*

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The State Administrative Manual requires that before any employee (including a board member) uses a privately owned vehicle to conduct State business, that employee must obtain authorization in writing from his or her supervisor and certify that the vehicle will be operated in compliance with State Administrative Manual section 0753.

An Authorization to Use Privately Owned Vehicle (STD Form 261), should be completed and on file with the immediate supervisor. The STD 261 must be updated and re-signed annually.

Employees should be aware that the insurance maintained by the State is for the liability above the amount of the employees' policies. All employees driving on State business must carry evidence of liability insurance coverage. Mileage rates paid to employees include an amount that reimburses employees for maintaining minimum insurance coverage.

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### *Mileage Rate Reimbursement*

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The following table shows the mileage reimbursement rates for privately owned vehicles:

1/1/2009 – 12/31/2009	55. cents per mile
1/1/2010 – 12/31/2010	50. cents per mile
1/1/2011 – 06/30/2011	51. cents per mile
7/1/2011 –12/31/2012	55.5 cents per mile
<b>1/1/2013 – Current</b>	<b>56.5 cents per mile</b>

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### *Alternate Work Site Mileage*

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When an employee's regular work assignment requires reporting to a second location other than headquarters, i.e. a training site, mileage reimbursement is limited to the actual mileage incurred less their normal commute distance.

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### *Airport Drop Off*

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When an employee is driven to a common carrier and no parking expenses are incurred during the employee's absence, they may claim mileage reimbursement at double the number of miles from headquarters or residence, whichever is less, while the employee actually rides in the vehicle.

If travel commences or terminates one hour before or after normal work hours, or on a regularly scheduled day off, mileage may be computed from the residence.

Minimal parking expenses for pick up will be allowed, with justification and/or notation on the travel expense claim (TEC).

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### *Motor Vehicle Accident Reporting (SAM section 0757)*

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All motor vehicle accidents involving state owned vehicle, or any vehicle being used on state business, must be reported. Report all accidents immediately to your manager and to the DCA Business Services Office. Accidents must be reported within 48 hours to the Office of Risk and Insurance Management on a STD. 270 Form. State reporting requirements are in addition to a regular police report as required by law.

Accident reimbursement claims require special approval and processing. Therefore, contact the DCA Travel Unit for guidance.

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### *Overtime and Callback Mileage*

Callback or scheduled overtime mileage incurred on a normal day off, from your home to established headquarters, is reimbursable and the reimbursement is a reportable fringe benefit.

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### *State Vehicle Emergency Repairs*

Emergency state vehicle repairs can be reimbursed on a travel expense claim (TEC) with the appropriate receipt and written justification or explanation of the event. Repairs require Fleet Administration approval. For non-emergency car repairs, the employee should have the vendor bill the program directly.

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### *Taxis and Shuttles*

Taxis and shuttles should be used for trips within a reasonable distance (10 to 15 miles). Reimbursement can be made on a TEC for the actual cost of the expense with a receipt, or for no more than \$10.00 without a receipt. General Service charge cards are accepted for taxis and shuttle services within the Sacramento and Fresno areas. Tips or gratuities to drivers are not reimbursable since they are included in the incidental allowance. However, tips or gratuities for exceptional services, such as loading/unloading substantial luggage or multiple exam material is allowable with written justification and receipt.

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### *Parking and Tolls (SAM section 0755)*

Parking and tolls in excess of \$10.00 require a receipt and may be paid:

- For day parking when the trip is away from the headquarters office and residence.
- For overnight public parking when the traveler is on travel status.
- For callback or scheduled overtime on a normal day off.

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### *Commuting Transit and Vanpool*

Employees who commute to and from work via public transportation or qualifying vanpools may be eligible for up to a 75 percent discount on public transit passes up to a maximum reimbursement of \$65 per month. Reimbursement is based on actual cost supported by a receipt or proof of purchase.

Part time employees' reimbursement may be prorated to correspond to their appropriate work schedule. Daily passes may be utilized for part time employee reimbursement.

The State will pay \$100 per month to the primary driver of a qualifying vanpool consisting of 7 to 15 people in lieu of the vanpool/transit rider incentive. A qualifying vanpool must meet both the IRS Section 132 and DPA 599.636 criteria.

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## CHAPTER 4 BUSINESS EXPENSES AND RECEIPTS

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### *Business Expenses*

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Business expenses are costs that are necessary for the completion of state business. Examples:

- Telephone calls over \$1.00 or calls totaling over five dollars (\$5.00). The DCA phone log can be used for logging calls when there is no official receipt provided. (See Appendix).
- Approved training request for all out-service courses and in-state conferences and conventions. Reimbursement for training classes will be processed after completion of the training class.
- Physical examinations required by the state are paid at the maximum reimbursement rate of \$70.15 for pre-employment physical examinations. The applicant must pay for any services beyond the approved level for such services. (The current rate may be found in SAM Section 0191).
- Excessive porter or baggage handling, such as for several boxes of exam materials, will be reimbursed with a receipt and justification.
- Professional licenses in occupational fields that may be required by the functions of a specific position, or is beneficial to the performance of an employee's duties, shall be reimbursed for the actual cost of the application or renewal fee.
- Membership dues: Each department, commission, board or agency may reimburse an employee for up to the maximum allowed for membership dues in job-related professional societies or associations of the employee's choice or for a job-related professional license fee, in recognition of the professional nature of employees. Both parties agree and understand that a different amount of reimbursement, if any, may be provided to employees in the same or similar situation.

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### *Valid Receipts*

A valid receipt consists of the establishment's name, address, itemized expenses, including the total amount due and method of payment. When submitting a travel expense claim, the claimant is required to include original, itemized receipts for all state business expenses, unless specifically noted and accepted in another section of this Travel Guide.

Reimbursement requires proof of payment by the employee. If the receipt does not show the employee paid for the expense, attach other viable information such as the canceled check, bank or credit card statement. For security purposes, blacken out all non-related charges and only retain the employee's name, bank name and the specific charge you are claiming.

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### *Required Receipts*

Receipts shall be submitted for every item of expense of \$25.00 (DCA requires \$1.00) or more, except as noted in this chapter.

*DCA policy is for all receipts to be attached to the travel expense claim (TEC), whether paid directly (to the vendor or establishment) by the state or paid by the employee. Examples: airline itineraries, final rental car expense receipts, etc.*

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### *Not Required*

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The employee must retain copies of all receipts, including those original receipts not required for reimbursement by the Department for IRS purposes.

Receipts are NOT required for reimbursement of actual expenses as a result of conducting State business for the following expenses:

- Per Diem Meals and Incidentals
  - Overtime Meals
  - Up to the published railroad and bus fares of less than \$10.00, when travel is within the State of California.
  - Street car, ferry fares, bridge and road tolls, local rapid transit system, taxi shuttle or hotel bus fares, and parking fees of \$10.00 or less for each continuous period of parking or each separate transportation expense.
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### *Lost Receipts*

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In the absence of a receipt, reimbursement will be limited to the non-receipted amount or the published expense, when lower than the non-receipted amount.

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### *Odd Sized Receipts*

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If receipts are small, tape them to an 8 1/2" x 11" sheet of paper so they will be the same size as the travel claim. More than one receipt can be on a sheet of paper as long as they do not overlap. Do not tape the receipts to both sides of the paper.

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**CHAPTER 5**  
**REPORTABLE TAX ITEMS**

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*Introduction*

Various reimbursements of State Business Expenses and Fringe Benefits are subject to Federal and State income taxes and applicable Social Security and Medicare taxes. The Department is required to report qualifying business expense reimbursements as income to the State Controller's Office each month.

**Note: It is the State and Department's policy to adhere to all IRS reporting requirements.**

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*Reportable Items*

The following items are the most common reportable employer-provided benefits:

- Overtime meals
- Callback mileage, including overtime mileage
- Meals on a one-day trip where there is no sleep period
- Department-approved exceptions to the 50 miles travel status radius rule
- Long term assignments which exceed 30 consecutive days at one location for a period of more than one year. Contact the DCA Travel Unit for details, when appropriate
- The personal use of state vehicles for commute miles
- Personal use of a state provided electronic device
- Travel advances that are not cleared within 30 days of the travel date.
- Relocation: Contact the DCA Travel Unit for details, when appropriate

**Note: Any non-receipted expense, such as meals and incidentals, becomes reportable "if" the IRS conducts an audit and finds no receipts in the employee's file.**

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*Reportable Withholdings*

Below is a grid showing the percentages of taxes withheld from each agency. Also, an example of the withholdings based on a \$66.00 reporting item. The actual amount withheld from the \$66.00 item is \$27.50. This amount would be deducted from the employee's next available pay warrant.

Type of Tax	Withholding Rate	Monthly Value	Actual Withholding
Federal	28.0%	\$66.00	\$18.48
State	6.0%	\$66.00	\$ 3.96
SSI	6.2%	\$66.00	\$ 4.10
Medicare	1.45%	\$66.00	\$ .96

The reportable reimbursements will be listed under “Other Income,” or will be noted as “Included in Box 1” on the employee’s W-2 form.

It is the employee’s responsibility to maintain all reportable receipts with their records for IRS audit purposes.

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### *Capturing Reportable Items*

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There are many ways of capturing and reporting reportable items each month. Examples:

- Overtime Meals, Call back mileage and Meals on a one-day trip are captured at the time of the Travel Expense Claim (TEC) audit, and reimbursement is made.
  - Department-approved exemptions to the “fifty miles travel status radius” rule and Long-term assignments which exceed 30 consecutive days, are captured at the time that paperwork is submitted for approval to the Executive Office and the reimbursement of the Travel Expense Claim (TEC) is made.
  - Reporting personal mileage and/or use of a state vehicle is the responsibility of the employee. The Internal Revenue Services (IRS) has determined that normal commute miles to and from work in a State vehicle are to be considered personal use. Only employees whose primary responsibilities are investigative law enforcement activities while they are performing law enforcement duties fit the IRS guidelines for exemption from reporting personal use of State vehicles. However, when these employees commute to and from the office for their office days or do not perform qualifying law enforcement activities on the way to or from work, the commute is reportable. All other employees who are permanently or temporarily assigned state vehicles must report personal use and/or their normal commute use. Each employee who drives a state vehicle is required to submit a monthly Employee Certification; Personal Use of State Provided Vehicles form (AISD-021B), to the DCA Accounting Office by the 5<sup>th</sup> day of the following month in which the personal use was incurred. Note: This requirement applies to all employees who drive a state vehicle; it is not limited to those employees whose assigned cars are stored at home or in offsite parking.
  - Reporting personal use of a state provided electronic device is the responsibility of the employee. Each employee who uses state provided equipment for any personal use should prepare a memo stating the type of usage and the actual or estimated cost of the usage to be reported. To avoid the reporting of this type of fringe benefit, the employee can submit a personal check with the memo to reimburse the department for their personal use.
  - All Travel Advances are to be temporary. Any outstanding travel advances over ninety days, is considered long term, and should be treated as wages or compensation. Therefore, reported as taxable income.
  - Reporting “Relocation” taxable items varies depending on the type of expenses that occur, i.e. moving of household goods, sale of residence, etc. For actual reporting requirements, contact the DCA Accounting Offices Travel Unit for details.
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## CHAPTER 6

### OUT-OF-STATE, OUT-OF-COUNTRY AND AMENDED CLAIMS

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#### *Introduction*

There are additional requirements and/or approvals when filing out-of-state, out-of-country or amended travel expense claims.

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#### *Out-of-State Travel (OST)*

Before any State employee may travel out of state on official State business, specific written approval must be given by the Director, the Agency Secretary, the Department of Finance, and the Governor's Office. Approval must be obtained if either one of the following conditions exist:

1. The employee is on state time, or
2. The employee is representing the State in an official capacity or is acting in such a capacity that it will be perceived that he or she is representing the State.

If either of these two criteria exist, approval is necessary regardless of whether or not the State is paying for the employee's travel expenses. The trips are limited to the approved number of persons, days and funds as specified for each blanket request. Expenses exceeding the blanket limits will require an approved blanket substitution request to cover the overages prior to travel. Any cost incurred prior to the blanket approval will be at the employee's own expense.

Out-of-state travel expenses must be submitted separately from in-state travel and note the approved Blanket number on the claim. Actual lodging expense, supported by a receipt and the standard meal and incidental reimbursement, may be claimed for travel outside of California. Contact the DCA Budget or Accounting Office if you do not know the blanket number or require additional information. Refer to SAM 0760 - 0765.

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#### *Out-of-Country Travel*

Employees will be reimbursed for actual lodging expenses, supported by a receipt, and will be reimbursed for actual meal and incidental expenses subject to maximum rates in accordance with the published Government rates for foreign travel for the dates of travel. Failure to furnish lodging receipts will limit reimbursement to meals only. The Government rates change monthly. Go to <http://aoprals.state.gov> for the current reimbursement rates.

There is no allowance for blanket substitution of funds or authority for out of country trips. Any expenses incurred that exceed the individual trip authority or funds will be at the traveler's own expense. Claims must be submitted separately with the (approved) Individual Out-of-Country trip request number written on the claim. Contact the DCA Budget Office if you do not know the trip number or require additional information.

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#### *Amended Claims*

When filing an amended claim the following steps should be taken:

1. Submit a new claim.
  2. Write "AMENDED CLAIM" in bold letters at the top of the claim.
  3. Claim only the amount **not** submitted on the original claim.
  4. Attach a copy of the original claim to the new claim.
  5. Attach any required information, receipts, or justification not submitted with the original claim.
  6. Obtain all required signatures and submit the claim to Accounting for payment.
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## CHAPTER 7

### TRAVEL AND EVIDENCE ADVANCES

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#### *Travel Advances*

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Short-term advances may be issued prior to the time travel is actually performed, to employees who must travel on State business. Refer to SAM 8116 and 8117.

- Submit the Request for Travel Advance (AISD-008) to the DCA Accounting Office within ten to fifteen working days prior to the date of travel. Original signatures are required.
- Advances over \$500.00 require an additional approval and may take an additional day(s) to process because the Accounting Office must obtain Budget Office approval.
- If the trip is canceled, the advance must be returned immediately to the Accounting Office. If the check is cashed, a personal check must be submitted as reimbursement.
- All advances must be cleared by submitting a travel expense claim within thirty days after the date of travel. If the advance exceeds the expense claim, to clear the advance, the employee must submit with the claim a check, money order (payable to DCA), or cash for the difference. If the claim exceeds the advance, the employee will receive the balance due them by check within 10-12 working days.
- Add a notation regarding the advance information in Section 11 of the travel expense claim. (Example: March Travel Advance \$200.00) Do not deduct the advance amount from your claim total.
- Any outstanding advances over 90 days may be deducted from your next month's salary warrant. The DCA Accounting Office will notify the employee before this process occurs. The notification letter will allow the employee time to clear the advance balance. Failure to clear advances may preclude future advances being issued until the outstanding advances are cleared. Direct Deposit will be canceled for those employees with uncleared balances to collect any advance balances not cleared within a reasonable time.
- Travel advances that are not cleared within 90 days must be reported as taxable income. Taxes due will be withheld from the next available payroll warrant and reported as taxable income on the employee's W-2. When the advance is cleared, there is no method to refund the withheld taxes to the employee.
- Some restrictions apply to seasonal or part time employees (including Board and Committee members) who may not be issued travel advances. Exceptions requests are granted, by approval of the Deputy Director, on a limited basis.

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## CHAPTER 8 FILING REQUIREMENTS

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### *Claim Form and Correction Instructions*

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The State of California Travel Expense Claim (TEC), STD 262 Form (Rev. 09/2007), must be completed to request reimbursement of state related travel expenses. Submit the original and one legible copy to the Accounting Office for processing. Keep a third copy for your records with any non-required original receipts. All travel expense claims should be completed in ink or typewritten. The original signature of the claimant and the approving officer are required to be completed in ink (preferably in colored ink) in the appropriate area of the form.

For minor corrections, line out the incorrect information and write in the corrected information. The claimant must initial all corrections.

Travel claims with correction fluid or correction tape in critical areas of the form (affecting the reimbursement amount) will not be accepted. Travel claims may be returned as auditable if submitted with numerous changes or if it is difficult to read.

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### *When to Submit a Travel Expense Claim (TEC)*

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Travel expense claims should be filed at least once a month, but not more than twice in one month. If the amount claimed for any one month does not exceed \$10.00, filing can be deferred until the next month's travel or until June 30<sup>th</sup>, whichever comes first. Several trips may be entered on one TEC. When more than one trip is being listed, a blank line should be left between each trip. Trips that start at the end of one month and extend into the next month should be submitted after the trip has concluded.

While it is acceptable to put several trips on one claim, the following expenses must be submitted on a separate travel expense claim: Out-of-State, Out-of-Country, Long-Term assignment, Evidence and Relocation expenses. Please label the TEC header when filing reimbursement claims for other than short-term travel.

All claims for the current fiscal year must be submitted by the published year-end deadline. Do not combine fiscal years. If a trip overlaps June and July, two separate travel expense claims must be completed and filed, one for each month. However, they should be submitted together for audit purposes.

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### *Required Information*

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The travel expense claim must be completed in its entirety, including heading, dates, time, amounts, mode of transportation, purpose, normal work hours, etc., and have the claimant's and the authorized approving officer's original signatures.

Itemized expenses and original receipts showing proof of payment and justifications, when necessary, are required documentation for the claim.

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## CHAPTER 9 COMPLETING THE TRAVEL EXPENSE CLAIM

### *Introduction*

The Travel Expense Claim Form, STD 262, requires various information including Employee information, Trip information, Reimbursement amounts, Authorizations and justifications to be provided. Below is step by step description of what is required to complete a Travel Expense Claim.

### *Employee Information*

This information describes whom, classification, bargaining unit and where the expenses should be charged.

<b>Block</b>	<b>Action</b>
<b>Claimant's Name</b>	Enter: First Name, Middle Initial, Last Name
<b>SSN or Employee #*</b>	Enter: 13-digit Position Number or "on file" <i>Note: the asterisk here and on the Travel Expense Claim form refers to the Privacy Statement provided on the reverse side of the form.</i>
<b>Department</b>	Enter: Department of Consumer Affairs
<b>Position</b>	Enter: Civil Service Classification (Title)
<b>CB/ID No.</b>	Enter: Bargaining Unit Number for Represented Employees OR Enter: Confidential, Exempt, Board / Committee Member, Volunteer or other specific title.
<b>Division or Bureau</b>	Enter: Board, Committee, Program, Division, or Unit name
<b>Index Number</b>	Enter: Index / PCA Number. (Contact the DCA Accounting Office for assistance if you do not know your Index / PCA number).
<b>Residence Address* (including City, State &amp; Zip Code)</b>	Enter: Home address. (Do not use PO Box). <i>If confidential, contact the DCA Accounting Office for guidance. Note: the asterisk here and on the Travel Expense Claim form refers to the Privacy Statement provided on the reverse side of the form.</i>
<b>Headquarters Address (City, State &amp; Zip Code)</b>	Enter: the complete Headquarters (work) address.
<b>Telephone Number</b>	Enter: Office telephone number (Show area code)

*Trip Information, Miscellaneous Information and Justifications, and Authorized Signatures*

This section requests information regarding the when, where, and why the expenses occurred.

<b>Block</b>	<b>Action</b>																		
1	<b>NORMAL WORK HOURS:</b> Use the 24-hour clock.																		
2	Enter the license number of the private vehicle used on state business.																		
3	<b>MILEAGE RATE CLAIMED:</b> Enter the rate claimed for private vehicle use.																		
4	<b>MONTH/YEAR:</b> Month number (JAN =1, DEC = 12) and 4-digit year																		
5	<b>DATE:</b> Day of the month (one day per line) <b>TIME:</b> of Departure and Return (using the 24-hour clock)																		
6	<b>LOCATION:</b> Location where expenses occurred. (A brief statement describing the purpose may be entered immediately below the last entry for each trip).																		
7	Enter the actual cost of lodging, plus tax (up to the maximum reimbursement).																		
8	Enter the actual cost of meals (up to the maximum reimbursement).																		
9	Enter the actual cost of incidentals (up to the maximum reimbursement).																		
10 (A)	Enter the cost of transportation, if paid by employee.																		
10 (B)	Enter the method of transportation, using the following codes: <table border="1" data-bbox="412 808 1390 1146"> <thead> <tr> <th>Type of Transportation</th> <th>Code</th> </tr> </thead> <tbody> <tr> <td>Railway</td> <td>R</td> </tr> <tr> <td>Bus, Air porter, Light Rail, BART</td> <td>B</td> </tr> <tr> <td>Commercial Airline</td> <td>A</td> </tr> <tr> <td>Privately owned vehicle (Motorcycles not allowed)</td> <td>PC</td> </tr> <tr> <td>Private Air</td> <td>PA</td> </tr> <tr> <td>State Car</td> <td>SC</td> </tr> <tr> <td>Rental Car</td> <td>RC</td> </tr> <tr> <td>Taxi</td> <td>T</td> </tr> </tbody> </table>	Type of Transportation	Code	Railway	R	Bus, Air porter, Light Rail, BART	B	Commercial Airline	A	Privately owned vehicle (Motorcycles not allowed)	PC	Private Air	PA	State Car	SC	Rental Car	RC	Taxi	T
Type of Transportation	Code																		
Railway	R																		
Bus, Air porter, Light Rail, BART	B																		
Commercial Airline	A																		
Privately owned vehicle (Motorcycles not allowed)	PC																		
Private Air	PA																		
State Car	SC																		
Rental Car	RC																		
Taxi	T																		
10 (C)	Enter carfare, bridge road tolls, or parking expenses.																		
10 (D)	Enter the number of miles driven with private and state vehicles, and then enter the amount due for private vehicles only.																		
11	Enter any other expenses necessary for completion of state business, with justification as required. <b>Note:</b> Expenses over \$25.00 require Office of Administrative Services authorization. The DCA Accounting Office will obtain signatures.																		
12	Enter the total expenses for that day.																		
13	Enter the total expenses for each column.																		
14	Enter the justification and miscellaneous information, such as: <ul style="list-style-type: none"> <li>✓ Explanation of business expenses</li> <li>✓ Phone expenses, including place, party and number called</li> <li>✓ Receipt justification, if needed</li> <li>✓ Justification for obtaining rental cars, other than a compact, or use of a non-contract vendor</li> <li>✓ Travel advances received</li> </ul>																		
15	Claimant's original signature and date signed.																		
16	Approving Officer's original signature and date signed.																		
17	Special expense signatures are obtained by the DCA Accounting Office.																		

**APPENDIX  
RESOURCE MATERIALS AND FORMS**

*Resource Materials*

The list below includes various memos, policies, procedures and web sites with information regarding travel reimbursement rules and regulations.

Subject	Issue Date	Expires	Number
Approval of Excess Lodging Rates	04/06/2006		( <a href="#">DPA PML 2006-013</a> )
FLSA Guidelines	06/01/2002		DCA DPM-PERS 02-06 ( <a href="http://inside.dca.ca.gov/oas/hr/dpm/02_06.pdf">http://inside.dca.ca.gov/oas/hr/dpm/02_06.pdf</a> )
Travel & Relocation –Lodging Receipts	07/08/2005		DPA PML 2005-021 ( <a href="http://www.dpa.ca.gov/textdocs/freepmls/PML2005021.pdf">http://www.dpa.ca.gov/textdocs/freepmls/PML2005021.pdf</a> )
Vanpool Incentives	10/22/2002  09/27/2002  04/02/2002		DPA PML 2002-069 ( <a href="http://www.dpa.ca.gov/textdocs/freepmls/PML2002069.txt">http://www.dpa.ca.gov/textdocs/freepmls/PML2002069.txt</a> ) DPA PML 2002-064 ( <a href="http://www.dpa.ca.gov/textdocs/freepmls/PML2002064.txt">http://www.dpa.ca.gov/textdocs/freepmls/PML2002064.txt</a> ) DPA PML 2002-021 ( <a href="http://www.dpa.ca.gov/textdocs/freepmls/PML2002021.txt">http://www.dpa.ca.gov/textdocs/freepmls/PML2002021.txt</a> )

*Useful Web Sites and Addresses*

Useful Web Sites	Internet Addresses
<u>Department of General Services</u> <ul style="list-style-type: none"> <li>▪ State Administrative Manual</li> <li>▪ Forms</li> </ul>	<a href="http://www.dgs.ca.gov">http://www.dgs.ca.gov</a> <ul style="list-style-type: none"> <li>▪ <a href="http://sam.dgs.ca.gov/sam.htm">sam.dgs.ca.gov/sam.htm</a></li> <li>▪ <a href="http://osp.dgs.ca.gov/on-line+publications">osp.dgs.ca.gov/on-line+publications</a></li> </ul>
<u>Department of Personal Administration</u> <ul style="list-style-type: none"> <li>▪ Bargaining Unit Contracts</li> <li>▪ Personnel Management Letters (PML's)</li> </ul>	<a href="http://www.calhr.ca.gov/Pages/home.aspx">http://www.calhr.ca.gov/Pages/home.aspx</a>
Enterprise Rent a Car	<a href="http://www.enterprise.com/car_rental/home.do">http://www.enterprise.com/car_rental/home.do</a>
Travel Agency	<a href="http://www.caltravelstore.com">www.caltravelstore.com</a>
Southwest Airlines	<a href="http://www.swabiz.com/">http://www.swabiz.com/</a>

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### List of Related Forms

The travel forms mentioned in this Travel Guide are available on the DCA Intranet at (<http://inside.dca.ca.gov/eforms.htm>) and in this Appendix.

Form	Number	DCA Intranet and/or Internet Links
Authorization To Use Privately Owned Vehicle	STD 261	<a href="http://www.documents.dgs.ca.gov/osp/pdf/std261.pdf">http://www.documents.dgs.ca.gov/osp/pdf/std261.pdf</a>
Cost Comparison form	N/A	<a href="http://inside.dca.ca.gov/forms/oas/cost_comparison.pdf">http://inside.dca.ca.gov/forms/oas/cost_comparison.pdf</a>
Excess Lodging Request	STD 255C	<a href="http://www.documents.dgs.ca.gov/osp/p5c.pdf">http://www.documents.dgs.ca.gov/osp/p5c.pdf</a>
Hotel/Motel Transient Occupancy Tax Waiver	STD 236	<a href="http://www.documents.dgs.ca.gov/osp/pdf/std236.pdf">http://www.documents.dgs.ca.gov/osp/pdf/std236.pdf</a>
Justification for Postage Charges	AISD 12	<a href="http://inside.dca.ca.gov/forms/oas/postal_charges.pdf">http://inside.dca.ca.gov/forms/oas/postal_charges.pdf</a>
Justification for Telephone Charges	AISD 11	<a href="http://inside.dca.ca.gov/forms/oas/phone_charges.pdf">http://inside.dca.ca.gov/forms/oas/phone_charges.pdf</a>
Travel Advance Request	AISD 008	<a href="http://inside.dca.ca.gov/forms/oas/travel_advance.pdf">http://inside.dca.ca.gov/forms/oas/travel_advance.pdf</a>
Travel Expense Claim	STD 262	<a href="http://www.documents.dgs.ca.gov/osp/pdf/std262.pdf">http://www.documents.dgs.ca.gov/osp/pdf/std262.pdf</a>

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**CBA Item V.D.**  
January 23-24, 2014

## **Update on Practice Privilege Program**

**Presented by:** Dominic Franzella, Chief, Licensing Division

**Date:** January 6, 2014

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### **Purpose of the Item**

The purpose of this agenda item is to keep the California Board of Accountancy (CBA) informed of continued activities associated with implementation of the new practice privilege provisions (mobility) that took effect July 1, 2013.

### **Action(s) Needed**

Although no specific CBA action is required for this agenda item, as always, staff values any feedback members may have regarding the ongoing implementation of the practice privilege provisions.

### **Background**

On September 20, 2012 Governor Brown signed into law Senate Bill (SB) 1405, which included two changes to the California Accountancy Act. First, the bill established the ability for active duty members of the California National Guard or United States Armed Services to apply for and receive a military inactive status. Second, the bill significantly amended California's practice privilege provisions, with one of the more significant amendments being that in most cases out-of-state CPAs who are licensed to practice public accountancy in another state/jurisdiction can do so in California without having to notify the CBA and without having to pay a fee.

### **Comments**

As of December 31, 2013, California's new practice privilege provisions have been in effect for six months. Given the high priority the CBA placed on the establishment and implementation of mobility, staff are providing an update on various activities that have already occurred and highlight items that will still need to occur. An overview of the following areas is provided: legislation, rulemaking activities, outreach, website, reviews of other governmental agencies, out-of-state accounting firm registration, reports to various stakeholders, and the mobility stakeholder group.

### **Legislation**

As part of the 2013 legislative year, the CBA sponsored two proposals amending the recently enacted practice privilege provisions. The first proposal requires out-of-state

## Update on Practice Privilege Program

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certified public accountants (CPA) to notify the CBA of any pending criminal charges (other than a minor traffic violation). The second proposal provides the CBA with citation and fine authority under the practice privilege provisions. Both proposals were included in SB 822, omnibus legislation carried by the Senate Committee on Business, Professions and Economic Development. Governor Brown signed SB 822 on September 20, 2013 and the amendments took effect January 1, 2014.

As part of the upcoming legislative year, the CBA will be asked if it would like to sponsor two additional amendments to the practice privilege provisions. The first amendment would specify a time period in which individuals must report the pending criminal charges to the CBA. The second amendment would correct what appears to be an inadvertent placement of the provision regarding a review of information from the Public Company Accounting Oversight Board (PCAOB) and Securities and Exchange Commission (SEC). Members can review the specifics on these proposals in **CBA Item VI.B.2.**

### Rulemaking Activities

To effectively implement the new practice privilege provisions, the CBA needed to establish a series of regulations. These regulations included various definitions, incorporated forms by reference, and updated the disciplinary guidelines. To establish these new regulations prior to the start of the new provisions on July 1, 2013, the CBA adopted the initial set of regulations via the emergency rulemaking process. The Office of Administrative Law (OAL) approved the emergency regulations on June 10, 2013, with an effective date of July 1, 2013.

As with any emergency rulemaking, the CBA then needed to take steps to make the regulations permanent. The CBA performed all necessary steps to establish the regulations as permanent, including preparing the rulemaking file and holding a public hearing. As a result of the CBA's expeditious efforts, the OAL approved the certificate of compliance rulemaking on December 18, 2013, making the regulations permanent.

At the January 2014 meeting, the CBA will be asked if it wants to make an amendment to the new regulations. Specifically, the CBA will be asked to consider adding another form by incorporation for the purposes of uniformly collecting information for individuals required to report pending criminal convictions as a result of the recently added provision. Members can review the specifics on this proposal in **CBA Item VI.A.2.**

### Outreach

With any new program, staff works to get as much information out to affected stakeholders. Staff has undertaken the following activities to keep stakeholders informed about the new practice privilege provisions:

- Fall 2012 edition, UPDATE #70 – Staff provided information regarding the passage of SB 1405.

## Update on Practice Privilege Program

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- Winter 2013 edition, UPDATE #71 – Staff prepared an article titled “The New Practice Privilege.” The article highlighted several important provisions included in the new law.
- Fall 2013 edition, UPDATE #73 – Staff prepared an article titled “The New Practice Privilege Program.” The article again highlighted several important provisions of the new law, and provided direct links to various regulations, including the new forms.
- On September 20, 2012, the CBA issued a press release lauding the governor’s signing of SB 1405.
- In March 2013, staff mailed an informational letter to all present and past practice privilege holders – totaling just over 7,000 CPAs – regarding the passage of SB 1405 and the impacts of the new provisions on the practice privilege program.
- Staff has added several important informational items to the CBA website designed to assist out-of-state CPAs with understanding and complying with the new provisions. Specifically, staff prepared the *Practice Privilege Handbook*, a series of frequently asked questions, links to the various forms and statutory provisions, and information on practice privilege reporting requirements (when necessary).

### Website

One of the most important areas related to the implementation of the new practice privilege provisions focused on the CBA website. SB 1405 included several important informational items the CBA needed to incorporate to assist consumers in searching out-of-state licensees who may be exercising a practice privilege in California. Additionally, the information on the website needed to contain various disclaimers and disclosures. These included the following:

- Disclaimer when redirecting a consumer to any other website
- How to file a complaint with the CBA against an individual exercising a practice privilege
- When applicable, a statement that another state board of accountancy does not permit the consumer to obtain information, including but not limited to, disciplinary history, and that the out-of-state board of accountancy is not affiliated with the CBA

This necessitated a complete redesign of the CBA License Lookup page and web features associated with searching for out-of-state licensed CPAs and out-of-state accounting firms registered in California. Included on these new search pages are all of the aforementioned disclaimers and disclosures, and options for consumers to review

## Update on Practice Privilege Program

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the information on the National Association of State Boards of Accountancy (NASBA) CPAverify, which is an online central repository of information about licensed CPAs and public accounting firms nationally (of participating states/jurisdictions), and direct links to the other state boards of accountancy, which allows consumers to go directly to the licensing body.

As of December 31, 2013, 6,876 individuals have viewed the out-of-state licensed CPAs webpage and 1,354 individuals have viewed the out-of-state accounting firm registration webpage.

### Reviews of Other Governmental Agencies

SB 1405 requires the CBA to perform reviews of other governmental agencies to provide added information to consumers about individuals seeking to exercise a practice privilege in California. The CBA needs to consult with the PCAOB and SEC, on an every six-month basis, to identify out-of-state licensees who may have disqualifying conditions or may be obliged to cease practice and disclose the information. Additionally, the CBA must survey, on a biennial basis, other state boards of accountancy websites to ensure disclaimer information provided on the CBA website is accurate.

Specific to consulting with the PCAOB and SEC, staff receives notifications from these agencies when action is taken against CPAs. Staff reviews the information and sends a letter to the CPAs informing them that they must notify the CBA if they intend on practicing in California. Subsequently, staff discloses on its website to consumers that these individuals are not authorized to practice in California via a practice privilege. This is an ongoing process that staff performs as information is obtained, which occurs more frequently than the every six-month basis required by law.

As for reviewing other state boards of accountancy websites, staff performed this initial function prior to the “go-live” of the new web features for practice privilege. Staff will be performing this review again in May/June 2015, as required by law.

### Out-of-State Accounting Firm Registration

While individual CPAs practicing under the new practice privileges are not required to notify the CBA prior to practice (except in limited circumstances), the new provisions did include a new registration requirement for out-of-state accounting firms providing the following services to a California-headquartered entity:

- 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; or,
- An examination of prospective financial information.

## **Update on Practice Privilege Program**

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Accounting firms seeking registration must complete the required application and provide ownership information. As of December 31, 2013, the CBA has registered 103 accounting firms.

### Reports to Various Stakeholders

Included in SB 1405 are two reporting requirements the CBA must undertake regarding the new practice privilege provisions. The first reporting requirement is due on July 1, 2015, which is a preliminary report, and the second reporting requirement is due on or before January 1, 2018. The CBA reports will be provided to the relevant policy committees of the Legislature (most likely the Senate Business, Professions and Economic Development and Assembly Business, Professions and Consumer Protection Committees), the director of the Department of Consumer Affairs (DCA) and the public (upon request).

The reports will be looking at CBA determinations regarding the implementation of the practice privilege provisions, the consumer protection benefits of the new provisions in comparison to the prior practice privilege provisions, and various enforcement information regarding other state boards of accountancy. Staff has calendared the due dates for these reports and will bring draft reports for CBA consideration and approval well in advance of the due dates.

### Mobility Stakeholder Group (MSG)

SB 1405 requires that the CBA convene a stakeholder group to consider whether the new practice privilege provisions are consistent with the CBA's fiduciary responsibility to protect the public as required pursuant to Business and Professions Code section 5000.1. Additionally, the group must consider whether the new provisions satisfy the objectives of stakeholders of the accounting profession in California, including consumers.

At the November 2013 meeting, the CBA took initial steps to comply with establishing the MSG by taking the following action:

- Name the group the Mobility Stakeholder Group
- Compose the group with two members of the CBA, two representatives of the accounting profession, two consumer representatives, and one CBA Enforcement staff
- Direct the 2014 CBA President to appoint the CBA members, a Chair and Vice-Chair, and to work with the Executive Officer to solicit members

Since the November 2013 meeting, staff has been actively working on the solicitation for potential membership. Prior to the January 2014 meeting, staff will be distributing the materials to the Center for Public Interest Law and Consumer Federation of California for soliciting individuals to serve as consumer representatives and to the California Society of CPAs and the editor for Going Concern and Accounting Today for

## **Update on Practice Privilege Program**

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soliciting individuals to serve as accounting professional representatives. Staff will work with the CBA President to prepare the appointments of representatives of both the accounting profession and consumers.

### **Fiscal/Economic Impact Considerations**

None.

### **Recommendation**

None.



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**CBA Item V.E.**  
January 23-24, 2014

## **Report on Implementation of Fingerprint Requirement**

**Presented by:** Dominic Franzella, Chief, Licensing Division

**Date:** December 27, 2013

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### **Purpose of the Item**

The purpose of this agenda item is to keep the California Board of Accountancy (CBA) informed of continued activities associated with implementation of its important consumer protection initiative pertaining to fingerprinting.

### **Action(s) Needed**

Although no specific CBA action is required for this agenda item, as always, staff values any feedback members may have regarding the ongoing implementation of the fingerprint requirement.

### **Background**

The fingerprint requirement for the various Department of Consumer Affairs (DCA) boards and bureaus first took effect in January 1998 as a result of the Legislature passing legislation in 1997 adding Business and Professions Code (BPC) section 144 requiring applicants to furnish fingerprints for purposes of conducting criminal history record checks. At that time, the CBA, alongside other DCA boards and bureaus, interpreted the term "applicant" to mean an applicant for initial licensure and the fingerprinting requirement was not applied retroactively.

Following a *Los Angeles Times* investigative article, published in October 2008, which identified potential gaps in conviction disclosure by some licensees of a health board resulting in failure to receive conviction information from the Department of Justice (DOJ), the DCA explored potential statutory and regulatory changes to require fingerprinting of existing licensees who had not been previously fingerprinted. The DCA eventually determined that sufficient statutory authority existed in BPC section 144 to allow for the various boards and bureaus to adopt regulations that would interpret the term "applicant" to include applicants for license renewal.

At the September 2011 CBA meeting, members discussed the potential benefits of pursuing a regulation to require CPAs not previously fingerprinted or for whom a record of fingerprint submission does not exist, to submit fingerprints for the purpose of conducting a criminal history record check and receive any subsequent arrest information. By this time,

## Report on Implementation of Fingerprint Requirement

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several DCA boards had already used the broad statutory authority for monitoring unprofessional conduct and maintaining public protection to justify implementing regulations to require the submission of fingerprints by applicants for license renewal.

At its November 2011 meeting, the CBA approved a rulemaking to adopt CBA Regulations section 37.5 to require licensees renewing a license in an active status who have not previously submitted fingerprints or for whom an electronic record of the licensee's fingerprints does not exist in the DOJ Criminal Offender Record Information database to have fingerprints checked by both the DOJ and the Federal Bureau of Investigation (FBI). The rulemaking was approved by the Office of Administrative Law in January 2013. The first set of licensees required to meet the fingerprint requirement are licensees renewing their license with an expiration date of January 31, 2014.

### **Comments**

The new fingerprint requirement ensures consistency in licensure requirements for all licensees and adds an important layer of protection for California consumers. Additionally, this new requirement furthers the CBA's mission to ensure only qualified licensees practice public accountancy in accordance with applicable professional standards.

In an effort to keep the CBA informed about the implementation and consumer protection benefits of the new requirement, provided below is information on the following: outreach activities, compliance verification, and historical Enforcement data regarding fingerprints.

### **Outreach Activities**

As with any new requirement, staff places a strong focus on outreach and explores various ways to get information out to the affected population. Provided below is a list of the various outreach activities that staff has used and are planning to use to aid in ensuring licensees are fully informed about the new fingerprint requirement. These activities have included and will include updates to the CBA website, direct mailings, and UPDATE articles.

- Winter 2012 edition, UPDATE #71 – Staff prepared an article titled “Retroactive Fingerprinting ... What You Need to Know” that introduced licensees to the new fingerprint requirement in CBA Regulations section 37.5 and informed them about the recently developed frequently asked questions available on the CBA website.
- Spring/Summer edition, UPDATE #72 – Staff prepared an article titled “Retroactive Fingerprinting: FAQs.” For this article staff selected the most common frequently asked questions it had been receiving regarding the fingerprint requirement for increased exposure to licensees.
- Fall 2013 edition, UPDATE #73 – Staff prepared an article titled “Guide to New License Renewal Requirements.” This article highlighted the new changes to the

## Report on Implementation of Fingerprint Requirement

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license renewal requirements, with a section dedicated to the new fingerprinting requirement and a link to the FAQs.

- Winter 2014 edition, UPDATE #74 – Staff are in the process of completing another article focused on providing licensees with background information on the establishment of the fingerprint requirement, as well as information on when to expect receiving a notification letter if they are a licensee who must undergo fingerprinting. In addition to this article being run in the upcoming UPDATE, staff will be placing it as a direct link on the CBA website for increased exposure.
- In September 2013, the license renewal application and accompanying instructions were amended to collect information on fingerprint compliance and further explain the fingerprint requirement.
- In late September 2013, staff mailed an informational letter to all licensees regarding the various license renewal-related regulatory changes affecting license renewal occurring January 1, 2014 and after. A section of the letter focused on the new fingerprinting requirement and provided a brief overview how the CBA would be contacting affected licensees.
- In late October 2013, staff began sending notification letters to the first group of affected licensees, those with an expiration date of January 31, 2014. These notifications were sent in October to coincide with the mailing of the license renewal applications and to provide licensees sufficient time to complete the process. The letter included all necessary forms and instructions for successful completion of the process. Staff has sent subsequent notifications in November and December and will continue to do so for the next two years.
- The applications and instructions went into production in October 2013 for the January 31, 2014 license renewal group.

### Compliance Verification

As noted previously, the requirement to undergo fingerprinting is for licensees renewing their license in an active status. To aid licensees in compliance with the requirement, the CBA sends out a notification letter (referenced above) approximately 90 days prior to licensees' expiration dates. The notifications are separated between California residents (who must use the Live Scan service) and non-California residents (who must continue to use hard cards). These notifications go out to all licensees with an active, inactive, or delinquent license for which the DOJ does not have a record on file for having cleared a criminal background check.

The CBA is notified by the DOJ and FBI upon completion of the background check. Staff processes the information and sends licensees a compliance letter informing them the process is complete. To ensure compliance with the fingerprint requirement, staff will perform a 100 percent audit for licensees renewing their license in an active status. Staff will work with any licensees who have renewed their license in an active status but

## **Report on Implementation of Fingerprint Requirement**

Page 4 of 4

for which the CBA has not received fingerprint clearance to bring them into compliance. Staff will perform this audit about 45 days after each end-of-month expiration date has passed. Staff will begin the first set of audits in mid-March 2014 for licensees with the expiration date of January 31, 2014.

After the compliance verification measures begin, staff will include information regarding the progress of the process in the Licensing Division Activities Report provided at each CBA meeting.

### **Enforcement Data**

Below are some examples of subsequent arrest reports for which the CBA received a notification and subsequently took disciplinary action on.

- A licensee committed grand theft by embezzlement. While in prison, the licensee stipulated to the surrender of his CPA license.
- A licensee was convicted of embezzlement and use of methamphetamine. The licensee's license was revoked via default decision.
- A licensee worked to engender the trust of a local service organization. After becoming its treasurer, he proceeded to steal almost \$50,000. After being convicted of multiple felonies, the licensee stipulated to the surrender of his CPA license.

### **Fiscal/Economic Impact Considerations**

None.

### **Recommendation**

None.

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**CBA Item V.F.**  
January 23-24, 2014

**Update on the CBA 2013-2015 Communications and Outreach Plan**

**Presented by:** Lauren Hersh, Information & Planning Manager

**Date:** January 8, 2014

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**Purpose of the Item**

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

**Action(s) Needed**

None.

**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**

On December 9, staff launched a social media campaign focused on the new licensing requirements which took effect January 1, 2014. This campaign will continue through January and beyond, as warranted. Through the first two weeks of the campaign, engagement increased 28.3 percent. This includes requests for additional information regarding individual situations, to which staff is responding to in real time. At this writing, the CBA has 2,552 Facebook fans and 1,345 Twitter followers.

A new feature currently in testing on Facebook allows individuals to rate their experience with a business or organization with a number of stars, from one to five. The CBA currently has a rating of four and a half stars out of five, however, Facebook is not providing an opportunity for businesses and organizations to access comments or other information along with the ratings. From a public image perspective, staff is pleased the CBA is rated highly. However, staff is hoping Facebook will soon provide the data behind the ratings so that the information may be used to further enhance our customer service activities.

After a modest start, our Pinterest boards are picking up new followers, likes, and

## Update on the CBA 2013-2015 Communications and Outreach Plan

Page 2 of 3

re-pins of our posts at a more robust pace. Our new followers are mostly female who share pins most often from our *CBA Favorites* board, which has a wide variety of accounting humor pins and aspirational pins. The next most popular of our five boards is the *On Your Way to CPA* board, which focuses on career-building and exam pins. Staff is considering adding a “pin-it” button to the CBA website which would enable those with Pinterest accounts to pin content, such as the new licensure requirements tip sheet, directly from the CBA website to their Pinterest account.

### LinkedIn

At this writing, the CBA has 139 direct contacts, representing CPAs, CPA firms, educators and business leaders. Staff plans to utilize LinkedIn to assist in CBA committee recruitment.

### Press Releases

As indicated by the table below, the number of press advisories and topical news releases in 2013 are the same as in the previous two years; however the number of press releases regarding enforcement actions increased significantly. 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.

<b>Press Releases</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Press advisories & topical news releases	19	19	19
Enforcement press releases	31	35	59
<b>Total</b>	<b>50</b>	<b>54</b>	<b>78</b>

### 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 total subscribers. The largest increase is California Licensees, with 117 new subscriptions, followed by CBA Meeting Information & Agenda Materials, with 106 new subscriptions, and UPDATE Publication with 100 new subscribers.

<b>List Name</b>	<b>External</b>	<b>Internal</b>	<b>Total</b>
California Licensee	9,335	53	9,388
Consumer Interest	4,282	57	4,339
Examination Applicant	2,774	44	2,818
Licensing Applicant	3,388	48	3,436
Out-of-State Licensee	2,228	46	2,274

## Update on the CBA 2013-2015 Communications and Outreach Plan

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Statutory/Regulatory	7,486	61	7,547
CBA Meeting Info & Agenda Materials	3,455	39	3,494
UPDATE Publication	6,977	21	6,998
<b>Total subscriptions</b>	<b>39,925</b>	<b>369</b>	<b>40,294</b>

### **Fiscal/Economic Impact Considerations**

None.

### **Recommendation**

None.



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**CPC Item II.**  
January 23, 2014

**CBA Item VI.A.2.**  
January 23-24, 2014

**Discussion Regarding Initiating a Rulemaking to Amend Title 16,  
California Code of Regulations Section 19 (Practice Privilege Forms for  
Individuals)**

**Presented by:** Matthew Stanley, Legislative Analyst  
**Date:** December 20, 2013

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**Purpose of the Item**

The purpose of this agenda item is to present the California Board of Accountancy (CBA) with proposed regulatory language to implement the new requirement for practice privilege holders to report pending criminal charges to the CBA.

**Action(s) Needed**

The CBA will be asked to consider regulatory language implementing a form by reference for use by practice privilege holders to notify the CBA of pending criminal charges and direct staff to initiate the rulemaking process.

**Background**

Senate Bill 822, which was signed into law in September 2013, created a new reporting provision for practice privilege holders effective January 1, 2014. This new law requires individuals holding a practice privilege to notify the CBA of pending criminal charges other than a minor traffic violation).

The CBA receives a similar notification regarding criminal convictions and pending criminal charges for California licensees, as a result of their fingerprint submission to the Department of Justice (DOJ) at the time of licensure or beginning January 1, 2014 at time of license renewal. 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 for review and possible investigation.

**Comments**

The proposed amendment to CBA Regulations section 19 (**Attachment 1**) incorporates by reference a Practice Privilege Notification of Pending Criminal Charges form (**Attachment 2**). This form collects information on individuals holding a practice privilege who have pending criminal charges. The information provided on the form will be used by the Enforcement Division for investigative purposes. Additionally, the proposed form will provide practice privilege holders a clear direction on how to report to the CBA and what information needs to be included.

## **Discussion Regarding Initiating a Rulemaking to Amend Title 16, California Code of Regulations Section 19 (Practice Privilege Forms for Individuals)**

Page 2 of 2

### **Fiscal/Economic Impact**

CBA staff estimates there will be a minor but absorbable fiscal and economic impact to print and process the form.

### **Recommendation**

Staff recommend that the CBA approve the language and direct staff to initiate the rulemaking process.

### **Attachments**

- 1 – Proposed Regulatory Language
- 2 – Practice Privilege Notification of Pending Criminal Charges Form

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**Attachment 1****Proposed Regulatory Language****§ 19. Practice Privilege Forms for Individuals.**

(a) An individual who is required to provide notification to the Board pursuant to Section 5096(i)(1) of the Business and Professions Code shall do so on the Practice Privilege Pre-Notification of Listed Events Form (PP-10 (1/13)), which is hereby incorporated by reference.

(b) An individual who is required to provide notification to the Board pursuant to Section 5096(f) of the Business and Professions Code shall do so on the Notification of Cessation of Practice Privilege Form (PP-11 (1/13)), which is hereby incorporated by reference.

(c) An individual applying for reinstatement of a practice privilege under Section 5096.2(c) of the Business and Professions Code shall do so on the Application for Reinstatement of Practice Privilege (PP-12 (1/13)), which is hereby incorporated by reference.

(d) An individual who is required to provide notification to the Board pursuant to Section 5096(e)(10) of the Business and Professions Code shall do so on the Practice Privilege Notification of Pending Criminal Charges Form (PP-15 (12/13)), which is hereby incorporated by reference.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.  
Reference: Sections 5096 and 5096.2, Business and Professions Code.



# Attachment 1

1. Please provide explanatory details and any supporting documentation of your pending criminal charges:

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PERSONAL INFORMATION COLLECTION AND ACCESS: The information provided in this form will be used by the California Board of Accountancy to determine whether you qualify for practice privilege in California. Sections 5096 through 5096.21 of the California Business and Professions Code authorize the collection of this information. Failure to provide any of the required information is grounds for rejection of the form as being incomplete. Information provided may be transferred to the Department of Justice, a District Attorney, a City Attorney, or to another government agency as may be necessary to permit the Board, or the transferee agency, to perform its statutory or constitutional duties, or otherwise transferred or disclosed as provided in California Civil Code Section 1798.24. Each individual has the right to review his or her file, except as otherwise provided by the California Information Practices Act. Certain information provided may be disclosed to a member of the public, upon request, under the California Public Records Act. The Executive Officer of the California Board of Accountancy is responsible for maintaining the information in this form, and may be contacted at 2000 Evergreen Street, Suite 250, Sacramento, CA 95815, telephone number (916) 263-3680 regarding questions about this notice or access to records.



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**LC Item II.**  
January 23, 2014

**CBA Item VI.B.2.**  
January 23-24, 2014

## **Discussion Regarding Legislative Proposals for Inclusion in the Annual Omnibus Bill**

**Presented by:** Matthew Stanley, Legislation Analyst  
**Date:** December 18, 2013

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### **Purpose of the Item**

The purpose of this agenda item is to present the California Board of Accountancy (CBA) with information regarding proposed language for inclusion in the Senate Business, Professions and Economic Development Committee's (B&P) annual omnibus bill.

### **Action(s) Needed**

Staff are seeking the CBA's approval to proceed with two omnibus proposals which were submitted to the Senate B&P.

### **Background**

Every year, typically in December, the Senate B&P requests that all Department of Consumer Affairs boards and bureaus submit ideas for inclusion in its annual omnibus legislation. Staff prepared and submitted two items to the committee for consideration, both relate to the CBA's practice privilege program.

### **Comments**

When Senate Bill (SB) 1405 of 2012 was signed into law, a provision was placed into Business and Professions Code (BPC) section 5096.4 to require the CBA to consult the Public Company Accounting Oversight Board (PCAOB) and the Securities and Exchange Commission (SEC) on an every six-month basis to identify out-of-state licensees who may have disqualifying conditions, or may be obliged to cease practice and post them on the CBA website. In SB 1405 there were three versions of section 5096.4. The first became inoperative on July 1, 2013. The second is current law, and the third becomes operative on January 1, 2019.

The PCAOB/SEC provision may have been inadvertently placed in the wrong version of section 5096.4. Staff believe it was intended to go into the second version (current law), but was inadvertently placed in the third version of that section. This proposal would strike the provision from the third version of section 5096.4 and add it into the second version (current law) where it belongs.

## **Discussion Regarding Legislative Proposals for Inclusion in the Annual Omnibus Bill**

Page 2 of 2

Staff have been treating this provision as if it were in the correct place; therefore, this change is a technical change that would have no impact on how the CBA is implementing this provision.

The second provision being requested by staff involves the provision of the practice privilege law that requires individuals who hold a practice privilege in California to notify the CBA of any pending criminal charges in any jurisdiction. Current law does not provide a time frame or manner in which such notification is to be made, nor does it specify that the individual must be exercising the practice privilege in California. This could lead to licensees from other jurisdictions believing that they need to report to the CBA even if they have no intention of ever practicing here.

The proposal put forward to the committee by staff would add the phrases “in writing” and “within 30 days of the date the individual has knowledge of such charges” to the existing law. The wording of this section would now mirror the wording and timeframe requirements of BPC section 5063 which lists licensees’ reporting requirements. In addition, 5096(e) would clarify that it applies only to those exercising the practice privilege in California.

### **Fiscal/Economic Impact Considerations**

As these proposals do not change the CBA implementation of the practice privilege program, nor impose any new reporting requirement on practice privilege holders, there is not expected to be any fiscal or economic impact.

### **Recommendation**

Although staff have already submitted these proposals due to the Senate B&P’s time constraints, staff recommend that the CBA approve the proposals. However, if the CBA would like to make any suggestions or changes regarding these proposals, staff will submit them to the committee.

### **Attachment**

Proposed Legislative Changes

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**Attachment****Proposed Legislative Changes***First Proposal***BPC 5096.4.** *(added by Stats. 2004, Ch. 921, Sec. 20. ) Current Law*

(a) The right of an individual to practice in this state under a practice privilege may be administratively suspended at any time by an order issued by the board or its executive officer, without prior notice or hearing, for the purpose of conducting a disciplinary investigation, proceeding, or inquiry concerning the individual's competence or qualifications to practice under practice privileges, failure to timely respond to a board inquiry or request for information or documents, or under other conditions and circumstances provided for by board regulation. The board shall consult the Public Company Accounting Oversight Board and the Securities and Exchange Commission on an every six-month basis to identify out-of-state licensees who may have disqualifying conditions, or may be obliged to cease practice, and shall disclose, pursuant to this subdivision, whether those out-of-state licensees are lawfully permitted to exercise the privilege. Disclosure of this information shall not be considered discipline.

**BPC 5096.4.** *(added by Stats. 2004, Ch. 921, Sec. 21. ) Operative January 1, 2019*

(a) The right of an individual to practice in this state under a practice privilege may be administratively suspended at any time by an order issued by the board or its executive officer, without prior notice or hearing, for the purpose of conducting a disciplinary investigation, proceeding, or inquiry concerning the representations made in the notice, the individual's competence or qualifications to practice under practice privileges, failure to timely respond to a board inquiry or request for information or documents, or under other conditions and circumstances provided for by board regulation. ~~The board shall consult the Public Company Accounting Oversight Board and the Securities and Exchange Commission on an every six-month basis to identify out-of-state licensees who may have disqualifying conditions, or may be obliged to cease practice, and shall disclose, pursuant to this subdivision, whether those out-of-state licensees are lawfully permitted to exercise the privilege. Disclosure of this information shall not be considered discipline.~~

*Second Proposal*

**BPC 5096**

(e) An individual who holds a practice privilege under this article, and is exercising the practice privilege in California:

(10) Shall ~~notify~~ report to the board in writing of any pending criminal charges, other than for a minor traffic violation, in any jurisdiction within 30 days of the date the individual has knowledge of such charges.



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**LC Item III.**  
January 23, 2014

**CBA Item VI.B.3.**  
January 23-24, 2014

**Discussion and Possible Recommendation Regarding Sponsorship of  
Legislation to Collect Email Addresses from Licensees**

**Presented by:** Matthew Stanley, Legislation Analyst

**Date:** December 27, 2013

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**Purpose of the Item**

The purpose of this agenda item is to put forward for consideration and approval legislative language that would allow the California Board of Accountancy (CBA) to collect email addresses on its application forms.

**Action(s) Needed**

The CBA will be asked to approve the proposed language.

**Background**

In 2011, the CBA rejected a proposal to mandate the collection and maintenance of licensees' email addresses. This proposal was made while the CBA was experimenting with electronic distribution of its publication UPDATE. As the CBA moved away from that format, mandatory email collection was unnecessary.

Staff is now providing a revised proposal (**Attached**) which is no longer tied to UPDATE in any way.

**Comments**

The collection of email addresses would allow the CBA an alternative method for communicating important and timely information regarding a wide range of topics to licensees that could include time sensitive issues, problems with computer systems, or other unforeseen emergencies. It is not anticipated that the CBA would utilize its email list on so frequent a basis that it would be perceived as spam emails.

The CBA's current automated tracking system allows the option to collect email addresses from licensees; however, the addresses cannot be used for any type of mass email communication. They are presently stored as an alternative communication method to communicate with individual licensees, when necessary, to address issues such as renewal deficiencies.

The CBA is scheduled to convert to the new electronic licensing system, BreEZe, in 2015. In order for licensees to utilize the BreEZe system, they will be required to provide an email address. Those who choose not to use the BreEZe system will be

## **Discussion Regarding Legislative Proposals for Inclusion in the Annual Omnibus Bill**

Page 2 of 2

able to continue filing paper applications for licensure and license renewals on which email addresses cannot currently be required.

This leads to a situation where the CBA will have an incomplete list of its licensees email addresses, precluding the use of email as an optional, additional communication method with licensees. To remedy this issue, this proposal would allow the CBA to gather emails from applicants who continue using the current paper based system.

The language is permissive in order to allow for implementing regulations that can provide the specifics of the email collection process. The language is also flexible in that the licensee only need to update their email address at the time of renewal. Finally, the language also provides protection of the licensee's privacy.

In speaking with the staff at the Senate Business, Professions and Economic Development Committee, it was indicated that, should the CBA approve the language, it might be possible to have this language amended into the omnibus bill subsequent to its introduction. If that is not able to happen, staff will obtain a spot bill and seek an author for this language outside of the omnibus process.

Staff anticipate that discussions regarding regulatory language could begin as early as the CBA's September 2014 meeting following passage of the bill.

### **Fiscal/Economic Impact Considerations**

Fiscal and economic impact would be dependent on the content of the regulatory proposal.

### **Recommendation**

Staff recommend adopting the proposed language and directing staff to seek its inclusion in the omnibus bill or, if not possible, sponsoring the language as a separate bill.

### **Attachment**

Proposed Legislative Language

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**Attachment****Proposed Legislative Language****5070.**

(a) Permits to engage in the practice of public accountancy in this state shall be issued by the board only to holders of the certificate of certified public accountant issued under this chapter and to those partnerships, corporations, and other persons who, upon application approved by the board, are registered with the board under this chapter. Notwithstanding any other provision of law, the board may register an entity organized and authorized to practice public accountancy under the laws of another state for the purpose of allowing that entity to satisfy the registration requirement set forth in Section 5096.12, provided that (1) the certified public accountants providing services in California qualify for the practice privilege, and (2) the entity satisfies all other requirements to register in this state, other than its form of legal organization.

(b) All applicants for registration shall furnish satisfactory evidence that the applicant is entitled to registration and shall pay the fee as provided in Article 8 (commencing with Section 5130). Every partnership, corporation, and other person to whom a permit is issued ~~after December 31, 1962~~, shall, in addition to any other fee which may be payable, pay the initial permit fee provided in Article 8 (commencing with Section 5130).

(c) The board may require that a valid email address be provided at the time of application for a certified public accountant license. In the interests of protecting an applicant's privacy, the email address shall not be considered a public record and shall not be disclosed pursuant to a request under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), unless required pursuant to a court order by a court of competent jurisdiction or disclosed as part of a disciplinary or other administrative proceeding instituted by the board.

(d) Each partnership, corporation, and other person issued a permit by the board to practice as a certified public accountant or as a public accountant shall be furnished with a suitable certificate evidencing that registration.

**5070.5.**

(a) (1) A permit issued under this chapter to a certified public accountant or a public accountant expires at 12 midnight on the last day of the month of the legal birthday of the licensee during the second year of a two-year term if not renewed.

(2) To renew an unexpired permit, a permitholder shall, before the time at which the permit would otherwise expire, apply for renewal on a form prescribed by the board, pay the renewal fee prescribed by this chapter and give evidence satisfactory to the board that he or she has complied with the continuing education provisions of this chapter.

(3) The board may require that a valid email address be provided on the renewal form described in (a)(1). In the interests of protecting an applicant's privacy, the email address shall not be considered a public record and shall not be disclosed pursuant to a request under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), unless required pursuant to a court order by a court of competent jurisdiction or disclosed as part of a disciplinary or other administrative proceeding instituted by the board.

(b) A permit to practice as an accountancy partnership or an accountancy corporation expires at 12 midnight on the last day of the month in which the permit was initially issued during the second year of a two-year term if not renewed. To renew an unexpired permit, the permitholder shall, before the time at which the permit would otherwise expire, apply for renewal on a form prescribed by the board, pay the renewal fee prescribed by this chapter, and provide evidence satisfactory to the board that the accountancy partnership or accountancy corporation is in compliance with this chapter.

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**LC Item IV.**

January 23, 2014

**CBA Item VI.B.4.**

January 23-24, 2014

**Approval of Proposed Legislative Language Regarding Acceptance of Academia  
Experience to Qualify for CPA Licensure**

**Presented by:** Matthew Stanley, Legislation Analyst**Date:** December 27, 2013**Purpose of the Item**

The purpose of this agenda item is to put forward for approval legislative language that would allow the acceptance of experience in academia to count towards the general accounting experience requirement for certified public accountant (CPA) licensure.

**Action(s) Needed**

The California Board of Accountancy (CBA) will be asked to approve the proposed language.

**Background**

The Taskforce to Examine Experience for CPA Licensure (TEEL), comprised of CBA members and various stakeholders, met throughout 2013 to discuss a possible shift to a single experience requirement for CPA licensure.

One of TEEL's recommendations, made at its September 2013 meeting, was to allow experience gained in academia to count towards the general accounting experience requirement for CPA licensure. At its November 2013 meeting, the CBA voted to proceed with a legislative proposal implementing the TEEL recommendation. The CBA directed that the language allow the CBA to define the specifics in regulation following the approval of the legislation.

**Comments**

Business and Professions Code (BPC) section 5093 currently requires that qualifying experience must be supervised by a CPA and that the work must be performed in accordance with applicable professional standards. As there are no applicable accounting professional standards for experience in academia and as it is anticipated that the individual signing off on academia experience may not be a CPA, the proposal must address those issues. The proposed legislative language (**Attached**) would permissively allow the CBA to adopt regulations to allow for experience in academia notwithstanding other provisions applicable to general accounting experience.

CBA staff have discussed the concept of the proposal with staff of the Senate Business, Professions and Economic Development Committee. It was indicated that, following CBA approval, it might be possible to have this language amended into the omnibus bill

## **Approval of Proposed Legislative Language Regarding Acceptance of Academia Experience to Qualify for CPA Licensure**

Page 2 of 2

subsequent to its introduction. If that is not able to happen, staff will obtain a spot bill and seek an author for this language outside of the omnibus process.

It is anticipated that staff will bring regulatory language implementing these provisions to the CBA for its review and approval as early as its September 2014 meeting.

### **Fiscal/Economic Impact Considerations**

The fiscal and economic impact would be dependent on the content of the regulatory proposal.

### **Recommendation**

Staff recommend adopting the proposed language and directing staff to seek its inclusion in the omnibus bill or, if not possible, sponsoring the language as a separate bill.

### **Attachment**

Proposed Legislative Language

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**Attachment****Proposed Legislative Language****5093.**

(a) To qualify for the certified public accountant license, an applicant who is applying under this section shall meet the education, examination, and experience requirements specified in subdivisions (b), (c), and (d), or otherwise prescribed pursuant to this article. The board may adopt regulations as necessary to implement this section.

(b) (1) An applicant for admission to the certified public accountant examination under the provisions of this section shall present satisfactory evidence that the applicant has completed a baccalaureate or higher degree conferred by a degree-granting university, college, or other institution of learning accredited by a regional or national accrediting agency included in a list of these agencies published by the United States Secretary of Education under the requirements of the Higher Education Act of 1965 as amended (20 U.S.C. Sec. 1001 et seq.), or meeting, at a minimum, the standards described in subdivision (c) of Section 5094. The total educational program shall include a minimum of 24 semester units in accounting subjects and 24 semester units in business-related subjects. This evidence shall be provided at the time of application for admission to the examination, except that an applicant who applied, qualified, and sat for at least two subjects of the examination for the certified public accountant license before May 15, 2002, may provide this evidence at the time of application for licensure.

(A) An applicant enrolled in a program at an institution as described in this paragraph that grants conferral of a baccalaureate degree upon completion of the 150 semester units required by paragraph (2) of this subdivision may satisfy the requirements of this paragraph if the applicant's institution mails the applicant's official transcript or its equivalent together or separately with a letter signed by the institution's registrar, or its equivalent, directly to the board pursuant to subdivision (c) of Section 5094. The letter shall include all of the following:

(i) A statement that the applicant is enrolled and in good standing in a program that will result in the conferral of a baccalaureate degree upon completion of either a master's degree or the 150 semester units required by paragraph (2) of this subdivision.

(ii) A statement that the applicant has completed all requirements, including general education and elective requirements, for a baccalaureate degree and the only reason the college or university has yet to confer the degree is because the applicant is enrolled in a program that confers a baccalaureate degree upon completion of either a master's degree or the 150 semester units required by paragraph (2) of this subdivision.

(iii) The date on which the applicant met all of the college's or university's requirements for conferral of a baccalaureate degree.

(B) The total educational program for an applicant described in subparagraph (A) shall include a minimum of 24 semester units in accounting subjects and 24 semester units in business-related subjects. This evidence shall be provided at the time of application for

admission to the examination, except that an applicant who applied, qualified, and sat for at least two subjects of the examination for the certified public accountant license before May 15, 2002, may provide this evidence at the time of application for licensure.

(2) An applicant for issuance of the certified public accountant license under the provisions of this section shall present satisfactory evidence that the applicant has completed at least 150 semester units of college education including a baccalaureate or higher degree conferred by a college or university, meeting, at a minimum, the standards described in Section 5094, the total educational program to include a minimum of 24 semester units in accounting subjects, 24 semester units in business-related subjects, and, after December 31, 2013, shall also include a minimum of 10 units of ethics study consistent with the requirements set forth in Section 5094.3 and 20 units of accounting study consistent with the regulations promulgated under subdivision (c) of Section 5094.6. This evidence shall be presented at the time of application for the certified public accountant license. Nothing in this paragraph shall be deemed inconsistent with Section 5094 or 5094.6. Nothing in this paragraph shall be construed to be inconsistent with prevailing academic practice regarding the completion of units.

(c) An applicant for the certified public accountant license shall pass an examination prescribed by the board.

(d) (1) The applicant shall show, to the satisfaction of the board, that the applicant has had one year of qualifying experience. This experience may include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills.

(2) To be qualifying under this section, experience shall have been performed in accordance with applicable professional standards. Experience 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 in private 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.

(3) Notwithstanding subdivision (d)(2), the board may, by regulation, allow experience in academia to be qualifying under this section.

(e) Applicants completing education at a college or university located outside of this state, meeting, at a minimum, the standards described in Section 5094, shall be deemed to meet the educational requirements of this section if the board determines that the education is substantially equivalent to the standards of education specified under this chapter.

(f) An applicant who has successfully passed the examination requirement specified under Section 5082 on or before December 31, 2013, may qualify for the certified public accountant license without satisfying the 10 semester units of study set forth in Section 5094.3 or 20 semester units of accounting study consistent with the regulations promulgated under Section 5094.6, if the applicant completes all other requirements for the issuance of a license on or before December 31, 2015.



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**LC Item V.**  
January 23, 2014

**CBA Item VI.B.5.**  
January 23-24, 2014

## **Overview of the Legislative Process and the Legislative Committee's Role**

**Presented by:** Matthew Stanley, Legislation Analyst

**Date:** December 18, 2013

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### **Purpose of the Item**

The purpose of this agenda item is to present information regarding the legislative process and the Legislative Committee's (LC) role.

### **Action(s) Needed**

None.

### **Background**

One of the main roles of the LC is to assist the California Board of Accountancy (CBA) in its activities by reviewing, recommending, and advancing legislation relating to consumer protection and the practice of public accountancy.

### **Comments**

**Attachment 1** is an overview of the Legislative process. It provides information on all of the steps necessary for a bill to become a law in California. It also provides some considerations CBA members may wish to keep in mind as they discuss legislation.

**Attachment 2**, Considerations for Taking Positions on 2014 Legislation, is meant to assist the CBA in determining the best position to take in regards to proposed legislation. As the LC and the CBA review proposed legislation it may be helpful to make reference to these considerations.

### **Fiscal/Economic Impact Considerations**

There are no fiscal or economic impact considerations as this item is for information only.

### **Recommendation**

None.

### **Attachments**

- 1 – The Legislative Process
- 2 – Considerations for Taking Positions on 2014 Legislation



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**Attachment 1**

## **The Legislative Process**

### **Step-by-Step Through the Legislative Process**

The legislative process is designed so that a bill may be fully vetted before it becomes law. A bill must pass both houses, the Senate and Assembly, and be signed by the Governor before it can become law. Even after that, it is still subject to judicial review. Some of the following steps may not be necessary for all legislation.

#### **Idea**

All legislation begins with an idea. Ideas can arise from many different sources, including the California Board of Accountancy (CBA). When the CBA develops an idea, it is analyzed internally, draft statutory language is prepared, and then presented to the CBA. Upon the CBA's approval, staff then seeks an author.

#### **Author**

A legislator often acts as the vehicle for an idea to be carried through the legislative process as a bill. When choosing a legislator, it is important to do so carefully. Staff takes into consideration the legislator's background, party, voting history, and policy interests, as well as what committees they are sitting on, and how the idea relates to the legislator's constituents. If the author feels more passionate about the issue, or if the issue is important for the author's constituents, the author is more likely to fight for the bill.

#### **Introduction**

Bills are introduced and read on the house floor (Assembly or Senate) between January and February. No bill may be acted upon until 30 day after the bill's introduction. If the idea fails to turn into a bill, it could possibly be amended into a bill at a later date.

#### **Committee Hearings**

Bills go before the Rules Committee of the house of origin where it is assigned to a policy committee for its first hearing. The majority of bills related to the CBA are expected to be sent to the Business and Professions Committee on the Assembly side or the Business, Professions, and Economic Development on the Senate side. Bills that require the expenditure of funds must also be heard in the fiscal committees: Assembly Appropriations or Senate Appropriations.

Committee staff prepares bill analyses to be available for the public, which generally summarizes the bill's background, what it does, fiscal/economic impact, support and opposition, and other information the staff deem necessary.

During the committee hearings, bills are presented by the author or a representative of the author, and after the bill is discussed among committee member, it becomes open for public comment.

### Second and Third Reading

Bills passed by committees are read a second time on the floor in the house of origin and then assigned to third reading. While the bill is on the floor, discussion is restricted to legislators who reside in that house. Bills that require an appropriation or that take effect immediately, generally require 27 votes in the Senate and 54 votes in the Assembly to be passed. Other bills generally require 21 in the Senate and 41 in the Assembly.

Once the bill is approved by the house of origin, it proceeds to the other house where the procedure is repeated.

### Resolution of Difference

If a bill is amended in the second house, it must go back to the house of origin for concurrence, which is agreement on the amendments. If agreement cannot be reached, the bill is referred to a two house conference committee to resolve differences. Three members of the committee are from the Senate and three are from the Assembly. If a compromise is reached, the bill is returned to both houses for a vote.

### Governor

Once both houses approve the bill, it goes before the Governor. The Governor has three options: sign, veto, or do nothing. If the Governor does nothing to the bill within 30 days, it will go into effect without his or her signature. If the Governor issues a veto, the veto can be overridden by a two-thirds vote in both houses.

### California Law

If the bill is an urgency measure, it will go into effect immediately after it is signed or allowed to go into law. If the bill is not an urgency measure, it will go into effect January 1<sup>st</sup> the following year, unless otherwise specified in the bill.

## **Considerations for Sponsoring a Legislative Agenda**

When putting together a legislative agenda, there are several factors that must be considered. The following is a discussion of the major factors the CBA faces when it considers sponsoring legislation.

### DCA Involvement

The Department of Consumer Affairs (DCA) can be a valuable ally in the legislative process. It can help both by assuring the approved language is clear and accomplishes the desired result and by influencing the political arena as well. When DCA makes a recommendation it is called an "approved position." That approval comes from the Governor. DCA makes its recommendation to him, and then he either approves its position or not. Without the Governor's approval, DCA cannot take a position as it is a department of the executive branch. Therefore, it is very important to have DCA recommend that the Governor support the proposed bill.

### Participation

CBA members have a significant role to play in the advancement of the CBA's legislative agenda. The legislature often relies on the expertise from others to gain a stronger sense of the issue. CBA members are encouraged to contact members of the legislature, and if wishing to do so, should ask CBA staff to schedule an appointment and to ensure both parties are properly prepared for a discussion.

### Beware of Interactions

Some bills do not do well when introduced with other bills. Staff have previously been told by legislative consultants that the CBA needs to carefully consider what bills it introduces. Certain unpopular bills can have a negative impact on good bills. A good bill can easily die due to its association, real or perceived, with an unpopular bill.

### Be Willing to Compromise

Throughout the legislative process, various committees and legislators will attempt to amend bills. The CBA needs to be aware that the bill introduced is almost never the bill signed by the Governor.

In addition, while the CBA may sponsor a given bill, it is not the author. Frequently, the author will defer to the sponsor of a bill when deciding whether or not to accept an amendment. However, that is not always the case. If an author takes an amendment that the CBA does not like, it has three options.

The first option is to accept the amendment for what it is. It may not be exactly what the CBA would like, but it is something it can adjust to.

The second option is to ask the author to attempt to amend the bill back to an acceptable form. This can be very tricky. Once an author accepts an amendment from a committee or another member, the spirit of that amendment must be maintained or the author could be seen by fellow legislators as going back on their word. This is certain death for the bill. Therefore, in amending the bill again to make it more palatable, the author still must maintain the spirit of the original amendment. If that spirit is entirely unacceptable to the CBA, there is only one remaining option.

The final option is to remove sponsorship of the bill. The CBA has no power to stop the author from going forward with the bill if they so choose, but it is not required to continue its sponsorship. It can even issue a letter of opposition if it is appropriate to do so.

### Some Bills Just Die

In the end, it must be realized that despite CBA members' and staff's best efforts, sometimes bills die. They may be unpopular to an important committee chair, they may be too expensive, they may get caught in legislative maneuvering; but sometimes, bills just die.

### **Internal Process for Tracking and Monitoring Legislation**

During the legislative process, CBA staff identifies and monitors legislation of interest to the CBA by using various tools, including Leginfo, Capitol Track, and direct communication.

Leginfo is a website maintained by the state that contains information on bills introduced from 1999 and onward. It provides a bill history, status, votes, and committee analyses.

Capitol Track expands leginfo's services by providing the ability to track and monitor legislation more efficiently. Staff is able to conduct searches with key words to help narrow the results to bills pertaining to the CBA. Bills that staff deem pertinent to monitor are specially categorized.

Using Capitol Track, staff prepares a weekly tracking sheet to follow all of the legislation that is of interest to the CBA. It is used to keep management apprised of the bills' status, location, and progress.

Staying in close communication with other Boards, Departments, stakeholders, committees, and legislators can be just as important with monitoring legislation. Effective communication helps improve staff's understanding of various interpretations, questions, concerns, and plans on moving legislation forward.

As the legislative session advances, CBA will be provided an updated report and analysis on legislation during each CBA Meeting.

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**Attachment 2****Considerations for Taking Positions on 2014 Legislation**

As new bills are introduced or amended in the Legislature, the CBA may take a variety of possible positions, which are outlined below. Introduced legislation rarely passes through the legislative process without amendment; and those amendments may change the CBA's position. It is anticipated that for those bills on which the CBA takes one of the positions outlined below, staff will track that legislation and update the CBA at future meetings regarding any amendments. This will allow the CBA to change its position throughout the legislative session if desired.

**Positions the CBA may take:****Sponsor:**

The CBA is the sponsor of the bill.

**Support:**

The CBA supports the bill. At this level, the CBA supports the bill as it is written and would send a letter of support to interested legislators at appropriate times. The CBA may go as far as actually talking to Legislators on behalf of the bill if its passage is considered crucial to the CBA.

**Support if Amended:**

The CBA supports the concept of the bill, but it would need a modification to achieve the CBA's full support. This position would be communicated to interested legislators at appropriate times along with the suggested amendment. If the CBA's amendment is accepted without other significant amendment, the position would be changed to support automatically, and a letter would be sent to reflect the new position.

**Neutral:**

The bill in question affects the CBA's interests in some way, but the CBA does not have a position one way or the other. This position could be communicated to interested legislators if the CBA chooses.

**Oppose unless Amended:**

The CBA opposes the bill as it is currently written, but if the bill were modified in a particular fashion, the CBA would no longer be opposed. If the CBA's amendment is accepted without other significant amendment, a letter would automatically be sent withdrawing the CBA's opposition. Further, the CBA may choose at a later time to take a Neutral, Support if Amended, or Support position.

This position would be communicated to interested legislators at appropriate times along with the suggested amendment.

**Oppose:**

The CBA opposes the bill. There are no reasonable amendments that would change the CBA's position. The CBA would send a letter of opposition to interested legislators at appropriate times and may go as far as actually lobbying against the bill, if it's considered crucial to the CBA.

**Watch:**

The bill may develop into an item of interest for the CBA. While it is not currently something on which the CBA wishes to take a position, staff will continue to follow the bill and update the CBA as to its status.

**Discontinue Following:**

The bill has changed in such a way that it is no longer of interest to the CBA. Staff no longer needs to provide updates on this bill.

Staff will track bills on which the CBA takes a position and will continue to examine other legislation for amendments that may cause other bills to become of interest to the CBA.



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**EPOC Item II.**  
January 23, 2014

**CBA Item VI.C.2.**  
January 23-24, 2014

**Discussion of Recommended Changes to the Disciplinary Guidelines and Model Orders Regarding Changes to Business and Professions Code Section 5096(e)(10) - Notification of Pending Criminal Charges for Practice Privilege Holders**

**Presented by:** Rafael Ixta, Chief, Enforcement Division  
**Date:** January 2, 2014

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**Purpose of the Item**

The purpose of this agenda item is to present a recommended change to the Disciplinary Guidelines (Guidelines) for a person exercising a practice privilege in California that fails to notify the California Board of Accountancy (CBA) of pending criminal charges in accordance with California Business and Professions Code (BPC) section 5096(e)(10).

**Action(s) Needed**

Staff is requesting the Enforcement Program Oversight Committee (EPOC) approve the attached Guideline and offer additional revisions as needed (**Attachment 1**).

**Background**

On September 20, 2013 Governor Brown signed Senate Bill 822 (**Attachment 2**), which, among other things, requires a person exercising a practice privilege in California to notify the CBA of any pending criminal charges, other than for a minor traffic violation, in any jurisdiction.

**Comments**

The minimum and maximum penalties, along with the standard and optional conditions of probation are consistent with the established disciplinary guidelines related to violations of BPC 5096 and the rest of the practice privilege guidelines.

**Fiscal/Economic Impact Considerations**

There is minimal fiscal or economic impact to adding the Guideline.

**Recommendation**

Staff recommends the EPOC members review and approve the attached Guideline, which will then be incorporated into the Disciplinary Guidelines and Model Orders that is currently in the rulemaking process.

**Attachments**

- 1 Suggested changes to the California Board of Accountancy Disciplinary Guidelines and Model Orders, 9th Edition, 2013
- 2 Relevant Portions of Senate Bill 822



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## Attachment 1

### **Suggested changes to the California Board of Accountancy Disciplinary Guidelines and Model Orders, 9th Edition, 2013**

#### Section 5096(e)(10) Failure to Report Pending Criminal Charges

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. Ethics Continuing Education [31]
  3. Regulatory Review Course [23]
  4. Administrative Penalty not to exceed maximum set forth in Section 5116 [43]

**Senate Bill No. 822**

CHAPTER 319

An act to amend Sections 5096, 5096.2, 5096.12, 7026.1, 7065.3, 7114, 7141, 7206, 7210, 7887, 9807, and 17914 of, to add Section 7851 to, and to repeal Sections 102.1 and 102.2 of, the Business and Professions Code, and to amend Section 44011 of the Health and Safety Code, relating to professions and vocations, and making an appropriation therefor.

[Approved by Governor September 20, 2013. Filed with  
Secretary of State September 20, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 822, Committee on Business, Professions and Economic Development. Professions and vocations.

(1) Existing law requires that certain actions take place with regard to the Cemetery Board and Funeral Directors and Embalmers Board and the Structural Pest Control Board by January 1, 1996.

This bill would delete those provisions.

(2) Existing law, between July 1, 2013, and January 1, 2019, authorizes an individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state to engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license, if certain conditions are met.

This bill would add the condition that the individual is required to notify the Board of Accountancy of any pending criminal charges in any jurisdiction, other than for a minor traffic violation.

Existing law, between July 1, 2013, and January 1, 2019, authorizes a certified public accounting firm that is authorized to practice in another state and that does not have an office in this state to engage in the practice of public accountancy in this state through the holder of a practice privilege, and the board is authorized to revoke, suspend, issue a fine, as provided, or otherwise restrict or discipline the firm for any act that would be grounds for discipline against a holder of a practice privilege through which the firm practices.

This bill would also authorize the board to issue a citation and fine, as provided, under the general powers given to the board as a part of the Department of Consumer Affairs.

(3) Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors in this state. Existing law defines the term "contractor" to mean, among other things, any person, consultant to an owner-builder, corporation, or company who or which undertakes, offers to undertake, purports to have the capacity to undertake, or submits

5096. (a) An individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state may, subject to the conditions and limitations in this article, engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license under this chapter if the individual satisfies one of the following:

(1) The individual has continually practiced public accountancy as a certified public accountant under a valid license issued by any state for at least 4 of the last 10 years.

(2) The individual has a license, certificate, or permit from a state that has been determined by the board to have education, examination, and experience qualifications for licensure substantially equivalent to this state's qualifications under Section 5093.

(3) The individual possesses education, examination, and experience qualifications for licensure that have been determined by the board to be substantially equivalent to this state's qualifications under Section 5093.

(b) The board may designate states as substantially equivalent under paragraph (2) of subdivision (a) and may accept individual qualification evaluations or appraisals conducted by designated entities, as satisfying the requirements of paragraph (3) of subdivision (a).

(c) An individual who qualifies for the practice privilege under this section may engage in the practice of public accountancy in this state, and no notice, fee, or other requirement shall be imposed on that individual by the board.

(d) An individual who qualifies for the practice privilege under this section may perform the following services only through a firm of certified public accountants that has obtained a registration from the board pursuant to Section 5096.12:

(1) An audit or review of a financial statement for an entity headquartered in California.

(2) A compilation of a financial statement when that person expects, or reasonably might expect, that a third party will use the financial statement and the compilation report does not disclose a lack of independence for an entity headquartered in California.

(3) An examination of prospective financial information for an entity headquartered in California.

(e) An individual who holds a practice privilege under this article:

(1) Is subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state.

(2) Shall comply with the provisions of this chapter, board regulations, and other laws, regulations, and professional standards applicable to the practice of public accountancy by the licensees of this state and to any other laws and regulations applicable to individuals practicing under practice privileges in this state except the individual is deemed, solely for the purpose of this article, to have met the continuing education requirements and ethics examination requirements of this state when the individual has met the examination and continuing education requirements of the state in which

the individual holds the valid license, certificate, or permit on which the substantial equivalency is based.

(3) Shall not provide public accountancy services in this state from any office located in this state, except as an employee of a firm registered in this state. This paragraph does not apply to public accountancy services provided to a client at the client's place of business or residence.

(4) Is deemed to have appointed the regulatory agency of the state that issued the individual's certificate, license, or permit upon which substantial equivalency is based as the individual's agent on whom notices, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(5) Shall cooperate with any board investigation or inquiry and shall timely respond to a board investigation, inquiry, request, notice, demand, or subpoena for information or documents and timely provide to the board the identified information and documents.

(6) Shall cease exercising the practice privilege in this state if the regulatory agency in the state in which the individual's certificate, license, or permit was issued takes disciplinary action resulting in the suspension or revocation, including stayed suspension, stayed revocation, or probation of the individual's certificate, license, or permit, or takes other disciplinary action against the individual's certificate, license, or permit that arises from any of the following:

(A) Gross negligence, recklessness, or intentional wrongdoing relating to the practice of public accountancy.

(B) Fraud or misappropriation of funds.

(C) Preparation, publication, or dissemination of false, fraudulent, or materially incomplete or misleading financial statements, reports, or information.

(7) Shall cease exercising the practice privilege in this state if convicted in any jurisdiction of any crime involving dishonesty, including, but not limited to, embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

(8) Shall cease exercising the practice privilege if the United States Securities and Exchange Commission or the Public Company Accounting Oversight Board bars the individual from practicing before them.

(9) Shall cease exercising the practice privilege if any governmental body or agency suspends the right of the individual to practice before the body or agency.

(10) Shall notify the board of any pending criminal charges, other than for a minor traffic violation, in any jurisdiction.

(f) An individual who is required to cease practice pursuant to paragraphs (6) to (9), inclusive, of subdivision (e) shall notify the board within 15 calendar days, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant to this section until he or she has received from the board written permission to do so.

(g) An individual who fails to cease practice as required by subdivision (e) or who fails to provide the notice required by subdivision (f) shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board as if the practice privilege were a license and the individual were a licensee. An individual in violation of subdivision (e) or (f) shall, for a minimum of one year from the date the board learns there has been a violation of subdivision (e) or (f), not practice in this state and shall not have the possibility of reinstatement during that period. If the board determines 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.

(h) The board shall require an individual who provides notice to the board pursuant to subdivision (f) to cease the practice of public accountancy in this state until the board provides the individual with written permission to resume the practice of public accountancy in this state.

(i) (1) An individual to whom, within the last seven years immediately preceding the date on which he or she wishes to practice in this state, any of the following criteria apply, shall notify the board, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant to this section until the board provides the individual with written permission to do so:

(A) He or she has been the subject of any final disciplinary action by the licensing or disciplinary authority of any other jurisdiction with respect to any professional license or has any charges of professional misconduct pending against him or her in any other jurisdiction.

(B) He or she has had his or her license in another jurisdiction reinstated after a suspension or revocation of the license.

(C) He or she has been denied issuance or renewal of a professional license or certificate in any other jurisdiction for any reason other than an inadvertent administrative error.

(D) He or she has been convicted of a crime or is subject to pending criminal charges in any jurisdiction other than a minor traffic violation.

(E) He or she has otherwise acquired a disqualifying condition as described in subdivision (a) of Section 5096.2.

(2) An individual who fails to cease practice as required by subdivision (e) or who fails to provide the notice required by paragraph (1) shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board as if the practice privilege were a license and the individual were a licensee. An individual in violation of subdivision (e) or paragraph (1) shall, for a minimum of one year from the date the board knows there has been a violation of subdivision (e) or paragraph (1), not practice in this state and shall not have the possibility of reinstatement during that period. If the board determines that the failure to cease practice or provide the notice was intentional, that individual shall be prohibited from practicing in this state in the same manner as if a licensee has his or her practice privilege revoked and there shall be no possibility of reinstatement for a minimum of two years.

(j) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 4. Section 5096.2 of the Business and Professions Code, as added by Section 15 of Chapter 411 of the Statutes of 2012, is amended to read:

5096.2. (a) (1) Practice privileges may be revoked for any of the following reasons:

(A) If an individual no longer qualifies under, or complies with, the provisions of this article, including, but not limited to, Section 5096, or implementing regulations.

(B) If an individual commits any act that if committed by an applicant for licensure would be grounds for denial of a license under Section 480.

(C) If an individual commits any act that if committed by a licensee would be grounds for discipline under Section 5100.

(D) If an individual commits any act outside of this state that would be a violation if committed within this state.

(E) If an individual acquires at any time, while exercising the practice privilege, any disqualifying condition under paragraph (2).

(2) Disqualifying conditions include:

(A) Conviction of any crime other than a minor traffic violation.

(B) Revocation, suspension, denial, surrender, or other discipline or sanctions involving any license, permit, registration, certificate, or other authority to practice any profession in this or any other state or foreign country or to practice before any state, federal, or local court or agency, or the Public Company Accounting Oversight Board.

(C) Any judgment or arbitration award against the individual involving the professional conduct of the individual in the amount of thirty thousand dollars (\$30,000) or greater.

(D) Any other conditions as specified by the board in regulation.

(3) The board may adopt regulations exempting specified minor occurrences of the conditions listed in subparagraph (B) of paragraph (2) from being disqualifying conditions under this subdivision.

(b) The board may revoke practice privileges using either of the following procedures:

(1) Notifying the individual in writing of all of the following:

(A) That the practice privilege is revoked.

(B) The reasons for revocation.

(C) The earliest date on which the individual may qualify for a practice privilege.

(D) That the individual has a right to appeal the notice and request a hearing under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) if a written notice of appeal and request for hearing is made within 60 days.

(E) That, if the individual does not submit a notice of appeal and request for hearing within 60 days, the board's action set forth in the notice shall become final.

(2) Filing a statement of issues under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) An individual whose practice privilege has been revoked may only subsequently exercise the practice privilege upon application to the board for reinstatement of the practice privilege not less than one year after the effective date of the notice or decision revoking the practice privilege, unless a longer time period is specified in the notice or decision revoking the practice privilege.

(d) Holders of practice privileges are subject to suspension, citations, fines, or other disciplinary actions for any conduct that would be grounds for discipline against a licensee of the board or for any conduct in violation of this article or regulations adopted thereunder.

(e) The board may recover its costs pursuant to Section 5107 as part of any disciplinary proceeding against the holder of a practice privilege.

(f) The provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), including, but not limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the board, shall apply under this article.

(g) If the board revokes or otherwise limits an individual's practice privilege, the board shall promptly notify the regulatory agency of the state or states in which the individual is licensed, and the United States Securities and Exchange Commission, the Public Company Accounting Oversight Board, and the National Association of State Boards of Accountancy.

(h) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 5. Section 5096.12 of the Business and Professions Code, as added by Section 35 of Chapter 411 of the Statutes of 2012, is amended to read:

5096.12. (a) A certified public accounting firm that is authorized to practice in another state and that does not have an office in this state may engage in the practice of public accountancy in this state through the holder of a practice privilege provided that:

(1) The practice of public accountancy by the firm is limited to authorized practice by the holder of the practice privilege.

(2) A firm that engages in practice under this section is deemed to consent to the personal, subject matter, and disciplinary jurisdiction of the board with respect to any practice under this section.

(b) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), issue a citation and fine pursuant to Section 125.9, or otherwise restrict or discipline the firm for any act that would be grounds for discipline against a holder of a practice privilege through which the firm practices.

(c) A firm that provides the services described in subdivision (d) of Section 5096 shall obtain a registration from the board.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 6. Section 7026.1 of the Business and Professions Code is amended to read:

7026.1. (a) The term “contractor” includes all of the following:

(1) Any person not exempt under Section 7053 who maintains or services air-conditioning, heating, or refrigeration equipment that is a fixed part of the structure to which it is attached.

(2) (A) Any person, consultant to an owner-builder, firm, association, organization, partnership, business trust, corporation, or company, who or which undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to construct any building or home improvement project, or part thereof.

(B) For purposes of this paragraph, a consultant is a person, other than a public agency or an owner of privately owned real property to be improved, who meets either of the following criteria as it relates to work performed pursuant to a home improvement contract as defined in Section 7151.2:

(i) Provides or oversees a bid for a construction project.

(ii) Arranges for and sets up work schedules for contractors and subcontractors and maintains oversight of a construction project.

(3) A temporary labor service agency that, as the employer, provides employees for the performance of work covered by this chapter. The provisions of this paragraph shall not apply if there is a properly licensed contractor who exercises supervision in accordance with Section 7068.1 and who is directly responsible for the final results of the work. Nothing in this paragraph shall require a qualifying individual, as provided in Section 7068, to be present during the supervision of work covered by this chapter. A contractor requesting the services of a temporary labor service agency shall provide his or her license number to that temporary labor service agency.

(4) Any person not otherwise exempt by this chapter, who performs tree removal, tree pruning, stump removal, or engages in tree or limb cabling or guying. The term contractor does not include a person performing the activities of a nurseryperson who in the normal course of routine work performs incidental pruning of trees, or guying of planted trees and their limbs. The term contractor does not include a gardener who in the normal course of routine work performs incidental pruning of trees measuring less than 15 feet in height after planting.

(5) Any person engaged in the business of drilling, digging, boring, or otherwise constructing, deepening, repairing, re-perforating, or abandoning any water well, cathodic protection well, or monitoring well.

(b) The term “contractor” or “consultant” does not include a common interest development manager, as defined in Section 11501, and a common interest development manager is not required to have a contractor’s license when performing management services, as defined in subdivision (d) of Section 11500.

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

**Licensee Population**

<b>Type of License</b>	<b>As of June 30, 2012</b>	<b>As of June 30, 2013</b>	<b>As of December 31, 2013</b>
CPA	84,712	87,015	88,900
PA	122	105	98
Partnership	1,414	1,431	1,451
Corporation	3,718	3,835	3,909

**Customer Service**

<b>Telephone Calls Received</b>	<b>FY 2011/12</b>	<b>FY 2012/13</b>	<b>FY 2013/14</b>
Examination Unit	20,511	22,610	10,871
Initial Licensing Unit	19,399	24,006	16,014
License Renewal/Continuing Competency Unit	21,579	20,958	11,285
Practice Privilege Unit	882	921	364

<b>Emails Received</b>	<b>FY 2011/12</b>	<b>FY 2012/13</b>	<b>FY 2013/14</b>
Examination Unit	10,042	11,551	5,619
Initial Licensing Unit	7,913	9,670	7,223
License Renewal/Continuing Competency Unit	8,192	9,601	5,688
Practice Privilege Unit	1,516	583	140

**Examination Unit**

- The CBA maintains a contract with the National Association of State Boards of Accountancy (NASBA) for administration of the Uniform CPA Examination (CPA Exam) in California, which includes provisions to ensure the continued validity, reliability, and security of the CPA Exam as well as compliance with generally accepted psychometric standards. Staff will begin working on a new contract in mid-2014 as the present contract will expire at the end of this year.
- Staff recently responded to an American Institute of Certified Public Accountants (AICPA) Board of Examiners quick poll related to a multi-year practice analysis that will be undertaken by the AICPA. The practice analysis is designed to ensure the CPA Exam is

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

aligned with the needs of the profession by determining the knowledge and skills required of an entry-level CPA. Staff will keep CBA members apprised of updates on the AICPA practice analysis, including any opportunities to participate.

- At the conclusion of each testing window, NASBA provides the CBA with the **attached** CPA Exam Performance, which contains overall statistics for each jurisdiction. The report also provides California-specific testing information such as overall and individual section performance, candidate count by degree type, and the number of candidates who passed the CPA Exam.

<b>CPA Examination Applications</b>	<b>FY 2011/12</b>	<b>FY 2012/13</b>	<b>FY 2013/14</b>
<b>First-Time Sitter</b>			
Total Received	7,243	7,175	3,008
Total Processed	7,765	9,210	4,567
Average Days to Process	21	23	22
<b>Repeat Sitter</b>			
Total Received	17,606	18,584	8,981
Total Processed	17,775	18,685	9,040
Average Days to Process	7	8	6

<b>CPA Examination Special Requests</b>	<b>FY 2011/12</b>	<b>FY 2012/13</b>	<b>FY 2013/14</b>
<b>Conditional Credit and Notice to Schedule Extensions*</b>			
Total Received	*	114	82
Total Completed	*	104	79
Average Days to Process	*	16	18
<b>Educational Qualification Appeals**</b>			
Total Received	**	40	25
Total Completed	**	37	25
Average Days to Process	**	20	24

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

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

**California Board of Accountancy  
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<b>CPA Examination Special Requests</b>	<b>FY 2011/12</b>	<b>FY 2012/13</b>	<b>FY 2013/14</b>
<b>Special Accommodation Requests**</b>			
Total Received	**	69	76
Total Completed	**	69	82
Average Days to Process	**	8	15

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

**Initial Licensing Unit**

- Initial Licensing Unit (ILU) staff continues to prepare for reviewing applications for the new educational requirements, which took effect January 1, 2014. It is anticipated that the CBA will start seeing applications submitted under the new requirements beginning February 2014.
- The ILU is presently recruiting to fill an Office Technician position.

<b>Individual License Applications</b>	<b>FY 2011/12</b>	<b>FY 2012/13</b>	<b>FY 2013/14</b>
<b>Certified Public Accountant</b>			
Total Received	3,594	3,654	3,146
Total Processed	3,241	3,474	2,388
Average Days to Process	15	25	25
<b>Method of Licensure</b>			
Pathway 0	12	4	0
Pathway 1 – attest	405	416	253
Pathway 1 – general	499	543	408
Pathway 2 – attest	795	756	465
Pathway 2 – general	1,530	1,755	1,262

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<b>Individual License Applications</b>	<b>FY 2011/12</b>	<b>FY 2012/13</b>	<b>FY 2013/14</b>
<b>Certifications</b>			
Total Received	1,237	1,073	534
Total Processed	1,237	1,073	443
Average Days to Process	20	20	19

<b>Firm License Applications</b>	<b>FY 2011/12</b>	<b>FY 2012/13</b>	<b>FY 2013/14</b>
<b>Corporation</b>			
Total Received	257	221	113
Total Processed	223	174	108
Average Days to Process	8	14	31
<b>Partnership</b>			
Total Received	125	89	54
Total Processed	106	70	53
Average Days to Process	8	14	31
<b>Fictitious Name Permit</b>			
Total Received	178	169	74
Total Processed	156	105	56
Average Days to Process	8	14	31

**License Renewal and Continuing Competency Unit**

- The License Renewal and Continuing Competency (RCC) Unit continues to participate in training sessions associated with the fingerprint and peer review reporting requirements that took effect January 1, 2014.
- RCC staff is revising materials associated with renewal-related requirements for fingerprints, peer review reporting, and continuing education requirements, including the handbook and various website materials.

**California Board of Accountancy  
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- Staff continues to effectively communicate and address concerns raised by licensees regarding the fingerprint requirement. In an effort to clarify the necessity of this requirement, a brief overview of the history and notification process has been provided on the website.
- The RCC Unit recently filled an Office Technician position and is presently recruiting to fill a Staff Services Analyst position.

<b>License Renewal</b>	<b>FY 2011/12</b>	<b>FY 2012/13</b>	<b>FY 2013/14</b>
<b>Total Licenses Renewed</b>			
Certified Public Accountant	38,329	38,334	19,763
Public Accountant	20	25	6
Corporation	653	579	724
Partnership	1,654	1,560	263
<b>License Renewal Verification</b>			
CPA/PA Applications Reviewed	44,749	36,927	19,111
Deficient Applications Identified	4,233	4,064	1,639
Compliance Responses Received	3,502	3,453	1,633
Outstanding Deficiencies	675	558	427
<b>CE Audits</b>			
Licensees Selected for Audit	^	30	405
Outstanding Audits	^	0	185
Compliances Received	^	30	220
<b>Enforcement Referrals</b>	56	53	60

^ As referenced in the January 2014 Executive Officer's Report, the CE audit process was restructured in June 2013.

**Practice Privilege Unit**

- The vacant practice privilege coordinator position has been filled by way of internal staff promotion. Angela Wise, who previously worked in the RCC Unit, is now the main contact for the practice privilege program.

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- Since the implementation of the new practice privilege program in July 2013, the out-of-state accounting firm registration forms have been processed in the Initial Licensing Unit. As of January 1, 2014, this workload has been transitioned back to the Practice Privilege Unit.

<b>Practice Privilege</b>	<b>FY 2011/12</b>	<b>FY 2012/13</b>	<b>FY 2013/14</b>
<b>Out-of-State Accounting Firm Registrations</b>			
Total Approved	--	--	109
Total Pending Review	--	--	3
Total Enforcement Referrals	--	--	5

CPA Exam Performance: *All Jurisdictions*

## 2013 Q-4

Overall Performance

Unique Candidates	<b>48,597</b>
New Candidates	<b>13,430</b>
Total Sections	<b>65,631</b>
Passing 4th Section	<b>7,711</b>
Sections/Candidate	<b>1.35</b>
Pass Rate	<b>47.2%</b>
Average Score	<b>71.0</b>

Section Performance

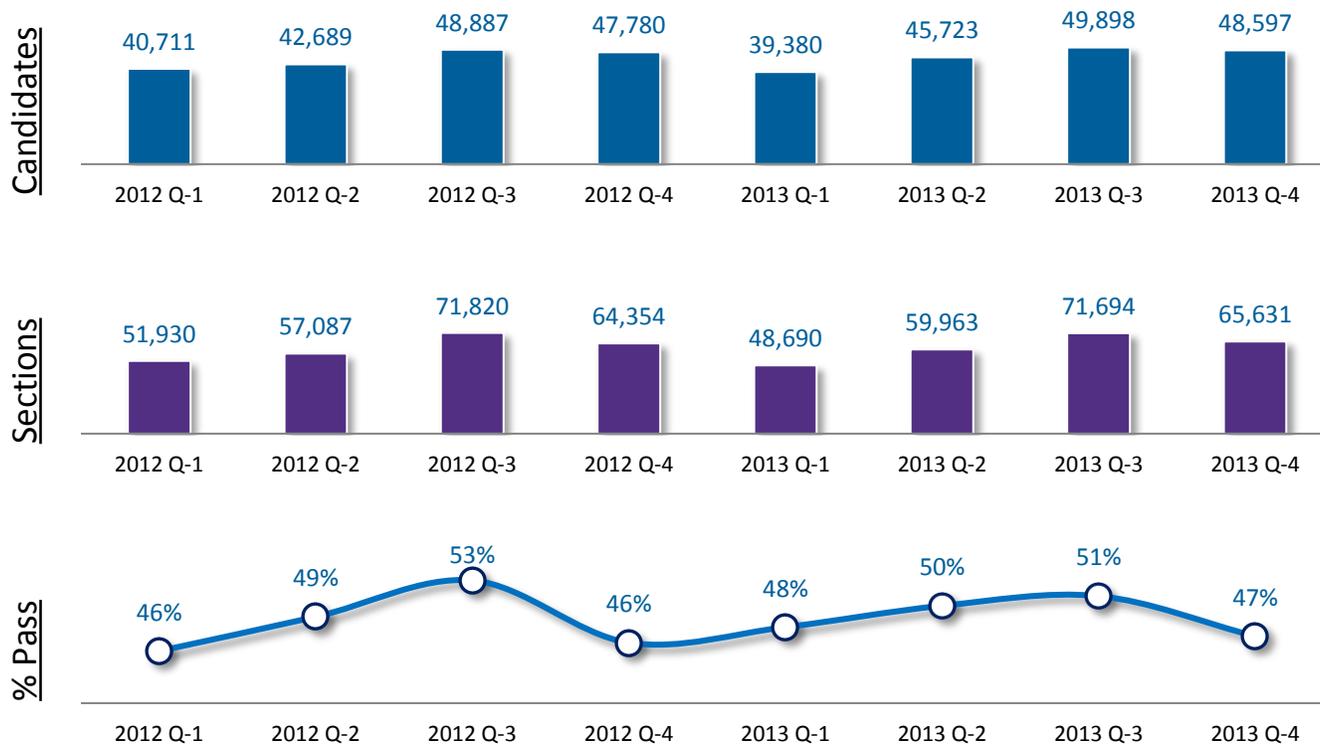
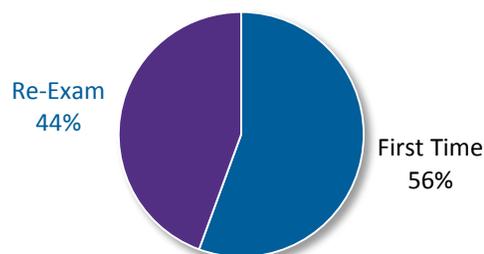
	<u>Sections</u>	<u>Score</u>	<u>% Pass</u>
First Time	<b>36,486</b>	<b>71.1</b>	<b>50.8%</b>
Re-Exam	<b>29,145</b>	<b>70.9</b>	<b>42.6%</b>
AUD	<b>16,447</b>	<b>71.1</b>	<b>42.9%</b>
BEC	<b>15,187</b>	<b>73.1</b>	<b>54.4%</b>
FAR	<b>17,065</b>	<b>69.5</b>	<b>45.3%</b>
REG	<b>16,932</b>	<b>70.6</b>	<b>46.6%</b>

Top 3 Jurisdictions**Most Candidates**

1. California	<b>7,275</b>
2. New York	<b>5,315</b>
3. Texas	<b>2,748</b>

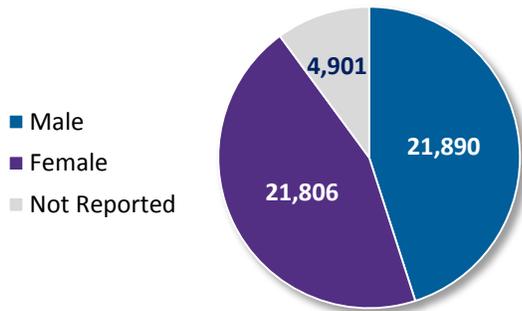
**Highest Pass Rate**

1. Utah	<b>58.8%</b>
2. Wisconsin	<b>55.6%</b>
3. Oregon	<b>55.1%</b>

Exam Type by Percent

# CPA Exam Performance: *All Jurisdictions*

## Demographics



## Residency

Candidate Count	
In-State Address	37,689
Out of State Address	6,693
Foreign Address	4,215
% of Candidates	
In-State Address	77.6%
Out of State Address	13.8%
Foreign Address	8.7%

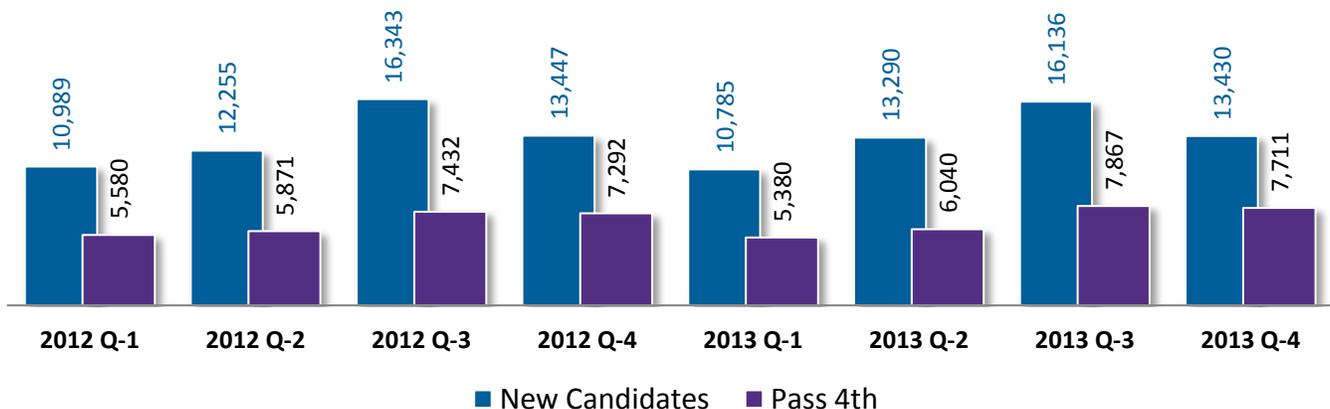
## Average Age



## Degree Type

Candidate Count	
Bachelor's Degree	34,623
Advanced Degree	6,967
Enrolled/Other	7,007
% of Candidates	
Bachelor's Degree	71.2%
Advanced Degree	14.3%
Enrolled/Other	14.4%

## New Candidates vs Candidates Passing 4th Section



### Notes about the Data

- The data used to develop this report was pulled from NASBA's Gateway System, which houses the Uniform CPA Examination's Application and Performance information for all 55 Jurisdictions.
- The demographic data related to Age, Gender and Degree Type is provided by the individual candidates and may not be 100% accurate.

## 2013 Q-4

## Overall Statistics for Testing Window 2013 Q-4

Jurisdiction	Count Candidates	Count Sections	FT Sections	RE Sections	Average Pass Rate	Average Score	Average Age
Alabama	188	260	149	111	46.5%	71.3	30.7
Alaska	499	748	460	288	40.4%	67.9	30.8
Arizona	477	639	389	250	47.6%	70.7	30.8
Arkansas	228	314	147	167	44.6%	70.6	30.2
California	7,275	10,241	5,485	4,756	46.0%	70.4	30.3
Colorado	1,147	1,524	838	686	50.9%	72.5	30.8
Connecticut	689	903	521	382	43.6%	70.2	28.0
Delaware	251	339	120	219	40.7%	69.4	32.5
District of Columbia	82	102	61	41	44.1%	70.8	32.0
Florida	1,566	2,003	1,205	798	51.6%	73.2	31.0
Georgia	1,481	1,917	1,072	845	49.5%	71.7	30.1
Guam	399	613	348	265	41.6%	67.6	33.0
Hawaii	200	269	133	136	38.7%	67.2	30.3
Idaho	154	202	116	86	42.6%	70.4	30.4
Illinois	2,725	3,615	1,984	1,631	49.5%	71.6	28.8
Indiana	685	916	498	418	48.8%	71.5	28.9
Iowa	303	431	261	170	52.0%	73.0	27.0
Kansas	228	340	183	157	49.4%	72.4	28.3
Kentucky	436	584	316	268	43.3%	70.8	29.2
Louisiana	530	691	399	292	46.5%	70.9	29.0
Maine	528	802	418	384	47.9%	70.7	31.0
Maryland	931	1,253	668	585	43.6%	70.7	29.4
Massachusetts	1,472	1,998	1,205	793	52.9%	73.2	26.8
Michigan	982	1,343	776	567	49.7%	72.3	28.6
Minnesota	843	1,173	693	480	51.3%	72.4	27.1
Mississippi	171	222	108	114	36.5%	67.9	31.0
Missouri	631	885	488	397	52.0%	72.8	28.2
Montana	313	485	266	219	40.8%	67.1	29.7

Jurisdiction	Count Candidates	Count Sections	FT Sections	RE Sections	Average Pass Rate	Average Score	Average Age
Nebraska	182	230	136	94	51.7%	73.2	27.7
Nevada	176	237	138	99	51.1%	72.3	30.6
New Hampshire	2,298	3,307	2,047	1,260	42.1%	68.1	30.6
New Jersey	1,536	2,031	1,089	942	41.6%	68.8	28.2
New Mexico	232	332	220	112	44.0%	69.7	31.8
New York	5,315	6,784	3,639	3,145	45.5%	70.8	27.7
North Carolina	823	1,132	632	500	47.4%	71.3	29.4
North Dakota	131	182	104	78	52.8%	73.3	27.8
Ohio	1,402	1,927	1,048	879	48.1%	71.4	28.5
Oklahoma	324	461	275	186	49.9%	71.3	30.8
Oregon	408	526	337	189	55.1%	73.4	30.2
Pennsylvania	1,715	2,292	1,252	1,040	46.6%	71.2	27.2
Puerto Rico	471	612	309	303	35.8%	65.2	28.3
Rhode Island	73	88	57	31	47.7%	72.6	27.4
South Carolina	284	376	213	163	49.5%	72.2	29.3
South Dakota	85	109	59	50	54.1%	74.7	28.7
Tennessee	750	955	486	469	44.9%	71.0	30.0
Texas	2,748	3,579	1,899	1,680	50.1%	72.4	30.3
Utah	273	357	253	104	58.8%	76.0	30.8
Vermont	256	412	216	196	43.9%	69.3	27.9
Virginia	1,630	2,108	1,086	1,022	49.3%	72.2	29.9
Washington	1,272	1,742	1,064	678	47.4%	70.7	31.5
West Virginia	126	156	84	72	40.4%	68.9	29.0
Wisconsin	634	837	510	327	55.6%	73.8	28.2
Wyoming	37	45	25	20	44.4%	71.2	28.5

# CPA Exam Performance Summary: 2013 Q-4

## California

### Overall Performance

Unique Candidates	<b>7,275</b>
New Candidates	<b>2,163</b>
Total Sections	<b>10,241</b>
Passing 4th Section	<b>1,212</b>
Sections/Candidate	<b>1.41</b>
Pass Rate	<b>46.0%</b>
Average Score	<b>70.4</b>

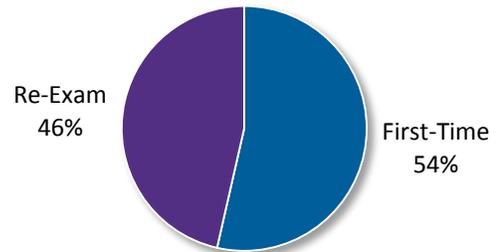
### Section Performance

	Sections	Score	% Pass
First-Time	<b>5,485</b>	<b>70.4</b>	<b>49.6%</b>
Re-Exam	<b>4,756</b>	<b>70.5</b>	<b>41.8%</b>
AUD	<b>2,442</b>	<b>70.4</b>	<b>41.7%</b>
BEC	<b>2,411</b>	<b>72.1</b>	<b>50.9%</b>
FAR	<b>2,736</b>	<b>69.1</b>	<b>46.0%</b>
REG	<b>2,652</b>	<b>70.2</b>	<b>45.6%</b>

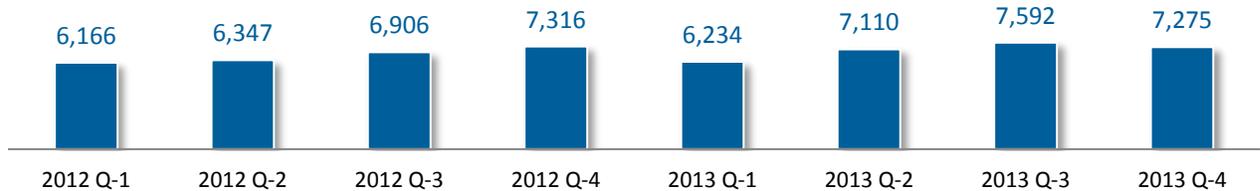
### Jurisdiction Rankings (1 to 53)

Candidates	Sections
<b>1</b>	<b>1</b>
<b>32</b>	<b>39</b>
Pass Rate	Avg Score

### Exam Type by Percent



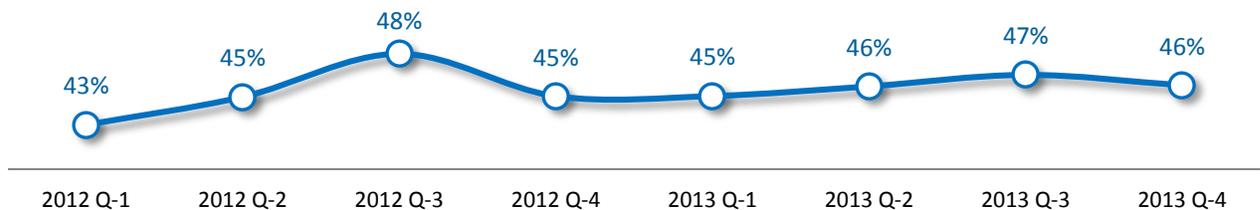
Candidates



Sections

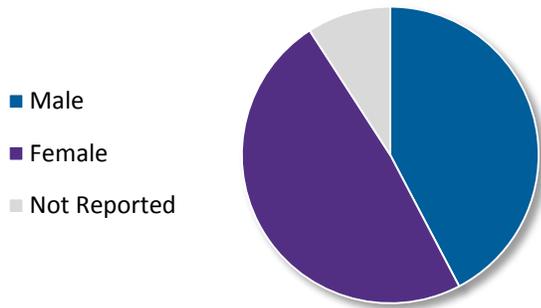


% Pass



# CPA Exam Performance Summary: 2013 Q-4

## Demographics



Male Candidates	3,078	42.3%
Female Candidates	3,532	48.5%
Not Reported	665	9.1%

Average Age **30.3**

Age Rank **34**

## Residency

### Candidate Count

In-State Address	6,175
Out-of-State Address	775
Foreign Address	325

### % of Candidates

In-State Address	84.9%
Out-of-State Address	10.7%
Foreign Address	4.5%

## Degree Type

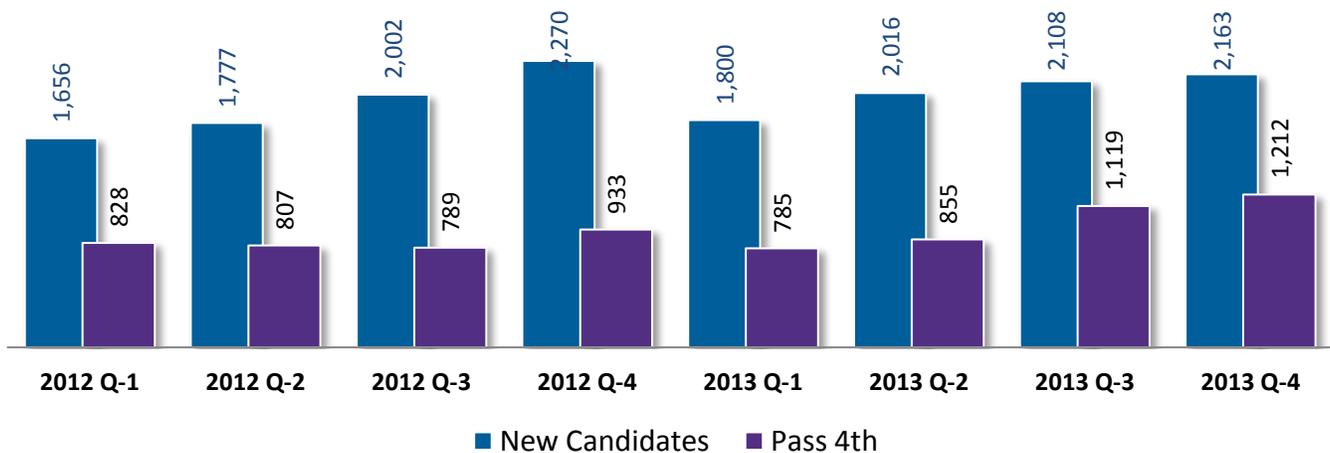
### Candidate Count

Bachelor's Degree	5,549
Advanced Degree	1,285
Enrolled/Other	441

### % of Candidates

Bachelor's Degree	76.3%
Advanced Degree	17.7%
Enrolled/Other	6.1%

## New Candidates vs Candidates Passing 4th Section



### Notes about the Data

1. The data used to develop this report was pulled from NASBA's Gateway System, which houses the Uniform CPA Examination's Application and Performance information for all 55 Jurisdictions.
2. The demographic data related to Age, Gender and Degree Type is provided by the individual candidates and may not be 100% accurate.

California

## California Board of Accountancy Enforcement Activity Report

Report as of December 31, 2013

### Complaints

The Enforcement Division has received 2,129 complaints in fiscal year (FY) 2013/14 and assigned 2,050 for investigation.

<b>1.1 – Complaints/Records of Convictions</b>	FY 2011/12	FY 2012/13	FY 2013/14 <sup>1</sup>
Received	1,911	3,271	2,129
<i>Internal – Peer Review (Failure to Respond)</i>	872	1,800	1,481 <sup>2</sup>
<i>Internal – Peer Review (Other)</i>	58	508	134
<i>Internal – All Other</i>	503	510	324
<i>External</i>	478	453	190
Assigned for Investigation	1,626	2,951	2,050
Closed – No Action	294	329	58
Average Days from Intake to Closure or Assignment for Investigation	4	3	3
Pending	12	3	2
Average Age of Pending Complaints (days) <sup>1</sup>	16	3	3
<sup>1</sup> Represents point in time data as of December 31, 2013.			
<sup>2</sup> The 1483 indicated in the previous report was the result of a keying error when preparing the report.			

### Comments

- The CBA has received 514 non-peer review complaints in the first half of the current fiscal year. If that trend continues, the CBA will receive 1,025 complaints in FY 2013/14, a six percent increase from 963 in the previous year.
- Peer Review (Other) complaints typically include investigation of failed peer review reports, failure to comply with citations, filing an incorrect peer review reporting form, or renewing their license without undergoing a peer review.
- On average, staff assigned complaints to an investigator within three days of receipt.
- In the current fiscal year, approximately 96 percent of complaints received were opened for investigation, which is an increase from the previous fiscal year rate of 90 percent.

## Investigations

The CBA Enforcement Division assigned 2,050 cases for investigation in the current fiscal year. Enforcement staff closed 1,973 investigations, and there are currently 598 cases assigned for investigation.

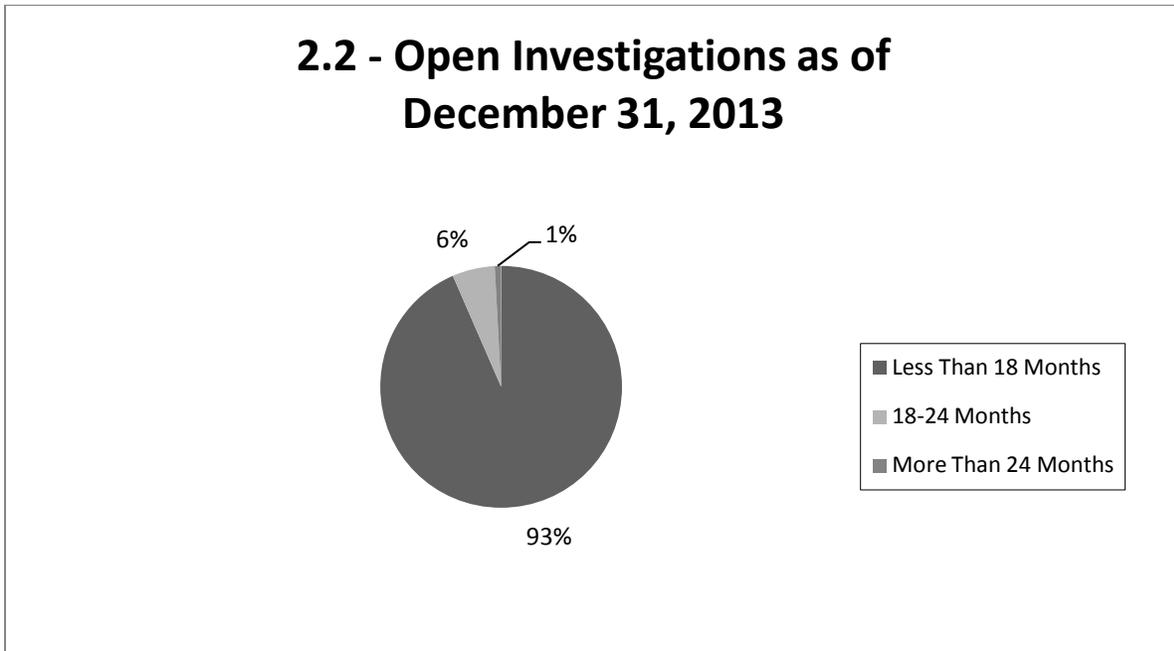
<b>2.1 – Investigations</b>	FY 2011/12	FY 2012/13	FY 2013/14 <sup>1</sup>
Assigned	1,626	2,951	2,050
<i>Internal – Peer Review (Failure to Respond)</i>	872	1,794	1,479
<i>Internal – Peer Review (Other)</i>	58	437	133
<i>Internal – All Other</i>	335	361	268
<i>External</i>	361	359	170
Closed	1,525	2,872	1,973
Average Days to Close	85	73	51
Investigations Pending	439	518	598
<i>&lt; 18 Months</i>	384	500	559
<i>18-24 Months</i>	26	17	34
<i>&gt; 24 Months</i>	29	1	5
Average Age of Open Cases (days)	248	166	213
Median Age of Open Cases (days)	164	104	165

### Comments

- The Average Days to Close investigations decreased from 113 in the previous report to 51. This is due to closing 1,479 Peer Review complaints, and is consistent with the previous reporting years.
- Five cases have been open for more than 24 months. The status for each of the cases is as follows:
  - One had an Investigative Hearing in October and the matter is being referred to the Office of the Attorney General (AG) for the drafting of an Accusation.
  - One has an Investigate Hearing scheduled in January.
  - Three investigations will be presented to the Enforcement Advisory Committee in January as part of the Open Case File review. It is anticipated the investigative reports will be completed within thirty days of the committee meeting.

Enforcement management is actively working with staff to prioritize and complete cases that have been open for over 24 months. These cases are the more complex investigations and often require additional time to resolve.

Chart 2.2 illustrates the percentage of total open cases by length of time. Approximately 99 percent of investigations have been open for less than 24 months; six percent of investigations have been open for 18 to 24 months; and one percent of investigations have been open for more than 24 months.



## Discipline

The Enforcement Division referred 21 complaints to the AG's Office in FY 2013/14. Nineteen accusations have been filed. There are currently 53 cases pending at the AG's Office, with four pending for more than 24 months.

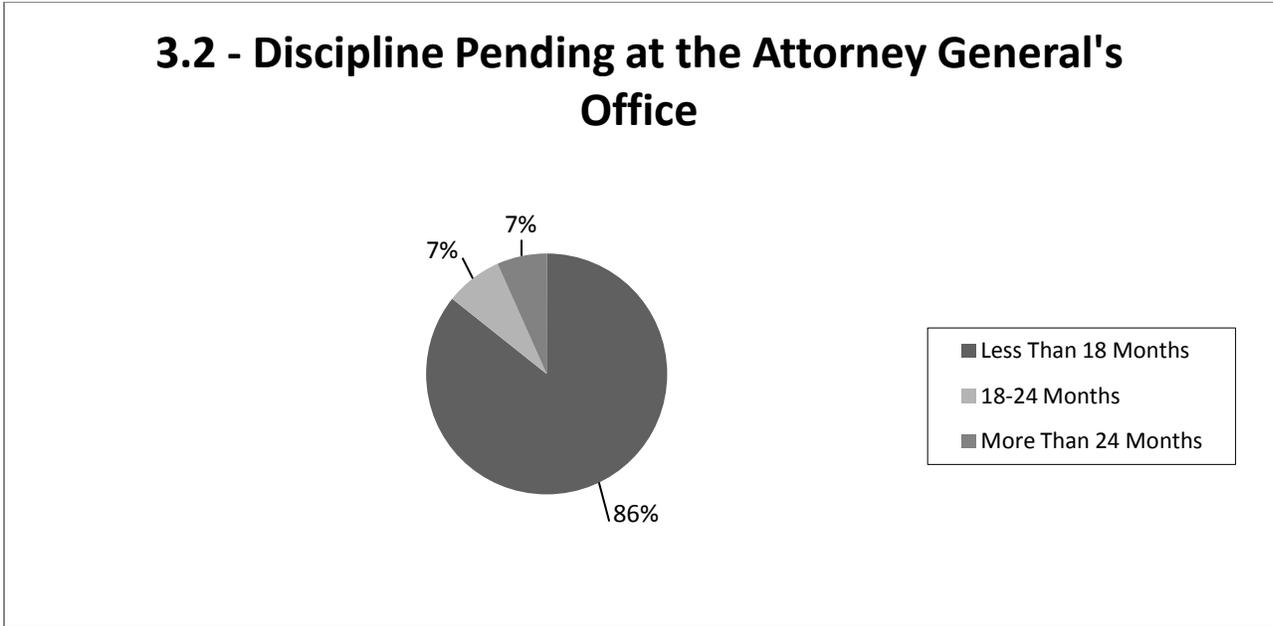
<b>3.1 - AG Referrals</b>	FY 2011/12	FY 2012/13	FY 2013/14
Referrals	50	62	21
Accusations Filed	37	50	19
Statements of Issues Filed	2	3	2
Petitions for Revocation of Probation Filed	3	3	4
Closed	26	58	18
<i>Via Stipulated Settlement</i>	19	39	13
<i>Via Proposed Decision</i>	3	5	1
<i>Via Default Decision</i>	4	14	4
Discipline Pending <sup>1</sup>	54	57	53
<i>&lt; 18 Months</i>	44	52	45
<i>18-24 Months</i>	3	2	4
<i>&gt; 24 Months</i>	7	3	4

<sup>1</sup> Represents point in time data as of December 31, 2013.

## Comments

- There are four 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. The Court issued a tentative decision in September 2013, however an appeal hearing has been scheduled for February 2014.
  - One was considered by the CBA at the November 21-22, 2013, meeting, however a petition for reconsideration was granted, and will be heard at the March 2014 CBA meeting.
  - Another case has been set for an administrative hearing in 2014.
  - Staff is actively working with opposing counsel on settlement terms for the final case. The administrative hearing is set for May 2014.
- The CBA has adopted thirteen stipulated settlements, one proposed decision and four default decisions in FY 2013/14.
- The number of discipline cases pending at the AG's Office has decreased from 59 to 53 from the previous report.

Chart 3.2 illustrates the number of cases pending at the AG's Office by percentage. Approximately 93 percent of all CBA cases at the AG's Office have been open less than 24 months, seven percent have been pending 18-24 months, and seven 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, 1,500 citations, with a total fine amount of \$384,050 have been issued.

<b>4.1 – Citations</b>	FY 2011/12	FY 2012/13	FY 2013/14
Total Citations Issued	908	1,883	1,500
Total Fines Assessed	\$255,350	\$532,400	\$384,050
<i>Peer Review (Failure to Respond)</i>	872	1,800	1,481
<i>Peer Review Fines Assessed</i>	\$217,850	\$450,000	\$370,025
<i>Other Citations</i>	36	83	19
<i>Other Fines Assessed</i>	\$37,500	\$82,400	\$13,800
Average number of days from receipt of a complaint to issuance of a citation	22	67	28
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)	CE Basic Requirements (Reg 87)
3:	Name of Firm (B&P 5060)	Practice Without Permit (B&P 5050)	Name of Firm (B&P 5060)

### Comments

- The average number of days from receipt to citation issuance has decreased from the previous report. The number is now lower than the previous fiscal year, and is consistent with fiscal year 2011/12.

### 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. The next probation meetings will be held in conjunction with the EAC meeting in January 2014. There are 51 licensees on probation.

## Peer Review

As of December 30, 2013, 61,853 peer review reporting forms (PR-1) have been submitted to the CBA. The reporting forms are categorized as follows:

<b>5.1 - Peer Review</b>						
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	2,605	4,301	15,757	22,663	51
34-66	7/1/12	2,144	4,006	13,122	19,272	101
67-00	7/1/13	1,993	2,662	10,199	13,906	1,046
		6,742	12,189	42,922	61,853	1,198

## Comments

- Effective January 1, 2014 the Peer Review reporting requirement will become a function of the license renewal process. Any updates regarding that program will be reported in the Licensing Division Report.
- Enforcement Staff continues to meet with Renewal and Continuing Competency Unit staff to establish and maintain a seamless process for the referral of complaints stemming from failure to complete the PR-1 form or review of the PR-1 form as necessary.

## **Mobility**

Effective July 1, 2013, the CBA implemented a no notice, no fee practice privilege model in California. 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.

<b>6.1 - Mobility</b>	<b>FY 2013/14</b>
Pre-Notification Forms Received	6
Cessation Event Forms Received	0
SEC Discipline Identified	17
PCAOB Discipline Identified	4
Out-of-State Accounting Firm Registrants That Reported Other Discipline	5
Complaints against Practice Privilege Holders	1

### **Comments**

- Of the six Pre-Notification Forms received, four 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. Additionally, the SEC and PCAOB websites were reviewed for the disciplinary actions taken by these agencies for the period of July 1, 2013 through December 31, 2013.
- Staff sent letters to all CPAs who were disciplined from either agency to inform them that they must seek CBA authorization prior to practicing in California.
- The complaint received relates to an out-of-state licensee using the CPA title in California, not work performed by the out-of-state licensee.

## **Division Highlights and Future Considerations**

- The Enforcement Division expects to receive six percent more complaints this fiscal year than the previous fiscal year.
- The average days to close an investigation has declined from 73 in the previous fiscal year to 53.
- The number of referrals to the Attorney General's Office and discipline adopted by the CBA is slightly lower than the previous fiscal year.
- The SEC and PCOAB websites were monitored to ensure all CPAs disciplined by those agencies are 1) notified they are not allowed to practice in California, until approval by the CBA is granted and 2) are listed on the CBA website as not allowed to practice in this state, under practice privilege.



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**CBA Item IX.A.**

January 23-24, 2014

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

**MINUTES OF THE**  
**November 21-22, 2013**  
**CBA MEETING**

**DRAFT**

Hilton San Jose  
 300 South Almaden Blvd.  
 San Jose, CA 95113  
 Telephone: (408) 287-2100  
 Fax: (408) 947-4489

Roll Call and Call to Order.

CBA President Leslie LaManna called the meeting to order at 10:10 a.m. on Thursday, November 21, 2013 at the Hilton San Jose. The meeting recessed at 3:06 p.m. President LaManna reconvened the meeting at 9:01 a.m. on Friday, November 22, 2013 and the meeting adjourned at 11:05 a.m.

CBA Members

November 21, 2013

Leslie LaManna, President	10:10 a.m. to 3:06 p.m.
Michael Savoy, Vice President	10:10 a.m. to 3:06 p.m.
K.T. Leung, Secretary-Treasurer	10:10 a.m. to 3:06 p.m.
Sarah (Sally) Anderson	10:10 a.m. to 3:06 p.m.
Diana Bell	10:22 a.m. to 3:06 p.m.
Alicia Berhow	10:10 a.m. to 3:06 p.m.
Michelle Brough	10:10 a.m. to 3:06 p.m.
Jose Campos	10:10 a.m. to 3:06 p.m.
Herschel Elkins	10:10 a.m. to 3:06 p.m.
Laurence (Larry) Kaplan	10:10 a.m. to 3:06 p.m.
Louise Kirkbride	10:10 a.m. to 3:06 p.m.
Marshal Oldman	Absent
Manuel Ramirez	10:10 a.m. to 3:06 p.m.
Katrina Salazar	10:10 a.m. to 3:06 p.m.

CBA Members

November 22, 2013

Leslie LaManna, President	9:01 a.m. to 11:05 a.m.
Michael Savoy, Vice President	9:01 a.m. to 11:05 a.m.
K.T. Leung, Secretary-Treasurer	9:01 a.m. to 9:18 a.m.
Sarah (Sally) Anderson	9:01 a.m. to 11:05 a.m.
Diana Bell	9:01 a.m. to 11:05 a.m.
Alicia Berhow	9:01 a.m. to 11:05 a.m.
Michelle Brough	9:01 a.m. to 11:05 a.m.
Jose Campos	9:01 a.m. to 11:05 a.m.
Herschel Elkins	9:01 a.m. to 11:05 a.m.
Laurence (Larry) Kaplan	9:01 a.m. to 11:05 a.m.
Louise Kirkbride	9:01 a.m. to 11:05 a.m.
Marshal Oldman	Absent
Manuel Ramirez	9:01 a.m. to 11:05 a.m.
Katrina Salazar	9:01 a.m. to 11:05 a.m.

Staff and Legal Counsel

Patti Bowers, Executive Officer  
Deanne Pearce, Assistant Executive Officer  
Rich Andres, Information Technology Staff  
Paul Fisher, Enforcement Supervising ICPA  
Dominic Franzella, Chief, Licensing Division  
Rafael Ixta, Chief, Enforcement Division  
Nicholas Ng, Administration Manager  
Kari O'Connor, Enforcement Analyst  
Corey Riordan, Board Relations Analyst  
Kristy Shellans, Legal Counsel, Department of Consumer Affairs (DCA)  
Carl Sonne, Deputy Attorney General, Department of Justice (DOJ)  
Matthew Stanley, Legislative Analyst

Committee Chairs and Members

Nancy Corrigan, Chair, Peer Review Oversight Committee (PROC)  
Cheryl Gerhardt, Chair, Enforcement Advisory Committee (EAC)  
Maurice Eckley Jr., Chair, Qualifications Committee (QC)

Other Participants

Ken Bishop, National Association of State Boards of Accountancy (NASBA)  
Michael C. Cohn, Administrative Law Judge (ALJ), Office of Administrative Hearings  
Patricia Farace, Prometric  
Michael Decker, American Institute of CPAs (AICPA)  
Jason Fox, California Society of Certified Public Accountants (CalCPA)

Patricia Hartman, NASBA  
Gary McBride, Professor, Department of Accounting and Finance, California State University, East Bay  
Michael Mophew, Center for Public Interest Law (CPIL)  
Michelle Vu Nguyen, Petitioner  
Pilar Onate-Quintana, KP Public Affairs  
Joe Petito, The Accountants Coalition  
Hal Schultz, CalCPA  
Randy Werner, CAMICO  
Janice Williams, Diamond Court Reporters

I. Report of the President

A. Presentation from NASBA (National Association of State Boards of Accountancy) Regarding Uniform Certified Public Accountant (CPA) Examination.

Ms. Hartman, Ms. Farace and Mr. Decker provided an overview of the Uniform CPA Examination (CPA Exam). They highlight the tri-party agreement among NASBA, AICPA, and Prometric, taking the opportunity to overview each parties role in the overall administration of the CPA Exam.

B. 2014 CBA Member Committee Interest Survey.

Ms. Riordan requested that the CBA members complete the committee interest survey by December 6, 2013. She stated the new CBA President will use the surveys to appoint members to the Committee on Professional Conduct (CPC), the Legislative Committee (LC), the Enforcement Program Oversight Committee (EPOC) and liaisons for the Qualifications Committee (QC) and the Enforcement Advisory Committee (EAC).

C. Report on the Role of the Committee Liaisons.

Ms. LaManna provided an overview of the role of the committee liaisons. Ms. LaManna stated using surveys and interviews, it was determined that the liaisons provide the CBA with an important service and that the CBA should continue appointing and employing liaisons. Ms. LaManna recommended the CBA direct staff to develop an orientation program for new liaisons. The orientation would provide an overview of the liaisons role, introduction to the Chair and Vice-Chair of the committee, an overview of the current priorities and develop a liaison handbook. Secondly, the staff would facilitate communication between the Northern and Southern liaisons between meetings. Lastly, the staff would arrange for the liaisons to attend either an investigative hearing or an applicant employee interview during their term as liaison.

**It was moved by Mr. Ramirez, seconded by Ms. Berhow and unanimously carried by those present to direct staff to develop an orientation program for new liaisons.**

D. Resolution for Retiring CBA Member Michelle Brough.

**It was moved by Mr. Elkins, seconded by Mr. Leung and unanimously carried by those present to approve the resolution for retiring CBA member Michelle Brough.**

E. Resolution for Retiring Enforcement Advisory Committee Member James Rider (EAC).

**It was moved by Mr. Ramirez, seconded by Ms. Brough and unanimously carried by those present to approve the resolution for retiring EAC member James Rider.**

F. Discussion Regarding Lease Options for the California Board of Accountancy's Principal Office Location.

Ms. Bowers provided an update on the status of the primary CBA office location. Ms. Bowers stated a move would impact the CBA operationally and fiscally but due to the recent maintenance issues it is prudent to explore options for a new office location. Ms. Bowers stated the timeframe of a move would be approximately eighteen months, which would include the search, build out of the office suite and the physical move of the office items.

CBA members expressed their support of moving to a new office, which is newer and has the ability to accommodate the CBA's current and future needs.

G. DCA Director's Report.

There was no report for this item.

II. Report of the Vice President.

A. Recommendations for Appointment(s)/Reappointment(s) to the Enforcement Advisory Committee (EAC).

**It was moved by Mr. Elkins, seconded by Ms. Salazar and unanimously carried by those present to reappoint Ms. Gerhardt as Chair of the EAC for a one-year term.**

**It was moved by Mr. Elkins, seconded by Ms. Salazar and**

**unanimously carried by those present to appoint Mr. De Lyser as Vice Chair of the EAC for a one-year term.**

- B. Recommendations for Appointment(s)/Reappointment(s) to and Rotation Off the Qualifications Committee (QC).

**It was moved by Ms. Bell, seconded by Mr. Elkins and unanimously carried by those present to reappoint Mr. Eckley as Chair of the QC for a one-year term.**

**It was moved by Mr. Elkins, seconded by Ms. Bell and unanimously carried by those present to appoint Mr. Ruehl as Vice Chair of the QC for a one-year term.**

**It was moved by Mr. Elkins, seconded by Ms. Anderson and unanimously carried by those present to reappoint Ms. Bolsky as a member of the QC for two years.**

**It was moved by Mr. Ramirez, seconded by Ms. Brough and unanimously carried by those present to rotate Mr. Bong, Mr. Woyce and Mr. Haas off the QC.**

- C. Recommendations for Appointment(s)/Reappointment(s) to the Peer Review Oversight Committee.

There was no report on this item.

III. Report of the Secretary/Treasurer

- A. Discussion of Governor's Budget.

- B. Fiscal Year 2013-2014 First Quarter Financial Statement.

Mr. Leung provided an overview of the first quarter financial statement. He stated the current 2013-2014 budget was set at \$11,574,000, an increase of four percent from the last fiscal year. Revenue during the first quarter was approximately \$3,000,000.

Mr. Ramirez inquired about the nine percent increase in wages, benefits and retirement.

Mr. Ng stated that the increase was due to the cancellation of the mandatory personal leave program and increased costs of benefits and retirement.

IV. Report of the Executive Officer (EO).

A. Overview of the Role of the Executive Officer in Identifying Resources Needs and Establishing Staffing Levels.

Ms. Bowers provided an overview of this item. She highlighted the rigorous internal process employed to determine appropriate staffing levels for each of the divisions. Ms. Bowers noted that prior to pursuing a staffing augmentation, consideration is given to current operational efficiencies, absorbing workload, redirecting existing resources and employing part-time or temporary employees. She noted that only after all other opportunities are explored and exhausted does she move forward with preparing and submitting a budget change proposal (BCP) for review by the DCA, Business, Consumer Services, and Housing Agency (BCSHA) and the Department of Finance (DOF). If the BCP is approved, it is submitted for inclusion in the Governor's Budget, where it is reviewed by the Budget Subcommittees of the Assembly and Senate. The BCPs are not approved until the Governor's budget is signed. Ms. Bowers reported that staff is continuing to work on the comparison of resource information from other agencies that the CBA requested.

Mr. Ramirez inquired about the loss of nine positions in 2012-2013.

Ms. Bowers stated a budget letter was released in 2011 directing state agencies to reduce its workforce. The CBA's portion was \$260,000, resulting in a reduction of nine positions. In 2012 a salary savings budget letter directed the CBA to reduce its budget by \$169,000, resulting in a reduction of five positions.

Mr. Ramirez inquired if the CBA is proposing to go back to the original staffing level.

Ms. Bowers stated the CBA uses the current and future workload to determine staffing levels.

B. Update on Staffing.

Ms. Bowers stated since the September CBA meeting the CBA has hired two permanent and two temporary staff. Currently, there is one vacancy in the renewal unit and two temporary vacancies in the enforcement division.

C. Discussion and Possible Action to Establish the Mobility Stakeholder Group.

Mr. Stanley provided an overview of this item. He stated that Senate Bill (SB) 1405 requires the CBA to convene a stakeholder group by July 1, 2014, the purpose which is to consider whether the provisions of the practice privilege law are consistent with the CBA's duty to protect the public and to satisfy the objectives of stakeholders of the accounting profession. He

further stated that at the group's first meeting it must adopt policies and procedures relative to how it will conduct its business. He noted that for this meeting the CBA must determine a group name, the composition of the group, who will determine the group composition, and group leadership.

**It was moved by Mr. Campos, seconded by Mr. Elkins and unanimously carried by those present to:**

- **Name the group the Mobility Stakeholder Group (MSG)**
- **Compose the group with two members of the CBA, two representatives of the accounting profession, two consumer representatives and one enforcement staff**
- **Have the 2014 CBA President appoint the members, a Chair and Vice-Chair and work with the Executive Officer to solicit members**

D. Update on the CBA 2013-2015 Strategic Plan (Written Report Only).

There were no comments on this item.

E. Update on the 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 Report.

Mr. Franzella provided an overview of this item. He reported that due to Senate Bill (SB) 823, the Licensing Division has experienced an increase in activities, especially in telephone calls. He also noted that the division had seen a forty-three percent increase in the number of applications for licensure. He further stated that staff is working to clarify information regarding the new fingerprinting requirements.

VI. Report of the Enforcement Chief.

A. Enforcement Activity Report.

Mr. Ixta provided an overview of this item. He reported during Fiscal Year (FY) 2013-2014 1,946 complaints were received and 1,894 of the cases were assigned for review. He noted that the division closed 390 cases and 2,029 cases were pending, with six complex cases pending over 24 months. He stated staff are trying to manage the increase in cases that are aging by prioritizing workload and working overtime when necessary.

Mr. Ramirez inquired if it would be helpful if the CBA would be more reasonable with expectations of getting through the cases.

Ms. Bowers responded that it would be appreciated, however consistent with its consumer protection mandate it is important that the CBA complete investigations as quickly as possible.

Ms. Berhow inquired about how Enforcement Division prioritizes the cases.

Mr. Ixta stated the Enforcement Division prioritizes complaints during the intake process, and those with the potential of ongoing consumer harm are given the highest priority.

## VII. Committee and Task Force Reports.

### A. Committee on Professional Conduct (CPC).

1. Report of the November 21, 2013 CPC Meeting.
2. Discussion on Accepting Academia as Qualifying Experience for CPA Licensure.

Mr. Savoy reported the CPC recommended that the CBA should accept academia experience towards the general accounting experience for CPA licensure. He stated that the CPC determined that teaching 48 semester units, or its equivalent, would be equivalent to one year of general experience. The classes taught must qualify for the education required by CBA Regulations section 9.2(b). He further stated the dean or department chair could sign off on experience acquired and the instruction must take place at an accredited institution that meets the CBA's existing requirements for accreditation.

**It was moved by Ms. Salazar, seconded by Mr. Ramirez and unanimously carried by those present to recommend that the CBA move forward with legislation that allows for California to accept experience in academia as qualifying general experience and direct staff to use the discussion from the CPC meeting as a framework for crafting future regulations should the legislation become law.**

### B. Peer Review Oversight Committee (PROC).

1. Report of the November 1, 2013 PROC Meeting.

Ms. Corrigan reported that the PROC reviewed 52 peer review reports. The PROC did not have any findings or concerns regarding the oversight procedures of the CalCPA report acceptance body meeting. She stated that the first draft of the third annual peer review report was approved and will be presented at the March CBA meeting. Lastly, she stated the PROC received approval from NASBA to participate in the

conference calls conducted by NASBA's Committee Compliance Assurance Committee.

C. Enforcement Advisory Committee (EAC).

1. Report of the October 24, 2013 EAC Meeting.

Ms. Gerhardt reported that four investigative hearings were conducted, one matter was referred to the Attorney General's (AG) Office for preparation of an accusation, one concluded with additional investigation and possible referral to the AG's Office, one citation was issued and one was closed with no enforcement action. She further reported that the EAC reviewed sixteen closed cases and agreed with staff's closure on all of the cases. Lastly, she noted that one restated financial statement was reviewed and the EAC agreed an investigation should be opened.

D. Qualifications Committee (QC).

1. Report of the October 23, 2013 QC Meeting.

Mr. Eckley reported that two personal appearances were made, one was approved and one was deferred. He also noted that five Section 69 reviews were conducted with all being approved. Lastly, he noted that one dispute was heard with the QC agreeing with the firm.

2. Approval of 2014 QC Meeting Dates.

**It was moved by Mr. Campos, seconded by Mr. Savoy and unanimously carried by those present to approve the 2014 QC meeting dates.**

VIII. Acceptance of Minutes.

A. Draft Minutes of the September 26-27, 2013 CBA Meeting.

B. Minutes of the March 21, 2013 CPC Meeting.

C. Minutes of the July 31, 2013 QC Meeting.

D. Minutes of the July 11, 2013 EAC Meeting.

E. Minutes of the August 23, 2013 PROC Meeting.

**It was moved by Mr. Elkins, seconded by Ms. Berhow and carried by those present to accept agenda items VIII.A.- VIII.E. Mr. Savoy abstained from approving the September CBA meeting minutes as he**

**was not present.**

IX. 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.

Ms. Bowers stated she was reappointed for an additional year as a member of the Accountancy Licensee Database Task Force.

- b. Board Relevance & Effectiveness Committee.

X. Officer Elections.

- A. Secretary/Treasurer.

**It was moved by Mr. Ramirez, seconded by Ms. Anderson and unanimously carried by those present to elect Ms. Salazar as Secretary/Treasurer of the CBA.**

- B. Vice President.

**It was moved by Mr. Kaplan, seconded by Mr. Savoy and unanimously carried by those present to nominate Mr. Leung and Mr. Campos for the position of Vice Chair. The result of the election was ten votes for Mr. Campos, one vote for Mr. Leung and two abstentions.**

- C. President.

**It was moved by Mr. Ramirez, seconded by Mr. Kaplan and unanimously carried by those present to elect Mr. Savoy as President of the CBA.**

XI. 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 and Proposed Decisions.)

XII. NASBA Overview of Firm Mobility Exposure Draft.

Mr. Bishop, President and Chief Executive Officer, NASBA, presented information regarding firm mobility. He stated 16 states have firm mobility. Mr. Bishop stated the

exposure draft would have to be changed if a state was interested in firm mobility and not interested in changing the definition of attest. He stated firm mobility would allow a firm to perform audits without having a license with the visiting state, if the firm:

- Has practice privilege in their home state
- Is licensed in a substantially equivalent state
- Are enrolled in peer review in their home state
- Does not have a physical location in the visiting state
- Meet the ownership requirements of the UAA

He further stated that he recommended having legal counsel review the no escape section of the Uniform Accountancy Act Exposure Draft to ensure it provides the state with full authority over the visiting firm.

Ms. Anderson inquired about our authority if a consumer has a complaint about a visiting firm or individual.

Mr. Ixta stated that the CBA currently investigates the firm and the individual.

Mr. Bishop stated California has a no escape feature and he recommends if the exposure draft is not clear, the language should be changed.

Mr. Kaplan inquired if the change of the definition of attest would be an issue for the CBA.

Ms. Shellans stated the definition of attest would need to be analyzed during the review to determine its impact on California.

**It was moved by Mr. Ramirez, seconded by Ms. Berhow that the CBA appoint two members to a taskforce for the purpose of reviewing the exposure draft and reporting back to the CBA. The motion was unanimously carried by those present. Mr. Campos and Mr. Savoy were assigned to the taskforce.**

### XIII. Presentation from CAMICO Insurance Representatives Regarding Leading Causes of Claims Against CPAs.

Ms. Werner, Loss Prevention Specialist, with CAMICO Insurance, presented information regarding this item. She stated the largest average claim size in dollar amounts are in audit, review and compilation. She reviewed CAMICO's frequency versus severity of claims. Ms. Werner further stated for each one hundred CAMICO insured firms, eight firms have a claim each year, of which four claims are settled. Lastly, she reviewed the common and avoidable claims.

### XIV. Closing Business.

#### A. Public Comments.

There were no comments.

B. Agenda Items for Future CBA Meetings.

There was no comment.

C. Press Release Focus.

Ms. Pearce stated the topic for consideration for the press release was the new leadership and an announcement for recruiting members for the Mobility Stakeholder Group.

XV. Petition Hearings.

A. Michelle Vu Nguyen, Lic. CPA No. 92316-Petition for Reduction of Penalty.

The CBA members heard the petition for reduction of penalty for Michelle Vu Nguyen.

XVI. Closed Session. Pursuant to Government Code Section 11126(c)(3), the CBA will Convene Into Closed Session to Deliberate on Disciplinary Matters (Petition for Reduction of Penalty.)

Adjournment.

President LaManna adjourned the meeting at 11:05 a.m. on Friday, November 22, 2013.

\_\_\_\_\_ Leslie J. LaManna, CPA, President

\_\_\_\_\_ K.T. Leung, CPA, Secretary-Treasurer

Corey Riordan, Board Relations Analyst, and Patti Bowers, Executive Officer, CBA, prepared the CBA meeting minutes. If you have any questions, please call (916) 561-1718.



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**CPC Item I.**

January 23, 2014

**CBA Item IX.B.**

January 23-24, 2014

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

**MINUTES OF THE**  
**November 21, 2013**  
**COMMITTEE ON PROFESSIONAL CONDUCT MEETING**

**DRAFT**

Hilton San Jose  
300 Almaden Boulevard  
San Jose, CA 95110  
(408) 947-4489

**CALL TO ORDER**

Michael Savoy, Chair, called the meeting of the Committee on Professional Conduct (CPC) to order at 9:01 a.m. Mr. Savoy requested that the role be called.

Present

Michael M. Savoy, Chair  
Sarah (Sally) Anderson  
Alicia Berhow  
Jose Campos  
Herschel Elkins

CBA Members Observing

Michelle Brough  
Leslie LaManna  
K. T. Leung  
Manuel Ramirez  
Katrina Salazar

CBA Staff and Legal Counsel

Patti Bowers, Executive Officer  
Deanne Pearce, Assistant Executive Officer  
Rich Andres, Information Technology Staff  
Paul Fisher, Supervising Investigative CPA  
Dominic Franzella, Chief, Licensing Division

Rafael Ixta, Chief, Enforcement Division  
Nick Ng, Administration Manager  
Kari O'Connor, Enforcement Analyst  
Corey Riordan, Board Relations Analyst  
Kristy Shellans, Senior Staff Counsel, DCA Legal Affairs  
Carl Sonne, Deputy Attorney General, Department of Justice  
Matthew Stanley, Legislation/Regulation Analyst

Other Participants

Nancy Corrigan, Chair, Peer Review Oversight Committee  
Jason Fox, California Society of CPAs (CalCPA)  
Cheryl Gerhardt, Chair, Enforcement Advisory Committee  
Gary McBride, Professor, Department of Accounting and Finance, California State University, East Bay  
Pilar Onate-Quintana, KP Public Affairs  
Joe Petito, Accountants Coalition  
Hal Schultz, CalCPA

I. Approve Minutes of the March 21, 2013 CPC Meeting

**It was moved by Mr. Campos, seconded by Ms. Berhow and carried unanimously to approve the minutes of the March 21, 2013 CPC meeting.**

II. Discussion on Accepting Academia as Qualifying Experience for CPA Licensure.

Mr. Franzella presented a general overview of this item. He requested that the CPC provide guidance regarding whether the CBA should accept experience in academia as qualifying experience for licensure.

Mr. Elkins stated that this topic was discussed by the Enforcement Advisory Committee (EAC) at its last meeting and the EAC was unanimous in its opposition to the proposal.

Mr. Campos stated his view that the general experience requirement already allows for a wide variety of experience and that academia could fit in that category. He stated his support for considering the matter further.

Ms. Berhow inquired as to how other states handle academia. Mr. Franzella explained that it varies widely, but, because use of academia experience is not common, many handle it on a case-by-case basis.

Mr. Schultz stated that CalCPA supports the change as it is a part of the Uniform Accountancy Act (UAA).

Mr. McBride stated that the change would encourage a closer relationship between teaching and the profession. He stated that licensed professors would need to maintain a currency of knowledge through continuing education which would especially benefit those who specialize in the theoretical as opposed to practical side of accounting.

After initial comments were received, the CPC proceeded with the rest of staff's presentation.

Mr. Franzella requested input regarding how the experience should be calculated. He stated that while 40 states accept academic experience, 30 of them do not specify how it is calculated and do so on a case-by-case basis.

Mr. Campos inquired as to what a full-time academic position entails.

Mr. McBride stated the definition of full-time varies widely, and he encouraged the CBA to avoid that term. He explained that 12 quarter units was considered a full teaching load for a quarter.

Mr. Elkins inquired if the type of class being taught should be considered. Mr. Franzella stated that the only consideration along those lines given by other states was the breakdown between upper and lower division classes.

Mr. Campos inquired if a ratio should be considered as is done by several other states.

Mr. McBride stated that a full teaching load would be four semester classes or 12 semester units and there are two semesters in a year for a total of 24 semester units taught in a year.

Ms. Anderson suggested a ratio of two to one so that a total of 48 units taught would equate to one year of general experience to ensure the breadth of experience needed.

Mr. Campos inquired whether the timeframe during which the units were taught mattered.

Mr. Franzella stated that the CBA does not consider timeframes for other experience, and that it could be further considered at a later time.

The CPC agreed that 48 teaching semester hours would equate to one year of general experience.

Mr. Franzella next requested the CPC to provide guidance regarding whether the courses taught should be considered or whether they are upper or lower division.

Mr. Campos suggested that the courses discussed in CBA Regulations section 9.2(b) describing courses for the educational requirement for licensure could be used. Ms. Anderson concurred, stating that section 9.2(b) allows for general classes and to get more specific would cause instructors to take several years to acquire the 48 semester units of teaching.

Ms. Shellans suggested that the legislation be more general, providing the CBA authority to craft regulations that can lay out the specifics.

The CPC agreed that section 9.2(b) was sufficient.

Mr. Franzella next brought forward the issue of who would be allowed to sign off on the academic experience.

Mr. Savoy stated that the department head was a reasonable solution as they supervise the instructor. As many are not CPAs, requiring them to be CPAs may be too restrictive.

Mr. Schultz stated that a dean or department head would be capable of signing off provided that the appropriate guidelines are provided.

The CPC agreed that a dean or department head should be allowed to sign off on the experience.

Mr. Franzella brought up the issue of institution accreditation. He suggested using the accreditation standards set forth in the Accountancy Act for educational requirements.

The CPC agreed with staff's proposal.

**It was moved by Ms. Anderson, seconded by Ms. Berhow and carried unanimously to recommend that the CBA move forward with legislation that would allow experience in academia to be qualifying and that staff be directed to utilize the CPC's discussions as a framework for a future regulation to implement the legislation should it pass.**

### 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 9:53 a.m.

**DEPARTMENT OF CONSUMER AFFAIRS**

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**QC Item I.A.**  
 January 22, 2014

**CBA Item IX.C.**  
 January 23-24, 2014

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

**MINUTES OF THE**  
**OCTOBER 23, 2013**  
**QUALIFICATIONS COMMITTEE (QC) MEETING**

California Board of Accountancy  
 Oakland Marriott City Center  
 1001 Broadway  
 Oakland, CA 94607  
 Telephone: (501) 451-4000  
 Fax: (501) 835-3466

The regularly scheduled meeting of the QC was called to order at approximately 12:13 p.m. on October 23, 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 – Absent  
 Lewis Fisher  
 Michael Haas  
 Chuck Hester  
 Fausto Hinojosa  
 Casandra Moore Hudnall  
 Alan Lee  
 Robert Ruehl  
 Erin Sacco Pineda  
 Jeremy Smith  
 James Woyce – Absent

Staff Present

Veronica Daniel, Licensing Manager

Dominic Franzella, Chief, Licensing Division  
Kathryn Kay, Licensing Coordinator

I. Chairperson's Report.

A. Approval of the July 31, 2013 QC Meeting Minutes.

**It was moved by Ms. Bolsky, seconded by Mr. Lee and unanimously carried by those present to adopt the minutes of the July 31, 2013 QC meeting.**

B. Report on September 26-27, 2013, CBA Meeting.

Mr. Eckley reported CBA President Leslie LaManna attended a hearing regarding the repayment of loans from special-funded state agencies. He noted that the Department of Finance plans for the CBA to be repaid its \$31 million in outstanding loans to the General Fund in Fiscal Years 2014-2015 and 2015-2016. He added the plan for repayment will not be finalized until the budget bill passes.

Mr. Eckley reported that the CBA Fiscal Year 2013-2014 budget is set at \$11,573,000, which is an increase of approximately \$435,000 from Fiscal Year 2012-2013. The increase is due to the elimination of the personal leave program, increase in payroll costs, retirement, and health benefits. Mr. Eckley added that the CBA was presented with the Annual Report, which includes an overview of the CBA Strategic Plan, budget information, statistics on processing timeframes within the Licensing and Enforcement Divisions, and results from its online Customer Satisfaction Survey. Mr. Eckley noted that a copy of the full report may be viewed on the CBA website.

Mr. Eckley reported that on July 1, 2013, the new practice privilege provisions took effect. He stated that to aid in the implementation of the new provisions, the CBA adopted a set of emergency regulations, and that the CBA conducted a regulation hearing and adopted finalized regulations to make the previously adopted emergency regulations permanent. Mr. Eckley added as part of the adoption, the CBA included general staff-suggested modifications that were minor and non-technical in nature.

Mr. Eckley provided information regarding the Uniform Accountancy Act (UAA) Exposure Draft which proposes a revision to the definition of the word "attest." He added the CBA currently maintains a neutral position on the exposure draft and submitted a "no comment" letter to the National Association of State Boards of Accountancy (NASBA) UAA Committee.

Mr. Eckley provided an update regarding legislation that the CBA has taken a position on. He reported that Senate Bill 823, was signed and chaptered on

October 1, 2013, and that this bill allows a CPA applicant to obtain licensure under the existing requirements through December 31, 2015, if they pass the CPA Exam on or before December 31, 2013. It also allows an applicant enrolled in a degree program to take the CPA Exam upon completing the baccalaureate degree requirements.

C. Report on the September 26, 2013, Taskforce to Examine Experience for CPA Licensure (Taskforce) Meeting.

Ms. Mapes reported the Taskforce held an approximately two-and-a-half hour discussion in September involving how consumer information could be improved on the CBA website, the acceptance of academia experience, and possible modifications to the present general accounting and attest experience requirements.

Ms. Mapes stated the Taskforce discussed a series of staff-proposed changes to various consumer information available on the CBA website to mitigate consumer confusion related to definitions of CPA licensure obtained via general accounting and attest experience. She added that the Taskforce moved to accept staff proposed changes with some additional Taskforce-requested text recommendations, and allow the staff to work with legal counsel on technical changes.

Ms. Mapes stated the Taskforce also discussed the possibility of allowing academia to be accepted for qualifying general accounting experience toward CPA licensure. She reported that the Taskforce recommended that the CBA explore the possibility of allowing academia to qualify as experience for CPA licensure. She added that as part of its exploration, the Taskforce recommended that the amount of academia experience exceed a one-to-one ratio and that various issues should be addressed such as who could sign off on academia experience, whether teaching experience should be available to academics at both two- and four-year institutions and the institution's accreditation.

Ms. Mapes reported the Taskforce recommended that the CBA maintain the status quo regarding the general accounting experience requirement.

Ms. Mapes provided information regarding the Taskforce's discussion centered around the present 500-hour requirement, the CBA's consumer protection mandate, entry-level requirements for practitioners, and what it means to be a CPA, both in California and nationally. She reported members discussed various post-licensure requirements, including peer review, continuing education, and professional standards and the effectiveness of these systems in assuring consumer protection related to the attest function. She reported that after extensive deliberations on this topic, the Taskforce

recommended that the CBA eliminate the attest experience requirement by a 5-4 vote.

Mr. Franzella reported the CBA accepted the Taskforce's recommendation to explore the possibility of allowing academia experience to qualify for CPA licensure in California. He reported that they did not accept the Taskforce's recommendation to eliminate the attest experience requirement. Mr. Franzella stated the CBA directed staff to gather additional research data of California licensees regarding the 500 attest hours, work with NASBA or others to obtain out-of-state data and analyze enforcement data points.

Ms. Moore Hudnall stated that CPAs should be given the discretion to or not to sign off on general accounting experience if they feel the work performed was poor.

Ms. Mapes stated that the Taskforce discussed the option of modifying the general experience requirement to include a supervisor's opinion, but the Taskforce recommended to maintain status quo.

Mr. Haas expressed concern regarding the potential impact of modifications to the present experience requirements.

Mr. Hester inquired if the Taskforce will continue discussions regarding the present experience requirements for licensure.

Mr. Franzella stated that the topic of academia will be discussed further by the Committee on Professional Conduct (CPC).

## II. Report on the Activities in the Initial Licensing Unit.

Ms. Daniel provided an overview of this item. She highlighted that a new section has been added to the Initial Licensing Unit (ILU) Report to provide members with statistics regarding customer service-related activities in the unit.

Ms. Daniel reported that ILU staff is continuing to prepare for implementation of new regulations regarding CE requirements for stale-dated experience and license reissuance, which will take effect January 1, 2014. She added that an article regarding the new requirements will be included in the fall edition of UPDATE. Ms. Daniel added that 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.

## III. Proposed 2014 QC Meeting Dates.

**It was moved by Ms. Mapes, seconded by Mr. Hester and unanimously carried by those present to adopt the proposed 2014 QC meeting dates.**

**IV. Travel Reimbursement Rates Effective September 1, 2013 (Written Report Only)**

V. Public Comment for Items Not on the Agenda.

None.

VI. 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.]

C13-029 – The applicant and his employer appeared due to a family relationship and presented work papers from his public accounting experience. He has 67 months of experience, with a 24-month experience requirement.

The employer's understanding of the CAE was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure. There was no conflict of interest.

Recommendation: Approve.

C13-030 – The applicant and his employer appeared due to a family relationship and presented work papers from his public accounting experience. He has 85 months of experience, with a 12-month experience requirement.

The employer's understanding of the CAE was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure. There was no conflict of interest.

Recommendation: Approve.

C13-031 – The applicant appeared due to experience obtained outside the United States and presented work papers from his public accounting experience. He has 39.25 months of experience, with a 12-month experience requirement. He is currently licensed with general experience.

The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C13-032 – The applicant and his employer appeared due to a family relationship and presented work papers from his public accounting experience. He has 48.5 months of experience, with a 24-month experience requirement.

The employer's understanding of the CAE was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure. There was no conflict of interest.

Recommendation: Approve.

C13-033 – The applicant appeared due to experience obtained in private industry and presented work papers from his public accounting experience. He has 36 months of experience, with a 24-month experience requirement. He is currently licensed with general experience.

Recommendation: Defer. The content of the work papers provided did not include sufficient documentation of full disclosure financial statements and did not meet auditing standards. In order to satisfy the experience requirement for authorization to sign attest reports, the applicant must obtain, at a minimum 500 hours of qualifying experience that will enable him to demonstrate an understanding of the requirements of planning and conducting a financial statement audit resulting in an opinion on full disclosure financial statements. Any new experience must be obtained under the supervision of a licensee authorized to sign attest reports on attest engagements and an affirmative CAE must be submitted. A determination will then be made as to whether or not he will be required to reappear with work papers for the QC's review.

C13-034 – The applicant and his employer appeared and presented work papers from his public accounting experience. The applicant disputed the CAE submitted on his behalf. He has 12.75 months of experience, with a 12-month experience requirement. He is currently licensed with general experience.

The Certificate of Attest Experience was not affirmatively completed in its entirety. However, the work performed by the applicant was reviewed and the work papers provided supported the employer's opinion.

Recommendation: Defer attest licensure. In order to satisfy the experience requirement for authorization to sign attest reports, the applicant must obtain additional experience in the planning of the audit, including the selection of the procedures to be performed and reporting on full disclosure financial

statements. Any new experience must be obtained under the supervision of a licensee authorized to sign attest reports on attest engagements and an affirmative CAE must be submitted. A determination will then be made as to whether or not she will be required to reappear with work papers for the QC's review. The firm is placed on reappearance.

C13-036 – The applicant and his employer appeared due to a family relationship and presented work papers from his public accounting experience. He has 65.5 months of experience, with a 24-month experience requirement. He is currently licensed with general experience.

The employer's understanding of the CAE was adequate. The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure. There was no conflict of interest.

Recommendation: Approve.

**The following Section 69 reviews took place on October 9, 2013, and are made a part of these minutes.**

C13-035 – The applicant and her employer appeared and presented work papers from her public accounting experience. She has 38.5 months of experience, with a 24-month experience requirement.

The employer's understanding of the CAE was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

Adjournment.

There being no further business to be conducted, the meeting was adjourned at approximately 3:30 P.M. on October 23, 2013. The next meeting of the QC will be held on January 22, 2014.

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Maurice Eckley, Jr., Chair

Prepared by: Kathryn Kay, Licensing Coordinator



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**CBA Item IX.D.**  
 January 23-24, 2014

**DEPARTMENT OF CONSUMER AFFAIRS**  
 CALIFORNIA BOARD OF ACCOUNTANCY (CBA)  
 ENFORCEMENT ADVISORY COMMITTEE (EAC)

**MINUTES OF THE  
 OCTOBER 24, 2013  
 EAC MEETING**

**FINAL**

Marriott Burbank Airport  
 2500 N. Hollywood Way  
 Burbank, CA 91505  
 Telephone: (818) 843-6000

**I. Roll Call and Call to Order.**

The regularly scheduled meeting of the EAC was called to order at 9:00 a.m. on October 24, 2013 by EAC Chair, Cheryl Gerhardt.

Enforcement Advisory Committee

Cheryl Gerhardt, Chair	9:00 a.m. to 5:00 p.m.
Mary Rose Caras, Vice Chair	Absent
Joe Buniva	9:00 a.m. to 5:00 p.m.
Gary Caine	10:00 a.m. to 5:00 p.m.
Nancy Corrigan	9:00 a.m. to 5:00 p.m.
Jeffrey DeLyser	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 11:30 a.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  
 Gogi Overhoff, Investigative CPA  
 Marla Weitzman, Investigative CPA  
 Tina MacGregor, Investigative CPA  
 April Freeman, Enforcement Analyst  
 Carl Sonne, Deputy Attorney General, Department of Justice

## Other Participants

Herschel 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 9:08 a.m. and reconvened into open session at 10:30 a.m.

### III. Report of the Committee Chair.

#### A. Approval of the July 11, 2013 EAC Meeting Minutes.

**It was moved by Mr. Caine, seconded by Mr. DeLyser, and unanimously carried to approve the minutes of the July 11, 2013 EAC meeting.**

The minutes for this meeting will be submitted to the CBA members for review and adoption at the next CBA meeting.

#### B. Report of the July 25, 2013 and September 26-27, 2013 CBA Meetings.

Mr. Ixta attended the July 25, 2013 CBA meeting. He reported that EAC members Mervyn McCulloch and Jeff DeLyser were both re-appointed to the EAC. Mr. Ixta also reported that effective January 1, 2014 all licensees who do not have an electronic record of fingerprints on file with the California Department of Justice will be required to submit fingerprints prior to their license expiration date.

Ms. Gerhardt attended the September 26-27, 2013 CBA meeting. She reported that the majority of the meeting involved committee discussions which will be reported later by her and Mr. Ixta. She did state the CBA did adopt the 2014 EAC meeting dates, as recommended by the EAC. The dates are as follows:

- January 30, 2014 – North
- May 1, 2014 – South
- July 10, 2014 – North
- October 23, 2014 – South
- December 11, 2014 – South

### IV. Report of the Enforcement Chief.

#### A. Enforcement Activity Report.

Mr. Ixta provided an overview of the report. Mr. Ixta reported that as of August 31, 2013, the average days to close a case increased from 73 in the previous fiscal year to 123. This is partly due to the small sample period of 60 days. Three cases have been open for more than 24 months; two investigations are pending referral to the Attorney General's (AG) Office following investigative hearings. 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. The report was provided in the EAC packets.

V. Other Business.

A. Report of the September 26, 2013 Enforcement Program Oversight Committee Meeting.

Mr. Ixta reported that CBA staff presented proposed changes to the CBA Model Disciplinary Guidelines and Model Disciplinary Orders (Guidelines) to the Enforcement Program Oversight Committee (EPOC). Staff requested the EPOC to approve the additions and modifications that were presented to them at the meeting. The proposed additions and modifications to the current version of the Guidelines encompass new statutes and regulations enacted since the last revision of the Guidelines. Staff recommended six sections to be added to the Guidelines:

B&P Code sections

- 5058.3 – Retired Designation
- 5070.1 (b) – Practice With a Retired License Status
- 5071.2(b) – Practice With A Military License Status

CBA Regulations

- 37.5 – Fingerprinting
- 50.1 – Attest Client Notification
- 80 – Inactive License Status

Staff also made three additional 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. The EPOC members adopted the proposed additions to the Guidelines.

B. Report of the July 24, 2013 and September 26, 2013 Taskforce to Examine Experience for CPA Licensure Meeting.

Mr. Ixta reported on the July 24, 2013 Taskforce meeting. The Taskforce discussed statistical information regarding the types of experience with which general and attest applicants are initially licensed, the percentage of California licensees in public versus non-public practice, peer review reporting information, and CBA enforcement-related disciplinary actions taken against licensees with general and attest licenses.

Ms. Gerhardt reported on the September 26, 2013 Taskforce meeting. The Taskforce discussed acceptance of academia as qualifying experience requirement for CPA licensure. The Taskforce recommended that the CBA explore the possibility for allowing academia to qualify as experience.

Ms. Gerhardt also reported that the Taskforce recommended the CBA to eliminate the two pathways to licensure and discontinue requiring completion of 500 hours of attest experience. There was discussion about how over 40 states have adopted the Uniform Accounting Act (UAA) model that requires one year of general accountancy experience and does not include completing experience in attest.

Mr. Elkins discussed that the role of the committee liaison is being revisited by the CBA president. He also solicited input from the EAC members regarding the

elimination of the 500 hours of attest experience and allowing academia to qualify as experience. He will report this information at the next CBA meeting.

C. Discussion of Travel and Reimbursement Rates Effective July 1, 2013 and September 1, 2013.

Mr. Ixta reported on new lodging and per diem rates that went into effect July 1, 2013 and September 1, 2013. The agenda item was provided in the EAC packets.

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 December 12, 2013 at the Westin San Diego Hotel.

Having no further business to conduct, the EAC general meeting adjourned at approximately 11:30 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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**LC Item I.**  
January 23, 2014

**CBA Item IX.E**  
January 23-24, 2014

**DEPARTMENT OF CONSUMER AFFAIRS  
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)  
LEGISLATIVE COMMITTEE (LC)**

**MINUTES OF THE  
July 25, 2013  
LC MEETING**

**DRAFT**

Hyatt Regency Sacramento  
1209 L Street  
Sacramento, CA 95814  
Telephone (916) 443-1234  
Fax: (916) 321-3779

**CALL TO ORDER**

Larry Kaplan, Chair, called the meeting of the Legislative Committee (LC) to order at 9:05 a.m. on Thursday, July 25, 2013, at the Hyatt Regency Sacramento. Mr. Kaplan requested that the roll be called.

Present

Larry Kaplan, Chair  
Sally Anderson  
Diana Bell  
Michelle Brough  
Manuel Ramirez  
Katrina Salazar

CBA Members Observing

Alicia Berhow  
Jose Campos  
Herschel Elkins  
Leslie LaManna  
K.T. Leung  
Marshal Oldman  
Michael Savoy

### CBA Staff and Legal Counsel

Patti Bowers, Executive Officer

Deanne Pearce, Assistant Executive Officer

Richard Andres, Information Technology Staff

Andrew Breece, Legislation Coordinator

Paul Fisher, ICPA Supervisor

Rafael Ixta, Chief, Enforcement Division

Dominic Franzella, Chief, Licensing Division

Kristy Shellans, Senior Staff Counsel, Department of Consumer Affairs (DCA)

Matthew Stanley, Regulations Analyst

Kathryn Kay, Licensing Coordinator

Nick Ng, Manager, Administration

Kari O'Connor, Executive Analyst

### Other Participants

Pilar Oñate Quintana, KP Public Affairs

Jeannie Tindel, California Society of Certified Public Accountants (CalCPA)

#### I. Approve Minutes of the May 23, 2013 LC Meeting

**It was moved by Ms. Bell, seconded by Ms. Salazar and carried unanimously to approve the minutes of the May 23, 2013, LC Meeting. Mr. Ramirez and Ms. Anderson were temporarily absent.**

#### II. Update on Legislation Which the CBA Has Taken a Position.

Mr. Breece provided an update on legislation that the CBA presently has a position on. He stated that amongst the legislation, Assembly Bill (AB) 258, AB 291, AB 376, AB 1057 and AB 1151 either became two-year bills or incurred minor, technical, or no amendments.

Mr. Breece stated that the CBA presently has a Support if Amended position on AB 186 to clarify that a licensee must have a current, active, and unrestricted license to practice the identified profession. He stated that President LaManna met with Assembly Member Maienschein, the bill's author, to discuss the CBA's suggested amendment. Mr. Breece stated that following the meeting the author's office indicated that they would incorporate the CBA's suggested amendment, however, the author subsequently decided to make this a two-year bill.

Mr. Breece stated that the CBA presently has a Watch position on AB 1420. He stated that AB 1420, originally presented at the May 2013 meeting, would have made a minor and technical amendment to ensure that CBA's existing pathway for CPA licensure pursuant to Business and Professions Code (BPC) section 5092 becomes inoperative on January 1, 2014. Mr. Breece stated that the provision has since been struck out of the bill, and the bill no longer pertains to the CBA. He

stated that CBA staff is working with the Senate Business, Professions and Economic Development Committee to have this provision placed in Senate Bill (SB) 823.

**It was moved by Ms. Brough, seconded by Ms. Bell, and carried by those present to recommend the CBA remove its Watch position and discontinue following AB 1420. Mr. Ramirez and Ms. Anderson were temporarily absent.**

Mr. Breece stated the CBA presently has a Watch position on SB 176. He stated that this bill, as presented at the May 2013 CBA meeting, required state agencies to submit a notice to the *California Regulatory Notice Register* at least 15 days prior to any meeting seeking public input on regulatory changes. He stated that this requirement was struck out of the bill. Mr. Breece stated that SB 176 would now instead require state agencies to seek public input before initiating regulatory action, and it would require the Office of Administrative Law to allow state agencies to submit required notices and information electronically.

Ms. Shellans stated that she no longer has concerns regarding the bill.

**It was moved by Ms. Brough, seconded by Ms. Bell, and carried by those present to recommend that the CBA take a Support position on SB 176. Mr. Ramirez and Ms. Anderson were temporarily absent.**

Mr. Breece stated that the CBA presently has a Neutral position on SB 305, and when it was presented at the May 2013 CBA meeting, it would have clarified that the boards have the authority to receive documents from local or state agencies needed to complete a licensee or applicant investigation. He stated that some board members expressed concern that the language was too broad. Mr. Breece stated that staff presented this concern to the consultant of the Senate Business, Professions and Economic Development Committee, but no further amendment to this provision has been made.

Mr. Breece stated that the CBA presently has a Support position on SB 822, and that it is one of two omnibus bills with legislative language that the CBA proposed. He stated that this bill, which the CBA presently has a Support position, would do two things: 1) it would ensure the CBA has citation authority over out-of-state licensees practicing in California under practice privilege and 2) it would require out-of-state licensees to notify the CBA of pending criminal charges when practicing in California.

Mr. Breece stated that at its May 2013 meeting, the CBA also adopted a legislative proposal to amend into SB 822. He stated that this amendment would eliminate the present look-back approach included in BPC section 5087 and replace it with an approach similar to the enacted practice privilege provisions, which would require the CBA to establish a list of substantially equivalent states, however, Mr. Breece

stated that due to the location of SB 822 on the Assembly Floor, the CBA's legislative proposal cannot be amended into the bill this year. He stated that the Business, Professions and Economic Development Committee did indicate that the proposal will become a priority next year.

Mr. Breece stated that the CBA took a Support position on SB 823 at its May 2013 meeting. He stated that when this bill was first presented, it would have allowed a student enrolled in a five-year master's degree program to take the Uniform CPA Examination (CPA Exam) upon completing the baccalaureate degree requirements. Mr. Breece stated that this bill would additionally allow a CPA applicant to obtain licensure under the existing requirements until December 31, 2015, if they pass the CPA Exam on or before December 31, 2013.

Mr. Breece stated that as a result of testimony from the May 2013 meeting, SB 823 was amended to allow an applicant enrolled in a program that confers the baccalaureate degree upon the completion of 150 semester units to take the CPA Exam once they have met the baccalaureate degree requirements in order to accommodate for programs other than a five-year master's degree program.

Additionally, Mr. Breece stated that the CBA staff requested an amendment to ensure that the sunset provision associated with Pathway 1 continues to occur.

### III. Additional Legislation Impacting the CBA Identified by Staff after the Posting of the Meeting Notice.

Mr. Kaplan stated that following the distribution of the meeting materials, staff was notified of an additional bill for which the CBA may have interest.

Ms. Oñate Quintana provided an overview of AB 1412 and stated that the bill would prohibit contingency fees for the assessment of overpaid sales and use tax of \$50,000 or greater. She stated that under present conditions contingency fees can be used.

Mr. Ramirez stated that contingency fees provide taxpayers the ability to contract with a professional in identifying overpaid sales tax, and contingency fees have historically been allowed.

Ms. Tindel stated that the CBA's regulations already have restrictions as to when contingency fees are allowed. She said that contingency fees are not allowed in tax returns, only tax disputes.

**It was moved by Mr. Ramirez, seconded by Ms. Anderson and unanimously carried to recommend the CBA adopt an Oppose Unless Amended position on AB 1412 to allow contingency fees for the assessment of overpaid retail sales tax.**

### IV. Public Comments

No public comments were received

V. Agenda Items for next meeting

No agenda items were identified.

There being no further business, the meeting was adjourned at 9:35 a.m.



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**EPOC Item I.**  
January 23, 2014

**CBA Item IX.F.**  
January 23-24, 2014

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

**MINUTES OF THE  
September 26, 2013  
EPOC MEETING**

**DRAFT**

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

**CALL TO ORDER**

Alicia Berhow, Chair, called the meeting of the Enforcement Program Oversight Committee (EPOC) to order at 11:42 a.m. on Thursday, September 26, 2013 at the Sheraton Suites at Symphony Hall. Ms. Berhow requested that the roll be called.

Present

- Alicia Berhow, Chair
- Diana Bell
- Kitak Leung
- Marshal Oldman
- Katrina Salazar

CBA Members Observing

- Sally Anderson
- Jose Campos
- Leslie LaManna

CBA Staff and Legal Counsel

Patti Bowers, Executive Officer  
Deanne Pearce, Assistant Executive Officer  
Rich Andres, Information Technology Staff  
Paul Fisher, ICPA Supervisor  
Dominic Franzella, Chief, Licensing Division  
Katherine Kay, Licensing Analyst  
Rafael Ixta, Chief, Enforcement Division  
Kari O'Connor, Enforcement Analyst  
Corey Faiello-Riorden, Executive Analyst  
Kristy Shellans, Senior Staff Counsel, DCA Legal Affairs  
Matthew Stanley, Legislation Analyst

Other Participants

Carl Sonne, Deputy Attorney General

I. Approve Minutes of the May 26, 2013 EPOC Meeting

**It was moved by Mr. Oldman, seconded by Mr. Leung and carried unanimously to approve the minutes of the May 26, 2013 EPOC Meeting. Ms. Berhow abstained.**

II. Discussion and Possible Action Regarding Proposed New Additions and Previously Requested Changes to the Disciplinary Guidelines and Model Orders

Mr. Ixta explained that the changes presented at the meeting were prompted by statutory and regulatory changes since the previous revision of the CBA Disciplinary Guidelines and Model Orders (Guidelines). He continued that each of the additions mirrors a current section in the Guidelines, and that they were written with continuity in mind.

**It was moved by Mr. Oldman, seconded by Ms. Bell and carried unanimously to approve the adoption of the changes as presented.**

Ms. Shellans suggested changing the title language of California Business and Professions Code (BPC) section 5071.2 to indicate "inactive" after the military designation.

Mr. Ixta then detailed the suggested changes from the previous meeting that were incorporated into the agenda item as presented. Specifically, clarifying the language related to restitution, and clarifying the titles of BPC 5104 and 5105.

**It was moved by Ms. Bell, seconded by Mr. Oldman and carried unanimously to approve the adoption of the changes presented.**

III. Discussion and Possible Action Regarding Proposed New Additions and Previously Requested Changes to the Disciplinary Guidelines and Model Orders

Mr. Ixta explained that the Committee has now considered and approved all of the changes to the Guidelines. He continued that CBA Regulation section 98 is the vehicle for the Committee to approve and finalize the draft Guidelines. He then requested that the Committee move the Guidelines and section 98 language to the CBA so it may be approved at that level and initiate the Rulemaking process.

Ms. Shellans then reminded the Committee that there was still a draft copy of the Guidelines (eighth edition) that was being approved at the Office of Administrative Law (OAL) on an emergency basis that incorporates only the changes related to the new Practice Privilege Guidelines.

Mr. Ixta explained that the revisions to the Guidelines presented will become the ninth edition of the Guidelines and that both editions should proceed through the rulemaking process concurrently.

**It was moved by Ms. Oldman, seconded by Ms. Salazar and carried unanimously to initiate rulemaking for the revised Guidelines.**

IV. Public Comments

No public comments were received.

V. Agenda Items for next meeting

No agenda items were identified.

There being no further business, the meeting was adjourned at 11:52 a.m.



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**CBA Item X.C.**  
January 23-24, 2014

## **Proposed Responses to NASBA Focus Questions**

**Presented by:** Corey Riordan, Board Relations Analyst

**Date:** December 30, 2013

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### **Purpose of the Item**

The purpose of this agenda item is to provide responses on behalf of the California Board of Accountancy (CBA) to the National Association of State Boards of Accountancy (NASBA) Regional Director's Focus Questions.

### **Action(s) Needed**

None.

### **Background**

Attached for your information are staff prepared responses to NASBA Regional Directors' Focus Questions, which were issued on November 12, 2013. These responses have been prepared for Don Aubrey, NASBA's Pacific Regional Director. The responses were due on December 30, 2013, for use at the Board of Director's meeting in mid-January 2014.

### **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**

Staff has no recommendation on this item. Due to timing issues, the responses were provided to NASBA prior to receiving CBA approval. Should CBA members have additional input on any question, staff can provide a follow-up communication to Mr. Aubrey.

### **Attachment**

NASBA Focus Questions

**NATIONAL ASSOCIATION OF STATE BOARDS OF ACCOUNTANCY, INC.****MEMORANDUM**

November 12, 2013

**To:** State Board Chairs and Executive Directors  
**From:** Douglas W. Skiles – Chair, Committee on Relations with Member Boards  
**Re:** Focus Questions

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As Chair of the 2013-14 Committee on Relations with Member Boards, I would like to thank you for your assistance with our past Focus Questions. Your continued support helps keep NASBA an organization that responds to its member boards.

We enjoyed meeting representatives of the State Boards at the 2013 Annual Meeting, and I hope your Board is making plans to have its representatives attend the Annual Conference for Executive Directors and State Board Legal Counsel, March 3-5, in Savannah, Georgia. Scholarship information for those conferences is available from Meetings Director Thomas Kenny (tkenny@nasba.org). 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,

*Doug Skiles*

**Central Director** – **Douglas W. Skiles** Phone: 308-345-5100 dskiles@mnl-cpa.com

*Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota*

**Great Lakes Director** – **W. Michael Fritz** Phone: 614-229-4806 wfritz@deloitte.com

*Illinois, Indiana, Michigan, Ohio, Pennsylvania, Wisconsin*

**Middle Atlantic Director** – **Tyrone E. Dickerson** Phone: 804-272-1250 tdcpa@verizon.net

*DC, Delaware, Maryland, North Carolina, South Carolina, Virginia, West Virginia*

**Mountain Director** – **Richard N. Reisig** Phone: 406-727-0888 rreisig@azworld.com

*Colorado, Idaho, Montana, Nevada, Utah, Wyoming*

**Northeast Director** – **John F. Dailey** Phone: 856-782-2883 jdailey@bowmanllp.com

*Conn., Maine, Mass., New Hampshire, New Jersey, New York, Rhode Island, Vermont*

**Pacific Director** – **Donald F. Aubrey** Phone: 206-938-2906 don@rebarcpa.com

*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** – **A. Carlos Barrera** Phone: 956-546-1655 cbarrera@longchilton.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 December 30, 2013.** Use additional sheets for your responses if needed.*

**JURISDICTION:** California Board of Accountancy **DATE:** December 30, 2013

**NAME OF PERSON SUBMITTING FORM:** Patti Bowers, Executive Officer

**1. Since the comment period has closed for the UAA Exposure Draft on the new definition for "attest," has your Board discussed the impact this new attest definition could have on existing accountancy statutes, rules and regulations of your State/Jurisdiction? If so, what changes, if any, will be required to adapt to this new attest definition?**

Yes, the California Board of Accountancy (CBA) discussed the new definition of "attest" at its board meeting on September 27, 2013. The CBA will not be adopting the new definition of "attest" as current law is already interpreted in such a way that it includes everything covered under the new definition. Therefore, no changes will need to be made to adapt to a new definition.

**2. As discussed by Professor Karen Pincus at the NASBA Annual Meeting, the economics of higher education are pushing for more use of technology and less time on campus. Wharton is offering "An Introduction to Financial Accounting," a 10-week course, to anyone in the world. How will your state determine whether or not the education received from Massive Open On-Line Courses (MOOC) would qualify as meeting your educational requirements? Has your state looked into, or been concerned about, the quality of the education prospective candidates will receive from classes which can have over 100,000 enrolled students?**

The California Board of Accountancy has not directly considered the topic of Massive Open On-Line Courses or MOOCs. That said, in determining whether education received from MOOCs would qualify, the CBA would look at California's existing requirements found in Business and Professions Code section 5094. Provided that the individual received college or university credit (in the form of units earned) from a regionally or nationally accredited institution, the units would qualify towards California's educational requirements.

**3. What would you like to see from your Regional Director in the coming year? How can the Regional Director help you?**

Nothing identified at this time.

**4. What is happening in your jurisdiction that other Boards and NASBA should know about?**

As the California Board of Accountancy has highlighted in previous Focus Question Responses, it will fully transition to the 150 semester unit requirement for initial CPA licensure effective January 1, 2014. As part of this transition to the new educational requirements, the core course requirements will increase, with a heavy emphasis on ethics education. To ease the transition to the new educational requirements, the California Legislature recently passed a bill to allow those individuals who passed the Uniform CPA Examination on or before December 31, 2013 to continue to apply for licensure under the existing educational requirements for a two-year period (ending December 31, 2015).

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. Effective January 1, 2014, the California Legislature enacted new laws allowing the CBA authority to issue citations to out-of-state CPAs practicing in California under practice privilege. Additionally, the legislation requires out-of-state CPAs, practicing in California under a practice privilege, to notify the CBA of pending criminal charges. This notification is consistent with the information the CBA receives for California licensees as well as individuals seeking to practice in California and will allow the CBA to determine whether there is potential for consumer harm.

**5. 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 NASBA events were held in California.

**6. 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 only from Executive Director
- Input only from Board Chair and Executive Director
- Input from all Board Members and Executive Director
- Input from some Board Members and Executive Director
- Input from all Board Members
- Input from some Board Members

Other (please explain): The responses were provided by the CBA staff and will be presented to board members at the next meeting on January 23, 2014.



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**CBA Item XI.C.**  
January 23-24, 2014

### **Press Release Focus**

**Presented by:** Deanne Pearce, Assistant Executive Officer

**Date:** January 8, 2014

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#### **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**

None.

#### **Background**

There have been 13 press releases since the November 2013 CBA meeting; one post-meeting release, which highlighted the election of new CBA officers; a release announcing the appointment of Kay Ko to the CBA; a release about the new laws affecting license applicants, licensees and consumers in effect as of January 1, 2014; and nine enforcement action releases. A press advisory notifying the media of the January 23-24, 2014 CBA meeting is scheduled to be sent out January 21, 2014.

#### **Comments**

None.

#### **Fiscal/Economic Impact Considerations**

None.

#### **Recommendation**

Staff recommendation will be made at the time of this presentation.

#### **Attachments**

1. California Board of Accountancy Elects New Officers
2. California Board of Accountancy Welcomes New Board Member
3. New Laws Bring New Requirements for Certified Public Accountants in 2014
4. Enforcement Action Press Releases



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## Attachment 1

# NEWS RELEASE

## CALIFORNIA BOARD OF ACCOUNTANCY ELECTS NEW OFFICERS

(Sacramento, CA) –The California Board of Accountancy (CBA) elected new leadership at its meeting on November 21, 2013 in San Jose. Mr. Michael Savoy, CPA was elected president of the CBA, Mr. Jose Campos, CPA, as vice-president, and Ms. Katrina Salazar, CPA, as secretary/treasurer.

Mr. Savoy was appointed to the CBA by Governor Arnold Schwarzenegger in December 2010, and served as vice president prior to being elected president. He is the past chairman of the Board of Americas Region of BKR International, a member of the finance committee, executive committee and member of the board of the Los Angeles Chamber of Commerce, as well as a member of the Employee Stock Ownership Plan Association. Mr. Savoy is managing director at Gumbiner Savett Inc., and was previously a partner at Savoy & Colin.

Mr. Campos was appointed to the CBA in December 2012 by Governor Edmund G. Brown, Jr. He has served in multiple positions at Deloitte and Touche LLP since 1991, including partner, senior manager, senior accountant and staff. Mr. Campos is a member of the California Society of Certified Public Accountants, the American Institute of Certified Public Accountants and the Association of Latino Professionals in Finance and Accounting.

Ms. Salazar was appointed to the CBA in December 2012 by Governor Edmund G. Brown, Jr. She has served as the Executive Director of the Rotary Club of Sacramento, Chief Financial Officer at the Academic Senate for California Community Colleges and the American Red Cross Sacramento Sierra Chapter. She has served in multiple positions at Reznick Group, including senior audit manager, and since 2007 has been an adjunct accounting professor with the Los Rios Community College District. Ms. Salazar is a member of the California Society of Certified Public Accountants and the American Institute of Certified Public Accountants.

*Created by statute in 1901, the CBA's mandate requires that protection of the public shall be its highest priority in exercising licensing, regulatory, and disciplinary functions. The CBA currently regulates more than 87,000 licensees, the largest group of licensed accounting professionals in the nation, including individuals, partnerships, and corporations.*

*Subscribe to CBA [E-News](#) to receive links to the latest digital edition of UPDATE and the latest information on CBA programs and activities.*



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**Attachment 2****NEWS RELEASE****CALIFORNIA BOARD OF ACCOUNTANCY  
WELCOMES NEW BOARD MEMBER**

FOR IMMEDIATE RELEASE

Contact: Lauren Hersh  
(916) 561-1789

SACRAMENTO – The California Board of Accountancy (CBA) has announced the appointment of Kay Ko to the CBA. Ms. Ko, of Los Angeles, has served in multiple positions at the Federal Bureau of Investigations since 1993, including community outreach specialist, supervisory intelligence analyst and linguist. She earned a Doctor of Philosophy degree in comparative education from the University of California, Los Angeles and a Juris Doctor degree from Loyola Law School.

Ms. Ko fills a public seat on the 15 member CBA, which is comprised of eight public members and seven who are Certified Public Accountants. She was appointed by Governor Jerry Brown on Tuesday, December 3, 2013.

This position does not require Senate confirmation and the compensation is \$100 per diem. Ms. Ko is a Republican.

###

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### Attachment 3

## NEWS RELEASE

FOR IMMEDIATE RELEASE

Contact: Lauren Hersh  
(916) 849-9022

### **NEW LAWS BRING NEW REQUIREMENTS FOR CERTIFIED PUBLIC ACCOUNTANTS IN 2014**

(Sacramento, CA) – Several laws take effect in the New Year which impact the accounting profession and consumers who use accounting services. Among the most significant changes are the new educational requirements for those applying to become a CPA.

President of the California Board of Accountancy, Michael M. Savoy, CPA, said beginning January 1, 2014, those applying for a CPA license must have a minimum of 150 semester hours of study, including 10 units dedicated to ethics education.

“These new requirements are designed to enhance consumer protection by strengthening the education and competency of applicants who will be the next generation of CPAs,” said Savoy.

Other laws for 2014 include:

**SB 822** – SB 822 will help provide additional consumer protection by ensuring the CBA has citation and fine authority over out-of-state CPAs practicing in California under practice privilege. Additionally, SB 822 requires practice privilege holders to notify the CBA of pending criminal charges that occur while practicing in California.

**SB 1405** – SB 1405 established a new license status for active military service members known as Military Inactive Status. Beginning January 1, 2014, a licensee engaged in active duty as a member of the California National Guard or the United States Armed Forces, may apply to have their license placed in, and renewed in, a military inactive status. While in Military Inactive Status, the licensee is exempt from

any continuing education or peer review reporting requirements or paying the license renewal fee.

For more information on the new laws, please visit the CBA website, [www.cba.ca.gov](http://www.cba.ca.gov).

###

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Subscribe to CBA [E-News](#) to receive links to the latest digital edition of UPDATE and the latest information on CBA programs and activities.



**California Board of Accountancy  
Enforcement Action News Release**

Sent to [business@latimes.com](mailto:business@latimes.com) (Los Angeles Times) and [dnmetro@dailynews.com](mailto:dnmetro@dailynews.com) (LA Daily News) on January 2, 2014

Eric Peter Sieracki, Studio City, CA (CPA 46266), Jeffrey Deshon Applewhite, Inglewood, CA (CPA 41024), Scott Ian London, Agoura Hills, CA (CPA 46174), Yatin Dilip Mody, Westlake Village, CA (CPA 57507) and James Marshall Sworzyn, Calabasas, CA (CPA 18832) 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](mailto:pbowers@cba.ca.gov) should you have any questions regarding these enforcement actions.

[http://www.dca.ca.gov/cba/discipline/index.shtml#S\\_1026](http://www.dca.ca.gov/cba/discipline/index.shtml#S_1026)  
[http://www.dca.ca.gov/cba/discipline/index.shtml#A\\_1017](http://www.dca.ca.gov/cba/discipline/index.shtml#A_1017)  
[http://www.dca.ca.gov/cba/discipline/index.shtml#L\\_1771](http://www.dca.ca.gov/cba/discipline/index.shtml#L_1771)  
[http://www.dca.ca.gov/cba/discipline/index.shtml#M\\_1129](http://www.dca.ca.gov/cba/discipline/index.shtml#M_1129)  
[http://www.dca.ca.gov/cba/discipline/index.shtml#S\\_1729](http://www.dca.ca.gov/cba/discipline/index.shtml#S_1729)

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Sent to [matthew.sanderson@patch.com](mailto:matthew.sanderson@patch.com) (Studio City Patch) on January 2, 2014

Eric Peter Sieracki, Studio City, CA (CPA 46266) 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](mailto:pbowers@cba.ca.gov) should you have any questions regarding this enforcement action.

[http://www.dca.ca.gov/cba/discipline/index.shtml#S\\_1026](http://www.dca.ca.gov/cba/discipline/index.shtml#S_1026)

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Sent to [kelly.hartog@patch.com](mailto:kelly.hartog@patch.com) (Inglewood/Culver City Patch) on January 2, 2014

Jeffery Deshon Applewhite, Inglewood, CA (CPA 41024) 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](mailto:pbowers@cba.ca.gov) should you have any questions regarding this enforcement action.

[http://www.dca.ca.gov/cba/discipline/index.shtml#A\\_1017](http://www.dca.ca.gov/cba/discipline/index.shtml#A_1017)

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Sent to [jessica.davis@patch.com](mailto:jessica.davis@patch.com) (Agoura Hills Patch) on January 2, 2014

**Scott Ian London, Agoura Hills, CA (CPA 46174) and Yatin Dilip Mody, Westlake Village, CA (CPA 57507)** 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](mailto:pbowers@cba.ca.gov) should you have any questions regarding these enforcement actions.

[http://www.dca.ca.gov/cba/discipline/index.shtml#L\\_1771](http://www.dca.ca.gov/cba/discipline/index.shtml#L_1771)

[http://www.dca.ca.gov/cba/discipline/index.shtml#M\\_1129](http://www.dca.ca.gov/cba/discipline/index.shtml#M_1129)

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Sent to [craig.clough@patch.com](mailto:craig.clough@patch.com) (Calabasas Patch) on January 2, 2014

**James Marshall Sworzyn, Calabasas, CA (CPA 18832)** 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](mailto:pbowers@cba.ca.gov) should you have any questions regarding this enforcement action.

[http://www.dca.ca.gov/cba/discipline/index.shtml#S\\_1729](http://www.dca.ca.gov/cba/discipline/index.shtml#S_1729)

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Sent to [ocregister.com](http://ocregister.com) (Orange County Register) and [gina.tenorio@patch.com](mailto:gina.tenorio@patch.com) (Aliso Viejo Patch) on January 2, 2014

**Michael W. Norred, Laguna Woods, CA (CPA 26674)** 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](mailto:pbowers@cba.ca.gov) should you have any questions regarding this enforcement action.

[http://www.dca.ca.gov/cba/discipline/index.shtml#N\\_1083](http://www.dca.ca.gov/cba/discipline/index.shtml#N_1083)

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Sent to [mreynolds@bayareanewsgroup.com](mailto:mreynolds@bayareanewsgroup.com) and [strousdale@bayareanewsgroup.com](mailto:strousdale@bayareanewsgroup.com) (Oakland Tribune) and [Charles@patch.com](mailto:Charles@patch.com) (Berkeley Patch) on January 2, 2014

**Craig Steven On, Berkeley, CA (CPA 37585)** 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](mailto:pbowers@cba.ca.gov) should you have any questions regarding this enforcement action.

[http://www.dca.ca.gov/cba/discipline/index.shtml#O\\_1772](http://www.dca.ca.gov/cba/discipline/index.shtml#O_1772)

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Sent to [business@latimes.com](mailto:business@latimes.com) (Los Angeles Times), [dnmetro@dailynews.com](mailto:dnmetro@dailynews.com) (LA Daily News) and [craig.clough@patch.com](mailto:craig.clough@patch.com) (Glendale-Montrose-La Crescenta Patch) on January 8, 2014

**Mario Ulysses Grassano, Jr., Glendale, CA (CPA 76503)** 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](mailto:pbowers@cba.ca.gov) should you have any questions regarding this enforcement action.

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