



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

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| <b>DATE:</b> Thursday, November 20, 2014 | <b>MSG MEETING</b><br><b>TIME:</b> 9:00 a.m.   |
| <b>DATE:</b> Thursday, November 20, 2014 | <b>CPC MEETING</b><br><b>TIME:</b> 10:00 a.m. or upon adjournment<br>of the MSG Meeting  |
| <b>DATE:</b> Thursday, November 20, 2014 | <b>EPOC MEETING</b><br><b>TIME:</b> 10:30 a.m. or upon adjournment<br>of the CPC Meeting |
| <b>DATE:</b> Thursday, November 20, 2014 | <b>LC MEETING</b><br><b>TIME:</b> 10:45 a.m. or upon adjournment<br>of the EPOC Meeting  |
| <b>DATE:</b> Thursday, November 20, 2014 | <b>SPC MEETING</b><br><b>TIME:</b> 11:00 a.m. or upon adjournment<br>of the LC Meeting   |
| <b>DATE:</b> Thursday, November 20, 2014 | <b>CBA MEETING</b><br><b>TIME:</b> 11:30 a.m. to 5:00 p.m.                               |
| <b>DATE:</b> Friday, November 21, 2014   | <b>CBA MEETING</b><br><b>TIME:</b> 9:00 a.m. to 12:00 p.m.                               |
- PLACE:** Hilton Pasadena  
168 South Los Robles Avenue  
Pasadena, CA 91101  
Telephone: (626) 577-1000  
Fax: (626) 584-3148

Enclosed for your information is a copy of the agendas for the MSG, CPC, EPOC, LC, SPC, and CBA meetings on November 20-21, 2014. For further information regarding these meetings, please contact:

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

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

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



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

**MSG MEETING  
 AGENDA**

**Thursday, November 20, 2014  
 9:00 a.m.**

**Hilton Pasadena  
 168 South Los Robles Avenue  
 Pasadena, CA 91101  
 (626) 577-1000**

	<b><u>CBA Item #</u></b>
Roll Call and Call to Order ( <b>Katrina Salazar, Chair</b> ).	
I. Approval of Minutes.	
A. Minutes of the July 23, 2014 MSG Meeting.	XI.D.
B. Minutes of the July 24, 2014 Joint CBA and MSG Meeting.	XI.C.
II. The MSG Decision Matrix – A Summary of Previous Decisions Made by the MSG (Written Report Only).	X.A.2.
III. Practice Privilege – Information and Statistics for Licensing and Enforcement Division and Website Usage (Written Report Only).	X.A.3.
IV. Discussion Regarding Defining Stakeholders and Summary of Stakeholder Objectives Pursuant to Business and Professions Code (BPC) Section 5096.21(e) ( <b>Matthew Stanley, Licensing Manager</b> ).	X.A.4.
V. Discussion Regarding the Consumer Protection Provisions of BPC Sections 5096 and 5096.1 ( <b>Matthew Stanley</b> ).	X.A.5.
VI. Discussion Regarding the Mobility Stakeholder Group Annual Report ( <b>Matthew Stanley</b> ).	X.A.6.
VII. Discussion Regarding Proposed Agenda Items for the Next MSG Meeting ( <b>Matthew Stanley</b> ).	X.A.7.
VIII. Public Comments.*	
Adjournment	

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

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

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

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**MSG Item I.A.**

November 19, 2014

**CBA Item XI.D.**

November 20-21, 2014

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

**MINUTES OF THE  
 July 23, 2014  
 MOBILITY STAKEHOLDER GROUP MEETING**

**DRAFT**

California Board of Accountancy Office  
 2000 Evergreen Street, Suite 250  
 Sacramento, CA 95815  
 Telephone: (916) 561-1700

**CALL TO ORDER**

Hal Schultz, Vice-Chair, called the meeting of the Mobility Stakeholder Group (MSG) to order at 1:40 p.m. Mr. Schultz requested that the role be called.

Members

Katrina Salazar, Chair	Present
Hal Schultz, Vice-Chair	Present
Jose Campos	Present
Ed Howard	Present
Rafael Ixta	Present
Joe Petito	Present
Stuart Waldman	Present

CBA Members Observing

Kay Ko  
 Leslie LaManna  
 Michael Savoy

CBA Staff and Legal Counsel

Patti Bowers, Executive Officer  
 Deanne Pearce, Assistant Executive Officer  
 Rich Andres, Information Technology Staff  
 Dominic Franzella, Chief, Licensing Division  
 Vincent Johnston, Enforcement Manager

Corey Riordan, Board Relations Analyst  
Kristy Schieldge, Senior Staff Counsel, DCA Legal Affairs  
Jenny Sheldon, Licensing Manager  
Carl Sonne, Deputy Attorney General  
Matthew Stanley, Legislation Analyst

Other Participants

Jason Fox, California Society of CPAs (CalCPA)  
Kasey O'Connor, CalCPA  
Pilar Onate-Quintana, KP Public Affairs  
Jonathan Ross, KP Public Affairs

I. Approve Minutes of the March 20, 2014 Meeting

**It was moved by Mr. Petito, seconded by Mr. Ixta, and carried unanimously to approve the minutes of the March 20, 2014 meeting. Ms. Salazar, Mr. Campos, and Mr. Howard were temporarily absent.**

II. Overview of the MSG Decision Matrix – A Summary of Previous Decisions Made by the MSG

Mr. Stanley provided a copy of the MSG decision matrix. He stated that an updated copy of the decision matrix would be provided at every MSG meeting so that the MSG can track which decisions have already been made, and which decisions remain for discussion. He indicated that this information will be provided as a written report for future meetings.

III. Overview and Comparison of the Prior and Current California Practice Privilege Laws

Mr. Franzella provided a summary of the similarities and differences between the prior practice privilege law and current law. Some of the major differences between the laws include the no notice and no fee provisions, increased out-of-state firm registration requirements, reports to the Legislature, and increased involvement of the CBA website.

IV. Overview of the Consumer Protection Provisions of the California Practice Privilege Law and Proposed Timeline for Future Discussion

Mr. Stanley provided an overview of the consumer protection provisions of the mobility law. These provisions include qualifications, pre-notification, rules regarding cessation of practice, administrative suspensions, disciplinary actions, out-of-state accounting firm registrations, improvements to the CBA website, and the functions of the MSG.

The MSG will be reviewing these provisions in more detail over its next two meetings in order to fulfill its charge to consider whether the provisions of the mobility law are consistent with the CBA's duty to protect the public.

V. Overview of the Implementation of the Current California Practice Privilege Law

Ms. Sheldon provided the MSG with an overview of how the mobility law has been implemented. She stated that the implementation began almost as soon as the bill was introduced when staff formed an internal team to evaluate and develop an implementation plan for every portion of the law. As a result, the Practice Privilege database was modified, several new forms were created, a new registration for out-of-state firms was initiated, enforcement processes were modified, regulations created, and the practice privilege portion of the website was overhauled.

Mr. Johnston provided a walkthrough of the CBA website including the License Lookup for out-of-state licensees, Securities and Exchange Commission (SEC) and Public Company Accounting Oversight Board (PCAOB) discipline information, various disclaimers required by the law, where consumers can file a complaint, and links to CPAVerify and other state boards' of accountancy websites.

Referring to the SEC and PCAOB checks required by the law, Mr. Campos suggested that staff proactively check other governmental sources for similar information such as the Governmental Accountability Office and the Department of Labor.

Mr. Petito requested that the website usage statistics be made available to the MSG at its next meeting.

Mr. Howard inquired why some states, specifically New York, do not report discipline to CPAVerify. Ms. Bowers indicated that staff would find out and report back to the MSG.

VI. Overview of Practice Privilege/Mobility Provisions in Other States/Jurisdictions

Mr. Franzella provided the MSG with a summary of the mobility provisions of other state boards of accountancy. He stated that the information was gathered from the National Association of State Boards of Accountancy's (NASBA) Accountancy Licensing Library. For each state, he provided information on the status of mobility, substantial equivalency, whether there is a quid pro quo requirement, any disqualifying conditions, and out-of-state firm registration requirements.

VII. Overview and Discussion Regarding Survey of Other States' Practice Privilege/Mobility Provisions to Obtain Information Necessary for Reporting Under BPC 5096.21(d)

Mr. Stanley informed the MSG of a survey that was approved by the CBA at its May 2014 meeting. This survey will provide needed information for the CBA's preliminary report to the Legislature regarding California's mobility law and whether other states should be allowed to continue under the new program.

In addition, he also informed the MSG that some of the questions were developed as a direct result of requests the MSG made for information at its March 2014 meeting. He stated that the results of this survey would be provided in November.

The MSG discussed the content of the preliminary report to the Legislature. Ms. Schieldge indicated that the MSG should provide input and recommendations to the CBA for the report.

Mr. Savoy stated that the MSG may want to wait to hear the presentation at the upcoming Joint CBA/MSG meeting from Mr. Ken Bishop, President and CEO of NASBA, regarding the pending NASBA Enforcement Guidelines as that discussion may provide some clarification.

Mr. Howard indicated that the CBA must first assess the forthcoming NASBA Disciplinary Guidelines before determining whether it should be used as a standard for making the determinations required in the report. He stated that the CBA must verify that the various state boards that adopt the Disciplinary Guidelines are actually implementing them as well. He indicated that the report should indicate that such verification has occurred.

VIII. Discussion Regarding Stakeholder Objectives Pursuant to BPC 5096.21(e)

Mr. Stanley explained that one of the items the MSG is tasked with is considering whether the mobility law satisfies the objectives of stakeholders of the accounting profession, including consumers. He requested that the MSG identify these objectives. He stated that staff made the assumption that many of the objectives were written into the law and are, therefore, being met.

Mr. Campos stated that one objective was to help out-of-state licensees know and understand their self-reporting requirements.

Mr. Howard stated another objective as assuring the CBA that all states have adequate enforcement.

Mr. Campos requested that the stakeholder objectives be provided at future meetings in order that the MSG may continue to revise and add to them. He also suggested that there be a definition or listing of who the stakeholders are.

Ms. Bowers indicated that a definition exists for a different purpose, but could be brought forward at the next meeting for discussion.

IX. Discussion Regarding Proposed Agenda Items for Next Meeting

Mr. Stanley provided an overview of suggested agenda topics for the MSG's next meeting in November. They include the results of the survey of the other state boards of accountancy; an in-depth review of certain consumer protection provisions of the mobility law; a discussion of stakeholder objectives; and a review of the latest licensing, enforcement, and website usage statistics for mobility.

Mr. Howard requested that a discussion of Mr. Bishop's presentation at the joint meeting regarding the NASBA Enforcement standards be added to the list.

Ms. Bowers stated that staff would also bring back a discussion regarding states that do not provide full data to ALD as was previously requested. She stated that staff would endeavor to bring forward a full agenda and that some topics on the consumer protection provisions may be added or deferred as appropriate.

X. Public Comments

No Public Comments were received

XI. Agenda Items for Next Meeting

No agenda items were identified.

There being no further business, the meeting was adjourned at 3:42 p.m.



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**CBA Item XI.C.**  
 November 20-21, 2014

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

**DRAFT**

**MINUTES OF THE**  
**July 24, 2014**  
**JOINT CBA MEETING &**  
**MOBILITY STAKEHOLDER GROUP MEETING (MSG)**

Tsakopoulos Library Galleria  
 828 I Street  
 Sacramento, CA 95814  
 Telephone: (916) 264-2920

Roll Call and Call to Order.

CBA President Michael Savoy and MSG Chair, Katrina Salazar, called the meeting to order at 10:49 a.m. on Thursday, July 24, 2014 at the Tsakopoulos Library Galleria.

CBA Members

July 24, 2014

Michael Savoy, President	10:49 a.m. to 11:57 a.m.
Jose Campos, Vice President	10:49 a.m. to 11:57 a.m.
Katrina Salazar, Secretary-Treasurer	10:49 a.m. to 11:57 a.m.
Sarah (Sally) Anderson	10:49 a.m. to 11:57 a.m.
Diana Bell	10:49 a.m. to 11:57 a.m.
Alicia Berhow	10:49 a.m. to 11:57 a.m.
Herschel Elkins	10:49 a.m. to 11:57 a.m.
Laurence (Larry) Kaplan	10:55 a.m. to 11:57 a.m.
Louise Kirkbride	Absent
Kay Ko	10:49 a.m. to 11:57 a.m.
Leslie LaManna	10:49 a.m. to 11:57 a.m.
K.T. Leung	10:53 a.m. to 11:57 a.m.
Manuel Ramirez	10:49 a.m. to 11:57 a.m.
Mark Silverman	10:53 a.m. to 11:57 a.m.

MSG Members

Katrina Salazar, Chair	10:49 a.m. to 11:57 a.m.
Harold Schultz, Vice-Chair	10:49 a.m. to 11:57 a.m.

Jose Campos	10:49 a.m. to 11:57 a.m.
Edward Howard	10:49 a.m. to 11:57 a.m.
Rafael Ixta	10:49 a.m. to 11:57 a.m.
Joseph Petito	10:49 a.m. to 11:57 a.m.
Stuart Waldman	10:49 a.m. to 11:57 a.m.

#### Staff and Legal Counsel

Patti Bowers, Executive Officer  
Deanne Pearce, Assistant Executive Officer  
Rich Andres, Information Technology Staff  
Emmanuel Estacio, Information Technology Staff  
Dominic Franzella, Chief, Licensing Division  
Lauren Hersh, Information and Planning Manager  
Rafael Ixta, Chief, Enforcement Division  
Vincent Johnston, Enforcement Manager  
Nicholas Ng, Administration Manager  
Corey Riordan, Board Relations Analyst  
Kristy Schieldge, Legal Counsel, Department of Consumer Affairs (DCA)  
Carl Sonne, Deputy Attorney General, Department of Justice (DOJ)  
Matthew Stanley, Regulation and Legislation Coordinator

#### Committee Chairs and Members

Jeffrey De Lyser, Vice-Chair, Enforcement Advisory Committee (EAC)  
Robert Lee, Chair, Peer Review Oversight Committee (PROC)

#### Other Participants

Bruce Allen, California Society of Certified Public Accountants (CalCPA)  
Ken Bishop, President and CEO, National Association of State Boards of  
Accountancy (NASBA)  
Maria Caldwell, NASBA  
Jason Fox, CalCPA  
Kasey O'Connor, CalCPA  
Pilar Oñate-Quintana, KP Public Affairs  
Jon Ross, KP Public Affairs

- I. Presentation from the National Association of State Boards of Accountancy (NASBA) Regarding Mobility and the NASBA Enforcement Guidelines.

Mr. Bishop and Ms. Caldwell provided an overview of mobility and the NASBA Enforcement Guidelines.

Mr. Bishop stated NASBA is taking unilateral efforts to measure the quality of compliance of accounting boards around the United States. He stated that NASBA has reviewed the CBA's survey and is committed to incorporate the questions into NASBA's survey, as surveys can be duplicative and states

may not have the time or resources to respond to multiple surveys. Mr. Bishop stated that states that do not reply to the survey would be removed for California's mobility law, which may result in states with quid pro quo not recognizing California's licensee's in their jurisdiction. Mr. Bishop stated that the premise of mobility is about allowing consumers and stakeholders to use the CPA that they know and trust.

Mr. Bishop stated that NASBA cannot take a one size fits all approach when determining if states meet a certain bar of disciplinary capabilities. He noted that rather than condemn a state, NASBA would be dedicated to providing resources, training and funds to help them meet the bar.

Mr. Savoy inquired how the National Enforcement Standards are being developed.

Ms. Caldwell stated that NASBA was finalizing an Enforcement Resources Guide, which would provide guidelines and sample forms for state boards to use. Additionally, she stated that they were developing a Guiding Principles of Enforcement, which would determine what principles of good enforcement are. Further, she stated that NASBA's Enforcement Resources Committee was developing an interview script that would provide the specificity for the Guiding Principles. She noted that the interviews would be conducted between August and October 2014.

Mr. Savoy inquired into when NASBA anticipated that the National Enforcement Standards would be released.

Ms. Caldwell stated that NASBA is finalizing the initial draft of the interview script in the next few weeks and interviews will be conducted between August and October. She stated that once the interviews are completed the Enforcement Resources Committee will review the interview data and use the information to pinpoint examples for the Guiding Principles of Enforcement.

Mr. Bishop stated that NASBA has adopted California's timeline as their timeline. He stated that they have committed to dates with Ms. Bowers that would allow adequate time for the CBA to receive and assess the work.

Mr. Savoy inquired if the Enforcement Standards would be in the form of an Exposure Draft.

Mr. Bishop stated that they would not be standards, but best practices and a series of benchmarks.

Mr. Savoy inquired what type of outreach would be used to provide boards with the information.

Ms. Caldwell stated that NASBA would provide the information in the

quarterly newsletters, on the enforcement tools section on NASBA's website, and provide presentations at the NASBA conferences.

Mr. Howard stated that the task of the CBA is to review the enforcement practices of other states. He suggested that NASBA provide examples of the kinds of things that NASBA is looking at for the Best Practices Guidelines.

Ms. Caldwell stated that the guidelines would include:

- Timeframes for processing a complaint, from intake to the final disposition
- Enforcement resources to adequately staff investigations
- Case management
- Disciplinary guidelines
- Internet disclosure

Mr. Petito suggested the review process, referred to by Mr. Howard, could be treated like peer review; with a pass, fail, or pass with caveats.

Mr. Savoy suggested that the CBA should delay sending the survey to the each state until NASBA provides the results of their survey.

Mr. Ramirez stated that he understands delaying the survey if it is completely duplicative; however he asked Ms. Bowers if the CBA, given its board responsibilities, should move forward with its own survey.

Mr. Campos stated that he thought the plan of action was to proceed with the survey in coordination with NASBA and that the CBA's questions would be merged with NASBA's survey.

Ms. Bowers stated that she has no hesitation in waiting until October, when the interviews will be concluded, as the results may reveal additional modifications to the questions the CBA has posed. Ms. Bowers stated that Mr. Bishop has agreed that any questions identified, at the May CBA meeting, will be included in the interview process if they were not included in NASBA's survey. She further stated that her concern is making sure that the CBA is well prepared to meet the deadline to present the report to the Legislature.

Mr. Ramirez stated that the CBA has obligations legislatively and many things NASBA is doing are mission critical to the CBA. He stated that the CBA's inability to travel outside the state has prohibited the CBA from being as involved with NASBA. Mr. Ramirez requested that NASBA and the CBA work more proactively together to prevent duplicative efforts.

Mr. Bishop stated that interaction between states in regards to mobility is a nationwide effort and the states need to hear other states concerns and how

to make it better. Lastly, he stated that NASBA agrees to work with Mr. Bowers in any way that they can.

President Savoy adjourned the meeting at 11:57 a.m. on Thursday, July 24, 2014.

\_\_\_\_\_ Michael M. Savoy, CPA, President

\_\_\_\_\_ Katrina Salazar, CPA, MSG Chair

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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**MSG Item II.**

November 20, 2014

**CBA Item X.A.2.**

November 20-21, 2014

## **The MSG Decision Matrix – A Summary of Previous Decisions Made by the MSG**

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

**Date:** October 7, 2014

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### **Purpose of the Item**

The purpose of this agenda item is to provide the Mobility Stakeholder Group (MSG) with its decision matrix (**Attachment**).

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

No action is needed on this item as it is a written report only.

### **Background**

At its March 2014 meeting, staff presented the MSG with a plan to maintain a decision matrix in order to track decisions made by the MSG. The purpose for the decision matrix was to assist the MSG and staff in determining what activities have been accomplished and what decisions still remain for discussion.

### **Comments**

The MSG provided staff with various directions at its July 2014 meeting, but there were no new decisions made by the MSG at that meeting.

The decision matrix will continue to be provided as a written report only agenda item unless otherwise directed by the MSG.

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

None.

### **Recommendation**

None.

### **Attachment**

Mobility Stakeholder Group Decision Matrix



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**Attachment**

## **MOBILITY STAKEHOLDER GROUP DECISION MATRIX**

<b><u>Date</u></b>	<b><u>Decision</u></b>
March 2014	The MSG will meet three times per year in conjunction with the March, July and November CBA meetings.
March 2014	The MSG will prepare a written report to the CBA at least once per calendar year.
March 2014	The MSG will prepare a final report in time to be considered by the CBA as it prepares its final report to the Legislature which is due January 1, 2018.



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**MSG Item III.**  
November 20, 2014

**CBA Item X.A.3.**  
November 20-21, 2014

**Practice Privilege – Information and Statistics for Licensing and Enforcement Division and Website Usage**

**Presented by:** Dominic Franzella, Chief, Licensing Division  
**Date:** October 10, 2014

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**Purpose of the Item**

The purpose of this agenda item is to provide the Mobility Stakeholder Group (MSG) with statistics and information it requested related to the practice privilege program.

**Action(s) Needed**

No specific action is required on this agenda item.

**Background**

At its July 23, 2014 meeting, the MSG requested that staff provide statistical information regarding the new practice privilege program for the following areas: Licensing and Enforcement Divisions and website usage. It also requested information regarding why certain states do not provide disciplinary data to the CPAVerify website.

**Comments**

In response to the MSG's request, staff are providing statistical information for the Licensing and Enforcement Divisions and website usage for the period of July 1, 2013 (the date the new practice privilege provisions took effect) – September 30, 2014.

**Licensing Division**

The Licensing Division is responsible for two main functions associated with the new practice privilege program: (1) processing out-of-state accounting firm registrations and (2) providing customer service in responding to telephone calls and emails.

***Out-of-State Accounting Firm Registration***

The new practice privilege provisions require out-of-state accounting firms that intend on providing certain accounting services to California-headquartered entities to register with the California Board of Accountancy (CBA). These accounting firms must submit a registration form and obtain approval from the CBA prior to providing services. The services must be performed by a qualified practice privilege holder. The services that require registration include:

- An audit or review of a financial statement.

## Practice Privilege-Related Statistics for Licensing and Enforcement Division and Website Usage

Page 2 of 3

- A compilation of a financial statement when that out-of-state CPAs 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.
- An examination of prospective financial information.

Below is the statistical data associated with the Licensing Division's processing of out-of-state accounting firm registrations.

<b>Out-of-State Accounting Firm Registrations</b>	<b>Totals</b>
Total Registration Applications Received	260
Approved Registrations	255
Pending*	4
Denied	1

\*Includes 1 pending enforcement review, 2 with outstanding deficiencies, and 1 in process

### *Customer Service*

The Licensing Division is the primary point of contact associated with the practice privilege program. Below is the statistical data for the total number of telephone calls and emails.

<b>Customer Contact</b>	<b>Totals</b>
Telephone	767
Emails	381

### Enforcement Division

The Enforcement Division is responsible for numerous functions associated with the new practice privilege program, including processing pre- and cessation notification forms, reviewing the Securities and Exchange Commission's (SEC) and Public Company Accounting Oversight Board's (PCAOB) websites for CPAs that have been disciplined, reviewing Licensing Division referrals, and reviewing complaints received against practice privilege holders. Below is statistical data associated with the various Enforcement Division activities.

<b>Enforcement Division Activities</b>	<b>Totals</b>
Pre-Notification Forms Received	16
Cessation Notification Forms Received	0
SEC Discipline Identified	47
PCAOB Discipline Identified	15
Out-of-State Accounting Firms Referred by Licensing Division for Reported Other Discipline	11
Out-of-State Accounting Firm Registrations Denied	1
Complaints Against Practice Privilege Holders	6

# Practice Privilege-Related Statistics for Licensing and Enforcement Division and Website Usage

Page 3 of 3

## Website Usage

The CBA maintains a robust website associated with providing information both to consumers and licensees regarding the new practice privilege program. Below is statistical data for various webpages on the CBA website associated with the practice privilege program.

<b>Webpage</b>	<b>Totals</b>
Out-of-State Licensed CPA Search	16,345
Out-of-State Registered Accounting Firms Search	2,989
Practice Privilege Reporting Requirements (Disqualifying Conditions, Pre- & Cessation Notification Requirements)*	3,970
Practice Privilege Handbook	14,086

\* This page provides consumers and out-of-state CPAs specific information regarding the events and circumstances that necessitate out-of-state CPAs to: (1) pre-notify the CBA and receive approval prior to exercising a practice privilege, and (2) to cease practicing via a practice privilege, notify the CBA, and await approval to resume practice.

## CPAVerify

Staff contacted the National Association of State Boards of Accountancy (NASBA) to determine why certain states, and in particular New York, do not provide specific disciplinary information for posting on CPAVerify. The reason is various technical issues with the various states. Staff were informed that NASBA is working with these states to resolve these issues, and that all states participating in CPAVerify are willing to supply the information if the issues can be resolved.

## Fiscal/Economic Impact Considerations

None.

## Recommendation

Staff has no recommendation for this agenda item.

## Attachments

None.

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**MSG Item IV.**

November 20, 2014

**CBA Item X.A.4.**

November 20-21, 2014

**Discussion Regarding Defining Stakeholders and Summary of Stakeholder Objectives Pursuant to Business and Professions Code Section 5096.21(e)****Presented by:** Matthew Stanley, Manager, Examination and Practice Privilege Units**Date:** October 15, 2014**Purpose of the Item**

The purpose of this agenda item is to establish a definition of stakeholders for the purpose of outlining stakeholder objectives pursuant to Business and Professions Code (BPC) section 5096.21(e) and to provide a summary of the objectives already established by the Mobility Stakeholder Group (MSG).

**Action(s) Needed**

The MSG will be asked to establish a definition of stakeholders and will be asked whether it wishes to add additional items to the list of stakeholder objectives.

**Background**

The MSG is charged with considering whether the provisions of the California practice privilege law (mobility law) "satisfy the objectives of stakeholders of the accounting profession in this state, including consumers." At its July 2014 meeting, the MSG established two stakeholder objectives and requested that they be provided at future meetings in order that the MSG may continue to revise and add to them (**Attachment**). In addition, the MSG requested that staff prepare a definition of stakeholders for use in future discussions.

**Comments**

The following definition for stakeholders is found in the California Board of Accountancy's (CBA) *2013-15 Strategic Plan*:

Stakeholders include consumers, licensees, applicants, and professional organizations and groups that have a direct or indirect stake in the CBA because they can affect or be affected by the CBA's actions, objectives, and policies.

A second definition, with more specificity, can be found in the CBA's *2013-14 Annual Report*, which will be presented to the CBA at its November 2014 meeting, as follows:

The CBA performs its consumer protection mission for many stakeholders, including:

## **Discussion Regarding Defining Stakeholders and Summary of Stakeholder Objectives Pursuant to Business and Professions Code (BPC) Section 5096.21(e)**

Page 2 of 2

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

This second definition is limited to only the consumers of accounting services and does not include licensees, applicants, professional organizations, etc. If the MSG prefers the more detailed definition, these other groups can be easily incorporated.

At the request of the MSG, staff have provided, on the attachment, the current MSG stakeholder objectives. They are being provided in order that the MSG may continue to revise and add additional items to them now and at future meetings. Staff would welcome further discussion and any changes to the objectives that the MSG would wish to provide.

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

There is no fiscal or economic impact for this item.

### **Recommendation**

Staff recommend that the MSG adopt a definition for stakeholder. In addition, staff are prepared to make any changes to the stakeholder objectives that the MSG may wish to make.

### **Attachment**

Stakeholder Objectives

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**Attachment****Stakeholder Objectives**

<b>Date Added or Revised</b>	<b>Objective</b>
July 2014	Help out-of-state licensees know and understand their self-reporting requirements.
July 2014	Assure the CBA that all states have adequate enforcement.

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**MSG Item V.**

November 20, 2014

**CBA Item X.A.5.**

November 20-21, 2014

**Discussion Regarding the Consumer Protection Provisions of Business and Professions Code Sections 5096 and 5096.1**

**Presented by:** Matthew Stanley, Manager, Examination and Practice Privilege Unit

**Date:** October 13, 2014

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**Purpose of the Item**

The purpose of this agenda item is to provide the Mobility Stakeholder Group (MSG) with an opportunity to discuss the consumer protection provisions in California's practice privilege law (**Attachment 1**), specifically those found in Business and Professions Code (BPC) sections 5096 and 5096.1.

**Action(s) Needed**

The MSG will be asked to discuss and provide its initial considerations as to whether the provisions under discussion are consistent with the California Board of Accountancy's (CBA) duty to protect the public.

**Background**

At its July 2014 meeting, the MSG was given a brief overview of the existing consumer protection provisions in the practice privilege law. The MSG directed that a detailed review of the provisions be performed at its November 2014 and March 2015 meetings.

The California practice privilege law, specifically, BPC section 5096.21(e), requires the MSG to consider whether the provisions of the practice privilege law are consistent with the CBA's duty to protect the public consistent with BPC section 5000.1 (**Attachment 2**).

**Comments**

Consumer protection is the foundation and purpose for everything the CBA does. The practice privilege law was designed by the Legislature and stakeholders to protect California consumers while allowing out-of-state CPAs to practice public accounting in California without notice or fee.

The Legislature designed the consumer protection provisions in such a way as to address concerns that under a no notice, no fee program, the CBA would no longer be actively aware of who was practicing public accounting in California from out-of-state.

As members of the MSG have previously stated, the review of this law, its effects, and its outcomes, is an ongoing process. Staff are bringing this review forward at this time for an initial consideration by the MSG. While this agenda item is focused solely on the plain text of the law, this initial consideration could be based on both the law and initial

## **Discussion Regarding the Consumer Protection Provisions of Business and Professions Code Sections 5096 and 5096.1**

Page 2 of 5

statistics provided in MSG Agenda Item III. The statistics serve as a tangible result of implementation of the law and, therefore, can be said to demonstrate the law's efficacy.

Going forward, staff will continue to monitor the statistics and will bring to the MSG a follow-up item if the statistics begin to deviate in a manner that appears to warrant further consideration. Staff plan to bring this issue to the MSG again for final consideration in two years with a more complete picture of the results based on three and one-half years of information. This second look at the law will be timed so that the MSG's final considerations can be included in the MSG Final Report to the CBA in 2017.

### Practice Privilege Requirements

In BPC section 5096(a), the Legislature established the three qualifications needed to exercise a practice privilege in California, each designed to protect consumers:

- The individual's principal place of business may not be in California
- He or she must hold a current and valid license from another state
- He or she must meet one of the following:
  - continually practiced under a valid license for at least four of the last ten years
  - the license must be from a substantially equivalent state
  - the individual must possess substantially equivalent education, examination and experience.

Subdivision (d) requires that, if a practice privilege holder performs certain attest functions, work is done through a firm that is registered with the CBA.

These provisions appear to be consistent with the CBA's duty to protect the public. Specifically, requiring the following:

- A practice privilege holder to meet minimum qualifications
- Certain attest functions be performed through firms registered with the CBA.

### Rules Regarding Practice Privilege and Cessation of Practice

Subdivision (e) is a listing of statements and actions to which an individual exercising a practice privilege agrees to be held. Paragraphs (1)-(5) are as follows:

- (1) The individual is subject to the jurisdiction and discipline of the CBA.
- (2) The individual must comply with the CBA's laws and rules except for continuing education and the ethics exam requirements.
- (3) The individual may not work out of an office in California unless they are an employee of a CBA registered firm working from that firm's offices.
- (4) Process may be served on the individual's licensing board.
- (5) The individual is required to cooperate with the CBA.

## **Discussion Regarding the Consumer Protection Provisions of Business and Professions Code Sections 5096 and 5096.1**

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Paragraphs (6)-(10) trigger reporting requirements by the practice privilege holder. In addition, paragraphs (6)-(9) require that the individual cease practicing in California immediately. These requirements are as follows:

(6) The individual must cease practice if their license has disciplinary action taken against it.

(7) The individual must cease practice if they are convicted of any crime involving dishonesty.

(8) The individual must cease practice if the Securities and Exchange Commission (SEC) or the Public Company Accounting Oversight Board (PCAOB) bars them from practicing before them.

(9) The individual must cease practice if any governmental body or agency suspends their right to practice before them.

(10) The individual must notify the CBA of pending criminal charges.

Subdivision (f) outlines the reporting requirement for paragraphs (6)-(9) above. Specifically, if the individual is required to cease practice, they must notify the CBA within 15 days and may not practice again in California until the CBA provides written permission to do so. The report is required to be made on a Notification of Cessation of Practice Privilege form which was established by the CBA in the CBA Regulations.

Subdivision (g) outlines the consequences for failing to cease practice or to notify the CBA. If the individual fails to cease practice or notify the CBA, the individual is subject to the jurisdiction of the CBA as if the practice privilege were a license. This means that the practice privilege can be revoked or otherwise disciplined in the same manner as a license. As an operation of law, an individual who fails to cease practice or submit the notification is not allowed to practice in California for a minimum of one year from the date the CBA becomes aware of the violation without the possibility of reinstatement, or it increases to two years if the CBA determines the failure was intentional.

When the CBA receives a Notification of Cessation of Practice Privilege form, subdivision (h) requires that, at a minimum, the CBA must require the individual to cease practice in California until it provides written permission to resume. While subdivisions (e) and (f) require the individual to cease practicing, these are actions the individual is required to take. This provision, subdivision (h), is an action the CBA is required to take. It requires the CBA to order the individual to cease practicing. This ensures that the individual does not practice in California while the CBA investigates the issue and reinforces that the individual is to cease practice in compliance with subdivisions (e) and (f).

These provisions appear to be consistent with the CBA's duty to protect the public. Specifically:

- Requiring that practice privilege holders practicing in California agree to certain provisions, including being subject to the CBA's jurisdiction and authority
- Requiring that practice privilege holders agree to cease practice when certain events occur and report it to the CBA

## **Discussion Regarding the Consumer Protection Provisions of Business and Professions Code Sections 5096 and 5096.1**

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- Establishing consequences for failure to comply with these provisions appears to be consistent with the CBA's duty to protect the public.

### Pre-Notification Requirement

Subdivision (i) paragraph (1) outlines the pre-notification requirements for practice privilege holders. An individual is required to file a Practice Privilege Pre-Notification of Listed Events form, established in CBA Regulations, and await permission from the CBA before commencing practice in California if they met any of the following criteria within the past seven years:

- they have been the subject of final disciplinary action
- they have had a license reinstated after a suspension or revocation
- they have been denied issuance or renewal of a license
- they have been convicted of a crime or is subject to pending criminal charges
- they have acquired a disqualifying condition from BPC section 5096.2(a).

Paragraph (i)(2) provides that an individual who fails to provide the CBA with the pre-notification is subject to the jurisdiction and discipline of the CBA as if the practice privilege were a license. This means that the practice privilege can be revoked or otherwise disciplined in the same manner as a license. As an operation of law, an individual who fails to submit the notification is not allowed to practice in California for a minimum of one year from the date the CBA becomes aware of the violation without the possibility of reinstatement, or it increases to two years if the CBA determines the failure was intentional.

These provisions appear to be consistent with the CBA's duty to protect the public. Specifically:

- Requiring practice privilege holders who have had issues with their license or have acquired disqualifying conditions within the previous seven years to inform the CBA prior to practicing in California to prevent practice until such time as the CBA has reviewed the facts and made a determination regarding the risk to the public
- Establishing consequences for failure to comply.

### Unqualified Practice

In BPC section 5096.1(a), the Legislature sets forth the rules regarding unqualified practice. This section applies to any individual who:

- is licensed by another state
- is not licensed by the CBA
- does not qualify for a practice privilege
- engages in the practice of public accountancy in California.

## **Discussion Regarding the Consumer Protection Provisions of Business and Professions Code Sections 5096 and 5096.1**

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Such an individual is, as follows:

- practicing unlawfully in California
- subject to the jurisdiction and discipline of the CBA and state courts in the same manner as a lawful practice privilege holder
- able to have process served on them through their licensing board.

Subdivision (b) states that the CBA may revoke the practice privilege of anyone violating this section or who has committed any act which would be grounds for discipline.

These provisions appear to be consistent with the CBA's duty to protect the public, specifically, subjecting those who are practicing in California, yet are not qualified to do so, to the CBA's authority.

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

There is no fiscal or economic impact for this item.

### **Recommendation**

Staff recommend that the MSG provide its initial considerations as to whether the provisions of BPC sections 5096 and 5096.1 are consistent with the CBA's duty to protect the public. Staff will be bringing a similar agenda item covering the remainder of the practice privilege law to the MSG's March 2015 meeting.

### **Attachments**

1. California's Practice Privilege Law
2. BPC Section 5000.1

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**Attachment 1****California's Practice Privilege Law****Accountancy Act Article 5.1. Practice Privileges****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.

**5096.1.**

(a) Any individual, not a licensee of this state, who is engaged in any act which is the practice of public accountancy in this state, and who does not qualify to practice pursuant to the practice privilege described in Section 5096 and who has a license, certificate, or other authority to engage in the practice of public accountancy in any other state, regardless of whether active, inactive, suspended, or subject to renewal on payment of a fee or completion of an educational or ethics requirement, is:

(1) Deemed to be practicing public accountancy unlawfully in this state.

(2) Subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state to the same extent as a holder of a valid practice privilege.

(3) Deemed to have appointed the regulatory agency of the state that issued the individual's certificate or license as the individual's agent on whom notice, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(b) The board may revoke a practice privilege from any individual who has violated this section or implementing regulations or committed any act which would be grounds for discipline against the holder of a practice privilege.

(c) This section shall become operative on July 1, 2013.

(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.

**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.

#### **5096.4.**

- (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.

(b) The administrative suspension order is immediately effective when mailed to the individual's address of record or agent for notice and service as provided for in this article.

(c) The administrative suspension order shall contain the following:

(1) The reason for the suspension.

(2) A statement that the individual has the right, within 30 days, to appeal the administrative suspension order and request a hearing.

(3) A statement that any appeal hearing will be conducted 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) applicable to individuals who are denied licensure, including the filing of a statement of issues by the board setting forth the reasons for the administrative suspension of practice privileges and specifying the statutes and rules with which the individual must show compliance by producing proof at the hearing and in addition any particular matters that have come to the attention of the board and that would authorize the administrative suspension, or the revocation of practice privileges.

(d) The burden is on the holder of the suspended practice privilege to establish both qualification and fitness to practice under practice privileges.

(e) The administrative suspension shall continue in effect until terminated by an order of the board or the executive officer.

(f) Administrative suspension is not discipline and shall not preclude any individual from applying for a license to practice public accountancy in this state.

(g) Proceedings to appeal an administrative suspension order may be combined or coordinated with proceedings for revocation or discipline of a practice privilege.

(h) This section shall become operative on July 1, 2013.

(i) 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.

#### **5096.5.**

(a) Notwithstanding any other provision of this article, an individual may not sign any attest report pursuant to a practice privilege unless the individual meets the experience requirements of Section 5095.

(b) This section shall become operative on July 1, 2013.

(c) 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.

#### **5096.6.**

(a) In addition to the authority otherwise provided for by this code, the board may delegate to the executive officer the authority to issue any notice or order provided for in this article and to act on behalf of the board, including, but not limited to, issuing an

interim suspension order, subject to the right of the individual to timely appeal and request a hearing as provided for in this article.

(b) This section shall become operative on July 1, 2013.

(c) 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.

#### **5096.7.**

(a) Anywhere the term “license,” “licensee,” “permit,” or “certificate” is used in this chapter or Division 1.5 (commencing with Section 475), it shall include persons holding practice privileges under this article, unless otherwise inconsistent with the provisions of the article.

(b) Anywhere the term “employee” is used in this article it shall include, but is not limited to, partners, shareholders, and other owners.

(c) For purposes of this article, the term “license” includes certificate or permit.

(d) This section shall become operative on July 1, 2013.

(e) 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.

#### **5096.8.**

In addition to the authority otherwise provided by this code, all investigative powers of the board, including those delegated to the executive officer, shall apply to investigations concerning compliance with, or actual or potential violations of, the provisions of this article or implementing regulations, including, but not limited to, the power to conduct investigations and hearings by the executive officer under Section 5103 and to issuance of subpoenas under Section 5108.

#### **5096.9.**

(a) The board is authorized to adopt regulations to implement, interpret, or make specific the provisions of this article.

(b) The board shall adopt emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to establish policies, guidelines, and procedures to initially implement this article as it goes into effect on July 1, 2013. The adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare. The emergency regulations shall be submitted to the Office of Administrative Law for filing with the Secretary of State in accordance with the Administrative Procedure Act.

#### **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.

#### **5096.20.**

(a) To ensure that Californians are protected from out-of-state licensees with disqualifying conditions who may unlawfully attempt to practice in this state under a practice privilege, prior to July 1, 2013, the board shall add an out-of-state licensee feature to its license lookup tab of the home page of its Internet Web site that allows consumers to obtain information about an individual whose principal place of business is not in this state and who seeks to exercise a practice privilege in this state, that is at least equal to the information that was available to consumers through its home page prior to January 1, 2013, through the practice privilege form previously filed by out-of-state licensees pursuant to Section 5096, as added by Chapter 921 of the Statutes of 2004, and the regulations adopted thereunder. At minimum, these features shall include all of the following:

(1) The ability of the consumer to search by name and state of licensure.

(2) The disclosure of information in the possession of the board, which the board is otherwise authorized to publicly disclose, about an individual exercising a practice privilege in this state, including, but not limited to, whether the board has taken action of any form against that individual and, if so, what the action was or is.

(3) A disclaimer that the consumer must click through prior to being referred to any other Internet Web site, which in plain language explains that the consumer is being referred to an Internet Web site that is maintained by a regulatory agency or other entity that is not affiliated with the board. This disclaimer shall include a link to relevant sections of this article that set forth disqualifying conditions, including, but not limited to, Section 5096.2.

(4) A statement in plain language that notifies consumers that they are permitted to file complaints against such individuals with the board.

(5) A link to the Internet Web site or sites that the board determines, in its discretion, provides the consumer the most complete and reliable information available about the individual's status as a licenseholder, permitholder, or certificate holder.

(6) If the board of another state does not maintain an Internet Web site that allows a consumer to obtain information about its licensees including, but not limited to, disciplinary history, and that information is not available through a link to an Internet Web site maintained by another entity, a link to contact information for that board, which contains a disclaimer in plain language that explains that the consumer is being referred

to a board that does not permit the consumer to obtain information, including, but not limited to, disciplinary history, about individuals through the Internet Web site, and that the out-of-state board is not affiliated with the board.

(b) The board shall biennially survey the Internet Web sites and disclosure policies of other boards to ensure that its disclaimers are accurate.

(c) 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.

#### **5096.21.**

(a) On and after January 1, 2016, if the board determines, through a majority vote of the board at a regularly scheduled meeting, that allowing individuals from a particular state to practice in this state pursuant to a practice privilege as described in Section 5096, violates the board's duty to protect the public, pursuant to Section 5000.1, the board shall require, by regulation, out-of-state individuals licensed from that state, as a condition to exercising a practice privilege in this state, to file the notification form and pay the applicable fees as required by former Section 5096, as added by Chapter 921 of the Statutes of 2004, and regulations adopted thereunder.

(b) The board shall, at minimum, consider the following factors in making the determination required by subdivision (a):

(1) Whether the state timely and adequately addresses enforcement referrals made by the board to the accountancy regulatory board of that state, or otherwise fails to respond to requests the board deems necessary to meet its obligations under this article.

(2) Whether the state makes the disciplinary history of its licensees publicly available through the Internet in a manner that allows the board to adequately link consumers to an Internet Web site to obtain information that was previously made available to consumers about individuals from the state prior to January 1, 2013, through the notification form.

(3) Whether the state imposes discipline against licensees that is appropriate in light of the nature of the alleged misconduct.

(c) Notwithstanding subdivision (a), if (1) the National Association of State Boards of Accountancy (NASBA) adopts enforcement best practices guidelines, (2) the board, upon a majority vote at a regularly scheduled board meeting, issues a finding after a public hearing that those practices meet or exceed the board's own enforcement practices, (3) a state has in place and is operating pursuant to enforcement practices substantially equivalent to the best practices guidelines, and (4) disciplinary history of a state's licensees is publicly available through the Internet in a manner that allows the board to link consumers to an Internet Web site to obtain information at least equal to the information that was previously available to consumers through the practice privilege form filed by out-of-state licensees pursuant to former Section 5096, as added by Chapter 921 of the Statutes of 2004, no practice privilege form shall be required to be filed by any licensee of that state as required by subdivision (a), nor shall the board be required to report on that state to the Legislature as required by subdivision (d).

(d) (1) The board shall report to the relevant policy committees of the Legislature, the director, and the public, upon request, preliminary determinations made pursuant to this

section no later than July 1, 2015. The board shall, prior to January 1, 2016, and thereafter as it deems appropriate, review its determinations made pursuant to subdivision (b) to ensure that it is in compliance with this section.

(2) This subdivision shall become inoperative on July 1, 2017, pursuant to Section 10231.5 of the Government Code.

(e) On or before July 1, 2014, the board shall convene a stakeholder group consisting of members of the board, board enforcement staff, and representatives of the accounting profession and consumer representatives to consider whether the provisions of this article are consistent with the board's duty to protect the public consistent with Section 5000.1, and whether the provisions of this article satisfy the objectives of stakeholders of the accounting profession in this state, including consumers. The group, at its first meeting, shall adopt policies and procedures relative to how it will conduct its business, including, but not limited to, policies and procedures addressing periodic reporting of its findings to the board.

(f) On or before January 1, 2018, the board shall prepare a report to be provided to the relevant policy committees of the Legislature, the director, and the public, upon request, that, at minimum, explains in detail all of the following:

(1) How the board has implemented this article and whether implementation is complete.

(2) Whether this article is, in the opinion of the board, more, less, or equivalent in the protection it affords the public than its predecessor article.

(3) Describes how other state boards of accountancy have addressed referrals to those boards from the board, the timeframe in which those referrals were addressed, and the outcome of investigations conducted by those boards.

(g) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

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**Attachment 2****Business and Professions Code Section 5000.1**

5000.1 –

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.



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**MSG Item VI.**                      **CBA Item X.A.6.**  
November 20, 2014      November 20-21, 2014

### **Discussion Regarding the Mobility Stakeholder Group Annual Report**

**Presented by:** Matthew Stanley, Manager, Examination and Practice Privilege Units  
**Date:** October 15, 2014

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#### **Purpose of the Item**

The purpose of this agenda item is to discuss the topics or items to be included in the Mobility Stakeholder Group's (MSG) Annual Report.

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

The MSG will be asked to identify topics and items it wishes to include in its Annual Report to the California Board of Accountancy (CBA).

#### **Background**

At its March 2014 meeting, the MSG decided that it would prepare an annual report for presentation to the CBA. It is anticipated that the MSG will review and approve its first Annual Report at its March 2015 meeting.

#### **Comments**

The Annual Report will cover all activities during 2014. The following topics are being proposed for consideration for inclusion in the MSG Annual Report:

- Message from the Chair (this portion would be prepared in direct consultation with the Chair)
- Background of Mobility
- MSG Responsibilities
- MSG Members
- Legislative and Regulatory Changes to Mobility
- Statistics for the Mobility program
- Meetings and Activities
- Future Considerations for 2015

The MSG may wish to accept, alter, or add to these suggestions, or provide other direction to staff for the preparation of the Annual Report.

## **Discussion Regarding the Mobility Stakeholder Group Annual Report**

Page 2 of 2

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

There is no fiscal or economic impact as this item merely establishes the topics for the MSG Annual Report.

### **Recommendation**

Staff recommend approving the suggested topics including any additional topics identified by the MSG.

### **Attachment**

None.



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**MSG Item VII.**                      **CBA Item X.A.7.**  
November 20, 2014      November 20-21, 2014

### **Discussion Regarding Proposed Agenda Items for the Next MSG Meeting**

**Presented by:** Matthew Stanley, Manager, Examination and Practice Privilege Units  
**Date:** October 15, 2014

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#### **Purpose of the Item**

The purpose of this agenda item is to establish the items that will be included on the next agenda for the Mobility Stakeholder Group (MSG).

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

The MSG will be asked to identify topics it wishes to discuss at its next meeting.

#### **Background**

As the MSG is intended to be representative of "stakeholders of the accounting profession in this state, including consumers," it may wish to set its future agenda during its meetings in order that all public input may be considered when deciding how best to proceed.

#### **Comments**

Staff propose the following topics for consideration when determining the agenda for the next MSG meeting:

- A review of the remaining consumer protection provisions
- Review and approval of the MSG Annual Report
- An update on Licensing and Enforcement Division statistics for mobility if the statistics begin to deviate in a manner that appears to warrant further consideration.
- A review of the answers to the survey of other state boards of accountancy

The MSG may wish to accept, alter, or add to these suggestions based on the direction in which it wishes to proceed.

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

There is no fiscal or economic impact as this item merely establishes the agenda items for the next meeting.

#### **Recommendation**

None.

#### **Attachment**

None.