



DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY
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**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
 PUBLIC MEETING NOTICE FOR THE STRATEGIC PLANNING WORKSHOP, MOBILITY
 STAKEHOLDER GROUP (MSG), LEGISLATIVE COMMITTEE (LC), AND CBA MEETINGS**

- | | |
|---|---|
| DATE: Wednesday, July 22, 2015 | CBA STRATEGIC PLANNING WORKSHOP
TIME: 1:30 p.m. |
| DATE: Wednesday, July 22, 2015 | CBA MEETING
TIME: 3:30 p.m. to 5:00 p.m. or upon
adjournment of the Strategic Planning Workshop |
| DATE: Thursday, July 23, 2015 | MSG MEETING
TIME: 9:00 a.m. |
| DATE: Thursday, July 23, 2015 | LC MEETING
TIME: 9:45 a.m. or upon adjournment
of the MSG Meeting |
| DATE: Thursday, July 23, 2015 | CBA MEETING
TIME: 10:00 a.m. to 5:00 p.m. |
| PLACE: Holiday Inn Capitol Plaza
300 J Street
Sacramento, CA 95814
Telephone: (916) 446-0100
Fax: (916) 446-0117 | |

Enclosed for your information is a copy of the agendas for the Strategic Planning Workshop, MSG, LC, and CBA meetings on July 22-23, 2015. For further information regarding these meetings, please contact:

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

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

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



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

**MSG MEETING
 AGENDA**

**Thursday, July 23, 2015
 9:00 a.m.**

**Holiday Inn Capitol Plaza
 300 J Street
 Sacramento, CA 95814
 Telephone: (916) 446-0100**

Important Notice to the Public

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

	<u>CBA Item #</u>
Call to Order, Roll Call, and Establishment of Quorum (Katrina Salazar, Chair).	
I. Approval of Minutes of the May 28, 2015 MSG Meeting and the May 28, 2015 Joint CBA and MSG Meeting.	XI.B.-XI.C.
II. The MSG Decision Matrix and Stakeholder Objectives (Written Report Only).	X.B.2.
III. Discussion and Recommendation Regarding the Timeline for Practice Privilege Activities Pursuant to Business and Professions Code Section 5096.21 (Matthew Stanley, Manager, Practice Privilege and Examination Manager).	X.B.3.
IV. Discussion and Decision Regarding the Approach for Comparing State Boards of Accountancy's Enforcement Practices to National Association of State Boards of Accountancy's (NASBA) Guiding Principles of Enforcement (Matthew Stanley).	X.B.4.
V. Discussion Regarding NASBA's Activities and CPAVerify (Matthew Stanley).	X.B.5.
VI. Discussion Regarding Proposed Agenda Items for the Next MSG Meeting (Matthew Stanley).	X.B.6.

VII. 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.
 July 23, 2015

CBA Item XI.B.
 July 22-23, 2015

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

MINUTES OF THE
May 28, 2015
MOBILITY STAKEHOLDER GROUP (MSG) MEETING

DRAFT

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

CALL TO ORDER

Katrina Salazar, Chair, called the meeting of the MSG to order at 10:54 a.m.
 Ms. Salazar requested that the roll be called.

Members

Katrina Salazar, CPA, Chair	Present
Joe Petito, Vice Chair	Present
Don Driftmier, CPA	Absent
Dominic Franzella	Present
Ed Howard, Esq.	Absent
Michael Savoy, CPA	Present
Stuart Waldman	Present

CBA Members Observing

Sally Anderson, CPA
 Alicia Berhow
 Jose Campos, CPA, President
 Herschel Elkins, Esq.
 Larry Kaplan
 Kay Ko
 Leslie LaManna, CPA
 Xochitl León
 Jian Ou-Yang, CPA

Mark Silverman, Esq.
Kathleen Wright, Esq., CPA

CBA Staff and Legal Counsel

Patti Bowers, Executive Officer
Deanne Pearce, Assistant Executive Officer
Rich Andres, Information Technology Staff
Pat Billingsley, Regulations Analyst
Kate Kay, Legislative Analyst
Corey Riordan, Board Relations Analyst
Gina Sanchez, Licensing Chief
Kristy Schieldge, Senior Staff Counsel, Department of Consumer Affairs, Legal Affairs
Matthew Stanley, Manager, Examination and Practice Privilege Units
Dorothy Osgood, Supervising Investigative Certified Public Accountant
Carl Sonne, Deputy Attorney General, Department of Justice

Other Participants

Ken Bishop, President and Chief Executive Officer, National Association of State Boards of Accountancy (NASBA)
Maria Caldwell, Chief Legal Officer and Director of Compliance Services, NASBA
Stacey Grooms, Regulatory Affairs Manager, NASBA
Bruce Allen, California Society of Certified Public Accountants (CalCPA)
Robert Lee, CPA, Chair, Peer Review Oversight Committee
Jason Fox, CalCPA
Jeffrey De Lyser, CPA, Chair, Enforcement Advisory Committee
Pilar Oñate-Quintana, KP Public Affairs
Jonathan Ross, KP Public Affairs
Loretta Doon, Chief Executive Officer, CalCPA

I. Approval of Minutes of the March 19, 2015 MSG Meeting.

It was moved by Mr. Franzella and seconded by Mr. Petito to approve the minutes of the March 19, 2015 MSG Meeting.

Yes: Ms. Salazar, Mr. Petito, Mr. Waldman, Mr. Savoy, and Mr. Franzella.

No: None.

Abstain: None.

Absent: None.

The motion passed.

II. Introduction of New MSG Members, Don Driftmier and Michael Savoy.

Ms. Salazar introduced the newest members of the MSG, Mr. Don Driftmier and Mr. Michael Savoy. Mr. Driftmier was unable to attend this meeting.

III. The MSG Decision Matrix and Stakeholder Objectives (Written Report Only).

Mr. Stanley provided a written report highlighting decisions made by the MSG, as well as the stakeholder objectives identified to date.

IV. Analysis and Guidance from the MSG Regarding NASBA's Guiding Principles of Enforcement.

The MSG considered the guidance it would provide the CBA on whether NASBA's Guiding Principles of Enforcement (Enforcement Guidelines) meet or exceed the CBA's enforcement practices.

It was communicated by NASBA that the portion regarding staffing ratios would be changed to remove specific numbers and ratios while maintaining the more generally worded portions.

With that change, the MSG opined that the NASBA Enforcement Guidelines meet or exceed the CBA's enforcement practices.

It was moved by Ms. Salazar and seconded by Mr. Petito that with the proposed edits, the MSG is of the opinion that the NASBA Enforcement Guidelines meet or exceed the CBA's enforcement practices pursuant to Business and Professions Code section 5096.21.

Yes: Mr. Waldman, Mr. Savoy, Mr. Petito, and Ms. Salazar.

No: None.

Abstain: Mr. Franzella.

Absent: None.

The motion passed.

V. Discussion About the Timeline for Activities Regarding Determinations to be Made Pursuant to Business and Professions Code Section 5096.21.

Mr. Stanley presented the timeline for activities regarding the determinations to be made pursuant to Business and Professions Code section 5096.21. Mr. Stanley reported that the CBA is required to determine whether allowing the licensees of

another state to practice in California under the current mobility provisions violates its duty to protect the public, and that these determinations need to be made on and after January 1, 2016.

At its March 19, 2015 meeting, the CBA approved a timeline for undertaking this project along with other practice privilege-related activities. Staff added information regarding the NASBA Enforcement Guidelines and how states may be deemed to be substantially equivalent to those Enforcement Guidelines into the timeline and will continue to update as needed. This will become a standing agenda item to allow the MSG an opportunity to discuss its contents as needed.

VI. Discussion Regarding NASBA's Activities and CPAVerify.

At the joint meeting of the CBA and MSG, held immediately prior to this MSG meeting, NASBA presented its Enforcement Guidelines. Mr. Stanley reported NASBA will hold its Western Regional Meeting in California June 17-19. He stated several topics of importance to the CBA will be discussed, including peer review and changes to the Uniform CPA Exam.

Mr. Stanley also reported there are still five states not yet participating in the Accountancy Licensee Database (ALD) and CPAVerify, which are Delaware, Hawaii, Michigan, Utah, and Wisconsin. Ms. Caldwell indicated that NASBA expects Michigan to join the ALD within the next month.

VII. Discussion Regarding Proposed Agenda Items for the Next MSG Meeting.

Mr. Stanley reported that a letter will be sent to states seeking the additional information outlined in March which will assist the CBA in making its state-by-state determinations. He stated that staff will bring any initial responses received to the July MSG meeting.

The MSG added a topic to discuss the procedural issues for how the states will be reviewed to determine substantial equivalency to the NASBA Enforcement Guidelines.

VIII. Public Comments.

There were no public comments.

There being no further business, the meeting was adjourned at 11:16 a.m.



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MSG Item I.
 July 23, 2015

CBA Item XI.C.
 July 22-23, 2015

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
May 28, 2015
JOINT CBA &
MOBILITY STAKEHOLDER GROUP (MSG) MEETING

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

Roll Call and Call to Order.

CBA President Jose Campos and MSG Chair, Katrina Salazar, called the meeting to order at 9:03 a.m. on Thursday, May 28, 2015 at the Hilton Los Angeles Airport.

CBA Members

May 28, 2015

Jose Campos, CPA, President	9:03 a.m. to 10:34 a.m.
Katrina Salazar, CPA, Vice-President	9:03 a.m. to 10:34 a.m.
Alicia Berhow, Secretary/Treasurer	9:03 a.m. to 10:34 a.m.
Sarah (Sally) Anderson, CPA	9:03 a.m. to 10:34 a.m.
Herschel Elkins, Esq.	9:03 a.m. to 10:34 a.m.
Laurence (Larry) Kaplan	9:03 a.m. to 10:34 a.m.
Louise Kirkbride	Absent
Kay Ko	9:03 a.m. to 10:34 a.m.
Leslie LaManna, CPA	9:03 a.m. to 10:34 a.m.
Xochitl León	9:03 a.m. to 10:34 a.m.
Jian Ou-Yang, CPA	9:03 a.m. to 10:34 a.m.
Michael Savoy, CPA	9:03 a.m. to 10:34 a.m.
Mark Silverman, Esq.	9:22 a.m. to 10:34 a.m.
Kathleen Wright, CPA	9:03 a.m. to 10:34 a.m.

MSG Members

Katrina Salazar, CPA, Chair	9:03 a.m. to 10:34 a.m.
Joseph Petito, Esq., Vice-Chair	9:03 a.m. to 10:34 a.m.

Donald Driftmier, CPA	Absent.
Dominic Franzella	9:03 a.m. to 10:34 a.m.
Edward Howard, Esq.	Absent
Michael Savoy, CPA	9:03 a.m. to 10:34 a.m.
Stuart Waldman, Esq.	9:03 a.m. to 10:34 a.m.

Staff and Legal Counsel

Patti Bowers, Executive Officer
 Deanne Pearce, Assistant Executive Officer
 Rich Andres, Information Technology Staff
 Pat Billingsley, Regulations Analyst
 Dominic Franzella, Chief, Enforcement Division
 Kathryn Kay, Legislation Analyst
 Dorothy Osgood, Enforcement Supervising ICPA
 Corey Riordan, Board Relations Analyst
 Gina Sanchez, Chief, Licensing Division
 Kristy Schieldge, Legal Counsel, Department of Consumer Affairs (DCA)
 Carl Sonne, Deputy Attorney General, Department of Justice (DOJ)
 Matthew Stanley, Examination and Practice Privilege Manager

Committee Chairs and Members

Robert Lee, Chair, Peer Review Oversight Committee
 Jeffrey De Lyser, Chair, Enforcement Advisory Committee
 Robert Ruehl, Chair, Qualifications Committee

Other Participants

Bruce Allen, California Society of Certified Public Accountants (CalCPA)
 Ken Bishop, President and Chief Executive Officer, National Association of State Boards of Accountancy (NASBA)
 Maria Caldwell, Chief Legal Counsel and Director of Compliance Services, NASBA
 Loretta Doon, Chief Executive Officer, CalCPA
 Jason Fox, CalCPA
 Stacey Grooms, Regulatory Affairs Manager, NASBA
 Jon Ross, KP Public Affairs

- I. Discussion on the National Association of State Boards of Accountancy's (NASBA) Guiding Principles of Enforcement and its Comparison to the California Board of Accountancy's Enforcement Practices, Pursuant to Business and Professions Code Section 5096.21.

Mr. Campos welcomed NASBA's staff: Ken Bishop, Maria Caldwell, and Stacey Grooms.

Mr. Bishop provided an overview of the NASBA's Guiding Principles of

Enforcement.

Ms. Caldwell provided the background of the process to complete the NASBA's Guiding Principles of Enforcement (NASBA Enforcement Guidelines). She stated that the process began approximately three years ago with NASBA's Enforcement Resources Committee producing an enforcement resources guide, which provides, components, guides, and sample forms. The Enforcement Resource Guide can be accessed by state boards via NASBA's website. She stated that after completing the resource guide, NASBA produced the NASBA Enforcement Guidelines by focusing on what the day-to-day operations of a good enforcement program look like. Lastly, she reviewed the five components that comprise the NASBA Enforcement Guidelines.

Ms. Salazar inquired if NABSA will continue to monitor states enforcement program and provide updates on the changes.

Mr. Bishop stated that NASBA is aware that the process will be continuous and NASBA is committed to continuing to monitor states' programs.

Mr. Franzella reviewed the comparison of NASBA Enforcement Guidelines to the CBA's Enforcement Program. Mr. Franzella stated that the time frames outlined in the NASBA Enforcement Guidelines align closely to the performance measures adopted by the CBA and that overall, staff believes that the CBA's enforcement practices meet the NASBA Enforcement Guidelines.

Mr. Franzella provided an overview of the CBA's enforcement resources to adequately staff investigations, including the CBA's process to increase or decrease staffing resources and the CBA's ratios of CPA licensees to enforcement staff.

Mr. Campos requested that NASBA provide additional information regarding the ratios, as it is difficult to compare to the CBA's practices.

Ms. Caldwell stated that this area was the most difficult to put into a number and it was determined that the ratios were an over-simplified measure of what the investigative process is and it was not a good measurement of effective enforcement. She stated that after the Enforcement Resources Committee's review, NASBA recommended that the ratios be removed and instead focus on the measures, including workload, the time it takes to complete an investigation, and factors that warrant modification in staffing.

Mr. Elkins suggested the NASBA may want to examine how easy it is to make a complaint with various states.

Mr. Franzella reviewed various resources used by the CBA to perform and complete its investigations, including the qualifications and training of the

investigators. He stated that staff believe the CBA enforcement practices meets the NASBA Enforcement Guidelines as it relates to enforcement resources to adequately staff investigations. Mr. Franzella noted that staff did have some concerns with respect to the ratios identified in this section of the NASBA Enforcement Guidelines, however, after the dialogue from Ms. Caldwell to address the issue and to remove the ratios he did not have any other concerns.

Mr. Franzella reviewed the CBA's case management, review of discipline from other agencies, and probationer tracking. He stated that the CBA has recently began assessing risk factors for licensees placed on probation and staff will conduct practice investigations to further ensure compliance with probationers. Mr. Franzella stated that staff believe the CBA's enforcement practices meets the principles associated with case management.

Mr. Franzella reviewed the CBA's disciplinary guidelines, including the factors in assessing penalties, mitigation, and aggravating factors. Mr. Franzella stated that staff believes the CBA's enforcement practices meets the NASBA Enforcement Guidelines as it relates to the principles for disciplinary guidelines.

Mr. Franzella stated that in regards to the internet disclosure section of the guidelines, the CBA participates in NASBA's Accountancy Licensee Database and CPAVerify. Additionally, the CBA maintains information on its website for consumers including a license lookup feature and publishing disciplinary actions. Mr. Franzella stated that staff believes the CBA's enforcement practices meets the NASBA Enforcement Guidelines as it relates to the internet disclosure requirements.

Mr. Petito inquired if in its totality, the NASBA Enforcement Guidelines meet or exceed the California's standards.

Mr. Campos stated that the CBA will deliberate on the question and that staff's observations were that the CBA's program is at least equal to what is being framed in the NASBA Enforcement Guidelines, with the exception of the ratio aspect in section 2.

II. Public Comments.

There were no comments.

President Campos adjourned the meeting at 10:34 a.m. on Thursday, May 28, 2015.

Jose A. Campos, CPA, President

Katrina Salazar, CPA, MSG Chair



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MSG Item II.
July 23, 2015

CBA Item X.B.2.
July 22-23, 2015

The MSG Decision Matrix and Stakeholder Objectives

Presented by: Written Report Only

Purpose of the Item

The purpose of this agenda item is to provide the Mobility Stakeholder Group (MSG) with its decision matrix (**Attachment 1**) and stakeholder objectives (**Attachment 2**).

Action(s) Needed

No specific action is required on this agenda item.

Background

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

In addition, the MSG is charged with considering whether the provisions of the California practice privilege law "satisfy the objectives of stakeholders of the accounting profession in this state, including consumers." At its July 2014 meeting, the MSG established two stakeholder objectives and requested that they be provided at future meetings in order that the MSG may continue to revise and add to them as needed.

Comments

Staff will continue to provide the decision matrix and stakeholder objectives as a written report only agenda item unless otherwise directed by the MSG.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff do not have a recommendation on this agenda item.

Attachments

1. MSG Decision Matrix
2. Stakeholder Objectives

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**Attachment 1****MSG Decision Matrix**

<u>Date</u>	<u>Decision</u>
March 2014	The MSG will meet three times per year in conjunction with the March, July and November CBA meetings.
March 2014	The MSG will prepare a written report to the CBA at least once per calendar year.
March 2014	The MSG will prepare a final report in time to be considered by the CBA as it prepares its final report to the Legislature which is due January 1, 2018.
November 2014	The MSG adopted the following definition for "stakeholders:" Stakeholders include consumers, licensees, applicants, and professional organizations and groups that have a direct or indirect stake in the CBA because they can affect or be affected by the CBA's actions, objectives, and policies.
March 2015	The MSG approved the timeline for making determinations pursuant to Business and Professions Code (BPC) section 5096.21. The MSG agreed that staff will prepare a letter for each state to notify them of the process the CBA is undertaking and to request specific information that will assist the CBA as it makes the determinations pursuant to BPC section 5096.21. ¹
May 2015	The MSG opined that the National Association of State Boards of Accountancy's Guiding Principles of Enforcement meet or exceed the CBA's enforcement practices.

¹ At its May 28-29, 2015 meeting, the CBA deferred the timeframe for sending the letter to the Executive Officer.

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**Attachment 2****Stakeholder Objectives**

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



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MSG Item III.
July 23, 2015

CBA Item X.B.3.
July 22-23, 2015

Discussion and Recommendation Regarding the Timeline for Practice Privilege Activities Pursuant to Business and Professions Code Section 5096.21

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

Purpose of the Item

The purpose of this agenda item is to provide the Mobility Stakeholder Group (MSG) with an opportunity to discuss items related to the timeline for practice privilege activities (**Attachment 1**) pursuant to Business and Professions Code (BPC) section 5096.21 (**Attachment 2**).

Action(s) Needed

The California Board of Accountancy (CBA) will be asked to approve the proposed timeline.

Background

In 2012, the Legislature revised the practice privilege law to eliminate the requirement for out-of-state licensees to provide notice and fee prior to obtaining a California practice privilege. BPC section 5096.21(a) requires the CBA to make determinations as to whether allowing licensees of a particular state to practice in California under a no notice, no fee practice privilege violates its duty to protect the public. If this determination shows the public is at risk, the licensees of those particular states would, following a rulemaking by the CBA, revert back to using the prior practice privilege program with its notice and fee provisions. These determinations are to be made on and after January 1, 2016, and on an ongoing basis. In making the determinations, the CBA is required to consider three factors:

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 website to obtain information that was previously made available to consumers about individuals from the state prior to January 1, 2013, through the notification form.

Discussion and Recommendation Regarding the Timeline for Practice Privilege Activities Pursuant to Business and Professions Code Section 5096.21

Page 2 of 2

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

Alternatively, a state may be allowed to remain under the no notice, no fee practice privilege program under BPC 5096.21(c) if the following four statutory conditions are met:

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

The initial timeline for this project was approved by the CBA at its March 2015 meeting.

Comments

This agenda item is a standing item to keep members apprised of upcoming activities regarding the determinations made pursuant to BPC section 5096.21. It also serves as an opportunity for members to discuss any of the items on the timeline.

The timeline has been adjusted to reflect the most current information available. Staff determined the timeline based on the following dates and timeframes:

- January 1, 2018 – Final report is due to the Legislature
- January 1, 2019 – Sunset date of the no notice, no fee practice privilege program
- 12 to 18 months – the amount of time normally required to complete the rulemaking process

The timeline may be changed as needed or as directed.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff recommend that the CBA approve the proposed timeline.

Attachment

1. Timeline for Practice Privilege Activities Pursuant to Business and Professions Code Section 5096.21
2. Business and Professions Code section 5096.21



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Attachment 1

Timeline for Practice Privilege Activities Pursuant to Business and Professions Code Section 5096.21

Substantial Equivalence to NASBA's Enforcement Guidelines

Business and Professions Code (BPC) section 5096.21(c) states that a state's licensees may remain in the no notice, no fee practice privilege program if the following four conditions are met:

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

This portion of the timeline outlines the activities surrounding the CBA's determination of which states' enforcement practices are substantially equivalent to NASBA's Enforcement Guidelines. While the law does not specify a date by which these activities must be concluded, staff developed this timeline keeping in mind the following dates and timeframes:

- January 1, 2018 – Final report is due to the Legislature
- January 1, 2019 – Sunset date of the no notice, no fee practice privilege program
- 12 to 18 months – the amount of time normally required to complete the rulemaking process

These dates are the only firm dates in BPC section 5096.21. There is no firm date by which the CBA must take action to remove a state or states from the no notice, no fee practice privilege program. This allows some flexibility for the CBA to work with an individual state in bringing it to a position where the CBA may indicate that they are substantially equivalent to the NASBA Enforcement Guidelines.

May 28, 2015	NASBA released its final version of its Enforcement Guidelines
May 28, 2015	CBA issued a finding that the NASBA Enforcement Guidelines met the CBA's enforcement practices
July 23, 2015	CBA determines how best to compare other states' enforcement practices with the NASBA Enforcement Guidelines
Summer/Fall 2015	Staff implements the method for comparing other states' enforcement practices with the NASBA Enforcement Guidelines
January 2016	CBA makes its initial determinations of substantial equivalence based on early research provided by the entity to be selected in CBA Agenda Item IX.C.4. (this date may be later if the consultant approach is selected)
September 2016	CBA reviews the final findings provided by the entity performing the research

State-by-State Determinations

After the CBA completes the portion of the timeline regarding substantial equivalence to the NASBA Enforcement Guidelines, there may be states that were not found to be substantially equivalent. If so, these states may still remain under the no notice, no fee practice privilege program if they are allowed to do so by the CBA in the state-by-state determination process.

The CBA must determine whether allowing the licensees of those states to practice in California under a practice privilege violates its duty to protect the public. In doing so, the CBA must consider the three items listed in BPC section 5096.21(b):

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

The CBA is required to make the determinations using these considerations on and after January 1, 2016. The following portion of the timeline outlines the activities

surrounding the CBA's determinations made for those states not found to be substantially equivalent to NASBA's Enforcement Guidelines.

September 2016	Staff requests information to assist the CBA in making the determinations from states not found by the CBA to be substantially equivalent to the NASBA Enforcement Guidelines
March 2017	CBA reviews information provided by those states and identifies any that are at risk of removal from the no notice, no fee practice privilege program
May and July 2017	CBA deliberates on states that should remain or be removed from the no notice, no fee practice privilege program
July 2017	CBA initiates Rulemaking to remove states, where the CBA determines that allowing the licensees of that state to practice in California under a practice privilege violates its duty to protect the public, from the no notice, no fee practice privilege program
November 2017	CBA conducts a public hearing on the Rulemaking and initiates a 15-day notice of changes to include any additional states
July 2017 – January 2019	CBA continues reviewing states regarding whether their licensees should remain or be removed from the no notice, no fee practice privilege program as needed

Practice Privilege Final Report to the Legislature

BPC section 5096.21(f) states:

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

- (1) How the board has implemented this article and whether implementation is complete.
- (2) Whether this article is, in the opinion of the board, more, less, or equivalent in the protection it affords the public than its predecessor article.
- (3) Describes how other state boards of accountancy have addressed referrals to those boards from the board, the timeframe in which those referrals were addressed, and the outcome of investigations conducted by those boards.

At its initial meeting, the Mobility Stakeholder Group (MSG) decided to prepare a final report for the CBA to reference as it prepares its report to the Legislature by January 1, 2018. This portion of the timeline outlines the activities surrounding these reporting requirements.

July 2017	CBA receives the MSG's Final Report
September 2017	CBA reviews its draft Practice Privilege Report to the Legislature
November 2017	CBA approves the final version of the Practice Privilege Report to the Legislature
January 1, 2018	Practice Privilege Report due to the Legislature

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**Attachment 2****Business and Professions Code Section 5096.21****5096.21**

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

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

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

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

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

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

(d) (1) The board shall report to the relevant policy committees of the Legislature, the director, and the public, upon request, preliminary determinations made pursuant to this section no later than July 1, 2015. The board shall, prior to January 1, 2016, and

thereafter as it deems appropriate, review its determinations made pursuant to subdivision (b) to ensure that it is in compliance with this section.

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

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

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

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

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

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

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



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MSG Item IV.
July 23, 2015

CBA Item X.B.4.
July 22-23, 2015

Discussion and Decision Regarding the Approach for Comparing State Boards of Accountancy's Enforcement Practices to the National Association of State Boards of Accountancy's Guiding Principles of Enforcement

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

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with an opportunity to decide its preferred approach to comparing the enforcement practices of other states to the National Association of State Boards of Accountancy's (NASBA) Guiding Principles of Enforcement (Enforcement Guidelines) (**Attachment 1**).

Action(s) Needed

The CBA will be asked to develop a comprehensive approach by which it will compare other states' enforcement practices to the NASBA Enforcement Guidelines pursuant to Business and Professions Code (BPC) section 5096.21(c)(3). Specifically, the CBA will be asked to:

- Schedule Mobility Stakeholder Group (MSG) meetings in conjunction with CBA meetings until the project is complete
- Approve the concept of a State Information Sheet to be used by a consultant or staff in conducting the research
- Add a question to the State Information Sheet to determine whether a state makes the disciplinary history of its licensees publicly available through the Internet
- Choose which approach it would prefer for performing the research, and if a combination of options is selected, that the CBA identify which states each entity is responsible for researching

Staff recommend that the CBA makes these decisions at the conclusion of the presentation by staff in order that all factors and discussions by members may be considered prior to making these decisions.

Background

BPC section 5096.21 (**Attachment 2**), specifically subdivision (a), requires the CBA to determine on and after January 1, 2016 whether allowing individuals from a particular

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state to practice in California pursuant to a practice privilege violates its duty to protect the public.

Alternatively, a state may be allowed to remain under the no notice, no fee practice privilege program under BPC 5096.21(c) if the following four statutory conditions are met:

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

The first condition was fulfilled when NASBA released its final Enforcement Guidelines in May 2015.

The second condition was fulfilled when the CBA issued a finding that those practices met the CBA's own enforcement practices at its May 28-29, 2015 meeting.

In this agenda item, the CBA will lay the groundwork for the third condition, determining whether a state's enforcement practices will be considered substantially equivalent to the NASBA Enforcement Guidelines.

The fourth condition requires a state to provide, on the Internet, disciplinary history equal to the information previously available on California's practice privilege form. The prior form (**Attachment 3**) identified disciplinary history by asking a question as to whether the applicant had a license, registration, permit or authority to practice a profession surrendered, denied, suspended, revoked, or otherwise disciplined or sanctioned.

It should be noted that the disclosure of disciplinary history on the Internet is separate from the substantial equivalence determination in the third condition. Although a state may be found substantially equivalent to the NASBA Enforcement Guidelines, it cannot remain under the no notice, no fee practice privilege program if the disciplinary history of its licensees is not made publicly available through the Internet.

Comments

The CBA is being asked to develop an approach to compare other states' enforcement programs to the NASBA Enforcement Guidelines. Since a project of this size may

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require feedback, direction, and updates as it progresses, staff recommend that the CBA have the Mobility Stakeholder Group (MSG) meet in conjunction with each scheduled CBA meeting until the project is complete. The MSG currently meets in conjunction with the CBA's March, July and November meetings.

In order to ascertain whether a state's enforcement practices are substantially equivalent to the NASBA Enforcement Guidelines pursuant to BPC section 5096.21(c)(3), the CBA must assess the enforcement guidelines that a jurisdiction has in place, and is following, and compare those to the NASBA Enforcement Guidelines. Staff have identified possible options by which the CBA may wish to undertake this assessment.

The options include contracting with a consultant to conduct the research, staff conducting the research, requesting that NASBA conduct the research, or employing a combination of these options. It is anticipated the CBA, MSG, and staff will remain actively involved throughout the process.

Regardless of the method selected, a number of factors have been identified that the CBA will need to consider as it selects the best approach to this project:

- Different states have various governmental structures that are not the same as California's. For example, Licensing and Enforcement powers may be centralized (as in California), or they may be spread over multiple entities (as in New York).
- The knowledge and ability to provide all of the information required for this project may not reside with a single person at a board. The research process may involve a significant amount of time identifying the appropriate people with whom to talk.
- Before providing responses to any kind of survey, some states may require board or legal approval of the responses resulting in delays in receiving information.
- Some states may be reluctant or legally unable to disclose certain information that may be needed. The research data provided to the CBA during this project would be discussed at the CBA's public meetings and would be subject to requests made pursuant to the Public Records Act.
- In the final report to the Legislature due on January 1, 2018, and possibly during testimony to extend or remove the sunset date from the no notice, no fee practice privilege program during 2018, the CBA is required to explain how it implemented the law. This could include answering specific questions as to the process of how it reached its decisions regarding whether certain states should remain under the current no notice, no fee practice privilege program and the data that it relied upon.
- While there are several dates and deadlines mentioned in this agenda item, it should be noted that the only firm dates in BPC section 5096.21 are January 1,

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2018 when the final report is due to the Legislature; and January 1, 2019 when the no notice, no fee practice privilege program sunsets. There is no firm date by which the CBA must take action to remove a state or states from the program. This allows some flexibility for the CBA to work with an individual state in bringing it to a position of being substantially equivalent to the NASBA Enforcement Guidelines, or determine that allowing the licensees of that state to practice in California under a practice privilege does not violate its duty to protect the public.

The CBA may wish to have the research conducted using a set of survey questions which would guide the research through the NASBA Enforcement Guidelines and other information requested by the CBA. The proposed State Information Sheet (**Attachment 4**), which includes the survey questions, is presented to the CBA to be used as a starting point for discussion and to be refined to suit the needs of the project. The questions that were requested by the CBA during its previous 2015 meetings appear in the final section of the information sheet. The State Information Sheet also provides the entity performing the research with an opportunity to offer an opinion on each of the answers provided by the states as to whether the answer meets, needs more information, or does not meet the corresponding guideline in the NASBA Enforcement Guidelines.

Currently, the State Information Sheet shows how the questions would be organized by the five main categories listed in the NASBA Enforcement Guidelines, and a sample of the questions to be asked is listed under each category. While the remainder of the questions are not yet listed, if the concept of the State Information Sheet is approved by the CBA, staff would fill in the remainder of the questions to ensure that each data point in the NASBA Enforcement Guidelines has a corresponding question in the survey.

The State Information Sheet would only be used if the Consultant or staff approaches are selected to perform research by the CBA. If NASBA is selected to perform the research, it would rely on another set of objectives that are presented later in this paper.

Staff recommend adding a question to the "CBA Requested Items" section on page six of **Attachment 4** in order to determine whether a state makes the disciplinary history of its licensees publicly available through the Internet. Adding this question will allow the CBA to determine whether a state meets the fourth condition of BPC 5096.21(c) regarding the availability of disciplinary history on the Internet at the same time as it is evaluating a state on the third condition regarding substantial equivalence. Finally, staff are asking that the CBA finalize the "CBA Requested Items" and recommend that the CBA approve the concept of the State Information Sheet for use by a consultant or staff during the research phase of this project.

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Consultant

Approach

If the CBA selects a consultant as the method to conduct the research, it will need to enter into a contract with an individual or group to contact the 54 states¹ in order to ascertain the enforcement practices of each as they relate to the NASBA Enforcement Guidelines. The consultant would use the proposed State Information Sheet, or other means if the State Information Sheet concept is not adopted, to gather the needed information and to opine as to how each state's enforcement practices compare to the NASBA Enforcement Guidelines.

Deliverables

The consultant would be available at future meetings where the research was to be discussed in order to answer any questions the CBA may have. The consultant would provide the CBA with the completed State Information Sheets. In addition, the consultant would be available to perform any follow up research the CBA may request.

Timeline

Due to the timeframes associated with the contracting process, it is not clear when a consultant would be able to provide initial information to the CBA. However, a consultant would need to deliver the data and opinions on the State Information Sheets for CBA consideration no later than July 31, 2016 in order for the CBA to consider the information at its September 2016 meeting as discussed in **CBA Agenda Item IX.C.3**. Due to the three to six month timeframe to get a contract in place, the contractor would have approximately six months to complete the research. The deliverable date of July 31, 2016 is based on an extended contracting process. Should the contracting process be shorter, both the deliverable date and the opportunity for any follow up would also be adjusted.

Next Steps

Staff would begin the process of locating a suitable contractor who will have the necessary professional experience, appropriate resources, and the ability to potentially travel to states that do not respond to traditional communication. Depending on the work to be performed, the contracting process can be complex and include preparation of a Scope of Work, solicitation of bid proposals, drafting a contract, approval by the Department of Consumer Affairs and the Department of General Services, and execution of the contract. The fiscal impact is unknown at this time and would be dependent on the final scope of work to be outlined in the roles and responsibilities document.

¹ Pursuant to BPC section 5032, "state" means any state, territory or insular possession of the United States, or the District of Columbia.

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Advantages

- Research data would be available to the CBA when preparing the final report to the Legislature or answering legislative questions
- Contract can hold consultant to a specific timeframe once it is in place
- Staff would not need to be redirected to perform the task
- Independent research and conclusions display to the Legislature that there was no bias in the process

Disadvantages

- State contracting process can be complex and lengthy (minimum of three to six months)
- Costs associated with the contract
- Unfamiliarity with the practice privilege program, law or legislative requirements resulting in additional time to gain a general familiarity
- Out-of-state travel, if needed, would require approval from the Governor's Office
- Some states may be reluctant or legally unable to disclose certain necessary information to the consultant, allowing it to be discussed at public CBA meetings or disclosed through a Public Records Act request

CBA Staff

Approach

If the CBA selects staff as the method to conduct the research, staff will contact the other 54 states to ascertain enforcement practices as they relate to the NASBA Enforcement Guidelines. Staff would utilize various methods of contact with the goal of obtaining complete responses. Initially, staff would send out an email directing states to an online survey. This would be followed with phone calls for non-responsive states. If there are states that do not want to provide information or documents but would be willing to allow physical access to such items, travel out-of-state may be necessary as a final option. Historically, not every state responds to inquiries from other states. Staff would complete the State Information Sheet using the information obtained.

Deliverables

Staff would provide the CBA with the State Information Sheets as they are completed beginning at its January 2016 meeting. All responses and staff opinions would be placed on the State Information Sheets.

Timeline

The initial State Information Sheets would be provided for consideration at the CBA's January 2016 meeting. As more responses are received, staff will provide ongoing

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updates through the September 2016 CBA meeting as proposed in **CBA Agenda Item IX.C.3.**²

Next Steps

Staff would begin the process of composing the online survey in preparation for sending it to the 54 other states. Staff will bring updates regarding the progress on the survey to the CBA's September and November 2015 meetings in anticipation of the January 2016 delivery of the initial research.

Advantages

- Research data would be available to the CBA when preparing the final report to the Legislature or answering legislative questions
- The CBA maintains full responsibility for the questions being asked and any potential follow-up
- No additional costs

Disadvantages

- This is a large project which may require significant time to complete resulting in potential redirection of staff
- Out-of-state travel, if needed, would require approval from the Governor's Office
- Some states may be reluctant or legally unable to disclose certain necessary information to staff, allowing it to be discussed at public CBA meetings or disclosed through a Public Records Act request

NASBA

Approach

If the CBA selects NASBA as the method to conduct the research, NASBA will be responsible for gathering the information needed to assess the substantial equivalency of each state. NASBA would rely, in large part, on data it previously gathered during the drafting of the NASBA Enforcement Guidelines. In addition to data already gathered, NASBA will collect additional information through email, phone calls, and travel to meet with other states, to allow it to obtain sufficient information to make a determination of whether a board of accountancy's enforcement practices are substantially equivalent to the NASBA Enforcement Guidelines.

In order to encourage candor and open discussions with the boards, NASBA would honor the confidentiality of any direct communication with the boards and will retain the data collected during this process. Because of this, NASBA would not use the questions on the State Information Sheet, including the CBA Requested Items. As an

² The CBA may continue, beyond this date, to work with individual states in bringing them to a position of being substantially equivalent to the NASBA Enforcement Guidelines.

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alternative, NASBA is proposing using its "Objectives for Substantial Equivalency Evaluation" (**Attachment 5**) when reviewing the enforcement practices of each state. NASBA will analyze each board's enforcement program to determine whether the program meets the objectives listed in **Attachment 5**. Following this analysis, NASBA would determine each state's substantial equivalence to the NASBA Enforcement Guidelines.

NASBA has communicated to staff that it recognizes that the enforcement practices of each state will vary based on many factors that are specific to the particular board, such as number of licensees, number of complaints and cases, authority vested in the board, delegation of certain phases of enforcement to other agencies, and interaction with an umbrella agency. Therefore, NASBA believes the review of each board's enforcement practices must be a subjective analysis of each state's statutes, rules, and practices to decide whether, collectively, they create an enforcement practice that reflects the objectives of its Enforcement Guidelines.

NASBA has a long history of making substantial equivalency determinations regarding the education, examination, and experience requirements of the 55 jurisdictions under the Uniform Accountancy Act (UAA). These determinations impact licensing, reciprocity, and practice privileges among the various jurisdictions, allowing the boards to rely upon a listing of jurisdictions whose licensing requirements have been reviewed for determinations of substantial equivalence to the guiding standards of the UAA. In addition, NASBA makes substantial equivalency determinations regularly regarding individuals' initial, reciprocal, and practice privilege licensing evaluations for various boards.

It is anticipated that representatives of NASBA will be in attendance at the CBA's July 2015 meeting to further discuss its plan for performing the research, if selected, and to answer any questions CBA members may have.

Deliverables

NASBA will provide a summary identifying the states using the following categories: Substantially Equivalent to the Guiding Principles, Substantially Equivalent with Suggested Guidance (states that NASBA would consider to be substantially equivalent if it accepts NASBA's specific guidance in certain areas), and Insufficient Information for Determination. It is also expected that a representative from NASBA would be available at future CBA meetings where substantial equivalence to the NASBA Enforcement Guidelines is discussed.

In addition, NASBA would provide staff with the ability to audit the results of the substantial equivalency determinations by meeting with NASBA to collectively review states as identified by the CBA. This review would include a summary prepared by NASBA of the specific enforcement practices in the selected jurisdictions, and, when

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deemed necessary by staff, a confidential review of the underlying documents used to make a particular determination at a meeting between NASBA and staff.

Timeline

It is anticipated that NASBA would be able to provide an initial list of states that it considers substantially equivalent to the NASBA Enforcement Guidelines by November 30, 2015 in order that it may be brought for discussion at the CBA's January 2016 meeting. NASBA would continue to work with other states to provide guidance, gather information, and provide periodic updates to the CBA, but should submit its final list by July 31, 2016 in order to allow the CBA to discuss it at its September 2016 meeting as outlined in **CBA Agenda Item IX.C.3.**³

Advantages

- NASBA has access and established contacts with other states and has already obtained much of the needed information
- NASBA typically receives a higher response rate to its inquiries than individual state boards
- NASBA has experience making substantial equivalency determinations
- Staff would not need to be redirected
- No additional costs

Disadvantages

- NASBA may not be in a position to publicly provide the CBA with details or specifics regarding how it formulates its opinion as to the substantial equivalency of each state
- The CBA would have to rely on NASBA's opinion when determining whether a state is substantially equivalent to the NASBA Enforcement Guidelines

Combination of Options

The CBA may also employ a combination of these methods. The CBA may wish to initially categorize states based on the potential for harm to California consumers in order to determine which entity will perform the research on specific states. Should the CBA choose this approach, the CBA would need to determine how it would like to categorize the states. One possible factor could be licensee population. For example, a large population of more than 20,000 licensees may be a higher risk of potential harm to consumers than a small population having less than 10,000 licensees. The CBA may also want to consider whether a state makes the disciplinary history of its licensees publicly available through the Internet. Another potential factor would be the number of

³ The CBA may continue, beyond this date, to work with individual states in bringing them to a position of being substantially equivalent to the NASBA Enforcement Guidelines.

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licensees from a state that were granted a practice privilege under the prior notice and fee program.

Staff have provided a table (**Attachment 6**) listing these potential factors to consider when making research assignments. The table contains a column indicating whether a state provides disciplinary history on the Internet. Disciplinary history means that there is some type of indication as to whether an individual had a license, registration, permit or authority to practice a profession surrendered, denied, suspended, revoked, or otherwise disciplined or sanctioned. The data in this column was developed by staff for the March 2015 CBA meeting after reviewing the information available on CPAverify and on individual state boards of accountancy websites.

On the table in the second column, staff used the size categories listed in NASBA's Enforcement Guidelines; Small states have fewer than 10,000 licensees, and Large have more than 20,000. Staff added the two categories of Very Large (more than 35,000) and Very Small (fewer than 2,000).

The final column first lists the number of individuals approved for a practice privilege by the CBA from each state under the prior notice and fee practice privilege program. The second number is the number of Out-of-State Firm Registrations (OFR) that have been approved from each state since the no notice, no fee practice privilege program went into effect two years ago. An OFR is required for practice privilege holders who wish to perform certain attest work for California headquartered entities.

If the CBA decides to use some or all of these data points in order to determine which entity should perform the research on certain states, staff would request that the CBA identify the entity and the state or group of states for which it will be responsible. One possible example would be to assign all states that do not make the disciplinary history of their licensees publicly available through the Internet to NASBA in order that it might work with those states to bring them into compliance with this requirement.

Future Steps for the CBA

Following the CBA's selection of one of the proposed approaches to performing the research, the CBA will receive updates on the progress of the research at its September and November 2015 meetings in anticipation of the delivery of the initial research at its January 2016 meeting. Depending on the approach it selects, the CBA may have its first opportunity to designate certain states as substantially equivalent to the NASBA Enforcement Guidelines at its January 2016 meeting, although the contracting process, if the consultant approach is selected, could delay this target date.

Following the January 2016 meeting, the CBA may wish to seek further information regarding certain states or inquire whether efforts can be made to bring states into compliance before making a decision regarding substantial equivalence. In seeking

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further information, the CBA will be free to use the same entity it previously used for the research, or it may choose to select another entity to perform the follow up inquiries.

Fiscal/Economic Impact Considerations

The fiscal/economic impact will vary depending on the approach selected.

Recommendation

Staff recommends the following:

- That the MSG meet in conjunction with scheduled CBA meetings until the project is complete
- That the CBA approve the concept of the State Information Sheet to be used by a consultant or staff in conducting the research
- That the CBA add a question to the State Information Sheet to determine whether a state makes the disciplinary history of its licensees publicly available through the Internet
- That the CBA choose which approach it would prefer for performing the research, and if the "Combination of Options" approach is selected, that the CBA identify which states each entity is responsible for researching

Attachments

1. NASBA's Guiding Principles of Enforcement
2. BPC section 5096.21
3. Prior Practice Privilege Form
4. State Information Sheet
5. NASBA's Objectives for Substantial Equivalency Evaluation
6. Table of Factors to Consider for Research Assignment

Guiding Principles of Enforcement

NASBA

5-28-15

The purpose of issuing these Guiding Principles is to promote consumer protection by promoting uniformly effective board enforcement and disclosure policies and practices nationally as a reinforcing compliment to mobility, which depends upon all states having confidence in the enforcement and disclosure policies and practices of the home state of the mobile licensee. While of course not binding on boards, these Guiding Principles are based on exhaustive, multi-year research into the enforcement and disclosure practices and policies of the boards of the 55 jurisdictions, and represent NASBA identifying common practices for boards to consider and, potentially, against which to measure themselves.

ENFORCEMENT

Board enforcement throughout the nation is largely complaint driven. How boards handle complaints is, therefore, foundational to how well its enforcement program works to benefit consumers.

What follows are the performance-based hallmarks of enforcement programs and Guiding Principles related to each. How fast are complaints addressed? How are complaints prioritized? How fast are urgent complaints addressed? What discipline is imposed? What is the quality of the resources available and the capacity of those resources? These are some of the key questions to be weighed when evaluating an enforcement program.

1. Time Frames for prosecuting a complaint from intake to final disposition

General Findings: State laws often dictate the manner in which boards prosecute cases, in some cases dictating the manner in which actions are handled. For example one board may have the authority to close a complaint without merit almost immediately based solely on the decision of the Executive Director, while another board may be required to hold the file open until a vote by the board at the next scheduled meeting.

When considering a new complaint, boards should first determine whether a complaint has legal merit and, if legal merit is found, whether the state board has jurisdictional nexus on the matter. If both these criteria are satisfied and the board determines to move forward with the enforcement matter, the board should then consider whether any discipline already issued by another agency, board, etc. was sufficient to address the violations or whether the harm justifies further enforcement action by the board.

An analysis of the various jurisdictions reveals useful benchmarks for the time frame of handling complaints. Set forth below are targeted time frames that boards should strive to meet, understanding there are instances where different time frames are appropriate in light of the legal and operational considerations (e.g. volume of complaints) that may justify different targets for certain boards.

- a. Decision to (i) close complaints for lack of legal merit or jurisdictional nexus or (ii) initiate an investigation
 - i. Target – 7 days after expiration of time period for responses with either receipt of all supporting document from parties or failure to respond, or

- at next scheduled board/complaint committee meeting
- b. Assignment of investigator
 - i. Target – 10 days from decision to initiate investigation
- c. Completion of investigation
 - i. Target – 180 days or less from initiation of investigation
- d. Formal Discipline at administrative level – final disposition
 - i. Target – 540 days or less from initiation of complaint
- e. Initiation of action (re-opening of complaint) or initiation of new complaint following probation violation
 - i. Target – 15 days or next scheduled board/complaint committee meeting

2. Enforcement resources to adequately staff investigations

General Findings: Both consumers and licensees have an interest in seeing complaints processed expeditiously, with a board enjoying adequate enforcement resources to ensure a fair and efficient process. Generally, the appropriate level of enforcement resources in a given jurisdiction is a function of the size of the jurisdiction’s licensee population, and the number and nature of complaints typically handled by that jurisdiction. A board with 70,000 licensees will need a much more robust investigative unit with more personnel, but a board with 1,500 licensees may be able to utilize board members with specialized knowledge to handle investigations. Overall, 33 jurisdictions have less than 10,000 licensees (“small” jurisdictions); 13 jurisdictions have 10,000-20,000 licensees (“mid-size”); and nine have more than 20,000 licensees (“large”). In instances where the size of a jurisdiction’s licensee population has a direct bearing on what should be considered a “guiding principle of enforcement” (e.g. setting appropriate staff levels and training), separate targets are suggested below for small, mid-size and large jurisdictions.

- a. In determining adequate staffing resources a board should routinely evaluate staffing levels to ensure that the appropriate number of staff are assigned to the right positions and at the right time. A board should evaluate their respective program needs, taking into consideration workload projections and any new anticipated workload over the coming years (possibly as a result of law or rule changes). When evaluating staffing workload, a board should consider identified core tasks to complete investigations, general duration of time to complete the tasks, and the number of staff presently assigned to handle investigation. Based on this evaluation, a board should determine if any overages or shortages in workload exists and seek to align staffing resources accordingly.
- b. Factors that may warrant modification (up or down) in staffing:
 - i. Ratio of administrative complaints to practice complaints – history of practice claims in a particular jurisdiction would warrant more investigators per licensee. Administrative complaints are typically less complicated and would include violations like failure to renew, failure to obtain CPE (“Administrative Complaints”). Practice complaints are generally more complex and would include violations such as failure to follow standards, failure to follow the code of conduct and actions involving dishonesty or fraud (“Practice Complaints”).
 - ii. Ratio of complaints involving firms with offices in multiple states

versus smaller firms with local offices. The prevalence of complex cases, such as cases against the auditors in Enron and against big firms that involve representation by outside law firms may require an increase in the ratio of investigators to licensees, to handle the added workload associated with periodic complex cases.

- c. Qualification and training of investigators
 - i. Large, mid-size and small accountancy boards should all seek to utilize CPAs, law enforcement, board staff, or other individuals with accounting or investigative training (such as the Investigator Training Series identified in Section 2 (c)(iii) below or the training offered by the Council on Licensure, Enforcement and Regulation (CLEAR)) as an investigator whenever possible;
 - ii. Encourage investigative staff to attend investigative training seminars such as those hosted by CLEAR;
 - iii. Encourage investigative staff to complete the Investigator Training Series on NASBA.org
 - iv. Boards should establish and follow a process for determining appropriate utilization of CPA investigators and/or CPA board members or staff and non-CPA investigators, which considers whether the case involves an Administrative Complaint or involves a Practice Complaint.
 - v. Boards should utilize subject matter experts for complex investigations involving highly technical areas and standards, such as ERISA, Yellow Book, cases involving complicated tax issues, and fraud.
 - 1. Work with NASBA to identify a means of obtaining the necessary resources if costs are prohibitive to boards
 - 2. Use NASBA pool of available expert witnesses, if needed, to address complex issues, such as those items referenced in subsection (v) above
 - 3. Referral to a board member with expertise that is case specific
 - a. In such cases, the Board member should recuse himself/herself from further participation in any formal disciplinary action in the specific matter
- d. Boards should be able to access funds in a timely manner to handle a case against a big firm, as a demand arises, either through an appropriation process, the board, the umbrella agency, or the prosecuting agency.

3. Case management

General Findings: The volume of complaints considered by a board will also have a bearing regarding case management for a particular board. For example, a board handling 3,000 complaints a year typically should have a system in place to prioritize those cases based upon the potential for harm, while a board receiving only 1-3 complaints will not need a prioritization system because each complaint can receive immediate attention. If the number of complaints received by board requires prioritization in order to adequately address all complaints and best allocate board resources to achieve maximum protection of the public, then such jurisdiction should identify cases for potential to cause greatest harm, or offenses that are indicators of problems that could lead to such harm and adopt procedures to manage Administrative Complaints by handling them in a manner similar to that outlined below in Section 3(a) and Practice Complaints by handling them in a manner similar to that outlined below in Section 3(b).

- a. Administrative Complaints involving matters of licensing deficiencies such as, failure to timely renew or obtain CPE, improper firm names, other administrative matters and certain first-time misdemeanor offenses, generally pose a lesser threat to the public and as such may be processed as follows:
 - i. Attorney, Executive Director, and/or qualified staff review informal matters
 - ii. Cases can be closed based on voluntary compliance
 - iii. Informal conference may be scheduled to assist in reaching a settlement or if there is non-compliance with an agreed resolution
- b. Practice Complaints generally involving matters of incompetence, dishonesty, violation of any rule of professional ethics or professional conduct, failing to timely complete an engagement, failure to communicate, criminal convictions, breach of fiduciary duty or fraud or disclosing confidential information pose a greater threat to the public and as such are generally processed as follows:
 - i. Summary of investigation is reviewed by Attorney, Executive Director, appointed Board member, or Complaint Committee (depending upon board structure)
 - ii. Further investigation may be requested
 - iii. Information Conference may be scheduled to aid settlement
 - iv. Upon determination of a violation, corrective (remedial) or disciplinary action is taken (either by consent agreement or proceeding to formal hearing) upon approval of the Board
- c. Boards should review discipline from other agencies, such as the DOL, SEC, PCAOB, and AICPA, included in the NASBA Quarterly Enforcement Report to determine whether such discipline should give rise to disciplinary action by the Board.
- d. Boards should use a method of tracking probationary matters with assigned personnel (staff or investigator) to monitor compliance with probationary terms, such as follow up phone calls or other correspondence with licensee, requiring the licensee to appear in person at interviews/meetings as directed by the Board to report on probation compliance, submitting written quarterly compliance reports, and/or allowing a practice investigation upon request of the Board.

4. Disciplinary Guidelines

General Findings: Boards of accountancy are charged with protecting consumers by regulating the profession and disciplining licensees who fail to comply with the professional standards. Another goal of the disciplinary process is to increase adherence to licensing requirements and professional standards, thereby elevating the quality of services provided by the profession. Boards have the authority to impose discipline to revoke, suspend, condition, or refuse to renew a license or certificate for violation of rules and regulations or statutes of the accountancy law. Boards should strive to impose fair and consistent discipline against licensees who violate the accountancy laws or rules. These guidelines recommend penalties and conditions of probation for specific statutes and rules violated, as well as aggravating and mitigating circumstances that may necessitate deviation from the recommended discipline. The disciplinary guidelines are to be used by Board members, Board staff, and others involved in the disciplinary process. Boards may exercise discretion in recommending penalties, including conditions of probation, as warranted by aggravating and mitigating circumstances.

- a. The disciplinary process for boards of accountancy should consider offenses and their appropriate penalties, including the following major categories of offenses. Each determination should be fact specific and penalties may be escalated, reduced or combined depending on the Boards' consideration of the relevant mitigating and aggravating factors.
 - i. Grounds for Revocation
 - 1. Revocation of a license/permit by another agency or Board
 - 2. Failure to inform the Board of a failed peer review
 - 3. Fraud or deceit in obtaining a license
 - 4. Conviction of any crime substantially related to the qualifications, functions, or duties of a CPA (involving dishonesty or fraud)
 - 5. Dishonesty, fraud, or gross negligence in the practice of public accounting
 - 6. Commission of a felony
 - ii. Grounds for Suspension/Probation
 - 1. Failure to comply with board order
 - 2. Failure to meet firm ownership requirements
 - 3. Failure of a peer review
 - iii. Grounds for Monetary Fine/Penalty
 - 1. Unlicensed conduct
 - 2. Failure to comply with professional standards or code of conduct
 - 3. Failure to renew
 - 4. Failure to timely complete CPE or peer review
 - iv. Grounds for Remediation
 - 1. Failure to comply with professional standards
 - 2. Issues regarding client records/ownership of work papers
 - 3. Issues regarding confidential disclosures
 - 4. Unlicensed conduct due to inadvertence (i.e., mobility, multiple designations, foreign accountants, etc.)
 - 5. Misleading name, title, or designation
- b. Boards may adopt specific factors to consider in assessing penalties, such as:
 - i. Permissible sanctions available to the Board, including those sanctions set forth in Section 4(a) above
 - ii. Mitigating or aggravating factors (described in detail below)
 - iii. Past disciplinary history or "trends" in licensee's behavior involving this Board or other agencies such as SEC, IRS, PCAOB and societies
 - iv. Likelihood of repeating the behavior
 - v. Potential for future public harm
 - vi. Potential for licensee's rehabilitation
 - vii. Extent of damages or injury due to licensee's behavior
 - viii. Board sanctions with similar misconduct in other cases
 - ix. Other enforcement actions or legal actions against licensee involving the conduct which is the subject of the current case (and impact of those actions/sanctions upon licensee)
 - x. Whether action was a clear violation or was an area of law/rule subject to interpretation
 - xi. Whether the individual or firm has already been sanctioned for the action by another state, PCAOB the SEC, or other enforcement body,

- and whether the enforcement body imposed sanctions consistent with sanctions the board would typically impose under the circumstances.
- c. Boards may consider the following mitigating factors in assessing penalties:
 - i. Passage of time without evidence of other professional misconduct
 - ii. Convincing proof of rehabilitation
 - iii. Violation was without monetary loss to consumers and/or restitution was made
 - iv. If multiple licensees are involved in the violation, the relative degree of culpability of the subject licensee should be considered
 - d. Boards may consider the following aggravating factors in assessing penalties:
 - i. Failure to cooperate with Board in investigation of complaint and/or disciplinary process (providing requested documentation, timely responses, participating in informal conference)
 - ii. Violation is willful, knowingly committed and/or premeditated
 - iii. Case involved numerous violations of Board's statutes and rules, as well as federal or other state statutes
 - iv. History of prior discipline, particularly where prior discipline is for same or similar conduct
 - v. Violation results in substantial harm to client, employer and/or public
 - vi. Evidence that licensee took advantage of his client for personal gain, especially if advantage was due to ignorance, age or lack of sophistication of the client

5. Internet Disclosure

General Findings: The goal is to allow market forces to elevate the profession by directing consumers away from licensees with troubled records and toward those who have adhered to professional standards. Thus, the disclosures must be of sufficient detail for consumers to be able to make informed judgments about whether discipline poses a risk to them or is indicative of a prior problem relevant to why they are retaining the CPA.

Finally, internet disclosure has two other beneficial consequences. One, it elicits confidence in the board's operations. If a consumer found out that the board had secreted information from the public about a CPA that hurt the consumer, that consumer would not view the board as its champion. Likewise, as enforcement is the major duty of the board, disclosure of enforcement promotes transparency and accountability about the performance of an important state government agency.

Internet disclosures should for these reasons provide easy access by consumers to the disciplinary history, if any, of a CPA offering services to the consumer. States will vary in the documents that may be accessed by the public online, but at a minimum, states should provide sufficient information that a consumer can readily determine if any regulatory "red flags" exist that warrant further investigation by the consumer.

- a. Boards should participate in the ALD and CPAverify
 - i. Boards should strive to provide final disciplinary action to ALD/CPA Verify for notation in the database
 - ii. Boards should strive to provide information necessary for "hashing" licensee records across jurisdictions to the ALD to assist transparency and cross-border discipline

- b. Boards should publish final disciplinary action by the Board through a web site, newsletter or other available media, either with specific information regarding the facts that caused the board to impose discipline including, but not limited to, a board considering posting official documents that would be public records if requested by a consumer, or sufficient information to allow the consumer to contact the Board for particular details.
- c. Boards should capture “discipline under mobility” violation in CPAverify licensee record indicating the state where discipline was issued, with sufficient information to allow the consumer to contact the disciplining board to investigate the activity that resulted in discipline.



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Attachment 2

Business and Professions Code

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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**NOTIFICATION AND AGREEMENT TO CONDITIONS FOR THE PRIVILEGE TO
 PRACTICE PUBLIC ACCOUNTING IN CALIFORNIA PURSUANT TO CALIFORNIA BUSINESS AND
 PROFESSIONS CODE SECTION 5096 AND TITLE 16, DIVISION 1, ARTICLE 4 OF THE
 CALIFORNIA CODE OF REGULATIONS**

Attachment 3

CONTACT INFORMATION

Individual Information

Name: _____ Prior Name(s): _____

Date of Birth: ____ / ____ / ____ Social Security Number: _____

Daytime Direct Telephone Number: _____ E-mail Address: _____
 (optional)

Certified Public Accounting Firm Information

*Complete the Certified Public Accounting Firm Information **ONLY** if the certified public accounting firm name you are associated with is different from the individual name above.*

Certified Public Accounting Firm Name: _____

Firm Address: _____

Firm Main Telephone Number: _____ Fax Number: _____ Firm Taxpayer ID Number: _____

Include additional certified public accounting firms you are associated with on Attachment 2, if necessary.

Other Contact Information

Address of Record (mailing address:
 fill out only if different from firm address
 or if no firm address is listed above): _____

QUALIFICATION REQUIREMENTS

I state as follows:

1. I am an individual.
2. a. My principal place of business is not in California; **OR**
 b. I have a pending application for licensure in California under Sections 5087 and 5088.
3. I qualify for a practice privilege based on my current, valid license to practice public accountancy in the following state:

State: _____ License Number: _____ Date Originally Issued: _____ Expiration Date: _____

4. a. The license identified in Item 3 is deemed substantially equivalent by the California Board of Accountancy; **OR**
- b. My individual qualifications have been determined by the National Association of State Boards of Accountancy (NASBA) to be substantially equivalent (NASBA file no. _____); **OR**
- c. I have continually practiced public accountancy as a certified public accountant under a valid license issued by any state for four of the last 10 years.
5. a. I am submitting this notice to the CBA at or before the time I begin the practice of public accountancy in California; **OR**
- b. I am submitting this notice after I began the practice of public accountancy in California on ___/___/____. My reason(s) for not providing notice on or before that date is (are) provided below. (The safe harbor provision is referenced in Section 5096.14 of the California Business and Professions Code.)
-
-
6. I have met the continuing education requirements and any exam requirements for the state of licensure identified in Item 3.

I consent and agree to the following:

7. To comply with the laws of the state of California, including the California Accountancy Act (Business and Professions Code Section 5000 et seq., accessible at http://www.dca.ca.gov/cba/acnt_act.htm) and the regulations thereunder (accessible at <http://www.dca.ca.gov/cba/regs.htm>).
8. To the personal and subject matter jurisdiction of the CBA including, but not limited to, the following:
- a. To suspend, without prior notice or hearing and in the sole discretion of the CBA or its representatives, the privilege to practice public accounting;
 - b. To impose discipline for any violation of the California Accountancy Act or regulations thereunder and recover costs for investigation and prosecution; and
 - c. To provide information relating to a practice privilege and/or refer any additional and further discipline to the board of accountancy of any other state and/or the Securities and Exchange Commission (SEC), the Public Company Accounting Oversight Board (PCAOB) or other relevant regulatory authorities.
9. To respond fully and completely to all inquiries by the CBA relating to my California practice privilege, including after the expiration of this privilege.
10. To the authority of the CBA to verify the accuracy and truthfulness of the information provided in this notification. I consent to the release of all information relevant to the CBA's inquiries now or in the future by:
- a. Contacting other state agencies;
 - b. Contacting the SEC, PCAOB or any other federal agency before which I am authorized to practice; and
 - c. Contacting NASBA.
11. In the event that any of the information in this notice changes, to provide the CBA written notice of any such change within 30 days of its occurrence.
12. To submit any applicable fees timely.

AUTHORITY TO SIGN ATTEST REPORTS

Choose **ONE** of the following options:

- I WISH** to be able to sign an attest report under this practice privilege, and I have at least 500 hours of experience in attest services. By checking this box, I agree to pay within 30 days of submission of this Notification Form, the \$100 Notification Fee which includes authorization to sign attest reports.

OR

- I DO NOT WISH** to be able to sign an attest report under this practice privilege. Under this choice, I may participate in attest engagements but may not sign an attest report. By checking this box, I agree to pay the \$50 Notification Fee, due within 30 days of submission of this Notification Form.

DISQUALIFYING CONDITIONS

Please respond to the following items. For any items checked "Yes" in (A) – (G), you must provide additional information as requested in Attachment 1, and you are not authorized to practice in California unless and until you receive notice from the CBA that the privilege has been granted.

Please check "Yes" for any items even if they were previously reviewed and cleared by the Board in a past California Practice Privilege. To expedite the review process, please include the details of all disqualifying conditions, including those previously reported in the additional information you provide.

- | | | | |
|--------------------------|--------------------------|----|---|
| Y | N | A. | I have been convicted of a crime other than a minor traffic violation. |
| <input type="checkbox"/> | <input type="checkbox"/> | | |
| Y | N | B. | I have had a license, registration, permit or authority to practice a profession surrendered, denied, suspended, revoked, or otherwise disciplined or sanctioned except for the following occurrences: |
| <input type="checkbox"/> | <input type="checkbox"/> | | |
| | | | (1) an action by a state board of accountancy in which the only sanction was a requirement that the individual complete specified continuing education courses. |
| | | | (2) the revocation of a license or other authority to practice public accountancy, other than the license upon which the practice privilege is based, solely because of failure to complete continuing education or failure to renew. |
| Y | N | C. | I am currently the subject of an investigation, inquiry or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving my professional conduct. |
| <input type="checkbox"/> | <input type="checkbox"/> | | |
| Y | N | D. | I have an unresolved administrative suspension or an unpaid fine related to a prior California Practice Privilege. |
| <input type="checkbox"/> | <input type="checkbox"/> | | |
| Y | N | E. | I did not respond to a request for information from the CBA related to a prior California Practice Privilege. |
| <input type="checkbox"/> | <input type="checkbox"/> | | |
| Y | N | F. | I have been notified by the CBA that prior Board approval is required before practice under a new California Practice Privilege may commence. |
| <input type="checkbox"/> | <input type="checkbox"/> | | |
| Y | N | G. | I have had a judgment or arbitration award against me involving my professional conduct in the amount of \$30,000 or greater. |
| <input type="checkbox"/> | <input type="checkbox"/> | | |

REQUIRED ADDITIONAL INFORMATION

I currently hold a California Practice Privilege. Yes No

Expiration date: _____ Unique Identifier: _____

I have held a California CPA/PA license. Yes No License number: _____

In addition to the state of licensure identified in Item 3, I also am authorized to practice public accountancy in the following:

State: _____ License Number: _____

State: _____ License Number: _____

Include additional licenses on Attachment 2, if necessary.

An answer of "No" to any of the following statements does not disqualify you from a California Practice Privilege.

I am an associated person of a firm registered with the PCAOB. Yes No

My firm has undergone peer review within the last three years. Yes No

The state of licensure identified in Item 3 requires CE in fraud detection. Yes No
If yes, I have fulfilled this requirement. Yes No

I, _____, understand that any misrepresentation or omission in connection with this notification disqualifies me from the California Practice Privilege and is cause for termination. Further I authorize the California Board of Accountancy to act accordingly, including notifying other state or federal authorities. I certify under penalty of perjury under the laws of the state of California that the foregoing information is true and correct.

Signature: _____ Date: _____

Unless you have checked "Y" to any items under Disqualifying Conditions, your privilege to practice commences with the submission of your properly completed notification. Your fee must be received within 30 days. Your privilege expires one year from the date of submission of this notification.



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ATTACHMENT 1

Name: _____
Last First MI

1. If you checked "Yes" to any of items A – G under Disqualifying Conditions, please provide explanatory details:

2. If you checked "Yes" to Item G under Disqualifying Conditions, please also provide:

Date of Judgment/
Arbitration Award: _____ Jurisdiction/Court: _____ Docket No: _____

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 5096.15 of the California Business and Professions Code authorize the collection of this information. Failure to provide any of the required information is ground 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 CBA, 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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Attachment 4

State Information Sheet

This information sheet provides a list of questions that correspond to specific points in the NASBA Enforcement Guidelines along with items that the CBA has requested. The columns to the right of the questions allow the completing entity to opine as to how the responding state’s enforcement practices compare to the NASBA Enforcement Guidelines on each point.

State: _____

1. Time Frames for Prosecuting a Complaint from Intake to Final Disposition				
Question	<u>Answer</u>	<u>Meets</u>	<u>Needs Additional Work</u>	<u>Does Not Meet</u>
What is the board’s target time frame to either close a complaint for lack of legal merit or jurisdictional merit or to initiate an investigation? (1.a.i.)				
What is the board’s target time frame to assign the case to an investigator after initiation of an investigation? (1.b.i.)				
What is the board’s target time frame to complete the investigation following assignment to an investigator? (1.c.i.)				
What is the board’s target time frame to formal discipline from initiation of a complaint? (1.d.i.)				
What is the board’s target time frame to initiate action or initiation of a new complaint following a probation violation? (1.e.i.)				

Each point of the guidelines will have a corresponding question once staff finalize this sheet.

2. Enforcement Resources to Adequately Staff Investigations

If the questionnaire is adopted as a part of the approach, staff will fill in the remainder of the items from section 2 of the NASBA Enforcement Guidelines.

Question	<u>Answer</u>	<u>Meets</u>	<u>Needs Additional Work</u>	<u>Does Not Meet</u>
Does the board routinely evaluate enforcement staffing levels to ensure that the appropriate number of staff are assigned to the right positions at the right time? (2.a.)				
Does the board evaluate their respective program needs, taking into consideration workload projections and any new anticipated workload over the coming years? (2.a.)				
When evaluating staffing workload, does the board consider identified core tasks to complete investigations, general duration of time to complete the tasks, and number of staff presently assigned to handle the investigation? (2.a.)				
Does the board determine if any overages or shortages in workload exist and seek to align staffing resources accordingly? (2.a.)				

3. Case Management

If the questionnaire is adopted as a part of the approach, staff will fill in the remainder of the items from section 3 of the NASBA Enforcement Guidelines.

Question	<u>Answer</u>	<u>Meets</u>	<u>Needs Additional Work</u>	<u>Does Not Meet</u>
Who reviews informal matters of licensing deficiencies such as failure to timely renew or obtain CPA, improper firm names, and other administrative matters (administrative complaints)? (3.a.i.)				
Can administrative complaints be closed based on voluntary compliance? (3.a.ii.)				

4. Disciplinary Guidelines

If the questionnaire is adopted as a part of the approach, staff will fill in the remainder of the items from section 4 of the NASBA Enforcement Guidelines.

Question	<u>Answer</u>	<u>Meets</u>	<u>Needs Additional Work</u>	<u>Does Not Meet</u>
Can disciplinary penalties be escalated, reduced, or combined depending on relevant mitigating and aggravating factors? (4.a.)				
<u>Are the following categories of offenses grounds for revocation:</u>				
Revocation of a license/permit by another agency or board? (4.a.i.1.)				
Failure to inform the board of a failed peer review? (4.a.i.2.)				
Fraud or deceit in obtaining a license? (4.a.i.3.)				

5. Internet Disclosure

If the questionnaire is adopted as a part of the approach, staff will fill in the remainder of the items from section 5 of the NASBA Enforcement Guidelines.

Question	<u>Answer</u>	<u>Meets</u>	<u>Needs Additional Work</u>	<u>Does Not Meet</u>
Does the board participate in ALD and CPAVerify? (5.a.)				
Does the board strive to provide final disciplinary action to ALD/CPAVerify? (5.a.i.)				
Does the board strive to provide ALD with the information necessary for "hashing" licensee records across jurisdictions? (5.a.ii)				

The following items were requested by the CBA to be included in the research. While these items are not a part of determining each states' substantial equivalence to the NASBA Enforcement Guidelines, the answers will prove beneficial should a state be found to be not substantial equivalent and need to go through the state-by-state determination process outlined in Business and Professions Code section 5096.21(a).

CBA Requested Items	
<i>If the questionnaire is adopted as a part of the approach, the CBA will be asked to identify any additional items it may wish to have included in the research.</i>	
<u>Question</u>	<u>Answer</u>
How many active licensees does the board have?	
What is the average number of disciplinary actions taken by the board over the past five years?	
Does the board have a mandatory peer review program?	
Does the board post disciplinary actions on its website?	
How long do disciplinary actions remain on the board's website?	
Does the board ever expunge disciplinary actions from a licensee's records? If so, after how long?	
How easy is it for a consumer to make a complaint against a licensee to the board?	
Can consumers file a complaint online? If so, are there clear instructions on how to do so?	
If the consumer cannot file a complaint online, how are consumers informed of the complaint process?	

The following information is provided by the National Association of State Boards of Accountancy (NASBA) to serve as its basis for determining which states' enforcement practices are substantially equivalent to its Enforcement Guidelines. It is prepared in order to show NASBA's basis of understanding and its proposal for how it will proceed should the CBA select it to perform the research for the substantial equivalency project.

NASBA'S OBJECTIVES FOR SUBSTANTIAL EQUIVALENCY EVALUATION

NASBA recognizes that the enforcement practices of each jurisdiction will vary based on many factors that are specific to the particular board, such as number of licensees, number of complaints/cases, authority vested in the board, delegation of certain phases of enforcement to other agencies, and interaction with an umbrella agency. The statutorily required determination of substantial equivalency is subjective in nature and will require an analysis of each jurisdiction's statutes, rules, and practices to inquire whether those collectively create an enforcement practice that reflects the objectives of the Guiding Principles that have been determined by the CBA as meeting or exceeding the CBA's own enforcement practices.

1. Time Frames for Prosecuting a Complaint from Intake to Final Disposition

The structure and authority of boards of accountancy vary greatly across the country. Some boards are empowered to close or dismiss a matter without board vote, while others are required to hold the complaint open until a vote at the next board meeting. Some boards do not perform their own investigation of a complaint, but rather are required to send the complaint to an investigative unit within an umbrella agency, in which case it is beyond the authority of the board to regulate the speed of investigation, available investigative personnel, assignment of files, etc. The Guiding Principles set forth benchmarks to help facilitate the timely handling of complaints. Regardless of the timing of individual steps throughout the process (perhaps a board takes longer than the benchmark of 10 days to assign an investigator but completes investigations in less than the benchmark of 180 days), the ultimate objective of this principle is that matters will be resolved in a timely manner, but in any event no more than 540 days from the initiation of a complaint. Parties recognize that matters which are pending before other agencies or involved in civil litigation, or complex matters involving large firms or multiple parties may still fall outside this goal of 540 days due to the circumstances of the particular case but fall within the objective of a timely handling of a case.

2. Enforcement Resources to Adequately Staff Investigations

Boards typically either have one or more investigators dedicated to the board, utilize an investigator from an investigative pool provided by an umbrella agency, or utilize board staff or personnel to investigate complaints. Any of these methods may provide adequate resources to investigate complaints in a timely and knowledgeable manner. (1) As a measurement, if a board is able to meet the 540 day disposition benchmark in Principle #1, then the board is adequately staffed with sufficient personnel to timely conduct the investigations. Otherwise, the investigation process would bottleneck the disposition of cases. (2) Regarding qualification and training of investigators, those

boards utilizing a designated investigator or personnel from an investigative pool would have sufficient investigative training to satisfy their particular board. Likewise, this principle can be satisfied by the performance of investigations by board members who can additionally provide particular subject matter expertise. (3) Boards should have access (through use of board members, contract hire, or other means) to subject matter experts to advise or testify as needed. (4) Boards should be able to access funds in order to prosecute a case against a big firm.

3. Case Management

The primary objective of this Principle is to determine that the board has (1) a case management process in place which allows staff to handle those complaints that can be dealt with administratively, if the Board is authorized to do so, and creates a process for efficient management of practice complaints through investigation, settlement, disciplinary hearings, etc. Again, the time management goal of 540 days in Principle #1 is an indicator that a board's case management system is meeting this criteria. (2) In addition, the case management process should also allow the board to prioritize those cases with the greatest potential for harm, if prioritization is required due to larger caseloads. (3) Boards should also consider discipline administered by other agencies as a basis for possible discipline by the board. (4) If probation is utilized, then the terms of the probation agreement should be monitored.

4. Disciplinary Guidelines

The primary objective of this Principle is that the disciplinary process of each board should consider offenses and appropriate penalties for each. (1) Boards should have written disciplinary guidelines and/or may utilize historical knowledge of the disciplinary history of the board to ensure consistency in disciplinary decisions. (2) Penalties should be escalated, reduced, or combined with other penalties or remedial measures depending on the board's consideration of relevant mitigating or aggravating factors. Penalties can include revocation, suspension/probation, monetary fine/penalty, and remediation.

5. Internet Disclosures

The primary objective of internet disclosure is to provide sufficient information to allow the public to make an informed decision regarding the employment of a specific CPA. Consumers should be able to ascertain whether or not a CPA has an active license and whether the CPA has been disciplined by a particular board of accountancy. Because public records laws vary among jurisdictions, states should at a minimum provide sufficient information such that a consumer can readily determine if any regulatory "flags" exist that warrant further investigation by the consumer. This primary objective can be satisfied by (1) disciplinary data being reflected on the board's web site or (2) by the board providing disciplinary flags to be displayed in CPAverify.



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Attachment 6

Table of Factors to Consider for Research Assignment

This table lists factors that the CBA may wish to consider in categorizing states by the entity it wants to perform the research.

<u>State</u>	<u>Internet History of Discipline</u>	<u>Licensee Population</u>	<u>Practice Privilege¹</u>	
Alabama	No	Small	37	7
Alaska	No	Small	8	0
Arizona	No	Medium	293	17
Arkansas	Yes	Small	27	0
CNMI	No	Very Small	0	0
Colorado	Yes	Large	446	19
Connecticut	Yes	Medium	171	2
Delaware	Yes	Small	1	0
DC	No	Small	101	0
Florida	Yes	Very Large	244	20
Georgia	Yes	Large	174	14
Guam	Yes	Very Small	0	0
Hawaii	Yes	Small	80	3
Idaho	Yes	Small	58	4
Illinois	Yes	Very Large	579	18
Indiana	No	Medium	161	9
Iowa	Yes	Small	91	1
Kansas	Yes	Small	22	2
Kentucky	Yes	Small	49	1
Louisiana	Yes	Medium	37	4
Maine	Yes	Small	6	0
Maryland	No	Medium	156	13
Massachusetts	Yes	Medium	355	15
Michigan	No	Medium	167	7
Minnesota	Yes	Medium	255	9
Mississippi	No	Small	10	3
Missouri	Yes	Medium	173	9
Montana	Yes	Small	19	2

¹ The first number is the number of individuals approved for a practice privilege by the CBA from each state during the time of the prior notice and fee practice privilege program (January 2006 – June 2013). The second number is the number of Out-of-State Firm Registrations (OFR) that have been approved from each state since the no notice, no fee practice privilege program went into effect two years ago.

<u>State</u>	<u>Internet History of Discipline</u>	<u>Licensee Population</u>	<u>Practice Privilege</u>	
Nebraska	Partial	Small	27	2
Nevada	Yes	Small	123	13
New Hampshire	Yes	Small	3	2
New Jersey	Yes	Large	191	9
New Mexico	No	Small	46	2
New York	Partial	Very Large	583	31
North Carolina	Yes	Medium	163	8
North Dakota	Partial	Small	13	0
Ohio	Yes	Large	245	9
Oklahoma	Yes	Medium	48	3
Oregon	Yes	Medium	457	9
Pennsylvania	Yes	Very Large	270	6
Puerto Rico	No	Small	0	0
Rhode Island	Yes	Very Small	22	2
South Carolina	No	Small	21	0
South Dakota	No	Very Small	11	1
Tennessee	No	Medium	57	9
Texas	Yes	Very Large	632	24
USVI	No	Very Small	0	0
Utah	No	Small	160	12
Vermont	Partial	Small	2	0
Virginia	No	Large	242	8
Washington	Yes	Medium	695	17
West Virginia	Yes	Small	6	1
Wisconsin	No	Medium	106	3
Wyoming	Partial	Very Small	3	0

Key

<u>Population</u>	<u>Licensees</u>
Very Large	>35,000
Large	20,000-35,000
Medium	10,000-20,000
Small	2,000-10,000
Very Small	<2,000



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MSG Item V.
July 23, 2015

CBA Item X.B.5.
July 22-23, 2015

Discussion Regarding NASBA's Activities and CPAVerify

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

Purpose of the Item

The purpose of this agenda item is to allow the Mobility Stakeholder Group (MSG) the opportunity to discuss the National Association of State Boards of Accountancy's (NASBA) recent activities and CPAVerify.

Action(s) Needed

No specific action is required on this agenda item.

Background

At its November 2014 meeting, the MSG requested that NASBA activities and CPAVerify be added as a standing agenda item to allow for ongoing discussion.

The Accountancy Licensing Database (ALD) is a national database of certified public accountant license information. Only the CBA and other state boards of accountancy have direct access to ALD. CPAVerify is the public website that conveys information contained in the ALD database. If information is not available in ALD, it is not available on CPAVerify. The CBA maintains a link to CPAVerify on its website for the use of consumers and other stakeholders.

Comments

108th Annual Meeting

NASBA will hold its 108th Annual Meeting October 25-28, 2015 in Dana Point, CA, at the Laguna Cliffs Marriott Resort & Spa.

Additional Information regarding NASBA's Activities and CPAVerify

At this time, there are 50 jurisdictions participating in ALD and CPAVerify. NASBA continues its efforts to bring the remaining five onto the system. These five jurisdictions are Delaware, Hawaii, Michigan, Utah, and Wisconsin. It is anticipated Michigan will begin using the ALD within the next few months.

NASBA has also been working closely with the Department of Labor (DOL) to enhance information-sharing with state boards of accountancy regarding referrals for deficient

Discussion Regarding NASBA's Activities and CPAVerify

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audits. It is anticipated the DOL will begin obtaining consent from those auditing benefit plans, which will aid the DOL in sharing their investigative files and findings with state boards and the American Institute of Certified Public Accountants. It is also anticipated that this effort will significantly streamline the disciplinary process. This will be a topic at the upcoming Regional meetings.

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff does not have a recommendation on this agenda item.

Attachment

None.



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MSG Item VI.
July 23, 2015

CBA Item X.B.6.
July 22-23, 2015

Discussion Regarding Proposed Agenda Items for the Next MSG Meeting

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

Purpose of the Item

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

Action(s) Needed

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

Background

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

Comments

The following topics are being proposed for consideration when determining the agenda for the next MSG meeting:

- Further Discussion Regarding the Approach to Comparing Other States to NASBA's Guiding Principles of Enforcement

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

Fiscal/Economic Impact Considerations

There are no fiscal/economic impact considerations.

Recommendation

Staff does not have a recommendation on this agenda item.

Attachment

None.